

T A S M A N I A.



1945.

ANNO NONO ET DECIMO
GEORGII VI. REGIS.

No. 36.

ANALYSIS.

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AN ACT to approve an Agreement between the Commonwealth and the State in relation to War Service Land Settlement, and to make provision for giving effect to the Agreement on the part of the State.
[20 December, 1945.]

A.D.
1945.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as the *Commonwealth and State War Service Land Settlement Agreement Act 1945*. Short title.

2 This Act shall be incorporated with the *Closer Settlement Act 1929**. Incorporation.

* 20 Geo. V. No. 77. See Reprint of Statutes, Vol. I., p. 436, and 1 Edw. VIII. Nos. 8 and 27, 1 Geo. VI. No. 71, 2 Geo. VI. No. 52, 3 & 4 Geo. VI. No. 64, 4 Geo. VI. Nos. 35 and 60, and 8 & 9 Geo. VI. No. 53.

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Approval of Agreement.

3 The Agreement made the ninth day of November, 1945, between the Commonwealth and the State, a copy of which is set out in the schedule (in this Act referred to as "the Agreement"), is hereby approved.

Power to Board to give effect to Agreement.

4 Subject to this Act, the Board shall, subject to any directions given by the Minister, have power to do, and shall do, all such acts and things as may be required or necessary for carrying out and giving effect to the Agreement on the part of this State, other than any acts or things which by the Agreement are required to be done by the Treasurer.

Power to reserve areas for soldier land settlement.

5—(1) For the purpose of giving effect to the Agreement, the Minister may, on the recommendation of the Board at any time within three years after the commencement of this Act, by notice in the *Gazette*, declare any area defined in the notice, comprising land suitable for settlement by discharged members of the Forces, to be a reserved area for the purposes of this Act and of the Agreement.

(2) A notice under subsection (1) shall, unless sooner revoked, remain in force for a period of six months from the date thereof, and may be extended for a further period or periods not exceeding in the aggregate six months.

(3) While any notice under subsection (1) remains in force in respect of any reserved area, no person shall—

(a) sell or purchase any rural land; or

(b) give or take any option for the sale or purchase of rural land,

in the reserved area, except with the consent, in writing, of the Minister.

Penalty: One hundred pounds.

(4) Any agreement or option for the sale or purchase of rural land in contravention of subsection (3), and any conveyance or transfer of any land to which any such agreement or option relates, shall be void and of no effect.

(5) In this section "rural land" means land situated outside the limits of any town.

Power to purchase or acquire land in reserved area.

6—(1) At any time while a notice under section five remains in force in respect of a reserved area, the Minister may, on the recommendation of the Board, purchase or acquire compulsorily any land in that area for the purposes of this Act and of the Agreement.

(2) Any land which the Minister is empowered to purchase or acquire under this section may be purchased or acquired under the provisions of the *Lands Resumption Act 1910**.

* 1 Geo. V. No. 11. See Reprint of Statutes, Vol. VI., p. 5, and 4 Geo. VI. No. 11 and 8 Geo. VI. No. 12.

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(3) In the application of the *Lands Resumption Act 1910** to this section, land required for the purposes of this Act and of the Agreement shall be deemed to be land required for a public purpose within the meaning of that Act.

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(4) Notwithstanding anything contained in the *Lands Resumption Act 1910**, the value of any land acquired in pursuance of this section for the purposes of this Act and of the Agreement shall be assessed upon the capital value of the land as last determined for the purposes of the *Land Valuation Act 1909†*, together with five pounds per centum of that value, and the value of any improvements made since the last assessment of the capital value shall be taken into consideration.

7—(1) Sections twenty A and twenty B of the *Closer Settlement Act 1929* are repealed.

Restriction of sale, &c., of certain land on King Island and provisions for acquisition thereof.

(2) *The Closer Settlement Act 1945‡* is repealed.

8 The Treasurer may reappropriate and apply for the purposes of this Act and of the Agreement any sums, not exceeding £250,000, out of moneys borrowed for the purposes of the *Returned Soldier Settlement Act 1916§* which at the commencement of this Act are unapplied.

Provision of funds.

9 There shall be kept in the Treasury such loan and working accounts as may be required, in the opinion of the Treasurer, for the purposes of the Agreement.

Accounts to be kept in Treasury.

10—(1) The Board shall keep its accounts in respect of its operations under this Act and the Agreement in the form required by section sixty-five of the *Closer Settlement Act 1929*, and shall lay before each House of Parliament as soon as practicable after the close of each financial year accounts, statements, and reports in relation to its operations under this Act and the Agreement in the form required by that section.

Accounts and reports by Board: Treatment of profits and losses.

(2) The provisions of section sixty-one of the *Closer Settlement Act 1929¶* with respect to profits or losses of the Board shall apply in relation to its operations under this Act and the Agreement.

11 The Board of Management of the Agricultural Bank of Tasmania may, on the recommendation of the Board and out of moneys available under the *State Advances Act 1935***, make advances on first mortgage of land as provided by section fifteen of that Act to eligible persons as defined by Division 3 of Part VI. of the *Re-establishment and Employment Act 1945*

Re-establishment loans.

* 1 Geo. V. No. 11. See Reprint of Statutes, Vol. VI., p. 5, and 4 Geo. VI. No. 11 and 8 Geo. VI. No. 12.

† 9 Edw. VII. No. 7. See Reprint of Statutes, Vol. I., p. 205, and 4 Geo. VI. No. 2, 6 Geo. VI. No. 60, and 7 Geo. VI. Nos. 10 and 58.

‡ 8 & 9 Geo. VI. No. 53.

§ 7 Geo. V. No. 20. Amended by 8 Geo. V. No. 26, 9 Geo. V. No. 49, 10 Geo. V. No. 26, 11 Geo. V. No. 35, 12 Geo. V. No. 78, and 13 Geo. V. No. 54. Repealed by *Closer Settlement Act 1929*, see Reprint of Statutes, Vol. I., p. 436.

¶ See 1 Edw. VIII. No. 27, s. 2, III.

** 26 Geo. V. No. 41. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 636, and 4 Geo. VI. No. 34, 4 & 5 Geo. VI. No. 68, 5 Geo. VI. No. 9, 6 Geo. VI. No. 30, and 7 Geo. VI. Nos. 6 and 42.

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A.D. 1945. of the Commonwealth, for the purposes of enabling such persons to engage in or resume an agricultural occupation as defined by that Division.

THE SCHEDULE.

AGREEMENT made the ninth day of November, One thousand nine hundred and forty-five, between the Commonwealth of Australia (in this Agreement called "the Commonwealth") of the first part and the State of Tasmania (in this Agreement called "the State") of the second part.

WHEREAS at a conference of Commonwealth and State Ministers at Canberra on the twenty-second day of August, One thousand nine hundred and forty-five, certain proposals were agreed to with a view to the settlement on land in the State of discharged members of the Forces and other eligible persons:

AND WHEREAS it is expedient that an Agreement be made between the Commonwealth and the State in order to carry into effect the said proposals:

NOW it is hereby agreed as follows:—

1. This Agreement shall have no force or effect and shall not be binding on either party unless and until it is approved by the Parliament of the State.

2.—(1) In this Agreement—

"applicant" means a person applying to participate under the scheme;

"Crown land" means Crown land as defined in the land laws of the State;

"eligible person" means—

(a) a discharged member of the Forces who has been honourably discharged after not less than six months' war service, or having, in the opinion of the appropriate State authority, been materially prejudiced by reason of his war service, has been honourably discharged after less than six months' war service; or

(b) a person included in a class of persons (if any) which the Commonwealth, with the concurrence of the State, determines shall be deemed eligible to participate in land settlement under the scheme;

"holding" means the land allotted to a settler under the scheme;

"member of the Forces" has the same meaning as in section 4 of the Re-establishment and Employment Act, 1945, of the Commonwealth;

"private land" means all land other than Crown land;

"settler" means a person who has been allotted a holding under the scheme;

"the scheme" means the scheme of land settlement contained in this Agreement;

"the war" means the war which commenced on the third day of September, One thousand nine hundred and thirty-nine, and includes any other war in which His Majesty became engaged after that date and before the date of this Agreement;

"war service" has the same meaning as in paragraphs (a), (b), (c), (d), and (e) of the definition of "war service" in section 4 of the Re-establishment and Employment Act, 1945, of the Commonwealth.

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(2) For the purposes of this Agreement, a member of the Forces who has ceased to be engaged on war service shall be deemed to have been discharged. A.D. 1945.

3. Land settlement under the scheme shall be carried out in accordance with the following principles:—

- (a) Settlement shall be undertaken only where economic prospects for the production concerned are reasonably sound, and the number of eligible persons to be settled shall be determined primarily by opportunities for settlement and not by the number of applicants.
- (b) Applicants shall not be selected as settlers unless a competent authority is satisfied as to their eligibility, suitability, and qualifications for settlement under the scheme and their experience of farm work.
- (c) Holdings shall be sufficient in size to enable settlers to operate efficiently and to earn a reasonable labour income.
- (d) An eligible person deemed suitable for settlement shall not be precluded from settlement by reason only of lack of capital, but a settler will be expected to invest in the holding such proportion of his own financial or other resources as is considered reasonable in the circumstances by the appropriate State authority.
- (e) Adequate guidance and technical advice shall be made available to settlers through agricultural extension services.

4.—(1) The State shall administer the scheme on behalf of the Commonwealth.

(2) The Commonwealth shall, in the manner hereinafter provided, make the major financial contribution and be responsible (after fullest consultation with the State) for policy decisions in relation to the scheme and exercise general supervision over its administration.

(3) The State shall initiate proposals for settlement under the scheme, but the Commonwealth may initiate proposals where these are directly associated with any matter in respect of which the Commonwealth has power to make laws.

5. The Commonwealth shall provide capital moneys required for the purpose of acquiring, developing, and improving land for settlement under and in accordance with the terms of this Agreement.

6.—(1) The Commonwealth shall bear the cost of Commonwealth administration of the scheme.

(2) The Commonwealth shall provide training and pay to applicants selected for training, living allowances, and certain transport and other expenses incidental to their training.

(3) The Commonwealth shall provide living allowances for settlers during the assistance period referred to in clause 13 of this Agreement and meet the cost involved in the remission of rent and interest provided for in that clause.

(4) The Commonwealth shall make a capital contribution in respect of each holding of an amount equal to three-fifths of the excess of the total cost involved in acquiring, developing, and improving the holding over the sum of valuations of the land and improvements.

(5) The amount of capital contribution to be determined in accordance with the last preceding subclause shall, if required by a State, be separately and independently assessed in respect of land and improvements.

(6) The valuations referred to in subclause (4) of this clause shall be made by officers appointed by the Commonwealth and State in consultation for the purpose.

(7) In making the valuations, the officers shall have regard to the need for the proceeds of the holding (based on conservative estimates over a long-term period of prices and yields for products) being sufficient to provide a reasonable living for the settler after meeting such financial commitments as would be incurred by a settler possessing no capital.

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(8) Where settlement is on Crown land, an amount to be agreed upon between the Commonwealth and the State shall be included in the total cost referred to in subclause (4) of this clause to cover the State's interest in the land.

(9) The Commonwealth shall bear any losses arising out of arrangements in accordance with clause 15 of this Agreement.

(10) Subject to clause 7 of this Agreement, the Commonwealth shall be responsible for all other costs arising directly from settlement under the scheme.

7.—(1) The State shall, subject to subclause (3) of clause 16 of this Agreement, bear the cost of State administration of the scheme.

(2) The State shall make a capital contribution in respect of each holding of an amount equal to two-fifths of the excess referred to in subclause (4) of clause 6 of this Agreement.

8. Any excess of the total costs involved in acquiring, developing, and improving the holding over the valuations made in accordance with the provisions of clause 6 of this Agreement shall be written off, and such valuations shall, unless otherwise agreed by the Commonwealth and the State, be accepted for the purpose of applying the terms and conditions relating to tenure of land made available for settlement under this Agreement.

9. All financial matters relating and incidental to the carrying out of the scheme shall be arranged in a manner satisfactory to the Treasurer of the Commonwealth and the Treasurer of the State.

10. The following procedure shall be observed in connection with the approval of proposals for settlement under the scheme brought forward by the State:—

(a) After the State has selected such land as appears suitable for settlement, it shall immediately take all practicable and necessary measures to prevent the land or any part thereof being dealt with otherwise than as is provided in this agreement.

(b) The State shall submit to the Commonwealth certain information to be agreed upon by the Commonwealth and the State and shall confer with the Commonwealth to determine whether a detailed survey of the land is required, and, if both the Commonwealth and the State agree that a detailed survey is required, this will be undertaken by the State with the assistance, where necessary, of relevant Commonwealth authorities:

Provided that if, before the fifth day of October, One thousand nine hundred and forty-four, the State had selected land for settlement and completed, or substantially completed, all surveys thereof considered necessary by the Commonwealth, the State may immediately submit the proposals in the manner provided in the next succeeding paragraph, and no further survey of the land shall be required.

(c) The State shall submit to the Commonwealth details of proposals for settlement including plans and such particulars relating to the proposed subdivision, development, and use of the land as the State and the Commonwealth agree upon.

(d) The Commonwealth and the State shall confer on each proposal and decide whether it should be accepted, either with or without alteration or modification, as an approved plan of settlement.

11.—(1) The State shall set apart Crown land or with funds provided by the Commonwealth resume for settlement Crown land and acquire compulsorily or by agreement private land comprised in an approved plan of settlement at a value to be approved by the Commonwealth, and will hold the same for use for the purposes of the scheme.

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(2) Where Crown land is set apart or resumed for the purpose of settlement, the State shall be credited with such amount as the Commonwealth and the State agree represents the interest of the State in the land. A.D. 1945.

(3) Where Crown leasehold is resumed or acquired either compulsorily or by private agreement the State shall be credited with such amount as the Commonwealth and the State agree represents the interest of the State in the land.

(4) The State shall subdivide, develop, and improve the land to a stage, where it can be brought into production by a settler within a reasonable time, having regard to the type of production proposed.

12. The following principles shall be adhered to in training, selecting, and settling applicants under the scheme:—

(a) An eligible person may apply to participate under the scheme not more than five years after—

(i) the fifteenth day of August, One thousand nine hundred and forty-five; or

(ii) the date when he ceased to be engaged on war service,

whichever is the later.

(b) An applicant for settlement shall apply to the appropriate State authority, which shall, on behalf of the Commonwealth—

(i) determine whether an applicant is an eligible person; and

(ii) classify eligible persons as suitable (either immediately or after training or further experience) or as unsuitable for settlement.

(c) Where training or further experience is considered desirable by the State authority, it shall be provided mainly by employment with farmers approved by the State authority.

13.—(1) There may be granted to a settler during the period of one year next following the allotment of a holding to him (hereinafter referred to as “the assistance period”) a living allowance at such rate and subject to such conditions as may be fixed by the Commonwealth.

(2) During the assistance period the settler shall not be required to pay any rent or interest in respect of the holding or to make any payments on account of principal or interest in respect of advances (other than advances for working capital) made under clause 15 of this Agreement.

(3) In special circumstances and upon conditions approved by the Commonwealth, further assistance may in any particular case be extended beyond the said period of one year.

14.—(1) The net proceeds of the holding during the assistance period shall be paid to any authority prescribed by the Commonwealth (after consultation with the State) and credited by that authority against future obligations of the settler in respect of advances for stock, plant, and equipment, and improvements, and in respect of rent in a proportion to be determined by the authority.

(2) The authority may, in any particular case, waive the requirements of the last preceding subclause if, in its opinion, the circumstances of the case are such that it is desirable to do so.

(3) Wherever practicable the whole of a settler's finances relating to his settlement under the scheme, including the collection of rent in respect of the holding, shall be controlled by one authority.

15.—(1) The Commonwealth, in consultation with the State, will arrange with an authority in that State to make advances to settlers upon such conditions as may be agreed upon between the Commonwealth and the State, for the purpose of providing working capital and paying for and effecting improvements and acquiring stock, plant, and equipment.

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Agreement.*

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(2) The arrangements referred to in the last preceding subclause may include the giving of guarantees to the authority by the Commonwealth.

16.—(1) Holdings will be allotted by the State on perpetual leasehold tenure. The general terms and conditions of the lease shall be approved by the Commonwealth.

(2) The rent payable under the lease shall be recommended to the Commonwealth by the officers appointed to make the valuations referred to in subclause (4) of clause 6 of this Agreement.

(3) The rent payable under the lease may include an amount calculated at a rate to be agreed upon between the Commonwealth and the State in respect of the cost of State administration of the scheme arising after the allotment of the holding to the settler. This amount shall be retained by the State and the balance of the rent shall be credited by the State to the Commonwealth.

(4) The lease may provide for concession rentals in accordance with the state of development of the holding.

(5) Structural improvements on the holding may be leased or acquired by the settler in accordance with the practice of the State.

(6) In the event of the lease being surrendered or terminated in pursuance of the conditions of the lease, the Commonwealth shall pay to the settler compensation for any improvements effected by him which are essential for the working of the property after allowing for any amounts owing to the Crown or the credit authority.

(7) The lease will not be transferable by the settler except with the consent of the Commonwealth and the State, and on such conditions as the Commonwealth and the State agree upon.

17. Wherever it appears that land held by the State for the purpose of this Agreement is no longer required for this purpose, it may be disposed of or dealt with in such manner as the Commonwealth and the State may agree upon.

18. In the State there may be established an authority to investigate and determine such matters arising between a settler and the State as the Commonwealth and the State agree may be referred to it for determination. The form and constitution of this authority shall be agreed upon by the Commonwealth and the State.

IN WITNESS whereof the Prime Minister of the Commonwealth and the Premier of the State have hereunto set their hands the day and year first above written.

Signed by the Prime Minister of the Commonwealth }
for and on behalf of the Commonwealth in the } J. B. CHIFLEY.
presence of—

F. STRAHAN.

Signed by the Premier of the State for and on }
behalf of the State in the presence of— } R. COSGROVE.

E. PARKES.