

WAR SERVICE LAND SETTLEMENT.

No. 82 of 1950.

AN ACT to provide for the Settlement on the Land of Persons returned from War Service, to validate certain Acquisitions of Land and other Transactions, and to repeal the *Commonwealth and State War Service Land Settlement Agreement Act 1945* and the Acts amending it.

[21 December, 1950.]

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:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *War Service Land Settlement Act 1950*. Short title.

2 The *Commonwealth and State War Service Land Settlement Agreement Act 1945**, the *Commonwealth and State War Service Land Settlement Agreement Act 1947†*, the *Commonwealth and State War Service Land Settlement Agreement Act 1948‡*, and the *Commonwealth and State War Service Land Settlement Agreement Act 1949§* are repealed. Repeal.

* 9 & 10 Geo. VI. No. 36. † 11 Geo. VI. No. 27. ‡ No. 72 of 1948. § No. 24 of 1949.

Interpre-
tation.

3 In this Act, unless the contrary intention appears—

“Board” means the Closer Settlement Board constituted under the *Closer Settlement Act 1929**;

“Crown land” has the same meaning as in the *Crown Lands Act 1935†*;

“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 Board 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 Minister determines shall be eligible to participate in war service land settlement under this Act;

“holding” means the land allotted to an eligible person for the purposes of this Act;

“member of the Forces” means—

(a) a person who is or was, during the war, a member of the Permanent Forces of the Commonwealth, other than the Australian Imperial Force;

(b) a person who is or was, during the war, a member of the Australian Imperial Force;

(c) a member of the Citizen Forces of the Commonwealth who is or was enlisted, appointed, or called up for continuous service for the duration of, and directly in connection with, the war;

(d) a person who is or was, during the war, engaged on continuous full-time service as a member of any of the following services:—

The Royal Australian Naval Nursing Service;

The Women’s Royal Australian Naval Service;

The Australian Army Nursing Service;

The Australian Women’s Army Service;

* 20 Geo. V. No. 77. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 436. Subsequently amended by 1 Geo. VI. No. 71, 2 Geo. VI. No. 52, 3 & 4 Geo. VI. No. 64, 4 Geo. VI. Nos. 35 and 60, 8 & 9 Geo. VI. No. 53, and 9 & 10 Geo. VI. Nos. 36 and 38.

† 26 Geo. V. No. 35. For this Act, as amended to 1936, see Reprint of Statutes, Vol. IV., p. 1000. Subsequently amended by 3 Geo. VI. No. 8, 4 Geo. VI. No. 47, 7 Geo. VI. No. 57, 9 Geo. VI. No. 22, and 10 Geo. VI. No. 52.

The Australian Army Medical Women's Service;

The Royal Australian Air Force Nursing Service;

The Women's Auxiliary Australian Air Force;

- (e) a member of a Voluntary Aid Detachment who is or was, during the war, engaged on continuous full-time paid duty with any part of the Defence Forces of the Commonwealth;
- (f) a member of the Naval, Military, or Air Forces of any part of the King's Dominions other than Australia who is or was, during the war, engaged on service in a prescribed area and was born in Australia or was, immediately prior to his becoming a member of any of those Forces, domiciled in Australia; and
- (g) a person who is or was, during the war, engaged on continuous full-time service with any Nursing Service or other Women's Service auxiliary to the Naval, Military, or Air Forces of any part of the King's Dominions other than Australia who was born in Australia or was, immediately prior to her becoming a member of that Service, domiciled in Australia,

but does not include any enemy alien who served during the war as a member of the Army Labour Corps but not otherwise;

“register” the verb, in all its parts, means register under the *Real Property Act 1862**, and “registration” shall be similarly construed;

“tenancy” means a tenancy of a holding created by the Board by allotment under section fifteen or by grant under section seventeen;

“tenant” means the tenant of a holding, his heirs, executors, administrators, or assigns as the context requires;

“the repealed Acts” means the Acts repealed by section two;

“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 second day of September, One thousand nine hundred and forty-five; *Ibid.*, s. 4.

* 25 Vict. No. 16. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 1002. Subsequently amended by 11 & 12 Geo. VI. No. 83.

Ibid., s. 4.

“war service” means—

- (a) service as a member of the Permanent Forces of the Commonwealth, other than the Australian Imperial Force;
- (b) service in the Australian Imperial Force;
- (c) the service of a member of the Citizen Forces of the Commonwealth when called out for war service in pursuance of the *Defence Act 1903-1945** of the Commonwealth, or during continuous training under that Act, the *Naval Defence Act 1910-1934*† of the Commonwealth, or the *Air Force Act 1923-1941*‡ of the Commonwealth;
- (d) the continuous full-time service in the Defence Forces under any Act of the Commonwealth or under any regulations under an Act of the Commonwealth, of any person who volunteers and is accepted for that service during the war;
- (e) in the case of a person specified in paragraphs (d), (e), (f), or (g) of the definition of “member of the Forces”, service in any of the bodies specified in those paragraphs; or
- (f) the continuous full-time service of any person as a member of an organization or part thereof which is declared by proclamation under the *Re-establishment and Employment Act 1945*§ of the Commonwealth to be an organization in relation to which the provisions of that Act apply,

during the war; and

“with consent” means with the consent of the Minister.

Incorporation
and powers
of Board.

4—(1) The Board shall, for the purposes of this Act, be a body corporate and have a common seal.

(2) The Board shall, subject to the direction of the Minister and except as otherwise provided in this Act, do all such acts and things as may appear to it just and equitable and either necessary or convenient for settling eligible persons on the land and enabling them to become independent landowners.

(3) For the purposes of this Act the Board may—
(a) acquire and dispose of personal property;

* No. 20, 1903; No. 12, 1904; No. 15, 1909; No. 37, 1910; No. 15, 1911; No. 5, 1912; No. 36, 1914; No. 3, 1915; No. 36, 1917; No. 16, 1918; No. 47, 1918; No. 1, 1927; No. 50, 1932; No. 13, 1939; No. 33, 1939; No. 70, 1939; No. 4, 1941; and No. 11, 1945.

† No. 30, 1910; No. 16, 1911; No. 21, 1912; No. 45, 1918; and No. 45, 1934.

‡ No. 33, 1923; No. 74, 1939; and No. 12, 1941.

§ No. 11, 1945.

- (b) compromise or release actions, suits, claims, and demands;
- (c) carry on any estate, farm, orchard, or other similar property acquired by it or for it;
- (d) raise stock for sale;
- (e) acquire for resale to its tenants stock, seed, machinery, and other things needed by settlers;
- (f) engage servants at such wages and on such conditions as it may otherwise lawfully determine; and
- (g) do all such acts—
 - (i) in respect of lands held by it as a reasonable and prudent landowner would do; and
 - (ii) for the benefit of its tenants as a reasonable and prudent stock and station agent would do.

PART II.

POWERS IN RESPECT OF LANDS.

5—(1) The Minister may, on the recommendation of the Board, at any time within two months 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.

Power to reserve land for settlement. 9 & 10 Geo. VI, No. 36, s. 5.

(2) A notice under subsection (1) shall, unless sooner revoked, remain in force for a period of twelve months from the date thereof.

(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 city or town.

Power to acquire private land.
Cf. *ibid.*, s. 6 (1), (2), and (3).

6 With consent the Board may for the purposes of this Act purchase or take land in accordance with the provisions of the *Public Authorities' Land Acquisition Act 1949**, which Act shall be deemed to be incorporated with this Act.

Governor may reserve land.
Cf. 20 Geo. V. No. 77, s. 6.

7 If the Minister, on the recommendation of the Board, reports to the Governor that in any district or locality land is required for the purposes of this Act, and that there is available in that district or locality unselected Crown land suitable for that purpose, the Governor may, by proclamation, reserve any such Crown land for that purpose.

Closer settlement land may be brought under this Act.

8—(1) The Governor may, on the recommendation of the Board, by proclamation, declare as from any date after the twentieth day of December, 1945, any land subject to the *Closer Settlement Act 1929†* which is not leased or sold or contracted to be leased or sold shall be subject to this Act.

(2) Upon the making of such a proclamation the land thereby affected shall cease to be subject to the *Closer Settlement Act 1929†* and shall be subject to this Act and shall be deemed to have done so from any earlier date set out in the proclamation for that purpose.

Vesting of land in the Board.

9—(1) The lands referred to in the third schedule are hereby vested in the Board.

(2) The Governor may by proclamation vest in the Board any land reserved under section seven or surrendered to the King purportedly for the purposes of the repealed Acts or any of them.

(3) All land becoming subject to this Act under section eight shall at the same instant vest in the Board.

(4) Upon land vesting in the Board under this section the Board shall hold the same in fee for the purposes of this Act, and the Recorder of Titles shall register the Board as proprietor thereof upon, in the case of land vesting under subsections (2) and (3) of this section, the Board's so requesting and referring to the place in the *Gazette* where the relevant proclamation appears, and this the Board shall do within sixty days after gazettal or suffer the penalty provided by the *Contravention of Statutes Act 1889‡*.

(5) Nothing in this section applies to the land comprised in purchase grant, volume 211, folium 72.

Disposition of lands by the Board.

10—(1) The Board may grant land to eligible persons for the purposes of this Act as provided in Part III.

(2) The Board may grant land to be held at will for the purposes of this Act.

* No. 22 of 1949.

† 20 Geo. V. No. 77. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 436. Subsequently amended by 1 Geo. VI. No. 71, 2 Geo. VI. No. 52, 3 & 4 Geo. VI. No. 64, 4 Geo. VI. Nos. 35 and 60, 8 & 9 Geo. VI. No. 53, and 9 & 10 Geo. VI. Nos. 36 and 38.

‡ 53 Vict. No. 3. For this Act, as amended to 1936, see Reprint of Statutes, Vol. III., p. 568.

(3) The Board may if it is of opinion that any land vested in it is required for any of the purposes specified in subsection (4) of this section with consent transfer, lease, or surrender such land for that purpose. Cf. *ibid.*, s. 6 (5).

(4) Subsection (3) of this section shall apply to any of the following purposes:—

- (a) the erection of any church, chapel, or church hall, with or without a hall, schoolroom, parsonage, presbytery, or manse, or any public hall, community centre, or other building for public or recreational purposes;
- (b) the laying out and construction of any recreation ground, park, or public reserve;
- (c) the provision of saleyards, or of any premises for the accommodation or agistment of travelling livestock;
- (d) the erection of any building or premises for use for the storage of agricultural machinery or plant, or any factory, mill, dairy, or other building for use in, or in connection with, the treatment or processing of primary products;
- (e) the erection of shops and other business premises and of dwellings for the proprietors and their employees;
- (f) the establishment of experimental farms;
- (g) the provision of areas for use as timber plantations, and for afforestation purposes generally; or
- (h) the residence of an agricultural contractor.

(5) The Board may, with consent, before selling or leasing any land under subsection (3) of this section, erect any buildings or structures or do any other works required for the purpose for which the land is to be so disposed of, and make any transfer in pursuance of any such sale subject to a condition of defeasance to ensure that the land is used for the purpose for which it is sold.

(6) Land leased under subsection (3) of this section shall be leased for such term and at such rental and upon and subject to such terms and conditions as the Minister approves.

(7) Land required for the purpose set out in paragraph (h) of subsection (4) of this section may only be leased for life and with a condition of re-entry to ensure that neighbouring tenants have the benefit of the contractor's services.

(8) Where any land is surrendered under subsection (3) of this section the Minister shall by notice in the *Gazette* declare the purpose for which that land is surrendered and

the provisions of the *Lands Resumption Act 1910** shall apply to and in respect of that land and in the same manner and to the same extent in all respects as if it had been lawfully acquired for that purpose under the provisions of that Act.

Easements.

11—(1) With consent the Board may, in accordance with the *Public Authorities' Land Acquisition Act 1949†* purchase or take any easement considered by the Board reasonable for the enjoyment of any land vested in it.

(2) The Board may subject to any existing tenancy grant easements over all land vested in it.

(3) The Governor may create easements over any Crown land for the benefit of any holding either before or after the grant thereof under section seventeen.

Land not required.

12—(1) Where any land held by the Board under this Act and not at any time granted as provided in Part III. is not in the opinion of the Board required for the purposes of this Act, the Board may—

(a) if the Board acquired it under the *Public Authorities' Land Acquisition Act 1949†* dispose of it under that Act; or

(b) if vested in the Board under section nine of this Act, surrender it to the King and upon registration of the instrument of surrender the land surrendered shall be held subject to the *Closer Settlement Act 1929‡*.

(2) Where land granted as provided in Part III. has reverted to the Board by surrender, forfeiture, or escheat and the Board declares that it is impossible to dispose of it as provided in section thirty-two the Board shall surrender it to the King and upon registration of the instrument of surrender the land surrendered shall be held subject to the *Closer Settlement Act 1929‡*.

Board's freedom from rates.
Cf. 25 Geo. V. No. 75, s. 3.

13 The Board shall be liable to pay rates and taxes raised or levied by any local authority or any body of a public or semi-public nature constituted under statutory authority in respect of lands vested in it and to which no tenant has title if such lands are worked for profit by or on behalf of the Board, but save as aforesaid the Board shall not be liable to any such rate or tax other than a rate or tax for any service actually rendered or supplied by any such local authority or body.

* 1 Geo. V. No. 11. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 5. Subsequently amended by 4 Geo. VI. No. 11, 8 Geo. VI. No. 12, and 9 & 10 Geo. VI. No. 59.

† No. 22 of 1949.

‡ 20 Geo. V. No. 77. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 436. Subsequently amended by 1 Geo. VI. No. 71, 2 Geo. VI. No. 52, 3 & 4 Geo. VI. No. 64, 4 Geo. VI. Nos. 35 and 60, 8 & 9 Geo. VI. No. 53, and 9 & 10 Geo. VI. Nos. 36 and 38.

PART III.

LAND SETTLEMENT.

Division I.—Settlement Grants.

14—(1) As holdings become available for occupation by tenants the Board shall offer each one to some eligible person considered by the Board to be suitable for settlement immediately. Holdings to be offered to suitable applicants.

(2) In each such offer the Board shall specify—

- (a) the holding;
- (b) the rent;
- (c) the amount a tenant will have to pay under section twenty-six;
- (d) the special conditions, if any, the Board intends to impose;
- (e) whether or not the Board reserves the right to obtain an increase of rent under section nineteen, and if so, the improvements for which the increase will be payable;
- (f) the capital cost to the Board of the holding at the time of allotment, excluding the amount payable for improvements under section twenty-six; and
- (g) the time for which the offer is open.

(3) The Board shall not offer a holding to another person while such an offer is open.

15—(1) Upon acceptance of such an offer the Board shall, by notice under its common seal, allot the holding to the acceptor, and shall specify in the notice the holding allotted, the rent, and any special conditions imposed, and state whether or not the Board reserves the right to obtain an increase of rent in accordance with the provisions of section nineteen, as the acceptor has accepted them. Notice of allotment.

(2) Upon such allotment the acceptor may enter as tenant at will upon the terms and conditions to be included in the grant of the holding under section seventeen, and shall be left in quiet possession so long as he observes those terms and conditions.

16—(1) Where an eligible person considered by the Board to be suitable for settlement immediately has entered upon a holding in pursuance or purported pursuance of a temporary licence under section one hundred and one of the *Crown Lands Act 1935** he shall be deemed to have been offered and to have accepted the holding in accordance with section fourteen, and shall be entitled to a notice of allotment under section fifteen accordingly. Transitory provisions.

(2) Where at the time when any such person so entered, the Board had not specified to him all the matters mentioned in paragraphs (b), (c), (d), (e), and (f) of subsection (2) of section fourteen, it may, not later than one month before

* 26 Geo. V. No. 35. For this Act, as amended to 1936, see Reprint of Statutes, Vol. IV., p. 1000. Subsequently amended by 3 Geo. VI. No. 8, 4 Geo. VI. No. 47, 7 Geo. VI. No. 57, 9 Geo. VI. No. 22, and 10 Geo. VI. No. 52.

the expiry of his temporary licence, make him a supplementary offer in respect of the matters not specified, and if he does not within one month after the supplementary offer is made give possession of the holding to the Board he shall be deemed to have accepted the offer constituted by the terms on which he entered and the supplementary offer and be entitled to a notice of allotment under section fifteen accordingly.

(3) The Board shall not be bound to give a notice of allotment while it is entitled to make a supplementary offer under this section.

(4) If a person to whom a supplementary offer is made under subsection (2) of this section gives the Board possession as provided therein, he shall be entitled to compensation by the Board for disturbance.

17—(1) As soon as practicable after the Board's allotment in accordance with section fifteen the Board shall by memorandum of grant in accordance with the form in the first schedule registered under the *Real Property Act 1862** grant the holding to the tenant his heirs and assigns to hold of the Board for ever—

(a) at the rent specified in the notice of allotment with such addition (if any) as is provided in section nineteen;

(b) upon the conditions in this Act provided; and

(c) any special conditions specified in the notice of allotment.

(2) No tenant shall be entitled to such a grant while he is failing to perform any conditions of his tenancy or if he has been ejected for such a failure.

(3) If before the registration of such a grant the tenant has entered under section fifteen, the grant shall for the purpose of all times under it, including those for payment of rent and other monies, relate back to the date of entry, a mention of which shall be made in the memorandum of grant.

(4) For the purposes of subsection (3) of this section, where the tenant has entered as provided in section sixteen that entry shall be deemed entry under section fifteen.

Division II.—Rent.

Rent.

18 The rent to be specified in the Board's offer under section fourteen shall be such that allowing for all payments to be made by the tenant under this Act and in the normal course of working the holding he will be assured of a reasonable standard of living even though he begins with no capital.

Additional rent.

19—(1) Where at the time of the Board's allotment under section fifteen the holding lacks some of the improvements considered necessary by the Board for the working of the holding, the Board may—

(a) with its officers servants agents and licensees enter on the holding from time to time and carry out such improvements; or

* 25 Vict. No. 16. For this Act, as amended to 1936, see Reprint of Statutes. Vol. V., p. 1002. Subsequently amended by 11 & 12 Geo. VI, No. 88.

(b) agree with the tenant that he will make such improvements at the Board's expense.

(2) The Board shall, with consent, fix the value of such of these improvements as are not subject to section twenty-six either as they are done or when they are done and the annual rent payable shall, if the Board has reserved its right thereto in notifying the tenant of its allotment of the holding, be increased by one-fortieth of the value so fixed.

(3) If the grant under section seventeen is made before the completion of all such improvements, the Board may, if the grant so provides, cause to be registered a memorandum of increase of rent, and thereupon the rent payable under the grant shall be increased accordingly.

20—(1) The Board shall not demand or receive rent in respect of the period between the allotment of a holding to a tenant and the end of the first year after his entry thereon by virtue of the allotment. First year
rent free.

(2) During this period the tenant shall pay to the Board the net income derived by him from the holding, without any deduction for his own exertions.

(3) The Board shall credit payments under the last preceding subsection against any future obligation of the tenant in respect of advances for working capital, stock, plant, and equipment, in respect of payments outstanding under subsection (2) of section twenty-six and in respect of rent in a proportion to be determined by the Board.

(4) The Board may, where it thinks it to the tenant's advantage, waive payment of all or part of the sum payable by him under this section.

(5) Where the tenant has entered as provided in section sixteen, the date of the temporary licence shall be deemed the date of allotment, and that entry the entry, for the purposes of subsection (2) of this section.

(6) This section shall apply only to the first tenancy of a holding.

21—(1) Rent and other payments due to the Board under this Act shall be payable at the principal office of the Agricultural Bank of Tasmania or at such other places as the Board may appoint. Payment
of rent.
1 Geo. V. No.
15 (Qld.),
s. 127.

(2) The annual rent shall be paid in respect of a year ending on the last day of June and shall be payable in two equal payments on or before the first day of July, and the first day of January in every such year, but where a tenancy commences on a day other than the first day of July the rent payable in respect of the period between the end of the first year from the entry of the tenant under his tenancy and the thirtieth day of June next following shall be a proportionate part of the annual rent.

(3) The rent reserved on any tenancy shall be a debt due to the Board from the tenant.

Division III.—Conditions.

Residence.

Cf. No. 17,

1913

(N.S.W.),

s. 91 (1) (c).

1 Geo. V. No.

15 (Qld.),

s. 86.

22—(1) It shall be a condition of every tenancy that the tenant shall reside on his holding for a period of ten years commencing within three months of its allotment to him by the Board.

(2) This condition shall be performed by the continuous and *bona fide* personal residence of the tenant on the holding.

(3) The holding or any interest therein shall not during the currency of the condition be capable of —

(a) being mortgaged except, with consent, to the Board of Management of the Agricultural Bank of Tasmania; or

(b) transfer, whether by operation of law or otherwise, except in the case of the death or insanity or incapacity by reason of serious illness, accident, infirmity, or misfortune of the tenant or except by the Board of Management of the Agricultural Bank of Tasmania pursuant to a power of sale under a mortgage given under this subsection.

(4) The following provisions shall be applicable to tenancies during the currency of the condition:—

(a) if the tenant dies during the currency of the condition it may be performed by the continuous and *bona fide* residence on the holding of some person beneficially interested in the holding under the will or as one of the next-of-kin or as the widow or widower of the deceased tenant or of a bailiff approved by the Board;

(b) if the tenant becomes insane during the currency of the condition, the Board may allow it to be performed by the continuous and *bona fide* residence on the holding of the wife or husband or some other member of the family of the tenant or a bailiff approved by the Board;

(c) if the tenant dies or becomes insane during the currency of the condition, the Board may, on the application in that behalf made by the personal representative of the deceased tenant, or the committee of the estate of the insane tenant, as the case may be, approve of the transfer of the holding to an eligible person;

(d) if the tenant becomes incapacitated, by reason of serious illness, accident, infirmity, or misfortune, from complying with the condition he may apply to the Board for such relief as is provided in this paragraph and the Board may—

(i) allow the condition to be performed by the continuous and *bona fide* residence on the holding of the wife or husband or some other member of the family of the tenant or a bailiff approved by the Board;

- (ii) suspend the operation of the condition for any period that the tenant is receiving such medical, surgical, or other treatment as requires his absence from his holding; or
 - (iii) with consent approve a transfer of his holding by the tenant to some eligible person;
- (e) in the case of a transfer being approved under paragraph (c) or paragraph (d) the transferee shall be bound to perform the condition.

23—(1) It shall be a condition of every tenancy—

Conditions
of good
husbandry.

- (a) that the tenant will keep in good repair the boundary fence of the holding and all improvements thereon in which the tenant can not have tenant right;
- (b) that the tenant will comply with the provisions of the *Vermin Destruction Act 1950** and the *Noxious Weeds Act 1938†*;
- (c) that the tenant will farm, cultivate, manure, and manage the holding in a good and husband-like manner according to the most approved methods of husbandry in the district so as to keep the whole at all times in good heart and condition and will not allow any part to become impoverished or otherwise;
- (d) that the tenant will use the holding primarily for animal husbandry with such types of livestock as are suitable to the holding and that he will maintain not less than three-fifths of the arable land as improved pasture suitable for the grazing of such livestock;
- (e) that where there is an orchard or garden commercially productive the tenant will keep it properly cultivated, planted, stocked, and manured and in neat order and will preserve and keep well pruned and trained all fruit trees, bushes, vines, and shrubs therein and will plant fresh ones of the best description of the several kinds in the place of those dying or becoming decayed or unprofitable and will comply with the provisions of the *Plant Diseases Act 1930‡*;
- (f) that the tenant will repair and keep in repair, or when necessary, replace, the farmhouse and all other improvements in which he can have tenant-right and which are necessary for the working of the holding except where the need for repair or replacement is the result of damage by an act of God or a fire which was not caused

* No. 68 of 1950.

† 2 Geo. VI. No. 51, as amended by 4 Geo. VI. No. 58.

‡ 21 Geo. V. No. 24. For this Act, as amended to 1936, see Reprint of Statutes, Vol. IV., p. 113.

- wilfully or negligently by the tenant and for which no other person is liable to the tenant in damages;
- (g) that the tenant will control all live fences upon his holding;
 - (h) that the tenant will at all times keep open, clean, and clear of weeds all rivulets, drains, ditches, and water-channels on his holding;
 - (j) that the tenant will maintain and protect all existing wind breaks and shelter belts and will plant, maintain, and protect any other wind breaks and shelter belts when required by the Board so to do;
 - (k) that the tenant will preserve from injury all timber and timber-like trees and saplings on the holding and will not without the consent of the Board and payment of such royalty as may be agreed upon between the Board and the tenant fell or destroy any such timber or timber-like trees or saplings;
 - (l) that the tenant will perform and observe any special conditions imposed by the Board and specified in the notice of allotment for maintaining or improving the fertility of the soil of the holding, which conditions may provide for—
 - (i) preserving or restoring the natural cover of the soil;
 - (ii) regulating the time, mode, and direction of ploughing;
 - (iii) restraining burning-off;
 - (iv) restoring the soil by manuring, and adding fertilizers and salts; and
 - (v) any other courses or operations that will, in the opinion of the Board, ensure to subsequent tenants the same enjoyment of the holding as is proper for the first tenant;
 - (m) that the tenant will comply with any regulation made for the purposes of this section;
 - (n) that the Board and any person authorized by it may, after notifying the tenant of the intention of so doing, at all reasonable times enter and inspect the holding;
 - (o) that if the tenant at any time fails to perform the conditions contained in paragraphs (a) and (f) of this section the Board may, without prejudice to its right of re-entry under section thirty, enter upon the holding and make any such repairs and replacements as the tenant ought by reason of these paragraphs to make and the cost thereof shall be paid by the tenant to the Board; and

(p) that if the tenant at any time fails to perform the conditions contained in this section for keeping the holding free from noxious weeds and plants, and keeping clean and open rivulets, drains, ditches, and water-channels, the Board may, without prejudice to its right of re-entry under section thirty, enter upon the holding and do any of those things as the tenant ought to do them and the cost thereof shall be paid by the tenant to the Board.

(2) Where in any offer, notice of allotment, or grant under sections fourteen, fifteen, and seventeen the words "as an orchard" or "as a garden" are used to qualify the tenancy thereby offered or created the condition contained in paragraph (d) of subsection (1) shall not apply to that tenancy.

24—(1) Every tenant shall be liable for waste in the same way as tenants for years. Waste.

(2) For the purposes of this section the *Landlord and Tenant Act 1935** shall be deemed not to have been made.

(3) Nothing in this section affects the construction of the *Landlord and Tenant Act 1935**.

Division IV.—Improvements.

25 For the purposes of this Division—

"structural improvements" means any house, cottage, barn, stable, cowshed, hayshed, woolshed, garage, fowlhouse, or other kind of building, bridge, road, fence, yard, gate, wall, tank, dam, dip, weir, wind-pump, well, or other similar improvements annexed to a holding and includes any wind breaks and shelter belts planted by the tenant in accordance with paragraph (j) of subsection (1) of section twenty-three;

"capital value" of structural improvements means their capital value determined so as to be—

- (a) their value at the date of termination of the title of the outgoing tenant;
- (b) their value to any incoming tenant; and
- (c) not in excess of the cost (assessed according to the current value of money) of making the improvements; and

"outgoing tenant" means a tenant who has transferred, surrendered, or forfeited his holding or the personal representative of a deceased tenant whose holding has escheated to the Board, as the case may require.

Definitions.
No. 17, 1913
(N.S.W.),
s. 213.

* 26 Geo. V. No. 42. For this Act, as amended to 1936, see Reprint of Statutes. Vol. V. p. 1218. Subsequently amended by 7 Geo. VI. No. 52.

Tenant to acquire structural improvements. Cf. *ibid.*, ss. 214, 216.

26—(1) Every tenant allotted a holding under section fifteen shall pay the Board the capital value of all structural improvements determined by it as if it were an outgoing tenant.

(2) Notwithstanding anything contained in subsection (1) of this section the first tenant of a holding shall not be liable to pay under that subsection more than the capital value determined as on the first day of January, 1946.

(3) The tenant may make payment on terms and conditions laid down by the Board with consent, and the Board may notwithstanding anything contained in section twenty-two take a mortgage over the holding to secure the payment.

Tenant right: When it arises: Its nature. Cf. *ibid.*, ss. 222, 223.

27—(1) Upon the transfer, surrender, forfeiture, or escheat of any holding the outgoing tenant shall have tenant-right in structural improvements upon the holding transferred, surrendered, forfeited, or escheated.

(2) A person in whom tenant-right is vested shall be entitled to receive—

- (a) in the case of a transfer, from the transferee; and
- (b) in the case of a surrender, forfeiture, or escheat, from the Board—

the capital value of the improvements subject to that right.

(3) The capital value of the improvements subject to the tenant-right shall be determined by the Board and the amount so determined shall upon registration of a memorandum thereof be and remain a charge on the holding until payment thereof.

Division V.—Reversion of Holdings to the Board.

Surrender.

28 Any tenant may surrender his holding to the Board by registered transfer.

Emblements.

29—(1) In lieu of any right to emblements against the Board, the Board shall pay to the person entitled thereto compensation equal to the value of the crop the subject of the right at the time the right would otherwise have arisen.

(2) A similar right to compensation shall arise upon the surrender or forfeiture of a tenancy.

(3) The amount of all such compensation shall be determined by the Board.

(4) Upon the allotment by the Board of a holding under section fifteen the tenant shall be liable to pay the Board an amount equal to the value, as determined by the Board, of all then existing crops capable of becoming emblements, but he shall not be bound to make payment before receiving the profit from the crops or before the expiration of twelve months from the day of allotment, whichever is the sooner, if upon request for payment by the Board he secures the same by mortgage of the crops under section four of the *Stock, Wool, and Crop Mortgage Act 1930**.

* 21 Geo. V. No. 26. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 324.

30 The Board may re-enter and determine the tenancy of any holding— Board's right of re-entry.

- (a) subject to section fifteen of the *Conveyancing and Law of Property Act 1884**, upon breach of any condition of the tenancy; and
- (b) subject to the jurisdiction of courts of equity in such cases, if the rent is six months in arrear.

31—(1) Upon the death of a tenant intestate and without leaving a widow or widower or any children or remoter issue him surviving, his holding shall escheat to the Board. Intestacy. Cf. 26 Geo. V. No. 38, s. 45.

(2) The Board, in such case, may, with consent, re-allot the holding to any person residing with or wholly or partially dependent on the deceased tenant at the time of his death.

32 Subject to section thirty-one, upon any holding reverting to the Board by surrender, forfeiture, or escheat the Board shall with consent and as prescribed re-allot the holding to an eligible person. Re-allotment.

33 Surrender, forfeiture, or escheat of a holding shall not operate to extinguish any liability of the tenant to the Board. Saving of Board's rights.

Division VI.—Transfers, Mortgages, &c.

34 Except in cases to which sections twenty-two and twenty-eight apply any dealing with his holding by a tenant otherwise than by will shall unless done with consent be ineffective to pass any estate or interest whatsoever. Disposition of holdings

35 No body corporate shall be capable of enjoying any estate of freehold or term of years, at law or in equity, in any holding for its own use and benefit, and any disposition whatsoever which would otherwise have this effect shall result in a use or trust in favour of the Board for the purposes of this Act. Restraint on alienation to companies, &c.

36 Every tenant of a holding shall be bound to pay the rent reserved on the tenancy thereof and to perform and observe all the conditions of the tenancy. Duties of subsequent tenants.

Division VII.—Purchase of Absolute Freehold.

37 The purchase price of a holding for the purpose of this Division shall be a sum determined by the Board with consent but not more than the capital cost to the Board of the holding at the time of allotment, excluding the amount payable for improvements under section twenty-six and including any amount fixed under section nineteen in respect of the holding, or the unimproved value of the holding obtained for the purpose under section forty-one of the *Land Valuation Act 1950†* whichever is the greater, together with the amount (if any) remaining unpaid under section twenty-six. Purchase price.

* 47 Vict. No. 19. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 900. Subsequently amended by 4 & 5 Geo. VI. No. 75.

† No. 5 of 1950.

Purchase
of absolute
freehold.

38—(1) A tenant who at any time after the grant of his holding under section seventeen and more than six years after its allotment under section fifteen tenders the purchase price of the holding and all other moneys payable by him to the Board under this Act, shall be entitled to receive from the Board a release in accordance with this section.

(2) Such a release shall be by memorandum of release in accordance with the form in the second schedule registered under the *Real Property Act 1862** and upon the registration thereof the Board's rights in the holding shall be extinguished and the tenant shall hold immediately of the King free and discharged from all and any mortgage charge rent re-entry reversion escheat lordship or other right of the Board touching the holding.

Purchase
deposit
accounts.

39—(1) A tenant may deposit with the Board an amount of ten pounds or any multiple of ten pounds which shall be credited to an account to be opened in the name of the tenant called a "purchase deposit account".

(2) All amounts which are deposited with the Board from time to time as aforesaid shall be credited with compound interest, calculated yearly at the thirtieth day of June at the rate fixed for that year by the Board, with consent, by notice published in the *Gazette* more than one year before the date of calculation, or in default of any such notice at the rate last so fixed.

(3) The deposits and interest accumulated in a tenant's purchase deposit account shall be available in payment of any rent interest or other monies payable to the Board by the tenant and if the tenant makes default on payment thereof the Board may appropriate the deposits and interest or any apportion thereof accordingly.

(4) When a tenant ceases to hold as such by death, transfer, or otherwise he or his personal representative shall be entitled, subject to any appropriation by the Board under subsection (3) of this section to payment of the amount standing to the credit of his purchase deposit account.

PART IV.

FINANCE.

Division I.—General.

Provision
of funds.
9 & 10 Geo.
VI. No. 36,
s. 8.

40 Moneys reappropriated by the Treasurer for the purposes of the repealed Acts or any of them shall be deemed to have been lawfully reappropriated for the purposes of this Act as from the first day of July, 1950.

* 25 Vict. No. 16. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 1002. Subsequently amended by 11 & 12 Geo. VI. No. 88.

41 There shall be kept in the Treasury an account to be called the War Service Land Settlement Act Account and such other loan and working accounts as may be required in the opinion of the Treasurer for the purposes of this Act.

Accounts to be kept in Treasury.
9 & 10 Geo. VI. No. 36, s. 9.

42—(1) There shall be an account in the Treasury called the War Service Land Settlement Suspense Account.

Funds supplied by the Commonwealth.

(2) Into this account shall be paid all moneys made available to the State by the Commonwealth for the purposes of this Act.

(3) The Board shall be entitled to draw upon this account.

43—(1) When any land reserved under section seven is vested in the Board it shall be valued at such sum as the Surveyor-General may determine and the Commissioner of Crown Lands may approve; and the sum so determined shall be charged to the appropriate account under section forty-one or forty-two and credited to Consolidated Revenue.

Reimbursement of other funds.
Cf. 20 Geo. V. No. 77, s. 55.

(2) When any land subject to the *Closer Settlement Act 1929** is brought under this Act by proclamation under section eight it shall be valued at such sum as the Board with consent may determine, and the sum so determined shall be paid out of the appropriate account under section forty-one or forty-two into the appropriate account under the *Closer Settlement Act 1929**, and for the purposes of section forty-five of that Act the land shall upon proclamation under section eight be deemed to have been sold to the Board.

(3) In all similar transactions such appropriate payments entries and adjustments shall be made as the Treasurer with the concurrence of the Auditor-General directs.

44 As soon as practicable after the close of each financial year the Board shall present to the Minister who shall cause them to be laid before each House of Parliament—

Accounts and reports.
Cf. 20 Geo. V. No. 77, s. 65; 9 & 10 Geo. VI. No. 36, s. 10 (1).

(a) statements certified as correct by the Auditor-General comprising—

(i) profit and loss accounts showing records of revenue and administration and other expenses in respect of the financial year then closed with special statements for each of the ventures referred to in the definition of “enterprise” in section forty-eight; and

(ii) a balance-sheet; and

(b) a statement showing the areas of all lands which become vested in the Board for the purposes of this Act during the preceding financial year,

20 Geo. V. No. 77. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I, p. 436. Subsequently amended by 1 Geo. VI. No. 71, 2 Geo. VI. No. 52, 3 & 4 Geo. VI. No. 64, 4 Geo. VI. Nos. 35 and 60, 8 & 9 Geo. VI. No. 53, and 9 & 10 Geo. VI. Nos. 36 and 38.

and of all dispositions of land by the Board otherwise than under section fifteen and section seventeen during the same time with particulars of—

- (i) the locality and quality of the land;
 - (ii) the name of the person, if any, from whom it was acquired, or to whom it was disposed of;
 - (iii) the price or compensation, if any, paid; and
- (c) a statement of the number of holdings allotted under section fifteen or granted under section seventeen during the preceding financial year showing the location and quality of the holdings;
- (d) a statement showing the number of holdings of which the absolute freehold was purchased during the preceding financial year together with their total purchase price; and
- (e) a report on the condition and settlement of all lands under this Act.

Living allowances to settlers.

45 The Board may, with consent and out of the War Service Land Settlement Suspense Account, make living allowances to eligible persons waiting to become tenants and to tenants subject to subsection (2) of section twenty.

Advances to settlers.

46—(1) The Board may make loans to tenants and other eligible persons considered by the Board suitable for immediate settlement for the purpose of providing working capital and paying for and effecting improvements and acquiring stock plant and equipment, which loans may be secured on crops, wool, stock, poultry, plant, machinery, or implements by mortgages like those to the Board of Management of the Agricultural Bank of Tasmania under the *State Advances Act 1935**.

(2) Sections forty-one to forty-five of that Act shall apply to such mortgages as if the word “Board” therein meant the Board as defined by this Act and the word “Part” meant this section.

Timber royalties.

47—(1) Where there are growing on a holding at the time of its allotment any timber or timber-like trees in any stage from seedlings to full grown trees not yet decayed with age, the Board shall determine their value and shall include that value in the premises of the grant of the holding under section seventeen.

* 26 Geo. V. No. 41. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 636. Subsequently amended by 4 Geo. VI. No. 34, 4 & 5 Geo. VI. No. 63, 5 Geo. VI. No. 9, 7 Geo. VI. Nos. 6 and 42, and 9 & 10 Geo. VI. Nos. 49 and 68.

(2) Any royalties received by the Board in accordance with paragraph (k) of subsection (1) of section twenty-three shall to the extent to which they exceed the value shown in the grant, be applied in discharge of any debt then due and payable by the tenant to the Board and so far as they are not required for that purpose shall be credited against any future obligations of the tenant in respect of—

- (a) advances and loans by the Board to the tenant;
- (b) payments outstanding under subsection (2) of section twenty-six;
- (c) payments outstanding under subsection (4) of section twenty-nine;
- (d) rent,

in that order, so far as they extend.

Division II.—Profits of Board's Special Operations.

48 In this Division, unless the contrary intention appears— Interpretation.

“date of distribution” means the day following—

- (a) the day the Board determines to be the last day on which eligible persons may apply for holdings under this Act; or
- (b) if, at the end of that last day there is—
 - (i) an eligible person who has applied for a holding and is awaiting settlement; or
 - (ii) a tenant who has not purchased what the Board considers to be essential foundation stock,

the three hundred-sixty-fifth day after that last day or the day on which that purchase is complete, whichever is the sooner;

“enterprise” means the ventures of the Board in acquiring stock, implements, and so forth along with estates and farms acquired purportedly for the purposes of the repealed Acts or any of them and with them carrying on the estates and farms while preparing for settlement and also in engaging in calf rearing on certain lands of the Crown;

“stock” means horses, oxen, sheep, and pigs;

“the account” means the Returned Soldiers' Stock Purchase Account.

49—(1) The Board shall prepare an account, to be called the Returned Soldiers' Stock Purchases Account, of the profits and losses of the Board in respect of the enterprise up to and including the thirtieth day of June, 1950, debiting thereto—

- (a) four per cent per annum on the capital cost of the land used in the enterprise; and

Profits of Board's land and trading ventures.

(b) the interest paid by the Treasurer on the money borrowed by him and used as capital in the enterprise, that laid out on land excluded.

(2) The amount which the Auditor-General certifies to be the true profit shown by this account shall be paid out of moneys in the Treasury standing to the credit of the War Service Land Settlement Act Account to the State Sinking Fund Commissioners.

(3) At the end of the current and every subsequent financial year up to the date of distribution there shall be paid to the State Sinking Fund Commissioners the amount which the Auditor-General certifies to be the true profit of the enterprise for the year then ended subject to the same deductions.

(4) This section takes effect notwithstanding anything else contained in this Act.

Returned
Soldiers'
Stock Pur-
chase Fund.

50—(1) The State Sinking Fund Commissioners shall credit all moneys received by them under section forty-nine to an account to be called the Returned Soldiers' Stock Purchases Fund Account.

(2) All moneys received by the State Sinking Fund Commissioners into the account shall be invested by them, and the income from such investment shall be credited to the account.

Losses.

51 The following provisions shall apply to any losses incurred on the enterprise:—

- (a) If in respect of the period before the first July, 1950, the Auditor-General certifies not to a profit but to a loss, that loss shall be carried forward into subsequent years until wiped out:
- (b) If in respect of any subsequent year before any money is paid to the State Sinking Fund Commissioners under section forty-nine there is a loss it shall be carried forward likewise:
- (c) If in respect of any subsequent year after money has been paid to the State Sinking Fund Commissioners under section forty-nine there is a loss, the State Sinking Fund Commissioners shall pay out of moneys to the credit of the account so far as they will extend the amount of that loss as certified by the Auditor-General and any deficiency shall be carried forward as aforesaid.

Distribution
of the fund.

52 At the date of distribution the Board shall distribute all moneys to the credit of the account, in such manner as it thinks fit and the Minister and the Treasurer approve, among its tenants and former tenants or their personal representatives, with power—

- (a) to withhold distribution for a period not exceeding three years;

- (b) to distribute in different proportions and on different principles to the several beneficiaries and to exclude any of them from any share in the distribution; and
- (c) to credit the amount receivable by any beneficiary against present or future indebtedness to the Board or to his purchase deposit account.

53 If any part of the enterprise is still being carried on after the end of the financial year next before the date of distribution and— Incomplete financial year.

- (a) has been wound up at the date of distribution, accounts shall be made up and payments made in respect of it as if the date of distribution were the end of the next financial year: or
- (b) had not been wound up at the date of distribution, it shall be wound up forthwith and accounts shall be made up and payments made in respect of it as if the end of the next financial year had come, and the preparation of the list under section fifty-two shall be postponed until those accounts and payments are complete.

54—(1) The Board's distribution of the moneys in the account shall be audited by the Auditor-General, and the accounts thereof together with the Auditor-General's certificate as to their correctness and a report on the scheme and method of distribution shall be forwarded by the Board to the Minister. Audit and report.

(2) The said accounts, certificates, and report shall be laid before each House of Parliament within the first ten sitting days after the receipt thereof by the Minister.

Division III.—Validation of Transactions.

55—(1) No transaction recorded in the public accounts before the first day of July, 1950, shall be re-opened merely because of some invalidity in the repealed Acts or any of them. Public moneys.

(2) In respect of the financial year current at the commencement of this Act all public moneys received or expended in purported pursuance of the Acts repealed by this Act or any of them shall be deemed to have been received or expended for the purposes of this Act.

56 The Treasurer shall transfer the balance at the commencement of this Act of the account in the Treasury called the "Commonwealth and State War Service Land Settlement Agreement Act Account" to the account called the "War Service Land Settlement Act Account". Disposal of Commonwealth and State War Service Land Settlement Agreement Act Account.

PART V.
VALIDATION OF TRANSACTIONS.

Validation of certain resumptions and provisions for compensation. No. 14, 1950 (N.S.W.), s. 5.

57—(1) The notifications published in the *Gazette* specified in the third schedule purporting to resume the lands respectively described in the schedules to such notifications under the *Lands Resumption Act 1910** shall be deemed as from the respective dates of publication of such notifications in the *Gazette* to have been effective to vest such lands in His Majesty, freed and discharged from all estates and interests of any person therein.

(2) The owners of such lands shall be entitled to compensation under the *Lands Resumption Act 1910**; and any amount purporting to have been paid as compensation in respect of the resumption of any such lands, and which has been so paid prior to the commencement of this Act shall to the extent thereof operate as a satisfaction of any claim for compensation in respect of such lands arising out of the operation of this Act.

Cf. No. 14, 1950 (N.S.W.), s. 11.

(3) Notwithstanding the provisions of subsection (2) of this section—

(a) the value of the land for the purpose of determining compensation shall not exceed the value of the land without buildings, fences, or other structural improvements as on the tenth day of February, 1942, together with the value at the time of making the determination of the buildings, fences, and other structural improvements; and

(b) no compensation shall be payable to any person who has before the commencement of this Act received money purporting to be the full compensation payable under the *Lands Resumption Act 1910** in respect of the land of which he is divested by this section:

Provided that if this subsection is in itself invalid or this Act or any enactment herein is by reason of this subsection invalid, this Act shall be read and construed as if this subsection were omitted.

Validation of grant and notification under 1 Geo. V. No. 11.

58—(1) The grant of land registered as folium 72 of volume 211 is hereby confirmed.

(2) The notification of acquisition of 2329 acres of land in the Parishes of Ulva and Staffa, County of Monmouth, published in the *Gazette* of 31st August, 1949, at page 2521 shall be deemed to be of full force and effect to vest the land described therein in His Majesty, and may be annulled by a subsequent notification in the *Gazette* under section sixteen of the *Lands Resumption Act 1910** although the period of time therein limited for the purpose has expired.

1 Geo. V. No. 11. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 5. Subsequently amended by 4 Geo. VI. No. 11, 8 Geo. VI. No. 12, and 9 & 10 Geo. VI. No. 59.

59 It shall be a good defence to any person charged with any crime or offence committed before the commencement of this Act that the act charged would have been justifiable under the repealed Acts or any of them if they had been of full force and effect according to their tenor and that he believed it to be so, and that he so believed his unsworn statement shall be conclusive proof.

Indemnity
in criminal
proceedings.

60—(1) No action shall lie against the Crown or against any servant or agent of the Crown for any trespass *vi et armis* to person land or goods, for any disseisin, for any detention or conversion of goods, or for the return of any money, where the trespass, disseisin, conversion or receipt of goods or money was in purported pursuance of the repealed Acts or any of them.

Preservation
of supposed
existing
rights of
property
between
Crown and
subject.

(2) No such action by the Crown or any servant or agent of the Crown suing on behalf of the Crown shall be defended on the ground that the defendant is entitled to re-enter recapture or retain the land goods or money the subject of the action by reason of some invalidity in the repealed Acts or any of them.

61 In actions between private persons no plaintiff shall be barred of his claim and no defendant of his defence on the ground of any invalidity in the repealed Acts or any of them.

Preservation
of rights of
strangers.

62—(1) If the Governor receives a petition from any party to an action showing that he is unjustly harmed by the invalidity of the repealed Acts or any of them or by the operation of this Division, the Governor may by writ issued pursuant to an order-in-council prohibit the court in which the action is brought from proceeding further until His Majesty's pleasure is known, and that court shall stay the proceedings accordingly.

Preservation
of omitted
rights until
Parliament
can deal
with them.

(2) If the Governor issues such a writ he shall forthwith transmit the petition to Parliament for the making of a remedy.

(3) If no remedy is given by Parliament within the next twelve sitting days of the two Houses the other party shall be entitled as of course to a writ to continue the proceedings.

63 Every notice purporting to be given under section five of the *Commonwealth and State War Service Land Settlement Agreement Act 1945** which would be in force if that Act were in all points valid shall be deemed to be given on the commencement of this Act under section five hereof.

Confirmation
of reserva-
tions.

64 If any person in possession of any land vested in the Board under subsection (1) of section nine refuses to give up possession of the land or hinders the Board or any person authorised by the Board from taking possession of the land a judge may on the application of the Attorney-General grant a warrant authorising the sheriff to deliver possession of the land to the Board.

Refusal
to deliver
up lands.
No. 14, 1950
(N.S.W.),
s. 12.

Protection
of trustees.
Ibid., s. 13.

65 A trustee shall not be deemed to be or to have been guilty of any breach of trust or breach of duty by reason only of the fact that—

- (a) he has, before the commencement of this Act, agreed not to claim compensation in respect of land resumed from him under the *Lands Resumption Act 1910*[†], purportedly for the purposes of the *Commonwealth and State War Service Land Settlement Agreement Act 1945*^{*}, in excess of the amount offered by the Crown;
- (b) he has, before the commencement of this Act, agreed to accept and has accepted as the purchase price for any land purchased from him under the *Lands Resumption Act 1910*[†], purportedly for the purposes of the *Commonwealth and State War Service Land Settlement Agreement Act 1945*^{*}, the amount offered by the Crown.

In this section "trustee" includes personal representative of a deceased person, committee of the estate of a lunatic or idiot, the quasi-committee under section one hundred and fifty-five of the *Supreme Court Civil Procedure Act 1932*[‡] of the estate of any person, person having the custody or administration of the estate of a defective under the *Mental Deficiency Act 1920*[§], administrator of a convict's property, Judge and Registrar of the Supreme Court, tenant for life under the *Settled Land Act 1884*^{||}, person with the powers of a tenant for life under that Act, attorney, mortgagee, director of a company, and any other person acting in any fiduciary capacity.

Interest.
Ibid., s. 14.

66—(1) Notwithstanding the provisions of any other Act no interest shall be payable in respect of any compensation money owing to the owner of any lands described in the third schedule except as provided in this section.

(2) The compensation money payable to the owner of any such lands shall bear interest at the rate of four per cent per annum from the date on which vacant possession was or is given to the Minister to the date of payment of the compensation money or to a date twelve months after the commencement of this Act whichever is the earlier.

Costs.
Ibid., s. 16.

67—(1) All reasonable costs incurred by reason of any vesting of land by operation of this Act shall, subject to taxation by the Registrar of the Supreme Court be paid by the Crown save in the case of an appeal:

* 9 & 10 Geo. VI. No. 36.

† 1 Geo. V. No. 11. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 5. Subsequently amended by 4 Geo. VI. No. 11, 8 Geo. VI. No. 12, and 9 & 10 Geo. VI. No. 59.

‡ 23 Geo. V. No. 58. For this Act, as amended to 1936, see Reprint of Statutes, Vol. II., p. 59.

§ 11 Geo. V. No. 50. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 435. Subsequently amended by 9 Geo. VI. No. 29.

|| 48 Vict. No. 10. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V. p. 1134.

Provided that the total amount of such costs shall not in any case exceed fifty pounds.

(2) Any amount purporting to have been paid as costs in respect of the resumption of any such land and which has been so paid before the commencement of this Act shall operate as a satisfaction of any claim for costs arising under this Act.

(3) Upon the discontinuance of any action against the Crown or its officers relating to the resumption of land vested in the Board by subsection (1) of section nine the Court may if it considers that the action was properly brought and by reason of this Act alone properly discontinued award the plaintiff all or part of his costs.

PART VI.

MISCELLANEOUS.

68—(1) There shall be a body called the War Service Land Settlement Appeal Board consisting of three persons appointed by the Governor of whom—

War Service
Land Settlement
Appeal
Board:
Its consti-
tution.

- (a) one shall be a Police Magistrate and shall be the chairman of the board;
- (b) one shall be nominated by His Majesty's Minister of State for the Commonwealth thereto authorised; and
- (c) one shall be nominated by the State Branch of the Returned Soldiers', Sailors', and Airmen's Imperial League of Australia.

(2) The chairman shall hold office during the Governor's pleasure and the other members shall hold office for three years and shall be eligible for re-appointment.

(3) The chairman and members shall receive such salaries and allowances as are prescribed.

69—(1) Any person who is aggrieved by a determination of the Board under section twenty-seven or section twenty-nine may in the prescribed manner appeal to the War Service Land Settlement Appeal Board against that determination.

Its juris-
diction.

(2) The Appeal Board shall arbitrate between the Board and the person aggrieved upon the matter submitted as prescribed to it, in accordance with the *Arbitration Act 1892** as if the parties had agreed in writing to submit the matter to it for arbitration.

* 56 Vict. No. 8. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I, p. 150.

Regulations.

70 The Governor, on the recommendation of the Board, may make regulations in respect of the several matters required to be prescribed by this Act and also regulations—

- (a) for the determination by the War Service Land Settlement Appeal Board of any difference between the Board and a tenant not otherwise provided for in this Act;
- (b) prescribing any forms required for the purposes of this Act or for any dealings in land thereunder;
- (c) necessary to provide for the application of provisions of the *Real Property Act 1862** (including those relating to fees) to estates and interests created under this Act and to dealings therein, with power to exempt from payment of fees;
- (d) for the ascertainment and recovery of moneys payable under section twenty with power to impose penalties not exceeding one hundred pounds for failure to keep the prescribed books, vouchers, and records, to bank moneys received, or to make the prescribed return of income;
- (e) for relaxing with consent any requirement of section twenty-two; and
- (f) for the purposes of section twenty-three prescribing anything which might be made a special condition under paragraph (1) of subsection (1) of that section generally or in respect of any particular district or holding.

* 25 Vict. No. 16. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 1002. Subsequently amended by 11 & 12 Geo. VI. No. 88.

THE FIRST SCHEDULE.

(Section 17.)

Tasmania.

MEMORANDUM OF GRANT.

(Under the War Service Land Settlement Act 1950.)

THE Closer Settlement Board being registered proprietor of an estate in fee simple free of incumbrances in that piece of land situated in the County of _____ containing (here state the area), be the same a little more or less (exclusive of roads intersecting the same if any) (here state rights of way, privileges, or easements, if any, intended to be conveyed). [If the land to be dealt with contains all that is included in an existing grant or certificate, refer thereto by description and diagram, otherwise set forth the boundaries in chains, links, or feet, and refer to a plan thereof on margin of, or annexed to, the grant or deposited in the Registry Office], doth hereby grant to A.B., of (here insert description), all the said land to be held by the said A.B., his heirs, and assigns of the Board for ever, at the yearly rental of £ _____ [plus (here insert provisions for any additional rent under section 19, if required)], subject to the provisions of the War Service Land Settlement Act 1950 [and to the following special conditions (here set forth the special conditions, if any)].

In witness whereof the common seal of the Closer Settlement Board has been hereunto affixed this _____ day of _____ 19 _____, in the presence of E.F., and G.H., members of the said Board.

(L.S.)

(Signed) E.F., Chairman or Member

(Signed) G.H., Member.

THE SECOND SCHEDULE.

(Section 38.)

Tasmania.

MEMORANDUM OF RELEASE.

(Under the War Service Land Settlement Act 1950.)

THE Closer Settlement Board having the lordship of that piece of land situated in the County of _____ containing (here copy the area and description from the memorandum of grant), by virtue of a memorandum of grant registered (here identify the memorandum) [and (here set out any incumbrances intended to be discharged)], in consideration of the sum of _____ paid to the Board by A.B., its tenant of the said land, the receipt of which sum it hereby acknowledges doth hereby release the said A.B., his heirs, and assigns from all its rights in and touching the said land [and acknowledges the discharge of the aforesaid (incumbrances)].

In witness whereof the common seal of the Closer Settlement Board has been hereunto affixed this _____ day of _____ 19 _____, in the presence of E.F., and G.H., members of the said Board.

(L.S.)

(Signed) E.F., Chairman or Member.

(Signed) G.H., Member.

THE THIRD SCHEDULE.

(Sections 9 and 57.)

County	Parish	Area			Gazette	
					Date	Page
		A.	R.	P.		
King Island	Pegarah	249	3	27	19.6.1946	1326
"	"	492	0	20	19.6.1946	1328
"	Pegarah, Poolta, and Tarooona	1,627	2	22	19.6.1946	1330
"	Pegarah	492	2	25	7.8.1946	2001
"	"	859	0	12 } 98 1 15 }	7.8.1946	2001
"	"	494	1	25	21.8.1946	2170
"	"	489	0	18	28.8.1946	2241
"	"	500	0	0 } 496 1 37 }	28.8.1946	2241
"	Kittawa	250	0	0	11.9.1946	2318
"	"	317	0	23	11.9.1946	2319
"	Poolta	492	2	39	18.9.1946	2352
"	Pegarah	236	3	23	9.10.1946	2478
"	"	1,072	3	23½	23.10.1946	2545
"	"	239	1	28 } 276 3 19 }	27.11.1946	2819
"	Kittawa	286	3	24 } 313 2 23 }	27.11.1946	2820
"	"	743	1	31 }		
"	Tarooona	60	2	19	18.12.1946	2925
"	Poolta	440	2	29	18.12.1946	2925
"	Pegarah	499	1	36	18.12.1946	2925
"	"	249	2	1	18.12.1946	2925
"	"	289	0	27	18.12.1946	2926
"	"	42	1	0	18.12.1946	2926
"	"	499	3	4	18.12.1946	2926
"	"	498	2	3	18.12.1946	2926
"	Kittawa	1,355	2	39	18.12.1946	2927
"	"	99	1	15	18.12.1946	2929
Somerset	Ramsbury	2,280	0	0	2.4.1947	781
"	"	1,839	2	26	2.4.1947	781
Cumberland	Kenmere	2,007	2	33 9/10	2.4.1947	781
Somerset	Chichester	2,045	0	17	2.4.1947	781
"	Chichester, Eskdale, and Bramber	3,983	0	0	2.4.1947	782
"	Lincoln	4,843	0	0	2.4.1947	782
"	Ramsbury	1,740	0	0	2.4.1947	782
"	Brisbane, Corn- wallis, and Maxwell	2,015	3	29½	14.5.1947	1181
Cumberland	Lawrenny	20,903	0	17	29.10.1947	3057
King Island	Reekara	1,492	2	6	12.11.1947	3093
"	Bungaree and Reekara	1,675	0	34 3/10	12.11.1947	3093
"	Pegarah	497	3	1	26.11.1947	3160
"	Lappa	499	0	9	10.3.1948	561
"	Reekara	497	1	21	10.3.1948	562
"	Nugara	74	2	12 } 24 3 18 }	9.6.1948	1327
"	"	18	1	18 } 11 3 0 }	17.11.1948	3145
"	Reekara	390	3	8	22.12.1948	3326

County	Parish	Area	Gazette	
			Date	Page
King Island	Pegarah	A. R. P. 67 0 12	2.3.1949	674
Wellington	Peegra	317 0 10	2.3.1949	675
"	"	98 2 26	2.3.1949	675
"	"	100 0 0	2.3.1949	675
"	"	100 0 7	2.3.1949	676
"	"	97 0 4	2.3.1949	676
"	"	100 0 0	2.3.1949	676
"	"	390 1 28	2.3.1949	678
"	"	99 0 38	2.3.1949	679
"	"	199 3 35	2.3.1949	679
"	"	46 1 31	2.3.1949	679
"	"	96 3 10	2.3.1949	679
Monmouth	Hamilton and Lansdowne	2,495 0 2	18.5.1949	1187
Somerset	Epping and Cleveland	1,808 3 0	15.6.1949	1686
"	"	2,852 0 0 }	15.6.1949	1687
"	Epping	1,054 2 0 }		
Wellington	Peegra	50 0 1	13.7.1949	2130
"	Preolenna	319 1 17	21.12.1949	3239
"	"	317 0 27 }	21.12.1949	3239
"	"	184 3 9 }		

WORKERS' COMPENSATION.

No. 83 of 1950.

AN ACT to amend the *Workers' Compensation Act 1927*.
[21 December, 1950.]

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—(1) This Act may be cited as the *Workers' Compensation Act 1950*. Short title and citation.