

DISCHARGED SOLDIERS SETTLEMENT ACT, 1934-1935.

BEING

DISCHARGED SOLDIERS SETTLEMENT ACT, 1934, No. 2152 OF 1934
[ASSENTED TO 18TH OCTOBER, 1934.]

AS AMENDED BY

CROWN LANDS ACT AMENDMENT ACT, 1935, No. 2256 OF 1935
[ASSENTED TO 21ST DECEMBER, 1935.]

An Act to consolidate certain Acts relating to the settle-
ment on land of discharged soldiers.

BE IT ENACTED by the Governor of the State of South Australia with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

Short title and
commence-
ment.

1. This Act may be cited as the "Discharged Soldiers Settlement Act, 1934-1935," and shall come into operation on a day to be fixed by proclamation.

Consolidation
and repeal.

2. This Act is a consolidation of Acts and parts of Acts shown in the schedule and the said Acts are repealed to the extent shown in the schedule.

Arrangement.

3. The provisions of this Act are arranged as follows :

PART I.—Preliminary.

PART II.—Administration.

PART III.—Settlement and training of discharged soldiers.

PART IV.—Advances to discharged soldiers.

PART V.—Miscellaneous provisions.

Incorporation
with Crown
Lands Act,
and application
of that Act.
1913, 1917,
s. 2.

4. This Act is incorporated with the Crown Lands Act, 1929, and with the Irrigation Act, 1930, and those Acts and this Act shall be read as one Act ; and, except so far as they are

s. 1. This Act was proclaimed to commence on 1st May, 1937: *Gazette* 25th March, 1937.
p. 644.

inconsistent with this Act; the provisions of the Crown Lands Act, 1929, shall apply to and in respect of the lands set apart under this Act, both before and after they are allotted under this Act: Provided that, where the lands are within an irrigation area under the Irrigation Act, 1930, the provisions of that Act, except so far as they are inconsistent with this Act, shall apply as aforesaid.

5. (1) In this Act—

“board” means the Land Board:

“discharged soldier” means any person who—

(a) has been a member of the British Army or Navy or of the Australian Imperial Force or of any other naval or military force raised in any part of the British Empire for service in the Great War; and

(b) has served in connection with the said war; and

(c) has received his discharge from service:

and also means the widow of any such person as is referred to in paragraph (a) of this definition who has died or dies from wounds inflicted, accident occurring, or disease contracted whilst on service in connection with the said war, leaving any children wholly or in part dependent upon his earnings at the time of his death:

Provided that nothing in this definition shall apply to—

- (i.) any person whose discharge from service was due to incapacity resulting from, or which otherwise arose out of, his own default or misconduct; or
- (ii.) any person the terms of whose enlistment as such member as aforesaid did not render him liable to serve in connection with the said war outside the country wherein his enlistment took place; or
- (iii.) any person whose immigration into Australia is prohibited by the Immigration Restriction Act, 1901-1912, of the Parliament of the Commonwealth, or by any other Act for the time being in force regulating immigration into Australia:

Interpreta-
tion.

1313, 1017,
8, 4.

“Great War” means the war in which His Majesty was engaged which commenced on the fourth day of August, nineteen hundred and fourteen :

“Minister” means the Minister of Repatriation or other Minister of the Crown to whom the administration of this Act is committed by the Governor.

(2) Any reference in this Act to any other Act shall include a reference to any Act repealed by such other Act.

PART II.

PART II.

ADMINISTRATION

Incorporation
of Minister of
Repatriation.
1818, 1917,
s. 5.

6. (1) The Minister of Repatriation and his successors in office are hereby, for the purposes of this Act, continued a body corporate with perpetual succession and a common seal, under the name of the “Minister of Repatriation.”

(2) All courts, judges, and persons acting judicially, shall take judicial notice of the said seal when affixed to any instrument, and shall, until the contrary is shown, presume that the same was properly affixed thereto.

Assistant
Minister of
Repatriation.
1542, 1922,
s. 8.

7. (1) The Assistant Minister of Repatriation may exercise and discharge any or all of the powers, duties, and functions of the Minister of Repatriation under this Act, whether in his personal or in his corporate capacity, and every act of the Assistant Minister of Repatriation under the authority of this section shall be deemed to be the act of the Minister of Repatriation.

(2) Nothing in this section shall in any way prevent, affect, or interfere with the exercise and discharge by the Minister of Repatriation of any of his powers, duties, or functions under this Act.

Powers of
Minister of
Repatriation.
1846, 1918,
s. 14.

8. The Minister of Repatriation and his successors in office shall have full power to enter into contracts or agreements, to sue and be sued, to acquire, hold, and dispose of land of any tenure and personal property of any kind, and to acquire or take any mortgage, charge, lien, or encumbrance over land of any tenure or personal property.

9. (1) The Minister may, from time to time, by notice published in the *Government Gazette*, declare that any part of the State defined in the notice shall constitute a land valuation district for the purposes of this Act, and may, by the same or another such notice, appoint a land valuer or land valuers for the purposes of that Act for any such district.

Valuation
districts and
valuers.
1388, 1919,
s. 27.

(2) Every valuer so appointed shall have such duties with respect to the valuation of land within the district for which he is appointed as the Minister determines or as may be prescribed, and, for the purposes of any such valuation, may enter upon and inspect any land, building, or place, and inspect any goods and other things, the entry upon or inspection of which appears to him to be requisite.

10. (1) The Governor may appoint inspectors of lands under this Act, who shall, for the purposes of this Act, be additional members of the board, and, for those purposes, shall have all the powers and duties of members of the board.

Inspectors.
1946, 1918,
s. 13.
1388, 1919,
s. 25.

(2) The inspector of lands in the Department of the Minister of Agriculture shall be deemed to have been appointed under this section.

11. (1) The Minister may—

(a) provide and maintain training farms to enable discharged soldiers to acquire the knowledge requisite for agricultural, horticultural, viticultural, or dairying pursuits, pig-raising, or poultry-farming, and to test their aptitude therefor; and

Power of
Minister to
establish
training farms.
1346, 1918,
s. 16.

(b) appoint the necessary officers and servants for the purpose, or make such arrangements with the owners of farms for carrying out the purposes aforesaid as are expedient.

(2) The terms and conditions on which discharged soldiers shall be received on the said farms shall be such as the Minister may determine.

PART III.

PART III.

SETTLEMENT AND TRAINING OF DISCHARGED SOLDIERS.

12. (1) The Governor may from time to time, by proclamation, set apart any area or areas of Crown land for allotment pursuant to this Act to discharged soldiers.

Power to set
apart areas of
Crown land.
1313, 1917,
s. 6.

(2) Any proclamation under this section may, at any time, be revoked in so far as it relates to land which is not required, or which is not suitable, for the purpose for which it was set apart.

(3) The cost of any land acquired under Part X. of the Crown Lands Act, 1929, which is set apart under this Act for allotment to discharged soldiers shall not be taken into account in computing, for the purposes of section 144 of the Crown Lands Act, 1929, the total cost of all land acquired under the said Part during any period of two financial years.

Power to set
apart areas of
pastoral land.
1388, 1919,
s. 29.

13. (1) The Governor may from time to time set apart any area or areas of pastoral land for allotment pursuant to this section to discharged soldiers. Any such proclamation may at any time be revoked in so far as it relates to land which is not required, or which is not suitable, for the purpose for which it was set apart.

(2) All land set apart under this section shall, if in the opinion of the Pastoral Board the area thereof is too large to be allotted as a separate holding, be subdivided into such blocks as the Pastoral Board, with the approval of the Minister, determines.

(3) The blocks may be offered in such manner as the Minister approves to discharged soldiers on leases for such terms of years as the Minister thinks convenient. The said leases shall be in such form and shall contain such covenants and conditions as are prescribed.

(4) The provisions of subsections (4) and (5) of section 19 shall apply, *mutatis mutandis*, to and in respect of all applications for blocks made under this section.

(5) Any person whose application for any such block has been granted may apply to the Minister for an advance for any of the purposes mentioned in section 26, and the provisions of subsections (2) and (3) of that section shall apply to and in respect of all such advances.

(6) A lease shall not be granted to any applicant for any such block until he has occupied the block on permit for a period of at least twelve months. The provisions of subsection (2) of section 20 shall apply, *mutatis mutandis*, to and in respect of every such permit.

Provision for
payment for
improvements
on land under
pastoral lease.
1388, 1919,
s. 30.

14. The amount payable to the outgoing lessee for improvements on the block or blocks comprised in any pastoral lease granted to a discharged soldier, whether payable by the incoming lessee or by the Commissioner of Crown Lands, shall be paid by the Minister, and the said amount shall be repaid to the Minister by the discharged soldier who is the incoming lessee by equal annual instalments spread over the term of

the lease, together with interest thereon or on the balance for the time being remaining unpaid at such rate as is determined by the Minister, which instalments and interest shall be payable on the same days as rent is payable under the lease, and shall be recoverable in like manner: Provided that the discharged soldier may at any time pay the balance of the instalments and interest thereon to the date of payment, and thereupon he shall cease to be liable under this section.

15. (1) The Minister may, out of moneys provided by Parliament for the purpose, by repurchase acquire land for the purposes of this Act.

Power of
Minister to
purchase land.
1313, 1917
s. 7.

(2) Any land so acquired prior to the commencement of this Act shall be deemed to have been acquired under the authority of this Act.

16. (1) Any land acquired under section 15 whether so acquired before or after the commencement of this Act and whether vested in the Minister or not, and any land acquired under the Discharged Soldiers Settlement Act Further Amendment Act, 1919, shall upon such acquisition be deemed to have become, or to become, Crown lands, and shall be dealt with and regarded in all respects as Crown lands set apart under section 12.

Acquired land
to become
Crown lands.
1888, 1919
s. 28.

(2) Upon the transfer or conveyance of any land so acquired, or of any land acquired under section 17 for the purpose of being vested in His Majesty, being lodged with the Registrar-General, the Registrar-General shall make any entry in the register book or other book at the Lands Titles Registration Office, or General Registry Office, necessary or proper to evidence the vesting of the land in His Majesty.

(3) In the case of land under the provisions of The Real Property Act, 1886, upon the lodging of the transfer with him or, in the case of land acquired by the Minister and vested in His Majesty or the Minister before the passing of the Discharged Soldiers Act Further Amendment Act, 1919, upon the certificate, grant, or other muniment or muniments of title to the land being lodged with him by the Minister, the Registrar-General shall make an entry on the folium relating to the land in the register book, as follows:—"Cancelled, the within land having become vested in the Crown," and shall cancel any certificate, grant, or muniment or muniments of title to the land lodged with any such transfer or lodged as aforesaid by indorsing the said entry thereon, and shall sign the entry and indorsement. Thereafter the land shall, for the purposes of The Real Property Act, 1886, and until again alienated from the Crown, be dealt with and regarded in all respects as if it had never been alienated from the Crown.

Power of
Minister to
purchase land
for individual
soldier.

1846, 1918,
s. 15.
1888, 1919,
s. 26.

17. (1) The Minister may, out of moneys provided by Parliament for the purpose, upon application, purchase land of any tenure, including land held under a Crown lease or agreement, with a view to the settlement thereon of a particular discharged soldier.

(2) Any land so purchased may be vested directly in the discharged soldier and a mortgage be taken by the Minister over the land to secure payment to the Minister of all sums of money paid by him for the purchase thereof, and other advances (if any) made to the discharged soldier and remaining unpaid, and the provisions of subsection (3) of section 26 shall apply, *mutatis mutandis*, to a mortgage taken by the Minister under this section.

(3) If the land so purchased is not dealt with under subsection (2) hereof—

(a) if it is acquired in fee simple, it shall be vested in His Majesty; or

(b) if it is land held under a Crown lease or agreement the lease or agreement shall be surrendered,

and in either case the Minister may grant to the discharged soldier for whom the land was purchased, or any other discharged soldier, an agreement over the land in the same form and containing the same covenants and conditions as if the discharged soldier had made application for the land under section 19 and his application had been granted by the Minister.

(4) The provisions of subsections (4) and (5) of section 19 shall apply, *mutatis mutandis*, to and in respect of all applications for land made under this section.

(5) Any person whose application for any such land has been granted may apply to the Minister for an advance for any of the purposes mentioned in section 26, and the provisions of subsections (2) and (3) of that section shall apply to and in respect of any such advances.

(6) An agreement shall not be granted to any applicant for any such land until he has occupied the land on permit for a period of at least twelve months. The provisions of subsection (2) of section 20 shall apply, *mutatis mutandis*, to and in respect of every such permit.

Recommendation for setting apart land.

1846, 1918,
s. 11.
1888, 1919,
s. 24.
1881, 1923,
s. 6.

18. No land shall be set apart or acquired under this Act except on the recommendation—

(a) of the board, concurred in by an inspector of lands and at least two other members of the board; or

- (b) of at least two members of the board and the land valuer for the district in which the land is situated.

19. (1) The land set apart under section 12 shall, if in the opinion of the board the area thereof is too large to be allotted as a separate holding, be subdivided into such blocks as the board, with the approval of the Minister, determines.

Subdivision of
land set apart
for soldiers.
1313, 1917,
s. 9,
1340, 1918
s. 4.

(2) The said blocks may be offered, in such manner as the Minister approves, to discharged soldiers on perpetual lease, or on leases for such terms of years as the Minister thinks convenient.

This subsection shall apply notwithstanding—

- (a) that the land was acquired under Part IX. or Part X. of the Crown Lands Act, 1929, or under any repealed Act or enactment providing for the acquisition of land by the Crown for homestead blocks or for closer settlement; and

- (b) that the land is within an irrigation area under the Irrigation Act, 1930.

(3) Any of such blocks which are not within an irrigation area under the Irrigation Act, 1930, may also be offered as aforesaid on agreement.

(4) Application for blocks shall be made to the Minister, and shall contain particulars as to the following matters:—

- i. The name, address, and occupation of the applicant, and his occupation prior to becoming a member of any such force as mentioned in section 5;
- ii. His service in the force of which he was a member, specifying—
 - (a) the name of the force;
 - (b) the period of his service, and the date of his discharge;

s. 19. LAFFER v. GILLEN (1924) S.A.S.R. 514, reversing GILLEN v. LAFFER (1924) S.A.S.R. 170. The Minister is limited to a type of agreement contemplated by the Crown Lands Act, 1929-1936, with such modifications as are prescribed by regulation under this Act. Held that section 59 of the Crown Lands Act, 1929-1936, applies to agreements under this Act.

LAFFER v. GILLEN (1927) A.C. 886; 40 C.L.R. 86; 6 Austrn. Digest 933, 934; reversing GILLEN v. LAFFER (1925) 37 C.L.R. 210; and affirming LAFFER v. GILLEN (1924) S.A.S.R. 514, which reversed GILLEN v. LAFFER (1924) S.A.S.R. 170. Where an agreement contained a clause authorising the Minister to cancel the agreement if satisfied that the purchaser was incompetent or for other specified reasons, held that, under the clause, the Minister exercised an administrative function and was entitled to form an opinion on such materials as he thought sufficient. As to the insufficiency of a notice demanding instalments in arrear.

- (c) the reason for his discharge ; and
- (d) particulars as to any physical disability caused by wounds or disease resulting from his service ;
- III. The block or blocks for which application is made ;
- IV. The purpose for which the applicant proposes to use the land ;
- V. The experience of the applicant in the business for which he proposes to use the land, or in any other class of farming or cultivating land ;
- VI. The amount of capital available for expenditure by the applicant in connection with the land ;
- VII. The nature and estimated amount of assistance, if any, that the applicant will require to enable him to work the land successfully ; and
- VIII. Such other particulars as are prescribed.

(5) All applications shall be dealt with by the Minister, who shall grant such applications as he considers ought to be granted.

Permit to
occupy block.
1946, 1918,
s. 18.
1721, 1925,
s. 4.
2058, 1931,
s. 5.

20. (1) Wherever a discharged soldier has applied for the allotment to him of a block on lease or agreement and the Minister has granted the application, a lease or agreement shall not be granted to the applicant until he has occupied the block on permit for a period of at least twelve months and has complied with the terms and conditions of the permit.

(2) Every permit to occupy a block under this section shall be issued by the Minister in writing under his hand and may be revoked by the Minister if the holder thereof has, in the opinion of the Minister, neglected to work the block satisfactorily, or been guilty of serious misconduct during his occupation thereof, or if the Minister for any other reason considers that the permit ought to be revoked.

(3) This section shall not apply—

- (a) where the discharged soldier applying for the allotment of a block is already the holder of a block allotted or transferred to him on lease or agreement under this Act, any Act repealed by this Act, or the Acts incorporated therewith ; or

- (b) in any case where the Minister is of opinion that by reason of the state of cultivation of the block this section should not apply in respect of the block and the Minister in writing under his hand declares that this section shall not apply to the block.

21. (1) The board, in fixing the purchase price or annual rent of any block allotted or to be allotted under agreement or lease under this Act, shall take into consideration the cost of any cool store, fruit-packing shed, shearing shed, or factory erected or purchased by the Minister for the use on co-operative principles of settlers under this Act, or any Act repealed by this Act, and which is situated in the immediate neighbourhood of the block and available for use by the purchaser or lessee thereof.

Apportionment of cost of co-operative undertakings for benefit of discharged soldiers.
1346, 1918,
s. 12.

(2) The board shall apportion to every such block such portion of the cost aforesaid as, in the opinion of the board, ought properly to be borne by the owner or lessee of the block, and shall increase the purchase price or annual rent of the block accordingly.

22. The Minister may clear and otherwise prepare for settlement any land to be offered for allotment under this Act or any Act incorporated with this Act, and may, if he thinks fit, employ discharged soldiers for that purpose, on such terms and conditions as he thinks desirable.

Power of Minister to clear land.
1313, 1917,
s. 13.

23. (1) Any discharged soldier who is the holder of land on perpetual lease or agreement under the Crown Lands Act, 1929, may apply in writing to surrender his lease or agreement for the purpose of obtaining a perpetual lease or agreement under this Act, and the Minister may grant the application.

Power of lessees to surrender leases and agreements.
1388, 1919,
s. 31.

(2) Upon application being made under this section, the board, subject to the approval of the Minister, shall fix the annual rent or purchase-money at which the perpetual lease or agreement may be obtained.

(3) The conditions of leases granted and agreements entered into under this section shall be as prescribed.

(4) The provisions of section 20 shall not apply in respect of the granting of any lease or agreement under this section.

24. (1) The purchaser under any agreement for sale or purchase of any land made under this Act, or any Act repealed by this Act, may apply in writing to surrender his agreement for a perpetual lease of the land comprised therein.

Power to surrender agreement for perpetual lease.
2058, 1931,
s. 8.

Substituted by
2256, 1935,
s. 13.

(2) Upon an application being made under this section the Land Board, subject to the approval of the Minister, shall fix—

- (a) the annual rent at which the lease may be obtained in perpetuity; and
- (b) the annual rent at which the lease may be obtained for the first ten years, after which the rent shall be fixed in perpetuity as hereinafter provided.

In fixing the rents pursuant to this section the Land Board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

Substituted by
2256, 1935,
s. 13.

(3) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which the applicant could have completed purchase at the time of the surrender of the agreement calculated for one year at the rate of interest provided for in the agreement.

Substituted by
2256, 1935,
s. 13.

(4) Upon the rents aforesaid being fixed, notice in writing shall be given to the applicant, who shall within three months after the giving of the notice, accept or refuse the lease offered. If the applicant accepts the lease he may, upon surrendering the agreement, obtain a perpetual lease as provided in this section.

Substituted by
2256, 1935,
s. 13.

(5) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the Land Board, subject to the approval of the Minister.

Inserted by
2256, 1935,
s. 13.

(6) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the Land Board subject to the approval of the Minister. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and

shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

(7) The Minister shall forthwith cancel the agreement and the applicant shall execute the perpetual lease issued in lieu thereof.

Inserted by
2256, 1935,
s. 13.

(8) Any application as aforesaid may be granted notwithstanding that any instalment of purchase money or interest payable under the agreement is in arrear. When in any such case the application is granted, the full amount of the said arrears together with interest thereon at such rate of interest not exceeding five pounds per centum per annum as is fixed by the Land Board, subject to the approval of the Minister, shall be paid in such instalments, and at such times, as are fixed by the Land Board, subject to the approval of the Minister, when fixing the annual rent as aforesaid, and shall be payable and recoverable in the same manner as the rent to become due under the perpetual lease, and the payment of the said instalments shall be deemed to be a covenant implied in the perpetual lease issued in place of the surrendered agreement.

Inserted by
2256, 1935,
s. 13.

(9) The purchaser under any agreement for sale and purchase surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the land comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the agreement.

Inserted by
2256, 1935,
s. 13.

25. No lease granted or agreement entered into under this Act shall be transferred, assigned, sublet, mortgaged, or encumbered, except with the consent of the Minister.

Restriction on
right of
transfer.
1312, 1917
s. 15.

PART IV.

PART IV.

ADVANCES TO DISCHARGED SOLDIERS.

Power of
Minister to
make advances.
1313, 1917,
s. 10.

26. (1) Any person whose application under this Act or any Act repealed by this Act for allotment of any block has been granted by the Minister, may apply to the Minister for an advance for any or all of the following purposes :—

- i. The clearing, fencing, grading, draining, irrigating, and general improvement of any land allotted under this Act ;
- ii. The erection of buildings on any such land ; and
- iii. The purchase of implements, stock, seeds, plants, trees, and such other things as may be deemed necessary for the successful occupation and cultivation of any such land.

(2) If in the opinion of the Minister it is desirable that assistance should be given to the discharged soldier for any or all of the purposes mentioned in subsection (1) hereof, the Minister may take such action in accordance with the regulations as he thinks fit.

(3) All moneys advanced or expended by the Minister under the authority of this section to or on behalf of any discharged soldier shall bear interest at such rate as is determined by the Minister, and in the case of moneys advanced for any of the purposes mentioned in subdivision i. or ii. of subsection (1) hereof shall be secured by a first mortgage over the soldier's interest in his land, and in the case of moneys advanced for any of the purposes mentioned in subdivision iii. of the said subsection (1) shall be secured by a bill of sale or other security approved by the Minister over the goods and chattels purchased out of the moneys, and any other goods and chattels :
Provided that—

- (a) the Minister may, if he thinks fit in any case of hardship, dispense, either wholly or in part, with the payment of interest under this section ; and
- (b) in the case of any property which is encumbered by any previous mortgage or charge in favour of the Crown, a second mortgage or charge, with such collateral security as the Minister thinks fit, may be taken as security.

27. (1) Advances may be made under this Act to discharged soldiers who are the holders on lease or agreement of any land belonging to the Crown.

Power to
make other
advances.
1813, 1917,
s. 11.
1346, 1918, s. 5.
1388, 1919,
s. 23.

The said advances shall be in addition to any sum which may already have been advanced to or expended for such soldiers under the Advances to Settlers Act, 1930, or the Irrigation Act, 1930, and may be made for all or any of the purposes mentioned in subsection (1) of section 26.

(2) Advances as aforesaid may also be made under this Act to any discharged soldier—

(a) who is the owner of any estate of freehold in land, or the lessee of land under a lease (not being a lease from the Crown) having a term of not less than three years to run ; or

(b) who has entered into an agreement having at least three years to run with the owner or lessee of any land to farm the land on shares.

In the case of any such lessee as referred to in paragraph (a) hereof, an advance may be made to him for the payment of rent in arrear under his lease.

(3) Advances as aforesaid may also be made under this Act to any discharged soldier—

(a) who is the holder on lease or agreement of any land belonging to the Crown ; or

(b) who is the owner of any estate of freehold in land ; or

(c) who is the lessee of land under a lease (not being a lease from the Crown) having a term of not less than three years to run,

for the purpose of discharging any mortgage or encumbrance over the land or his interest therein, or for the purpose of paying off any debt incurred by the discharged soldier prior to his enlistment or incurred on his behalf during his absence from the State on active service. Every advance so made shall be secured by a first mortgage over the land, or the interest of the soldier therein, and, if the Minister thinks fit, by a bill of sale or other security approved by the Minister over any goods and chattels of the soldier, or, if the Minister thinks fit, shall be secured only by such a bill of sale or other

security, and shall, in cases when the advance is to be secured by a first mortgage only, be limited to the amount recommended by—

- (i.) the board, concurred in by an inspector of lands, and at least two other members of the board, or
- (ii.) at least two members of the board and the land valuer for the district in which the land is situated.

(4) The provisions of subsections (2) and (3) of section 26 shall apply, *mutatis mutandis*, to an advance under this section as if it were an advance under the said section 26.

Provisions as
to goods
purchased
with money
advanced.
1581, 1923,
s. 4.

28. (1) All goods and chattels—

- (a) purchased out of any moneys advanced or deemed to be advanced by the Minister to any person pursuant to this Act or any Act repealed by this Act or any regulations thereunder for any of the purposes mentioned in section 26 ;
- (b) supplied by or on behalf of the Minister to any person by way of an advance for any of the said purposes ;
or
- (c) acquired in substitution for or in replacement of any goods and chattels purchased or supplied as mentioned in paragraphs (a) or (b) of this subsection,

shall, while in the possession, custody, or power of the person for whom they were purchased or to whom they were supplied, and until the execution of a bill of sale as security for the moneys advanced or expended, be deemed to be lent by the Minister to that person, and the Minister shall be deemed to have and always to have had power to make the loan.

(2) Every person for or to whom any such goods and chattels as mentioned in subsection (1) of this section are purchased or supplied shall, if a bill of sale over the goods and chattels is not executed to secure the money advanced or expended in respect thereof, forthwith upon the receipt of the goods and chattels give to the Minister an acknowledgment in the prescribed form, and containing such conditions as are prescribed.

(3) The acknowledgment may relate both to the goods and chattels purchased or supplied before or at the time of the giving of the acknowledgment, and to any goods and chattels which may thereafter be purchased or supplied.

(4) Upon the execution of a bill of sale over any of the goods and chattels mentioned in the acknowledgment, the acknowledgment shall be void as regards the goods and chattels to which the bill of sale relates.

29. (1) Any money advanced to or expended on behalf of any person under this Act or any Act repealed by this Act for any of the purposes mentioned in section 26 and secured by a bill of sale shall, if the interest of the said person in the land held by him under this Act, or any Act repealed by this Act, or any Act with which this Act is incorporated, ceases, forthwith become due and payable.

Repayment of
advances on
cancellation
of holding.
1581, 1923,
s. 5.

(2) This section shall apply notwithstanding anything contained in any bill of sale, whether executed before or after the commencement of this Act.

PART V.

PART V.

MISCELLANEOUS.

30. (1) Where it appears to the Governor that any land acquired under this Act or any Act repealed by this Act, is not suitable for or is not required for the settlement of discharged soldiers and is not required for any purpose of the Government of the State, or that it is desirable, in order to better effectuate the object of this Act, that he should exercise any of the powers conferred upon him by this section, he may—

Power to
dispose of
surplus lands.
1346, 1918,
s. 19.

- (a) sell the property, or any estate, right, or interest therein either by public auction or private contract ;
or
- (b) exchange the property, or any estate, right, or interest therein, for any other land or property, or any estate, right, or interest therein ; or
- (c) dispose in any other way of the property, or any estate, right, or interest therein ; or
- (d) if the land is vested in the Minister, direct the Minister to sell, exchange, or dispose of the land as aforesaid, in which case the Minister may execute any and every assurance, deed, instrument, and writing, and do all such other acts and things as may be deemed necessary or expedient for that purpose,

for such price or other consideration as he deems sufficient, and upon such (if any) terms and conditions as he deems proper.

(2) For the purpose of carrying out any such transaction as mentioned in subsection (1) of this section, the Governor may execute any and every assurance, deed, instrument, and writing, and do all such other things as may be deemed necessary or expedient.

(3) The Minister's receipt shall be a sufficient discharge for any moneys to be paid in pursuance of any such transaction, and it shall not be necessary for the person paying any such moneys to inquire whether or not a proper case has arisen for the exercise of any power conferred by this Act.

(4) All moneys received by the Minister in pursuance of any such transaction shall be paid to the Treasurer to the credit of the loan account.

(5) Nothing in this section shall be deemed to derogate from any power vested in the Governor or any other person by this Act or any other Act, or otherwise howsoever.

(6) The Minister shall, not later than the thirtieth day of September in every year, present to the Governor a report stating—

(a) particulars of all properties (if any) with regard to which the Governor has, during the period ended on the preceding thirtieth day of June, exercised any of the powers conferred by this section ;

(b) how the properties have been dealt with respectively under this section ; and

(c) the price or other consideration, and the other terms or conditions (if any), in each case.

Every such report shall be laid before both Houses of Parliament within fourteen days after it is presented to the Governor if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

Cancellation of
lease or
agreement
when holding
abandoned.
1581, 1023,
s.3.

31. (1) Notwithstanding anything contained in any lease, agreement, or permit issued pursuant to this Act, any Act repealed by this Act, or any regulations thereunder, if the person holding land under any such lease, agreement, or permit—

(a) is absent from the land continuously for one month or more without having notified the Minister of his whereabouts and without leaving any person upon the land ; or

(b) intimates, whether verbally or by writing, to the Minister or any other person in the employment of the Government that he has abandoned his land, or makes any intimation to the like effect,

the Minister may, by writing under his hand, without notice to the said person, and without re-entry, forthwith determine the lease, agreement, or permit, and thereupon the interest of the said person in the land shall absolutely cease and determine.

32. (1) Where any land purchased under section 17 or the corresponding provision of any Act repealed by this Act, is vested in fee simple in a discharged soldier and mortgage of the land has been given to the Minister to secure payment to him of any money paid by him for the purchase of the land or of any money advanced by him to the discharged soldier pursuant to this Act, any Act repealed by this Act, and any Acts incorporated therewith, and—

Surrender of
fee simple of
land in
exchange for
agreement.
1721, 1925,
s. 5.

- the Minister may permit the discharged soldier to surrender and transfer his land to His Majesty under the provisions of this section.

(2) Where any land is surrendered and transferred to His Majesty under this section the Minister may grant to the discharged soldier surrendering the land an agreement over the land.

(3) The agreement shall contain the same covenants and conditions as other agreements granted under section 17: Provided that the term of the agreement shall be calculated from the date when the land was originally purchased by the Minister for the settlement thereon of a particular discharged soldier: Provided also that the amount of purchase-money specified in the agreement shall include the amount of principal owing by the discharged soldier under his mortgage in respect of moneys paid by the Minister for the purchase price of the land, and may also include at the discretion of the Minister all or any of the following amounts, namely :—

- (a) the whole or any portion of the principal owing by the discharged soldier to the Minister in respect of any advance other than the moneys paid by the Minister for the purchase price of the land :
- (b) any arrears of interest due to the Minister under the mortgage or on account of any other advance made to the discharged soldier.

(4) Section 20 shall not apply when any land is granted on agreement under this section.

Cancellation of
title to
surrendered
land.
1721, 1925.
s. 6.

33. If any land transferred to His Majesty pursuant to the next preceding section of this Act is under the provisions of The Real Property Act, 1886, the Registrar-General shall upon the lodging with him of the transfer of the land make an entry on the folium in the register book relating to the land as follows:—"Cancelled, the within land having become vested in the Crown," and shall cancel any certificate of title to the land lodged with any such transfer as aforesaid by indorsing the entry aforesaid thereon and shall sign the entry and endorsement.

Remission of
rent and
advances.
1813, 1917,
s. 12.
1346, 1918,
s. 6.
1721, 1925,
s. 3.
2058, 1931
s. 3.

34. (1) The Minister may remit, wholly or in part, and in respect of such period or periods as he thinks fit, any rent, purchase-money, or interest payable by a settler under a lease granted or agreement entered into pursuant to this Act, or any Act repealed by this Act, or by any discharged soldier under a lease granted, or agreement entered into, pursuant to either of the Acts incorporated with this Act, or may postpone the due date for the payment of any such rent, purchase-money, or interest.

(2) The Minister may remit wholly or in part, and in respect of such period or periods as he thinks fit, any moneys due in respect of the principal of or interest on any advance repayable pursuant to this Act or any Act repealed by this Act, or may postpone the due date for the payment of any such advance or instalment thereof.

Power to
reduce rent and
capitalize
interest.
2058, 1931,
s. 4.

35. The Minister may, on the recommendation of the board—

- (a) reduce the rent or purchase-money payable by a settler under a lease granted or agreement entered into pursuant to this Act or any Act repealed by this Act:
- (b) reduce the amount of the principal of any advance made pursuant to this Act or any Act repealed by this Act:
- (c) capitalize any arrears of interest due under any agreement or advance entered into or made pursuant to this Act or any Act repealed by this Act, and add the interest to the purchase price under the agreement or the amount of the advance, as the case may be.

Power of
Minister to
vary
agreements.
2058, 1931,
s. 6.

36. (1) The Minister, on the recommendation of the board, may extend the term of any agreement for sale and purchase of land entered into pursuant to section 30 of this Act, or section

19 of the Discharged Soldiers Settlement Act Amendment Act, 1918, but not so to extend the said term beyond sixty-four years from the commencement thereof as fixed by the agreement.

(2) The instalments of purchase-money to be paid under the agreement during the remainder of the term (as so extended) shall be such as are fixed by the Minister.

(3) The Minister, on the recommendation of the board, may remit in respect of such period or periods as he thinks fit any part of the purchase-money payable under any such agreement, and may reduce any such purchase-money.

37. (1) The Minister of Irrigation may, with respect to any discharged soldier who holds, whether on lease, or under an agreement, or in fee simple, any such land as is referred to in section 110 of the Irrigation Act, 1930, exercise all or any of the following powers namely :—

Provisions for relief of settlers in irrigation areas.

1721, 1925,
s. 7.
1930, 1930,
s. 6.

- I. He may add any moneys advanced by him to a discharged soldier for any of the purposes mentioned in subdivision III. of subsection (1) of section 26 to the moneys secured by any mortgage given, or to be given, to the Minister by the discharged soldier, and in such case may discharge any bill of sale or other security given by any discharged soldier pursuant to subsection (3) of section 26 as security for any money advanced as aforesaid, or may retain the bill of sale as collateral security :
- II. He may capitalize any arrears of interest due under any mortgage given by a discharged soldier pursuant to section 26 and add the interest to the principal moneys secured by the mortgage :
- III. He may make an advance under this Act to any discharged soldier for the purpose of paying any arrears of irrigation rates due to the Minister of Irrigation, or any arrears of rent due to any Minister of the Crown in respect of any land held by the discharged soldier :
- IV. He may take as security for any advance made to a discharged soldier under this Act or any Act repealed by this Act and any moneys added thereto pursuant to this Act and any further advances made to the discharged soldier pursuant to this Act, a mortgage containing such terms as, on the recommendation of the Director of Lands, he approves, and may in such a case discharge any existing mortgage given by the discharged soldier as security for the first-mentioned advance :

- v. He may remit wholly or in part any moneys due to him by any discharged soldier in respect of the principal of or the interest on any advance :
 - vi. He may reduce the rent payable by any discharged soldier for any land held by the discharged soldier on lease from the Crown or may remit any such rent :
 - vii. He may direct that the rent payable by any discharged soldier for any land held by the discharged soldier on lease from the Crown shall be payable quarterly in advance :
 - viii. He may direct that any irrigation rates due to the Minister of Irrigation be remitted wholly or in part, and upon the giving of any such direction the rates shall be remitted accordingly.
- (2) The powers conferred on the Minister by subsection (1) of this section shall be exercised by the Minister on the recommendation of the Director of Lands.

(3) Where pursuant to this section any sum of money is added to the capital sum secured by an existing mortgage, the mortgage shall, unless and until a new mortgage is taken in lieu of the existing mortgage, be deemed to be a security for the sum so added, and to provide for the repayment thereof by instalments payable at the same time as the instalments of the original sum secured by the mortgage are payable, and of such number that the last of them would be payable at the time when the last instalment of the original advance would be payable.

Registration of alterations and variations of leases and mortgages. 1721, 1925, s. 9.

38. Where any action taken by the Minister under section 37 alters the rent payable under a lease, or in any way varies the terms or conditions of a lease or mortgage, the provisions of Part XIII. of The Real Property Act, 1886, shall apply with respect to the alteration or variation.

Exemption of certain documents from registration fees. 1721, 1925, s. 10. 2058, 19 s. 7.

39. Notwithstanding anything contained in The Real Property Act, 1886, or any other Act, where for the purpose of giving effect to the provisions of section 32, 35, or 37, or the corresponding provision of any Act repealed by this Act, it is necessary or expedient to register any instrument in the Lands Titles Registration Office or the General Registry Office, or to make any entry in the register book, no fees shall be payable in connection with the registration or the making of the entry.

40. In addition to and without prejudice to other powers vested in it, the board shall, for the purpose of obtaining information to assist the board in carrying out its powers, functions, and duties under this Act, have the following powers, that is to say—

Powers of
board.
1846, 1918,
s. 7.

- I. The members of the board and each of them may by themselves, or by any person appointed by them for the purpose, enter upon and inspect any land, building, or place, and inspect any goods and other things, the entry upon or inspection of which appears to them or him to be requisite :
- II. They may require, by summons under the hand of the chairman, the attendance of all such persons as they think fit to call before them, and may require answers or returns to such inquiries as they think fit to make :
- III. They may by notice in writing, signed as aforesaid, require and compel the production of any books, papers, or documents :
- IV. They may inspect any books, papers, and documents produced before them, and retain them for such reasonable periods as they think fit, and may make copies of such matters therein as are relevant, or take extracts of any such matters :
- V. They may examine witnesses on oath, affirmation, or declaration, which may be administered by any member of the board.

41. (1) If any person—

Powers of
board in
respect of
witnesses.
1846, 1918,
s. 8.

- (a) who has been personally served with a summons to attend before the board, and whose expenses, as provided in subsection (2) hereof, have been paid or tendered to him, neglects to attend in obedience to the summons ; or
- (b) wilfully insults the board, or any member thereof ; or
- (c) misbehaves himself before the board ; or
- (d) interrupts the proceedings of the board ; or
- (e) being called or examined as a witness before the board, refuses to be sworn, or to affirm or declare, or refuses or neglects to produce any books, papers, or documents mentioned in a notice under section 40 personally served upon him, or prevaricates in his evidence, or refuses to answer any lawful question,

he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding fifty pounds.

(2) Every person required by the board under the powers conferred by this Act to attend before it shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court, and in case of dispute as to the amount to be allowed the same shall be referred to the Master of the Supreme Court, who, on request under the hand of the chairman, shall ascertain and certify the proper amount of the expenses.

Duty of
witness to
continue in
attendance.
1846, 1918
s. 9.

42. (1) Every person who has been duly summoned to attend before the board shall appear and report himself from day to day unless excused by the chairman, or until he is released from further attendance by the chairman.

(2) If any person fails to so report himself he shall be deemed to have neglected to attend before the board in obedience to his summons, and shall be punishable accordingly.

Punishment for
false evidence.
1846, 1918,
s. 10.

43. Any person who, upon oath, affirmation, or declaration taken or made under this Act, wilfully and corruptly gives any false evidence before the board shall be guilty of perjury, and may be imprisoned for any term not exceeding four years.

Provision for
control of
co-operative
factories, &c.
1846, 1918,
s. 17.

44. Every cool store, fruit-packing shed, shearing shed, or factory erected or purchased by the Minister for the use on co-operative principles of settlers shall be under the management and control of such persons as are appointed by the settlers for the time being entitled to use the same, or, in default of appointment by the said settlers after a notice from the Minister requiring the appointment, as are appointed by the Minister.

Instruments to
be exempted
from stamp
duty.
1888, 1919,
s. 32.

45. Notwithstanding anything contained in the Stamp Duties Act, 1923, no stamp duty shall be chargeable upon any instrument executed by any returned soldier or other person for the purpose of giving effect to any transaction authorised by the Act or any Act repealed by this Act.

Disposal of
moneys
received from
settlers.
1818, 1917
s. 14.

46. All moneys received from discharged soldiers to whom land has been allotted under this Act shall be dealt with as if they were received in respect of land allotted under the Crown Land Act, 1929, or, where the lands are within an irrigation area under the Irrigation Act, 1930, as if they were received in respect of land allotted under that Act.

Annual report.
1818, 1917,
s. 17.

47. (1) The Minister shall, as early as possible after the end of each financial year, cause to be prepared a report showing, for the previous financial year—

(a) the aggregate areas of land set apart under this Act;

(b) the number of applications received for the said land, and the number of blocks and the aggregate area allotted;

(c) the amount expended in assisting discharged soldiers under this Act; and

(d) such other particulars as are prescribed.

(2) Every such report shall be laid before Parliament within thirty days after the receipt thereof by the Minister if Parliament is then in session, and if not, then within thirty days after the commencement of the next ensuing session.

48. (1) In addition to any power by any other section of this Act, or by any provision of the Crown Lands Act, 1929, conferred on the Governor to make regulations as to any matter (which power shall in every case be implied for the purposes of any section of this Act in which regulations are referred to, or in which the word "prescribed" is used), the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of this Act, or for better effecting the objects of this Act, and in particular (without limiting the effect of this section) for all or any of the following purposes, namely:—

Regulations.
1813, 1917,
s. 16.

I. The conditions of leases granted and agreements entered into under this Act, including provisions as to—

(a) the form or forms of leases and agreements;

(b) improvements to be effected by lessees and purchasers;

(c) residence of lessees and purchasers on the land;

(d) the method of computing the rent and purchase-money to be paid by lessees and purchasers respectively; and

(e) the transfer, surrender, and forfeiture of leases and agreements, and the assignment, subletting, and mortgaging of leases and agreements;

II. The application of any of the provisions of the Crown Lands Act, 1929, or of any other Act relating to Crown lands to lands set apart or allotted under this Act.

(2) The provisions of subsections (2), (3), and (4) of section 288 of the Crown Lands Act, 1929, shall apply to any regulation made under this Act.

Financial
provision.
1313, 1917,
s. 18.

49. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

Summary
proceedings for
offences.
1346, 1918,
s. 20.

50. All proceedings in respect of offences against any provision of this Act (except section 43) shall be disposed of summarily.

Validation and
saving of past
proceedings.
1346, 1918,
s. 23.

51. Anything done since the passing of the Discharged Soldiers Settlement Act, 1917, shall be as valid as if that Act had been passed with the amendments made by the Discharged Soldiers Settlement Act Amendment Act, 1918, and as if the other provisions of the Discharged Soldiers Settlement Act Amendment Act, 1918, had been incorporated in the first mentioned Act on the passing thereof: Provided that nothing in this section or in the Discharged Soldiers Settlement Act Amendment Act, 1918, shall render invalid anything done before the passing of the Discharged Soldiers Settlement Act Amendment Act, 1918.

THE SCHEDULE.

ACTS REPEALED.

Reference to Act.	Short Title.	Extent of Repeal.
No. 1313 of 1917 ..	Discharged Soldiers Settlement Act, 1917	The whole
No. 1346 of 1918 ..	Discharged Soldiers Settlement Act Amendment Act, 1918	The whole
No. 1388 of 1919 ..	Discharged Soldiers Settlement Act Further Amendment Act, 1919	The whole
No. 1439 of 1920 ..	Discharged Soldiers Settlement Act Further Amendment Act, 1920	The whole
No. 1542 of 1922 ..	Discharged Soldiers Settlement Act Further Amendment Act, 1922	The whole
No. 1581 of 1923 ..	Discharged Soldiers Settlement Act Further Amendment Act, 1923	The whole
No. 1721 of 1925 ..	Discharged Soldiers Settlement (Relief) Act, 1925	The whole
No. 1990 of 1930 ..	Crown Lands (Administration) Act, 1930	Section 6 and the Fourth Schedule
No. 2058 of 1931 ..	Discharged Soldiers Settlement Act, 1931	The whole

Regulations.

The following regulations were in force under this Act on
22nd March, 1937:—

Gazette—2nd December, 1920, p. 1429.

11th August, 1921, p. 270.

19th January, 1922, p. 100.

2nd March, 1922, p. 729.

6th April, 1922, p. 988.

30th August, 1923, p. 493.

31st January, 1924, p. 211.

7th August, 1924, p. 283.

18th February, 1926, p. 326.

17th February, 1927, p. 339.

28th April, 1927, p. 935.

12th May, 1927, p. 1044.

21st January, 1932, p. 69.

7th June, 1934, p. 1395.

18th April, 1935, p. 1136.

24th December, 1936, p. 1337.

DISTRESS FOR RENT

see Landlord and Tenant.

DISTRICT COUNCILS.

see Local Government.

DIVORCE

see Matrimonial Causes.

DOGS

see Alsatian Dogs : Coursing Restriction : Registration of
Dogs : Wild Dogs.