

RETURNED SOLDIERS SETTLEMENT (AMENDMENT) ACT.

Act No. 51, 1919.

An Act to make further provision with regard to the settlement of returned or discharged soldiers or sailors; to dispense with the payment of certain fees; to waive certain payments to the Crown; to extend the time for appraisement of capital value and rent, and for effecting improvements in lieu of paying rent in certain cases; to provide for the revaluation of lands held by returned or discharged soldiers or sailors; to amend the Returned Soldiers Settlement Act, 1916, the Returned Soldiers Settlement (Amendment) Act, 1917, the Crown Lands Acts, the Closer Settlement Acts, the Irrigation Act, 1912, and certain other Acts; and for purposes consequential thereon or incidental thereto. [Assented to, 23rd December, 1919.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Returned Soldiers Settlement (Amendment) Act, 1919."
short title.

In this Act, the Returned Soldiers Settlement Act, 1916, as amended by the Returned Soldiers Settlement (Amendment) Act, 1917, is referred to as the Principal Act.

2.

George V,
No. 51.
Amendment
of Principal
Act.
Sec. 2 (1).

Extension of
definition of
discharged
soldier.

2. The Principal Act is amended as follows:—

(i) Section two, subsection one:—

Before “enlisted” each time it occurs insert “was appointed as an officer or”

Paragraph (c): Before “has received his discharge” insert “has had his appointment terminated or”

After “and is resident in the Commonwealth” where secondly occurring insert “or any person who, having been resident in the Commonwealth, was, while so resident, called up for active service by His Majesty or His Majesty’s allies in the present war, and served in the naval or military forces of such allies outside the Commonwealth, and had his appointment terminated or received his discharge and is resident in the Commonwealth. The Minister may also extend the above definition to any person wounded or otherwise incapacitated during active service abroad who has returned to the Commonwealth and has not had his appointment terminated or received his discharge, and to any person who has been engaged as a munition worker or who has served abroad in the present war as a nurse or as a war worker.”

In the proviso after “service” insert “or termination of appointment.”

Sec. 3.

(ii) Section three: At the end of the first paragraph insert:—“Minister in this section in the case of lands within an irrigation area, shall be read as Minister for Agriculture for the time being.”

Sec. 3A]

(iii) Section 3A: After “any specified tenure” insert “other than a holding within an irrigation area.”

Sec. 4 (1).

(iv) Section four, subsection one: At the end of the subsection add:—“Minister in this subsection in the case of lands within an irrigation area, shall be read as Minister for Agriculture for the time being.”

Subsection

Subsection seven: Omit "or, in the case of holdings within an irrigation area, shall report to the Water Conservation and Irrigation Commission, which shall grant or refuse the application."

At the end of the subsection insert:—"Provided that in the case of lands within an irrigation area such applications shall be dealt with in the manner prescribed, and the granting or refusal of such applications shall be entirely at the discretion of the Water Conservation and Irrigation Commission, which may give preference to any application."

(v) Section 4B, subsection one: Before "soldiers" insert "discharged."

Subsection six: Before "soldier" insert "discharged."

At the end of the subsection add:—"In the case of the death of a discharged soldier before the confirmation of the allotment, the Minister may confirm the allotment to the widow or the legal representative of such discharged soldier."

(vi) Section 4D: Omit "abroad" each time it occurs.

After "confirm" insert "or grant."

In paragraphs four and five, after "Minister," wherever occurring, insert "or in the case of a holding within an irrigation area, the Water Conservation and Irrigation Commission."

At the end of the section insert the following:—"The Minister may extend the provisions of this section to any soldier or sailor on active service who, having been a resident of the Commonwealth, was, while so resident, called up for active service by His Majesty or by any of His Majesty's allies.

(vii) Section 4E: After "Minister" insert "or within an irrigation area the Water Conservation and Irrigation Commission."

(viii) Section 4F: Omit "abroad" each time it occurs.

(ix)

**George V,
No. 51.**

Sec. 5.
Appeal.
Sec. 6,
subsec. (1).

Sec. 7,
subsec. (1).

Subsec. 2A

Subsec. (3).

(ix) Section five : Omit " or the Water Conservation and Irrigation Commission" where secondly occurring.

(x) Section six, subsection one, paragraph (e) : After " Irrigation Act, 1912," insert " and any Act amending the same."

(xi) Section seven, subsection one, paragraph (a) : After " water supply " insert " grading."

Subsection (2A) : After " Minister," where first occurring, insert " or, in the case of lands within an irrigation area defined in any Act, the Water Conservation and Irrigation Commission."

Paragraph (a) : After " water supply " insert " grading."

After subsection (2A) insert the following new subsection :—

(2B) The Minister, or the Water Conservation and Irrigation Commission, may purchase and dispose of stock, implements, and such other things as the Minister or such Commission may deem necessary for the purposes of this Act.

Subsection three : Omit the first paragraph, and insert the following new paragraphs in lieu thereof :—

(3) All moneys advanced or expended by the Minister or the Water Conservation and Irrigation Commission, as the case may be, under the authority of this section in respect of any land shall bear interest at such rate as may be determined by the Minister or such Commission.

Such moneys shall be secured by one or more of the undermentioned securities—

- (a) a first mortgage over the said land and any improvements thereon, or over the interest of the settler in the said land and improvements;
- (b) a stock mortgage;
- (c) a hire purchase agreement;
- (d) such other security or securities as the Minister or the Water Conservation and Irrigation Commission shall deem sufficient.

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The following new paragraphs are inserted at the end of the section:—

George V,
No. 51.

All such moneys with interest thereon shall be a debt due by the person to whom the advance was made and shall be recoverable and any security for such moneys shall be enforceable by the Minister or the Water Conservation and Irrigation Commission in any court of competent jurisdiction.

Notwithstanding any Act to the contrary, no fee or charge shall be demanded or paid for the registration of any security or the release or discharge of any such security given under this Act or for any affidavit sworn in verification thereof.

Subsection four: After "Minister" insert "or Subsec. (4). in the case of lands within an irrigation area as defined in any Act, by the Water Conservation and Irrigation Commission."

(xii) Section 7A: After "Minister" insert "or, in Sec. 7A. the case of lands within an irrigation area as defined in any Act, the Water Conservation and Irrigation Commission."

After "he" each time it occurs insert "or the Commission."

At the end of section add: "This section shall also apply to land subject to the Wentworth Irrigation Act, or the Hay Irrigation Act, 1902, or any Act amending the same in connection with which land advances have been made under this Act."

(xiii) Section ten: After "who is not a discharged Sec. 10. soldier" insert "or engaged on military or naval service with His Majesty's forces, or the forces of His Majesty's allies, or the widow of a soldier or sailor who died on active service, or of a discharged soldier."

3. At the end of section 4F of the same Act add the Sec. 4F. following new paragraph:—

"On the death of a soldier or sailor while engaged on active service any condition of residence attaching to any holding (other than a holding within an irrigation

Condition of residence.

George V,
No. 51.

irrigation area) held by him at the time of his death shall be deemed to have been completed. In the case of a holding within an irrigation area any condition of residence shall be waived for a period of twelve months or for such further period as the Water Conservation and Irrigation Commission may allow."

New s. 7B.

4. The following new section is inserted after section 7A of the same Act :—

Forfeiture.

7B. If satisfied that any condition attaching to any holding under this Act has not been or is not being duly complied with, or that reasonably full use of the holding for the purposes for which it is best suited is not being made, or upon default being made in the payment of any instalment of purchase money or rent or charges for water, for six months after the due date for payment thereof, the Minister, or, in the case of a holding within an irrigation area, the Water Conservation and Irrigation Commission, may forfeit such holding and all improvements thereon as well as all moneys paid in respect thereof, by notification published in the Gazette :

Provided that the Minister, or, in the case of a holding within an irrigation area, the Water Conservation and Irrigation Commission, may waive any forfeiture so incurred if the Minister or such Commission considers the circumstances warrant it, and may attach conditions to such waiver which shall thereupon be deemed to be conditions attaching to the holding.

This section shall also apply to leases under the Wentworth Irrigation Act and the Hay Irrigation Act, 1902, or any amendments of those Acts in connection with which advances are made under this Act.

Upon forfeiture, the provisions of section two hundred and six, subsection two, of the Crown Lands Consolidation Act, 1913, shall apply, except in the case of a holding within an irrigation area, or under the Wentworth Irrigation Act, or the Hay Irrigation Act, 1902.

5.

5. The following new sections and short headings are inserted after section twelve of the same Act :—

George V,
No. 51.

Withdrawal of applications before or after confirmation or allowance.

New section and short headings.

13. Where an application is made, before or after the commencement of the Returned Soldiers Settlement (Amendment) Act, 1919, by a discharged soldier for any holding under the Crown Lands Acts, the Closer Settlement Acts, or this Act, the Minister or, in the case of land within an irrigation area, the Water Conservation and Irrigation Commission may permit withdrawal of the application before or after the confirmation, granting or allowance thereof, and may grant a refund of the whole or part of the moneys paid by such discharged soldier in connection with such holding :

Provided that withdrawal shall not be permitted unless applied for before the expiration of twelve months after the confirmation or allowance of the application under the Crown Lands Acts, the Closer Settlement Acts, or this Act, and, in the case of a holding within an irrigation area, within three months after the granting of the holding.

Waiver of rent and interest due by Crown settlers on active service.

14. (1) The Minister may upon application made to him waive the payment of—

Waiver of rent and interest.

- (a) the whole or part of the interest due to the Crown on the balance of purchase money on any purchase under the Crown Lands Acts or on any settlement purchase under the Closer Settlement Acts, or on any holding under the Returned Soldiers Settlement Act, 1916, due or payable by a discharged soldier during the time when such soldier was on active service and six months thereafter ;
- (b) the whole or part of the rent due in respect of any homestead selection, lease or license for the aforesaid periods.

Extension

George V,
No. 51.

Extension of
time for ap-
praisement,
&c.

Extension of time in which to apply for appraisement of capital value or rent, and in which to effect improvements in lieu of rent.

15. Any holder of a purchase, homestead selection, or lease under the Crown Lands Acts who has been engaged on active service with the naval or military forces of the Commonwealth, or of His Majesty, or any of His Majesty's allies, or has been engaged as a munition worker, shall be entitled,—

- (a) to exercise any right conferred by the Crown Lands Acts to obtain an appraisement of the capital value of his purchase or homestead selection, or the rent of his lease as the case may be, notwithstanding that the time allowed by the said Acts may have expired: Provided that an application as prescribed be made within three years of the date of the return of such holder to New South Wales;
- (b) in the case of a homestead farm or Crown lease, to reckon the time for effecting improvements in lieu of paying rent, as exclusive of any period of service as aforesaid.

This section shall extend to the legal representative of any such person who has died.

Previous holding of land not to disqualify in certain cases.

Previous
holding not
to disqualify
in certain
cases.

16. Notwithstanding anything in any Act, an applicant for land under this Act or a discharged soldier who is an applicant for land under the Crown Lands Acts or Closer Settlement Acts and who is otherwise qualified to hold such land, shall not be disqualified by reason only that he has at any time previously obtained a title to or held any other land under the Crown Lands Acts or the Closer Settlement Acts or any other Act, if he no longer holds the same.

Payments not required for five years if occupation and use be satisfactory.

Payments not
required for
five years if
occupation
and use be
satisfactory.

17. Where Crown land, other than land within an irrigation area, has been or is acquired by a discharged soldier under section four of the Principal

Principal

Principal Act it shall not be necessary for any deposit to be lodged or paid, nor for any payment to be made on account of rent for a period of five years from the date of the commencement of the title to the land: Provided that the Minister is satisfied that the land is being properly used and developed, and is bona fide held by a discharged soldier, and that such improvements as he may specify are effected in lieu of such payments.

Exclusive right of discharged soldiers to bid at auction sales of Crown lands.

18. (1) Where Crown lands are offered for sale by auction in pursuance of the provisions of the Crown Lands Consolidation Act, 1913, the Minister may restrict the sale of the whole or any number of lots offered to discharged soldiers exclusively, and may provide that any purchase by or sale to any person other than a discharged soldier shall be void.

(2) The provisions of section ten of this Act shall apply to lands purchased at such auction sales.

Appraisement of soldiers' holdings.

19. (1) Where a discharged soldier has acquired land from the Crown under the Crown Lands Acts, the Returned Soldiers Settlement Act, 1916 (other than land within an irrigation area), or the Closer Settlement Acts, and considers the price or capital value excessive, he may apply in the prescribed manner to have such price or capital value determined.

(2) Any application lodged in pursuance of this section shall be dealt with by a local land board or by a board consisting of not more than three persons who shall be appointed by the Governor; one of such persons shall be appointed chairman, and at least one member shall be a resident of the land district in which the land is situated.

(3) The board and the chairman thereof shall in any inquiry and determination under this section have respectively the like powers as are conferred

George V,
No. 51.

conferred on a local land board under section fourteen of the Crown Lands Consolidation Act, 1913.

Cost of withdrawal or resumption or of making or providing roads not to be charged to discharged soldiers.

Discharged soldiers not liable for cost of withdrawal, resumption, or of making or providing roads.

20. Notwithstanding the provisions of section one hundred and eighteen, or section one hundred and twenty-four, or section one hundred and thirty of the Crown Lands Consolidation Act, 1913, a discharged soldier shall not be liable to repay to the Crown—except for improvements—the proportionate cost of resumption or withdrawal mentioned in those sections, or any sum expended by the Crown in making or providing roads to or on the land of which a discharged soldier shall become the holder.