

**CROWN LANDS (IRRIGATION AREAS
SERVICEMEN SETTLEMENT) AMEND-
MENT ACT.**

Act No. 15, 1948.

George VI.
No. 15, 1948.

An Act to make further provision for and in relation to the settlement on irrigation areas of members of His Majesty's naval, military or air forces and other eligible persons; for this purpose to amend the Crown Lands Consolidation Act, 1913, the Irrigation Act, 1912, and the War Service Land Settlement Act, 1941, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 21st May, 1948.]

BE

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BE it enacted by the King's Most Excellent Majesty, No. 15, 1948.
by and with the advice and consent of the Legis-
lative 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 “Crown Lands Short title.
(Irrigation Areas Servicemen Settlement) Amendment
Act, 1948.”

2. This Act shall not be construed so as to affect the Construc-
tion.
operation of the War Service Land Settlement Act, 1941,
as amended by subsequent Acts, or to limit or take away
any power or authority vested in a Minister or in any
other person by that Act as so amended.

3. (1) The Crown Lands Consolidation Act, 1913, Amendment
of Act No.
7, 1913.
as amended by subsequent Acts, is amended by inserting
next after section 147c the following new Division:— New Divi-
sion 3,
Part VI.

DIVISION 3.—*Promotion of Settlement of Servicemen
on Irrigation Areas.*

147D. (1) Any one or more members of the forces, Application
to Minister
to acquire
private
lands.
cf. Act
No. 38,
1943, s. 9A.
discharged members of the forces or other eligible
persons within the meaning of the War Service
Land Settlement Act, 1941, as amended by subse-
quent Acts, who or each of whom holds a qualification
certificate issued under that Act, as so amended,
and is qualified to apply for an irrigation farm lease
under this Act, who desires or desire to acquire
from the one owner any private lands within an
irrigation area may, with the consent of such owner,
apply to the Minister to acquire the said lands under
and subject to the provisions of this Division of this
Part of this Act at the price set out in the applica-
tion.

For the purposes of this subsection—

(a) land held by joint owners or tenants in
common shall be deemed to be land held by
the one owner;

(b)

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(b) separate parcels of land which adjoin or are adjacent to one another and are held by different owners but—

(i) are worked by or on behalf of or leased to a company or partnership of which such owners or any of them are members; or

(ii) in the opinion of the Minister after report by the Commission are occupied, controlled or used substantially in the interests of one of such owners,

shall be deemed to be land held by the one owner.

(2) An application shall be made in the manner and in or to the effect of the form prescribed by regulations made under this Act.

(3) Where in any such application the number of the original applicants is more than one and such number is for any cause reduced or increased the application may with the consent of the Minister be proceeded with notwithstanding such reduction or increase in number.

(4) Any other duly qualified person may with the consent of the Minister, be substituted for any original applicant.

(5) In this section the expression "private lands" means—

(a) any lands held as an estate in fee simple;

(b) any lands held as an irrigation farm purchase or a non-irrigable purchase used for farming purposes; and

(c) any lands held as an irrigation farm lease, or a non-irrigable lease used for farming purposes.

Valuation.
Act No 38,
1943, s. 9B.

147E. The Minister may cause a valuation of such lands to be made by the Commission: Provided that any such valuation shall not exceed the amount at which the Commission would have valued identical

land

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land as at the tenth day of February, one thousand nine hundred and forty-two, excepting the value of any improvements effected on such lands since that date. **No. 15, 1948.**

147F. If the amount at which the land has been so valued is less than the price specified in the application the Minister shall refuse the application unless the owner agrees to reduce the price to the amount of the valuation. **Where valuation is less than price. Act No. 38, 1943, s. 9C.**

147G. Where application is made under section 147D of this Act the Minister, on being satisfied that— **Purchase of land. Ibid. s. 9D.**

- (a) the lands the subject of such application are suitable for settlement;
- (b) the lands proposed to be held by each applicant together with other lands (if any) already held by such applicant constitute but do not substantially exceed a home maintenance area;
- (c) each applicant is qualified to apply for an irrigation farm lease under this Act and is otherwise eligible; and
- (d) the price is not in excess of the valuation made by the Commission in accordance with section 147E of this Act,

may approve of the purchase.

147H. (1) Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands pursuant to section 147G of this Act, the Minister may, by notification in the Gazette, declare that such lands are and the same shall thereupon be deemed to be vested as if the same had been surrendered to the Crown. **Vesting of land in the Crown. Ibid. s. 9DA.**

(2) The purchase money in respect of such lands shall bear interest at the rate prescribed from the date of the publication in the Gazette of the notification under subsection one of this section relating to such lands until such purchase money is paid.

(3)

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(3) Where, in pursuance of a notification under subsection one of this section, any lands are vested in His Majesty and the owner or occupier of such lands or any other person refuses to give up possession of such lands, or hinders the Minister or any person acting on behalf of the Minister from entering upon or taking possession of such lands for and on behalf of the Crown, the Minister may issue a warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same.

(4) Upon the receipt of such warrant, the sheriff shall deliver possession of such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession; and the amount of such costs shall be deducted and retained by the Minister from the purchase money, if any, then payable to such person, or if no such purchase money is payable to such person, or if the same is less than the amount of such costs, then such costs, or the excess thereof beyond such purchase money, shall be payable to the Minister by and be recoverable from such person.

Payment
for land.
cf. Act,
No. 38,
1943, s. 9E.
Vesting of
land in
applicant.
Ibid. s. 9F.

147I. Any purchase of lands by the Minister pursuant to section 147G of this Act shall be paid for in cash.

147J. (1) Upon the surrender of the lands to the Crown or upon the vesting of the lands under section 147H of this Act, the following provisions shall apply:—

- (a) The Minister shall, where necessary, cause a subdivision thereof to be made into holdings to be held as irrigation farm leases.
- (b) The Minister may by his authorised agents and workmen improve the land by clearing, fencing, draining, grading, provision of water supply and by effecting general improvements.

(c)

(c) The Minister shall notify in the Gazette **No. 15, 1948.**
particulars of—

- (i) the holdings and their respective areas;
- (ii) the annual rentals as determined by the Commission;
- (iii) the nature and value as determined by the Commission of any improvements which are the property of the Crown and which are to be paid for by the incoming tenants, and the terms and conditions upon which payment for the improvements shall be made;
- (iv) the special conditions, if any, as to improvements, cultivation, preservation or planting of timber, the purposes for which such holdings are suitable, and such other matters as require to be regulated in the public interest, which shall attach to such holdings;
- (v) the value of improvements (if any) which are to be effected on each holding by the incoming tenant and the period within which such improvements are to be effected;
- (vi) the name of the applicant or substituted person under section 147D of this Act in whom each holding shall vest and be held as an irrigation farm lease under subsection four of this section.

(2) The Minister may at any time by notification in the Gazette modify, alter or revoke any notification under paragraph (c) of subsection one of this section.

(3) In determining the annual rentals of any holding due regard shall be had to the additional value given or to be given to the holding by reason of the works constructed or to be constructed for irrigation or other purposes and to the benefits derived therefrom.

(4)

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(4) Upon publication in the Gazette of a notification under paragraph (c) of subsection one of this section each holding shall vest in and be held as an irrigation farm lease by the person whose name has been notified in such notification in respect of such holding.

The title to any such irrigation farm lease shall commence on the day of publication of such notification.

The holder of any such irrigation farm lease shall observe and comply with the terms and conditions of any such notification or where any such notification has been modified or altered pursuant to subsection two of this section the terms and conditions of any such notification as so modified or altered.

(5) Notwithstanding anything contained in section one hundred and forty-five of this Act an irrigation farm lease which has by any notification under the provisions of this section been vested in any person shall not be convertible into an irrigation farm purchase.

(6) Subject to the foregoing provisions of this section the provisions of sections 142D, one hundred and forty-four, 144A, 144B, 145A, 145B, one hundred and forty-six, one hundred and forty-seven, 147A and 147B and the provisions of Parts VII and VIII of this Act in so far as they are complementary to the said sections shall apply, *mutatis mutandis*, to holdings vested and held as irrigation farm leases under this Division of this Part of this Act.

For the purposes of such application—

- (a) the words “granting of the application” in subsection four of section 142D shall be read as “commencement of title to the lease”;
- (b) the words “section one hundred and thirty-nine or section 144A” in subsection seven of the same section shall be read as “section 147J”;

(c)

(c) the words "as available for disposal" in subsection nine of the same section shall be read as "as vesting in any person pursuant to section 147J of this Act" No. 15, 1948.

147K. (1) If any person gives or offers or any owner receives or solicits valuable consideration in respect of any purchase under section 147G of this Act over and above the approved purchase price either directly or indirectly and either before or after the Minister approves of the purchase he shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment for any period not exceeding six months with or without hard labour, or to penalty and imprisonment as aforesaid. Penalties. cf. Act No. 38, 1943, s. 9G.

(2) Where the holder of an irrigation farm lease has been convicted of an offence against subsection one of this section in respect of the land so held such conviction shall render the holding liable to forfeiture and the provisions of section one hundred and forty-seven of this Act shall apply in any such case.

147L. (1) The Governor may by regulation prescribe and limit the rate of commission which may be charged to a vendor in connection with the sale of land under the provisions of this Division of this Part of this Act. Any claim in excess of the rate prescribed shall be illegal; and any sum in the nature of a commission paid in contravention of this section or of any regulation made hereunder shall be recoverable by the Crown in any court of competent jurisdiction. Limitation of commission. Ibid. s. 9S.

(2) No commission on any such sale shall be claimed by any person from or be payable by an applicant under section 147D of this Act and any commission so paid shall be recoverable in the like manner as is provided in subsection one of this section.

(3) Any person who accepts any valuable consideration in contravention of subsection one or two of this section shall be liable to the penalty provided for in section 147K of this Act.

147M.

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Restrictions
on right of
transfer.

Act No. 38,
1943, s. 9T.

147M. (1) Notwithstanding anything in any Act, any holding acquired by a member of the forces, discharged member of the forces or other eligible person under the provisions of this Division of this Part of this Act shall not be transferable until ten years after the commencement of title to such holding except to a member of the forces, discharged member of the forces, or other eligible person who is the holder of a qualification certificate issued under the War Service Land Settlement Act, 1941, as amended by subsequent Acts or, in the event of the death of the holder, to the widow, widower, child or children of such holder. The provisions of this section shall not apply to a transfer by way of mortgage or discharge of mortgage.

(2) The restrictions imposed by subsection one of this section are in addition to and not in substitution for any other restrictions upon transfer provided by this or any other Act.

Waiver of
certain
payments
during an
assistance
period.

Ibid. s. 9U.

147X. Notwithstanding anything in any Act, any rent or interest becoming due or payable in respect of the occupation during an assistance period by a member of the forces, discharged member of the forces, or other eligible person, of land acquired under this Division of this Part of this Act, shall be waived.

In this section "assistance period" means—

- (a) in the case of a discharged member of the forces or other eligible person a period of one year following the date of commencement of his title to the land;
- (b) in the case of a member of the forces a period of one year following the date upon which he is issued with a qualification certificate as a discharged member of the forces:

Provided that with the concurrence of the Minister of State for the time being charged with the administration of Part VII of the Re-establishment and Employment Act 1945 of the Parliament of the Commonwealth an assistance period may be extended by the Minister beyond the said period of one year.

(2).

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(2) The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended:—

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- (a) by omitting from section one the matter relating to Part VI and by inserting in lieu thereof the following new matter:—

Further amendment of Act No. 7, 1913.

Sec. 1.

(Consequential.)

PART VI.—IRRIGATION AREAS—sections
137-147N.

DIVISION 1.—*Application of this Part—*
s. 137.

DIVISION 2.—*Irrigation Farm Purchases and Leases, Non-irrigable Purchases and Leases and Town Land Purchases and Leases—*ss. 138-147c.

DIVISION 3.—*Promotion of Settlement of Servicemen on Irrigation Areas—*ss. 147D-147N.

- (b) (i) by inserting after the words “Irrigation Areas” in the heading to Part VI the word and figure “Division 1.”; Part VI.
(Consequential.)
- (ii) by inserting next before the subheading to section one hundred and thirty-eight the words and figure—“Division 2.—Irrigation Farm Purchases and Leases, Non-irrigable Purchases and Leases and Town Land Purchases and Leases”.

4. The Irrigation Act, 1912-1946, is amended:—

Amendment of Act

No. 73, 1912.

- (a) (i) by inserting in subsection one of section seven after the words and figures “Crown Lands Consolidation Act, 1913” the words and figures “and in every notification under section 147J of such Act vesting land in any person to be held as an irrigation farm lease”;

Sec. 7.

(Water rights attaching to irrigation farms.)

- (ii) by inserting in the same subsection after the words “date of the granting of the application for the lease or purchase” wherever occurring the words and figures “or the date of commencement of title to the lease as provided in section 147J of the Crown Lands Consolidation Act, 1913, as the case may be”;
- (iii)

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(iii) by inserting at the end of the same subsection the words and figures "or the date of commencement of title to the lease as provided in section 147J of the Crown Lands Consolidation Act, 1913, as the case may be";

(iv) by inserting in subsection two of the same section after the figures "1913" the words and figures "and any notification under section 147J of such Act vesting land in any person to be held as an irrigation farm lease";

Sec. 18A.
(Payment of rent, etc.)

(b) by inserting at the end of subsection one of section 18A the following proviso:—

"Provided further that in the case of any lease vested in any person under section 147J of the Crown Lands Consolidation Act, 1913, to be held as an irrigation farm lease the rent shall commence from the date of publication in the Gazette of the notification vesting the land in such person, and the first payment thereof shall be made on or before the thirtieth day of June next following the date of such publication for the broken period from that date and on or before the thirtieth day of June in each succeeding year."

Amendment of Act No. 43, 1941. Sec. 8B.
(Development of lands for War Service Land Settlement.)

5. The War Service Land Settlement Act, 1941, as amended by subsequent Acts, is amended by inserting in section 8B after the words "as so amended" the following new paragraph:—

"The Minister may also expend moneys for the like purposes in respect of lands vested in the Crown under Division 3 of Part VI of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, either before or after the vesting of the land in the applicant under section 147J of such Act, as so amended."

FRIENDLY