

DISCHARGED SOLDIERS SETTLEMENT.

9° GEO. V., No. XXXIX.

No. 9 of 1919.

AN ACT to provide for the Settlement of Discharged Soldiers on the Land.

[Assented to 3rd January, 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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Discharged Soldiers Settlement Act*, 1918. Short title.

2. This Act is incorporated with the Land Act, 1898, and the Agricultural Lands Purchase Act, 1909, and the provisions thereof shall, subject to this Act and the regulations, apply to and in respect of the lands set apart under this Act, both before and after such lands are allotted under this Act. Incorporation with the Land Act.
See N.S.W. No. 21 of 1916, sec. 4a. Vic. No. 2916, s. 2 (3). S.A. No. 1313, s. 2.

3. (1.) In this Act, unless inconsistent with the context or subject matter— Interpretation.
See N.S.W., No. 21 of 1916, s. 2. Vic. No. 2916, s. 2. S.A. No. 1313, s. 4.

“Board” means the Discharged Soldiers Land Settlement Board constituted under this Act.

“Crown land” means Crown land as defined by the Land Act, 1898, and includes land acquired under the Agricultural Lands Purchase Act, 1909, and this Act.

“Dependant” means the widow, or the parent, or a child, or ex-nuptial child, or an orphan brother, or an orphan sister of a deceased person who—

(a) was a resident in the Commonwealth or the Dominion of New Zealand; and

(b) was appointed as an officer or enlisted as a member of His Majesty's naval or military forces or of the naval or military forces of the Commonwealth or the Dominion of New Zealand for service outside the Commonwealth or the Dominion of New Zealand; and

(c) has served outside the Commonwealth or Dominion of New Zealand with any of such forces,

if such dependant was wholly or in part dependent upon the earnings of such deceased person at any time during the period beginning twelve months before his appointment or enlistment, and ending with—

(i) the termination of his appointment, or his discharge; or

(ii) his death, in any case where (whether before or after the termination of his appointment or his discharge) he has lost his life directly or indirectly in or in connection with the present war.

“Discharged soldier” means—

(a) any person who being or having been a resident in the Commonwealth or the Dominion of New Zealand was appointed as an officer or enlisted as a member of the naval or military forces of the Commonwealth, or was appointed as an officer or enlisted in the United Kingdom, or in any of His Majesty's Dominions for service in His Majesty's naval or military forces, and has served in such forces in the present war outside the Commonwealth;

(b) any person who being or having been resident in the Commonwealth was appointed as an officer or enlisted in the naval or military forces of the Commonwealth for active service abroad in the present war, but whose service was confined to the Commonwealth, and who, in the opinion of the Board, was unable, through circumstances not within his own control, to serve abroad as aforesaid; and in either such case—

(c) has received his discharge, and is resident in the Commonwealth.

The Minister may extend the above definition to include any person who, not being or having been resident in the Commonwealth or the Dominion of New Zealand, was appointed as an officer or enlisted as a member of the naval or military forces of the United Kingdom or of any of His Majesty's Dominions, and has been on active service in the said war, and has received his discharge and is resident in the Commonwealth.

"Minister" means the Minister for Lands, or other the responsible Minister for the Crown charged for the time being with the administration of this Act.

"Prescribed" means prescribed by this Act or the regulations.

"Regulations" means the regulations made under this Act.

(2.) Any reference to discharged soldiers shall be deemed to include a reference to those dependants to whom this Act applies.

4. This Act shall apply to—

- (a) discharged soldiers whose appointments have been terminated or who have received their discharges whether before or after the commencement of this Act;
- (b) discharged soldiers who have been permitted to occupy any Crown land in anticipation of the passing of this Act; and
- (c) dependants who are otherwise eligible and make application for land under this Act during the present war or within two years after the termination thereof: Provided that the privileges conferred on dependants by this Act shall not extend to more than one dependant of any deceased person.

Persons to
whom this Act
applies. Vic.
No. 2016, s. 3.

Administration.

5. (1.) This Act shall, under the control of the Minister, be administered by a Board to be called "The Discharged Soldiers Land Settlement Board."

The Board.

(2.) The Board shall consist of four members to be appointed by the Governor, one of whom shall be a discharged soldier, and another a person not an officer in the public service of the State.

(3.) The Board shall select its own chairman from the members thereof.

(4.) The members of the Board shall hold office during the Governor's pleasure.

(5.) In the case of illness, inability, or absence of any member of the Board, the Governor may appoint some other person to act as the deputy of such member during the illness, inability, or absence of such member, and every person shall, while he is acting as such deputy, have the powers and may perform the duties of a member of the Board.

(6.) Three members of the Board shall form a quorum.

(7.) The members of the Board who are not otherwise employed in the public service of the State shall receive such fees as may be prescribed.

(8.) The Board shall be a body corporate with perpetual succession and common seal, and shall be capable in law of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(9.) The proceedings of the Board shall be conducted as prescribed by regulations.

Duties of
Board.

6. (1.) The duties of the Board shall be—

- (a) To investigate, with power to take evidence on oath, the qualifications of each discharged soldier who has registered his name in the prescribed manner, and, if satisfied that he possesses the necessary qualifications, to issue a certificate to that effect.
- (b) To inquire into applications from discharged soldiers or their dependants who may desire to settle on the land or to avail themselves of any of the provisions of this Act.
- (c) In the event of there being more than one application from discharged soldiers or their dependants for land open to selection under this Act, to decide to which of the applicants the block shall be allotted.
- (d) To recommend to the Agricultural Bank what assistance shall be given and advances made to applicants under this Act.
- (e) To do such other things as may be authorised by this Act or by regulations made thereunder.

(2.) The Board may delegate their powers under paragraphs (a), (b), and (c) of subsection (1) to any persons approved by the Minister, and may accept and act on the report of such persons.

7. The Governor may from time to time appoint such inspectors, valuers, and other officers as may be necessary for the effectual execution of this Act. Officers.

Ordinary tenures.

8. (1.) The Minister may, with the approval of the Governor, by notification in the *Gazette*, set apart any areas of Crown land, including land in a townsite, for the purpose of being disposed of under "The Land Act, 1898," to discharged soldiers exclusively: Areas may be set apart for selection by discharged soldiers. See N.S.W. No. 21 of 1916, s. 3. Vic. No. 2016, s. 5. S.A. No. 1313, s. 6.

Provided that the Governor may grant or demise townsite allotments to discharged soldiers on such terms and conditions as may be prescribed.

(2.) Any notice under this section may be amended or revoked by a like notice.

(3.) Save as otherwise expressly provided, the provisions hereinafter contained shall not apply to land set apart under this section.

Special tenures.

9. (1.) Any discharged soldier desiring to apply for land under the following provisions of this Act shall apply to the Board for and obtain a certificate (called in this Act a qualification certificate) that such discharged soldier is physically fit and suitable as a settler, or may prove after training to be suitable. Qualification Certificate. See Vic. No. 2016, s. 8.

(2.) The Board shall consider the application, and may grant or refuse a certificate or adjourn the application for further consideration.

10. (1.) The Minister may, with the approval of the Governor, by notification in the *Gazette*, set apart any area of Crown land for the purpose of being disposed of under this Act to discharged soldiers in the manner hereinafter provided. Special provision for settlement of discharged soldiers. See N.S.W. No. 21 of 1916, s. 4. Vic. No. 2016, s. 6. S.A. No. 1313, s. 9.

(2.) Any notification under this section may, in like manner, be amended or revoked.

(3.) The land so set apart may be subdivided into such blocks as the Minister determines, and such land or the subdivisions thereof may be disposed of under and subject to the Land Act, 1898, or the Agricultural Lands Purchase Act, 1909, with such modifications as are prescribed by regulations under this Act:

Provided that the Minister may allow payment of the instalments of the price of land, including the value of improvements, to commence at any time not later than five years from the commencement of the conditional purchase lease, and the term thereof may be proportionately extended.

(4.) The power of resumption conferred on the Governor by section four of the Land Act Amendment Act, 1906, may be exercised to enable the land so resumed to be disposed of to discharged soldiers for agricultural, grazing, or pastoral purposes, whereupon the pastoral lessee shall be entitled to compensation for loss or damage sustained thereby.

Price of land.

11. (1.) The price, as fixed under the provisions of the Land Act, 1898 (exclusive of the value of improvements, if any, and survey fees), of Crown land acquired by a discharged soldier—

(a) under this Act; or

(b) before the commencement of this Act

shall be reduced by one-half; and any discharged soldier who, at the time of his appointment as an officer or enlistment as a member of the forces, was the holder of a conditional purchase lease under the Land Act, 1898, shall not, as from the date of his appointment or enlistment, be required to pay more than one-half of the balance of the purchase money (exclusive of the value of improvements, if any) payable in respect of his holding, and one-half of the amount of the instalments of purchase money paid by him prior to his appointment or enlistment (exclusive of the value of improvements, if any) may be applied towards the payment of such balance of the purchase money.

Provided that any transfer of the land otherwise than to a discharged soldier, or in the case of a deceased soldier, the surviving relation that in the Board's opinion is most deserving of consideration, shall be subject to the payment by the transferee of the instalments of the price of the land in full, less so much as may have been already paid, and after any such transfer the conditions of the holding shall, so far as practicable, revert to the ordinary conditions:

Provided, also, that this section shall not apply to land acquired by the Crown under the Agricultural Lands Purchase Act, 1909, or otherwise for settlement.

Rent of pastoral leases may be remitted.

12. Payment of the rent of a pastoral lease granted to a discharged soldier may, for the first five years of the term, be remitted, but this shall not apply to an area of more than one hundred thousand acres.

13. (1.) The Board may (with the approval of the Minister) clear, drain, grade, sow, plough, fence, or erect buildings on or otherwise improve any land set apart for the settlement of discharged soldiers, or disposed of to discharged soldiers:

Preparing land for settlement.
Vic. No. 2916,
s. 15.

- (a) prior to disposing of it in allotments; or
- (b) any time after the land has been disposed of under conditional purchase lease or as a homestead farm, but not after the end of the third year from the commencement of the conditional purchase lease or occupation certificate; or
- (c) any time prior to the land being re-allotted after forfeiture to the Crown.

(2.) The amount of the cost incurred by the Board under paragraph (b) of subsection (1) of this section shall be charged to the selector and shall, in the discretion of the Board, be repaid by the selector, as money advanced by the Board, in one sum or in not more than fifty equal half-yearly instalments with interest thereon at the prescribed rate: Provided that the Board may, with the approval of the Minister, subject to the payment of interest, postpone the instalments of principal for not exceeding five years.

(3.) The amount of the cost incurred by the Board under paragraphs (a) and (c) of subsection (1) of this section may, with the approval of the Minister, be added to the value of the allotment, or treated as an advance and repaid as provided in subsection two.

14. In considering applications by discharged soldiers for land under this Act, the Board shall take into consideration the advisability of assisting applicants with respect to any of the following matters—

Assistance to settlers to erect buildings, purchase of stock, etc.
See N.S.W. No. 21 of 1918, s. 7.
Vic. No. 2916,
s. 9.
S.A. No. 1313,
s. 10.

- (a) the clearing, fencing, supplying with water, draining, grading, preparing for irrigation and general improvement of the land in respect of which the application is made;
- (b) the erection of buildings on any such land and the provision of household furniture and effects; and
- (c) the purchase of implements, live stock, seeds, plants, trees, and such other things as are deemed necessary for the successful occupation and cultivation of the land.

Advances by
Agricultural
Bank.
See Vic. No.
2916, s. 10.

15. (1.) The Agricultural Bank may, under the provisions of the Agricultural Bank Act, 1906, on the recommendation of the Board and for the purposes aforesaid, make advances to a discharged soldier to whom land has been disposed of under this Act, or who has been permitted to occupy any Crown land in anticipation of the passing of this Act, or to whom the privileges conferred by this Act have been extended under section twenty-one.

(2.) The rate of interest per annum for such advances to an amount of not exceeding five hundred pounds shall not exceed three and one-half per centum for the first year, four per centum for the second year, and so on, the rate increasing by not more than one-half per centum for each subsequent year until the rate reaches the ordinary current rate of interest of the said bank for the time being:

Provided that the difference between such reduced rate of interest and the current bank rate of interest shall be paid to the Agricultural Bank out of the moneys appropriated to the purposes of this Act.

Security for
advances.
See Vic. No.
1916, s. 11 (3).

16. (1.) All moneys advanced by the Board or the Agricultural Bank under provisions of this Act, with interest thereon shall, until repaid, be and remain a charge on the land, crops, and chattels of the discharged soldier to whom such advances are made.

See Vic. No.
2916 s. 12 (2).

(2.) Such lands, crops, and chattels, so long as the same continue charged as security for such advances, shall not, without the consent of the Board or the Agricultural Bank, as the case may be, be alienated except in the exercise of the powers of the Board or the Agricultural Bank, or be subject to be attached, levied or distrained upon, or taken in execution.

(3.) The Bills of Sale Act, 1899, shall not apply to the charge on the crops and chattels of a discharged soldier under the provisions of this Act, but a register shall be kept in the office of the Agricultural Bank in Perth of all persons to whom advances have been made, and such register shall be open to public inspection.

Advances may
be stopped or
recalled.
N.S.W. No. 21
of 1916, s. 7A.

17. Where the trustees of the Agricultural Bank are of opinion that any money advanced under this Act has not been applied to the purpose for which it was advanced, or has been expended in a careless or extravagant manner, or that the

borrower's holding or his live stock, implements, or other chattels are being neglected, the trustees may refuse to make any further advances to a borrower, and may require the repayment by him forthwith of all advances then already made, and in default of payment the bank may enforce its security; but before any such action be taken by the trustees, the Board must be consulted and its approval obtained; any difference of opinion between the two bodies to be referred to the Minister, whose decision shall be final.

18. (1.) The Governor may set apart allotments of Crown land within townsites, or of not more than ten acres outside townsites, for the purpose of the erection thereon by means of voluntary efforts and labour and public or private subscription of buildings for discharged soldiers, and the Minister may permit or cause buildings to be erected thereon.

Power to reserve sites for building dwellings for discharged soldiers by voluntary effort.
See Vic. No. 2916, s. 4.

(2.) After the erection of any such building the Minister may permit any person or body of persons, corporate or unincorporate, approved by him, to allow any discharged soldier to occupy such allotment and the buildings thereon, and at any time upon the recommendation of the said person or body of persons to the Minister, the Governor may grant to a discharged soldier the allotment on payment of such price (if any) as may be charged for the land, and subject to such conditions, exceptions, and reservations as the Governor thinks fit.

19. (1.) The Minister may, by notification in the *Gazette*, set apart for sale any Crown lands as a settlement for a group of discharged soldiers, stating the prices and the terms and conditions of the sale of such lands. Any notification under this section may by a like notification be amended or revoked.

Group settlement.
N.S.W. No. 21 of 1916, s. 4b.

(2.) Such settlement shall be subdivided into blocks of such areas as the Minister may determine, and shall be called "home maintenance areas."

(3.) After a discharged soldier joins a group, the Board, on being satisfied as to the fitness and suitability of such soldier, may, in its discretion, allot him a block in the settlement.

(4.) Each allotment shall be subject to such conditions as the Board may prescribe, and shall not until confirmed as hereinafter provided confer a right of ownership either to the land or any improvements thereon. Where the Board is dissatisfied with any discharged soldier to whom a block has been allotted on account of his not complying with the condi-

tions of such allotment, it may cancel the allotment any time prior to the confirmation thereof. Such soldier shall not be entitled to any compensation whatsoever in respect to such cancellation.

(5.) Within twelve months from the date of allotment the Board, if satisfied with the fitness and suitability of the soldier, may confirm the allotment, and the title of the holding shall commence from the date of such confirmation as notified in the *Gazette*.

(6.) A conditional purchase lease or occupation certificate may thereupon be issued, and the Crown grant of the land shall be issued upon the Board being satisfied that the conditions attaching to the block have been fulfilled, and the purchase money paid.

(7.) The Agricultural Bank is hereby authorised to make such advances as it may deem necessary to discharged soldiers occupying blocks under the authority of this section, and all moneys so advanced shall be and continue a charge on the block before and after the issue of the grant.

Application of
parent or re-
lation.
See N.S.W. No.
21 of 1910, s.
4d.

20. (1.) A parent or relative of a soldier or sailor on active service abroad with the Australian Imperial Forces, or with any other naval or military forces raised in the Commonwealth by the Minister for Defence, or any other person acting with the authority of such soldier or sailor, may make application on his behalf for any land available under this Act, and such application may be approved subject to the soldier or sailor on whose behalf the application is made receiving a qualification certificate within six months of the date of his discharge.

(2.) In the event of the death of such soldier or sailor before entering into occupation of the holding, or of his inability or unwillingness to occupy and work the holding within such period after his discharge as the Board may deem reasonable, or if in the opinion of the Board he has become disqualified to make an application under this Act, the holding shall be forfeited.

Application of
Act to freehold
and ordinary
conditional
purchase hold-
ings.

21. The privileges conferred by this Act on discharged soldiers may, on the recommendation of the Board, be extended by the Minister to any discharged soldier—

- (a) who is the holder of land for an estate in fee simple, or a conditional purchase lessee under the Land Act, 1898, or

- (b) to whom a conditional purchase lease under the said Act has been duly transferred.

22. The Minister may, on the recommendation of the Board, purchase, on behalf of the Crown, any alienated land, including land held under pastoral lease, which a discharged soldier holding a qualification certificate may desire to acquire under this Act, and the land so purchased may be disposed of under and subject to the provisions of this Act.

Acquisition of private land to be dealt with under this Act.

23. (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
- (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.

Training Farms.
See N.S.W. No. 21 of 1910, s. 4c.

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

24. Where any person or body of persons corporate or unincorporate has settled or proposes to settle discharged soldiers on private lands on terms and conditions approved by the Board any of the provisions of this Act shall, if the Governor so declares, extend and apply to such discharged soldiers in respect of such land.

Application of Act to discharged soldiers on certain private land.
See Vic. No. 2916, s. 34.

25. (1.) No lease, occupation certificate, or grant of land acquired by a discharged soldier under this Act shall be transferred, assigned, sublet, leased, mortgaged or encumbered except with the consent of the Minister, on the recommendation of the Board and subject to such conditions, if any, as the Minister may think fit.

Restriction on right of transfer, etc.
See N.S.W. No. 21 of 1916, s. 10.

(2.) Such consent shall not, for a period of five years from the date of commencement of title to the holding, be given to a transfer, assignment, lease or sublease to any person who is not a discharged soldier, unless it is proved to the satisfaction of the Board that there is no discharged soldier willing to acquire the holding and capable of working it.

Improvements
in case of land
acquired under
the Agricultural
Lands
Purchase Act.
See Vic. No.
2916, s. 13.

26. The improvements on land acquired under the Agricultural Lands Purchase Act, 1909, or section twenty-two of this Act, and disposed of under this Act, may be valued separately from the land, and may be the subject of an advance for improvements under this Act, and for the purpose of such advances shall be deemed to have been effected by the discharged soldier to whom the land is disposed of.

Power to extend Act to
advances made
before the commencement
thereof.

27. The Governor may extend the provisions of this Act to advances made before the commencement of this Act in furtherance of any scheme for the settlement of discharged soldiers on the land.

Financial.

Financial
provisions.
See Vic. No.
2916, s. 28.

28. (1.) The moneys required for the purposes of this Act shall be paid out of moneys appropriated by Parliament to the purposes of this Act.

(2.) The Governor may, under and subject to the General Loan and Inscribed Stock Act, 1910, raise such sums of money, not exceeding in the aggregate fifty thousand pounds, as may be required for the purposes of this Act.

(3.) Advances by the Agricultural Bank may be made out of moneys appropriated by Parliament for the purposes of the Agricultural Bank Act, 1906.

(4.) The moneys to be appropriated under this section shall include such moneys as are provided by the Commonwealth for the purposes of this Act.

Regulations.

Regulations.
See Vic. No.
2916, s. 39.
S.A. No. 1313,
s. 16.

29. The Governor may make such regulations as may be necessary or convenient for carrying out the provisions of and for better effecting the objects of this Act, and by such regulations may remit the registration and other fees payable under the Land Act, 1898, the Transfer of Land Act, 1893, the Agricultural Bank Act, 1906, or otherwise.

Annual Report.

Annual Report.
See N.S.W. No.
21 of 1910, s.
11.
Vic. No. 2916,
s. 38.
S.A. No. 1313,
s. 17.

30. (1.) The Minister shall, within two months 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 such land, and the number of blocks and the aggregate area allotted;

(c) the amount expended in preparing allotments for settlement and 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.
