

New Zealand.

AMENDED: SEE ACT, 1924 NO. 57.

Amended by 1926 No 49.



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1923, No. 14.

AN ACT to amend the Discharged Soldiers Settlement Act, 1915. Title.  
[29th August, 1923.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Discharged Soldiers Settlement Amendment Act, 1923, and shall be read together with and deemed Short Title.

part of the Discharged Soldiers Settlement Act, 1915 (hereinafter referred to as the principal Act).

## PART I.

### SPECIAL PROVISIONS IN RELIEF OF DISCHARGED SOLDIER SETTLERS.

Dominion Board for revaluation of soldiers' leases.

2. (1.) For the purposes of this Part of this Act the Governor-General may establish a Board to be called the Discharged Soldiers Dominion Revaluation Board (hereinafter in this Part referred to as the Dominion Board).

(2.) The Dominion Board shall consist of the Under-Secretary of the Department of Lands and Survey, who shall be the Chairman of the Board, and three other members who shall hold office during the pleasure of the Governor-General.

(3.) The powers of the Dominion Board shall not be affected by any vacancy in the membership thereof.

(4.) At any meeting of the Board three members shall form a quorum, and no business shall be transacted at any meeting unless a quorum is present.

(5.) Every question before the Board shall be determined by a majority of the votes of the members present at a meeting of the Board. On every such question the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting-vote.

District Revaluation Committees.

3. (1.) For the purpose of more effectively carrying out the objects of this Part of this Act and of assisting in and expediting the work of revaluation the Minister of Lands may, on the recommendation of the Dominion Board, appoint such number of local committees to be District Revaluation Committees (hereinafter referred to as District Committees) as may be considered necessary.

(2.) Every District Committee shall consist of three persons, of whom at least two shall have reputed knowledge of local land-values and of farming generally, and shall be appointed to exercise its functions for a particular land district or for a defined portion of any such district.

(3.) Every member of a District Committee shall hold office during the pleasure of the Minister of Lands.

Land agents not qualified to be members of Dominion Board or of District Committee.

4. No person who is carrying on business as a land agent either by himself or jointly with any other person shall be qualified to be appointed as a member of the Dominion Board or of any District Committee established under this Part of this Act.

Remuneration of members of Dominion Board and of District Committees.

5. Members of the Dominion Board and of any District Committee, not being officers of the Public Service, may be paid such remuneration by way of salary and allowances as may from time to time be approved by the Minister of Lands, out of moneys appropriated by Parliament for the purpose.

### *Applications for Reduction of Rent.*

Provision for revaluation of Crown and other lands held under lease or license by discharged soldiers.

6. Any discharged soldier within the meaning of the principal Act, being the lessee or licensee of any Crown land or other land administered by a Land Board and used for farming purposes or other purposes of production, whether such land has been disposed

of under the principal Act or any other Act, may, at any time within six months after the passing of this Act, apply in the manner provided by this Part of this Act for a revaluation of the land comprised in his lease or license.

7. (1.) Every application under the last preceding section shall be in the prescribed form, and shall be made in the first instance to the appropriate District Committee.

Applications for revaluation to be made in first place to District Committee.

(2.) On receipt of any such application the District Committee shall forthwith proceed to consider the same, and for that purpose shall hear evidence, and in particular shall value the said land, showing separately the value of improvements and the capital value of the land exclusive of such improvements.

(3.) The District Committee shall so soon as practicable forward to the Dominion Board—

(a.) Its valuation of the improvements and of the land exclusive of improvements; and

(b.) Its report upon such other matters relevant to the application as it thinks fit or as the Dominion Board may require.

8. (1.) On receipt of any such valuation and report relating to any land in respect of which an application for revaluation has been made under this Part of this Act the Dominion Board shall forthwith proceed to determine the value of improvements effected or paid for by the lessee or licensee, and the value of the land exclusive of those improvements.

Dominion Board to determine valuations.

(2.) Where the rent payable under the lease or license has been based on the original capital value of the land comprised therein, then if the value of the land as so determined, exclusive of the value of the improvements effected or paid for by the lessee or licensee as aforesaid, is less than such original capital value, the rent payable under the lease or license shall be proportionately reduced as from the first day of July, nineteen hundred and twenty-one, or the date of the lease or license (whichever date is the later).

(3.) Where the rent payable under the lease or license has been fixed otherwise than on the original capital value of the land comprised therein, the Dominion Board shall, if in its opinion the rent is excessive, reduce the rent to such amount as it thinks just, and such reduction shall take effect as from the first day of July, nineteen hundred and twenty-one, or the date of the lease or license (whichever date is the later).

(4.) Every determination of the Dominion Board under this section with reference to an application for revaluation and the reduction of rent shall forthwith be communicated to the applicant.

#### *Applications for Reduction of Mortgages.*

9. (1.) This section shall apply with respect to land used for farming purposes or other purposes of production by the owners or occupiers thereof to whom advances, secured on that land by way of mortgage to His Majesty, have been made under paragraph (a) or paragraph (b) or paragraph (d) of section two of the Discharged Soldiers Settlement Amendment Act, 1917.

Provision for relief of mortgagors to the Crown.

(2.) The owner or occupier of any land to which this section applies may, at any time within six months after the passing of this

Act, apply, in the manner provided by this Part of this Act, for a valuation of that land, with a view to the reduction pursuant to this section of the amount of any mortgage securing to His Majesty any advances made under the authority referred to in the last preceding subsection.

(3.) Every application under this section shall be in the prescribed form, and shall be made in the first instance to the appropriate District Committee.

(4.) On receipt of any such application the District Committee shall forthwith proceed to consider the same, and for that purpose shall hear such evidence as it thinks fit, and in particular shall value the said land, showing separately the value of improvements and the capital value of the land exclusive of such improvements.

(5.) The District Committee shall so soon as practicable forward to the Dominion Board—

(a.) Its valuation of the improvements and of the land exclusive of improvements; and

(b.) Its report upon such matters relevant to the application as it thinks fit or as the Dominion Board may require.

(6.) On receipt of any such valuation and report the Dominion Board shall forthwith proceed to determine by what amount (if any), having regard to such valuation and report, the debt secured by way of mortgage to His Majesty should be reduced, and every such debt shall be reduced accordingly, and such reduction shall take effect as from the first day of July, nineteen hundred and twenty-one, or the date of the advance (whichever date is the later).

(7.) Where, pursuant to this section, the amount of any mortgage repayable by instalments has been reduced, the term of such mortgage may be reduced, or may be extended for a period not exceeding thirty-six and one-half years from the date when the reduction takes effect, or, in the alternative, the instalments of principal and interest for the balance of the original term shall be in accordance with a table for the payment of principal and interest prescribed for the purpose.

(8.) Every determination by the Dominion Board under this section shall forthwith be communicated to the applicant.

10. (1.) Where application under the last preceding section is made by any person in respect of land subject to any mortgage in addition to the mortgage securing the debt to His Majesty, the Dominion Board may enter into negotiations with any mortgagee for the reduction or discharge of his mortgage, and may agree to purchase, on behalf of His Majesty, the interest of any such mortgagee for such amount as may be mutually agreed on. Unless expressly authorized so to do by the Minister of Lands and the Minister of Finance, the Dominion Board shall not reduce the amount of the mortgage to His Majesty unless and until all other mortgages have been discharged.

(2.) Any moneys payable in respect of the purchase of any mortgage under this section may be paid out of the Discharged Soldiers Settlement Account without further appropriation than this section; or the Minister of Finance may, subject to the consent of the mortgagee, issue debentures charged upon the public revenues of New Zealand for the amount of the purchase-money, or for any

Adjustment of payments on reduction of instalment mortgage.

Limitation of provisions as to relief in cases where subsequent mortgage is registered in favour of person other than His Majesty.

portion thereof, for such term and bearing interest at such rate, not exceeding five per centum per annum, as he thinks fit.

(3.) Where pursuant to this section the interest of all mortgagees other than His Majesty has been acquired by the Crown, it shall thereafter be unlawful for the owner to further mortgage or otherwise encumber his interest in the land save with the consent of the Minister of Lands, and every such mortgage or other encumbrance executed in contravention of this section shall be absolutely null and void as a charge upon the land :

Provided that nothing in this subsection shall be so construed as to deprive any person of any right of action to recover as a debt any moneys purporting to be secured by any such mortgage.

*Relief with respect to Arrears of Rent, Interest, &c.*

11. (1.) The Minister may, on the recommendation of the Dominion Board, and subject to such conditions as he thinks fit, postpone the payment of any rent or interest or instalment of principal or purchase-money due before the passing of this Act and payable to the Crown by a discharged soldier in respect of any land owned or occupied by him for farming purposes or other purposes of production, or may remit wholly or in part any such rent or interest. No such postponement of rent or interest shall be for a longer term than ten years. On the sale or other disposition of his interest in any such land before the expiry of the period for which any rent or interest has been postponed as aforesaid such rent or interest shall become immediately due and payable.

Provision for postponement or remission of arrears of rent or interest, &c.

(2.) If any rent or interest the payment of which is postponed as aforesaid is paid within the extended period the person by whom the same is paid shall be entitled to the same rebate (if any) as if such rent or interest had been paid on the due date.

(3.) Any such rent, interest, or instalment of purchase-money or principal the payment of which is postponed as hereinbefore provided shall not be deemed to be payments in arrear for the purpose of determining whether any person is entitled to any rebate of interest or rent on account of punctual payment.

*Miscellaneous.*

12. (1.) In any case where a discharged soldier is the lessee of land to which section fifty-seven of the Land for Settlements Act, 1908, applies, the Minister of Lands may extend the term allowed by that section for the payment of the value of any buildings thereon, but so that the extended term shall not in any case exceed thirty-six and one-half years. <sup>ADD hereto</sup>

Modification of section 57 of the Land for Settlements Act, 1908, in respect of land held by discharged soldier.

REFER TO INSET APPENDIX

(2.) The provisions of the last preceding subsection shall apply with respect to land acquired by a discharged soldier before or after the passing of this Act.

13. The foregoing provisions of this Part of this Act, in so far as they apply to or affect discharged soldiers within the meaning of the principal Act, shall in like manner and to the same extent apply to and affect any person, other than a discharged soldier, who is entitled to acquire land under the principal Act and to receive advances in respect thereof.

Extension of provisions to persons (other than discharged soldiers) who are entitled to acquire land and receive advances under the principal Act

Section 15 of Land Laws Amendment Act, 1915 (relating to revaluations), not applicable to lands to which this Part of this Act applies.

District Land Registrar to alter titles, &c., so as to record alterations effected by this Part of this Act.

Refer. 1926 Inset

14. The provisions of section fifteen of the Land Laws Amendment Act, 1915 (making provision for the revaluation of rural land in certain cases), shall have no application to any land to which this Part of this Act applies, whether an application in respect of that land is made under this Part of this Act or not.

15. The District Land Registrar, on receipt of a certificate signed by a Commissioner of Crown Lands, setting forth particulars as to any reduction made pursuant to this Part of this Act in the capital value of any land, or in the rental payable under any lease or license, or in the amount of any mortgage, or as to the extension of any term, or as to any other matter arising out of this Part of this Act, shall endorse a memorial of such certificate on the registered copy of the lease or license, or certificate of title, or mortgage, or other document, as the case may require.

#### *Regulations and Reports.*

Regulations.

16. In addition to the power to make regulations conferred on him by the principal Act the Governor-General may from time to time, by Order in Council, make regulations prescribing forms of applications, valuations, and certificates under this Part of this Act, and generally for the purpose of giving effect to the provisions of this Part of this Act.

Annual report.

17. The annual report to be prepared pursuant to section fourteen of the principal Act shall contain particulars as to the operation of this Part of this Act.

## PART II.

### GENERAL.

Crown may accept surrender or transfer from mortgagor.

18. (1.) In any case where His Majesty becomes entitled (whether before or after the passing of this Act) to exercise the power of sale contained or implied in any mortgage securing moneys advanced under section six of the principal Act, or under section two of the Discharged Soldiers Settlement Amendment Act, 1917, then, in lieu of the exercise of such power, it shall be lawful for His Majesty to accept a surrender or transfer of the mortgaged property, and, where the property has become vested in the Official Assignee in Bankruptcy, the Official Assignee shall have power to execute any such transfer or surrender.

(2.) All property surrendered or transferred as aforesaid shall be deemed to have been acquired by His Majesty by virtue of a right conferred on him as mortgagee within the meaning of section three of the Discharged Soldiers Settlement Amendment Act, 1921-22.

Section 3 of Amendment Act, 1921-22 (preventing merger of interests), limited.

19. Section three of the Discharged Soldiers Settlement Amendment Act, 1921-22, is hereby amended by adding the following proviso:—

“Provided that the several interests so possessed by His Majesty in any land may be merged by means of a declaration to that effect made by the Commissioner of Crown Lands, and registered

in the Deeds Registry Office, or noted on the certificate of title or other instrument of title, as the case may require."

20. (1.) Where any land comprised in a lease or license is acquired by His Majesty as mortgagee in the manner referred to in section two of the Discharged Soldiers Settlement Amendment Act, 1921-22, and the interests of His Majesty are thereafter merged as provided in section three of that Act as amended by the last preceding section, and the land is thereafter disposed of by way of lease or license, the rent payable under that lease or license shall not in any case be less than five per centum of the value of the land determined as hereinafter provided.

Special provisions as to disposal by way of lease or license of lands to which the last preceding section relates.

(2.) In any such case the value of the land shall, unless in any case the Minister otherwise determines, be deemed to be not less than the original capital value, together with the amount of any advances, with the interest thereon, made under the principal Act and outstanding at the date of acquisition by His Majesty as mortgagee.

(3.) Notwithstanding anything to the contrary in any Act, and save as provided in the next succeeding subsection, there shall from time to time be deducted from the revenues derived from any lease or license as aforesaid and paid into the Discharged Soldiers Settlement Account such amount as may be required to recoup to that account the amount added to the original capital value as provided in the last preceding subsection, together with interest thereon at the rate of five per centum per annum. The payments to the Discharged Soldiers Settlement Account made pursuant to this section shall extend over such period, not exceeding thirty-six and one-half years, as may be prescribed.

(4.) Where the lands comprised in any such lease or license as aforesaid were originally acquired by the Crown out of moneys provided from the Land for Settlements Account, or the Native Land Settlement Account, or were part of the Cheviot Estate, the amount at any time required to recoup the Discharged Soldiers Settlement Account as provided in the last preceding subsection may, without further appropriation than this Act, be paid out of the Land for Settlements Account, <sup>take in addition 1930 insert</sup> the Native Land Settlement Account, or the Cheviot Estate Account, as the case may require.

(5.) If any lessee or licensee of land to which this section relates at any time acquires the fee-simple thereof pursuant to any lawful authority, there may, without further appropriation than this section, be forthwith paid into the Discharged Soldiers Settlement Account, out of the moneys paid by the lessee or licensee in respect of the purchase, such amount as may be required to recoup the Discharged Soldiers Settlement Account.

(6.) Where pursuant to any lawful authority any lessee or licensee of land to which this section relates is entitled to receive a rebate of rent in respect of punctual payment, the rebate shall be apportioned between the Discharged Soldiers Settlement Account and the account to which the net revenues are payable, and the amount payable to the Discharged Soldiers Settlement Account by way of interest in respect of outstanding advances shall be reduced accordingly.

Special provision for sale on deferred payment of land comprised in lease and acquired by Crown as mortgagee.

21. (1.) Where the interests of His Majesty in any land comprised in a lease or license are merged as referred to in the last preceding section, that land may, in addition to any other mode of disposition authorized by the Land Act, 1908, or any other Act, be disposed of by way of sale on deferred payments.

(2.) In any such case the purchaser shall pay a deposit of such amount as may be fixed by the Minister, and the balance shall be payable by half-yearly instalments consisting partly of purchase-money and partly of interest, and extending over a period not exceeding thirty-six and a half years.

(3.) The unpaid purchase-money shall bear interest at the rate of five per centum per annum where the purchaser is a person competent to acquire land under the principal Act or competent to receive an advance under section two of the Discharged Soldiers Settlement Amendment Act, 1917, and five and a half per centum per annum in every other case:

Provided that where the purchaser (not being in arrears with any previous instalment or other payment) pays the instalment on or before its due date or not later than the fourteenth day thereafter, he shall be entitled to a rebate of one-tenth of so much thereof as consists of interest. Such rebate may be deducted and retained by the purchaser from the amount of the instalment when making a payment.

(4.) The Governor-General may from time to time, by Order in Council, make regulations prescribing tables for the payment of instalments of purchase-money and interest under this section.

Land acquired by Crown as mortgagee not deemed to be subject to Part XIII of Land Act on subsequent alienation.

22. Section four of the Discharged Soldiers Settlement Amendment Act, 1921-22, is hereby amended, as from the passing of that Act, by adding the following as subsections two and three thereof:—

“(2.) No land disposed of pursuant to this section by way of sale shall be deemed to be subject to Part XIII of the Land Act, 1908, unless it was so subject at the time of its acquisition by His Majesty.

“(3.) A certificate under the hand of the Commissioner of Crown Lands that any land referred to therein is exempt from the application of Part XIII of the Land Act, 1908, by virtue of the operation of this section shall be conclusive evidence of that fact, and the District Land Registrar shall, if necessary, on production of any such certificate, amend the certificate of title relating to that land accordingly.”

Deferred payments under section 9 of Amendment Act, 1921-22, may be made in accordance with prescribed tables of purchase-money and interest.

23. (1.) Section nine of the Discharged Soldiers Settlement Amendment Act, 1921-22, is hereby amended as follows:—

(a.) By inserting, after the words “the balance shall be payable by half-yearly instalments,” the words “consisting partly of purchase-money and partly of interest, and”:

(b.) By adding to subsection three the following proviso,—

“Provided that where the purchaser (not being in arrears with any previous instalment or other payment under the mortgage) pays the instalment on or before its due date, or not later than the fourteenth day thereafter, he shall be entitled to a rebate of one-tenth of so much thereof as consists of interest. Such rebate may be



deducted and retained by the purchaser from the amount of the instalment when making a payment."

(2.) The Governor-General may from time to time, by Order in Council, make regulations prescribing tables for the payment of instalments of purchase-money and interest under section nine of the Discharged Soldiers Settlement Amendment Act, 1921-22, as amended by this section.

24. Section sixteen of the Discharged Soldiers Settlement Amendment Act, 1921-22, is hereby amended by inserting, after the proviso to subsection two, the following additional proviso:—

"Provided further that, on the sale by direction of any mortgagee other than His Majesty of the land subject to any such mortgage, all instalments of principal and interest of which the due date of payment has been postponed as aforesaid shall forthwith become due and payable, notwithstanding that the period for which such payment was postponed has not expired."

25. Section twelve of the Discharged Soldiers Settlement Amendment Act, 1921-22, is hereby amended by adding the words "and such Commissioner may sign, for and on behalf of His Majesty the King, all transfers, deeds, and other instruments required for the transfer or conveyance of any such land."

26. Where "thirds" or "fourths" are payable under the provisions of section one hundred and forty-five of the Land Act, 1908, in respect of any land acquired by His Majesty as mortgagee, as referred to in section two of the Discharged Soldiers Settlement Amendment Act, 1921-22, and thereafter disposed of by way of lease or license or on deferred payments, the net price or value of the land, within the meaning of the said section one hundred and forty-five, shall not include any moneys added to the original capital value in respect of outstanding amounts of advances made under the principal Act in respect of that land.

27. Where any land to which the principal Act applies is disposed of, pursuant to any lawful authority, to any person (not being a discharged soldier within the meaning of the principal Act) who while domiciled in New Zealand has served beyond New Zealand as a member of any of His Majesty's Forces in connection with any war other than the war with Germany, or who has served in connection with the war with Germany as a member of any of His Majesty's Imperial Forces, the rate of interest payable in respect of such land by that person in respect of unpaid purchase-money or of principal shall be the same rate as if he were a discharged soldier within the meaning of the principal Act.

Section 16 of Amendment Act, 1921-22 (relating to postponement of due date of instalments payable under mortgages), amended.

Commissioners of Crown Lands may execute transfers on behalf of Crown.

Limitation as to "thirds" and "fourths."

Members of New Zealand Forces in South African War and certain other persons entitled to certain benefits.