

New Zealand.

ANALYSIS.

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1921-22, No. 53.

AN ACT to amend the Discharged Soldiers Settlement Act, 1915. Title.
[11th February, 1922.]

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, 1921-22, and shall be read together with and deemed part of the Discharged Soldiers Settlement Act, 1915 (hereinafter referred to as the principal Act). Short Title.

2. The provisions of this Act relative to lands acquired by His Majesty in his capacity as mortgagee under any mortgage securing moneys advanced under section six of the principal Act or under section two of the Discharged Soldiers Settlement Amendment Act, 1917, shall apply to lands that have been heretofore so acquired as well as to lands that may hereafter be so acquired. Application of Act.

Interest in mortgaged property acquired by His Majesty by virtue of mortgage not to merge in other interest.

3. Where by virtue of a right conferred on him as the mortgagor under any mortgage securing moneys advanced under section six of the principal Act or under section two of the Discharged Soldiers Settlement Amendment Act, 1917, His Majesty acquires the mortgagor's interest in any mortgaged property, then, notwithstanding any Act or rule of law to the contrary, the interest so acquired shall not be merged in any other interest possessed by His Majesty, but shall enure as a separate estate or interest available for disposal by His Majesty in manner provided by this Act in that behalf.

Disposal of freehold estates in land acquired by His Majesty as aforesaid.

4. Where any freehold estate or interest in land is acquired by His Majesty as aforesaid, the land may be disposed of by way of sale or renewable lease as hereinafter provided, as may in each such case be determined by the Land Board acting with the approval of the Minister of Lands.

Disposal of freehold land on renewable lease.

5. Where any land is disposed of by way of renewable lease under the last preceding section, it shall, subject to the provisions of section eight hereof, be disposed of on the terms and conditions for the time being in force with respect to renewable leases under the principal Act, subject to the following special conditions, namely:—

- (a.) The lease shall be for a term not exceeding thirty-three years, with a perpetual right of renewal for further successive terms not exceeding thirty-three years:
- (b.) The yearly rental payable under the lease shall be an amount not less than five per centum of the capital value of the land. For the purposes of this paragraph the capital value shall, unless in any case the Minister otherwise specially determines, be not less than the amount paid by His Majesty in buying in the land, together with the costs incidental to such buying-in and the cost of disposing of the land under this Act:
- (c.) Where buildings are situated on such land the Minister may direct that the provisions of section fifty-seven of the Land for Settlements Act, 1908, and the regulations for the time being in force thereunder, shall, with the necessary modifications, apply to such buildings, and in every such case the capital value, as computed under the provisions of the last preceding paragraph, shall be reduced by the value of the buildings.

Disposal of leasehold estates acquired by His Majesty as aforesaid in land administered by Land Board.

6. (1.) Where any leasehold estate or interest in land administered by a Land Board is acquired by His Majesty as aforesaid, the lease may be transferred by His Majesty in accordance with this Act, and the new lessee shall, in addition to the rental under the lease, pay to His Majesty, in respect of the lessee's equity in the lease, an amount to be fixed by the Minister in that behalf.

(2.) Unless in any case the Minister otherwise specially determines, the amount so fixed shall be not less in any case than the amount paid by His Majesty in buying in the lease, together with the costs incidental to such buying-in and the cost of disposing of the lease under this Act.

(3.) The amount so to be paid by the new lessee in addition to rental may, as the Minister determines, be paid either in cash or on deferred payments as hereinafter provided.

7. (1.) Where any leasehold estate or interest in land, not being land administered by a Land Board, is acquired by His Majesty as aforesaid, such leasehold estate or interest may, with the consent of the lessor, be assigned by His Majesty, or an underlease of the land comprised in such lease may be granted as hereinafter provided.

Disposal of leasehold estates acquired by His Majesty as aforesaid in private lands.

(2.) Where any leasehold estate or interest as aforesaid is assigned as herein provided the assignee of the lease shall pay to His Majesty, in respect of the lessee's equity in the lease, an amount to be fixed by the Minister in that behalf. Unless in any case the Minister otherwise specially determines, the amount so fixed shall be not less in any case than the amount paid by His Majesty in buying in the lease, together with the costs incidental to such buying-in and to the assignment of the lease under this Act.

(3.) The amount so to be paid by the new lessee in addition to rental may, as the Minister determines, be paid either in cash or on deferred payments as hereinafter provided.

(4.) Where an underlease of any land is granted by His Majesty as hereinbefore provided the rental payable pursuant to such underlease shall, unless in any case the Minister otherwise specially determines, be an amount not less than the rental payable to the lessor by His Majesty under the head lease, together with an additional amount sufficient to produce to His Majesty during the term of the underlease and during the term of any renewal to which such underlease may be subject the amount paid by His Majesty in buying in the head lease, together with the costs incidental to such buying-in and to the grant of the underlease.

8. Any land acquired by His Majesty as aforesaid may be disposed of to any person competent to acquire land under the principal Act or to receive an advance under section two of the Discharged Soldiers Settlement Amendment Act, 1917, or may, in any special case, with the approval of the Minister made on the recommendation of the Land Board, be disposed of to any other person.

Persons to whom lands acquired by His Majesty as mortgagees may be disposed of.

9. (1.) The sale of any estate or interest of His Majesty in any land pursuant to the foregoing provisions of this Act (including the interest of His Majesty as lessee in any lease) may, as may be determined in any case by the Minister, be for cash or on deferred payments.

Sales under this Act may be for cash or on deferred payments.

(2.) Where any sale as aforesaid is on deferred payments the purchaser shall, on or before the completion of the purchase, pay a deposit of such amount as may be fixed by the Minister, and the balance shall be payable by half-yearly instalments extending over a period not exceeding thirty-six years and a half.

(3.) The unpaid purchase-money in respect of any such estate or interest shall be secured by way of mortgage over the purchaser's interest in the land, bearing 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.

Lands to be disposed of by public auction, or public tender, or private contract.

10. Every sale by His Majesty of any freehold or leasehold estate or interest in any land, or any assignment of any lease or grant of an underlease, may be by public auction, or public tender, or private contract, as may in any case be determined by the Land Board with the approval of the Minister.

Moneys payable into Discharged Soldiers Settlement Account.

11. (1.) The following moneys receivable under this Act shall be payable to the Discharged Soldiers Settlement Account, namely:—

- (a.) All moneys received by His Majesty in respect of the disposal by sale or lease of any freehold lands to which the foregoing provisions of this Act relate:
- (b.) All moneys received by His Majesty in respect of the disposal of the lessee's interest in any land to which the foregoing provisions of this Act relate:
- (c.) All moneys received by His Majesty as rental in respect of any underlease granted under section seven hereof.

(2.) There shall from time to time be paid out of the Discharged Soldiers Settlement Account, without further appropriation than this section, the rent reserved by any head lease acquired and held by His Majesty as hereinbefore provided.

Powers of Land Board and of Commissioner of Crown Lands.

12. For the purpose of disposing of any land or of any estate or interest in land acquired by His Majesty as in this Act provided, the Commissioner of Crown Lands and the Land Board of the land district in which any such land is situated shall, save as is expressly otherwise provided in this Act, have the same powers and functions as if the land were ordinary Crown land disposed of under the Land Act, 1908.

Pending permanent disposal, land may be disposed of under temporary license.

13. Where any property is acquired by His Majesty as aforesaid and cannot be readily disposed of in any manner hereinbefore prescribed, the Commissioner of Crown Lands for the land district in which such property is situated may, with the approval of the Minister, grant a temporary license to occupy such property to any person, whether a discharged soldier or not, for such term, at such rent, and subject to such conditions as he may think fit.

Restriction on power of transfer of mortgaged properties.

14. (1.) Where any estate or interest in land is subject to a mortgage to His Majesty as security for an advance made under section six of the principal Act or section two of the Discharged Soldiers Settlement Amendment Act, 1917, or under the provisions of this Act, no person shall be entitled to convey, transfer, assign, underlet, or in any other way dispose in whole or in part of his interest in that land save with the consent of the Minister previously obtained.

(2.) No District Land Registrar shall register any instrument purporting to convey, transfer, assign, underlet, or otherwise dispose of any estate or interest in any such land save on production of a certificate signed by the Minister that he has consented to such conveyance, transfer, assignment, sublease, or other disposition.

(3.) Where any estate or interest in land subject to a mortgage as aforesaid is conveyed, transferred, assigned, underlet, or otherwise disposed of, wholly or in part, without such consent being previously

obtained, the mortgagee may call up and compel payment of all principal, interest, and other moneys for the time being owing under the mortgage, notwithstanding that the time or times appointed for the payment thereof respectively may not have arrived.

15. (1.) Any purchaser of land set apart under section four of the principal Act who holds that land under a license to occupy pending the completion of the purchase may, with the consent of the Board and the approval of the Minister, and with the consent in writing of the encumbrancers (if any), surrender his license and obtain in exchange a renewable lease of the same land pursuant to the regulations for the time being in force under the said Act, subject to the following special conditions:—

Purchaser of land under principal Act may elect to accept renewable lease.

- (a.) The lease shall be of the same date as the surrendered license, and shall be deemed to have been in force as from that date.
- (b.) The payments made in respect of the license up to the time of surrender shall be deemed to be rent paid in respect of the lease. Any amount paid in excess of the amount that would have been payable as rent shall be held as rent paid in advance under the lease. In crediting such payments as herein prescribed due allowance shall be made for any rebates of rent to which a lessee would have been entitled in respect of the prompt payment of rent.
- (c.) If the payments under the license have been subject to a charge in respect of "thirds" to any local authority, the amount paid as "thirds" up to the time of the surrender of the license shall be deemed to have been paid in advance on account of the one-third part of the rents under the lease required to be paid in terms of section one hundred and forty-five of the Land Act, 1908.
- (d.) The lease shall be deemed to be subject to all existing encumbrances, liens, and interests (if any) affecting the license, and the District Land Registrar shall record on the lease all such encumbrances, liens, and interests accordingly in the order of their registered priority.

(2.) All adjustments required to be made between any accounts in the Public Account by reason of any change of tenure made pursuant to this section may be made without further authority than this section.

16. (1.) The Minister may, on application in writing by the mortgagor, postpone the due date of payment of any instalment of principal and interest payable under any mortgage securing moneys advanced with respect to rural lands under the provisions of paragraph (a) or paragraph (b) or paragraph (d) of section two of the Discharged Soldiers Settlement Amendment Act, 1917, until the due date of any later such instalment.

Minister may postpone due date of instalments of principal and interest payable under certain mortgages.

(2.) In any such case all subsequent instalments shall, unless the Minister otherwise specifically determines, be deemed to be postponed for a like period, and the term of the mortgage shall be deemed to be extended by that period:

Provided that the term of any mortgage shall not be extended under this section for a period exceeding three years.

(3.) A certificate under the hand of the Commissioner of Crown Lands, certifying that the term of any mortgage has been extended as aforesaid, may be registered under the Land Transfer Act, 1915, or the Deeds Registration Act, 1908, as the case may be, and no fee shall be payable therefor.

Provision for extension of principal Act.

17. The Governor-General may, by Proclamation approved in Executive Council, declare that, on and after such date as may be specified in that behalf in the said Proclamation, such provisions of the principal Act, as may be specified in the Proclamation, shall apply to any person 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.

Local authorities may accept surrender of existing leases and issue new leases to discharged soldiers.

18. (1.) Notwithstanding the provisions of any general or special Act, in any case where a discharged soldier is the holder of a lease of any reserve, endowment, or other land of which a local authority is the lessor, such local authority is hereby empowered to accept a surrender of such lease.

(2.) After accepting such surrender the local authority may, if it thinks fit, grant to such discharged soldier a new lease for the remainder of the term of the surrendered lease at such reduced rent and upon such new conditions as the local authority may determine.

(3.) In this section "local authority" has the same meaning as in the Local Bodies' Finance Act, 1921-22.