

1948, No. 49, Act. 15 2nd



NEW ZEALAND

ANALYSIS

<p>Title.</p> <p>1. Short Title.</p> <p><i>Settlement of Discharged Servicemen</i></p> <p>2. Crown land held under lease or licence may be taken for settlement of discharged servicemen.</p> <p>3. Adjustments in leases and licences where interest in part of land is taken.</p> <p>4. Applications for consent to transfers of leases or licences of Crown land suitable for settlement of discharged servicemen.</p>	<p>5. Cancellation of title to education reserves taken.</p> <p><i>Control of Sales and Leases of Land</i></p> <p>6. Amending provisions as to repayment of mortgages affecting land taken. Repeal.</p> <p>7. Application of Part III of the principal Act to leases in mining districts and to certain mining privileges.</p> <p>8. Amending special provisions as to land suitable for settlement of discharged servicemen.</p> <p>9. Authorizing mortgagees to apply for provisional consent to sales or leases.</p>
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1948, No. 49

Title. AN ACT to Amend the Servicemen's Settlement and Land Sales Act, 1943. [26th November, 1948

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

Short Title. 1. This Act may be cited as the Servicemen's Settlement and Land Sales Amendment Act, 1948, and shall be read together with and deemed part of the Servicemen's Settlement and Land Sales Act, 1943 (hereinafter referred to as the principal Act).

1943, No. 16

Settlement of Discharged Servicemen

2. (1) For the purposes of this and the next three succeeding sections—

“Crown land” means any land administered by a Land Board or the Land Settlement Board which is farm land or land of the kind referred to in section eleven of the Servicemen's Settlement and Land Sales Amendment Act, 1945; but does not include any land included in an endowment reserve which is subject to section three hundred and sixty-seven of the Land Act, 1924:

“Land Board” means a Land Board constituted under the Land Act, 1924:

“Land Settlement Board” means the Land Settlement Board established under section thirty-nine of the Statutes Amendment Act, 1941:

“Lease or licence” means a lease or licence of any Crown land granted under the Land Act, 1924, or any former Land Act, or under the Land for Settlements Act, 1925, or any former Land for Settlements Act, or under the Education Reserves Act, 1928, or any former Education Reserves Act, or under the Discharged Soldiers Settlement Act, 1915, or under the Small Farms Act, 1932-33; and includes a licence to occupy pending the completion of the purchase of any such land under a system of deferred payments.

(2) For the purposes set out in Part II of the principal Act, as extended by section eleven of the Servicemen's Settlement and Land Sales Amendment Act, 1945, the Minister may under the provisions of that Part take the interest of the lessee or licensee in the whole or any part of the land comprised in any lease or licence.

(3) In every such case all the provisions of Part II of the principal Act (other than sections thirty-eight and thirty-nine) shall, so far as applicable and with the necessary modifications, apply as if the interest taken were farm land taken by the Minister under that Part.

Crown land held under lease or licence may be taken for settlement of discharged servicemen.

1945, No. 34

See Reprint of Statutes, Vol. IV, p. 791

Ibid., p. 622

1941, No. 26

See Reprint of Statutes, Vol. IV, p. 862

Ibid., p. 1003

Ibid., p. 963

1932-33, No. 43

(4) Upon the vesting of any such interest in His Majesty the King, the several interests possessed by His Majesty in the land affected shall be deemed to be merged, and the land shall be deemed to be Crown land subject to the Small Farms Act, 1932-33, and shall be deemed to be included in the expression "Crown land subject to the principal Act" as defined in subsection three of section two of the Small Farms Amendment Act, 1935.

1932-33, No. 43

1935, No. 9

Adjustments
in leases and
licences where
interest in
part of land
is taken.

3. (1) Upon the vesting in His Majesty of the interest of the lessee or licensee in part of the land included in any lease or licence (other than a deferred payment licence) under the last preceding section, the rent payable thereunder shall be abated in the proportion of the whole rent payable under the lease or licence which the value of the area in respect of which that interest has so vested bears to the value of the whole area originally included in the lease or licence, excluding in each case the value of the improvements on the land belonging to the lessee or licensee. In the event of any dispute as to those values, or any of them, the matter shall be decided by the Land Sales Court in accordance with the provisions of the principal Act.

(2) On the vesting in His Majesty under the last preceding section of the interest of the licensee in part of the land included in any licence to occupy pending the completion of the purchase under a system of deferred payments, the purchase-money payable by the licensee under the licence shall be reduced by a proportion thereof equal to the proportion which the value of the area in respect of which that interest has so vested bears to the value of the whole area originally comprised in the licence, excluding in each case the value of the improvements on the land belonging to the licensee, and thereupon such adjustments as may be necessary shall be made in respect of future instalments of purchase-money and interest. In the event of any dispute as to those values, or any of them, the matter shall be decided by the Land Sales Court in accordance with the provisions of the principal Act.

4. (1) This section shall apply in every case where a Land Board or the Land Settlement Board is dealing with an application for consent to any transfer or assignment of a lease or licence of Crown land, or where a Land Sales Committee is dealing, pursuant to section eleven of the Servicemen's Settlement and Land Sales Amendment Act, 1946, with an application for the consent of the Land Sales Court to a transaction which is, as to part of the land affected thereby, a transfer or assignment of a lease or licence of Crown land.

Applications for consent to transfers of leases or licences of Crown land suitable for settlement of discharged servicemen.

1946, No. 15

(2) In every such case the following provisions shall apply:—

(a) If the Land Board or the Land Settlement Board or the Land Sales Committee, as the case may be, is satisfied that the Crown has decided not to acquire or arrange for the acquisition of the interest of the lessee or licensee in the lease or licence, the Board or the Committee, as the case may be, shall in dealing with the transaction disregard the suitability or adaptability of the land for any of the purposes set out in Part II of the principal Act as extended by section eleven of the Servicemen's Settlement and Land Sales Amendment Act, 1945:

1945, No. 34

(b) If the proposed transferee or assignee is a child of the lessee or licensee of the land, and the Board or the Committee, as the case may be, is satisfied that the transferee or assignee intends to reside personally on the land and to farm the same exclusively for his own use and benefit, the Board or the Committee, as the case may be, shall disregard the suitability or adaptability of the land as aforesaid in dealing with the transaction:

(c) If the Board is dealing with the transaction and is not so satisfied, the transaction shall be referred by the Board to the Land Sales Committee usually exercising its functions under the principal Act in the locality in which the land concerned is situated, and the Committee shall make an order determining the basic value of the land and the value of the interest of the lessee or licensee therein:

- (d) If the Land Sales Committee is dealing with the transaction under section eleven of the Servicemen's Settlement and Land Sales Amendment Act, 1946, and is not so satisfied, the Committee shall in like manner make an order determining the basic value of the land and the value of the interest of the lessee or licensee therein:
- (e) At any time within one month after the sealing of that order or, in the event of an appeal from the order, within one month after the sealing of the order determining the appeal, the Minister may by notice in the *Gazette* declare that the interest of the lessee or licensee in the lease or licence is taken for the settlement of discharged servicemen and thereupon that interest shall vest in His Majesty and the several interests possessed by His Majesty in the land comprised therein shall be deemed to be merged and the land shall be deemed to be Crown land subject to the Small Farms Act, 1932-33, and shall be deemed to be included in the expression "Crown land subject to the principal Act" as defined in subsection three of section two of the Small Farms Amendment Act, 1935:
- (f) Where the interest of the lessee or licensee in any lease or licence is taken as aforesaid, the provisions of Part II of the principal Act shall, so far as they are applicable and with the necessary modifications, apply as if that interest were farm land taken by the Minister under that Part, and as if the *Gazette* notice had been duly given under section twenty-seven of the principal Act, and as if the reference in subsection one of section forty of the principal Act to the giving of notice of intention to take the land were a reference to the lodging or filing of the application:

1932-33, No. 43

1935, No. 9

(g) If the interest of the lessee or licensee in the lease or licence is not taken as aforesaid within the time limited in that behalf by paragraph (e) of this subsection, or if the Board or the Committee, as the case may be, is at any time satisfied that the Crown has decided not to acquire or arrange for the acquisition of that interest, the Board or the Committee, as the case may be, shall disregard the suitability or adaptability of the land as aforesaid in considering the application.

5. (1) Where in any case the land in respect of which the interest of the lessee or licensee is vested in His Majesty as aforesaid is the whole or part of the land comprised in a certificate of title issued under section thirty-two of the Education Reserves Act, 1928, the District Land Registrar shall, as the case may require, cancel the certificate of title or cancel it so far as it relates to that part of the land in respect of which the interest of the lessee or licensee has vested in His Majesty.

Cancellation of title to education reserves taken.
See Reprint of Statutes, Vol. IV, p. 1019

(2) No such cancellation shall in any way affect the rights of any person entitled to any registered easement not acquired by His Majesty.

Control of Sales and Leases of Land

6. (1) Section thirty-seven of the principal Act, as amended by section seven of the Servicemen's Settlement and Land Sales Amendment Act, 1945, is hereby further amended by repealing subsection three, and substituting the following subsections:—

Amending provisions as to repayment of mortgages affecting land taken.
1945, No. 34

“(3) The mortgagor under any mortgage affecting any land taken under this Part of this Act shall be deemed to have the right, on giving to the mortgagee not less than one month's notice in writing of his intention so to do, to repay so much of the principal moneys secured by the mortgage as does not exceed the amount of compensation awarded in respect of so much of the land taken as was subject to the mortgage, with interest up to the date of repayment only or the date of expiration of the said notice only, whichever date is the later, at the expiration of six months from the day

on which notice was received by the mortgagee of the taking of the land, unless an earlier date is provided in the mortgage. Where any question arises as to what portion of the compensation-moneys was awarded in respect of so much of the land taken as was subject to the mortgage, that question shall be determined by the Land Sales Court.

“(4) Nothing contained in the last preceding subsection shall in any way affect the rights of the mortgagee under subsection one of this section to require the whole or part of the compensation-moneys to be paid in discharge or partial discharge of the mortgage debt.”

Repeal.

(2) Section seven of the Servicemen's Settlement and Land Sales Amendment Act, 1945, is hereby consequentially repealed.

Application
of Part III
of the principal
Act to leases
in mining
districts and
to certain
mining
privileges.
See Reprint
of Statutes,
Vol. V, p. 943

7. (1) Section forty-three of the principal Act is hereby amended by inserting, after subsection one, the following new subsection:—

“(1A) For the purposes of this section, each of the following tenures under the Mining Act, 1926, shall be deemed to be a leasehold estate or interest in land, namely:—

“(a) A lease granted under section forty-five or section forty-seven of the Mining Act, 1926:

“(b) A business-site licence:

“(c) A residence-site licence.”

1946, No. 15

(2) Section forty-three of the principal Act, as amended by paragraph (c) of section twelve of the Servicemen's Settlement and Land Sales Amendment Act, 1946, is hereby further amended by adding to subsection two the following new paragraph:—

“(p) Any transaction in respect of a mining privilege under the Mining Act, 1926, other than a business-site licence or a residence-site licence.”

(3) Section forty-seven of the principal Act is hereby amended by inserting, after the words “Registrar of Deeds”, the words “or the Mining Registrar”.

(4) Section sixty-six of the principal Act is hereby amended by inserting, after the words “Registrar of Deeds”, the words “or Mining Registrar”.

8. Section fifty-one of the principal Act is hereby amended by inserting, after paragraph (a), the following new paragraph:—

“(aa) If the proposed purchaser or lessee is a child of the owner of the land, and the Committee is satisfied that the purchaser or lessee intends to reside personally on the land and to farm the same exclusively for his own use and benefit, the Committee shall disregard the suitability or adaptability of the land as aforesaid in considering the application:”.

9. Section fourteen of the Servicemen's Settlement and Land Sales Amendment Act, 1946, is hereby amended by inserting in subsection one, after the word “trustee”, wherever it occurs, the words “or mortgagee”.

Amending special provisions as to land suitable for settlement of discharged servicemen.

Authorizing mortgagees to apply for provisional consent to sales or leases. 1946, No. 15