

CLOSER SETTLEMENT.

No. 100 of 1957.

AN ACT to consolidate and amend the law relating to closer settlement.

[23 December 1957.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Closer Settlement Act* Short title. 1957.

2 The Acts specified in the schedule to this Act are Repeal. repealed.

3 In this Act, unless the contrary intention appears—

“Board” means the Closer Settlement Board;

“Crown land” has the same meaning as in the *Crown Lands Act* 1935;

“eligible person” means a natural person not incapable of taking a lease under Part V;

“Financial Agreement” means the agreement made between the Commonwealth and the States and ratified by the *Financial Agreement Act* 1927, and includes that agreement as varied from time to time and any agreement made in substitution therefor;

“government loan interest” means a rate of interest notified in the *Gazette* by the Minister in each year with effect during the next ensuing year and being the best interest which in his opinion a person lending money to the Commonwealth in a loan open for public subscription might during the twelve months preceding the notification expect to receive;

“holding” means a defined area of land leased subject to Part V or intended by the Board to be so leased;

“lessee” means the grantee of a lease subject to Part V and includes any person in occupation of a holding by virtue of such a lease;

“Loan Fund” means the Loan Fund established under section six of the *Public Account Act* 1957;

“rural land” means land not within a city or town.

Interpreta-
tion.
20 Geo. V
No. 77, s. 3.

PART II.

THE CLOSER SETTLEMENT BOARD.

The Closer
Settlement
Board.

Cf., *ibid.*,
s. 4 (1), (2)
and (5).

4—(1) For the purposes of this Act there shall be a board, to be called the Closer Settlement Board, consisting of the Manager of the Agricultural Bank of Tasmania, who shall be the chairman of the Board, and four persons appointed by the Governor, two as Technical Members, one as Agricultural Member and one as Ex-service Member respectively.

(2) The Closer Settlement Board constituted and appointed under the *Closer Settlement Act* 1929 shall, subject to this Act, continue as and shall be the Board for the purposes of this Act, and—

(a) the member appointed under paragraph III of subsection (2) of section four, of that Act shall continue in office as one of the Technical Members under and subject to this Act for the residue of the period for which he was appointed under that paragraph; and may be re-appointed under the provisions of this Act; and

(b) the member appointed under subsection (3) of that section shall continue in office as Ex-service Member under and subject to this Act during the Governor's pleasure.

(3) The Board shall act as agent of the Crown for both closer settlement and the settlement of waste lands in accordance with the provisions of this Act.

(4) The Board may exercise all or any of its powers and functions notwithstanding any vacancy in its membership so long as it has at least three members.

Incorporation.

Cf. No. 82 of
1950, s. 4 (1).

5 The Board shall, as well for the purposes of this Act as of the *War Service Land Settlement Act* 1950, be a body corporate and have a common seal.

Appointment
and tenure
of office.

Cf. 20 Geo. V
No. 77, ss. 3A
(2) and 4 (2),
(3), (4), (7)
and (8).

6—(1) The Technical Members shall be officers of the Department of Agriculture and shall hold office during the Governor's pleasure but either shall vacate his office if he ceases to be an officer of that Department.

(2) The Agricultural Member shall be appointed by the Governor from a list of not less than three persons, all of whom shall be practical farmers, to be submitted to the Minister by the Tasmanian Farmers' Federation and the Tasmanian Farmers', Stockowners', and Orchardists' Association and shall hold office during the Governor's pleasure.

(3) The Ex-service Member shall be appointed by the Governor from a list of not less than three persons, all of whom shall be practical farmers, to be submitted to the Minister by the governing body in this State of the Returned Soldiers', Sailors', and Airmen's Imperial League of Australia and shall hold office during the Governor's pleasure.

(4) If the organizations mentioned in subsection (2) or the governing body mentioned in subsection (3) of this section fail to submit a list for the purposes of the relevant one of those subsections within twenty-one days after receiving notice from the Minister so to do the Governor may appoint any person he thinks fit to be the Agricultural Member or the Ex-service Member, as the case may be.

(5) The members of the Board are not subject, as such, to the provisions of the *Public Service Act* 1923 but any officer of the Public Service is eligible for appointment as Ex-service Member and may hold the latter office in conjunction with his office in the Public Service.

7—(1) The Manager of the Agricultural Bank of Tasmania and the Technical Members shall in respect of their services as members of the Board, be paid such travelling and other allowances as may be prescribed.

Remuneration.
Ibid., ss. 3A
(3) and 4 (9)
and (10).

(2) The Agricultural Member and the Ex-service Member shall be paid such salary and travelling allowances as the Governor may determine.

(3) The salaries and allowances payable respectively to the members of the Board shall be paid out of, and charged against, such accounts of the Board under any Act in the Treasury and in such proportion as the Board may direct.

8—(1) The Agricultural Member and the Ex-service Member may respectively resign their offices by writing under their respective hands addressed to the Governor and presented to the Minister.

Vacation
of office.

(2) A resignation under this section shall be effective from a date to be determined by the Governor.

9—(1) If the chairman is absent from any meeting of the Board the members present may elect one of their number to preside at that meeting.

Proceedings
of the
Board.
Ibid., s. 5.

(2) At meetings of the Board any three members shall form a quorum.

(3) The Chairman shall have a deliberative vote on all questions and if in respect of any matter before the Board there is an equality of votes upon any question that question shall pass in the negative.

(4) A member of the Board shall not—

(a) make any application to the Board that a member of the public might make under any enactment administered by the Board; or

(b) take any part in dealing with any application to or transaction with the Board in or in relation to which he or any partner or relative of his has any interest,

and the granting of any application, or making of any agreement, or disposal of any land in contravention of this subsection shall be void except in the case of a purchaser of land in good faith for value without notice of the contravention who is not a partner or a relative of the offending member.

(5) Nothing in subsection (4) affects any estate or interest registered under the *Real Property Act* 1862, but the registered proprietor thereof shall be deemed to be a trustee thereof for the Board unless he is a person in whose case the Board's disposition of the land would not be void as provided in that subsection.

(6) Subject to subsection (7) of this section the Board may in relation to any matter or class of matters delegate such of its powers and functions as it thinks fit to any member of the Board, but every such delegation shall be revocable at will and shall not prevent the exercise of any power or function of the Board.

(7) The Board shall not delegate any of its powers or functions under subsection (6) of this section or revoke any delegation thereunder except in pursuance of a resolution of the Board passed at a meeting thereof at which all the members are present.

(8) Subsection (6) of this section does not disable the Board from appointing an attorney to execute instruments or do any other act on behalf of the Board.

Director of
Land Settlement.
Ibid., s. 3A.

10—(1) For the purposes of this Act the Governor may appoint some person as and to be the Director of Land Settlement.

(2) The Director of Land Settlement shall not, as such, be subject to the provisions of the *Public Service Act* 1923, but shall, if he is, when appointed, an officer of the Public Service, retain all his existing and accruing rights as if his service as Director were service as an officer of the Public Service.

(3) The Director of Land Settlement shall—

- (a) be paid such salary and allowances as the Governor may determine, not being less than are specified in the instrument of his appointment;
- (b) hold office for such period and subject to such terms and conditions as the Governor may determine and as may be specified in the instrument of his appointment, but shall not hold office after attaining the age of sixty-five years;
- (c) be the chief executive officer of the Board for the purposes of this Act;
- (d) be deemed for all purposes to be the officer in charge of the Land Settlement Division of the Agricultural Bank of Tasmania as if he had been appointed the officer in charge thereof under and in accordance with the provisions of the *Public Service Act* 1923 and shall, for the purposes of Part V of that Act, be deemed for all purposes to be a prescribed officer having the power to deal with minor offences and to lay charges; and
- (e) receive such leave of absence as the Minister may approve.

(4) The salary and allowances payable to the Director of Land Settlement shall be paid out of, and charged against, such accounts of the Board under any Act in the Treasury and in such proportion as the Board may direct.

(5) The Director of Land Settlement may resign his office by writing under his hand addressed to the Governor and presented to the Minister.

(6) A resignation under this section shall be effective from a date to be determined by the Governor.

PART III.

LAND FOR SETTLEMENT.

11—(1) Where the Minister, on the recommendation of the Board, is of opinion that any land is suitable and likely to be used for the purposes of this Act he may, by warrant under his hand, authorize some competent person to inspect and report on the land. Inspection of land. Ibid., ss. 22, 23, and 24.

(2) Any person so authorized—

(a) may after seven days' notice to the occupier or, in the case of unoccupied land, to the owner, enter upon and inspect the land specified in the warrant at all reasonable times during daylight and take with him such assistants as he thinks necessary; and

(b) shall report to the Board—

- (i) whether in his opinion the whole or any part of the land is suitable for the purposes of this Act;
- (ii) the area, if any, which he considers so suitable;
- (iii) the particular purposes for which that area, in his opinion, is adapted;
- (iv) the value of that area; and
- (v) such other particulars as the Board may require.

(3) Pursuant to a resolution of the Board any member or members of the Board may personally inspect land for the purposes of this section and a copy of the resolution authenticated under the common seal of the Board shall have the same effect as a warrant under subsection (1) of this section.

12—(1) If the Minister, on the recommendation of the Board, reports to the Governor that, with respect to any district or locality, there is a demand for land for settlement and that there is available in that district or locality unselected Crown land suitable for that purpose, the Governor may, on the recommendation of the Commissioner of Crown Lands, by proclamation, reserve any such Crown land for that purpose. Reservation of Crown land. Ibid., s. 6.

(2) If it is found that any Crown land reserved under this section or any part thereof is not, and in the opinion of the Board is not likely to be, required for the purposes of this Act the Governor may, on the certificate of the Minister to that effect, by proclamation, revoke the reservation of that land or part thereof.

Appropriation of Crown land.
Cf. *ibid.*, s. 21.

13 The Board—

(a) is entitled to a grant of any Crown land reserved under section twelve; and

(b) may be granted any other Crown land available for disposal to the public,

in accordance with the provisions of the *Crown Lands Act* 1935.

Purchase of land.
Ibid., s. 7.

14—(1) The Board may, with the consent of the Minister, purchase any land that is, in its opinion, suitable for the purposes of this Act.

(2) Where any person offers to sell land to the Board for the purposes of this Act his offer shall remain open for not less than two months from the date thereof and may be accepted by the Board at any time within that period.

Reservation of private land.
Cf. No. 82 of 1950, s. 5.

15—(1) The Minister may, on the recommendation of the Board, by notice in the *Gazette* declare any area defined in the notice to be a reserved area for the purposes of this Act.

(2) A notice under subsection (1) of this section shall, unless sooner revoked, remain in force for a period of six months from the date thereof.

(3) Forthwith after the publication of a notice in the *Gazette* under subsection (1) of this section, the Board shall cause a copy thereof, together with a map or plan of the reserved area, to be served personally or by registered post on all the owners of lands therein or on such of them as can with reasonable diligence be ascertained.

(4) If an owner cannot after diligent inquiry be found, a copy of the notice, together with a map or plan of the reserved area, shall be left with the occupier of his land, or if there is no occupier, shall be affixed on some conspicuous part of the land.

(5) While a notice under subsection (1) of this section remains in force in respect of any reserved area no person may—

(a) sell or purchase any rural land; or

(b) give or take an option for the sale or purchase of any rural land,

in that area except with the consent in writing of the Minister.

Penalty: One hundred pounds.

(6) Any agreement or option for the sale or purchase of land in contravention of subsection (5) of this section, and any conveyance or transfer of any land to which any such agreement or option relates, shall be void.

(7) In the case of any land in a reserved area that is subject to the *Real Property Act* 1862, the Board shall, in accordance with section eighty-two of that Act, lodge a caveat forbidding the registration of any instrument affecting the land contrary to subsection (5) of this section.

(8) If in the absence of a caveat under subsection (7) of this section an instrument is registered that could not be registered if that subsection were complied with, that instrument and its registration have full force and effect notwithstanding subsection (5) of this section.

(9) On the revocation or expiry of a notice under subsection (1) of this section the Board shall forthwith withdraw all caveats founded thereon.

(10) The Board may lodge a memorial of a notice under subsection (1) of this section in the Registry of Deeds for registration as a judgment if the memorial sets out one or more names of owners affected by the notice, together with an identification of the lands of that owner or those owners respectively affected thereby.

(11) If a conveyance in contravention of this section is registered in the Registry of Deeds and the contravention would not be disclosed by a reasonable and proper search therein, that conveyance shall have full force and effect notwithstanding subsection (5) of this section.

16 Subject to the provisions of section seventeen, the Board may, with the approval of the Minister, purchase or take in accordance with the provisions of the *Public Authorities' Land Acquisition Act* 1949 any rural land—

Power to
take land.
Cf. 20 Geo. V
No. 77, s. 8.

- (a) that is suitable and sought after for settlement;
- (b) that is not being farmed in a good and husband-like manner; and
- (c) the owner of which is unable or unwilling to sell the land to the Board.

17—(1) An owner of land who receives, or is entitled to, a notice under section fourteen of the *Public Authorities' Land Acquisition Act* 1949 in respect of land being taken under section sixteen of this Act may appeal to the Closer Settlement Appeal Board constituted under this Act by notice in writing lodged with the Director of Land Settlement within twenty-eight days after the service on him of the notice under section fourteen, or such further time as the Board may allow.

Owner's
right of
appeal.

(2) On the lodging of a notice of appeal under subsection (1) of this section all proceedings for the taking of the land shall cease and time therefor shall not run until the appeal is disposed of.

(3) The Closer Settlement Appeal Board shall hear the appellant and the Board and such evidence, if any, as they adduce and shall—

(a) if the appellant establishes—

(i) that he is making reasonable use of the land having regard to its present capabilities; or

(ii) that he had been prevented by lack of time or money from making reasonable use of the land,

allow the appeal, and thereupon the Board shall take action as provided in subsection (2) of section fifteen of the *Public Authorities' Land Acquisition Act 1949*; and

(b) if he fails to establish either of the matters mentioned in paragraph (a) of this subsection, dismiss the appeal, and the Board may then carry the acquisition of the land to completion.

Easements.
No. 82 of
1950, s. 11.

18—(1) The Board may, with the consent of the Minister and in accordance with the *Public Authorities' Land Acquisition Act 1949*, purchase or take any easement considered by the Board reasonable for the enjoyment of any of its land.

(2) The Board may, subject to any existing tenancy, grant easements over any of its lands.

(3) The Governor may, in the name and on behalf of Her Majesty, create easements over any Crown land or other land of the Crown for the benefit of any land of the Board.

Lands subject
to former Act.

19—(1) All lands subject to the *Closer Settlement Act 1929* immediately before the commencement of this Act shall be deemed to have been duly granted by Her Majesty to the Board to have and to hold them for the purposes of this Act for the term of nine hundred and ninety-nine years commencing on the date of the commencement of this Act yielding for each parcel the rent of one penny a year if demanded.

(2) The Board shall be entitled on demand to a grant in fee simple under the *Crown Lands Act 1935* to itself or some person nominated by it of any land held by it under subsection (1) of this section.

(3) Before—

(a) leasing any land for a term of more than five years; or

(b) creating any interest in land under section twenty-two,

the Board shall, if that land is held by it under subsection (1) of this section, obtain the fee simple therein.

20—(1) The Board is liable to pay rates and taxes levied by any local authority or any body of a public or semi-public nature constituted under statutory authority in respect of lands vested in it and not leased under Part V, if the lands are worked for profit by or on behalf of the Board.

Rates.
Cf. *ibid.*, s. 12.

(2) Except as provided in subsection (1) of this section the Board is not liable to any rate or tax levied by a local authority or body of a public or semi-public nature constituted under statutory authority other than a rate or tax for a service actually rendered or supplied by the local authority or body.

PART IV.

PREPARATIONS FOR SETTLEMENT.

21—(1) The Board may, subject to this Act and to any direction of the Minister, do all such acts and things as may appear to it to be just and equitable and either necessary or convenient for settling eligible persons on the land and enabling them to become independent land owners.

Power to develop land.
Cf. *ibid.*, s. 4 and 20 Geo. V No. 77, s. 25.

(2) For the purposes of this section, and without limiting the generality of subsection (1) of this section, the Board may—

- (a) make roads and other ways and dedicate them to the public;
- (b) build fences;
- (c) clear and drain land;
- (d) with the consent of the Minister, purchase or take in accordance with the provisions of the *Public Authorities' Land Acquisition Act 1949* any land for a term or an easement over, or profit a prendre in, any land;
- (e) carry on any estate, farm, orchard, or similar property acquired by it;
- (f) raise stock for sale;
- (g) acquire for re-sale to its tenants stock, seed, machinery, and other things needed by settlers;
- (h) engage servants at such wages and on such conditions as it may otherwise lawfully determine; and
- (i) do all such acts—
 - (i) in respect of lands held by it, as a reasonable and prudent land owner would do; and
 - (ii) for the benefit of its tenants, as a reasonable and prudent stock and station agent would do.

Disposal of
lands to assist
settlement.

Cf. No. 82 of
1950, s. 10 and
20 Geo. V No.
77, s. 28.

22—(1) The Board may, with the consent of the Minister, transfer, lease, or surrender any part of its lands for—

- (a) the erection or carrying on of any church, chapel, or church hall, with or without a hall, school-room, parsonage, presbytery, or manse, or of any public hall, community centre, or other building for public or recreational purposes;
- (b) the laying out and construction or carrying on of any recreation ground, park, or public reserve;
- (c) the provision or carrying on of saleyards, or of any premises for the accommodation or agistment of travelling livestock;
- (d) the erection or carrying on of any building or premises for the storage of agricultural machinery or plant, or any factory, mill, dairy, or other building for use in, or in connection with, the treatment or processing of primary products;
- (e) the erection of shops and other business premises and of dwellings for the proprietors and their employees;
- (f) the establishment of experimental farms;
- (g) the provision of areas for use as timber plantations, and for afforestation purposes generally;
- (h) the residence of an agricultural contractor;
- (i) a community shearing shed, or any other purpose that the Board considers proper as a facility or service for a group of holdings under Part V, together with, if the Board thinks fit—
 - (i) other rural lands;
 - (ii) lands disposed of under this subsection; or
 - (iii) a village developed under subsection (2) of this section in the vicinity of the group; or
- (j) the improvement of the boundary of its lands,

and may provide for the enjoyment of facilities and services referred to in paragraph (i) of this subsection, whether or not it disposes of any lands for the facility or service.

(2) The Board may, with the consent of the Minister, by resolution, reserve portions each not exceeding one hundred acres of its lands for development as villages and may, in accordance with a plan approved by the Town and Country Planning Commissioner, transfer, lease, or surrender blocks in the portions so reserved.

(3) The Board may, with the consent of the Minister, before selling or leasing any land under this section, erect any buildings or structures or do any other works required

for the purpose for which the land is to be so disposed of, and make any transfer in pursuance of any such sale subject to a condition of defeasance to ensure that the land is used for the purpose for which it is sold.

(4) Land leased under this section shall be leased for such term and at such rental and upon and subject to such conditions as the Minister approves.

(5) Land required for the purpose set out in paragraph (h) of subsection (1) of this section may only be leased for life and with a condition of re-entry to ensure that neighbouring lessees have the benefit of the contractor's services.

(6) Where any land is surrendered under this section the Minister shall by notice in the *Gazette* declare the purpose for which that land is surrendered and the provisions of the *Lands Resumption Act* 1910 shall apply to and in respect of that land and in the same manner and to the same extent in all respects as if it had been lawfully acquired for that purpose under the provisions of that Act.

(7) For the purposes of paragraphs (b), (c), (g), and (i) of subsection (1) of this section the Board may retain lands or vest them in trustees or in the corporation of the municipality in which they lie.

23—(1) Where the Board is of opinion that any lands held by it are not required for the purposes of this Act, it may with the consent of the Minister sell or surrender those lands.

Lands not required.
Cf. 20 Geo. V
No. 77, ss. 6
(2) and
28 (5).

(2) Where the Board is of opinion that any lands held by it are required for the purposes of this Act, but not immediately, it may with the consent of the Minister let them for terms of not more than ten years subject to conditions that will preserve them for any purpose for which they might be used under this Act.

(3) Lands that were immediately before the commencement of this Act reserved under section six of the *Closer Settlement Act* 1929 or that have been granted to the Board under section thirteen of this Act shall not be sold under subsection (1) of this section without the consent of the Commissioner for Crown Lands, and if they are surrendered thereunder such adjustment shall be made in the public accounts as the Treasurer directs.

(4) Lands that have been taken for the purposes of this Act or the *Closer Settlement Act* 1929 or any corresponding previous enactment may be sold under subsection (1) of this section only if first offered to the person from whom they were taken his executor or administrator at a price equal to the amount paid for the taking adjusted for any change in the improvements thereon.

24 Lands shall be sold under this Part as if the Board were a trustee for sale thereof.

Sale of lands.

PART V.

SETTLEMENT.

Eligible
persons.

20 Geo. V

No. 77, s. 27.

25—(1) A person is incapable of taking a lease under this Part if—

- (a) he is under the age of eighteen years; or
- (b) he and his spouse jointly or severally, or either of them, hold or holds in their or his own right rural land which in the opinion of the Board provides, or is sufficient to provide, a reasonable living for him and his family when farmed in a good and husbandlike manner.

(2) A person is not capable of taking a lease under this Part if he or his spouse is the holder of another lease under this Part unless the Board is satisfied that the land subject to the other lease is insufficient to provide a reasonable living for that person and his family.

(3) For the purposes of this section—

- (a) if a person holds land jointly with another person not his spouse he shall be regarded as the holder in severalty of such proportion of the land so held as represents his personal interest therein;
- (b) the holder of a lease for a term of not less than three years still to run shall be regarded as the holder of the land subject thereto; and
- (c) a proprietary company shall be regarded as an unincorporated partnership.

Applications
for settle-
ment.

Ibid., s. 30.

26—(1) An eligible person may apply as prescribed to the Board for registration as an applicant for settlement under this Part—

- (a) generally; or
- (b) in a particular area.

(2) With every application under this section the prescribed fee shall be lodged.

(3) Where the Board receives an application under this section it shall, after ascertaining that the applicant is an eligible person and that he has sufficient experience and is otherwise likely to be a successful settler, register him as an applicant for settlement.

Allocation
of holdings.

Ibid., s. 31.

27—(1) Subject to this section, as holdings become available for occupation the Board shall offer them each to a registered applicant for settlement, other than one who has applied for settlement in a different area, on a development lease in accordance with section twenty-eight.

(2) Where the number of applicants to whom the available holdings may be offered exceeds the number of those holdings, the offering of the holdings among the applicants shall, in default of agreement between the applicants, be by ballot at such time, in such manner, and subject to such conditions, as may be prescribed.

(3) The Board may, in lieu of offering a development lease as provided in subsection (1) of this section, offer a settlement lease as provided in section twenty-nine.

28—(1) Except where the Board sees fit to grant a ^{Development} settlement lease in accordance with section twenty-nine, a ^{leases.} holding leased for the first time shall be let on a development lease in accordance with this section.

(2) A development lease shall be for one year and thereafter from year to year at such rent and on such conditions as the Board thinks fit.

(3) When a development lease is not determined at or before the end of its fourth year, the Board in the first six months of its fifth year—

(a) shall determine it by notice to quit expiring at the end of the fifth year; and

(b) may offer the tenant a settlement lease under section twenty-nine to commence on the termination of the development lease.

(4) Subject to this section, the provisions of a development lease may be varied at any time by agreement and the Board may, with any notice to quit that it is entitled to give, offer the tenant a variation of the provisions upon the acceptance of which the notice to quit shall be void.

(5) A settlement lease may be granted to and accepted by a lessee under a development lease at any time before the commencement of the period of six months mentioned in subsection (3) of this section, and thereupon the development lease shall merge in the settlement lease.

(6) A tenant who has been offered a settlement lease under subsection (3) of this section and has refused it or whose development lease has been determined without his acceptance of a settlement lease shall be paid by the Board compensation for any improvements made or paid for by him with the written consent of the Board and not exhausted at the end of his tenancy.

(7) Without prejudice to the contents of the subsequent settlement lease, a development lease shall impose on the parties thereto the same obligations as nearly as possible as a settlement lease except so far as the Board thinks it advisable to vary them in conformity with the object of the lease.

Settlement
leases.
Ibid., s. 33.

29—(1) A settlement lease shall be in accordance with the agreement therefor between the Board and the grantee and an offer of a settlement lease by the Board, or acceptance by the Board of a counter offer, shall be in accordance with this section.

(2) Notwithstanding the provisions of subsection (1) of this section, the Board shall not grant a settlement lease that does not comply with this section and is liable for breach of contract so far as it agrees to grant something forbidden by this subsection.

(3) A settlement lease shall—

- (a) be for a term of ninety-nine years;
- (b) reserve a rent determined as provided by section thirty-one;
- (c) contain the prescribed covenants and conditions; and
- (d) contain any special covenants or conditions that the Board in any particular case thinks necessary or desirable.

Covenants
and conditions.
Cf. *ibid.*, s.
33.

30—(1) For the purposes of paragraph (c) of subsection (3) of section twenty-nine, the regulations shall prescribe—

(a) covenants by the lessee—

- (i) for reasonable residence on and working of the holding by or on behalf of the lessee;
- (ii) against assigning, subletting, charging, or parting with possession without consent;
- (iii) to pay for buildings as provided in section thirty-two;
- (iv) to insure buildings being paid for under that section;
- (v) to pay additional rent for improvements made by the Board during his term;
- (vi) to preserve the holding and its soil, fertility, and improvements; and
- (vii) duly to repay any advance and interest thereon under Part VI;

(b) covenants by the Board—

- (i) for quiet enjoyment; and
- (ii) to pay compensation for improvements made or paid for by the lessee with the written consent of the Board and not exhausted at the termination of the lease; and

(c) conditions of forfeiture—

(i) for non-payment of rent;

(ii) for waste; and

(iii) for breach of covenant or condition,

and may prescribe such other covenants and conditions as the Board recommends or the Governor requires.

(2) For the purposes of this section—

(a) the regulations may prescribe more than one form of covenant or condition, or set of covenants and conditions, to be used as the Board thinks fit; and

(b) time in any covenant may be made to run from the commencement of the preceding development lease, if any.

31—(1) The rent payable under a settlement lease shall be determined in each case by the Board and shall represent a percentage on the capital value of the land comprised in the lease, which shall not exceed by more than one per cent the interest at the State rate at the time of the determination. Rental.
Ibid., s. 34.

(2) Capital value for the purposes of this section shall be determined by the Board in each case, but in the case of a holding not before let on a settlement lease shall not exceed by more than five per cent the capital cost of the holding at the time when the offer of the settlement lease is made.

(3) At the end of every seven years from the commencement of a settlement lease, the Board shall review the rent payable thereunder and may vary it to agree with the government loan interest in effect at the time of review.

(4) If the rent is altered on a review under subsection (3) of this section, the Board shall notify the lessee accordingly, and the rent as varied shall in respect of the then current period of seven years be deemed to be the rent reserved by the lease.

(5) In computing the capital cost of a holding for the purposes of this section, expenditure in connection with—

(a) roads and other ways dedicated to the public;

(b) lands disposed of, and facilities and services provided under, section twenty-two; and

(c) buildings on the holding,

shall be excluded.

(6) A lessee has a right to know the capital value and capital cost for the purposes of this section of his holding.

32—(1) Where the Board is about to offer a settlement lease of a holding it shall determine the capital value of the buildings, if any, thereon and shall provide for the payment of additional annual rent for the first forty years of the lease of one-fortieth of the sum calculated in accordance with subsection (2) of this section. Buildings
on holdings.
Ibid., s. 35.

(2) The sum for the purposes of subsection (1) of this section shall be the total amount that would be paid by a person paying the capital value of the buildings by half-yearly equated instalments of principal and interest calculated to repay the capital value over forty years, interest being at a rate determined by the Board, but not exceeding the State rate of interest at the time of the determination by more than one per cent.

(3) Where at the offer of a settlement lease the buildings on the holding offered are more than fifteen years old the Board may modify the operation of this section by substituting a shorter period for the period of forty years.

Surrenders.
Ibid., s. 38.

33—(1) The Board, with the consent of the Minister, may at any time accept the surrender of a lease under this Part upon such terms and conditions as it thinks fit.

(2) The Board and a lessee may agree upon a surrender for the purpose of a grant to the lessee of another holding, including a holding comprising part of the holding to be surrendered.

(3) An agreement for the purposes of subsection (2) of this section may—

- (a) provide for putting the lessee in as nearly as possible the same position as if he had remained in possession of his existing holding;
- (b) provide for treating time run and payments made under the lease to be surrendered as having run or been made under the new lease to be granted; and
- (c) be carried out notwithstanding any other provision of this Act.

(4) The provisions of this section extend to any right, including an inchoate right, to purchase under section thirty-five or section forty.

Assignments
and under-
leases.
Ibid., s. 39.

34 The Board shall not consent to the assignment or underletting of a holding—

- (a) held under a development lease, except in what it thinks special circumstances; or
- (b) to a person who is not an eligible person.

Right to
purchase.
Ibid., ss. 36
and 37.

35—(1) A lessee of a holding under a settlement lease may purchase that holding in accordance with this section.

(2) A right of purchase under this section ceases on the expiration of the ninety-eighth year of the term thereof unless the lessee has already done all things necessary on his part to purchase the holding.

(3) A right of purchase under this section is not exercisable by a person who—

- (a) is not an eligible person; or

(b) has not complied in every respect with the requirements of this Act and his lease up to the time when he gives notice under subsection (4) of this section and paid to the Board all moneys due and payable by him up to that time in respect of all matters relating to the holding.

(4) A person who wishes to exercise a right of purchase under this section shall give notice in the prescribed form to the Board.

(5) On receipt of a notice under subsection (4) of this section, the Board is bound, except as provided in subsections (6) and (12) of this section, to sell and transfer the holding to the lessee on a day that it shall fix by notice in writing to the lessee, being not less than three months or more than six months after the receipt by it of the notice under subsection (4) of this section, upon compliance by the lessee with the provisions of subsection (7) of this section.

(6) Where the person giving notice under subsection (4) of this section has not the right to do so the Board shall, within twenty-eight days after receiving the notice, give him notice in writing that it is entitled to refuse, and does refuse, to sell and transfer the holding to him.

(7) A person who has received a notice under subsection (5) of this section shall, on or before the day fixed in the notice, pay to the Board the purchase price of the holding as determined under subsection (10) of this section and any moneys that have become due to the Board up to the day so fixed, including the Board's costs of transferring the holding.

(8) The Board may refuse to transfer in accordance with this section if between the giving of notice under subsection (4) of this section and the day fixed by the notice under subsection (5) of this section the lessee has failed to comply with any of the requirements of this Act or his lease and may require the lessee to satisfy it that he has complied with those requirements.

(9) Refusal by the Board to transfer under subsection (8) of this section may continue only so long as the lessee is in default under that subsection.

(10) The purchase price of a holding for the purposes of this section shall be determined by the Board and stated in the notice under subsection (5) of this section, and shall be not more than the capital value on which the rent payable under the lease is calculated.

(11) A lessee who has a right (including an inchoate right) to purchase under this section may, as prescribed, make payments to the Board on account of the purchase price of his holding and shall be credited with interest thereon as prescribed.

(12) If a person states in his notice under subsection (4) of this section that he desires to pay by instalments, the Board may, instead of giving notice as provided in subsection (5),

within three months next after receiving his notice under subsection (4) tender to him a contract of sale in the prescribed form providing for—

- (a) payment by ten half-yearly instalments with interest at a rate not exceeding government loan interest by more than one per cent; and
- (b) completion of the contract by the Board on payment of the last instalment, and of any moneys that have become due to the Board up to the date of completion including the Board's costs of transferring the holding,

and if he executes it and returns it to the Board within one month after tender to him, the Board shall execute it forthwith.

(13) A purchaser under subsection (12) of this section who has paid at least four instalments under his contract and is not in default thereunder may call for the transfer of the holding upon—

- (a) payment of the Board's costs of the transfer and all other moneys then due to the Board; and
- (b) giving the Board a mortgage of the holding to secure the due payment of all other moneys payable under his contract.

(14) If a person who exercised his right of purchase under this section before his settlement lease had been in force for five years wishes to sell before that time, he shall give the Board first refusal of the land held thereunder at the purchase price paid by him to the Board therefor, and the Board shall have six months from the receipt of his offer in which to notify him whether it accepts or refuses the land.

Special
power of
sale.

Ibid., s. 37A.

36—(1) Where the Board is of opinion that a person who was, on the sixteenth day of November 1950, a lessee under the *Closer Settlement Act 1929* and is still a lessee of the same holding is entitled in equity and good conscience to purchase the holding, and there has been substantially continuous possession in good faith of the holding in purported pursuance of that Act and this Act by that lessee or some lessee of whose interest he has become possessed for the preceding ten years, the Board with the consent of the Minister may sell that holding to that lessee subject to subsections (4) to (10) of section thirty-five.

(2) This section expires on the thirty-first day of December 1959.

Reversion
of holdings.
Ibid., ss. 40
and 41.

37—(1) Where the Board re-enters upon a holding for breach of condition and has a right of action for waste or damage done to the holding by the former lessee, it may withhold from any moneys due from it to him such amount as it thinks proper compensation for the waste or damage, and if the former lessee considers the amount so withheld to be excessive he may bring an action against the Board to recover the difference.

(2) Where, but for this subsection, a lease under this Part would vest in the Crown as *bona vacantia* it shall vest in the Board instead, and merge in the reversion, subject to the rights of any other person therein.

(3) Where a holding reverts to the Board in a condition that makes it unsuitable for immediate re-letting under a settlement lease, the Board may, with the consent of the Minister, re-let the holding upon a development lease in accordance with section twenty-eight.

38 The Board, with the consent of the Minister, may— Special powers.

- (a) by agreement vary any lease under this Part as to parcels, boundaries, rent, covenants, or any other matter so long as the resulting lease is one that could be granted under this Act;
- (b) where a holding cannot be let immediately under a development or settlement lease, let the holding for any term not exceeding ten years and otherwise upon such conditions and with such covenants as it thinks fit;
- (c) where a holding has been advertised as prescribed for at least one month as available for lease under this Part and no suitable person has applied therefor, offer the holding for lease by public tender to any eligible person on such terms and conditions as it thinks proper;
- (d) where by any alteration of boundaries under paragraph (a) of this section a separate piece of land comes into existence which cannot conveniently be added to another holding, sell that piece of land in accordance with the provisions of section twenty-three; and
- (e) create or acquire such easements as are convenient for any holding or convenient for any other land and not inconvenient to any holding.

39—(1) Where any two or more intending applicants for leases under this Part have agreed with the owner of any land for the conveyance or transfer of that land or any part thereof by the owner to the Board for the purposes of this Act, the Board, on their application and with the consent of the Minister, may purchase the land agreed to be sold and grant leases thereof under this Part. Purchase and allocation by agreement.
Ibid., s. 32.

(2) Where intending applicants have made application under subsection (1) of this section, the land purchased at their instance may be subdivided and allocated among them in accordance with a scheme submitted by them and approved by the Board or, failing any such scheme, as the Board may determine.

(3) All applications under this section shall be in the prescribed form and subject to such conditions as to fees, charges, deposits, forfeitures, and otherwise as may be prescribed.

Existing
leases.

40—(1) A person the reversion expectant upon the determination of whose lease is vested in the Board by the operation of subsection (1) of section nineteen shall be deemed to have attorned tenant to the Board at the commencement of this Act and shall hold subject to this Act as if his lease had been a settlement lease granted hereunder but subject to the provisions of this section.

(2) The respective rights of the Crown and the lessee under sections thirty-four, thirty-five, thirty-six, thirty-seven, and forty of the *Closer Settlement Act 1929* shall be deemed to have been incorporated in every lease that is subject to this section as if the Minister and the Board were one with the Crown, but so far as those sections deal with procedure the procedure under this Act shall be used.

(3) A lease that is subject to this section is enforceable according to its provisions although some of them could not be included in or applied to a lease granted under this Part.

PART VI.

ASSISTANCE TO SETTLERS.

Advances
to lessees.
Ibid., s. 45.

41—(1) The Board, with the consent of the Minister, may make advances by way of loan to a lessee for any purpose approved by the Board.

(2) The amount of an advance under this section shall be such as the Board, with the consent of the Minister, may consider sufficient for the purpose for which the advance is made.

(3) An advance under this section is repayable within such term, not exceeding forty years, as the Board, with the consent of the Minister, may direct, and security for the repayment thereof, or of any part thereof, with interest, may, if the Minister so directs, be taken in the same manner in all respects as if the advance were an advance made under Part IV of the *State Advances Act 1935*, and thereupon the provisions of that Part relating to securities shall apply to the advance as if it had been made thereunder.

(4) Interest is payable by a lessee half-yearly as prescribed in respect of an advance made to him under this section calculated upon the amount thereof due at the beginning of the half-year in respect of which the payment is made.

(5) The rate of the interest payable under subsection (4) of this section shall be determined by the Board, and shall not exceed government loan interest at the time of the determination.

(6) The repayment with interest of an advance under this section shall, subject to subsection (3) of this section, be secured in such manner as the Board may determine, according to the nature and purpose of the advance.

(7) Except in such cases, and with such approval, as may be prescribed, if any asset or chattel, for the purchase of which an advance has been made, is sold by the lessee, that advance is repayable forthwith with interest up to the date of repayment.

(8) Subject to this section, advances under this section shall be made upon, and subject to, such terms and conditions as may be prescribed according to the nature and object thereof respectively.

- 42** The Board, with the consent of the Minister, may—
- (a) remit wholly or in part, and in respect of any period past or future; or
 - (b) give time to pay,
- any rent payable by a lessee and any advance under this Part repayable, or interest thereon payable, by a lessee.

Remissions of rent.

Ibid., s. 46A.

PART VII.

FINANCIAL PROVISIONS.

43 Such accounts shall be kept in the books of the Treasury as the Treasurer deems necessary to record transactions under this Act.

Accounts.

44—(1) The Treasurer may issue and apply out of the Loan Fund (which to the necessary extent, is appropriated accordingly) for the purposes of this Act the unexpended balance at the thirtieth day of June 1957 of any moneys borrowed or re-appropriated for the purposes of the *Closer Settlement Act 1929*, excluding moneys borrowed or re-appropriated for the purpose of funding capital losses incurred in connection with the Acts repealed by this Act or by the *Closer Settlement Act 1929*.

Appropriation of Loan Fund and borrowing of moneys.

- (2) For the purposes of this Act, the Treasurer may—
- (a) arrange for the borrowing, in accordance with the Financial Agreement; and
 - (b) issue and apply out of the Loan Fund,
- further sums of moneys not exceeding a total of £750,000.

45—(1) All moneys applied by the Treasurer for the purposes of this Act under section forty-four shall be deemed to be advanced to the Board.

Advances to the Board.

(2) The Board shall pay interest to the Treasurer quarterly at the State rate on all moneys advanced by the Treasurer to the Board for the purposes of this Act.

(3) For the purposes of subsection (2) of this section interest shall be calculated on the daily balance of the indebtedness of the Board to the Treasurer.

46—(1) All obligations and liabilities of the Minister under the *Closer Settlement Act 1929* outstanding or accruing at the commencement of this Act, shall be taken over, discharged, and paid, whenever payable, by the Board.

Outstanding obligations and liabilities.

Ibid., s. 54.

(2) All rights, claims, and demands that the Minister might enforce under the *Closer Settlement Act 1929* if it were not repealed by this Act are enforceable by the Board in its own name as if accruing to it under this Act.

(3) All payments made by or to the Board by reason of this section shall be deemed to be made for the purposes of this Act.

Crown lands
subject to
Act.

Ibid., s. 55.

47—(1) Where any Crown lands are granted to the Board under this Act every holding and other parcel into which they are or shall be divided shall be valued at such sum as the Board may determine and the Minister, after consultation with the Commissioner of Crown Lands, may approve.

(2) The sum so determined shall be recorded in the books of the Department of Lands and Surveys as a debit against the Board.

(3) While a holding or parcel into which any Crown land granted to the Board is or shall be divided or a holding or parcel of land deemed to have been leased to the Board under section nineteen is held under a lease subject to this Act the Board shall pay to the Treasurer to the credit of the Department of Lands and Surveys at the times provided in the lease for payments of rent thereunder interest at such rate as may be determined by the Board and the Minister may approve, after consulting the Commissioner of Crown Lands, on the value of the holding or parcel.

(4) Where any holding or parcel described in subsection (3) of this section is sold the Board shall pay to the Treasurer to the credit of the Department of Lands and Surveys the value of the holding or parcel determined under subsection (1) of this section, or subsection (1) of section fifty-five of the *Closer Settlement Act 1929*, as the case may be.

(5) Where any sale or lease mentioned in subsection (3) or subsection (4) of this section comprises a portion only of the lands valued as mentioned in subsection (4), the Minister shall determine, after consulting the Commissioner of Crown Lands, upon what proportion of the value of the lands the interest or purchase payment under this section shall be based.

(6) There shall be credited to the Board against any debits made under subsection (2) of this section, or any corresponding previous enactment, in the books of the Department of Lands and Surveys as occasion requires—

- (a) the amount of every payment made by the Board under subsection (4) of this section; and
- (b) the value of all lands so debited that cease to be subject to this Act otherwise than by sale.

Adjustment
of accounts.
Ibid., s. 57.

48 The Treasurer may cause such transfers and entries to be made in the books of the Treasury as he may consider necessary or desirable for giving effect to the provisions of this Part.

Powers and
obligations.
of the Board.
Ibid., s. 59.

49 The Board shall cause to be paid all moneys payable under this Act for—

- (a) purchase money or compensation in respect of land acquired;
- (b) interest as provided by section forty-five and section forty-seven;

- (c) costs and expenses incurred in giving effect to the purposes of this Act; and
- (d) costs of administration, including the salaries, allowances, and expenses payable to members of the Board and officers, servants, and workmen employed in or for the purposes of the administration of this Act.

50—(1) Whenever in any financial year a profit and loss account of the transactions of the Board under this Act for the immediately preceding financial year shows—

Provision for annual profits and losses.

Ibid., s. 61.

- (a) a credit balance, the Board shall pay to the Treasurer on account of the Consolidated Revenue the amount of that credit balance; or
- (b) a debit balance, the Treasurer shall pay out of the Consolidated Revenue to the Board to the credit of that profit and loss account an amount equal to that debit balance.

(2) When any payment is to be made to or by the Board in any financial year under this section, it shall be made, within one month after the Auditor-General has certified to the correctness of the profit and loss account in respect of which it is to be made.

PART VIII.

MISCELLANEOUS.

51—(1) A person who on the eighteenth day of January 1930—

Savings of returned soldiers' privileges.

Ibid., s. 48.

- (a) was the holder of a lease;
- (b) was the purchaser on credit of land, the purchase of which he had not completed; or
- (c) had received an advance, any part whereof is owing by him,

under the provisions of the *Returned Soldiers' Settlement Act 1916*, is entitled in respect of that lease, purchase, or advance, as the case may be, to the same conditions, rights, and privileges, as if the *Closer Settlement Act 1929* and this Act had not been passed.

(2) Where any conditions, rights, or privileges mentioned in subsection (1) of this section, or any of them, respectively, were subject to any revocation, annulment, or modification by regulation under the *Returned Soldiers' Settlement Act 1916*, or in the discretion of the Board or the Minister, they are subject in like manner and to the like extent to revocation, annulment, or modification under this Act, the Board acting in place of the Minister where required but subject to his consent.

Settler's
right of
appeal.

52—(1) A lessee under a settlement lease may appeal to the Minister against the Board's—

- (a) alteration of his rent under subsection (3) of section thirty-one;
- (b) refusal of consent to assigning, subletting, charging, or parting with possession; or
- (c) exercise of a discretion provided for in a covenant under sub-paragraph (V) or sub-paragraph (VI) of paragraph (a) of subsection (1) of section thirty.

(2) If a lessee is aggrieved by the Minister's decision of an appeal under this section he may appeal to the Closer Settlement Appeal Board.

The Closer
Settlement
Appeal
Board.
No. 82 of
1950, s. 68.

53—(1) There shall be a board, to be called the Closer Settlement Appeal Board, consisting of three persons appointed by the Governor, of whom—

- (a) one shall be a police magistrate, who shall be the chairman of the Board;
- (b) one shall be nominated by the Minister; and
- (c) one shall be chosen from a list of not less than three persons to be submitted to the Minister when required by him by or on behalf of the Tasmanian Farmers' Federation and the Farmers', Stockowners', and Orchardists' Association.

(2) The chairman shall hold office during the Governor's pleasure and the other members shall hold office for three years.

(3) The chairman and members shall receive such salaries and allowances as are prescribed.

Jurisdiction
and pro-
cedure.
Ibid., s. 69.

54—(1) A person who is entitled to appeal to the Closer Settlement Appeal Board under this Act may do so in the prescribed manner.

(2) The Closer Settlement Appeal Board shall hear the appeal as if the subject-matter thereof were submitted to it in writing, by the Board and the appellant, for arbitration in accordance with the *Arbitration Act* 1892, and shall either affirm the decision of the Board appealed against or direct the Board to make such decision as the Appeal Board thinks proper, and the Board shall comply with any direction so given.

Accounts
and reports.
20 Geo. V
No. 77, s. 65.

55 As soon as is practicable after the close of each financial year the Minister shall cause to be laid before each House of Parliament—

- (a) separate statements, certified as correct by the Auditor-General, in respect of the Board's operations under this Act, comprising a profit and loss account in respect of the financial year then closed, and a balance-sheet;

- (b) a statement showing the areas of all lands acquired or reserved under or for the purposes of this Act during the preceding financial year, with particulars of—
 - (i) the locality and quality of the lands;
 - (ii) the names of the persons, if any, from whom each estate, farm, or parcel was acquired; and
 - (iii) the price, or compensation, if any, paid;
- (c) a statement of the number and nature of the applications received for holdings under this Act during the preceding financial year and how they were dealt with; and
- (d) a report on the condition and settlement of all lands under this Act.

56 The Board, and any person acting on behalf of the Board, when investigating any matter for the purposes of this Act, has the same powers and authority therein as though the inquiry were held under a commission from the Governor as provided by Division II of Part II of the *Evidence Act 1910*, but no person shall be compelled in any such investigation to answer any question tending to incriminate him.

Inquiries by
the Board.
Ibid., s. 5
(3).

57 The *Public Authorities' Land Acquisition Act 1949* is incorporated with this Act.

Procedure
for acquiring
land.

58—(1) Where the Board has established waterworks for the supply of water to a group of holdings, the Governor may, on the request of the Board—

Waterworks.

(a) by proclamation—

- (i) define the boundaries of the group of holdings and declare the lands within those boundaries to be a water district;
- (ii) name that water district; and
- (iii) declare the source of supply of that district for the purposes of this section; and

(b) by letters patent, create and incorporate a board of trustees for the waterworks and provide for their appointment or election.

(2) Upon the issue of the instruments mentioned in subsection (1) of this section—

- (a) the *Waterworks Clauses Act 1952* shall apply in respect of the waterworks as if—
 - (i) this Act were the special Act for the purposes of that Act; and

- (ii) the board of trustees were the undertakers authorized to construct the waterworks and to take water from the declared source of supply for the supply of the water district;
- (b) the Board may convey to the board of trustees all its rights in the waterworks; and
- (c) the board of trustees shall, upon the conveyance of the Board's rights, pay to the Board the value of those rights as determined by the Minister by such instalments, at such times, and with such interest as he directs to be provided in the conveyance.

Regulations.
Ibid., s. 66.

59—(1) The Governor may make regulations for the purposes of this Act.

(2) In prescribing conditions in respect of any matter under this Act, the regulations, where necessary or desirable, may discriminate with respect to different cases or classes of cases and may be general or in respect of particular areas or localities.

(3) The regulations may provide for the payment of fees to the Crown Solicitor in respect of transactions to which the Board is a party touching an estate or interest in land subject to this Act and for the exemption therefrom of persons or transactions.

THE SCHEDULE.

(Section 2.)

ACTS REPEALED.

Year and Number.	Title of Act.
20 Geo. V No. 77	<i>Closer Settlement Act 1929</i>
22 Geo. V No. 57	<i>Closer Settlement Act 1931</i>
24 Geo. V No. 54	<i>Closer Settlement Act 1933</i>
1 Edw. VIII No. 8	<i>Closer Settlement Act 1936</i>
1 Edw. VIII No. 27 ..	<i>Closer Settlement Act (No. 2) 1936</i>
1 Geo. VI No. 71	<i>Closer Settlement Act 1937</i>
2 Geo. VI No. 52	<i>Closer Settlement Act 1938</i>
3 & 4 Geo. VI No. 64 ..	<i>Closer Settlement Act 1939</i>
4 Geo. VI No. 35	<i>Closer Settlement Act 1940</i>
4 Geo. VI No. 60	<i>Closer Settlement Act (No. 2) 1940</i>
8 & 9 Geo. VI No. 53 ..	<i>Closer Settlement Act 1945</i>
9 & 10 Geo. VI No. 38	<i>Closer Settlement Act (No. 2) 1945</i>
No. 46 of 1950	<i>Closer Settlement Act 1950</i>
No. 53 of 1952	<i>Closer Settlement Act 1952</i>
No. 8 of 1954	<i>Closer Settlement Act 1954</i>