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### **Closer Settlement Act 1957**

Version current from 1 July 2019 to date (accessed 21 August 2020 at 14:59)

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### **Closer Settlement Act 1957**

**An Act to consolidate and amend the law relating to closer settlement**

**[Royal Assent 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. Short title

This Act may be cited as the Closer Settlement Act 1957 .

### 2. Repeal

The Acts specified in Schedule 1 to this Act are repealed.

### 3. Interpretation

*[Section 3 Amended by No. 28 of 1976, s. 74 and Sched. 3 ][Section 3 Amended by No. 28 of 1983, s. 4 ][Section 3 Amended by No. 88 of 1983, s. 3 and s. 4 and Sched. 1 and Sched. 2 ][Section 3 Amended by No. 77 of 1995, s. 3 and Sched. 1 ]*In this Act, unless the contrary intention appears –

***Crown land*** has the same meaning as in the Crown Lands Act 1976 ;

***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;

***holding*** means a defined area of land leased subject to Part V or intended by TDR 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;

*[Section 3 Amended by No. 4 of 2017, Sched. 1, Applied:01 Jul 2019]*

***rural land*** means land not within a city or town;

***TDR*** means Tasmania Development and Resources.

**PART II - . . . . .**

*[Part II Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]*

**4.**

*[Section 4 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**5.**

*[Section 5 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**6.**

*[Section 6 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**7.**

*[Section 7 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**8.**

*[Section 8 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**9.**

*[Section 9 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**10.**

*[Section 10 Repealed by No. 11 of 1971, s. 2 ]. . . . .*

### PART III - Land for Settlement

**11.**

*[Section 11 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**12.**

*[Section 12 Repealed by No. 28 of 1976, s. 74 and Sched. 3 ]. . . . .*

**13.**

*[Section 13 Repealed by No. 28 of 1976, s. 74 and Sched. 3 ]. . . . .*

**14. Purchase of land**

(1) *[Section 14 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 14 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*TDR may, with the consent of the Minister, purchase any land that is, in its opinion, suitable for the purposes of this Act.

(2) *[Section 14 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 14 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where any person offers to sell land to TDR 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 TDR at any time within that period.

**15.**

*[Section 15 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**16.**

*[Section 16 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**17.**

*[Section 17 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**18.**

*[Section 18 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**19.**

*[Section 19 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

**20. Rates**

(1) *[Section 20 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 20 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*TDR 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 TDR.

(2) *[Section 20 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 20 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Except as provided in subsection (1) TDR 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. Power to develop land

*[Section 21 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*

(1) *[Section 21 Subsection (1) amended by No. 46 of 1991, s. 4 and Sched. 2 ]*TDR 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.

(2) *[Section 21 Subsection (2) omitted by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 22.

*[Section 22 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 23. Lands not required

(1) *[Section 23 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2 ]**[Section 23 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where TDR 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.

(2) *[Section 23 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ]**[Section 23 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where TDR 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 10 years subject to conditions that will preserve them for any purpose for which they might be used under this Act.

(3) *[Section 23 Subsection (3) omitted by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

(4) *[Section 23 Subsection (4) omitted by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 24. Sale of lands

*[Section 24 Amended by No. 88 of 1983, s. 4 and Sched. 2 ]**[Section 24 Amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Lands shall be sold under this Part as if TDR were a trustee for sale thereof.

## PART V - Settlement

### 25. Eligible persons

(1) *[Section 25 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 25 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1]* A person is incapable of taking a lease under this Part if –

(a) he is under the age of 18 years; or

(b) *[Section 25 Subsection (1) amended by No. 45 of 2003, Sched. 1, Applied:01 Jan 2004]* he and his spouse or partner jointly or severally, or either of them, hold or holds in their or his own right rural land which in the opinion of TDR provides, or is sufficient to provide, a reasonable living for him and his family when farmed in a good and husbandlike manner.

(2) *[Section 25 Subsection (2) amended by No. 45 of 2003, Sched. 1, Applied:01 Jan 2004]* *[Section 25 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 25 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1]* A person is not capable of taking a lease under this Part if he or his spouse or partner is the holder of another lease under this Part unless TDR 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) *[Section 25 Subsection (3) amended by No. 45 of 2003, Sched. 1, Applied:01 Jan 2004]* if a person holds land jointly with another person not his spouse or partner 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 3 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.

(4) *[Section 25 Subsection (4) inserted by No. 45 of 2003, Sched. 1, Applied:01 Jan 2004]* For the purposes of this section,

**partner** means the person with whom a person is in a personal relationship, within the meaning of the Relationships Act 2003 .

### 26. Applications for settlement

(1) *[Section 26 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 26 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1]* An eligible person may apply as prescribed to TDR 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) *[Section 26 Subsection (3) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 26 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1]* Where TDR 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.

### 27. Allocation of holdings

(1) *[Section 27 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 27 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1]* Subject to this section, as holdings become available for occupation TDR 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 28 .

(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) *[Section 27 Subsection (3) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 27 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1]* TDR may, in lieu of offering a development lease as provided in subsection

(1) , offer a settlement lease as provided in section 29 .

## 28. Development leases

(1) *[Section 28 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 28 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* Except where TDR sees fit to grant a settlement lease in accordance with section 29 , a holding leased for the time being shall be let on a development lease in accordance with this section.

(2) *[Section 28 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 28 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* A development lease shall be for one year and thereafter from year to year at such rent and on such conditions as TDR thinks fit.

(2A) *[Section 28 Subsection (2A) inserted by No. 123 of 1977, s. 2 ]* A development lease granted under this section shall specify the period for which it may continue, being a period not more than 10 years.

(3) *[Section 28 Subsection (3) substituted by No. 123 of 1977, s. 2 ][Section 28 Subsection (3) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 28 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* Unless a development lease is determined at least one year before the end of the period referred to in subsection (2A) TDR shall, in the first 6 months of the last year of that period, determine the lease by notice to quit expiring at the end of that period.

(3A) *[Section 28 Subsection (3A) inserted by No. 123 of 1977, s. 2 ][Section 28 Subsection (3A) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 28 Subsection (3A) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* Where TDR determines a lease pursuant to subsection ( 3 ) it may offer the tenant a settlement lease under section 29 to commence on the termination of the development lease.

(4) *[Section 28 Subsection (4) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 28 Subsection (4) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* Subject to this section, the provisions of a development lease may be varied at any time by agreement and TDR 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 6 months mentioned in subsection (3) , and thereupon the development lease shall merge in the settlement lease.

(6) *[Section 28 Subsection (6) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 28 Subsection (6) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* A tenant who has been offered a settlement lease under subsection (3) and has refused it or whose development lease has been determined without his acceptance of a settlement lease shall be paid by TDR compensation for any improvements made or paid for by him with the written consent of TDR and not exhausted at the end of his tenancy.

(7) *[Section 28 Subsection (7) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 28 Subsection (7) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* 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 TDR thinks it advisable to vary them in conformity with the object of the lease.

## 29. Settlement leases

(1) *[Section 29 Subsection (1) amended by No. 89 of 1983, s. 4 and Sched. 2 ][Section 29 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* A settlement lease shall be in accordance with the agreement therefor between TDR and the grantee and an offer of a settlement lease by TDR, or acceptance by TDR of a counter offer, shall be in accordance with this section.

(2) *[Section 29 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 29 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* Notwithstanding the provisions of subsection (1) , TDR 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) *[Section 29 Subsection (3) amended by No. 28 of 1983, s. 7 ][Section 29 Subsection (3) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 29 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1 ]* A settlement lease shall –

(a) be for a term of 10 years;

- (b) reserve a rent determined as provided by section 31 ;
- (c) contain the prescribed covenants and conditions; and
- (d) contain any special covenants or conditions that TDR in any particular case thinks necessary or desirable.

### 30. Covenants and conditions

(1) *[Section 30 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 30 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*For the purpose of paragraph (c) of subsection (3) of section 29 , 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 32 ;
  - (iv) to insure buildings being paid for under that section;
  - (v) to pay additional rent for improvements made by TDR 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 TDR –
  - (i) for quiet enjoyment; and
  - (ii) to pay compensation for improvements made or paid for by the lessee with the written consent of TDR 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 a breach of covenant or condition –

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

(2) *[Section 30 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 30 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*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 TDR thinks fit; and
- (b) time in any covenant may be made to run from the commencement of the preceding development lease, if any.

### 31. Rental

(1) *[Section 31 Subsection (1) substituted by No. 28 of 1983, s. 8 ][Section 31 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 31 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*The rent payable in respect of a holding under a settlement lease shall be –

- (a) such amount as TDR may determine, being an amount determined as a percentage of the capital value of the holding; and
- (b) payable for a period of 12 months commencing on 1st July in any year.

(2) *[Section 31 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 31 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Capital value for the purposes of this section shall be determined by TDR in each case, but in the case of a holding not before let on a settlement lease shall not exceed by more than 5 per cent the capital cost of the holding at the time when the offer of the settlement lease is made.

(3) *[Section 31 Subsection (3) substituted by No. 28 of 1983, s. 8 ][Section 31 Subsection (3) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 31 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*The rent payable

in respect of any buildings on a holding under a settlement lease shall be –

- (a) such amount as TDR may determine; and
- (b) payable for a period of 12 months commencing on 1st July in any year.

(4) *[Section 31 Subsection (4) substituted by No. 28 of 1983, s. 8][Section 31 Subsection (4) amended by No. 88 of 1983, s. 4 and Sched. 2][Section 31 Subsection (4) amended by No. 77 of 1995, s. 3 and Sched. 1]* In the month of June in each year, TDR shall review the rents payable under this section in respect of a period of 12 months commencing on the following 1st July, and may vary one or both of the rents as it thinks fit.

(4A) *[Section 31 Subsection (4A) inserted by No. 28 of 1983, s. 8][Section 31 Subsection (4A) amended by No. 88 of 1983, s. 4 and Sched. 2][Section 31 Subsection (4A) amended by No. 77 of 1995, s. 3 and Sched. 1]* Where TDR varies one or both of the rents payable under this section in accordance with subsection (4), it shall, by notice in writing, notify the lessee accordingly.

(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 22 ; 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.

*[Section 32 Repealed by No. 28 of 1983, s. 9]. . . . .*

### 33. Surrenders

(1) *[Section 33 Subsection (1) amended by No. 88 of 1983, s. 3 and s. 4 and Sched. 1 and Sched. 2][Section 33 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1]* TDR may at any time accept the surrender of a lease under this Part upon such terms and conditions as it thinks fit.

(2) *[Section 33 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2][Section 33 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1]* TDR 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) 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 35 or section 40 .

### 34. Assignments and under-leases

*[Section 34 Amended by No. 88 of 1983, s. 4 and Sched. 2][Section 34 Amended by No. 77 of 1995, s. 3 and Sched. 1]* TDR 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.

### 35. Right to purchase

(1) *[Section 35 Subsection (1) amended by No. 28 of 1983, s. 10]* A lessee of a holding under a settlement lease may, at any time during the term of the lease, purchase that holding in accordance with this section.

(2) *[Section 35 Subsection (2) omitted by No. 28 of 1983, s. 10]. . . . .*

(3) *[Section 35 Subsection (3) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1]* 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) and paid to TDR all moneys due and payable by him up to that time in respect of all matters relating to the holding.

(4) *[Section 35 Subsection (4) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (4) amended by No. 77 of 1995, s. 3 and Sched. 1]* A person who wishes to exercise a right of purchase under this section shall give notice in the prescribed form to TDR.

(5) *[Section 35 Subsection (5) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (5) amended by No. 77 of 1995, s. 3 and Sched. 1]* On receipt of a notice under subsection (4), TDR is bound, except as provided in subsections (6) and (12), 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 3 months or more than 6 months after the receipt by it of the notice under subsection (4), upon compliance by the lessee with the provisions of subsection (7).

(6) *[Section 35 Subsection (6) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (6) amended by No. 77 of 1995, s. 3 and Sched. 1]* Where the person giving notice under subsection (4) has not the right to do so TDR shall, within 28 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) *[Section 35 Subsection (7) amended by No. 88 of 1983, s. 3 and s. 4 and Sched. 1 and Sched. 2]**[Section 35 Subsection (7) amended by No. 77 of 1995, s. 3 and Sched. 1]* A person who has received a notice under subsection (5) shall, on or before the day fixed in the notice, pay to TDR the purchase price of the holding as determined under subsection (10) and any moneys that have become due to TDR up to the day so fixed, including TDR's costs of transferring the holding.

(8) *[Section 35 Subsection (8) amended by No. 88 of 1983, s. 4]**[Section 35 Subsection (8) amended by No. 77 of 1995, s. 3 and Sched. 1]* TDR may refuse to transfer in accordance with this section if between the giving of notice under subsection (4) and the day fixed by the notice under subsection (5) 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) *[Section 35 Subsection (9) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (9) amended by No. 77 of 1995, s. 3 and Sched. 1]* Refusal by TDR to transfer under subsection (8) may continue only so long as the lessee is in default under that subsection.

(10) *[Section 35 Subsection (10) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (10) amended by No. 77 of 1995, s. 3 and Sched. 1]* The purchase price of a holding for the purposes of this section shall be determined by TDR and stated in the notice under subsection (5), and shall be not more than the capital value on which the rent payable under the lease is calculated.

(11) *[Section 35 Subsection (11) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (11) amended by No. 77 of 1995, s. 3 and Sched. 1]* A lessee who has a right (including an inchoate right) to purchase under this section may, as prescribed, make payments to TDR on account of the purchase price of his holding and shall be credited with interest thereon as prescribed.

(12) *[Section 35 Subsection (12) omitted by No. 28 of 1983, s. 10]. . . . .*

(13) *[Section 35 Subsection (13) omitted by No. 28 of 1983, s. 10]. . . . .*

(14) *[Section 35 Subsection (14) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 35 Subsection (14) amended by No. 77 of 1995, s. 3 and Sched. 1]* If a person who exercised his right of purchase under this section before his settlement lease had been in force for 5 years wishes to sell before that time, he shall give TDR first refusal of the land held thereunder at the purchase price paid by him to TDR therefor, and TDR shall have 6 months from the receipt of his offer in which to notify him whether it accepts or refuses the land.

### 36. Requirement to purchase

*[Section 36 Inserted by No. 28 of 1983, s. 11]*

(1) *[Section 36 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2]**[Section 36 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1]* Where, at the expiration of the term of a settlement lease, the lessee has

failed to exercise the right to purchase the holding under that lease pursuant to section 35 , TDR may require the lessee to purchase that holding.

(2) *[Section 36 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 36 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where, pursuant to subsection (1) , TDR requires a lessee to purchase a holding under a settlement lease, it shall, by notice in writing, inform the lessee accordingly and the lessee is deemed to have exercised his right of purchase in accordance with section 35 .

### 37. Reversion of holdings

(1) *[Section 37 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 37 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where TDR 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 TDR to recover the difference.

(2) *[Section 37 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 37 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where, but for this subsection, a lease under this Part would vest in the Crown as *bona vacantia* it shall vest in TDR instead, and merge in the reversion, subject to the rights of any other person therein.

(3) *[Section 37 Subsection (3) amended by No. 88 of 1983, s. 3 and s. 4 and Sched. 1 and Sched 2 ][Section 37 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where a holding reverts to TDR in a condition that makes it unsuitable for immediate re-letting under a settlement lease, TDR may re-let the holding upon a development lease in accordance with section 28 .

### 38. Special powers

*[Section 38 Amended by No. 88 of 1983, s. 3 and s. 4 and Sched. 1 and Sched. 2 ][Section 38 Amended by No. 77 of 1995, s. 3 and Sched. 1 ]*TDR may –

- (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 10 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) 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 23 ; 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. Purchase and allocation by agreement

(1) *[Section 39 Subsection (1) amended by No. 88 of 1983, s. 3 and s. 4 and Sched. 1 and Sched. 2 ][Section 39 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where any two or more intending applicants for leases under this Part have agreed with the owner of any land for the conveyance of transfer of that land or any part thereof by the owner to TDR for the purposes of this Act, TDR, on their application, may purchase the land agreed to be sold and grant leases thereof under this Part.

(2) *[Section 39 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2 ][Section 39 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*Where intending applicants have made application under subsection (1) , the land purchased at their instance may be subdivided and allocated among them in accordance with a scheme submitted by them and approved by TDR or, failing any such scheme, as TDR 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.

**40.**

*[Section 40 Repealed by No. 88 of 1983, s. 3 and Sched. 1]. . . . .*

## PART VI - Assistance to settlers

### 41. Advances to lessees

- (1) *[Section 41 Subsection (1) amended by No. 88 of 1983, s. 4 and Sched. 2][Section 41 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1]* TDR, with the consent of the Minister, may make advances by way of loan to a lessee for any purpose approved by TDR.
- (2) *[Section 41 Subsection (2) amended by No. 88 of 1983, s. 4 and Sched. 2][Section 41 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1]* The amount of an advance under this section shall be such as TDR, with the consent of the Minister, may consider sufficient for the purpose for which the advance is made.
- (3) *[Section 41 Subsection (3) substituted by No. 88 of 1983, s. 3 and Sched. 1][Section 41 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1]* An advance under this section is repayable within such term as TDR may direct, and security for its repayment, or of any part repayment, with interest, may be taken by TDR.
- (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) *[Section 41 Subsection (5) amended by No. 28 of 1983, s. 12][Section 41 Subsection (5) amended by No. 88 of 1983, s. 4 and Sched. 2][Section 41 Subsection (5) amended by No. 77 of 1995, s. 3 and Sched. 1]* The rate of the interest payable under subsection (4) shall be determined by TDR.
- (6) *[Section 41 Subsection (6) amended by No. 88 of 1983, s. 4 and Sched. 2][Section 41 Subsection (6) amended by No. 77 of 1995, s. 3 and Sched. 1]* The repayment with interest of an advance under this section shall, subject to subsection (3), be secured in such manner as TDR 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. Remission of rent

*[Section 42 Amended by No. 88 of 1983, s. 3 and s. 4 and Sched. 1 and Sched. 2][Section 42 Amended by No. 77 of 1995, s. 3 and Sched. 1]* TDR 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.

## PART VII - Financial Provisions

*[Part VII Inserted by No. 56 of 1985, s. 3 ][Part VII Amended by No. 77 of 1995, s. 3 and Sched. 1 ]*

### 43. Source of funds for advances, &c.

*[Section 43 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]*An advance to a lessee or any other money required by TDR in the exercise of its powers under this Act shall be paid out of –

(a) *[Section 43 Amended by No. 4 of 2017, Sched. 1, Applied:01 Jul 2019]* money appropriated by Parliament from the Public Account for the purpose; or

(b) any other funds of TDR available for the purpose.

### 44.

*[Section 44 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 45.

*[Section 45 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 46.

*[Section 46 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 47.

*[Section 47 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 48.

*[Section 48 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 49.

*[Section 49 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 50.

*[Section 50 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

## PART VIII - Miscellaneous

### 51. Saving of returned soldiers' privileges

*[Section 51 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*

(1) A person who on 18th January 1930 –

- (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) *[Section 51 Subsection (2) amended by No. 88 of 1983, s. 3 and Sched. 1 ]*Where any conditions, rights, or privileges mentioned in subsection (1) , 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 Closer Settlement Board or the Minister, they are subject in like manner and to the like extent to revocation, annulment, or modification under this Act, TDR acting in place of the Minister where required.

### 52.

*[Section 52 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 53.

*[Section 53 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 54.

*[Section 54 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 55.

*[Section 55 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 56.

*[Section 56 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 57.

*[Section 57 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 58.

*[Section 58 Repealed by No. 88 of 1983, s. 3 and Sched. 1 ]. . . . .*

### 59. Regulations

*[Section 59 Subsection (3) amended by No. 77 of 1995, s. 3 and Sched. 1 ]*

- (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) *[Section 59 Subsection (3) amended by No. 88 of 1983, s. 4 and Sched. 2 ]*The regulations may provide for the payment of fees to the Crown Solicitor in respect of transactions to which TDR is a party touching an estate or interest in land subject to this Act and for the exemption therefrom of persons or transactions.

**SCHEDULE 1 - Acts Repealed**

*[Schedule 1 Amended by No. 36 of 1958, s. 4 and Sched. 3 ][Schedule 1 Amended by No. 41 of 1961, s. 5 and Sched. 4 ]*

## Section 2

<b>Year and Number of Act</b>	<b>Title of Act</b>
20 Geo. V No. 77	<i>Closer Settlement Act 1929</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>
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>