

No. 47, 1935.]

ACT

To amend the law relating to land settlement.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Interpretation of terms.

1. In this Act the expression "principal Act" means the Land Settlement Act, 1912 (Act No. 12 of 1912), as amended from time to time; and any expression to which in the principal Act a meaning has been assigned bears, when used in this Act, the same meaning.

Amendment of section 24 of Act 12 of 1912, as amended by section 4 of Act 23 of 1917.

2. (1) Section *twenty-four* of the principal Act is hereby amended by the substitution in sub-section (3) for the word "four" of the words "three and one-half".

(2) This section shall be deemed to have come into operation on the first day of January, 1935.

Amendment of section 46 of Act 12 of 1912, as amended by section 20 of Act 57 of 1934.

3. Section *forty-six* of the principal Act is hereby amended by the deletion in paragraph (d) of sub-section (1) of the words "the depasturing of stock on", and the insertion in that paragraph after the words "as to" of the words "such matters as are referred to in paragraph (g) of this sub-section and".

Amendment and application of section 17 of Act 26 of 1925.

4. (1) Section *seventeen* of the Land Settlement Laws Further Amendment Act, 1925 (Act No. 26 of 1925), is hereby amended by the insertion in sub-section (1) after the words "principal Act" where they occur for the second time, of the following proviso:

"Provided that, notwithstanding anything contained in section *twenty-four* of the principal Act, the Minister may, in respect of the new allotment, require the lessee to pay a rental in excess of that prescribed in the said section, for the first, second and third years of the lease, but not exceeding three and one-half per cent. per annum of the purchase price of the holding."

(2) Notwithstanding anything contained in sub-section (3) of section *seventeen* of Act No. 26 of 1925, the Minister may issue to any lessee of a holding on the Hartebeestpoort Settlement, situate in the district of Brits, to whose lease the provisions of the aforesaid sub-section have been or are applied either before or after the commencement of this Act, a new lease of the holding as redefined, subject to the conditions which would have been applicable to the holding if, on redefinition of the boundaries thereof, it had been offered for allotment in terms of section *sixteen* of the principal Act and allotted to such lessee. Such lease shall commence from a date to be determined by the Minister and shall contain such other conditions as he may deem necessary to give effect to the alteration and redefinition of the boundaries effected in terms of the aforesaid sub-section.

Amendment of section 5 of Act 25 of 1931, as amended by section 32 of Act 57 of 1934.

5. Section *five* of the Land Settlement Relief Act, 1931 (Act No. 25 of 1931), as amended, is hereby further amended by the substitution, in paragraph (g) of sub-section (3), for the word "four" of the words "three and one-half".

Replacement of section 7 of Act 25 of 1931.

6. (1) Section *seven* of the Land Settlement Relief Act, 1931 (Act No. 25 of 1931), is hereby repealed and the following section is substituted therefor:

7. (1) Notwithstanding anything contained in section *forty-two* of the principal Act, whenever any lessee fails to pay all instalments of rent, interest or purchase price in respect of four successive years, the Minister shall forthwith cancel his lease.

(2) The provisions of this section shall apply to every lease, whether or not any of the provisions of this Act have been applied to it."

(2) This section shall come into operation on the second day of July, 1935.

Amendment of section 3 of Act 38 of 1924.

7. Sub-section (1) of section *three* of the Land Settlement Acts Further Amendment Act, 1924 (Act No. 38 of 1924), is amended by the substitution for the words "more than three members" of the words "less than three members and not more than five members".

Remissions of rent, interest and water rates.

8. (1) The Minister shall, in respect of every lease entered into under the principal Act and in force at the commencement of this Act, remit—

(a) the amount of rent, interest and water rates which

has been added or which was capable of being added to the purchase price of any holding in terms of section *eighteen* of Act No. 26 of 1925, including any amount of rent, interest and water rates so added which may have been revived in terms of sub-section (4) of the said section *eighteen*, whether such revival took place before or after the amendment of that sub-section by section *thirty-one* of Act No. 57 of 1934, for the payment of which the lessee is liable in terms of sub-section (4) of section *seventeen* of Act No. 26 of 1925, whether he became liable before or after the amendment of that sub-section by section *thirty* of Act No. 57 of 1934, or for the payment of which the remaining lessee or lessees are liable in terms of sub-section (2) of section *twenty* of Act No. 23 of 1917, and such remission shall be effective from the date on which such amount was added to the purchase price of the holding in terms of the said section *eighteen*, or if such amount was not so added, from the date on which it would have been lawful so to add it in terms of that section ;

(b) any amount (subject to any reduction resulting from any remission in terms of paragraph (a) of this sub-section) representing—

(i) rent ;

(ii) interest on the purchase price or on advances made in terms of section *forty-four* of the principal Act, or in terms of section *three* of Act No. 28 of 1920 ;

(iii) water rates payable in terms of the lease to the Secretary for Lands, in respect of any Government irrigation scheme,

which a lessee of a holding was required to pay in respect of any portion of the period covered by the calendar years 1931, 1932, 1933, and 1934 : Provided that no amount so remitted shall exceed an amount equivalent to four yearly or eight half-yearly instalments of rent, interest or water rates ;

and if the lessee has paid any amount in respect of such rent or interest or water rates as aforesaid, which, in terms of this section, is to be remitted, the amount so paid in respect of rent, interest or water rates shall, with effect from the first day of January, 1935, be set off by the Minister, at the option of the lessee, either against the purchase price of the holding or against the capital amount of any advance which has been made to the lessee in respect of the holding ; and any rent, or instalments of purchase price, or interest on purchase price, or interest on an advance, or instalments payable in redemption of an advance shall be calculated from the aforesaid date on the purchase price or capital amount of the advance (as the case may be) as reduced in terms of this section : Provided that if the lessee has discharged all his obligations to the Government, the Minister may, out of moneys appropriated for the purpose by Parliament, refund to the lessee the amount of rent, interest and water rates which the Minister is by this section required to remit, and which has been paid by the lessee : Provided further that if the amount of the moneys still owing by the lessee to the Government is less than the amount to be remitted as aforesaid, the Minister may likewise refund the difference between the amount of such moneys and the amount to be remitted.

(2) Any amount remitted in respect of rent or interest on purchase price, in terms of this section, shall, for the purposes of sub-section (4) of section *twenty-four*, sub-section (3) of section *thirty-five bis*, sub-section (4) of section *thirty-six* and sub-section (5) of section *forty-two* of the principal Act and of section *seven* of Act No. 25 of 1931, be deemed to have been paid in respect of rent or interest on purchase price.

(3) The Minister may in his discretion apply the provisions of this section, *mutatis mutandis*, to any lease *ad longum tempus*, or any lease containing a right of purchase in favour of the lessee, or any certificate of allotment, or any agreement of sale and purchase, granted or entered into under any law relating to land settlement other than the principal Act, if the land in respect of which such lease, certificate or agreement was so granted or entered into is being used *bona fide* for farming purposes : Provided that, in the case of a lease not containing a right of purchase, any amount so remitted shall be credited against the capital amount of any advance or any interest due by the lessee, and, if there be no amount due by the lessee in respect of any advance or interest, or if

the amount due by the lessee in respect of any advance or interest is less than the amount remitted, the amount remitted or, as the case may be, the balance of that amount, shall be credited against future instalments of rent as they become due by the lessee: Provided further that if on termination of the lease by effluxion of time, and after the lessee has discharged all his obligations to the Government, there is any amount remitted remaining to the credit of the lessee, the Minister may out of moneys appropriated for the purpose by Parliament refund to him the amount so remaining to his credit. The decision of the Minister on the question whether any land is being used *bona fide* for farming purposes, or the decision thereon of any officer of the Department of Lands to whom he may delegate in writing authority to decide that question, shall be final.

(4) The provisions of paragraph (b) of sub-section (1) of this section and section *nine* shall, *mutatis mutandis*, apply to any amount which became payable in respect of rent, interest or water rates under any lease which prior to the commencement of this Act—

(a) has been cancelled in terms of sub-section (1) of section *twenty* of Act No. 23 of 1917, provided the land affected by such lease has been allotted to the remaining lessee or lessees as provided in sub-section (2) of the said section: Provided that if prior to the date of the cancellation of the lease as aforesaid the lessees, or subsequent to the date of re-allotment of the holding the remaining lessee or lessees, have paid any amount in respect of rent or interest or water rates which is to be remitted, any such amount shall be credited against any moneys due by the remaining lessee or lessees to the Government under the cancelled lease; and if the amount so to be credited exceeds the moneys so due the excess shall at the option of the remaining lessee or lessees be set off as provided in sub-section (1); or

(b) has been cancelled in terms of sub-section (1) of section *seventeen* of Act No. 26 of 1925, provided another holding has been allotted in terms of the said section to the lessee whose lease was so cancelled: Provided that if prior to or subsequent to the date of allotment to him of a new holding the lessee has paid any amount in respect of rent or interest or water rates payable under the cancelled lease, which in terms of this section is to be remitted, such amount shall be credited against any debt owing by him in terms of sub-section (4) of section *seventeen* of Act No. 26 of 1925, as amended by section *thirty* of Act No. 57 of 1934, or if there be no such debt, or if the amount to be so credited exceeds the amount of such debt, the excess shall at the option of the lessee be set off as provided in sub-section (1); or

(c) has been surrendered in terms of section *nine* of Act No. 25 of 1931.

Interest not to be charged on rent, interest and water rates added to purchase price under section 4 of Act 25 of 1931 or Government Notice 1565 of 1934. Remission of fifty per cent. of water rates so added.

9. (1) The Minister shall, in respect of every lease entered into under the principal Act or under Ordinance No. 57 of 1903 (Transvaal) and in force at the commencement of this Act, and with effect from the first day of January, 1935, and subject to any reduction resulting from any remission in terms of paragraph (b) of sub-section (1) of section *eight* or sub-section (2) of this section, place any amount representing rent, interest and water rates which has been added to the purchase price of any holding in terms of section *four* of Act No. 25 of 1931 or in terms of Government Notice No. 1565, dated the twenty-fifth day of September, 1931, to a separate suspense account, to be opened for the lessee, and shall likewise place to such suspense account any such amount which was capable of being added, but which was not added, to the purchase price in terms of the aforesaid section or Government Notice. No interest shall be charged on any amount so placed to such suspense account. The amount so placed to such suspense account shall be paid by the lessee within such period as the full purchase price is required to be paid in terms of his lease: Provided that no grant shall be issued

to the lessee in terms of section *forty-three* of the principal Act or in terms of section *eight* of Act No. 21 of 1922, as amended by section *twenty-eight* of Act No. 57 of 1934, until the amount so placed to such suspense account has been paid: Provided further that if the lease is cancelled or terminated in terms of the principal Act any amount placed to such suspense account shall forthwith become payable by the lessee.

(2) The Minister shall remit fifty per cent. of the amount which has been added or which was capable of being added to the purchase price of any holding in respect of water rates in terms of section *four* of Act No. 25 of 1931, or in terms of Government Notice No. 1565, dated the twenty-fifth day of September, 1931: Provided that if the lessee has paid any amount in respect of water rates, which, in terms of this subsection is to be remitted, the amount so paid shall, with effect from the first day of January, 1935, be set off against the purchase price of the holding or the capital amount of any advance which has been made to the lessee in respect of the holding, subject, *mutatis mutandis*, to the provisions of sub-section (1) of section *eight*.

Reduction of rate of interest on advances.

10. (1) Notwithstanding anything contained in any law relating to land settlement the rate of interest payable on any advance made thereunder (whether made before or after the commencement of this Act) shall be three and one-half per cent. per annum.

(2) This section shall be deemed to have come into operation on the first day of January, 1935.

Reduction of rate of interest on purchase price of holdings and on amounts due under existing mortgage bonds.

11. (1) Notwithstanding anything contained in the principal Act, the rate of interest payable on the purchase price of any holding allotted after the commencement of this Act shall, except in the case of a holding to which section *five* of Act No. 25 of 1931 applies, be three and one-half per cent. per annum.

(2) The Minister may in his discretion apply the provisions of this section as from the first day of January, 1935, to—

(a) the purchase price (including such amounts as have been lawfully added to the purchase price) of any holding allotted under the principal Act before the commencement of this Act; and

(b) the capital sum secured under any mortgage bond registered over a holding before the commencement of this Act in favour of the Government under the principal Act or any other law relating to land settlement: Provided that the holding is being used *bona fide* for farming purposes. The decision of the Minister on the question whether any holding is being used *bona fide* for farming purposes, or the decision thereon of any officer of the Department of Lands to whom he may delegate in writing authority to decide that question, shall be final.

Reduction of rental of land and of interest on purchases price of land to be allotted.

12. (1) Notwithstanding anything contained in any law relating to land settlement, other than the principal Act, the Minister may when offering for lease any land which is intended to be used for farming purposes, fix the yearly rental required to be paid at an amount which is equivalent to three and one-half per cent. of the estimated value of such land and when offering any such land for sale, he may fix the rate of interest required to be paid on the purchase price of such land at three and one-half per cent. per annum.

(2) The provisions of this section may, *mutatis mutandis*, be applied by the Minister to any lease, certificate of allotment or agreement of sale and purchase issued or entered into before the commencement of this Act under any law relating to land settlement: Provided that the land held under such lease, certificate or agreement as aforesaid is being used *bona fide* for farming purposes. The decision of the Minister on the question whether any land is being used *bona fide* for farming purposes, or the decision thereon of any officer of the Department of Lands to whom he may delegate in writing authority to decide that question, shall be final.

(3) The provisions of this section shall be deemed to have come into operation on the first day of January, 1935.

Purchase of land for extension of holding.

13. Whenever the land board certifies that it is necessary to extend the boundaries of a holding in order that such holding may afford a reasonably adequate subsistence to the lessee, the Minister may, subject to the provisions of section *eleven* of the principal Act, purchase land which he deems suitable for addition to the holding. The purchase price as determined in terms of paragraphs (a), (b) and (c) of sub-section (9) of section *eleven* of the principal Act, less the amount contributed by the

lessee towards such purchase price, shall be added to the purchase price of the holding in respect of which the additional land was purchased, as from the date of the transfer of such land in favour of the Government, and the instalments of purchase price or the instalments of interest (as the case may be) payable in respect of the purchase price of the original holding shall be increased accordingly as from the date of such addition. Any land acquired in terms of this section shall be deemed to be included in the lease of the original holding, and the lease shall be endorsed accordingly as provided in section *twenty-five* of Act No. 26 of 1925, as amended by section *eleven* of Act No. 6 of 1928.

Short title.

14. This Act shall be known as the Land Settlement (Amendment) Act, 1935.