

CLOSER SETTLEMENT (AMENDMENT) ACT.

Act No. 21, 1937.

An Act to make provision for the assessment or determination of the value of land to be acquired in certain circumstances for the purposes of Closer Settlement; to make further provision with respect to interest and instalments on settlement purchases; for these and other purposes to amend the Closer Settlement Acts, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 15th December, 1937.]

George VI,
No. 21, 1937.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Closer Settlement (Amendment) Act, 1937." Short title.

2. The Closer Settlement (Amendment) Act, 1907, is amended— Amendment of
Act No. 12,
1907.

- (a) (i) by omitting from paragraph (b) of subsection one of section three the words "and of the improvements thereon respectively"; Sec. 3.
(Report by
advisory
board.)
- (ii) by omitting from paragraph (d) of the same subsection the words "if the value of the residue exceeds twenty thousand pounds or not, and whether it will be depreciated in value" and by inserting in lieu thereof the words "the estimated value of the residue thereof and whether the value of such residue will be depreciated";

(iii)

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(iii) by omitting from subsection two of the same section the words "land and inspect the same, and any improvements thereon" and by inserting in lieu thereof the words "property and inspect the same";

Sec. 4.
(Power to purchase or resume land.)

(b) by omitting paragraph (b) of subsection one of section four and by inserting in lieu thereof the following new paragraph:—

(b) resume it under this Act.

Substituted sec. 5.

(c) by omitting section five and by inserting in lieu thereof the following section:—

Lands within fifteen miles of proposed railway and lands to which added value accrues by reason of public works.

5. (1) The Governor may, at any time within twelve months after the commencement of any Act authorising the construction of a line of railway, notify in the Gazette a list of estates situated wholly or partly within fifteen miles on either side of the line of the proposed railway or within a radius of fifteen miles from the terminus thereof.

(2) The Governor may, at any time within twelve months after the commencement of any Act (passed after the commencement of the Closer Settlement (Amendment) Act, 1937) authorising the construction of any public work, notify in the Gazette the boundaries of the lands to which, in his opinion, an added value will accrue or has accrued by reason of the construction or utilisation of the public work.

(3) Where, after the commencement of the Closer Settlement (Amendment) Act, 1937, a provisional district is constituted under Part VI of the Water Act, 1912-1936, the Governor may, at any time within twelve months after the provisional district has been constituted, notify in the Gazette the boundaries of the lands to which, in his opinion, an added value will accrue or has accrued by reason of the proposed construction or utilisation or of the construction or utilisation of the works of such provisional district or of the district constituted upon completion of such works.

Where

Where such district—

- (i) when constituted includes any land in addition to that which was included in such provisional district; or
- (ii) after being constituted is altered by including therein additional lands,

the Governor may, at any time within twelve months after such constitution or after any such alteration, as the case may be, notify in the Gazette the boundaries of the lands, in addition to those previously notified, to which an added value, in his opinion, will accrue or has accrued by reason of the construction or utilisation of the works of such district.

(4) (a) The Governor may, at any time within twelve months after the commencement of the Closer Settlement (Amendment) Act, 1937, notify in the Gazette the boundaries of the lands to which, in his opinion, an added value will accrue or has accrued by reason of the construction or utilisation of the works of the Benerembah Domestic and Stock Water Supply and Irrigation District or by reason of the proposed construction or utilisation or of the construction or utilisation of the works of the Jemalong Provisional Domestic and Stock Water Supply and Irrigation District or of the Berriquin Provisional Domestic and Stock Water Supply and Irrigation District or of the Wakool Provisional Domestic and Stock Water Supply and Irrigation District, or of the respective districts constituted upon completion of the works of each such provisional district.

Where, in the case of any such district, the district—

- (i) when constituted includes any land in addition to that which was included in the provisional district; or
- (ii) after being constituted is altered by including therein additional lands,

the

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the Governor may, at any time within twelve months after such constitution or any such alteration, as the case may be, notify in the Gazette the boundaries of the lands, in addition to those previously notified, to which an added value, in his opinion, will accrue or has accrued by reason of the construction or utilisation of the works of the district.

(b) The Governor may, at any time within three years after the commencement of the Closer Settlement (Amendment) Act, 1937, notify in the Gazette the boundaries of the lands to which, in his opinion, an added value will accrue or has accrued by reason of the construction or utilisation of the work authorised to be carried out by the Wyangala Dam Act, 1928.

(5) Where a list of estates has been notified under subsection one of this section, or where boundaries of lands have been notified under subsection two, subsection three or subsection four of this section, such notification shall continue in force for a period of twelve months from the date of publication thereof, but may, at any time within such period be cancelled by the Governor in whole or in part or altered by a further notification published in the Gazette.

While any such notification remains in force no disposition by the owner of any estate or land to which the notification relates shall operate to defeat the power of the Governor to resume such estate or land or any part thereof under and in accordance with the provisions of this Act.

(6) While any notification under subsection one, subsection two, subsection three or subsection four of this section remains in force the Governor may, by proclamation published in the Gazette, notify that he proposes to consider the advisableness of acquiring for the purposes of closer settlement the land referred to in the proclamation being land situated within fifteen miles of the proposed line of railway or within the boundaries notified under subsection two, subsection three or subsection four of this section, as the case may be. (7)

(7) Where any such proclamation is so published the following provisions shall have effect:—

- (a) The Governor may purchase or resume the whole or any part of the land referred to in the proclamation.
- (b) In any case where the land of any person which is referred to in the proclamation is occupied and worked with other land of such person which is not so referred to, as one holding, and the whole or any part of the land referred to in the proclamation is to be purchased or resumed, the Governor may also purchase or resume the residue of such holding, where such residue does not exceed in value the part which is so purchased or resumed.
- (c) In any case where the land of any person which is referred to in the proclamation is occupied and worked with other land of such person which is not so referred to, as one holding, and the whole or any part of the land referred to in the proclamation is to be resumed, such person may require the Governor to include in the resumption any land not exceeding ten thousand pounds in value, exclusive of the value of any buildings thereon, forming the residue of such holding or forming a part of such residue which by the resumption may be so severed from the part of the holding not to be resumed as, in the opinion of the advisory board, to render it unworkable with such last-mentioned part.
- (d) The price to be paid on any such purchase shall not exceed the price, assessed as provided in paragraph (f) of this subsection, at which the advisory board has recommended the acquisition of the land.

(e)

- (e) The compensation to be paid on any such resumption shall, unless an agreement is entered into under section eleven of this Act, be the value of the land as assessed by the advisory board or as determined by the Land and Valuation Court on appeal.
- (f) In any assessment of any such price or in any assessment or determination of the value of the land for the purposes of compensation upon any such resumption there shall be excluded any added value which would accrue or has accrued to the land from the construction of the line of railway or from the construction or utilisation of the public work, as the case may be, or which has so accrued from the proposed construction of such line or the proposed construction or utilisation of such public work as the case may be:

Provided that where any land comprised within boundaries which have been notified pursuant to subsection four of this section, was sold at any time before the fifteenth day of December, one thousand nine hundred and thirty-six, the advisory board or the Land and Valuation Court, as the case may be, if satisfied that the sale was made in good faith and that the price paid for the land included any part of such added value, may make such allowance therefor in its assessment or determination as it may think just:

Provided further that the advisory board or the Land and Valuation Court, as the case may be, if satisfied that any enhancement in the value of the interest of the owner in any land adjoining the land taken or severed therefrom by the construction of the public work or railway was taken into consideration and given effect to by way of set off or abatement in ascertaining the purchase money or compensation

compensation payable to such owner on the purchase or resumption of the land so taken or severed, may make such allowance therefor in its assessment or determination as it may think just.

In this paragraph the expression "public work" includes the works referred to in subsections three and four of this section.

(8) Any proclamation, made under the section which this section replaces, which, immediately before the commencement of the Closer Settlement (Amendment) Act, 1937, has force or effect, shall be deemed to have been made under this section.

(9) In this section the expression "public work" means a work for the conservation or supply of water the construction of which is specifically authorised by any Act.

- (d) (i) by omitting from section six the words "either of the two last preceding sections" and by inserting in lieu thereof the words "section four or section five of this Act"; Sec. 6. (Restriction of disposition.)
- (ii) by inserting in the same section after the words "such land" the words "made while such proclamation remains in force";
- (iii) by omitting from the same section all words after the words "resume the same" and by inserting in lieu thereof the following words and new subsection:—
"under and in accordance with this Act.

(2) The Governor, by proclamation published in the Gazette, may cancel or amend any proclamation under section four or section five of this Act, as to the whole or any part of the land affected thereby."

- (e) (i) by omitting from section seven the words, symbols and figures "Principal Act, the Closer Settlement (Amendment) Act, 1906, and this Act" and by inserting in lieu thereof the words "Closer Settlement Acts"; Sec. 7. (Resumption under this Act.)
- (ii)

Closer Settlement (Amendment) Act.

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(ii) by inserting at the end of the same section the following new subsection:—

(2) Where the Governor has purchased land under this Act, such land shall be conveyed to His Majesty for the purposes of the Closer Settlement Acts and shall be dealt with thereunder.

Substituted
secs. 9 & 10.

(f) by omitting sections nine and ten and by inserting in lieu thereof the following new sections:—

9. (1) Where any land is resumed under this Act, any person interested in such land who is dissatisfied with the value of the land as assessed by the advisory board may appeal to the Land and Valuation Court against such assessment in accordance with rules of court of that Court.

(2) Notice of appeal shall be lodged within twenty-eight days after the date of publication in the Gazette of the notification of resumption or within such further time as the Land and Valuation Court may, either generally or in any particular case, allow.

Power to hear
and determine
appeal.

10. The Land and Valuation Court shall have jurisdiction to hear and determine the appeal.

Sec. 12.
(Right of
owner to
require con-
tiguous land to
be resumed.)

(g) by omitting from paragraph (b) of the proviso to section twelve the word "improvements" and by inserting in lieu thereof the word "buildings";

Sec. 13.
(Retainer by
owner of
part of land
resumed.)

(h) (i) by inserting in subsection one of section thirteen after the word "it" the words "and of any other land held in the same interest";

(ii) by omitting from the same subsection the word "ten" and by inserting in lieu thereof the word "twenty";

(iii) by omitting from the same subsection the word "improvements" wherever occurring and by inserting in lieu thereof the word "buildings";

(iv)

(iv) by inserting at the end of the same section the following new subsection:—

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(3) This section shall not apply in any case in which the land proposed to be resumed is land referred to in a proclamation published under section five of this Act, or additional land which the Governor is authorised by that section to resume.

3. Notwithstanding anything contained in the Closer Settlement Acts or in the regulations made thereunder or in section eighteen of the Crown Lands (Amendment) Act, 1932—

Instal-
ments and
interest.

(a) in the case of a settlement purchase the title to which commences after the commencement of this Act the following provisions shall apply:—

(i) Interest only shall be payable on the amount owing from time to time in respect of the purchase for the period (in this paragraph referred to as the “period of interest payments”) of five years commencing on the date of commencement of title to the settlement purchase, and such interest shall be at the following rates, namely:—

Year of the period of interest payments.	Rate of interest payable in respect of that year.
First... ..	1 per centum per annum.
Second	2 per centum per annum.
Third	2½ per centum per annum.
Fourth	3 per centum per annum.
Fifth... ..	3½ per centum per annum.

(ii) Payments in respect of interest shall be due on the first day of December in each year during the period of interest payments and shall be calculated up to and including the thirtieth day of November next preceding.

(iii)

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- (iii) On the first day of December next after the expiration of the period of interest payments, a payment shall be due which shall consist of the following amounts:—
- (a) an amount by way of interest at the rate of three and one-half per centum per annum in respect of that part of the fifth year of the period of interest payments which commenced on the first day of December next preceding the day on which the payment becomes due; and
 - (b) an amount by way of instalment of the purchase money and interest thereon at the rate of four per centum per annum which bears the same proportion to five per centum of the capital value of the land as the period commencing on the expiration of the period of interest payments and terminating on the thirtieth day of November next following bears to a period of one year.
- (iv) On the first day of December next after the expiration of the sixth year from the commencement of title to the settlement purchase a payment shall be due by way of instalment of the purchase money at the rate of five per centum of the capital value of the land and thereafter in like manner a like instalment shall become due annually until the balance of the purchase money together with interest at the rate of four per centum per annum on the amount owing from time to time shall have been paid; but two or more instalments may be paid at the same time.
- (v) Any payments due under this paragraph shall be paid on the day upon which they are due or within three months after that day. (b)

- (b) Any sums which are at the commencement of this Act or which shall, after such commencement, become payable to the Crown under or by virtue of the Closer Settlement Acts shall, from and after the final date for the payment thereof, bear interest at the rate of four per centum per annum and such interest shall be considered as accruing due day by day:

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Act No. 7,
1913, s.
278.

Provided that in any case where the Minister is satisfied that the circumstances warrant it he may, irrespective of whether such interest accrued due before or accrues due after the commencement of this Act—

- (i) direct that the whole or part of such interest shall not be charged; or
- (ii) grant an extension of time for the payment of all or any part of such interest; or
- (iii) remit the payment of such interest wholly or in part.

No refund shall be made as a consequence of any such direction.

Nothing in this paragraph contained shall be construed so as to prevent the enforcement of any forfeiture, or to compel the acceptance of any overdue sums together with interest as aforesaid.

4. The Acts mentioned in the Schedule to this Act are **Repeals.** to the extent therein indicated hereby repealed.

Federal Aid Roads and Works Act.

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SCHEDULE.

Sec. 4.

Number of Act.	Short Title.	Extent of Repeal.
1909, No. 21 ...	Closer Settlement (Amendment) Act, 1909.	The whole of sections 3, 19 and 20.
1914, No. 7 ...	Closer Settlement (Amendment) Act, 1914.	The whole of section 19.
1918, No. 48 ...	Closer Settlement (Amendment) Act, 1918.	So much of section 24 as amended section 5 of the Closer Settlement (Amendment) Act, 1907.
1921, No. 10 ...	Land and Valuation Court Act, 1921.	So much of section 20 as amended section 11 of the Closer Settlement (Amendment) Act, 1907.
1927, No. 14 ...	Closer Settlement and Returned Soldiers Settlement (Amendment) Act, 1927.	Paragraph (a) of section 4.