

WAR SERVICE LAND SETTLEMENT AND CLOSER SETTLEMENT (AMENDMENT) ACT.

Act No. 40, 1951.

George VI. An Act to make further provision for and in
No. 40, 1951. relation to the settlement on the land of
members or discharged members of His
Majesty's naval, military or air forces and
other eligible persons; to validate certain
matters; for these and other purposes to
amend the Closer Settlement Acts, the Crown
Lands Consolidation Act, 1913, the War
Service Land Settlement Act, 1941, and
certain other Acts in certain respects; and
for purposes connected therewith. [Assented
to, 7th December, 1951.]

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

Short title.

1. This Act may be cited as the "War Service Land
Settlement and Closer Settlement (Amendment) Act,
1951".

2.

2. (1) The Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, is amended—

(a) by omitting from subsection one of section 9A the words “one owner” where firstly occurring and by inserting in lieu thereof the words “owner or owners”;

(b) by inserting in the same subsection after the word “owner” where secondly occurring the words “or owners”;

(c) by inserting in the same subsection after the word “price” the words “or prices”;

(d) by omitting from the same subsection the words “For the purposes of this subsection:—

(a) land held by joint owners or tenants in common shall be deemed to be land held by the one owner;

(b) separate parcels of land which adjoin or are adjacent to one another and are held by different owners but—

(i) are worked by or on behalf of or leased to a company or partnership of which such owners or any of them are members: or

(ii) in the opinion of the Minister after report by an advisory board are occupied, controlled or used substantially in the interests of one of such owners,

shall be deemed to be land held by the one owner” and by inserting in lieu thereof the words “Any such application may include lands owned by the applicant as well as lands owned by any other person or persons”;

(e) by inserting in subsection five of the same section after the word “owner” the words “or owners of the land proposed to be included or excluded or the price of which is proposed to be increased or decreased”;

(f)

Amendment
of Act No.
38, 1943.

Sec. 9A.
(Applica-
tions to
Minister
to acquire
lands.)

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- (f) by inserting in subsection six of the same section after the word "owner" wherever occurring the words "or owners";
- (g) by inserting in the same subsection after the word "has" where firstly occurring the words "or have";
- (h) by inserting in the same subsection after the word "his" the words "or their".

**Amendment
of Act No.
7, 1913.**

(2) The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended—

**Sec. 147D.
(Applica-
tion to
Minister
to acquire
lands.)**

- (a) by omitting from subsection one of section 147D the words "one owner" where firstly occurring and by inserting in lieu thereof the words "owner or owners";
- (b) by inserting in the same subsection after the word "owner" where secondly occurring the words "or owners";
- (c) by inserting in the same subsection after the word "price" the words "or prices";
- (d) by omitting from the same subsection the words "For the purposes of this subsection—
 - (a) land held by joint owners or tenants in common shall be deemed to be land held by the one owner;
 - (b) separate parcels of land which adjoin or are adjacent to one another and are held by different owners but
 - (i) are worked by or on behalf of or leased to a company or partnership of which such owners or any of them are members; or
 - (ii) in the opinion of the Minister after report by the Commission are occupied, controlled or used substantially in the interests of one of such owners,

shall be deemed to be land held by the one owner" and by inserting in lieu thereof the words

words "Any such application may include lands **No. 40, 1951.**
owned by the applicant as well as lands owned
by any other person or persons".

3. The Closer Settlement (Amendment) Act, 1907, as Amendment
of Act No.
12, 1907.
amended by subsequent Acts, is amended by omitting Sec. 6.
from subsection (1A) of section six the word "six" where (Restriction
on disposi-
tion.)
firstly occurring and by inserting in lieu thereof the word
"eleven".

4. The War Service Land Settlement Act, 1941, as Amendment
of Act No.
43, 1941.
amended by subsequent Acts, is amended—

(a) (i) by inserting in subsection five of section Sec. 3.
(Areas may be
set apart for
selection by
members or
discharged
members of
the forces,
discharged
soldiers or
other eligible
persons.)
three after the words "member of the
forces" wherever occurring the words "or
discharged member of the forces";
(ii) by omitting from the same subsection the
words "on service";

(b) (i) by inserting in subsection two of section See. 4.
(Classifica-
tion Com-
mittee.)
four after the word "forces" where thirdly
and fourthly occurring the words "or
discharged member of the forces";
(ii) by omitting from the same subsection the
words "on service";
(c) (i) by inserting in section five after the words See. 5.
(Applica-
tions by
parent or
relative or
other
person.)
"member of the forces" where firstly,
secondly and thirdly occurring the words
"or discharged member of the forces";
(ii) by omitting from subsection one of the same
section the words "on service";
(iii) by omitting from subsection two of the
same section the words "and also to furnish
a certificate from the appropriate Common-
wealth authority that the member of the
forces is on service outside the State of
New South Wales".

5. (1) The Closer Settlement Amendment (Conver- Further
amendment
of Act No.
38, 1943.
sion) Act, 1943, as amended by subsequent Acts, is
further amended—

(a) by inserting in subsection two of section eleven See. 11.
(Restric-
tions on
mortgage
transfer.)
after the word "mortgage" where thirdly
occurring the words "or by way of mortgage
to the Minister";
(b)

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(b) by omitting from subsection three of the same section the words "by adding to such first-mentioned amount an amount equivalent to forty times the annual rent payable under this Act" and by inserting in lieu thereof the words—

"as follows:—

(i) in the case of a closer settlement lease the title to which commenced before the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1945, or a settlement purchase lease or a group purchase lease by adding to such purchase money an amount equivalent to forty times the annual rent payable under this Act, and

(ii) in the case of a closer settlement lease the title to which commenced after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1945, by adding to such purchase money an amount equivalent to forty times the annual rent payable under this Act together with an amount equivalent to the capital value owing to the Crown in respect of improvements on the land";

(c) by inserting next after section 13A the following new sections:—

**New secs.
13B and
13C.**

**Payment for
a sur-
rendered
closer
settlement
lease.**

13B. Where in pursuance of the provisions of section thirteen of this Act the holder of any closer settlement lease surrenders the whole or part thereof he may be paid such amount as the Minister may consider the circumstances warrant: Provided that the amount so paid shall not exceed the value of improvements, effected or purchased by such holder or by a previous holder of the closer settlement lease, which are on the surrendered land at the time of the surrender.

13C.

13c. It shall not be lawful for the holder of No. 40, 195 any settlement purchase lease or group purchase Authorised lease or closer settlement lease to obstruct any person not to be person acting under instructions from the obstructed. Minister from entering upon the land under cf. Act No. 7, 1913, lease whenever such person may require to do so. s. 227.

(2) The War Service Land Settlement Act, 1941, ^{Further amendment of Act No. 43, 1941.} as amended by subsequent Acts, is further amended—

(a) by inserting at the end of subsection three of ^{Sec. 3.} section three the words “Any such application ^(Qualifica- tion certifi- cates.) made after the fifteenth day of August, one thousand nine hundred and fifty and before the second day of September, one thousand nine hundred and fifty, shall be deemed to have been made within the time prescribed by this subsection”;

(b) by inserting in subsection two of section four ^{Sec. 4.} after the word “subsection” the words— ^(Classifica- tion Committee.) “Where before the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1951, any application for a qualification certificate was withdrawn by the applicant, or the committee refused to grant an application for a qualification certificate or other certificate under this subsection, the committee shall have power and shall be deemed always to have had power, upon the request of the applicant made not later than twelve months after such commencement, to reconsider any such application and to deal with such application in accordance with the foregoing provisions of this subsection”.

(c) by inserting at the end of section 8G the following ^{Sec. 8G.} new subsection:— ^(The Under Secretary and Prescribed officer may deal with certain matters on behalf of the Minister.)

(2) Any regulation, whether made before or after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1951, shall be deemed always to have empowered

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empowered the Under Secretary or other officer therein prescribed on behalf of the Minister to deal with such matters as may be therein prescribed and any decision given by the Under Secretary or other prescribed officer which would have had the same effect as if given by the Minister in person had such regulation been in force at the time of the giving of such decision shall be deemed always to have had the same effect as if given by the Minister in person.

**Further
amendment
of Act No.
7, 1913.**

(3) The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

**Sec. 161.
(Payment of
survey fees.)**

- (a) (i) by inserting in subsection two of section one hundred and sixty-one after the word “surrendered” where firstly occurring the words “or where the term of a holding has expired”;
- (ii) by inserting in the same subsection after the word “shall” the words “not exceed the survey fee payable in respect of the old holding, and may further direct that such firstmentioned survey fee”;
- (iii) by inserting in the same subsection after the word “surrender” the words “or expiration”;
- (iv) by inserting in the same subsection after the word “surrendered” where secondly occurring the words “or the term of which has expired”;

(b) by inserting at the end of the same section the following new subsections:—

(3) Where in this Act or regulations under this Act it is provided that the cost of any necessary survey or subdivision shall be paid, the Minister shall have and shall be deemed always to have had power to waive payment of so much of such cost as he considers to be excessive.

(4).

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(4) Where before the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1951, the Minister has waived payment of the whole or any part of any survey fee payable under this Act or regulations under this Act, he shall be deemed to have had power to do so.

(c) by inserting next after section two hundred and fifty-five the following new section:—

255A. Any person who at the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1951, was duly authorised as provided by section two hundred and fifty-four or two hundred and fifty-five of this Act, or any person duly authorised as aforesaid after such commencement, shall continue to be so authorised notwithstanding that the Minister who duly authorised such person has ceased to hold office as Minister: Provided that any such authority may be cancelled at any time by the person for the time being occupying the office of Minister.

Authorised person for purposes of secs. 254 and 255.

(d) by inserting next after subsection two of section two hundred and seventy-two the following new subsection:—

(2A) The restriction on transfer imposed by subsection one of this section shall not apply to a transfer of any holding as is hereinbefore mentioned where—

Sec. 272.
(Restriction as to assigns of certain holdings applied for after 1st February, 1909.

- (a) such holding is a small holding;
- (b) the local land board reports that in its opinion such transfer would be in the best interests of land settlement notwithstanding that it would result in the proposed transferee holding substantially more than a home maintenance area; and
- (c) the Minister consents to the transfer.

The Minister may consent to such transfer if the local land board so recommends or he may at his discretion refuse it.

(e)

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Sec. 274.

(Restrictions as to assigns of homestead farms and Crown-leases.)

(e) by inserting next after subsection two of section two hundred and seventy-four the following new subsection:—

(2A) The restriction on transfer imposed by subsection one of this section shall not apply to a transfer of any such holding as aforesaid where—

- (a) such holding is a small holding;
- (b) the local land board reports that in its opinion such transfer would be in the best interests of land settlement notwithstanding that it would result in the proposed transferee holding substantially more than a home maintenance area; and
- (c) the Minister consents to the transfer.

The Minister may consent to such transfer if the local land board so recommends or he may at his discretion refuse it.

Amendment
of Act No
14, 1950.
New. sec.
13A.

6. The War Service Land Settlement and Closer Settlement Validation Act, 1950, is amended by inserting next after section thirteen the following new section:—

Trustees
or personal
representa-
tive deemed
entitled to
sell and
convey land
vested
under this
Act.
cf. Act No.
6, 1919,
s. 157A.

13A. (1) Notwithstanding anything contained in any Act where land, immediately before its vesting under the provisions of section five, six, seven, eight or nine of this Act, was held by a trustee or personal representative such trustee or personal representative or his successor in office shall be entitled to sell and convey the land so vested, and to agree upon and receive all compensation money whatsoever payable in respect of the vesting of such land.

(2) Such compensation money shall be held by the trustee or personal representative receiving the same on the trusts affecting the land in respect of which the compensation money is paid, or affecting the compensation money, and subject to the terms of the instrument (if any) containing such trusts and to the provisions of this section on trust for investment in accordance with section fourteen of the Trustee Act, 1925-1942.

(3)

(3) A sole trustee other than a trust corporation or a trustee or body of trustees incorporated by any Act or a person appointed as a sole trustee by the creator of the trust shall not be entitled under this section to agree upon or to receive the compensation money payable in respect of a vesting, but upon the appointment of an additional trustee of the instrument containing the trust affecting the land approved by the Crown Solicitor such trustees shall be entitled under this section to agree upon and receive such money, but this subsection does not affect the right of a sole personal representative as such to agree upon and give a valid receipt for or direct the application of such compensation money.

(4) (a) Subject to the provisions of the instrument (if any) creating such trusts, the trustees or the personal representatives may, with the consent of the person of full age and free from disability, who would have been entitled to the income of the land vested, apply the compensation money paid under this section in respect of a vesting in the purchase of other lands to be conveyed upon the like trusts as the lands in respect of which such money has been paid stood limited.

(b) If the person who would have been entitled to the income is—

- (i) an insane or incapable person, the consent of the committee or manager of his estate, or if there is no such committee or manager, the consent of the Master in Lunacy;
- (ii) an insane patient, the consent of the Master in Lunacy or of the Court,

shall be sufficient authority to protect the trustees or personal representatives so applying the compensation money.

(c) If the person who would have been entitled to the income is an infant, or a person who cannot be found or ascertained, or as to whom it is uncertain

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uncertain whether he is living or dead, the trustees or personal representatives may so apply the money without the consent of any person.

(5) The costs of the appointment of an additional trustee under subsection three, and of obtaining the necessary consents under subsection four of this section, shall be paid by the Crown.

(6) The powers of trustees and personal representatives under this section shall be cumulative, and not in substitution for, or in derogation of any other powers of any such persons to sell and convey land the subject of a vesting, or to agree upon and receive compensation money payable in respect of a vesting.

(7) In this section unless the context otherwise requires the expressions "personal representative", "trust corporation" and "Court" have the same meanings respectively as those expressions have in the Conveyancing Acts, 1919-1943.

(8) This section shall be deemed to have applied to and in respect of any land vested under section five, six, seven, eight or nine of this Act as on and from the date upon which such land so vested.

Further
amendment
of Act No.
12, 1907.

Sec. 5.
(Lands to
which added
value
accrues by
reason of
public
works etc.
may be
notified for
closer settle-
ment.)

7. The Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, is further amended—

- (a) (i) by inserting at the commencement of subsection three of section five the words "Subject to subsection (3A) of this section";
- (ii) by inserting in the same subsection after the words "such works" the following new paragraph:—

"Where any such provisional district is altered by including therein additional lands or by transferring thereto lands from another provisional district or district, the Governor may, at any time within twelve months after such alteration, notify in the Gazette the boundaries of any of such additional lands so included or of any of the lands

lands so transferred or of any lands in such provisional district held in the same interests as any of such additional lands or as any of the lands so transferred, to which an added value, in his opinion, 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".

- (iii) by inserting in subparagraph (ii) of the same subsection after the words "additional lands" the words "or by transferring thereto lands from another district or from a provisional district";
- (iv) by inserting at the end of the same subsection the words "Provided that where any lands included in or transferred to such district are held in the same interests as any other lands in such district the Governor may notify the boundaries of such other lands under this subsection as if such other lands had comprised part of the lands held in the same interests which were included in or transferred to such district";
- (v) by inserting next after the same subsection the following new subsection:—
 - (3A) The Governor may, at any time within twelve months after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1951, 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 the Denimein Provisional Domestic and Stock Water Supply and Irrigation District or of the district constituted upon completion of such works.

Where

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Where such provisional district is altered by including therein additional lands or by transferring thereto lands from another provisional district or district, the Governor may, at any time within twelve months after such alteration, notify in the Gazette the boundaries of any of such additional lands so included or of any of the lands so transferred or of any lands in such provisional district held in the same interests as any of such additional lands or as any of the lands so transferred, to which an added value, in his opinion, 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 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 or by transferring thereto lands from another district or from a provisional district,

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 any of the lands so included or of any of the lands so transferred or of any lands in such district held in the same interests as any of such lands so included or as any of such lands so transferred 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.

(b)

(b) (i) by inserting at the commencement of No. 40, 1951. paragraph (a) of subsection four of the same section the words "Subject to subsection (4A) of this section";

(ii) by inserting in the same paragraph after the words "each such provisional district" the following new paragraph:—

"Where any such provisional district is altered by including therein additional lands or by transferring thereto lands from another provisional district or district, the Governor may, at any time within twelve months after such alteration, notify in the Gazette the boundaries of any of such additional lands so included or of any of the lands so transferred or of any lands in such provisional district held in the same interests as any of such additional lands or as any of the lands so transferred, to which an added value, in his opinion, will accrue or has accrued by reason of the proposed construction or utilisation or of the construction or utilisation of the works of any such provisional district or of the respective districts constituted upon completion of the works of each such provisional district";

(iii) by inserting in subparagraph (ii) of the same paragraph after the words "additional lands" the words "or by transferring thereto lands from another district or from a provisional district";

(iv) by inserting at the end of the same paragraph the words "Provided that where any lands included in or transferred to such district are held in the same interests as any other lands in such district the Governor

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Governor may notify the boundaries of such other lands under this subsection as if such other lands had comprised part of the lands held in the same interests which were included in or transferred to such district”;

(v) by inserting next after the same subsection the following new subsection:—

(4A) Where before the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1951, a provisional district constituted under Part VI of the Water Act, 1912, or under that Act as amended by subsequent Acts, had been altered by including therein additional lands or by transferring thereto lands from another provisional district or district, the Governor may, at any time within twelve months after such commencement, notify in the Gazette the boundaries of any of such additional lands so included or of any of the lands so transferred or of any lands in such provisional district held in the same interests as any of such additional lands or as any of the lands so transferred, to which an added value, in his opinion, 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.

(c) by omitting from subsection five of the same section the words “or subsection four” and by inserting in lieu thereof the words figures and letters “subsection (3A), subsection four or subsection (4A)”;

(d) by omitting from subsection six of the same section the words “or subsection four” wherever occurring

occurring and by inserting in lieu thereof the **No. 40, 1951.**
words, figures and letters "subsection (3A),
subsection four or subsection (4A)";

(e) by inserting in paragraph (f) of subsection
seven of the same section after the words "think
just" where first occurring the words—

"Provided further that where any land
comprised within boundaries which have been
notified pursuant to subsection (3A) or
subsection (4A) of this section was sold at any
time before the commencement of the War
Service Land Settlement and Closer Settlement
(Amendment) Act, 1951, 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".

8. (1) The Closer Settlement (Amendment) Act, <sup>Further
amendment
of Act No.</sup>
1907, as amended by subsequent Acts, is further
amended—
^{12, 1907.}

(a) by inserting at the end of subsection four of ^{Sec. 4.}
section four the following new paragraph:— <sup>(Power to
purchase or
resume
land.)</sup>

(c) In the case of any such purchase or
resumption a recital or other appropriate
statement in the instrument of conveyance or
surrender or in the notification in the Gazette
of the resumption, as the case may be, to the
effect that the purchase or resumption is made
for the purposes of section three of the War
Service Land Settlement Act, 1941, as amended
by subsequent Acts, shall be conclusive evidence
that the purchase or resumption is made for
such purposes, and the provisions of paragraph
(a) or (b) of this subsection, as the case may be,
shall apply accordingly.

(b)

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Sec. 5.

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

(b) by inserting in paragraph (f) of subsection seven of section five after the words "since that date" where secondly occurring the following words:—

"In the case of any such purchase or resumption a recital or other appropriate statement in the instrument of conveyance or surrender or in the notification in the Gazette of the resumption, as the case may be, to the effect that the purchase or resumption is made for the purposes of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, shall be conclusive evidence that the purchase or resumption is made for such purposes, and the provisions of subparagraph (i) or (ii) of the immediately preceding proviso, as the case may be, shall apply accordingly".

**Further
amendment
of Act No.
7, 1913.**

Sec. 197.

(Exchanges
and
purchases
for public
purposes.)

(2) The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended by inserting at the end of section one hundred and ninety-seven the following new subsection:—

(4) In the case of any purchase or resumption under this section a recital or other appropriate statement in the instrument of conveyance or surrender or in the notification in the Gazette of the resumption, as the case may be, to the effect that the purchase or resumption is made for the purposes of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or Part IVa of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, as the case may be, shall be conclusive evidence that the purchase or resumption is made for the purposes as recited or stated, and the provisions of paragraph (a) or (b) of the proviso to subsection three of this section, as the case may be, shall apply accordingly.

(3) Subsection one of this section shall be deemed to have commenced on the third day of May, one thousand nine hundred and fifty.

VALUATION