

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

Act No. 54, 1955.

An Act to make further provision in relation to the Elizabeth II,
assessment or determination of the value of
No. 54, 1955. land to be acquired for the purposes of settlement; to extend the class of improvements on closer settlement leases to be paid for by an incoming tenant; to make provision for the distribution of costs of improvements effected on land acquired for settlement; 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; to validate certain matters; and for purposes connected therewith.
[Assented to, 13th December, 1955.] BE

BE it enacted by the Queen'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:—

Short title.

1. This Act may be cited as the "War Service Land Settlement and Closer Settlement (Amendment) Act, 1955."

Amendment
of
Act No. 12,
1907.

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

Sec. 3.
(Report by
board.)

- (a) (i) by inserting at the end of paragraph (a) of subsection one of section three the words "and what land the board recommends to be so acquired";
- (ii) by omitting paragraphs (b), (c) and (d) of the same subsection and by inserting in lieu thereof the following paragraph:—
- (b) Where the owner has within the time specified by the board agreed in writing with the board as to the price or compensation to be paid in respect of any land which the board recommends to be acquired, the price or compensation agreed upon between the owner and the board; or where the owner has not so agreed, the board's assessment of the fair market value of such land.
- (iii) by inserting in paragraph (e) of the same subsection after the words "the land" wherever occurring the words "which the board recommends to be acquired";
- (iv) by omitting from subsection three of the same section the words "estimated value" where firstly occurring and by inserting in lieu thereof the words "fair market value";

(v)

- (v) by omitting from the same subsection the words "estimated value is to be made" and by inserting in lieu thereof the words "fair market value is to be assessed";
- (vi) by omitting from subsection four of the same section the words "estimated value" wherever occurring and by inserting in lieu thereof the words "fair market value";
- (b) (i) by inserting in subsection one of section four See. 4. after the word "suitable" the words "and (Power to purchase or resume land.) is recommended by such advisory board";
- (ii) by omitting from subsection three of the same section the words "This subsection shall not apply in respect of any resumption where the owner has agreed not to claim compensation in excess of the value of the land as assessed by an advisory board" and by inserting in lieu thereof the words "This subsection shall not apply in respect of any resumption where the owner has agreed in writing with an advisory board as to the compensation to be paid";
- (iii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—
 - (4) (a) The price to be paid in respect of any such purchase shall be the price agreed upon in writing between the owner and an advisory board.
 - (b) The compensation to be paid in respect of any such resumption shall, unless an agreement is entered into under section eleven of this Act, be—
 - (i) where the owner has within the time specified by an advisory board agreed in writing with the advisory board as to the compensation to be paid—the amount so agreed upon;
 - (ii)

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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.)

- (ii) where the owner has not so agreed—the fair market value of the land as assessed by an advisory board, or where an appeal has been made in terms of section nine of this Act, the fair market value of the land as determined by the Land and Valuation Court.
- (iv) by omitting from subsection five of the same section the words “Where in pursuance of subsection four of this section the price recommended or value assessed by an advisory board or the value determined by the Land and Valuation Court” and by inserting in lieu thereof the words “Where the price or compensation agreed upon between the owner and an advisory board or the fair market value assessed by an advisory board or determined by the Land and Valuation Court”;
- (v) by omitting from the same subsection the words “such price or value” and by inserting in lieu thereof the words “such price or compensation or value”;
- (c) (i) by omitting paragraph (e) of subsection seven of section five and by inserting in lieu thereof the following paragraph:—
 - (e) The compensation to be paid on any such resumption shall, unless an agreement is entered into under section eleven of this Act, be—
 - (i) where the owner has within the time specified by an advisory board agreed in writing with the advisory board as to the compensation to be paid—the amount so agreed upon;
 - (ii)

- (ii) where the owner has not so agreed—the fair market value of the land as assessed by an advisory board, or where an appeal has been made in terms of section nine of this Act, the fair market value of the land as determined by the Land and Valuation Court.
- (ii) by omitting from paragraph (f) of the same subsection the words “Provided further that where any such purchase or resumption is made for the purposes of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the following provisions shall apply:—
 - (i) in the case of any purchase, or any resumption where the owner has agreed not to claim compensation in excess of the value of the land as assessed by an advisory board, the price or value assessed under this paragraph shall not exceed by more than fifteen per centum the price or value which would have been assessed under this paragraph in respect of an identical purchase or resumption as at the tenth day of February, one thousand nine hundred and forty-two, excepting the value of any improvements effected on such land since that date;
 - (ii) in the case of any resumption, other than a resumption where the owner has agreed not to claim compensation in excess of the value of the land as assessed by an advisory board, the value assessed or determined under this paragraph shall not exceed the value

value which would have been so assessed or determined in respect of an identical resumption as at the tenth day of February, one thousand nine hundred and forty-two, excepting the value of any improvements effected on such land since that date.

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."

Sec. 8.
(Restrictions on right of resumption.)

Sec. 9.
(Appeal to Land and Valuation Court.)

(d) by omitting paragraph (b) of subsection one of section eight;

(e) (i) by omitting subsection one of section nine and by inserting in lieu thereof the following subsection:—

(1) Where any land is resumed under this Act any owner of such land who has not agreed in writing with an advisory board as to the compensation to be paid in respect of such resumption and who is dissatisfied with the fair market value of the land as assessed by an advisory board may appeal to the Land and Valuation Court against such assessment in accordance with rules of court of that Court.

(ii)

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

(3) On any such appeal the Land and
Valuation Court shall have regard to the
matters referred to in subsection three of
section three of this Act.

(f) by omitting paragraph (b) of the proviso to ^{sec. 12.}
section twelve;

(Right of
owner to
require
contiguous
land to be
resumed.)

(g) by omitting from subsection one of section
thirteen the words “fourteen thousand pounds” ^{Sec. 13.}
and by inserting in lieu thereof the words
“twenty thousand pounds or in any case
where the Minister on the recommendation of
an advisory board fixes a greater amount than
twenty thousand pounds, such greater amount”.
<sup>(Retainer by
owner of
part of land
resumed.)</sup>

(2) The Crown Lands Consolidation Act, 1913, as <sup>Amendment
of Act No. 7,
1913.</sup>
amended by subsequent Acts, is amended—

(a) by omitting the proviso to section 147E and by ^{Sec. 147E.}
inserting in lieu thereof the following proviso:— ^(Valuation.)

Provided that any such valuation shall not
exceed a valuation which in the opinion of the
Commission would permit a competent settler
to succeed under the war service land settlement
scheme in operation at the time of such valuation
nor exceed the fair market value of the land,
whichever is the lesser.

(b) (i) by omitting from section 147G the words ^{See. 147G.}
“the Minister, on being satisfied” and by <sup>(Purchase
of land.)</sup>
inserting in lieu thereof the words “and
the Commission reports”;

(ii) by omitting paragraph (d) of the same
section and by inserting in lieu thereof the
following paragraph and words:—

“(d) in the opinion of the Commission
the price is not in excess of a
price at which a competent settler
could succeed under the war service
land settlement scheme in operation

at

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at the time of such report nor
in excess of the fair market value
of the land, whichever is the lesser,

the Minister”;

Sec. 197.
(Exchanges,
resumptions
and
purchases
for public
purposes.)

- (c) (i) by omitting from subsection one of section one hundred and ninety-seven the words “for the purpose of disposal in pursuance of the provisions of subsection one of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts” and by inserting in lieu thereof the words “for the purposes of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or Part IV_A of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts”;
- (ii) by omitting from the same subsection the words “The price” and by inserting in lieu thereof the words “Except as hereinafter provided the price”;
- (iii) by inserting in subsection two of the same section after the words “local land board” the words “or an advisory board”;
- (iv) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—
 - (3) Where in pursuance of this section any land is acquired or proposed to be acquired for the purposes of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or Part IV_A of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, the following provisions shall apply:—
 - (a) where the acquisition is by way of purchase the price to be paid in respect

respect of such purchase shall not exceed the fair market value of the land as determined by an advisory board;

(b) where the acquisition is by way of resumption the compensation to be paid in respect of such resumption shall be—

(i) where the owner has within the time specified by an advisory board agreed in writing with the advisory board as to the compensation to be paid—the amount so agreed upon;

(ii) where the owner has not so agreed—the fair market value of the land as determined by an advisory board or the Land and Valuation Court on appeal;

(c) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any resumption to which subparagraph (ii) of paragraph (b) of this subsection applies.

(v) by omitting from subsection four of the same section the words “the proviso to”;

(vi) by omitting paragraph (d) of subsection five of the same section;

(vii) by omitting paragraph (h) of the same subsection;

(viii)

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

(7) In this section the expression “advisory board” means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

Amendment
of
Act No. 38,
1943.

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

Sec. 9B.
(Valuation.)

(a) by omitting the proviso to section 9B and by inserting in lieu thereof the following proviso:—

Provided that any such valuation shall not exceed a valuation which in the opinion of such board would permit a competent settler to succeed under the war service land settlement scheme in operation at the time of such valuation nor exceed the fair market value of the land, whichever is the lesser.

Sec. 9D.
(Purchase
of land.)

(b) (i) by omitting from section 9D the words “the Minister, on being satisfied” and by inserting in lieu thereof the words “and an advisory board reports”;

(ii) by omitting paragraph (d) of the same section and by inserting in lieu thereof the following paragraph and words:—

“(d) that in the opinion of the board the price is not in excess of a price at which a competent settler could succeed under the war service land settlement scheme in operation at the time of such report nor in excess of the fair market value of the land, whichever is the lesser,

the Minister”;

(c)

(c) by omitting the proviso to section 91 and by —
inserting in lieu thereof the following proviso:— Sec. 91.

Provided that any such valuation shall not (Valuation.)
exceed a valuation which in the opinion of such
board would permit a competent settler to
succeed under the war service land settlement
scheme in operation at the time of such valuation
nor exceed the fair market value of the land,
whichever is the lesser.

(d) (i) by omitting from subsection one of section Sec. 9K.
9K the words “the Minister, on being satis- (Approval
fied” and by inserting in lieu thereof the of advance.)
words “and an advisory board reports”;

(ii) by omitting paragraph (d) of the same sub-
section and by inserting in lieu thereof the
following paragraph:—

(d) that in the opinion of the board the
price is not in excess of a price at
which a competent settler could
succeed under the war service land
settlement scheme in operation at the
time of such report nor in excess of
the fair market value of the land,
whichever is the lesser;

(iii) by inserting in the same subsection im-
mediately before the words “may approve
of an advance” the words “the Minister”.

(4) The amendments made by subsections one, two
and three of this section shall not extend to nor affect
the price or compensation payable for any land
purchased or resumed before the commencement of this
Act or any action, suit, proceeding, matter or thing pend-
ing or uncompleted at such commencement in respect
of any resumption effected before such commencement.
The price or compensation payable for any land pur-
chased or resumed before the commencement of this
Act shall be the price or compensation which would have
been payable had such amendments not been made, and
any action, suit, proceeding, matter or thing pending or
uncompleted at such commencement in respect of any
resumption effected before such commencement may be
continued and completed as if such amendments had not
been made.

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Further
amendment
of
Act No. 38,
1943.

Sec. 7.
(Setting
apart.)

Sec. 9F.
(Vesting of
land in
applicant.)

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

- (a) (i) by omitting from paragraph (a) of subsection two of section seven the words “improvements thereon” and by inserting in lieu thereof the words “and other improvements which the Minister on the recommendation of an advisory board determines should be paid for by an incoming tenant”;
- (ii) by inserting in the same paragraph after the word “structural” where secondly occurring the words “and other”;
- (iii) by omitting the proviso to the same paragraph and by inserting in lieu thereof the following proviso:—
Provided that any such conditions or restrictions may upon application made as prescribed by regulations made under the Closer Settlement Acts and for sufficient cause be varied modified or revoked by the Minister upon the recommendation of an advisory board, or without application as aforesaid may with the consent of the holder be added to by the Minister on the like recommendation.
- (iv) by inserting in paragraph (d) of the same subsection after the word “structural” the words “and other”;

- (b) (i) by omitting from paragraph (c) of subsection one of section 9F the words “improvements thereon” and by inserting in lieu thereof the words “and any other improvements which the Minister on the recommendation of an advisory board determines should be paid for by an incoming tenant”;

(ii)

- (ii) by inserting in the same paragraph after the word "structural" where secondly occurring the words "and other";
- (iii) by omitting from the same paragraph the words "Provided that any such condition or restriction may upon application made as prescribed by regulations made under the Closer Settlement Acts and for sufficient cause be modified by the Minister upon the recommendation of an advisory board" and by inserting in lieu thereof the words "Provided that any such conditions or restrictions may upon application made as prescribed by regulations made under the Closer Settlement Acts and for sufficient cause be varied modified or revoked by the Minister upon the recommendation of an advisory board, or without application as aforesaid may with the consent of the holder be added to by the Minister on the like recommendation".
- (iv) by inserting in paragraph (d1) of the same subsection after the word "structural" the words "and other";

- (e) by inserting in section 10A after the word Sec. 10A.
"structural" the words "or other".

(Payment
for
improve-
ments.)

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

- (a) by inserting in paragraph (c) of subsection one Sec. 8D.
of section 8D after the word "structural" the (Assistance
period.)
words "and other";
- (b) by inserting in paragraph (e) of subsection two
of the same section after the word "structural"
the words "and other".

(3)

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Further
amendment
of
Act No. 12,
1907.

Sec. 5.
(Lands
within
fifteen
miles
of proposed
railway and
lands to
which added
value accrues
by reason of
public
works.)

(3) Subparagraphs (i) (ii) and (iv) of paragraphs (a) and (b) of subsection one of this section and subsection two of this section shall be deemed to have commenced upon the seventeenth day of January, one thousand nine hundred and forty-six.

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

- (a) by omitting from paragraph (f) of subsection seven of section five the words “subsections three and four of this section” and by inserting in lieu thereof the words “subsections three, (3A), four and (4A) of this section”;
- (b) by inserting at the end of the same paragraph the words—

“In this paragraph the expression ‘added value’ in relation to land in a domestic and stock water supply and irrigation district (whether provisional or not) includes and shall be deemed always to have included any additional value which would accrue or is likely to accrue or has accrued to such land from the inclusion of such land in the district or from the attachment to such land of water rights or any other rights under the provisions of the Water Act, 1912, as amended by subsequent Acts, or from the actual or prospective enjoyment of water rights or other such rights.”

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the seventh day of December, one thousand nine hundred and fifty-one.

Further
amendment
of
Act No. 43,
1941.

Sec. 8B.
(Develop-
ment
of lands for
war service
land
settlement.)

5. (1) The War Service Land Settlement Act, 1941, as amended by subsequent Acts, is further amended—

- (a) (i) by omitting from section 8B the words—
“Provided that where the improvements or the roads of access or the preparation otherwise of the farms, blocks or areas for settlement or the erection of the dwelling are

are or is completed after disposal or vesting of the land, as the case may be, the holder shall become liable to the Crown for all payments in respect thereof, and in like manner, as he would have been required by law to make if such improvements or roads of access or the preparation otherwise of the farms, blocks or areas for settlement or the erection of the dwelling had been completed prior to disposal or vesting; but the first of such payments shall not become due until a date to be determined by the Minister such date being not later than the date on which the first payment would have become due if the holder's title to the holding had commenced on the day next succeeding the day on which the improvements or the roads of access, or the preparation otherwise of the farms, blocks or areas for settlement, or erection of the dwelling, as the case may be, were completed. Any necessary adjustment shall be made as to the capital value and annual rent of the farm and of the nature and value of any structural improvements which are to be paid for by the holder."

(ii) by inserting at the end of the same section the words—

“ ‘Otherwise preparing farms, blocks or areas for settlement’ in this section shall include and shall be deemed always to have included the carrying out of works for or in connection with the supply of water whether such works were carried out on the farms, blocks or areas or not.”

(b) by inserting in subsection five of section 8c after Sec. 8c, the word “made” where lastly occurring the words “or where the advance has been transferred (Advances and other assistance to settlers under this Act.)

transferred pursuant to subsection (2A) of this section by the person to whom the advance was so transferred";

New sec.
8cc.

(c) by inserting next after section 8c the following new section:—

Distribution
of costs of
improve-
ments.

8cc. (1) Where before or after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1955, moneys were or are expended by the Minister under section 8B of this Act or were or are advanced by the Minister under section 8c of this Act for the purpose of paying for or effecting improvements the Minister shall be deemed always to have had power and shall have power in relation to—

- (a) any farm in respect of which such moneys or any part thereof was or is expended or in respect of which any such advance was or is made to the holder thereof, and
- (b) any farm within the same subdivided area as a farm in respect of which such moneys or any part thereof was or is expended or in respect of which any such advance was or is made to the holder thereof,

to re-determine and vary, at his absolute discretion, by way of increase or decrease, the capital value and annual rent of any such farm and the amount payable by the holder of any such farm for structural or other improvements or in respect of moneys advanced by the Minister as aforesaid.

(2) Where the capital value or the annual rent of any farm referred to in subsection one of this section has been varied, whether before or after the commencement of the War Service Land

Land Settlement and Closer Settlement (Amendment) Act, 1955, the variation shall be deemed to have taken effect or shall take effect as from the date determined by the Minister.

(3) Where the amount payable by the holder of a farm referred to in subsection one of this section for structural or other improvements has been varied whether before or after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1955, the amount as so varied and interest thereon at the rate of two and one-half per centum per annum shall be deemed to have been payable and shall be payable by such holder in such manner, by such instalments and at such times as the Minister either generally or in any particular class of cases has directed.

(4) Where the amount payable by the holder of a farm referred to in subsection one of this section in respect of moneys advanced by the Minister as aforesaid for the purpose of paying for or effecting improvements upon such land has been varied whether before or after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1955, the amount as so varied and interest thereon at the rate determined by the Minister shall be deemed to have been payable and shall be payable by such holder in such manner, by such instalments and at such times, and to such nominee of the Minister as the Minister either generally or in any particular class of cases has directed.

(5) The provisions of this Act, the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, and any other Act, with respect to forfeiture for default in the payment of the annual

annual rent of a holding or of any amount payable by the holder of a holding for structural or other improvements or in respect of moneys advanced by the Minister for the purpose of paying for or effecting improvements, shall apply, mutatis mutandis, to and in respect of the payment of the annual rent, varied as referred to in subsection one of this section, of any farm referred to in that subsection, and to and in respect of any amount, so varied, payable by the holder of any such farm for structural or other improvements or in respect of moneys advanced by the Minister as aforesaid.

(6) For the purposes of this section "subdivided area" means an area disposed of in two or more farms in accordance with section three of this Act, or under Part IV_A of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or under Division 3 of Part VI of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

(7) "Minister" in this section in the case of lands within an Irrigation Area shall be read as Minister for the time being charged with the administration of the Irrigation Act, 1912-1955.

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the seventeenth day of January, one thousand nine hundred and forty-six.

Further
amendment
of
Act No. 43,
1941.

6. The War Service Land Settlement Act, 1941, as amended by subsequent Acts, is further amended by inserting at the end of subsection three of section three the following new paragraph:—

Sec. 3 (3).
(Qualifica-
tion
certificates.)

In the case of a discharged member of the forces who while a member of the forces was issued with a qualification certificate or made application for a qualification

qualification certificate and such application had not been withdrawn or refused at the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1955, a fresh application by such discharged member of the forces for a qualification certificate made, whether before or after such commencement, more than five years after the date the applicant ceased to be engaged on war service and before the expiration of six months after such commencement shall be deemed to have been made within the time prescribed by this section. Except as provided in this paragraph it shall not be competent for any person, other than a discharged member of the Korea and Malaya Operations Forces as defined in subsection three of section ten of this Act, to make application for a qualification certificate under the foregoing provisions of this subsection after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1955.

7. No purchase resumption or vesting of lands pur- Validation
porting to have been made before the commencement of of certain
this Act by the Minister or the Governor under the Closer
Settlement Acts or the Crown Lands Consolidation Act,
1913, as amended by subsequent Acts, and no action
subsequently taken whether before or after the com-
mencement of this Act in respect of such lands in
pursuance of such Acts or any other Acts, or otherwise,
shall be or shall be deemed to have been invalid by reason
only of the fact that the price or compensation paid in
respect of the purchase resumption or vesting of such
lands exceeded by more than fifteen per centum the
amount at which identical lands would have been valued
as at the tenth day of February, one thousand nine
hundred and forty-two, excepting the value of any
improvements effected on such lands since that date.