

CLOSER SETTLEMENT (AMENDMENT) ACT.

Act No. 54, 1960.

Elizabeth II, No. 54, 1960. **An** Act to make further provision for and in relation to closer settlement; for this and other purposes to amend the Closer Settlement Acts, the War Service Land Settlement Act, 1941, and certain other Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 1st December, 1960.]

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 "Closer Settlement (Amendment) Act, 1960."

Amendment of Act No. 38, 1943. **2.** (1) The Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, is amended—

Sec. 7.
(Setting apart.) (a) by inserting next after paragraph (a) of subsection two of section seven the following new paragraph :—

(a1) The Minister may in any notification under paragraph (a) of this subsection notify that in respect of any one or more of the farms priority and preference as prescribed shall be given to applications by discharged members of the forces within the meaning of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or by such discharged members of the forces who are the holders of appropriate qualification certificates issued under such Act, as so amended.

(b)

Closer Settlement (Amendment) Act.

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- (b) (i) by inserting in section eight after the word “Acts” where firstly occurring the words “and who has sufficient capital and the necessary experience and fitness to satisfactorily occupy and develop a farm notified as available as a closer settlement lease”;

No. 54, 1960.

Sec. 8.
(Applica-
tions for
closer
settlement
leases.)

- (ii) by inserting at the end of the same section the following new proviso :

Provided that where in pursuance of paragraph (a1) of subsection two of section seven of this Act the Minister has notified that priority and preference as prescribed shall be given to applications by discharged members of the forces within the meaning of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or by such discharged members of the forces who are the holders of appropriate qualification certificates issued under such Act, as so amended, for any one or more farms notified as available for a closer settlement lease, the local land board when dealing with applications for any farm or farms to which the notification relates shall give priority and preference as prescribed.

- (2) The Closer Settlement Act, 1904, as amended by subsequent Acts, is amended—

Amendment
of Act No.
37, 1904.

- (a) by inserting in section twenty-eight after the word “parents” the words “(other than such capital as is necessary to enable the applicant to satisfactorily occupy and develop the land applied for)”;

Sec. 28.
(Applica-
tions, in-
quiry, and
disposal by
land board,
appeal
barred.)

- (b) by inserting in the same section after the word “eligible” where secondly occurring the words “Provided further that the board shall not allow any application unless the board is satisfied that the applicant has sufficient capital and the necessary experience and fitness to satisfactorily occupy and develop the land applied for.”.

(3)

Closer Settlement (Amendment) Act.

No. 54, 1960. (3) The War Service Land Settlement Act, 1941, as amended by subsequent Acts, is amended—

Amendment
of Act No.
43, 1941.

Sec. 3.

(Areas may
be set apart
for selection
by mem-
bers or
discharged
members of
the forces,
discharged
soldiers or
other
eligible
persons.)

(a) by omitting subsection eight of section three;

Sec. 8D.

(Assistance
period.)

(b) by omitting from subsection one of section 8D the words "the holding shall" and by inserting in lieu thereof the words "a holding disposed of under section three of this Act shall if the Minister so directs".

Further
amendment
of Act No.
38, 1943.

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

Sec. 1.

(Short title,
commence-
ment and
division into
Parts.)

(a) by omitting from the matter relating to Part IVA in subsection four of section one the words "SETTLEMENT OF SERVICEMEN" and by inserting in lieu thereof the words "CLOSER SETTLEMENT";

Part IVA.
Heading.

(b) by omitting from the heading to Part IVA the words "SETTLEMENT OF SERVICEMEN" and by inserting in lieu thereof the words "CLOSER SETTLEMENT";

Sec. 9A.

(Applica-
tions to
Minister
to acquire
lands.)

(c) by omitting from subsection one of section 9A the words "members of the forces, discharged members of the forces or other eligible persons within the meaning of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, who or each of whom holds a qualification certificate issued under that Act, as so amended, and is" and by inserting in lieu thereof the word "persons";

(d)

(d) by omitting from the same subsection the words ^{No. 54, 1960.}
 “Any such application may include lands owned by
 the applicant as well as lands owned by any other
 person or persons.”;

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

(1A) (a) An application under this section by
 one person shall not be entertained by the Minister
 in respect of land which comprises the whole of the
 land owned by the one owner and which is not
 substantially less or which is not substantially more
 than a home maintenance area.

(b) An application under this section by
 one or more persons shall not be entertained by the
 Minister in respect of land the purchase of which
 would leave the owner with an area of land less than
 a home maintenance area.

(f) by omitting from section 9B the words “war service
 land settlement” and by inserting in lieu thereof the <sup>(Valua-
 tion.)</sup>
 words “closer settlement”;

(g) (i) by omitting paragraph (b) of section 9D and ^{Sec. 9D.}
 by inserting in lieu thereof the following <sup>(Purchase
 of land.)</sup>
 paragraph :—

(b) that in the case of each applicant the
 lands the subject of his application
 together with all other lands which are
 to be taken into consideration under the
 provisions of section twenty-six of the
 Closer Settlement Act, 1904, as amended
 by subsequent Acts, constitute but do
 not substantially exceed a home
 maintenance area ;

(ii) by omitting from paragraph (c) of the same
 section the words “purchase and is otherwise
 eligible; and” and by inserting in lieu thereof
 the word “purchase;”;

(iii)

No. 54, 1960.

(iii) by omitting from paragraph (d) of the same section the words "war service land settlement" and by inserting in lieu thereof the words "closer settlement";

(iv) by inserting next after the same paragraph the following word and new paragraph :—

"and

(e) that in the opinion of the board each applicant has sufficient capital and the necessary experience and fitness to satisfactorily occupy and develop the land applied for,";

Sec. 9T.
(Restrictions
on right of
transfer.)

(h) by inserting in subsection one of section 9T after the word "Act" where secondly occurring the words and figures "before the commencement of the Closer Settlement (Amendment) Act, 1960,";

Sec. 9U.
(Waiver
of certain
payments.)

(i) (i) by inserting in section 9U after the word "who" where firstly occurring the words and figures "before the commencement of the Closer Settlement (Amendment) Act, 1960,";

(ii) by inserting in the same section after the word "who" where secondly occurring the words "before such commencement".

**Further
amendment
of Act No.
38, 1943.**

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

Sec. 9.
(Closer
settlement
leases.)

(a) by omitting from paragraph (a) of subsection two of section nine the words "The annual rent for a closer settlement lease shall be two and one-half per centum of the capital value of the farm and shall be payable in advance, the due date of payment being the last day of November in each year" and by inserting in lieu thereof the words "The annual rent for a closer settlement lease shall be—

(i) where the title commenced before the commencement of the Closer Settlement (Amendment) Act, 1960, or where the title commences

commences after such commencement and the lease is disposed of under section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts—two and one-half per centum of the capital value of the farm;

- (ii) where the title commences after the commencement of the Closer Settlement (Amendment) Act, 1960, and the lease is not disposed of under section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts—five per centum of the capital value of the farm.

Such annual rent shall be payable in advance, the due date of payment being the last day of November in each year”;

- (b) by inserting at the end of paragraph (b) of the same subsection the words—

“Provided that where a person in whom a closer settlement lease is vested under section 9F of this Act is the holder or the owner (subject to mortgage) of any other land such person may, with the consent of the Minister, and subject to such conditions as the Minister may impose, perform the condition of residence by residing either on the closer settlement lease or on such other land of which he is the holder or the owner (subject to mortgage).”;

- (c) (i) by inserting in section 10A after the word “shall” where firstly occurring the words “, except as provided in subsection two of this section,”; Sec. 10A.
(Payment for im-
provements.)
- (ii) by inserting at the end of the same section the following new subsection :—

(2) Where by the terms of a notification under subsection two of section seven or subsection one of section 9F of this Act made after

No. 54, 1960.

after the commencement of the Closer Settlement (Amendment) Act, 1960 (other than a notification in respect of land set apart under section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, to be disposed of in accordance with that section), an incoming tenant is required to pay the capital value of any structural or other improvements, the following provisions shall apply :—

- (a) the amount owing from time to time shall bear interest at the rate of four per centum per annum;
- (b) payment in respect of interest shall be due on the last day of November next succeeding the date of commencement of title of the closer settlement lease and successively thereafter on the last day of November in each year;
- (c) payment of the capital value of such improvements together with interest on the amount owing from time to time shall be made by not more than twenty equal yearly instalments. The first of such instalments shall be payable on the last day of November in the sixth year following the year in which the first interest payment falls due. Two or more instalments may be paid at the same time;
- (d) if any payment due in respect of interest or instalment is made within a period of two months from the due date it shall be deemed to have been made on the due date.

Sec. 11.
(Restrictions on transfer.)

- (d) (i) by inserting next after subsection one of section eleven the following new subsection :—

(1A) Where in pursuance of section 9F of this Act a closer settlement lease is vested in any person who is the holder or the owner
(subject

(subject to mortgage) of any other land such closer settlement lease shall not, except with the consent of the Minister, be transferred separately from such other land, and such other land shall not, except with the consent of the Minister, be transferred separately from such closer settlement lease. No. 54, 1960.

- (ii) by inserting in subsection three of the same section after the word "permission" where firstly occurring the words "(other than an application in respect of a closer settlement lease the title to which commences after the commencement of the Closer Settlement (Amendment) Act, 1960, not being a closer settlement lease disposed of under section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts)".

5. (1) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is amended— Amendment
of Act No.
21, 1909.

- (a) by omitting from subsection three of section twenty-one the words "Remnants of Crown lands within or adjoining settlement purchases may, with the consent of the owners be added thereto" and by inserting in lieu thereof the words "Crown lands may with the consent of the owners of settlement purchases be added to such settlement purchases"; Sec. 21.
(Setting
apart for
closer
settle-
ment.)

- (b) by omitting section twenty-two and by inserting in lieu thereof the following section : — Subst.
sec. 22.

22. (1) The holder or the owner (subject to mortgage) of any settlement purchase, soldiers' group purchase, settlement purchase lease, group purchase lease or closer settlement lease, irrespective of whether the grant for any such purchase or lease has or has not issued, may with the consent of the Minister, sell the whole or any part of the land included in the purchase or lease for any special purpose approved by the Minister. Sale of
certain land
for special
purposes.

(2)

No. 54, 1960.

(2) On such sale—

- (a) the land so sold shall cease to be or form part of any such lease; and
- (b) where the land so sold comprises the whole of a settlement purchase or soldiers' group purchase, in respect of which there is a balance of purchase money owing to the Crown, the balance of the purchase money for the land sold shall forthwith be payable to the Crown, and on payment of such balance a Crown grant in fee-simple of such land may be issued; and
- (c) where the land so sold comprises part of a settlement purchase or of a soldiers' group purchase in respect of which purchase there is a balance of purchase money owing to the Crown, or the whole or part of a settlement purchase lease, group purchase lease or closer settlement lease, an amount which an advisory board deems to be equitable having regard to the circumstances of the case including the Crown's interest in the holding and amounts due to the Crown by the holder or owner (subject to mortgage) in respect of the holding or his occupation and use thereof, shall forthwith be payable to the Crown in respect of the land sold, and on payment of such amount a Crown grant in fee-simple of such land may be issued.

(3) The consent of the Minister to a sale under this section shall be in the form prescribed by regulations under the Closer Settlement Acts, and may be registered in manner prescribed by regulations under the Conveyancing Act, 1919, as amended by subsequent Acts.

(2) Any sales purporting to have been made before the commencement of this Act under section twenty-two of the Closer Settlement (Amendment) Act, 1909, or under that

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that section and subsection one of section thirteen of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, shall be deemed to have been validly made. No. 54, 1960.

(3) Any transaction commenced or purporting to have been commenced under section twenty-two of the Closer Settlement (Amendment) Act, 1909, or under that section and subsection one of section thirteen of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, and which was uncompleted at the commencement of the Closer Settlement (Amendment) Act, 1960, may be continued and completed under the said section twenty-two as replaced by this Act, and any consent purporting to have been given under the said section twenty-two or under that section and the said section thirteen before the commencement of this Act shall be deemed to be a consent under the said section twenty-two as so replaced.

(4) The Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, is further amended by omitting from subsection one of section thirteen the words "and section twenty-two".

Further amendment of Act No. 38, 1943.
Sec. 13.
(Application of certain provisions of other Acts.)

6. The Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, is amended by omitting subsection four of section two and by inserting in lieu thereof the following subsection :—

Amendment of Act No. 12, 1907.
Sec. 2.
(Constitution of advisory boards.)

(4) (a) In the case of the absence or illness of the Chairman of any such board the Governor may appoint one of the members to act as a deputy in place of the Chairman and in the case of absence or illness of any other member of any such board or in the case where any other such member has been appointed as a deputy in place of the Chairman the Governor may appoint a person to act as a deputy of such other member.

(b)

No. 54, 1960.

(b) Any such member or person while acting as a deputy in place of the Chairman or a member shall have all the powers, authorities, duties and functions of the Chairman or member, as the case may be, in whose place he acts.

(c) In the case of the absence or illness of—

(i) the Chairman and where no other person has been appointed as a deputy in the place of the member of the board appointed as Deputy Chairman; or

(ii) a member of the board other than the Chairman and where no person has been appointed as a deputy in the place of such member,

the powers, authorities, duties and functions of the board may be exercised and discharged by the two members of the board who are present.

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