

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

### Act No. 27, 1963.

Elizabeth II,  
No. 27, 1963

An Act to make provision for the reconstruction of certain holdings under the war service land settlement scheme; to enable the capital value, annual rent and amounts payable for improvements or advances on a war service land settlement holding to be varied; to make further provision for exchanges of holdings; for these and other purposes to amend the War Service Land Settlement Act, 1941, the Closer Settlement Acts and the Crown Lands Consolidation Act, 1913; to validate certain matters; and for purposes connected therewith. [Assented to, 6th September, 1963.]

**B**E 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, 1963."

Amendment  
of Act No.  
43, 1941.

2. The War Service Land Settlement Act, 1941, as amended by subsequent Acts, is amended—

New sec.  
3B.

(a) by inserting next after section 3A the following new section : —

Certificate  
of preferen-  
tial right.

3B. (1) The Minister may issue a certificate of preferential right where an advisory board is of the opinion that such a certificate should be issued to enable reconstruction of the farming activities of a person who is or was the holder of land disposed of

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of under section three of this Act or acquired before ~~No. 27, 1963.~~  
the first day of December, one thousand nine  
hundred and sixty, under Part IVA of the Closer  
Settlement Amendment (Conversion) Act, 1943, as  
amended by subsequent Acts. Such a certificate  
shall entitle the person to whom it is issued to apply  
for the land referred to therein.

(2) The notification setting apart such land  
for disposal under the Crown Lands Consolidation  
Act, 1913, the Closer Settlement Acts or the  
Western Lands Act of 1901 or any of those Acts  
as amended by subsequent Acts, shall state that  
such land is available only for the holder of the  
certificate of preferential right issued in respect of  
such land.

(3) Application for a tenure of such land  
shall be made by the holder of such certificate of  
preferential right in the manner and form and  
within the time specified in the notification setting  
apart the land referred to in the certificate. Upon  
lodgment of the application the applicant shall be  
deemed to have had the application confirmed or  
allowed.

(4) If application is not made by the holder  
of such certificate of preferential right within the  
time specified in the notification setting apart the  
land referred to in such certificate, the Minister may  
by notice in the Gazette declare that the rights  
conferred by this section on the holder of such  
certificate have lapsed.

(5) In this section the expression "advisory  
board" means a Closer Settlement Advisory Board  
constituted under section two of the Closer Settle-  
ment (Amendment) Act, 1907, as amended by  
subsequent Acts.

(b)

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Sec. 8cc.

(Distribution of costs of improvements.)

Variation of indebtedness if obligations are excessive.

- (b) (i) by inserting next after subsection one of section 8cc the following new subsection : —

(1A) Where the Minister is of the opinion that the obligations of the holder are excessive in respect of a farm disposed of under section three of this Act, or acquired before the first day of December, one thousand nine hundred and sixty, under the provisions of Part IVA of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or acquired under Division 3 of Part VI of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, the Minister may redetermine and vary at his absolute discretion, by way of decrease or, for the purpose of re-distributing the holder's indebtedness, by way of decrease or increase, the capital value and annual rent of such farm and the amount payable by the holder of such farm for structural or other improvements or in respect of moneys advanced by the Minister under section 8c of this Act for any purpose.

Any redetermination and variation made before the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1963, which would have been valid had the provisions of this subsection been in force at the time of such redetermination and variation is hereby validated.

- (ii) (a) by inserting in subsections two and three of the same section after the word "one" wherever occurring the word and symbols "or (1A)";
- (b) by omitting from the same subsections the figures "1955" wherever occurring and by inserting in lieu thereof the figures "1963";

(iii)

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- (iii) (a) by inserting in subsection four of the same section after the word "land" the words "or the amount payable by the holder of a farm referred to in subsection (1A) of this section in respect of moneys advanced by the Minister as aforesaid for any purpose";
- (b) by omitting from the same subsection the figures "1955" and by inserting in lieu thereof the figures "1963";
- (iv) by omitting from subsection five of the same section the words "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 by inserting in lieu thereof the words "shall apply, mutatis mutandis, to and in respect of the payment of the annual rent, varied as referred to in subsection one or (1A) of this section, of any farm referred to in those subsections,";
- (c) by inserting next after section 8E the following new section : —

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New sec.  
8EE.

8EE. The Minister shall be deemed always to have had power and shall have power to waive the whole or part of any amount due for rates and charges for water, including interest, under the Irrigation Act, 1912, as amended by subsequent Acts, or the Water Act, 1912, as amended by subsequent Acts, in respect of a farm disposed of under section three of this Act, or acquired before the first day of December, one thousand nine hundred and sixty, under the provisions of Part IVA of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or acquired under Division 3 of Part VI of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

Waiver of  
rates and  
charges for  
water.

"Minister"

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—

“Minister” in this section means the Minister for the time being charged with the administration of the Irrigation Act, 1912, as amended by subsequent Acts, or the Water Act, 1912, as amended by subsequent Acts.

**Amendment  
of Act No.  
21, 1909.**

**3. (1) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is amended—**

**Sec. 21 (6).  
(Land  
unsuitable  
for dis-  
posal under  
Acts.)**

(a) by omitting from subsection six of section twenty-one the words “or which in the opinion of the advisory board should be granted in exchange for other land,”;

(b) by omitting from the same subsection the words “or exchange”.

**Amendment  
of Act No.  
38, 1943.**

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

**New secs.  
12A & 12B.**

(a) by inserting next after section twelve the following new sections :—

**Exchanges  
of holdings  
between pri-  
vate per-  
sons.  
cf. Act No.  
7, 1913,  
s. 268.**

12A. (1) Holders of purchases or leases under the Closer Settlement Acts may, with the approval of the Minister, given on the recommendation of an advisory board, exchange their holdings, whether of the same tenure or not, or portions thereof. Any such exchange shall be upon such terms and conditions as may be determined by the Minister. If the Minister so directs, such exchange shall be of the land only and not of the land and tenure and in every such case land exchanged for other land shall be held in the same tenure and, unless the Minister otherwise determines, shall be subject to the same conditions as that in and those under which such other land was held at the date of the exchange.

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(2) The provisions of this section shall also apply where the holder of any purchase or lease under the Closer Settlement Acts and the holder of land under any tenure, including freehold land, desire to exchange their holdings or any part thereof. No. 27, 1963  
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(3) Every exchange under this section shall be carried out by means of such transfers, surrenders, Crown grants, and other assurances and instruments as the Minister may consider necessary. Any land required for providing roads of access to any portion of a holding concerned in the exchange shall be surrendered to the Crown and upon surrender shall become Crown land or may be dealt with as land acquired under the Closer Settlement Acts.

(4) Application for an exchange under this section shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Closer Settlement Acts. Any necessary survey shall be effected, and the costs, charges and expenses of the Crown incurred in respect of the application shall be paid by the applicants to the Crown.

12B. The Minister, on the recommendation of an advisory board, may exchange lands acquired under the Closer Settlement Acts or Crown lands for the whole or part of any purchase or lease under such Acts or for any other lands upon such terms and conditions as he may determine. The Minister may accept such surrenders and the Governor may issue such Crown grants as may be necessary to effectuate the exchange. The lands surrendered shall vest in Her Majesty for the purposes of the Closer Settlement Acts. Exchanges  
and  
surrenders.

**Application**

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Application for an exchange under this section shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Closer Settlement Acts.

Sec. 13B.  
(Payment  
for a sur-  
rendered  
closer settle-  
ment lease.)

- (b) by omitting from section 13B the words “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” and by inserting in lieu thereof the words “Provided that where the surrender is in respect of a closer settlement lease applied for before the commencement of the Closer Settlement (Amendment) Act, 1960, or a closer settlement lease applied for after such commencement and disposed of under section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the amount so paid shall not exceed the sum arrived at by deducting from the fair market value of the surrendered land as determined by an advisory board on a freehold basis, inclusive of all improvements, the following :—

- (a) where the title to the closer settlement lease commenced before the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1945, an amount equivalent to forty times the annual rent payable under this Act for the whole of the lease or forty times the portion of the annual rent which an advisory board deems is payable for the part of the lease, as the case may be, or
- (b) where the title to the closer settlement lease commenced after the commencement of the War Service Land Settlement and Closer Settlement (Amendment) Act, 1945, an amount

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amount equivalent to forty times the annual rent payable under this Act for the whole of the lease or forty times the portion of the annual rent which an advisory board deems is payable for the part of the lease, as the case may be, together with an amount equivalent to the capital value owing to the Crown in respect of improvements on the land".

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(3) The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended by omitting from subsections one, three and four of section one hundred and ninety-seven the words "or Part IVA" wherever occurring and by inserting in lieu thereof the words "or Part IV or Part IVA".

Amend-  
ment of  
Act No. 7,  
1913.  
Sec. 197.  
(Exchanges,  
resumptions  
and pur-  
chases for  
public  
purposes.)

4. (1) The Closer Settlement Act, 1904, as amended by subsequent Acts, is amended—

Amend-  
ment of  
Act No. 37,  
1904.  
Sec. 23.  
(Interest.)

(a) by inserting in section twenty-three after the word "aforesaid" the words "or, if the Crown has not obtained possession of the land prior to such vesting, from the date on which such possession is obtained";

(b) by omitting from the same section the words "from such date" and by inserting in lieu thereof the words "from the date of such vesting or obtaining such possession, as the case may require."

(2) The Closer Settlement (Amendment) Act, 1919, as amended by subsequent Acts, is amended by inserting in subsection four of section ten after the word "section" the words "or, if the Crown has not obtained possession of the land prior to such notification from the date on which such possession is obtained,".

Amend-  
ment of  
Act No. 46,  
1919.  
Sec. 10 (4).  
(Interest.)

(3)



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Further  
amendment  
of Act No.  
38, 1943.  
Sec. 9DA.  
(Vesting of  
land in the  
Crown.)

(3) The Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, is further amended by inserting in subsection two of section 9DA after the words "relating to such lands" the words ", or if the Crown has not obtained possession of such lands prior to such notification from the date on which such possession is obtained,".

Further  
amendment  
of Act No.  
21, 1909.  
Sec. 22.  
(Sale of  
certain  
land for  
special  
purposes.)

**5.** (1) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is further amended by omitting paragraph (a) of subsection two of section twenty-two and by inserting in lieu thereof the following paragraph :—

- (a) the land so sold shall cease to be or form part of any such purchase or lease and may be transferred, conveyed, assigned, leased or otherwise dealt with without the consent of the Minister; and.

Amendment  
of Act No.  
54, 1960.  
Sec. 5.  
(Conse-  
quential.)

(2) The Closer Settlement (Amendment) Act, 1960, is amended—

- (a) by inserting in subsection three of section five after the words "this Act" where firstly occurring the words "and amended by the War Service Land Settlement and Closer Settlement (Amendment) Act, 1963";
- (b) by inserting in the same subsection after the words "as so replaced" the words "and amended".

(3) The amendments made by subsections one and two of this section shall be deemed to have commenced on the first day of December, one thousand nine hundred and sixty.

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