

**CLOSER SETTLEMENT (LAND TITLES)
AMENDMENT ACT, 1980, No. 195**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

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Act No. 195, 1980.

An Act to amend the Closer Settlement Acts consequent on and
in connection with the enactment of the Real Property
(Crown Land Titles) Amendment Act, 1980. [Assented to,
22nd December, 1980.]

Closer Settlement (Land Titles) Amendment.

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 (Land Titles) Amendment Act, 1980".

**Commence-
ment.** **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Real Property (Crown Land Titles) Amendment Act, 1980.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904.

SCHEDULE 2.—AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT) ACT, 1909.

SCHEDULE 3.—AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT) ACT, 1914.

SCHEDULE 4.—AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT) ACT, 1919.

SCHEDULE 5.—AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT (CONVERSION) ACT, 1943.

**Amendment
of Act No.
37, 1904.** **4.** The Closer Settlement Act, 1904, is amended in the manner set forth in Schedule 1.

Closer Settlement (Land Titles) Amendment.

5. The Closer Settlement (Amendment) Act, 1909, is amended in the manner set forth in Schedule 2. Amendment
of Act No.
21, 1909.

6. The Closer Settlement (Amendment) Act, 1914, is amended in the manner set forth in Schedule 3. Amendment
of Act No.
7, 1914.

7. The Closer Settlement (Amendment) Act, 1919, is amended in the manner set forth in Schedule 4. Amendment
of Act No.
46, 1919.

8. The Closer Settlement Amendment (Conversion) Act, 1943, is amended in the manner set forth in Schedule 5. Amendment
of Act No.
38, 1943.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904.

(1) (a) Section 4 (1), definition of "Settlement purchase"—

Omit the definition, insert instead :—

"Settlement purchase"—

- (a) means a residential conditional purchase under this Act; and
- (b) includes land formerly comprised in a residential conditional purchase under this Act,

whether or not the residential conditional purchase or the land formerly comprised in a residential conditional purchase is under the provisions of the Real Property Act, 1900.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

(b) Section 4 (1), definition of “The Register”—

After the definition of “Settlement purchase area”,
insert :—

“The Register” means the Register kept under the
Real Property Act, 1900.

(2) Sections 4A, 4B—

After section 4, insert :—

Status of
land
brought
under Real
Property
Act.

4A. Land acquired under the Closer Settlement Acts and vested in the Crown, whether before or after the commencement of Schedule 1 to the Closer Settlement (Land Titles) Amendment Act, 1980, shall not cease to be land so acquired and vested by reason only of the creation in respect of it of a folio of the Register in the name of “The State of New South Wales”.

Title to
certain land
acquired
under the
Closer
Settlement
Acts.

4B. A person—

- (a) who has purchased, or contracted to purchase, land from the Crown; or
- (b) who has acquired land from the Crown by way of exchange (other than a person who has acquired land under a lease from the Crown by way of exchange),

under the Closer Settlement Acts has, subject to the Closer Settlement Acts, an estate in fee simple in the land.

(3) Section 29 (1)—

Omit “before grant” wherever occurring.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

(4) (a) Section 30—

Omit “31 (4)”, insert instead “31 (5)”.

(b) Section 30—

Omit “the issue of the certificate of the fulfilment of conditions other than that of payment of purchase money or after the issue of the certificate of fulfilment of conditions in respect of the settlement purchase lease or the group purchase lease or the closer settlement lease of which the purchase is a conversion”, insert instead “the conditions attaching to the holding have been complied with”.

(c) Section 30—

Omit “prior to the issue of either of such certificates”, insert instead “before those conditions have been complied with”.

(d) Section 30—

Omit “either of such certificates has not been issued and”.

(e) Section 30—

Omit “before grant”.

(5) (a) Section 31 (1)—

Omit “irrespective of whether the grant has or has not issued”, insert instead “or land formerly comprised in such a settlement purchase irrespective of whether the land has or has not been brought under the provisions of the Real Property Act, 1900”.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

(b) Section 31 (1)—

Omit “issue of the grant nor to a lease after the issue of the grant”, insert instead “land has been brought under the provisions of the Real Property Act, 1900, nor to a lease after the payment of the balance of purchase money on the settlement purchase where the Minister is satisfied that all other conditions attaching or applying to the settlement purchase have been duly complied with”.

(c) Section 31 (2), (3)—

Omit “such settlement purchase (irrespective of whether the grant has or has not issued)” wherever occurring, insert instead “the land comprised, or formerly comprised, in the settlement purchase (irrespective of whether that land has or has not been brought under the provisions of the Real Property Act, 1900)”.

(d) Section 31 (4)—

Omit the subsection.

(e) Section 31 (5)—

After “assign”, insert “any land comprised, or formerly comprised, in”.

(f) Section 31 (5)—

Omit “or the transfer, conveyance or assignment of”, insert instead “of a settlement purchase or the transfer, conveyance or assignment of any land comprised, or formerly comprised, in”.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

(g) Section 31 (5) (a)—

Omit the paragraph.

(h) Section 31 (5) (b), (c)—

Omit the paragraphs, insert instead :—

(b) the Minister is satisfied that all conditions, other than payment of money due to the Crown, have been fulfilled;

(c) the balance of the purchase money and such other money as may be payable to the Crown (including any money advanced by the Minister in respect of the land under section 8c of the War Service Land Settlement Act, 1941) have been paid; and

(i) Section 31 (5) (d)—

Omit “purchased, certifies in the approved form that the restriction imposed by section 30 and the requirement under this section shall not apply to the transfer of that settlement purchase”, insert instead “to which the application relates, so certifies in the approved form”.

(j) Section 31 (8)—

Omit the subsection, insert instead:—

(8) Upon the issue of any certificate under subsection (5) (d)—

(a) the land to which that certificate relates may be transferred without recourse to section 30 or this section; and

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

- (b) the restriction imposed upon any other land referred to in subsection (2) or (3), if that land has not previously been transferred with the consent of the Minister separately from the land to which that certificate relates, shall be revoked.

(k) Section 31 (9), (10)—

Omit section 31 (9), insert instead :—

- (9) Where a certificate is issued under subsection (5) (d) in respect of a settlement purchase or land, the Minister shall—

- (a) where the settlement purchase or land has been brought under the provisions of the Real Property Act, 1900—cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon those particulars; and
- (b) where the settlement purchase or land has not been brought under the provisions of the Real Property Act, 1900—
 - (i) cause to be endorsed on the principal record that is kept in the Department of Lands in relation to the settlement purchase or land such particulars relating to the issue of that certificate as may be prescribed; and

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

- (ii) cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall, upon creation of a folio of the Register in respect of the settlement purchase or land, record in the Register such particulars relating to the notification as may be prescribed.

(10) A reference in this section to land formerly comprised in a settlement purchase does not include a reference to land comprised in a settlement purchase lease which is a conversion of a settlement purchase.

(6) Section 31A—

Omit “before grant”, insert instead “, before the settlement purchase or land is brought under the provisions of the Real Property Act, 1900,”.

(7) Section 34—

Omit the section.

(8) Section 35A—

Omit :—

The chairman shall have power on behalf of a local land board to deal with matters of the following kinds :—

Inquiries as to performance of conditions,

Certificates of conformity—and

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

Such other matters as may from time to time be prescribed.

Insert instead :—

The chairman shall have power on behalf of a local land board to deal with inquiries as to performance of conditions and such other matters as may from time to time be prescribed.

(9) (a) Section 36—

Omit “And when the forfeiture of the holding shall have been waived and the conditions, if any, of such waiver shall have been performed the holder of such holding shall, if otherwise entitled thereto, be entitled to receive a certificate of conformity in respect of the same notwithstanding that such certificate may have previously been applied for and refused.”.

(b) Section 36—

After “and the land shall”, insert “(subject to the provisions of the Real Property Act, 1900, where the land has been brought under that Act)”.

(10) (a) Section 39A (1), definition of “holder”—

Omit the definition, insert instead :—

“holder”, in relation to—

- (a) any prescribed land (other than land referred to in paragraph (b)), means the person who is registered in the books of the Department of Lands as the holder of that land and, where that

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

person appears to be a mortgagee, includes the person who, according to those books, appears to be the mortgagor; and

- (b) any prescribed land which has been brought under the provisions of the Real Property Act, 1900, and of which “The State of New South Wales” is the registered proprietor, means any person recorded in the folio of the Register relating to that land as the holder of a lease from the Crown over that land and includes any person recorded in that folio as a mortgagee of such a lease;

- (b) Section 39A (1), definition of “prescribed land”—

From paragraph (a), omit “granted in fee simple”, insert instead “sold”.

- (c) Section 39A (1), definition of “prescribed land”—

In paragraph (b), after “1900”, insert “, other than land of which ‘The State of New South Wales’ is the registered proprietor”.

- (d) Section 39A (2), (2A), (3), (4), (5)—

Omit section 39A (2)–(5), insert instead :—

- (2) Subject to subsection (3), the Minister may—

- (a) where prescribed land is subject to the provisions of the Real Property Act, 1900—create easements over that land in the manner provided in that Act or in section 88B of the Conveyancing Act, 1919; and

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

(b) where prescribed land is not subject to the provisions of the Real Property Act, 1900—create easements over that land—

(i) in the manner provided in section 88B of the Conveyancing Act, 1919; or

(ii) by notification published in the Gazette under this section.

(2A) Subject to subsection (3), the Minister may, at any time that any land having the benefit of an easement (being an easement granted under subsection (2) before the commencement of Schedule 1 to the Closer Settlement (Land Titles) Amendment Act, 1980, or created under subsection (2) on or after that commencement) is vested in Her Majesty—

(a) where the land is subject to the provisions of the Real Property Act, 1900—release, in accordance with that Act, the easement benefiting that land; and

(b) where the land is not subject to the provisions of the Real Property Act, 1900—release the easement benefiting that land by notification published in the Gazette under this section.

(3) The Minister shall not create or release easements under this section unless he is satisfied—

(a) in the case of the creation of an easement over prescribed land—that any holder for the time being of the land has consented to the creation of the easement; or

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

- (b) in the case of the release of an easement—
that any holder for the time being of the
land having the benefit of the easement has
consented to the release of the easement.

(4) The Minister may—

- (a) create an easement as referred to in this
section subject to such conditions as he
thinks fit, including conditions relating to
the payment of compensation to the Crown;
and
- (b) create an easement as referred to in this
section in such terms as he thinks fit.

(5) The creation of an easement under subsection
(2) (b) (ii) or the release of an easement under
subsection (2A) (b) takes effect on the date of publi-
cation of the notification of the creation or release, as
the case may be, in the Gazette or on a later date
specified in the notification.

(e) Section 39A (6), (7)—

Omit “granted” wherever occurring, insert instead
“created”.

(f) Section 39A (8)—

Omit “purporting to grant”, insert instead “or instru-
ment purporting to create”.

(g) Section 39A (9)—

Omit “granted”, insert instead “created”.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

(h) Section 39A (10)—

Omit “granted”, insert instead “created”.

(i) Section 39A (11), (12)—

Omit section 39A (11), insert instead :—

(11) Where the Minister purports to create or release an easement under this section, it shall be conclusively presumed that subsection (3) has been complied with in relation to that creation or release.

(12) Where an easement is created or released under this section in respect of land subject to the provisions of the Real Property Act, 1900, the Registrar-General may record such particulars of the creation or release as he consider necessary in any folio of the Register relating to land which, in his opinion, is affected by the creation or release.

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1909.

(1) (a) Section 21 (6)—

After “settlement purchases.”, insert :—

The provisions of subsection (5) and the regulations made under the Closer Settlement Acts relating to the variation, modification and revocation of, and the addition to, conditions attaching to settlement

Closer Settlement (Land Titles) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1909—*continued.*

purchases shall apply to and in respect of the terms and conditions attaching to land disposed of under this subsection in the same way as they apply to and in respect of conditions attaching to settlement purchases.

(b) Section 21 (6A)—

Omit “the contract for sale or lease may be cancelled by the Minister by notification in the Gazette and all moneys paid in connection therewith shall thereupon become forfeited.”, insert instead :—

the Minister, by notification in the Gazette, may declare forfeiture of the land and of all money paid in connection therewith.

Upon forfeiture of any land in accordance with this subsection, the land shall (subject to the provisions of the Real Property Act, 1900, where the land has been brought under that Act) vest in the Crown and shall thereafter be dealt with and disposed of under the provisions of the Closer Settlement Acts and in no other way.

The Minister, by notification in the Gazette, may reverse any forfeiture declared under this subsection.

(2) (a) Section 21B (1)—

Omit the subsection, insert instead :—

(1) Where—

- (a) any land has been sold by auction or tender under section 21 (6); and

Closer Settlement (Land Titles) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1909—*continued.*

- (b) the whole of the purchase money and such other money as may be payable to the Crown in respect of the land have not been paid or any condition subject to which the land was sold remains to be complied with,

the land or any part thereof may, subject to subsection (2), be transferred.

- (b) Section 21B (3)—

Omit “any land”.

- (c) Section 21B (3) (a)—

Before “has”, insert “any land”.

- (d) Section 21B (3) (b)—

Before “was”, insert “the land”.

- (e) Section 21B (3) (c)—

Omit the paragraph, insert instead :—

- (c) the whole of the purchase money and such other money as may be payable to the Crown in respect of the land have been paid and the conditions subject to which the land was sold have been complied with,

- (f) Section 21B (10)—

Omit the subsection.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1909—*continued.*

(3) (a) Section 22 (1)—

Omit the subsection, insert instead :—

(1) The holder or the owner (subject to mortgage) of—

(a) a settlement purchase or soldiers' group purchase in respect of which the balance of purchase money has not been paid; or

(b) a settlement purchase lease, group purchase lease or closer settlement lease,

irrespective of whether or not the purchase or lease has been brought under the provisions of the Real Property Act, 1900, may, with the consent of the Minister, sell the whole or any part of the land comprised in the purchase or lease for any special purpose approved by the Minister.

(b) Section 22 (2) (a)—

Omit "Minister; and", insert instead "Minister;".

(c) Section 22 (2) (b)—

Omit "Crown, and on payment of such balance a Crown grant in fee-simple of such land may be issued; and", insert instead "Crown;".

(d) Section 22 (2) (c)—

Omit "sold, and on payment of such amount a Crown grant in fee-simple of such land may be issued.", insert instead "sold; and".

Closer Settlement (Land Titles) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1909—*continued.*

(e) Section 22 (2) (d)—

After section 22 (2) (c), insert :—

- (d) where the land so sold comprises the whole or part of a settlement purchase lease, group purchase lease or closer settlement lease—
 - (i) which has not been brought under the provisions of the Real Property Act, 1900, the purchaser shall be deemed, for the purpose of bringing the land under the provisions of that Act, to have purchased an estate in fee simple in the land from the Crown; or
 - (ii) which has been brought under the provisions of the Real Property Act, 1900, the purchaser shall be entitled to be recorded in the Register kept under that Act as the holder of an estate in fee simple in the land and the Registrar-General may make such recordings in, and create such folios of, the Register as, in his opinion, are appropriate to give effect to this subsection.
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Closer Settlement (Land Titles) Amendment.

SCHEDULE 3.

Sec. 6.

AMENDMENTS TO THE CLOSER SETTLEMENT
(AMENDMENT) ACT, 1914.

(1) (a) Section 4 (1)—

Omit “the contract for such sale or lease may be cancelled by the Minister by notification in the Gazette and all moneys paid in connection therewith shall thereupon become forfeited, except to the extent that the Minister, in pursuance of subsection (2), directs that the whole or part thereof shall be credited or applied as payment in respect of the purchase of any other area”, insert instead “the Minister, by notification in the Gazette, may declare forfeiture of the purchase or lease and of all money paid in connection therewith”.

(b) Section 4 (1)—

After “other area.”, insert :—

Upon forfeiture of a purchase or lease in accordance with this subsection, the land comprised in the purchase or lease shall (subject to the provisions of the Real Property Act, 1900, where the land has been brought under that Act) vest in the Crown and shall thereafter be dealt with and disposed of under the provisions of the Closer Settlement Acts and in no other way.

The Minister, by notification in the Gazette, may reverse any forfeiture declared under this subsection.

(c) Section 4 (2)—

After section 4 (1A), insert :—

(2) The provisions of section 21 (5) of the Closer Settlement (Amendment) Act, 1909, and the regulations made under the Closer Settlement Acts relating to the variation, modification and revocation of, and

Closer Settlement (Land Titles) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1914—*continued.*

the addition to, conditions attaching to settlement purchases shall apply to and in respect of the terms and conditions attaching to land sold under subsection (1) in the same way as they apply to and in respect of conditions attaching to settlement purchases.

(2) (a) Section 4A (1)—

Omit the subsection, insert instead :—

(1) Where—

- (a) any land has been sold under section 4; and
- (b) the whole of the purchase money and such other money as may be payable to the Crown in respect of the land have not been paid or any condition subject to which the land was sold remains to be complied with,

the land or any part thereof may, subject to subsection (2), be transferred.

(b) Section 4A (3)—

Omit “any land”.

(c) Section 4A (3) (a)—

Before “has”, insert “any land”.

(d) Section 4A (3) (b)—

Before “was”, insert “the land”.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1914—*continued.*

(e) Section 4A (3) (c)—

Omit the paragraph, insert instead :—

- (c) the whole of the purchase money and such other money as may be payable to the Crown in respect of the land have been paid and the conditions subject to which the land was sold have been complied with,

(f) Section 4A (10)—

Omit the subsection.

(3) (a) Section 13 (1)—

Omit “, and may at any time be granted in fee simple for such purpose”.

(b) Section 13 (3)—

Omit “and may at any time be granted for the same purpose in fee simple”.

(c) Section 13 (5)—

Omit the subsection.

Closer Settlement (Land Titles) Amendment.

Sec. 7.

SCHEDULE 4.

AMENDMENTS TO THE CLOSER SETTLEMENT
(AMENDMENT) ACT, 1919.

(1) Section 12 (1)—

Omit “Any grant of land upon which such charge subsists shall be issued”, insert instead “Any folio of the Register kept under the Real Property Act, 1900, created in respect of land upon which a charge under this section subsists shall be created”.

(2) (a) Section 13 (1)—

Omit “And when the forfeiture of the holding shall have been waived and the conditions, if any, of such waiver shall have been performed, the holder of such holding shall, if otherwise entitled thereto, be entitled to receive a certificate of conformity in respect of the same notwithstanding that such certificate may have previously been applied for and refused.”.

(b) Section 13 (2)—

Omit “a case in which the grant has been issued”, insert instead “land in respect of which a folio of the Register kept under the Real Property Act, 1900, has been created”.

Sec 8.

SCHEDULE 5.

AMENDMENTS TO THE CLOSER SETTLEMENT
AMENDMENT (CONVERSION) ACT, 1943.

(1) Section 1 (4), matter relating to Part V—

Omit “15B”, insert instead “15D”.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 5—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT
(CONVERSION) ACT, 1943—*continued.*

(2) Section 1A, definition of “The Register”—

At the end of section 1A, insert :—

“The Register” means the Register kept under the Real
Property Act, 1900.

(3) Section 4 (3)—

After section 4 (2), insert :—

(3) The conditions attaching to a settlement purchase
lease or group purchase lease by virtue of this section
may—

- (a) upon application made as prescribed and for
sufficient cause, be altered, modified or revoked
by the Minister; or
- (b) without application, be added to by the Minister
with the consent of the holder.

(4) (a) Section 4A (4)—

Omit the subsection, insert instead :—

(4) If the perpetual lease grant or a certificate of
title has issued in respect of the lease the subject of
the application, it shall be forwarded with the applica-
tion.

(b) Section 4A (7)—

Omit “, the surrender of the perpetual lease grant, if
any, shall be deemed to have had no effect and the
applicant or his mortgagee shall be entitled to have
any such grant returned to him”.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 5—*continued.*AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT
(CONVERSION) ACT, 1943—*continued.*

(5) Section 4B (5)—

Omit “before grant”.

(6) Section 9o (3)—

Omit “Any grant of land upon which such charge subsists shall be issued”, insert instead “Any folio of the Register created in respect of land upon which a charge under this section subsists shall be created”.

(7) (a) Section 9P (1)—

Omit “: And when the forfeiture of the holding shall have been waived, and the conditions, if any, of such waiver shall have been performed, the holder shall, in the case of any such tenure, if otherwise entitled thereto be entitled to receive a certificate of conformity in respect of the same notwithstanding that such certificate may have previously been applied for and refused”.

(b) Section 9P (2)—

Omit “a case in which the grant has been issued”, insert instead “land in respect of which a folio of the Register has been created”.

(c) Section 9P (3)—

Omit the subsection.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 5—continued.

**AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT
(CONVERSION) ACT, 1943—continued.**

(8) Section 10—

Omit the section, insert instead :—

10. (1) A sale, lease or other disposal of land by the Crown under the authority of the Closer Settlement Acts where—

- (a) the land was contracted to be sold, the lease was commenced or the disposal took place before the commencement of Schedule 5 to the Closer Settlement (Land Titles) Amendment Act, 1980; and
- (b) a Crown grant had not issued in respect of the land before that commencement,

does not include the sale, lease or disposal of any minerals contained in the land, being minerals within the meaning of that word as at the time when a folio of the Register is first created in respect of the land.

(2) A sale, lease or other disposal of land by the Crown under the authority of the Closer Settlement Acts where the land is contracted to be sold, the lease is commenced or the disposal takes place on or after the commencement of Schedule 5 to the Closer Settlement (Land Titles) Amendment Act, 1980, does not include the sale, lease or disposal of any minerals contained in the land, being minerals within the meaning of that word as at the time when the land is contracted to be sold, the lease is commenced or the disposal takes place, as the case may require.

(3) Upon—

- (a) the creation of a folio of the Register in respect of land sold, leased or otherwise disposed of by

Closer Settlement (Land Titles) Amendment.

SCHEDULE 5—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT
(CONVERSION) ACT, 1943—*continued.*

the Crown under the authority of the Closer Settlement Acts, being the first folio of the Register created in respect of that land; or

- (b) the execution of an instrument evidencing a sale, lease or other disposal of land by the Crown under the authority of the Closer Settlement Acts,

that land shall, if the Minister has so determined before that creation or execution, be subject to such reservations and exceptions as may by the Minister be deemed expedient in the public interest.

(4) Subsection (3) does not apply to a sale, lease or other disposal of land in respect of which a Crown grant was issued under this section or under section 34 of the Closer Settlement Act, 1904, in both cases as in force before the commencement of Schedule 5 to the Closer Settlement (Land Titles) Amendment Act, 1980.

(9) Section 11 (10)—

Omit “after the issue of a perpetual lease grant”, insert instead “to a settlement purchase lease or group purchase lease or closer settlement lease upon the bringing of the lease under the provisions of the Real Property Act, 1900, whether before or after the commencement of Schedule 5 to the Closer Settlement (Land Titles) Amendment Act, 1980”.

(10) Section 12 (1) (a)—

Omit “before grant of a settlement purchase lease or a group purchase lease or a closer settlement lease”, insert instead “of a settlement purchase lease, group purchase

Closer Settlement (Land Titles) Amendment.

SCHEDULE 5—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT
(CONVERSION) ACT, 1943—*continued.*

lease or closer settlement lease which has not been brought
under the provisions of the Real Property Act, 1900.”.

(11) Section 12A (3)—

Omit “, Crown grants,”.

(12) Section 12B—

Omit “the Governor may issue such Crown grants”, insert
instead “may execute such instruments”.

(13) Section 13 (1)—

Omit “194c,”.

(14) (a) Section 14 (2)—

After “and shall”, insert “(subject to the provisions of
the Real Property Act, 1900, where the lease has been
brought under the provisions of that Act)”.

(b) Section 14 (5)—

Omit “perpetual lease grant for the same has or has
not issued”, insert instead “lease has or has not been
brought under the provisions of the Real Property
Act, 1900”.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 5—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT
(CONVERSION) ACT, 1943—*continued.*

(15) Sections 15C, 15D—

After section 15B, insert :—

Creation
of folio of
Register
not to
affect
conditions,
etc.

15C. (1) Except in so far as a contrary intention appears—

- (a) any covenants, conditions, terms or restrictions attaching or applying to land by virtue of the Closer Settlement Acts or the War Service Land Settlement Act, 1941, or an instrument made under those Acts or that Act; and
- (b) any provisions of those Acts or that Act or an instrument made under those Acts or that Act applying to land,

shall—

- (c) not cease to attach or apply, and shall be deemed never to have ceased to attach or apply, to the land by reason only of the issue of an instrument of title or the creation of a folio of the Register, whether before or after the commencement of Schedule 5 to the Closer Settlement (Land Titles) Amendment Act, 1980, in respect of the land; and
- (d) to the extent that they are applicable, attach or apply not only to the land as a whole, but also to each and every part of the land.

(2) The provisions of subsection (1) apply in addition to and not in derogation of any other provisions of the Closer Settlement Acts or the War Service Land Settlement Act, 1941.

Closer Settlement (Land Titles) Amendment.

SCHEDULE 5—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT AMENDMENT
(CONVERSION) ACT, 1943—*continued.*

15D. (1) The Minister may—

- (a) before the creation of a folio of the Register in respect of a holding under the Closer Settlement Acts, direct in writing that any covenant, condition, term or restriction of the holding shall cease to attach or apply to the holding upon the creation of the folio; and
- (b) after the creation of a folio of the Register in respect of a holding under the Closer Settlement Acts, direct in writing that any covenant, condition, term or restriction of the holding shall cease to attach or apply to the holding as from the date of the direction.

Removal of
conditions,
etc.

(2) The Registrar-General shall give effect to a direction given under subsection (1).