

*Closer Settlement.*

Act No. 7, 1902.

An Act to authorise the acquisition for purposes of settlement of private lands or lands leased from the Crown, and to provide for dealing with and disposing of such lands. [15th January, 1902.]

CLOSER  
SETTLEMENT.  
—

**B**E it enacted by the King'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:—

*Preliminary.*

1. This Act may be cited as the "Closer Settlement Act, 1901." Construction and short title.

2. In this Act, unless the context otherwise requires,— Definitions.  
 "Board" means local land board of the district in which the land is situate, or where the land is situate in two or more districts, of the district in which the larger area of the land is situate.

"District" means land district constituted under the Crown Lands Act of 1884.

"Owner" includes lessee.

"Prescribed" means prescribed by this Act or any regulations made thereunder.

"Private land" means land other than Crown land as defined in the Crown Lands Act of 1884, but includes Crown land held under conditional lease or other lease.

*Purchase of private land.*

3. Any owner of any private land may by writing addressed to the Minister, or to some person appointed by the Minister in that behalf, offer to surrender the same to His Majesty in consideration of the payment of a price named in the offer; and, except as hereinafter provided, such offer shall be binding on such owner and shall not be withdrawn by him except with the consent of the Minister in writing under his hand. Owner may offer to sell land.

Any such offer may be referred to the board for report on any of the following matters, namely—

- (a) The fair value of the land to the owner.
- (b) The suitability of the land for closer settlement.

(c)

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- (c) The water supply to the land and to land in its neighbourhood.
- (d) The probability of the immediate lease of the land under the provisions of this Act.
- (e) The demand for land for closer and agricultural settlement in the neighbourhood of the land.
- (f) The area and character of Crown land available for closer or agricultural settlement in the neighbourhood of the land.
- (g) The value of the improvements on the land, and the distance from any means of access to the nearest railway station, port, or town.
- (h) The bona fides of any mortgage on the said land.
- (i) The valuation of such land as shown by the books of the Commissioners of Taxation.

Inquiry to be in open Court.

4. Any inquiry under the last preceding section shall be made in open Court in the same manner as an inquiry by the board under the Crown Lands Act of 1884 and any Act amending the same.

The report of the board, so far only as it relates to the fair value of the land and the value of the improvements on the land and the bona fides of any mortgage, shall be subject to appeal to the Land Appeal Court by the owner of the land or the Minister in such manner and within such time as may be prescribed, not being less than one month after the report has been made.

The finding of the Land Appeal Court, or, if no appeal is made, of the board shall be final as to the said value of the land and of the improvements, and if the land is purchased no larger sum shall be paid for the purchase than the said value, which shall be subject to deduction in case of incomplete purchases from the Crown of the balances due to the Crown on such purchases.

Minister may acquire land offered by purchase or exchange.

5. If such offer is referred to the board, and it appears from the report of the board that the land offered is suitable, and is likely to be immediately leased for closer settlement, and that there is no sufficient quantity of Crown land in the neighbourhood available for such settlement, the Minister, with the sanction of the Governor, and the approval of Parliament may make a contract for the acquisition of the land or any part of the land at the price asked, or such less price as the board, subject as aforesaid, may recommend as the fair value thereof (but which shall be subject to deduction in the case of incomplete purchases from the Crown of the balances due to the Crown on such purchases), or at any less price: Provided that at any time within two months of the determination by the board or, on appeal, by the Court, of the price of the said land the owner thereof may, if the price so determined be less than the price named in such offer, in writing to the Minister withdraw his offer to surrender the same to His Majesty.

The Governor and the Minister may do all things necessary to carry out any such contract.

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6. Upon completion of the purchase the land shall vest in His Majesty, free from all trusts and conditions affecting the same, and become Crown land, and shall be deemed to be reserved from sale, selection, and lease under the Crown Lands Act of 1884, and any Acts amending the same, as well as any Act relating to mining unless or until the Governor otherwise proclaims, and shall be leased only in accordance with the provisions of this Act.

*Price of mortgaged land.*

7. Where money has been bona fide lent on the sole security by way of mortgage or encumbrance of any land purchased under this Act, no less sum shall, without the consent of the mortgagee, be paid as purchase money for such land than the amount of the money so lent, with interest thereon owing at the time of such purchase.

*Payment for land.*

8. The cost of any land purchased under this Act shall be paid for out of money to be authorised by Parliament to be applied to that purpose: Provided that the money so authorised shall not exceed the sum of three hundred thousand pounds in any year.

9. All moneys received for forfeitures, rent, or interest in respect of any land or any improvements thereon applied for or leased under this Act shall be paid into the Treasury and carried to a special account, and shall be applied in the first place in payment of the interest and charges upon any money borrowed and paid for land purchased under this Act, and the surplus shall be accumulated to form a fund for repaying the money so borrowed and paid.

*Lease of farms.*

10. All lands acquired by purchase under this Act shall be divided into farms of an area not greater than six hundred and forty acres or into such greater areas as the Minister on the advice of the board, may direct; and the standard to be adopted in regulating the area of each such farm shall be that the lessee thereof may, by agriculture, or by agriculture combined with any other ordinary pursuits, be enabled to establish and maintain his home thereon, and such farms shall be open to lease at the rent fixed under and in the manner and on the conditions prescribed by this Act.

In making any such division into farms the Minister may, where he considers such course to be desirable, include in any farm any Crown land adjoining the land so acquired.

11. The capital value of the said land shall be fixed by the Minister, and shall be not less than sufficient to cover the cost of purchase of the land and all expenses incidental thereto, as well

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as the value of so much of the land as is absorbed by roads and reserves, and the cost of all surveys of the land. The rent of land applied for to be leased, and the upset rent of land submitted for lease by auction under this Act shall be at a rate to be fixed by the Minister, being not more than five per centum per annum on the capital value. The rent of any lease under this Act may be altered by the Minister after the expiration of each twenty years of the lease, provided that no alteration of the rate shall be made until the board (or the Land Appeal Court, on appeal by the lessee or the Minister, within such time as may be prescribed) has determined the rate which should be payable, and such determination shall be final.

Conditions of lease.

**12.** Leases under this Act may be applied for and granted in the following manner and subject to the following terms and conditions:—

- (a) On and after the date on and after which it has been notified under the provisions of this Act that the land may be applied for, any person who is not disqualified as hereinafter provided may apply to lease any farm. The application shall be made and lodged as prescribed, and shall be accompanied by a deposit of one half-year's rent.
- (b) A person shall be disqualified from being an applicant for or the holder of a farm under this Act, if such person—
  - (i) is under the age of sixteen years; or
  - (ii) is a married woman not living apart from her husband under a decree of judicial separation; or
  - (iii) is subject to any legal disability other than non-age or coverture, or to any disqualification specially mentioned in this Act; or
  - (iv) at the date of application or transfer under this Act, holds in fee simple an area sufficient in the opinion of the board for the holder to maintain his home thereon, or owns wholly or in part any pastoral, homestead, settlement, conditional, improvement, or scrub lease, or lease of inferior land, or a lease under this Act, or an occupation license, or a conditional purchase or homestead selection, or has before such application or transfer held any such holding and in the opinion of the board transferred or divested himself of the same with a view to avoid the disqualifications provided for by this section.
- (c) The applicant shall, upon the day appointed, satisfy the board that he is qualified, and that the application has been made in accordance with the provisions of this Act, and that the sole object of the applicant in making the application is to obtain a lease of the land in order that he may hold and use the land for his own exclusive benefit according

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according to law. The board shall confirm the application, if so satisfied, unless it permits the applicant to withdraw the same. The board shall disallow any application if not so satisfied, and may order any moneys deposited with the application to be forfeited. Any such disallowance shall be subject to appeal to the Land Appeal Court in the prescribed manner.

- (d) The title to any farm applied for under the provisions of this Act shall commence from the date of application therefor, if the application is valid. The provisions of the Crown Lands (Amendment) Act, 1899, in respect of conflicting applications under the Crown Lands Acts, shall apply in respect of conflicting applications under this Act: Provided that the holder of any land (being of an area not greater than the area of a farm offered for lease which has been resumed under this Act) shall, in respect of applications for the farm made during the first week after the land is available under this Act, be deemed (subject to the disqualifications herein mentioned) to have priority in respect of such applications if the farm comprises any land resumed of which he was the holder at the date of resumption.

**13.** The Minister may sell any lease under this Act by auction, Sale of lease. provided that the highest bidder shall not be deemed to be the purchaser of, and shall not have any title to, the lease unless and until the board is satisfied that he is qualified to make an application for a lease under this Act, and that his sole object is to obtain a lease of the land in order that he may hold and use the land for his own exclusive benefit according to law. The board shall confirm the lease if so satisfied, and if not so satisfied shall disallow the lease, and may order any moneys paid at the time of sale to be forfeited: Provided that any disallowance by the board may be appealed against to the Land Appeal Court within such time and in such manner as may be prescribed. If a lease be disallowed, the Minister may re-offer the lease by auction, or may offer it to lease by application, as he sees fit.

**14.** The Governor may issue to an applicant or a purchaser whose Terms of lease. lease has been confirmed by the board a lease of the farm applied for.

**15.** The term of the lease shall be ninety-nine years, and the lease Terms and conditions of lease. shall be in the prescribed form, and shall contain provisions to secure—

- (a) that the lessee shall pay the annual rent of the farm as fixed under this Act, including rent for the use of any improvements which the land may contain, and shall keep such improvements in reasonable repair during the currency of the lease;
- (b) that the lessee shall commence to reside on the farm within three months after his lease has been confirmed, and shall,

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subject to the provisions of this Act, reside on the farm and make it his bona fide residence during the whole term, or if the lease has been transferred by way of bona fide mortgage, that he shall so reside subject to such mortgage;

- (c) that the lessee shall fence the farm within five years;
- (d) that the lessee shall conform to any regulations relating to keeping the farm clear of rabbits and other noxious animals, and also to clearing the farm of scrub and noxious weeds;
- (e) that the lessee shall not assign or sublet without the Minister's consent, and in no case shall assign until he has held the lease for at least five years;
- (f) that the Governor may forfeit the lease upon breach of any of the conditions, covenants, and provisions therein contained, and forfeiture shall take effect on the expiration of thirty clear days after notification of forfeiture in the Gazette.

The lease may also contain such additional provisions, conditions, and covenants as to the Governor may seem expedient in the public interest.

Transfer of lease.

**16.** The condition of residence and all other conditions of a lease under this Act shall devolve on the successive holders of the lease; and any transferee shall take the lease, subject to all unfulfilled obligations attaching thereto, and shall hold and use the land for his own exclusive benefit according to law.

Insane lessees.

**17.** If the holder of a lease dies or is declared a lunatic, or becomes an insane patient within the meaning of any Lunacy Act, the conditions may be fulfilled by any member of his family or any other person approved by the board, and the board may grant leave to the holder of any lease to cease living upon the farm for such necessary causes as may be prescribed and for such period as may be determined.

Inquiries by board.

**18.** The board may at any time on its own motion or at the direction of the Minister inquire in open Court, subject to appeal to the Land Appeal Court as prescribed, whether the lessee has up to the date of the inquiry duly performed all conditions (other than the payment of rent) attaching to his lease, and shall, at the direction of the Minister inquire, in open Court, subject to appeal as aforesaid, whether the lessee is holding or has held the land for his exclusive benefit according to law.

If, upon such inquiry the lessee satisfies the board that he has, up to the date of the inquiry, duly performed all such conditions the board shall issue to him a certificate to that effect.

If at any time the board upon inquiry (or the Land Appeal Court on appeal) is not satisfied that the lessee has performed all such conditions, or has not held or is not holding the lease for his own exclusive benefit according to law, the Governor may, by notification in the Gazette, forfeit the interest of the lessee or his assignee in the farm, and thereupon the right of the lessee or assignee to continue in occupation

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occupation shall wholly cease and determine. The like notification may be made where the lessee fails to pay when due any moneys owing as rent or otherwise.

But the Governor may, in lieu of notifying such forfeiture for non-payment of any moneys, accept payment of such moneys with a fine of five per centum per annum added thereto.

**19.** The provisions of section twenty-three of the Crown Lands Act of 1895, applicable to homestead selections and the owners of such selections, shall mutatis mutandis apply to lands leased under this Act, and to the lessees of such lands. Application of provisions of section 23 of Crown Lands Act of 1895.

**20.** Where any improvements are on any land acquired under this Act, the Governor, on the recommendation of the board, may set apart such improvements, with or without the land on which they stand, or any adjacent land which may advantageously be used with it, and lease the same to such person, for such rent and upon such terms, as he may think fit. Improvements.

**21.** The provisions of section ten of the Public Roads Act of 1897, and section eight of the Crown Lands (Amendment) Act, 1899, shall be deemed to extend to any lease under this Act; and the provisions of the Crown Lands Act of 1884, and any Acts amending the same, so far as they relate to dividing fences, shall be deemed to apply to fences on lands leased under this Act. Application of Public Roads Act, Crown Lands (Amendment) Act, 1899, and Crown Lands Act of 1884.

**22.** Notwithstanding anything contained in the Public Roads Act of 1897, any roads intersecting or bounding any lands acquired under this Act may be closed or modified and new roads opened to accord with any new plan or design of subdivision, and the approval by the Minister of such plan or design shall be sufficient evidence of such closing, modification, or opening. Roads may be closed, modified, or opened.

*Entry on private land.*

**23.** For the purposes of any purchase under this Act of any private land the Minister or the board, or any persons appointed by the Minister or the board, in writing in that behalf, may enter such land and inspect the same and make such surveys thereof as may be thought necessary. Entry and survey of private lands.

*Report to be presented to Parliament.*

**24.** Within thirty days, or such other convenient time after the meeting of Parliament in each year as the Minister thinks fit, a report shall be presented to both Houses of Parliament showing:— Report to Parliament.

- (a) The locality and area of each block of land acquired under this Act, the name of the person or company from whom it was acquired, the price paid for the same, and the valuation of the same for taxation purposes, as shown by the books of the Commissioners for Taxation. (b)

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*Treasury Bills Deficiency (Amendment).*

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(b) The report of the board on each transaction that came before it, and the condition and settlement of all land acquired under this Act.

Regulations.

**25.** The Governor may, for the purposes of this Act, exercise any power of making regulations conferred upon him by the Crown Lands Act of 1884, or any Acts amending the same, and may generally make regulations for carrying this Act into effect.

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