

Act No. 74, 1912.

CLOSER SETTLEMENT
(AMENDMENT)
(No. 2).

AN Act to provide for the resumption of certain leases, and for the disposal of the lands comprised therein ; to amend the law in respect of the payments to be made as instalments of and interest on purchase money for settlement purchases ; to amend the Crown Lands Acts, the Closer Settlement Acts, the Closer Settlement Promotion Act, 1910, and the Public Works and Closer Settlement Funds Act, 1906, in certain respects ; and for other purposes. [20th December, 1912.]

BE 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 :—

Short title, &c.

Short title and commencement.

1. (1) This Act may be cited as the "Closer Settlement (Amendment) Act, 1912," and shall come into force on the first day of January, one thousand nine hundred and thirteen. (2)

Closer Settlement (Amendment) (No. 2).

(2) In this Act the expression "Closer Settlement Acts" Definitions. has the meaning given to it in the Closer Settlement Promotion Act, 1910; and the expression "Crown Lands Acts" means the Crown Lands Act of 1884, and any Act amending it.

Resumption of certain leases.

2. Sections fourteen, fifteen, sixteen, seventeen, and eighteen of the Crown Lands (Amendment) Act, 1908, are hereby repealed. Repeal of certain sections of Crown Lands (Amendment) Act, 1908.

3. (1) An advisory board constituted under the Closer Settlement (Amendment) Act, 1907, shall, at the request of the Minister, report to him— Advisory board to report as to leases.

- (a) whether any, and if so what, land comprised in an improvement lease or scrub lease granted under the Crown Lands Acts, or lease granted under the provisions of section eighteen of the Crown Lands Act Amendment Act, 1903 (the whole or any part of the area of any such lease being situated within fifteen miles of a then existing or duly sanctioned railway) is suitable to be acquired for closer settlement;
- (b) as to the estimated value of the interest of the holder of the lease in such land;
- (c) the use to which such land may be put, the capacity of the land for carrying stock or for agriculture or other profitable use, the number of farms into which it could be suitably subdivided, and the possibility of irrigating the land;
- (d) on any matter as to which the Minister requires a report.

(2) For the above purpose the said board, or any member of the board, or any person authorised in writing by the chairman of the board, may, on giving the prescribed notice to the holder of the lease, enter any land and inspect the same and any improvements thereon. Power of entry and inspection.

4. (1) Where any such advisory board reports that the whole or any part of any of the land comprised in any such lease as aforesaid is suitable to be acquired for closer settlement, the Minister may, in his discretion, notify in the Gazette that such lease is, so far as it relates to the land aforesaid, resumed by the Crown, and thereupon the lease shall, subject to the provision herein contained, be deemed to be so resumed: Notification of resumption of lease.

Provided that any such resumption (except a resumption by agreement with the lessee, and in respect of which the compensation agreed to be paid does not exceed fifteen thousand pounds) or proceeding consequent thereon, shall be subject to the approval of Parliament, expressed by resolutions passed by both Houses of Parliament:

Provided

Closer Settlement (Amendment) (No. 2).

Provided also that if such land comprise the greater part of the area of any lease, the holder of the lease shall have the right to require the Minister to resume the lease as to the whole of the land comprised in it. Such right shall be asserted in the prescribed form within four weeks after the said notification in the Gazette. After such notification the holder of the lease may, with the consent of the Minister, retain the whole or any part of the land comprised in the lease for such period and upon such conditions as may be agreed upon.

Compensation
payable to lessee.

(2) The Minister may agree with the person who at the time of the notification in the Gazette as aforesaid was the holder of the lease as to the amount of compensation to be paid such person, but such amount shall not exceed the advisory board's valuation.

If such agreement is not made the holder of the lease may, within twenty-eight days after such notification, or within such further time as the Minister may allow, notify the Minister by way of appeal in the prescribed form that he requires such compensation to be determined by the local land board as hereinafter provided.

The holder of the lease shall set out in such notice of appeal the amount which he claims as the value of his interest in the lease, so far as it is proposed to resume it, and of his interest in the improvements on the land.

If such holder fails to give such notice of appeal, or fails to set out the amount he claims as aforesaid, the valuation of the advisory board shall for the purposes of subsection five of this section, be deemed to be the amount of his claim.

(3) Such compensation shall be determined by a court constituted as provided in section eighteen of the Closer Settlement Act, 1904, and the decision of the judge and one of the assessors of such court shall be the determination of the court, and shall be final.

Measure of
compensation.

(4) The measure of such compensation shall be the value of the residue of the term of the lease (so far as it has been resumed) to the person who was the holder thereof at the date of the notification of resumption in the Gazette, together with the value of the improvements on the land having regard to the conditions of the lease, and particularly—

- (a) the profits earned by the holder of the lease solely from the use of the land;
- (b) the improvements on the land in respect of which the holder of the lease has or has not tenant-right;
- (c) any right of the Minister to withdraw the whole or any part of the land from the lease and the compensation (if any) payable in respect thereof and for improvements on the land.

(5)

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(5) The following provisions shall apply to the costs of all proceedings for determining the amount of compensation aforesaid:—

- (a) Where the amount determined by the local land board or the Land Appeal Court hearing the appeal is equal to or less than the amount of compensation which the Minister has offered, or, where no such offer has been made, the amount of the valuation of the advisory board, the holder of the lease shall pay the costs of the appeal.
- (b) Where the value so determined is equal to or greater than the amount which the holder of the lease claims as compensation, the Crown shall pay such costs.
- (c) Where the value so determined is greater than the amount of the offer or valuation referred to in paragraph (a), but is less than the amount of the claim of the holder of the lease, the Crown shall pay to the said holder the proportion of his costs which the excess of the value so determined over such offer or valuation bears to the excess of the claim over such offer or valuation.

(6) The provisions of sections twenty, twenty-one, section one of section twenty-two, sections twenty-three, forty-four, and forty-five of the Closer Settlement (Amendment) Act, 1904, relating to the acquisition or resumption of land under that Act, and to the proceedings relating thereto, shall apply, mutatis mutandis, to the resumption of leases under this Act, and proceedings relating thereto.

5. Any land comprised in any such lease as aforesaid so far as it has been resumed by the Crown in pursuance of this Act shall, except as hereinafter in this section provided, be dealt with under the Closer Settlement Acts or the Crown Lands Acts, but shall not be available for the purposes of any application thereunder until a notification declaring it to be so available has been published by the Minister in the Gazette.

Payment of compensation out of Closer Settlement Fund.

6. Notwithstanding anything contained in the Public Works and Closer Settlement Funds Act, 1906, any sums payable as compensation for the resumption of any of the aforesaid leases may be paid out of the Closer Settlement Fund established by that Act: Provided that in such case all revenue received from the lands in connection with which such compensation has been so paid shall be credited to such Fund.

Deposits,

Closer Settlement (Amendment) (No. 2).

Deposits, instalments, and interest to be paid on settlement purchases.

Amounts of deposits,
instalments, and
interest on
settlement
purchases.

7. Notwithstanding anything contained in the Closer Settlement Acts or the Closer Settlement Promotion Act, 1910, the deposit and subsequent instalments of purchase money and interest thereon to be paid in connection with settlement purchases acquired under such Acts, after the commencement of this Act, shall be as follows:—

- (a) The deposit and subsequent annual instalments shall be such rate per centum (not being less than five per centum) of the notified value or—in the case of a settlement purchase acquired under the Closer Settlement Promotion Act, 1910—of the agreed value, as shall have been prescribed by any regulation which is in force at the date of commencement of title to the settlement purchase.
- (b) The interest shall be at such rate per centum (not being less than four per centum) per annum as shall have been prescribed by regulation which is in force at the date of the commencement of title to the settlement purchase.

Regulations.

Governor's
regulations.

8. The Governor may make regulations for any matter in respect of which the word “prescribed” is used in this Act, or in respect of which “regulations” are mentioned; and may further make regulations for carrying out the purposes of this Act. A copy of such regulations shall be published in the Gazette and laid before both Houses of Parliament without delay.
