

## CLOSER SETTLEMENT (AMENDMENT) ACT.

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### Act No. 53, 1916.

An Act to amend the law relating to Closer Settlement and certain Acts in relation therewith, and other Acts incidental thereto. [Assented to, 4th October, 1916.]

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**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 :—

#### PART I.

##### *Short title.*

**1.** This Act may be cited as the “ Closer Settlement (Amendment) Act, 1916,” and shall be construed with the Closer Settlement Acts.

*Short title.*

##### *Definitions.*

**2.** In this and in any other Act—

“ Closer Settlement Acts ” means the Closer Settlement Act, 1904, and any Acts now passed or hereafter to be passed amending that Act.

“ Closer Settlement Debentures ” means New South Wales Closer Settlement Debentures issued by the Governor under the Closer Settlement (Amendment) Act, 1914, as amended by Part II of this Act.

*Definitions.*

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PART

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## PART II.

## AMENDMENT OF CLOSER SETTLEMENT ACTS.

*Purchase of certain leases.*

New section  
4A.

**3.** (1) The following new section and short heading are inserted next after section four of the Closer Settlement (Amendment) Act, 1912:—

Power to purchase leases.

**4A.** Where any such advisory board reports to the Minister that any land, being the whole or part of the land comprised in an improvement lease or scrub lease granted under the Crown Lands Acts, or a lease granted under section eighteen of the Crown Lands Act Amendment Act, 1903, is suitable to be acquired for closer settlement, it shall be lawful for the Minister to purchase by agreement with the lessee the said lease of such land: Provided that the purchase money to be paid to the lessee shall not exceed the advisory board's valuation of the lessee's interest in the lease of the land and in the improvements thereon: Provided further that in any case where the purchase money agreed upon exceeds fifteen thousand pounds the purchase shall be subject to the approval of Parliament expressed by resolutions passed by both Houses of Parliament.

Amendment  
of s. 5,  
Act of 1912.

(2) Section five of the same Act is amended by inserting the words "or purchased" next after the word "resumed" and by omitting the words "by the Crown".

Amendment  
of s. 6,  
Act of 1912.

(3) Section six of the same Act is amended by inserting the words "or purchase" next after the word "resumption".

Amendment  
of s. 5,  
Act of 1912.

**4.** The following is added to section five of the same Act:—

"Where at the time of such resumption or purchase any part of the land leased is bona fide under sublease by the Crown lessee, the sublessee shall be deemed to have attorned to and become the tenant of the Minister on the terms of the sublease.

The Minister may allow—

- (a) any person who is not a lessee as aforesaid but who holds any part of such land on terms of sharing profits with his landlord (hereinafter referred to as a share-farmer);
- or
- (b)

(b) any person employed on such land and who has established his home and resided on any part thereof for at least two years, to remain in occupation of such part of the land acquired for such period and upon such terms as he thinks fit.

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At any time during such tenancy or occupation the Minister may, on such conditions as he thinks fit, allow such tenant, share-farmer, or employee a preferential right to apply for a settlement purchase or a holding under the Crown Lands Consolidation Act, 1913, of any land comprised in the lease resumed or purchased if the local land board after inquiry reports that he is otherwise qualified and likely to satisfactorily work and develop the land."

*Payment for land purchased or resumed.*

**5.** Section three of the Closer Settlement (Amendment) Act, 1914, is hereby repealed and the following sections are substituted for it: Provided that such repeal, so far as it relates to the words "Such certificate shall be negotiable only with the consent of the Minister", shall be deemed to have taken effect from the commencement of the Closer Settlement (Amendment) Act, 1914:—

Amendment  
of Act of  
1914.

3. (1) Any purchase or resumption of land under the Closer Settlement Acts, and any purchase under the last preceding section shall be paid for—

Payment for  
purchases and  
resumptions.

(a) in cash; or

(b) with the concurrence of the owner, vendor, or mortgagee, by closer settlement debentures issued as hereinafter provided.

(2) Any certificate which has been issued by the Minister before the commencement of the Closer Settlement (Amendment) Act, 1916, under section three of the Closer Settlement (Amendment) Act, 1914, repealed by the first mentioned Act, may, on application, be converted into Closer Settlement Debentures.

(3)

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Issue of  
Closer  
Settlement  
Debentures.

(3) All revenue received from land in connection with which payments are made in cash or by debentures as aforesaid shall be paid into the Closer Settlement Fund.

3A. The Governor may issue debentures secured on the Closer Settlement Fund, or if the amount at credit of the Closer Settlement Funds at any time is insufficient, upon the Consolidated Revenue Fund, and bearing interest at a rate not exceeding five per centum per annum.

Any such debentures shall be styled "New South Wales Closer Settlement Debentures."

The debentures aforesaid may be issued at such times and for such amounts and for such currency as may be directed by the Governor.

All such debentures shall be numbered consecutively, beginning with number one and progressing arithmetically by units, and shall be signed by—

The Colonial Treasurer,  
The Minister for Lands,  
The Under Secretary for Finance and Trade, and  
The Auditor General.

The principal moneys for which such debentures may be made out shall be chargeable on and payable out of the Closer Settlement Fund or the Consolidated Revenue Fund on the maturing of such debentures.

The interest on such debentures shall be chargeable on and payable out of the Closer Settlement Fund.

*Amendment of Closer Settlement Act, 1904.*

Repeal, s. 11,  
Act of 1904.

**6.** (1) Section eleven of the Closer Settlement Act, 1904, is repealed.

Costs of  
proceedings  
for resump-  
tion, s. 22.

(2) Section twenty-two of the same Act is amended by adding the following proviso at the end of the section :—

"Provided that the total amount of such costs shall not in any case exceed fifty pounds."

(3)

(3) Subsection two of section twenty-nine of the same Act (added to that section by section eleven of the Closer Settlement (Amendment) Act, 1909) is amended by omitting the words "of four per centum per annum" and inserting in lieu thereof the words "payable in respect of the balance of purchase money".

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Interest,  
s. 29 (2).

(4) Section thirty-six of the same Act is amended by substituting the word "Minister" for the word "Governor" wherever occurring.

Waiver of  
forfeiture  
s. 36.

The following words are inserted next after the words "he thinks fit":—"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".

(5) Section forty-six of the same Act is amended by adding at the end thereof the following words:—"Where any person not authorised in that behalf by the local land board or the chairman for such board has before or after the passing of this Act enclosed any road, the person occupying or using the land embraced by such road shall be liable to pay—so long as the road shall remain enclosed—per annum, such rent as may be determined by the local land board upon a reference made for that purpose by the Minister. If the amount of the rent so determined be not paid by the person liable within two months after the date of such determination the Minister may sue him therefor in any court of competent jurisdiction."

Unauthorised  
closing of  
road, s. 46.

*Amendment of Closer Settlement (Amendment) Act, 1909.*

**7.** Subsection one of section twenty-one of the Closer Settlement (Amendment) Act, 1909, is amended by adding at the end thereof the following words:—"Such setting apart shall have the effect of revoking any reserves or parts of reserves made under any Act within the boundaries of the lands so set apart unless the contrary is expressly declared by the terms of the notification. Such revocation shall take immediate effect on the expiration of the day next preceding the day upon which the land becomes available in pursuance of the notification."

Amendment  
of s. 21, Act  
of 1909.

*Amendment*

**Closer Settlement (Amendment) Act.**

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Amendment  
of s. 4, Act  
of 1914.

**8.** (1) Section four of the Closer Settlement (Amendment) Act, 1914, is amended as follows:—

The words “or for lease” are inserted next after the words “offered for sale” and “offering for sale”

The words “or tender” are inserted next after the words “by auction”

The words “or leased” are inserted next after the words “not sold”

The words “or the Minister may lease” are inserted next after the words “may grant”

The words “or rentals” are inserted next after the word “prices”

The following words are added at the end of the section:—“In the case of a lease the application shall be accompanied by the amount of the upset rental; and upon approval of the application by the Minister the lease shall be subject to such terms and conditions as were notified in the Gazette in connection with the aforesaid offering for lease.”

(2) Section fourteen of the same Act is amended as follows:—The words “The foregoing provisions shall apply to postponed instalments granted in connection with settlement purchases which have been or shall be converted into homestead farms, except that the indebtedness in respect of such postponed instalments shall comprise the interest portion only of such postponed instalments” are added at the end of the section.

*Lands may be disposed of as suburban holdings.*

Land not sold  
may be set  
apart as  
suburban  
holdings.

**9.** Notwithstanding anything to the contrary in the Closer Settlement Acts, where any land within a settlement purchase area has been offered for sale by auction and not sold (whether such offering for sale was before or after the commencement of this Act), the Minister may set apart such land for disposal as suburban holdings under and subject to the provisions of the Crown Lands Consolidation Act, 1913: Provided that any amounts received as rent for such suburban holdings shall be credited to the Closer Settlement Fund.

*Good*

*Good faith required of applicant.*

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**10.** (1) Every application for a settlement purchase is hereby required to have been and to be made in good faith; and an application shall be taken to have been and to be made in good faith when the sole object of the applicant in making the application was, or is, to obtain the land in order that he may hold and use it for his own exclusive benefit.

Good faith of applicant.

The local land board in dealing with an application for a settlement purchase shall refuse the same unless it is satisfied that the application was or is made in good faith, but shall not refuse any application as not having been made in good faith merely because the applicant has been or is to be assisted financially in connection with such holding by a parent of such applicant.

Where the local land board, in dealing with any such application, is satisfied that the same has been made otherwise than in good faith, it may declare that any moneys lodged with such application shall be forfeited to the Crown, and the same shall be forfeited accordingly.

(2) Where an application for a settlement purchase has been allowed whether before or after the commencement of this Act, and it appears to the satisfaction of the local land board—

(a) that the application was not made in good faith; or

(b) that the land is not held or used for the exclusive benefit of the purchaser or apparent owner thereof,

such settlement purchase, together with all moneys paid in respect thereof, shall be liable to be forfeited.

The allowing of stock not owned by the holder of the land to depasture thereon without having first obtained the Minister's consent thereto shall be prima facie evidence that the land is not so held or used.

*Naturalisation of alien applicants and holders.*

**11.** (1) No person other than a natural born subject or a naturalised subject of His Majesty who was previously the subject of an allied power shall be qualified to apply for a settlement purchase: Provided that

Naturalisation of alien applicants and holders.

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(2) Nothing contained in the Closer Settlement Acts shall prejudice the rights of any of the subjects of a foreign power between which and the United Kingdom of Great Britain and Ireland there is now subsisting, or may hereafter subsist, any treaty of commerce whereby the reciprocal civil rights of the subjects of such treaty powers are reserved, granted, or declared, and which treaty is or may hereafter be applicable to the State of New South Wales.

*Regulations.*

**Regulations.** **12.** The Governor may make regulations not inconsistent with this Part of this Act prescribing all matters which by the said Part are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Part of this Act.

Such regulations shall—

- (1) be published in the Gazette ;
- (2) take effect from the date of publication or from a later date to be specified in such regulations ; and
- (3) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in Session ; and if not, then within fourteen days after the commencement of the next session.

If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.