

**CLOSER SETTLEMENT (AMEND-
MENT) ACT.**

Act No. 46, 1919.

George V, An Act to extend the provisions of the Closer Settle-
No. 46. ment Acts; to make further provision for the purchase by discharged soldiers and sailors of certain tenures under the Crown Lands Acts; to limit the commission which may be charged by agents on certain sales of land; to amend the Acts relating to closer settlement; and for purposes consequent thereon or incidental thereto. [Assented to, 22nd December, 1919.]

BE

BE it enacted by the King's Most Excellent Majesty, George V, 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 (Amendment) Act, 1919." Short title.

Purchases by returned soldiers.

2. (1) Any one or more discharged soldiers or sailors who desire to purchase any one or more of the following tenures under the Crown Lands Acts or to purchase any private lands under Part II of the Closer Settlement (Amendment) Act, 1918, may upon entering into an agreement with the holder (hereinafter called the vendor) for such purchase apply as prescribed to the Minister to acquire the said tenures or the said lands under and subject to the provisions of this Act.

Agreements for purchase by discharged soldiers or sailors.

- (2) Such tenures may be any of the following:— Description of tenures.
- (a) a conditional purchase; or
 - (b) a conditional purchase lease; or
 - (c) a conditional purchase and conditional lease, including a conditional lease or part thereof, which may have been held by a local land board not to be convertible into additional conditional purchase; or
 - (d) a homestead selection; or
 - (e) a homestead farm; or
 - (f) a settlement lease; or
 - (g) a Crown lease; or
 - (h) any part of any such holding or of any two or more thereof; or
 - (i) an improvement lease or scrub lease which in the opinion of an advisory board is not substantially more than sufficient for the maintenance of a home.

(3) Where the whole or part of a conditional lease which has been held not to be convertible into additional

George V, additional conditional purchase is included in an agreement under this Act, the Minister, upon the recommendation of an advisory board, may declare that such conditional lease or part thereof, as the case may be, shall be convertible into additional conditional purchase, and the same shall thereupon be convertible at the price to be fixed in accordance with section one hundred and eighty-six of the Crown Lands Consolidation Act, 1913.

Reduction in number of applicants.

3. Where in any such application the number of the original applicants is for any cause reduced, the application may, with the consent of the Minister, be proceeded with as to the remaining applicant or applicants.

Any other duly qualified person may, with the consent of the Minister, be substituted for any original applicant.

Valuations.

4. (1) Upon any such application being made an advisory board and the Commissioners of the Government Savings Bank of New South Wales shall jointly make valuations—

- (a) of the interest of the vendor in the land proposed to be purchased, assuming that the land is unencumbered, including any improvements on the land ;
- (b) of the freehold value of the land with improvements (if any).

(2) If such board and the said commissioners do not agree in any such valuation they may make separate valuations, in which case the lower of such valuations shall be deemed to be the valuation for the purposes of this Act.

(3) The said board shall also report to the Minister—

- (a) whether the land is suitable for settlement ;
- (b) whether each applicant is qualified to make and hold a settlement purchase, and is otherwise eligible, and is likely to satisfactorily work and develop the land ; and
- (c) whether such lands substantially exceed a home maintenance area for each applicant.

5.

5. Upon such valuations and report being made the **George V,**
Minister may approve of the application : **No. 46.**

Provided that—

Approval of
application.

- (a) the sum to be paid to the vendor shall not exceed the valuation made as aforesaid of the interest of the vendor less the amount of any encumbrance on the land ;
- (b) the freehold value of the land, inclusive of improvements, the subject of the application shall not exceed the values specified in section nine, subsection one, of the Closer Settlement (Amendment) Act, 1918, as amended by this Act, in respect of any one of the persons making the application.

6. If the amount at which the land has been so valued is less than the price fixed in the agreement, the Minister after report by the advisory board may rescind the agreement as to such land, unless in the meantime the vendor agrees to reduce the price to the amount of the valuation, or the parties, with the consent of the Minister given on the recommendation of the advisory board, confirm the agreement with or without any alteration.

Where
valuation is
less than
price.

7. Any difference between the amount to be paid by the Minister and the price of the land shall be paid by the purchaser to the vendor or arranged for between them before the payment by the Minister is made, and in the latter event the vendor shall have no right in respect of such difference against the Minister or the settlement purchase.

Difference
between price
and amount
to be paid by
Minister.

8. If the Minister approves of the application the agreement shall be carried out by the necessary transfers and assurances, or in the case of a purchase under Part II of the Closer Settlement (Amendment) Act, 1918, by a surrender to the Crown, and the grant to the applicant of a settlement purchase.

Transfer or
surrender
and payment
of purchase
money.

The purchase money shall be paid to the vendor by the Minister on behalf of the applicant out of the Closer Settlement Fund either in cash or, with the consent of the vendor, by closer settlement debentures.

9. Any purchase, homestead selection, or lease, or part thereof acquired by transfer under this Act may continue to be held by the purchaser under the same tenure as at the

Rights
accrued or
accruing to
vendor to
entire to
purchaser.

George V,
No. 46. the date of the agreement to purchase, and all residence performed and all rights accrued or accruing to the vendor shall enure to the benefit of the purchaser, and in the case of a homestead selection or lease any right of conversion into any other tenure which existed under the Crown Lands Acts shall continue as if such homestead selection or lease or part were still held under those Acts: Provided that where there is a right under those Acts to convert such homestead selection or lease into a freehold an advisory board shall in the case of a subdivision apportion the notified or determined capital value of such homestead selection or lease equitably between the subdivided portions thereof.

Vesting of land acquired.

Vesting on purchase under Part II of Act of 1918.

10. (1) Where under Part II of the Closer Settlement (Amendment) Act, 1918, or under that part as applied by this Act an agreement to purchase freehold land has been made and approved by the Minister in pursuance of an application to acquire the said land under the said part or this Act, as the case may be, and the price has been determined, the Minister may, by notification in the Gazette, declare that such land is and the same shall thereupon be deemed to be vested as if the same had been surrendered to the Crown in pursuance of the provisions of the Act under which the application was made.

Vesting or purchase of tenure under s. 2.

(2) Where an agreement to purchase any tenure under section two of this Act has been made and approved by the Minister in pursuance of an application to acquire the said tenure under this Act and the price has been determined, the Minister may, by notification in the Gazette, declare that such tenure is and the same shall thereupon be deemed to be vested in the applicant as if the same had been transferred or assured to the applicant.

Vesting or purchase under Closer Settlement Acts.

(3) Where under the Closer Settlement Acts the Governor has agreed to purchase any land and the price of such land is determined and such approval (if any) as is required by the said Acts has been given by Parliament, the Minister may, by notification in the Gazette, vest such land, and the same shall thereupon be deemed to be vested in His Majesty for the purposes of the said Acts and may be dealt with thereunder.

(4)

(4) The vendor shall be entitled to be paid by the Minister interest at the rate prescribed upon the amount of the purchase money from the date of the notification under this section until the purchase money is paid.

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Interest.

(5) The provisions of this section shall apply to any application to purchase or acquire any land or tenure under the Closer Settlement (Amendment) Act, 1918, or under this Act, in any case where the transfer or surrender or other assurance for the purpose of carrying out the agreement has not been completed at the commencement of this Act, whether such application was made before or after such commencement.

Application
of section.

11. (1) Where in pursuance of a notification in the Gazette under the last preceding section any land or any tenure of land is vested in any person or in His Majesty, and the owner or occupier of such land or tenure or any other person refuses to give up possession of the land or hinders the person in whom such land or tenure of land is so vested from entering upon or taking possession of the land, the Minister may issue a warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same.

Proceeding in
case of
refusal to
deliver
possession of
land.

(2) Upon the receipt of such warrant the sheriff shall deliver possession of such land accordingly, and the cost accruing, by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession; and the amount of such costs shall be deducted and retained by the Minister from the purchase money, if any, then payable to such party, or if no such purchase money is payable to such party, or if the same is less than the amount of such costs, then such costs or the excess thereof beyond such purchase money, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

Execution of
warrant.
Costs.

Charge of purchase money.

12. Any sum paid by the Minister, whether in cash or by debentures, for the purchase of the interest of the vendor acquired by transfer under this Act shall be charged wholly or proportionately upon such land or portion thereof until paid by the purchaser or purchasers

Charge of
purchase
money on
land.

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No. 46. purchasers thereof, but payment of such sum shall be made by instalments, with interest, as in the case of instalments of a settlement purchase.

Any such charge shall have priority over any other charge, mortgage, or encumbrance. Such charge shall not interfere with the right which the purchaser may have to convert the tenure under the Crown Lands Acts, but notwithstanding such conversion the charge shall remain in full force and effect until the Minister certifies in the prescribed manner that it has been paid.

Forfeiture.

Forfeiture. **13.** Any holding under this Act shall be liable to forfeiture if all or any of the conditions or covenants attached to it have not been or are not being complied with, or if any instalment due under the last preceding section remains unpaid for a period of three months after the date for payment thereof; but the Minister may waive incurred forfeiture either unconditionally or on such conditions as 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. The Minister, by notification in the Gazette, may declare forfeiture of a holding and of all moneys paid in connection therewith. On such notification the title to the land shall vest in His Majesty the King, and the land shall not be open to application for settlement until again notified for the purpose. By like notification the Minister may reverse any forfeiture.

Commission on sale of land.

Limitation of
commission. **14.** (1) The Minister may by regulation prescribe and limit the rate of commission which may be charged to a vendor in connection with the sale of land under Part II of the Closer Settlement (Amendment) Act, 1918, or under this Act. Any claim in excess of the rate prescribed shall be illegal; and any sum in the nature of a commission paid in contravention of this section or of any regulation made hereunder shall be recoverable

recoverable by the Crown in any court of petty sessions, and shall upon receipt be placed to the credit of the Closer Settlement Fund. George V,
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(2) No commission on any such sale shall be claimed by any person from or be payable by a discharged soldier, and any such commission paid by a discharged soldier may be recovered by him.

Regulations.

15. The Governor may make regulations for carrying out the provisions of this Act. Governor
may make
regulations.

All such regulations shall be published in the Gazette, and a copy thereof shall be laid before both Houses of Parliament within fourteen days after the publication thereof if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

If either House of Parliament passes a resolution, of which notice has been given, 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.

Amendments of Closer Settlement Acts.

16. The amendments indicated in the third column of the Schedule hereunder are made in the sections of the Acts mentioned in such Schedule :— Amendments
of Closer
Settlement
Acts.

SCHEDULE.

Act.	Section.	Amendment.
Closer Settlement Act, 1904 ...	4	Omit the definition of "Closer Settlement Board."
	29 (1) (b)	After "suspend" insert "or remit." At end of paragraph insert "or may permit residence to be performed on land held by a member of the same family if it be within a reasonable working distance."
Closer Settlement (Amendment) Act, 1907.	6, 12, 13.	Omit "acquire" and insert "consider the advisableness of acquiring."

SCHEDULE.

Closer Settlement (Amendment) Act.

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Act.	Section.	Amendment.
Closer Settlement (Amendment) Act, 1909.	21 (6)	Insert "land" before "within a settlement purchase area."
Closer Settlement (Amendment) Act, 1912.	1 (2)	Omit "In this Act the expression 'Closer Settlement Acts' has the meaning given to it in the Closer Settlement Promotion Act, 1910, and"
	7	At the end of the section add "Provided that no deposit shall be required if the person acquiring the land is a discharged soldier within the meaning of the Returned Soldiers Settlement (Amendment) Act, 1917."
Closer Settlement (Amendment) Act, 1916.	11 (1)	After "allied power" insert "or if the subject of a neutral power has served with the military or naval forces of His Majesty in the war of 1914-1919." After "subject to such allied" insert "or neutral." (These two amendments shall take effect as from the first day of January, one thousand nine hundred and eighteen.)
Closer Settlement (Amendment) Act, 1918.	7, 13	Omit "section ten" wherever occurring, and insert "section nine."
	9 (1)	Omit "two thousand five hundred," insert "three thousand." Omit "three thousand pounds," and insert "three thousand five hundred pounds. Where in the opinion of an advisory board the land is suitable for grazing only, the value may extend to, but shall not exceed four thousand pounds."

SCHEDULE.

Necessary Commodities Control Act.

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SCHEDULE--*continued.*

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Act.	Section.	Amendment.
Closer Settlement (Amendment) Act, 1918.	15	At the end of the first paragraph insert "Provided that if an applicant under the Closer Settlement Promotion Act, 1910 (now repealed), or under Part II of this Act, be a discharged soldier within the meaning of the Returned Soldiers Settlement (Amendment) Act, 1917, no payment by way of deposit shall be required, and that where any such discharged soldier has paid a deposit under either of those Acts since the fourth day of August, one thousand nine hundred and fourteen, the Minister may grant a refund thereof, upon application."