

**CLOSER SETTLEMENT (AMENDMENT)
ACT, 1977**

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 78, 1977.

**An Act to amend the Closer Settlement Acts. [Assented to,
20th October, 1977.]**

BE

Closer Settlement (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 (Amendment) Act, 1977".

Commence-ment. 2. (1) This section, sections 1 and 3 and Schedule 5 (1) and (2) shall commence on the date of assent to this Act.

(2) Sections 4–8 shall, in their application to a provision of Schedules 1–5, commence on the day on which that provision commences.

(3) Section 9 shall commence on the day on which Schedules 1 (1), 2, 3 and 5 (3) commence.

(4) The several provisions of Schedules 1–5, except Schedule 5 (1) and (2), shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

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

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

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

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

SCHEDULE 4.—AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT) ACT, 1937.

SCHEDULE

Closer Settlement (Amendment).

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

4. The Closer Settlement Act, 1904, is amended in the manner set forth in Schedule 1. Amendment of Act No. 37, 1904.
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, 1937, is amended in the manner set forth in Schedule 4. Amendment of Act No. 21, 1937.
8. The Closer Settlement Amendment (Conversion) Act, 1943, is amended in the manner set forth in Schedule 5. Amendment of Act No. 38, 1943.
9. In the application of the provisions of the Closer Settlement Acts and the regulations made under those Acts to—
- (a) an application made or a tender lodged under those Acts or regulations but not finally dealt with as at the commencement of Schedules 1 (1), 2, 3 and 5 (3);
- (b)

Closer Settlement (Amendment).

- (b) a transfer under those Acts or regulations executed but not registered as at that commencement; and
 - (c) the acquisition or the holding of land by virtue of an application or a tender referred to in paragraph (a) or a transfer referred to in paragraph (b),
- Schedules 1 (1), 2, 3 and 5 (3) shall be deemed not to have been enacted.

Sec. 4.

SCHEDULE 1.

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904.

(1) (a) Section 26 (1)—

Omit "male person not being under the age of sixteen years, and any female person not being under the age of twenty-one years," insert instead "person not being under the age of 18 years".

(b) Section 26 (2) (a)—

Omit "sixteen years", insert instead "18 years".

(c) Section 26 (2) (a)—

Omit "twenty-one years", insert instead "18 years".

SCHEDULE

Closer Settlement (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904—
continued.

(2) Section 31 (5)–(9)—

After section 31 (4), insert :—

(5) The restriction on acquisition by transfer or otherwise of a settlement purchase imposed by section 30 and the requirement under this section to obtain the written consent of the Minister to transfer, convey or assign a settlement purchase shall not apply to the acquisition by transfer or otherwise or the transfer, conveyance or assignment of a settlement purchase where—

- (a) the grant in respect of that settlement purchase has not issued;
- (b) the local land board has found that the conditions attaching to that settlement purchase have been fulfilled;
- (c) the money referred to in section 34 (1) in respect of that settlement purchase has been paid; and
- (d) the Minister, upon application being made as prescribed and payment of an amount equivalent to 5 per centum or, where some other percentage is prescribed, that other percentage of the unimproved value of the land purchased, certifies in the prescribed form that the restriction imposed by section 30 and the requirement under this section shall not apply to the transfer of that settlement purchase.

(6) Where the amount payable under subsection (5) (d) is less than \$10, the amount so payable shall be increased to \$10.

SCHEDULE

Closer Settlement (Amendment).

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

(7) For the purposes of subsection (5) (d), the expression “unimproved value of the land” means the unimproved value of the land as defined or determined in accordance with the provisions of Division 2A of Part VIII of the Crown Lands Consolidation Act, 1913.

(8) Upon the issue of any certificate under subsection (5) (d) the land to which that certificate relates may be transferred without recourse to section 30 or this section.

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

- (a) cause to be endorsed on the principal record that is kept in the Department of Lands in relation to that settlement purchase (before issue of the Crown grant in respect thereof) such particulars relating to the issue of that certificate as may be prescribed; and
- (b) before issue of the Crown grant in respect of that settlement purchase, cause to be endorsed on that grant, in a form approved by the Registrar-General, the particulars referred to in paragraph (a).

Closer Settlement (Amendment).

SCHEDULE 2.

Sec. 5.

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

Section 21 (6AA)—

After section 21 (6), insert :—

(6AA) Notwithstanding any terms and conditions determined by the Minister under subsection (6), whether so determined before or after the commencement of Schedule 2 to the Closer Settlement (Amendment) Act, 1977, it shall not be competent for any person under the age of 18 years to acquire from the Crown after that commencement land disposed of under subsection (6).

SCHEDULE 3.

Sec. 6.

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

Section 4 (1)—

After "person", insert " , not being a person under the age of 18 years,".

SCHEDULE

Closer Settlement (Amendment).

Sec. 7.

SCHEDULE 4.

 AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT)
 ACT, 1937.

Sections 3A, 3B—

After section 3, insert :—

Liability of
 incoming
 holder to
 pay
 arrears.

3A. (1) For the purposes of this section and section 3B—

- (a) “holding” includes a lease in respect of which a perpetual lease grant has issued but does not include a holding within an irrigation area or a permission to occupy granted under the Closer Settlement Acts;
- (b) “holder”, in relation to a holding, does not include a mortgagee of that holding;
- (c) the amount or amounts due for payment in respect of a holding shall be deemed to include any amount or amounts that would, but for a deferment, postponement or funding granted or directed under the Closer Settlement Acts, the Crown Lands Consolidation Act, 1913, or the Crown Lands (Amendment) Act, 1932, be due for payment in respect of that holding; and
- (d) where a deferment or postponement of payment of an amount, or the funding of an amount, is so granted or directed in respect of a holding, the due date for payment of that amount shall be determined as if that deferment, postponement or funding had not been granted or directed.

SCHEDULE

Closer Settlement (Amendment).

SCHEDULE 4—*continued.*

AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1937—*continued.*

(2) Notwithstanding the provisions of the Closer Settlement Acts, the Crown Lands Consolidation Act, 1913, or the Crown Lands (Amendment) Act, 1932, the regulations under those Acts or any condition attaching to a holding, the holder of a holding is liable to pay in respect of that holding any amount—

- (a) due for payment under those Acts, those regulations or any condition attaching to the holding; and
- (b) unpaid as at the date when he became the holder.

(3) Where a holder pays, in respect of his holding, any amount (other than an amount that is attributable to rent or to interest charged under section 3 (1) (b)) that became, on a date prior to the date when he became the holder of that holding, due for payment under the Closer Settlement Acts, the Crown Lands Consolidation Act, 1913, or the Crown Lands (Amendment) Act, 1932, the regulations under those Acts or any condition attaching to the holding, that holder may recover that amount from the person who was the holder of that holding at the time when that amount became due.

(4) Where a holder pays, in respect of his holding, any amount—

- (a) that is attributable to rent or to interest charged under section 3 (1) (b); and
- (b) that became, on a date prior to the date when he became the holder of that holding, due for payment under the Closer Settlement

SCHEDULE

Closer Settlement (Amendment).

SCHEDULE 4—*continued.*AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1937—*continued.*

Acts, the Crown Lands Consolidation Act, 1913, or the Crown Lands (Amendment) Act, 1932, the regulations under those Acts or any condition attaching to the holding,

that holder may recover an amount determined in accordance with subsection (5) from any person who was the holder of that holding during the period in respect of which that amount was due.

(5) The amount that a holder may recover from any person under subsection (4) is the amount that is equal to the amount of the rent or interest paid as referred to in subsection (4), less any part of that amount that would, if that amount was calculated on a daily basis, be attributable to a period when that person was not the holder of that holding.

(6) For the purposes of subsections (3), (4) and (5), a person shall be deemed—

- (a) subject to paragraph (b), to be the holder of a holding during any period commencing on the date when that person would, but for any requirement to be registered or recorded as the holder of that holding under the Closer Settlement Acts or the regulations under those Acts, have become entitled to an estate or interest in that holding (being an estate or interest that gave him the right to be so registered or recorded) and ending on the date when he was so registered or recorded; and

SCHEDULE

Closer Settlement (Amendment).

SCHEDULE 4—*continued.*

AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1937—*continued.*

- (b) not to be the holder of a holding during any period commencing on the date when that person would, but for any requirement for the person who becomes entitled to his estate or interest in that holding to be registered or recorded as the holder of that holding under the Closer Settlement Acts or the regulations under those Acts, have ceased to be entitled to an estate or interest in that holding (being an estate or interest that gives another person the right to be so registered or recorded) and ending on the date when that other person was so registered or recorded.

(7) Nothing in this section affects any agreement or any rule of law or equity with respect to the ultimate liability for payment of any amount due in respect of a holding.

3B. (1) The Minister shall, upon application by any person in the manner prescribed and upon payment of a fee as prescribed, issue to that person in respect of a holding under the Closer Settlement Acts—

Certificate
as to
amount
due.

- (a) a certificate as to the amount or amounts due for payment under the Closer Settlement Acts, the Crown Lands Consolidation Act, 1913, the Crown Lands (Amendment) Act, 1932, the regulations under those Acts or any condition attaching to that holding; or

SCHEDULE

Closer Settlement (Amendment).

SCHEDULE 4—*continued.*AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1937—*continued.*

(b) where there is no amount so due for payment, a certificate to that effect.

(2) A certificate referred to in subsection (1) (a) shall give particulars of the amount or amounts due, including the due date for payment in respect of the amount or each of the amounts, as the case may be.

(3) Production of a certificate under this section shall for all purposes be deemed conclusive proof in favour of a person who, on or subsequent to the date of the certificate, becomes the holder of the holding referred to in the certificate that, at the date of the certificate, no amount, other than an amount stated in the certificate, was due for payment in respect of that holding.

Sec. 8.

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

(1) (a) Section 4A (1)—

Omit “which is not liable to forfeiture”.

SCHEDULE

Closer Settlement (Amendment).

SCHEDULE 5—*continued.*

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

(b) Section 4A (5)—

Omit “The Minister”, insert instead “Subject to subsection (5A), the Minister”.

(c) Section 4A (5A)—

After section 4A (5), insert :—

(5A) An application under this section shall not be granted if the lease in respect of which the application is made is liable to forfeiture.

(2) Section 10 (b)—

Omit the paragraph, insert instead :—

(b) such of the conditions attaching to the settlement purchase lease, group purchase lease or closer settlement lease as the Minister may determine; and

(3) Section 11 (4)—

Omit “the age of sixteen years, if a male, or under the age of twenty-one years, if a female,”, insert instead “the age of 18 years”.
