

No. , 1920.

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## A BILL

To provide for the subdivision of large holdings and for the appropriation and resumption of portions thereof for certain purposes; and for purposes consequent thereon or incidental thereto.

[MR. LOUGHLIN;—19 *October*, 1920.]

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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  
5 the same, as follows:—

1. This Act may be cited as the "Large Holdings Short title.  
Subdivision Act, 1920."
2. This Act shall come into operation on the thirty- Commence-  
ment and  
application.  
first day of December, one thousand nine hundred  
10 and twenty, but shall not apply to the Western  
Division or to lands within an irrigation area as defined  
in

in any Act administered by the Water Conservation and Irrigation Commission, and shall not come into operation in the land districts of Balranald South, Condobolin, Coonamble, Hay, Hillston, Moree, Nyngan, Walgett, or Warren until a date to be proclaimed by the Governor, 5 and notified in the Gazette.

Interpreta-  
tion.

**3.** In this Act, unless the context otherwise requires, the expression—

“Closer Settlement Acts” means the Closer Settlement Act, 1904, and any Acts amending 10 the same.

“Crown lands” means any lands other than private lands.

“Crown Lands Acts” means the Crown Lands Consolidation Act, 1913, and any Acts amending 15 the same.

“District surveyor” means the district surveyor for the land district within which any holding is situate.

“Family holding” means a holding the substantial 20 interests wherein are held by members of the same family.

“Holding” means any area of private lands or lands held under any tenure from the Crown, or partly of one and partly of the other, worked 25 as one property, and whether owned by one or more persons, or any area of such lands which though not worked as one property is owned by one person or jointly owned by more persons than one. 30

“Improved value” means the improved value as defined in the Valuation of Land Act, 1916.

“Minister” means the Minister for Lands or other Minister charged with the administration of 35 this Act.

“Owner” means the person or persons in whom the fee simple of or the right to obtain the fee simple of any land is vested, and, in the case of lands held under any tenure from the Crown, means the holder or holder subject to mort- 40 gage of such lands and includes the owner of the equity of redemption of any land.

“Person”

- “ Person ” includes a company or corporation.
- 5 “ Private lands ” means land the fee simple of which is not vested in His Majesty the King and lands held under any tenure under the Crown Lands Acts which gives a right to purchase or acquire the fee simple.
- “ Urban area ” means that part of a shire declared to be an urban area under the Local Government Act, 1919.
- 10 “ Land district ” and “ Western Division ” mean land district and Western Division as defined under the Crown Lands Acts.

*Holdings to which the Act applies.*

- 15 **4.** This Act shall apply to all holdings except—
- (a) holdings within the boundaries of any municipality ;
- (b) holdings within the boundaries of an urban area ; and
- 20 (c) holdings the private lands on which when fully improved would not exceed in value as freehold the sum of twenty thousand pounds exclusive of the value of all buildings :

Holdings to which the Act applies, and exceptions.

Provided that, in the event of any person becoming the owner, after this Act comes into operation, of any

25 holding on which the private lands, when fully improved, would exceed in value as freehold the sum of twenty thousand pounds exclusive of the value of all buildings, the provisions of this Act shall apply thereto, except that

30 shall run from the date of his becoming such owner :

Provided also that the Minister may for any period exclude from the provisions of this Act any holding or part of any holding which in his opinion is being mainly used for the purpose of breeding stud sheep or cattle, but

35 nothing herein contained shall be deemed to excuse any owner from complying with the provisions of section six.

- 5.** A holding shall be deemed to be within the boundaries of a municipality, or an urban area, or a land district, or a valuation district if the greater part in area
- 40 of such holding is within such boundaries.

Holding within boundaries of municipality or urban area, &c.

*Duties*

*Duties of owners of holdings.*

Duty of owner to forward plan as prescribed.

6. (1) The owner of any holding to which this Act applies shall within three months after this Act comes into operation forward to the district surveyor a plan drawn in the prescribed manner showing to the best of his knowledge and ability—

- (a) the boundaries of his holding and the boundaries numbers and areas of all measured portions thereon;
- (b) the character and position of all improvements which he claims as owner or in which he has tenant right;
- (c) such other information as may be prescribed.

Retention area.

(2) The owner shall mark on such plan the suggested acreage and position of the area which he desires to retain, and such area shall be known as the retention area. Such retention area shall consist only of private lands which shall not exceed in value the sum of twenty thousand pounds, such value being computed as if the area were freehold and fully improved, but exclusive of the value of all buildings:

Power of Minister to extend retention area in case of family holding.

Provided that the Minister may, if satisfied that any holding is a family holding, extend the retention area by an additional area of land of three thousand pounds in value computed as aforesaid for each member of the family above one.

Only one retention area shall be allowed in respect of each holding, and such retention area shall be in as compact a form as possible and shall in every case include the homestead if there be one.

Open area.

(3) That part of the holding other than the retention area as finally determined by the valuation court in the manner hereinafter provided shall be known as the open area; and should the owner not desire to retain any area, the open area shall include the whole holding, if the Minister so decides.

Duty of owner to forward declaration of value, &c.

(4) The owner shall forward with such plan a statutory declaration setting forth to the best of his knowledge and ability—

- (a) the improved value of the private lands within the open area of his holding;

(b)

- (b) the value of his interest in such lands ;  
(c) the value of the suggested retention area as if freehold and fully improved but exclusive of the value of all buildings ;  
5 (d) the respective tenure or tenures upon which he holds all the lands contained in his holding ;  
(e) the names and addresses of all persons interested in such lands whether as beneficiaries, lessees, mortgagees, or otherwise, together with full  
10 particulars of their interests ; and  
(f) such other information as may be prescribed ;  
and shall at the same time forward the name and address of the person whom he appoints to act as his assessor as hereinafter provided.

15 If the owner desires to have his holding or any part thereof excluded from the provisions of this Act under section four he shall set out fully the grounds of his application.

(5) The Minister may for sufficient reason extend  
20 the time for complying with the provisions of this section, but such extension shall not in any case exceed three months.

7. Any owner who fails or neglects to comply with the provisions of the last preceding section shall be  
25 deemed to have given the Minister the right to appoint an assessor on the owner's behalf, and shall in addition be liable to a penalty not exceeding *ten* pounds for every day that he fails or neglects to comply with such provisions.

Penalty for failure or neglect to supply plan and declaration.

30 Such penalty may be recovered by any person authorised in that behalf by the Minister before any two or more justices of the peace in petty sessions in accordance with the Acts in force for the time being regulating summary proceedings before justices.

35 8. No sale or other disposition of any land forming part of any holding to which this Act applies, and made after the coming into operation of this Act, shall operate to prevent the provisions of this Act applying to such land or holding, and every such sale or disposition other  
40 than by way of mortgage shall be null and void :

Sale or disposition of land to prevent Act applying null and void.

Provided

Provided that if the Minister is satisfied that any proposed disposition is bona fide, and, that if carried out, would be in furtherance of closer settlement, he may agree to such disposition upon such conditions and on receiving such assurances, whether by bond or otherwise, 5 as he may determine.

Duty of district surveyor to make copy of plan, &c.

**9.** Upon receipt of the plan and declaration forwarded by any owner the district surveyor shall prepare a copy of such plan and note on such copy such further information as to the nature, quality, and natural features 10 of the land, or such other information as he has in his possession, and shall forward such completed copy to the chairman of the valuation district for the determination of the acreage and position of the retention area.

Should the owner of any holding fail to comply with 15 the provisions of section six the district surveyor may prepare a plan of such holding, which for all the purposes of this Act shall be deemed to have been supplied by the owner.

*Valuation courts.*

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Valuation districts.

**10.** The Minister may by notice in the Gazette establish and define the boundaries of valuation districts and may in like manner alter the same.

Chairman of valuation district.

**11.** The Governor shall appoint a chairman for every valuation district, who shall be paid such salary as the 25 Governor may determine. Such chairman shall be appointed for a term not exceeding five years and any such appointment may be renewed for a further term.

In the case of the death, illness, incapacity, failure or refusal to act, or absence of such chairman or for any 30 other reasonable cause the Governor may appoint some other person to be chairman in the place of the person first appointed.

Assessors.

**12.** (1) The Minister shall appoint an assessor to act on behalf of the Crown in respect of each holding coming 35 within the provisions of this Act, and may appoint the same person to act in respect of two or more holdings.

Such assessor shall be paid such fees as may be prescribed.

In the case of the death, illness, incapacity, failure or 40 refusal to act, or absence of such assessor or of the assessor appointed

appointed by the owner, the Minister or owner, as the case may be, may appoint some other person to be assessor in the place of the person first appointed. Should the owner neglect to appoint an assessor within twenty-eight 5 days of being given notice by the Minister to so appoint, or should the assessor appointed by the owner refuse to act, the Minister shall appoint an assessor to act on the owner's behalf.

(2) Before any chairman or assessor enters into 10 the consideration of any matter under this Act he shall, in the presence of a justice of the peace, make and subscribe the prescribed declaration.

If any chairman or assessor having made such declaration wilfully acts contrary thereto he shall be guilty of 15 a misdemeanour.

**13.** (1) A valuation court shall consist in every case of three members; two of such members shall be the assessors appointed respectively by the Minister and the owner in respect of the particular holding being dealt with by 20 the court, and the third member shall be the chairman of the valuation district within which such holding is situated.

(2) The chairman shall preside at all meetings of the valuation court, and the decision or determination 25 of the majority of the members of that court shall, subject to the provisions of section eighteen, be final, and there shall be no appeal therefrom.

(3) A copy of the decision or determination of the court shall be forwarded by the chairman to the 30 Minister and to the owner.

(4) Every valuation court shall have the powers and perform the duties conferred and imposed upon it by this Act.

**14.** (1) Evidence may be given before the valuation court by or on behalf of the parties concerned, but the chairman may in his absolute discretion limit the number of witnesses to four on behalf of each party. 35

(2) Such evidence shall be given in open court, and the procedure before the valuation court shall be 40 the same as before a local land board sitting under the Crown Lands Acts; and the chairman of the valuation court shall have all the powers possessed by a chairman

chairman of a local land board for summoning and compelling the attendance of witnesses and enforcing the production of documents.

*Determination of retention area and valuation of open area.* 5

Determina-  
tion of  
retention  
area.

**15.** (1) Upon receipt of the copy of the plan of any holding from the district surveyor the chairman of the valuation district shall refer to the valuation court for the consideration and determination by that court of the acreage and position of the retention area of such 10 holding, having regard to the provisions of section six, subsection two.

Value of open  
area or any  
part, and of  
different  
interests.

(2) The Minister may at the same or any later time direct such court to determine the improved value of the land in the open area of such holding or in any 15 part of such open area and the value of the respective estates or interests of all persons (other than the Crown) therein, it being assumed by the court that the land is unencumbered.

Valuation of  
leasehold  
interest.

**16.** (1) In determining the value of any leasehold 20 interest the valuation court shall determine such value in accordance with the provisions of the Valuation of Land Act, 1916.

Determina-  
tion of value  
of land to be  
subject, in  
certain cases,  
to Closer  
Settlement  
(Amendment)  
Act, 1907,  
s. 5.

(2) In determining the value of the interest of the owner or any other person in any land the valua- 25 tion court shall, where the holding on which such land is situated is subject to a proclamation under section five of the Closer Settlement (Amendment) Act, 1907, determine the value of the land on such block in accordance with the provision of subsection two, para- 30 graph (b), of that section.

Land values  
to be as  
at 31st  
December,  
1920.

**17.** All valuations of land made in pursuance of this Act shall not exceed the value of such land as at the thirty-first day of December, one thousand nine hundred 35 and twenty, and no allowance shall be made for forced sale.

Power of  
reference to  
valuation  
court.

**18.** For the purpose of apportioning the value of any land amongst the respective persons interested therein the Minister may at any time refer back to a valuation court any question of value either as to the 40 whole or any part of an open area of any holding or as to any estate or interest therein.

*Appropriation*



*Appropriation and resumption.*

- 19.** At any time after the determination of the acreage and position of the retention area of any holding the Minister may from time to time by notification in the Gazette declare that the whole or any part of the open area of such holding has been appropriated (if Crown land) or resumed (if private land). Upon the publication of such notification the lands described therein shall be deemed to be vested in His Majesty the King for the purposes of this Act, the Closer Settlement Acts, and the Returned Soldiers Settlement Acts for an estate in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rights-of-way or other easements whatsoever.
- 20.** Whenever land is appropriated or resumed under this Act a copy of the Gazette notification declaring such land to be appropriated or resumed, certified under the hand of the Minister, shall in every case be lodged with the Registrar-General and be registered by him in the general register of deeds unless the land so appropriated or resumed is wholly or in part comprised in a grant or a certificate of title under the Real Property Act, in which case, upon production of such notification so certified as aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such notification as if the same were a memorandum of transfer duly executed under the said Act.
- 21.** (1) Within sixty days after the publication of such notification, every person claiming payment for any interest in land which has so vested shall lodge with the Minister a notice in the prescribed form setting forth the nature of his estate or interest in such land and an abstract of his title.
- (2) (a) The Minister shall within three months after being satisfied, on the report of the Crown Solicitor, that the person claiming payment has a valid title and that the land is not subject to any mortgage, encumbrance, or charge, pay to such person an amount equal to the valuation made as hereinbefore prescribed of the interest of such person in such land, and in addition
- Power of Minister to appropriate or resume.
- Gazette notification to be lodged with Registrar-General.
- Notice of claim to be lodged.

interest on such amount from the date of the resumption of such land until the date of payment hereunder at the rate of four and one-half per centum per annum.

(b) If the land immediately prior to vesting in His Majesty was subject to a mortgage, encumbrance, or charge, or formed part of the lands comprised in a mortgage, the amount of such valuation shall be paid by the Minister to the owner and the person entitled to such mortgage, encumbrance, or charge in such proportions as they may agree, or failing agreement the Minister may pay such amount into the office of the Master in Equity to abide the order of the Supreme Court in its equitable jurisdiction. 5 10

(3) If the land immediately prior to such vesting was held by any person not entitled to sell or convey the same, the amount of such valuation shall be paid into the office of the Master in Equity to be applied to some one or more of the purposes mentioned in subsection three of section fifty-four of the Public Works Act, 1912. 15 20

Debentures to be issued.

(4) Any amounts to be paid by the Minister under this section shall be paid by closer settlement debentures having a currency of not more than thirty-eight years and bearing interest at the rate of four and one-half per centum per annum, and for the purposes of such payment the Governor may issue debentures under and subject to the provisions of section 3A of the Closer Settlement (Amendment) Act, 1914, as inserted by section five of the Closer Settlement (Amendment) Act, 1916: Provided that any broken sums may be paid in cash. 25 30

(5) Any revenue received from land in respect of which payments are made by debentures as aforesaid, or any revenue received from Crown lands disposed of in connection with lands resumed under this Act, shall be paid into the Closer Settlement Fund. 35

Power of Minister to refer certain matters to chairman of valuation district.

**22.** Upon the appropriation or resumption of any land under section nineteen the Minister may direct the chairman of the valuation district within which such land is situated to determine the improved value of each designed block on the land so appropriated or resumed. 40

*Disposal*

*Disposal of land.*

23. (1) Any land appropriated or resumed under this Act may, subject to the provisions hereinafter contained, be dealt with and disposed of under the provisions of the Closer Settlement Acts or the Returned Soldiers Settlement Acts, but shall not be available for the purpose of any application until a notification declaring it to be so available has been published by the Minister in the Gazette.
- 5
- (2) A deposit shall be paid in every case at the rate of six and one-half per centum of the purchase price and whether the land is disposed of under the Closer Settlement Acts or the Returned Soldiers Settlement Acts.
- 10
- (3) The Minister in declaring any land to be available may make it available exclusively for one or more or all of the following classes of applicants:—
- 15
- (a) married men;
  - (b) persons who have unsuccessfully taken part in three or more Crown ballots; and
  - (c) registered applicants for a valuation district.
- 20
- (4) Any person desiring to become a registered applicant shall complete the prescribed form and declaration and forward the same to the Minister.
- 25
- The Minister may after such inquiry as he may deem necessary cause the name of such person to be registered as an applicant for any valuation district and shall issue a certificate to such person to that effect, and any person so registered shall be deemed to be a registered applicant
- 30
- within the meaning of this section.
- (5) Where at the time of appropriation or resumption any part of the land appropriated or resumed—
- (a) was held by a lessee from the then owner under a bona fide lease; or
  - (b) was held by a person who was not a lessee but who held such land on terms of sharing profits with the owner (hereinafter referred to as a share farmer); or
  - (c) was occupied by a person employed on such land and who had established his home and resided on any part thereof for at least two years,
- 35
- 40

Land to be disposed of under Closer Settlement Acts or Returned Soldiers Settlement Acts.

Deposit of purchase money.

Classes of applicants for whom land may be made available.

Power of Minister to allow lessee or share farmer, &c., to remain in occupation in certain cases.

the

the Minister may allow such lessee, share farmer, or occupier to remain in occupation of such part of the land appropriated or resumed for such period and upon such terms as he thinks fit.

Power of Minister to grant lessee, share farmer, or employee a preferential right to a settlement purchase.

(6) At any time during such occupation the Minister may, on such conditions as he thinks fit, allow such lessee, share farmer, or employee a preferential right to apply for a settlement purchase under the Closer Settlement Acts subject to the land board reporting that he is otherwise qualified and likely to satisfactorily work and develop the land. 5

Power of Minister to grant right to apply for additional holding.

(7) The Minister may also grant the right to any holder of land which in the opinion of the Minister is not sufficient for a home maintenance area to apply for an additional holding thereto out of any lands appropriated or resumed under this Act, such additional holding being within a reasonable working distance of the land already held by the applicant. The terms and conditions as to payment or otherwise in regard to such additional holding shall be as notified by the Minister in the Gazette. 15

Minimum price at which land may be disposed of.

**24.** No land appropriated or resumed under this Act shall be disposed of at a price less than the improved value thereof as determined under this Act. 20

#### *Reservation and dedication of lands.*

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Reservation and dedication of lands.

**25.** The Minister may, by notice published in the Gazette, reserve or dedicate lands appropriated or resumed under this Act for any purpose notified in the Gazette as a public purpose. Upon such notice being so published such lands shall become and be reserved or dedicated accordingly, and may at any time be granted in fee simple for such purpose. 30

The Minister shall have the same powers of revocation of any such reservation or dedication as are conferred upon him by section twenty-five of the Crown Lands Consolidation Act, 1913, in respect of reservations and dedications of Crown lands. 35

*General*

*General provisions.*

**26.** Any chairman of a valuation court, or assessor, or district surveyor, or other person authorised by the Minister may upon giving the prescribed notice enter  
5 any holding and remain thereon for such time as may be necessary to carry out their duties under this Act.

Power of authorised persons to enter and remain upon holdings.

**27.** (1) Where in pursuance of a notification in the Gazette under section nineteen any land is vested in His Majesty, and the owner or occupier of such land or  
10 any other person refuses to give up possession of the land or hinders any officer acting on behalf of the Minister 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  
15 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  
20 by the person refusing to give possession; and such costs shall be deducted and retained by the Minister from the amount, if any, then payable to such party, or if the same is less than such costs, then such costs or the  
25 excess thereof beyond such amount, 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.

**28.** Where portion only of any land held under lease  
30 from the Crown, or subject to payment in the nature of rent to the Crown, is taken from a holder under section nineteen a refund of part of the rent paid or payment made and an abatement of all future rents or  
35 payments shall be made proportionate to the rental value of the land taken. Such value shall be determined by the local land board constituted under the Crown Lands Acts.

Refund and abatement of rent where part only of holding taken.

*Regulations.*

**Regulations.** **29.** Whenever in any section of this Act the expression "prescribed" is used in connection with any matter referred to in the context the Governor may in every such case frame regulations for giving effect to the provisions of such section, and may also make regulations for the purpose of carrying this Act into full effect generally. 5

All such regulations shall be published in the Gazette, and upon being so published shall be valid in law. 10  
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. 15

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. 20

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