

Closer Settlement and Returned Soldiers Settlement (Amendment) Bill, 1926.

EXPLANATORY NOTE.

THE Bill provides :—

- (a) for the determination of the price or value of Settlement Purchases and the revision of certain indebtedness to the Crown ;
 - (b) for an extension of the law regarding the subdivision of holdings under the Closer Settlement Acts ;
 - (c) for the acquisition of additional areas ;
 - (d) for the discontinuance of resumption of land under certain circumstances ;
 - (e) for an amendment of the Returned Soldiers Settlement Act, 1916, extending certain concessions given to soldier holders under the Returned Soldiers Settlement (Amendment) Act, 1925, to holders of Settlement Purchases ;
 - (f) for certain other amendments of an administrative or miscellaneous character.
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No. , 1926.

A BILL

To provide for the relief of certain settlers; to provide for the revision of certain indebtedness to the Crown in respect of certain cases under the Closer Settlement Acts; to provide for the redetermination of the price or value of settlement purchases; to make further provision regarding the subdivision of holdings under the said Acts and the acquisition of additional holdings; and for these and other purposes to amend the Closer Settlement Act, 1904, the Returned Soldiers Settlement Act, 1916, and certain other Acts; and for purposes connected therewith.

[MR. LOUGHLIN ;—2 *November*, 1926.]

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:—

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Short title.

1. This Act may be cited as the "Closer Settlement and Returned Soldiers Settlement (Amendment) Act, 1926," and shall be read and construed with the Closer Settlement Acts.

Amendment of Closer Settlement Acts.

Appraisal of price or value.

2. (1) The holder of any settlement purchase the title to which commenced before the passing of this Act may apply to have the capital value of the land comprised therein determined in pursuance of the provisions of this section.

(2) The holder of any land acquired under the Closer Settlement (Amendment) Act, 1919, may, if he considers the charge of purchase money excessive, apply to have the value of his land and the amount of such charge determined.

(3) Any application made in pursuance of this section shall be made in the form and shall be accompanied by the declaration and fee prescribed by regulation made under the Closer Settlement Acts.

If the land or any part thereof be subject to a mortgage the mortgagee shall join in the application.

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(4) An application under subsection one of this section may be made within twelve months from the commencement of this Act, or where the settlement purchase has been applied for before the commencement of this Act but the application therefor has not been allowed before such commencement, then within twelve months after the allowance of the settlement purchase.

(5) An application under subsection two of this section shall be made within twelve months from the commencement of this Act.

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(6) An application lodged in pursuance of this section shall be dealt with by the local land board or by a board constituted under the Returned Soldiers Settlement Act, 1916, which board shall have the powers of a local land board.

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(7)

(7) The price or value of the settlement purchase shall be determined as at the date of application for determination having regard to the same factors as those required by the regulations under the Closer Settlement Acts to be taken into consideration when determining the sale values of lands comprised in any settlement purchase area but assuming that any improvements effected on such land since the date of commencement of title thereto do not exist.

10 (8) The board shall determine the freehold value of any land subject to a charge as at the date of application for determination but assuming that any improvements effected on such land since the date of the acquisition of the land under the Closer Settlement
15 (Amendment) Act, 1919, do not exist.

The amount of the charge shall be determined by deducting from the appraised freehold value so determined—

20 (a) the amount which was required to make the holding freehold at the date of the acquisition of the land under the Closer Settlement (Amendment) Act, 1919; and

25 (b) the amount, if any, paid by the purchaser to the vendor with the consent of the Minister as provided by sections six and seven of the Closer Settlement (Amendment) Act, 1919.

(9) The board's determination under this section shall be subject to appeal by the applicant or reference by the Minister to the Land and Valuation Court in the
30 same manner and within the same time as is provided for cases of appeal under section nineteen or as is provided for cases of reference under section one hundred and sixty-six of the Crown Lands Consolidation Act, 1913.

35 (10) The balance of purchase money owing on any settlement purchase and the balance owing on any charge of purchase money created under the Closer Settlement (Amendment) Act, 1919, at the date of application for determination shall be adjusted in
40 cases where the land is not subject to a charge in accordance with the amount of the capital value finally determined

determined under this section less the amount paid by the purchaser to the vendor with the consent of the Minister as provided by sections six and seven of the Closer Settlement (Amendment) Act, 1919, and in cases where the land is subject to a charge in accordance with the amount of the charge of purchase money so determined. 5

All amounts, inclusive of interest payable in respect of the land or charge up to the date for payment last preceding the date of application for determination, shall be paid as if this section had not been passed. 10

All amounts thereafter payable in respect of the land or charge shall be adjusted in accordance with the price or amount of charge of purchase money determined under this section. 15

Where any unpaid interest payable by the holder has been added to the purchase money or charge of purchase money under any Act or regulation, nothing in this section shall be taken to relieve the holder from the operations of such Act or regulation in this regard. 20

(11) If on any inquiry under this section it appears that the value of the land has become reduced by any act, default, or neglect of the holder thereof or by his acquiescence in the act, default, or neglect of any other person, or that the improvements existing on such land at the date of commencement of title thereto or of the creation of the charge of purchase money thereon, as the case may be, have become depreciated, the value of the land shall be determined as if such reduction or depreciation had not taken place. 30

(12) An application under this section may be withdrawn by the applicant at any time before the commencement of the hearing by the board upon payment of the actual costs incurred in dealing with the application. 35

(13) An application under subsection one of this section shall include all settlement purchases held by the applicant at the date of the application in respect of which he has a right of determination under this section. 40

(14)

(14) No determination of the value of a settlement purchase under this section shall be made if in the opinion of the local land board the lands held by the applicant together with the area sought to be appraised substantially exceed a home maintenance area.

For the purposes of this subsection any land held by the spouse of the applicant shall be deemed to be held by the applicant.

(15) Regulations may be made under the Closer Settlement Acts for giving effect to this section.

3. The Closer Settlement Act, 1904, is amended as follows:—

- (a) (i) by inserting in section four at the end of the definition of the word "acquired" the words "or acquired by transfer under the provisions of the Closer Settlement (Amendment) Act, 1919"; Amendment of Act No. 37, 1904. Sec. 4. (Definition acquired.)
- (ii) by omitting from the same section from the definition of the term "Crown lands" the words and figures "Crown Lands Act of 1884" and by inserting in lieu thereof the words and figures "Crown Lands Consolidation Act, 1913"; Ibid. (Crown lands.)
- (iii) by omitting from the same section the words "Land Appeal Court";
- (b) by omitting from section eight the word "such" and by inserting in lieu thereof the words "any private"; Sec. 8. (Contracts.)
- (c) by omitting from subsection one of section eighteen the words "the Closer Settlement Board" and by inserting in lieu thereof the words "a Closer Settlement Advisory Board"; Sec. 18. (Price.)
- (d) (i) by omitting from paragraph (a) of section twenty-six the words "in the opinion of the local land board"; Sec. 26. (Qualification.)
- (ii) by inserting next after paragraph (c) of the same section the following new paragraph:—
- (c1) Any person who has applied for and obtained a title to a settlement purchase either before or after the commencement of the Closer Settlement (Amendment)

(Amendment) Act, 1926, and who no longer holds the same may with the consent of the Minister in writing previously had apply for another settlement purchase. 5

Sec. 28.
(Land Appeal
Court.)

- (e) by omitting from section twenty-eight the words "Land Appeal Court" and by inserting in lieu thereof the words "Land and Valuation Cou 11"

Sec. 29.
(Residence.)

- (f) (i) by omitting from paragraph (b) of sub-10 section one of section twenty-nine the words "twelve months" and by inserting in lieu thereof the words "six months";

Ibid.

- (ii) by inserting at the end of the same section the following new subsection :— 15

Deferring of
payments.

(4) Upon application, the Minister may at any time defer the payment of any amount due, or to become due within twelve months from the date of the application, on any holding for any period 20 not exceeding five years, subject to the performance of any conditions he may deem fit to impose, and if the conditions so imposed or any of them are or is not duly performed the concession granted by the 25 Minister shall cease to operate.

Any payment so deferred shall bear interest at the rate of five per centum per annum from the date of its becoming due until the date of payment; and such 30 interest shall, if the Minister so directs, be payable on such dates as he may determine.

The Minister may allow the deferred amounts to be paid by annual instalments, with interest at the rate aforesaid. 35

In any case where the Minister is satisfied that the circumstances warrant it, he may remit the payment of such interest wholly or in part.

(g)

(g) (i) by omitting from section thirty the words Sec. 30.
"No person unless qualified under section (Restriction
twenty-six hereof shall make or acquire by on purchase.)
transfer or otherwise a settlement purchase

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under this Act, nor shall any person who-
soever make, hold, or acquire more than
one settlement purchase, except where the
settlement purchase already held by such
person is less than a home maintenance
area. In such case the holder may acquire
a second settlement purchase if in the
opinion of the Minister the combined
area does not substantially exceed a home
maintenance area" and by inserting in
lieu thereof the following words:—

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"Subject to this section no person unless
qualified under section twenty-six of this
Act shall acquire by transfer or otherwise
a settlement purchase.

Any person who has acquired by transfer
or otherwise a settlement purchase either
before or after the commencement of the
Closer Settlement (Amendment) Act, 1926,
and no longer holds the same may, with
the consent of the Minister, and if qualified
under section twenty-six, acquire by transfer
or otherwise other settlement purchases.

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A person who already holds one or more
settlement purchases comprising less than
a home maintenance area may, with the
consent of the Minister, acquire by transfer
other settlement purchases, but in no case
shall consent be given where in the opinion
of the Minister the land held by such
person together with the land sought to be
acquired would substantially exceed a home
maintenance area."

(ii) by inserting the following words at the end
of the same section:—

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"It shall be competent for two or more
persons who are not subject jointly or
severally

severally to any disqualification in that behalf specified in this Act or any Act amending the same, to acquire a settlement purchase by transfer, but only after the issue of the certificate of the fulfilment of conditions other than that of payment of purchase money.” 5

Sec. 31.
(Transfer and mortgage.)

(h) by omitting from section thirty-one the words :—

“The provisions of this section shall apply to any transfer of land acquired under the Closer Settlement Acts or the Closer Settlement Promotion Act, 1910, irrespective of whether the grant has or has not issued or whether the land was acquired as a settlement purchase before or after the commencement of the Closer Settlement (Amendment) Act, 1918; and in every case the transferee of such land shall require to be a person who is qualified to hold a settlement purchase. 20

Such consent shall not be required in the case of a transfer by way of mortgage or release of mortgage before or after the issue of the grant nor to a lease after the issue of the grant” 25
and by inserting in lieu thereof the following words :—

“The provisions of this section shall apply to any transfer, conveyance, assignment or other disposition of land applied for or acquired as a settlement purchase under the Closer Settlement Acts or Closer Settlement Promotion Act, 1910, irrespective of whether the grant has or has not issued, or whether the settlement purchase was made or acquired before or after the commencement of the Closer Settlement (Amendment) Act, 1926. 30 35

In every case the transferee of any such land shall require to be a person who is qualified to acquire a settlement purchase. 40

Such

5 Such consent shall not be required in the case of a transfer by way of mortgage or release of mortgage before or after the issue of the grant nor to a lease after the issue of the grant, nor to the transfer of land comprised in a subdivision of a settlement purchase after issue of the grant if the Minister has consented to the subdivision.

10 Where the consent of the Minister to the subdivision has been registered the restrictions as to transfer to which the grant before subdivision was subject shall cease to apply to any portion of the grant transferred in pursuance of such subdivision.

15 The consent of the Minister to a subdivision shall be in the form prescribed by regulations under this Act, and may be registered in manner prescribed by regulations under the Conveyancing Act, 1919.

20 (i) by omitting from section thirty-five the words Sec. 35. "Land Appeal Court" and by inserting in lieu (Land Appeal Court.) thereof the words "Land and Valuation Court";

25 (j) by inserting in section thirty-six after the word "forfeiture" where first occurring the words "upon default in payment of any instalments of purchase money or interest or"; Sec. 36.

30 (k) by omitting from section forty-two the words Sec. 42. "Land Appeal Court" and by inserting in lieu thereof the words "Land and Valuation (Land Appeal Court.) Court";

35 (l) by omitting from section fifty-two the words Sec. 52. "Land Appeal Court" and by inserting in lieu thereof the words "Land and Valuation (Regulations.) Court";

(m) by omitting section fifty-three and by inserting in lieu thereof the following new section:— Sec. 53.

53. The Governor may make regulations for carrying out the provisions of this Act. (Regulations.)

The

The regulations shall—

- (a) be published in the Gazette ;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations ; 5
- (c) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of 10 the next 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 15 disallowing any regulation or part thereof, such regulation or part thereof shall thereupon cease to have effect.

Amendment of Act No. 12, 1907. 4. The Closer Settlement (Amendment) Act, 1907, 20 is amended as follows :—

Sec. 10. (Court.) (a) by omitting from section ten the words “a court constituted as provided in section eighteen of the Principal Act” and by inserting in lieu thereof the words “the Land and Valuation Court” ; 25

New s. 10A (b) by inserting next after section ten the following new section :—

Resumption may be discontinued by the Minister.

10A. When any resumption is made under the Closer Settlement Acts and compensation for such resumption is payable, the Minister 30 shall for a period of one month after the amount of such compensation has been finally determined by the Land and Valuation Court have the right to elect whether the Crown will pay such amount or discontinue such 35 resumption.

If the Minister before the expiration of such period, by notification in the Gazette, elects to discontinue such resumption, the proclamation

proclamation of the resumption and all proceedings thereon or thereafter relating to the resumption shall be treated as a nullity.

5 The claimant shall be entitled to payment of the proper costs and expenses incurred up to the date of the discontinuance and the amount thereon shall, when necessary, be fixed by the Land and Valuation Court.

10 (c) by inserting in section eighteen the following new words :—

“ The regulations shall—

(Regulations.)

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

25 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or any part thereof, such regulation or part shall thereupon cease to have effect.”

30 5. The Closer Settlement (Amendment) Act, 1909, is amended by omitting section twenty-five and by inserting in lieu thereof the following new section :—

Amendment of Act No. 21, 1909.

Sec. 25.

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

for Regulations.

The regulations shall—

- 35 (a) be published in the Gazette ;
(b) take effect from the date of such publication or from a later date to be specified in the regulations ;

(c)

- (c) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session. 5

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 or part thereof, such regulation or part thereof shall thereupon cease to have effect. 10

Amendment of
Act No. 74, 1912.

6. The Closer Settlement (Amendment) Act, 1912, is amended as follows:—

Subsections
(3) and (5) of s. 4.
(Land Appeal
Court.)

Sec. 8.
(Regulations.)

- (a) by omitting the words "Land Appeal Court" wherever occurring and by inserting in lieu thereof the words "Land and Valuation Court"; 15
- (b) by omitting from section eight the words "a copy of such regulations shall be published in the Gazette and laid before both Houses of Parliament without delay" and by inserting in lieu thereof the words— 20

"The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations; 25
- (c) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session. 30

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 or part thereof, such regulation or part shall thereupon cease to have effect." 35

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7. The Closer Settlement (Amendment) Act, 1914, Amendment of Act No. 7, 1914.
is amended as follows:—

- 5 (a) (i) by omitting from section four the words Sec. 4.
“of twenty-five per centum of the upset (After-
price” and by inserting in lieu thereof the auction sale
words “in accordance with the terms and or lease.)
conditions which were notified in the
Gazette in connection with the aforesaid
offering at auction or tender”;
- 10 (ii) by omitting from the same section the
words “in connection with the aforesaid
offering at auction”;
- 15 (b) by omitting from subsection one of section Secs. 7 and 22.
seven and from section twenty-two the words (Land Appeal
“Land Appeal Court” and by inserting in Court.)
lieu thereof the words “Land and Valuation
Court.”

8. The Closer Settlement (Amendment) Act, 1916, Amendment of Act No. 53, 1916, s. 11.
is amended as follows:—By omitting from section
20 eleven the words “who was previously the subject of an (Alien
allied power or if the subject of a neutral power has applicants.)
served with the military or naval forces of His Majesty
in the war of 1914–1919”; and by omitting from the
same section the words “of such allied or neutral
25 power.”

9. The Closer Settlement (Amendment) Act, 1919, is Amendment of Act No. 46, 1919.
amended as follows:—

- 30 (a) by adding at the end of section twelve the Sec. 12.
following words:— (Charge of
“Any grant of land upon which such charge purchase
subsists shall be issued with a memorandum money.)
endorsed thereon of the amount then due in
respect of the charge, and the certificate of the
35 Minister that the charge has been paid may
be registered and upon registration shall
operate to free the land from the charge”;
- (b) by inserting in section thirteen the following Sec. 13.
new subsection:—
40 (2) This section shall extend to a case in
which the grant has been issued subject to a
charge under section twelve of this Act.

(c)

Sec. 15.

- (c) by inserting in section fifteen after the words "published in the Gazette" the words "and shall take effect from the date of such publication or from a later date to be specified in the regulations."

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Amendment
of Act No. 21
1916.

10. The Returned Soldiers Settlement Act, 1916, is amended as follows:—

Sec. 3A.

- (a) by inserting in section 3A after the words "discharged soldier" the words "or to any person whether a discharged soldier or not who has been employed continuously for a period of not less than twelve months on any settlement for a group of discharged soldiers as inspector, manager, overseer, orchardist, or any other similar capacity";

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Sec. 19 (3c).

- (b) (i) by omitting from subsection (3c) of section nineteen the words "in accordance with the price or capital value or charge of purchase money finally determined under this section" and by inserting in lieu thereof the words "in cases where the land is not subject to a charge in accordance with the amount of the capital value finally determined under this section less the amount paid by the purchaser to the vendor with the consent of the Minister as provided by sections six and seven of the Closer Settlement (Amendment) Act, 1919, and in cases where the land is subject to a charge in accordance with the amount of the charge of purchase money so determined";
- (ii) by adding at the end of the same subsection the following words "Adjustments on the basis provided in this subsection shall be made in cases where the application for determination of the price or capital value was made prior to the commencement of the Returned Soldiers Settlement (Amendment) Act, 1925, as well as in cases where applications are made in pursuance of that Act."

11.

11. The Acts mentioned in the Schedule to this Act are to the extent therein indicated hereby repealed. Repeals
Schedule.

SCHEDULE.

Sec. 11.

Number of Act.	Short Title.	Extent of repeal.
5	1909, No. 21 ... Closer Settlement (Amendment) Act, 1909.	(a) Section seven. (b) So much of section eleven as inserted subsection two in section twenty-nine of the Closer Settlement Act, 1904.
10	1916, No. 53 ... Closer Settlement (Amendment) Act, 1916.	Subsection two of section eight.
15	1918, No. 48 ... Closer Settlement (Amendment) Act, 1918.	So much of section twenty-two as amended sections thirty and thirty-one of the Closer Settlement Act, 1904.
20	1919, No. 46 ... Closer Settlement (Amendment) Act, 1919.	So much of section sixteen and of the Schedule to the Act as amended the Closer Settle- ment (Amendment) Act, 1916.

II. The data mentioned in the preceding article are to the extent the same are available.

REPORT

The data mentioned in the preceding article are to the extent the same are available. The data mentioned in the preceding article are to the extent the same are available. The data mentioned in the preceding article are to the extent the same are available.

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