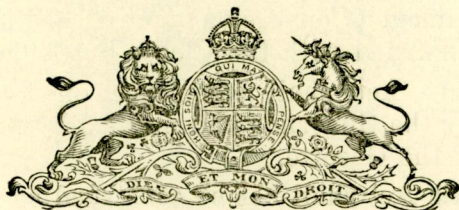


New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. 38, 1943.

An Act to make provision for the conversion of certain settlement purchases and soldiers' group purchases into leases in perpetuity; to make provision for reduction of rent of certain homestead farms; to make provision for the setting apart for disposal as leases in perpetuity of certain forfeited holdings; for these and other purposes to amend the Closer Settlement Acts and certain other Acts in certain respects; to validate certain transfers; and for purposes connected therewith. [Assented to, 15th December, 1943.]

Closer Settlement Amendment (Conversion).

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 :—

PART I.

PRELIMINARY.

Short title,
commence-
ment and
division
into Parts.

1. (1) This Act may be cited as the "Closer Settlement Amendment (Conversion) Act, 1943" and shall be read and construed with the Closer Settlement Acts.

(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall not be construed so as to affect the operation of the War Service Land Settlement Act, 1941, or to limit or take away any power or authority vested in the Minister or any other person by that Act.

(4) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—s. 1.

PART II.—CONVERSION OF SETTLEMENT PURCHASES AND SOLDIERS' GROUP PURCHASES INTO LEASES IN PERPETUITY—ss. 2-4.

PART III.—REDUCTION OF RENT OF HOMESTEAD FARMS (CONVERSIONS OF SETTLEMENT PURCHASES)—s. 5.

PART IV.—SETTING APART OF FORFEITED HOLDINGS AS LEASES IN PERPETUITY—ss. 6-9.

PART V.—GENERAL—ss. 10-15.

PART VI.—MISCELLANEOUS—ss. 16-23.

PART II.

CONVERSION OF SETTLEMENT PURCHASES AND SOLDIERS' GROUP PURCHASES INTO LEASES IN PERPETUITY.

Conversion.

2. (1) The holder or the owner (subject to mortgage) of any settlement purchase the title to which commenced before the fifteenth day of December, one thousand nine hundred

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hundred and thirty-seven or of any soldiers' group purchase the title to which commenced before the date of the commencement of this Act, may within one year from such date apply to convert such purchase into a lease in perpetuity, in accordance with the provisions of this Part.

In the case of an application under this section by the owner (subject to mortgage) the consent of the mortgagee to the application shall not be necessary.

(2) An application shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Closer Settlement Acts.

(3) The Minister may at his discretion grant or refuse any application, and where an application is granted the conversion shall be deemed to have taken effect as from the date of such granting.

(4) No application shall be granted by the Minister if he is of opinion, after report by an advisory board, that the lands held by the applicant and the spouse of the applicant substantially exceed a home maintenance area.

(5) The lease in perpetuity into which a settlement purchase is converted under this section shall be termed a "settlement purchase lease" and the lease in perpetuity into which a soldiers' group purchase is converted shall be termed a "group purchase lease."

(6) Where any purchase converted under this section is or, immediately before such conversion, was subject to a mortgage charge or other security—

- (a) the mortgagee or person holding or entitled to the benefit of the mortgage charge or other security shall be deemed to retain the rights, powers and remedies which are expressly or impliedly given to him by the mortgage charge or other security against the mortgagor and to have the same rights, powers, and remedies which are so expressly or impliedly given in respect of the settlement purchase lease or group purchase lease, as the case may be, as

he

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he had or would have had in respect of the purchase if the conversion had not been effected, and the covenants, conditions, stipulations and provisions of the mortgage charge or other security shall be deemed to apply to and to be capable of being enforced as if such mortgage charge or other security had been given or executed in respect of the settlement purchase lease or group purchase lease into which the purchase has been converted; and

- (b) if the mortgage charge or other security is constituted, wholly or in part, by a transfer registered in the books of the Department of Lands, such transfer shall be deemed to extend to the settlement purchase lease or group purchase lease into which the purchase is converted, in the same manner as it applied to the purchase so converted and such transfer shall be recorded in the books of that Department as a transfer of the settlement purchase lease or group purchase lease.

(7) The Minister may permit the withdrawal of an application at any time before granting, subject to payment by the applicant of the costs incurred in dealing with such application.

(8) Where an application under this section is granted payment of the amount which, on the day next preceding the date of the granting of the application, would be required to complete the purchase from the Crown of the settlement purchase or soldiers' group purchase, shall be waived.

In calculating the amount referred to in this subsection no account shall be taken of any amount payable in respect of stamp duty.

Annual rent.

3. (1) The annual rent for a settlement purchase lease or a group purchase lease shall be two and one-half per centum of the lesser of the following amounts:—

- (a) an amount equivalent to the sum which, on the day next preceding the date of granting of

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of the application for conversion, would be required to complete the purchase from the Crown of the settlement purchase or soldiers' group purchase;

- (b) an amount equivalent to the fair market value of the land as determined by an advisory board as at the date of application for conversion, calculated on a freehold basis, inclusive of all improvements, or, in a case where an advance was made to the applicant or his predecessor in title under section seven of the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, for the purpose of clearing, fencing, draining, water supply, grading and general improvement of the land or for the erection of buildings thereon, an amount equivalent to the fair market value of the land as so determined less the sum so advanced.

In calculating the amount referred to in paragraph (a) of this subsection no account shall be taken of any amount payable in respect of stamp duty.

If the applicant is dissatisfied with the determination of the advisory board under paragraph (b) of this subsection he may appeal therefrom to the local land board. Any such appeal shall be in the nature of a rehearing and shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts. The local land board shall have jurisdiction to hear and determine any such appeal.

Any such determination of a local land board may be the subject of an appeal or reference to the Land and Valuation Court and that Court shall have jurisdiction to hear and determine any such appeal or reference.

- (2) Rent in respect of a settlement purchase lease or a group purchase lease shall be payable annually in advance

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advance, the due date of payment being the last day of November in each year:

Provided that if such rent is paid within a period of two months from that day it shall be deemed to have been paid on the due date of payment:

Provided further that, in respect of the period from the date of granting of the application for conversion to the last day of November next succeeding, an adjustment of the rent shall be made and the amount of the rent as so adjusted shall be payable in advance, the due date of payment being the date of granting of the application; and any amount payable in respect of stamp duty on the settlement purchase or soldiers' group purchase shall also be payable on such due date of payment; but in either case if the amount payable is paid by the applicant within a period of two months from the date of the notice calling upon him for payment, it shall be deemed to have been paid on the due date of payment; and if, in either case, the amount payable is not paid within the said period of two months the Minister may cancel the granting of the application for conversion.

Conditions
of settle-
ment
purchase
lease or
group pur-
chase lease.

4. (1) A settlement purchase lease or a group purchase lease shall be subject to a condition of residence for a term of five years from the date of granting of the application for conversion, but such term shall be reduced by the period of residence performed in respect of the purchase of which it is a conversion.

(2) The Minister shall, at the date of granting of the application for conversion, determine which of the conditions then attaching to the purchase and binding on the applicant in pursuance of the provisions of the Closer Settlement Acts or the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, or of regulations made under any of those Acts, shall attach to the settlement purchase lease or the group purchase lease, as the case may be.

The conditions so determined shall attach accordingly and shall be binding upon the applicant and his successors in title.

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PART III.

REDUCTION OF RENT OF HOMESTEAD FARMS (CONVERSIONS
OF SETTLEMENT PURCHASES).

5. (1) Where before the commencement of the Crown Reduction
of rent.
Lands (Amendment) Act, 1917, a settlement purchase
was converted into a homestead farm, the holder of such
homestead farm may within one year from the commence-
ment of this Act apply for reduction of the annual rent
of such homestead farm in accordance with the pro-
visions of this Part.

(2) An application shall be made in the manner and
in or to the effect of the form and shall be accompanied
by the deposit prescribed by regulations made under the
Closer Settlement Acts.

(3) The Minister may at his discretion grant or
refuse any application.

(4) No application shall be granted by the Minister
if he is of opinion, after report by an advisory board,
that the lands held by the applicant and the spouse of
the applicant substantially exceed a home maintenance
area.

(5) Where any such application is granted the
annual rent of the homestead farm shall, as from the
date of such granting, be payable at the rate of two and
one-half per centum per annum of the capital value of
the land at such date.

(6) The provisions of section three of the Crown
Lands (Amendment) Act, 1932, as amended by subse-
quent Acts, shall not apply to the annual rent payable in
accordance with subsection five of this section.

(7) Where an application is granted under this
section in respect of a homestead farm, no application
to reconvert such homestead farm into a settlement pur-
chase in accordance with the provisions of section 194A
of the Crown Lands Consolidation Act, 1913, as amended
by subsequent Acts, shall be entertained.

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PART IV.

SETTING APART OF FORFEITED HOLDINGS AS LEASES IN PERPETUITY.

Application
of Part IV.

6. (1) Notwithstanding anything contained in any other Act land to which this Part applies may be dealt with and disposed of in accordance with the provisions of this Part.

(2) The land to which this Part applies shall be holdings of any of the following classes which have been forfeited:—

- (a) settlement purchases;
- (b) soldiers' group purchases;
- (c) settlement purchase leases;
- (d) group purchase leases;
- (e) closer settlement leases,

together with any adjacent Crown lands.

Setting
apart.

7. (1) Any land to which this Part applies may be set apart by notification in the Gazette by the Minister in accordance with this Part as a closer settlement lease area.

(2) Where land to which this Part applies is set apart under and subject to the provisions of subsection one of this section as a closer settlement lease area, such land shall be dealt with as follows:—

- (a) The Minister shall notify in the Gazette particulars of the farms available for disposal as closer settlement leases and of their respective areas, capital values and annual rents, and shall declare the farms available for application as from a date to be specified in the notification. He shall also in such notification set out what special conditions and restrictions shall attach to such farms:

Provided that any such condition or restriction may upon application made as prescribed by regulations made under the Closer Settlement Acts and for sufficient cause be modified by the local land board.

(b)

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- (b) Such setting apart shall have the effect of revoking any reserves or parts of reserves made under any Act within the boundaries of the land 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.
- (c) The Minister may at any time by notification in the Gazette modify, alter or revoke any setting apart of land as a closer settlement lease area.

8. On and after the date notified for that purpose any person who is qualified to apply for a settlement purchase under the Closer Settlement Acts may apply for any farm notified as available as a closer settlement lease. Applications for closer settlement leases.

The application shall be made in the manner and in or to the effect of the form prescribed by regulations made under the Closer Settlement Acts, and shall be accompanied by a deposit of one year's rent in advance.

The provisions of section twenty-eight of the Closer Settlement Act, 1904, as amended by subsequent Acts, and the regulations thereunder and the provisions of section ten of the Closer Settlement (Amendment) Act, 1916, as amended by subsequent Acts, shall, mutatis mutandis, apply to and in respect of any application made under this section.

9. (1) The title to a closer settlement lease shall commence from the date of application therefor, if valid, and shall be a lease in perpetuity. Closer settlement leases.

(2) Every such closer settlement lease shall be subject to the special conditions and restrictions (if any) which attach to the same pursuant to section seven of this Act, to such other conditions and restrictions relating to mining, cultivation, destruction of vermin and noxious weeds, insurance against fire, and other matters

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matters as may be prescribed by regulations made under the Closer Settlement Acts and to the following conditions and provisions:—

- (a) The annual rent for a closer settlement lease shall be two and one-half per centum of the capital value of the farm and shall be payable in advance, the due date of payment being the last day of November in each year:

Provided that if such rent is paid within a period of two months from that day it shall be deemed to have been paid on the due date of payment:

Provided further that an adjustment shall be made of the rent payable on the last day of November next succeeding the date of application for the closer settlement lease having regard to the period from such last day of November to the first anniversary of the date of such application.

- (b) A condition of residence on a closer settlement lease shall attach thereto for a term of five years, and shall be performed by the holder thereof for the time being, and residence shall commence within six months after the allowance of the application.
- (c) The holder of the closer settlement lease shall make substantial and permanent improvements on the land to the value of ten per centum of the capital value thereof, within two years from the date of commencement of the closer settlement lease, and to an additional fifteen per centum of such capital value within five years of such commencement. Existing improvements on the land shall to the amount of their value be held to fulfil this condition.

Boundary fencing shall be deemed to be an improvement within the meaning of this paragraph.

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PART V.

GENERAL.

10. After the expiration of the term of residence in respect of a settlement purchase lease or a group purchase lease or a closer settlement lease the local land board shall inquire whether all the conditions (other than payment of moneys due to the Crown) attaching to such settlement purchase lease or group purchase lease or closer settlement lease have been duly complied with; and if it is found by the local land board that all such conditions have been duly complied with, the Governor, upon payment of all such moneys, shall issue in the form prescribed by regulations made under the Closer Settlement Acts a grant of the settlement purchase lease or the group purchase lease or the closer settlement lease to the lessee, his heirs and assigns for ever: Issue of perpetual lease grant.

Provided that in any case where a certificate of fulfilment of conditions has been issued by the local land board in respect of the purchase of which a settlement purchase lease or group purchase lease is a conversion, a grant may be issued under this section in respect of the settlement purchase lease or group purchase lease without further inquiry by the local land board.

Any grant issued under this section shall contain—

- (a) a reservation of all minerals in the land;
- (b) the conditions which attach to the settlement purchase lease or group purchase lease pursuant to a determination of the Minister under subsection two of section four of this Act or which attach to the closer settlement lease pursuant to this Act; and
- (c) such other reservations and exceptions as may by the Governor be deemed expedient in the public interest.

11. (1) A settlement purchase lease or a group purchase lease or a closer settlement lease shall not be transferable (except by way of mortgage or release of mortgage) to a person who at the date of the proposed transfer Restrictions on transfer.

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transfer already holds an area of land which, when added to the area proposed to be acquired by transfer, will in the opinion of the Minister substantially exceed a home maintenance area.

(2) Application for permission to transfer (except by way of mortgage or release of mortgage) or otherwise deal with a settlement purchase lease or a group purchase lease or a closer settlement lease shall be made to the Minister in the form prescribed by regulations made under the Closer Settlement Acts and such transfer or other dealing shall not be effected, or if effected shall not be valid, unless the consent thereto of the Minister has been obtained.

The Minister shall have discretion to give or refuse such consent.

cf. Act
No. 16, 1943
(N.Z.),
s. 50 (3).

(3) Without prejudice to the generality of the discretion conferred on the Minister by subsection two of this section the Minister shall, in considering any such application for permission, have regard to the desirability of preventing undue increases in the price of land and its use for speculative or uneconomic purposes, taking into account the circumstances of the particular case and all other relevant considerations including in particular the following matters—

- (a) the amount of the purchase money, rent or other consideration to be paid and the extent to which it exceeds the fair market value of the land or the rent or other consideration appropriate to that fair market value;
- (b) the terms of the transaction, and the terms of any other transaction in any way related thereto.

Where upon consideration of the application and having regard to the matters referred to in this subsection the Minister is of opinion that consent to the transfer or other dealing should not be given he may refuse such consent:

Provided that the Minister shall refuse such consent where the amount of the purchase money, rent or other consideration

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consideration exceeds by ten per centum or more the fair market value of the land as determined by an advisory board or the rent or other consideration appropriate to the fair market value as so determined.

If either party to the transfer or other dealing is dissatisfied with the determination of the advisory board he may appeal therefrom to the local land board. Any such appeal shall be in the nature of a rehearing and shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts. The local land board shall have jurisdiction to hear and determine any such appeal.

Any such determination of a local land board may be the subject of an appeal or reference to the Land and Valuation Court and the Court shall have jurisdiction to hear and determine any such appeal or reference.

Where an appeal is made to the local land board or an appeal or reference made to the Land and Valuation Court and the fair market value of the land as determined by the local land board or Court is in excess of the fair market value of the land as determined by the advisory board plus ten per centum thereof, the Minister shall refuse consent to the transfer if the price being paid by the proposed transferee as aforesaid is in excess of the fair market value as determined by the local land board or the Land and Valuation Court, as the case may be.

For the purposes of any comparison of purchase money, rent or other consideration with the fair market value of the land, which is required or authorised by this subsection, such adjustments shall be made of the amount of purchase money, rent, consideration or value as may be necessary to equate such amount to the amount which would be appropriate had the transfer or other dealing been on a freehold basis and had the fair market value been calculated on a freehold basis, and such comparison shall be made by reference to the amounts as so adjusted.

(4) Subject to this section, no person under the age of sixteen years, if a male, or under the age of twenty-one

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twenty-one years, if a female, shall be eligible to acquire or hold a settlement purchase lease or a group purchase lease or a closer settlement lease.

(5) If a settlement purchase lease or a group purchase lease or a closer settlement lease devolves under a will or intestacy upon a person who is not qualified under this section to hold the same, such person may nevertheless hold such settlement purchase lease or group purchase lease or closer settlement lease for a period of three years after the death of the testator or intestate, or for such further period as the Minister may permit. Within such period or further period such person may, upon application to the Minister, and on showing that he is then qualified under this section to hold the same, receive from the Minister a certificate to that effect, which shall entitle him to hold the settlement purchase lease or group purchase lease or closer settlement lease; or such person may, subject to this section, sell and transfer the settlement purchase lease or group purchase lease or closer settlement lease.

If by the provisions of the will or by law such person has power to sell the settlement purchase lease or group purchase lease or closer settlement lease, the sale may be effected under such power; in any other case the sale may be effected with the consent of all persons beneficially entitled to the settlement purchase lease or group purchase lease or closer settlement lease, or by order of the Supreme Court in its equitable jurisdiction, which may be obtained in the manner prescribed by rules of court, or until such rules are made, by summons in chambers.

If such person does not within such period or further period obtain the certificate of the Minister as aforesaid nor transfer the settlement purchase lease or group purchase lease or closer settlement lease as aforesaid, the same shall be liable to be forfeited.

(6) It shall be competent for two or more persons who are not subject jointly or severally to any disqualification in that behalf specified in this section to acquire by transfer

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transfer and to hold a settlement purchase lease or a group purchase lease or a closer settlement lease, but only after the issue of the certificate of fulfilment of conditions in respect of the settlement purchase lease or the group purchase lease, or in respect of the purchase of which the same is a conversion, or in respect of the closer settlement lease.

(7) Any execution creditor who has seized under process of any court any settlement purchase lease or group purchase lease or closer settlement lease, and has offered the same for sale by public auction if the debtor's interest in the land is not then sold to a bona fide purchaser who must be a person qualified to hold a settlement purchase lease or a group purchase lease or a closer settlement lease under this section, may, in the manner prescribed by regulations made under the Closer Settlement Acts, go into possession of the settlement purchase lease or group purchase lease or closer settlement lease.

If a condition of residence attaches to the settlement purchase lease or group purchase lease or closer settlement lease such condition shall, for a period of two years after the commencement of such possession, or for such further period as shall be approved by the Minister, be deemed to be fulfilled, if a nominee of such execution creditor, to be approved by the chairman of the local land board, resides upon the settlement purchase lease or group purchase lease or closer settlement lease.

The said execution creditor shall, within two years after the commencement of such possession, or within such further period as shall be approved by the Minister, sell the said debtor's interest in the settlement purchase lease or group purchase lease or closer settlement lease to a bona fide purchaser. Such purchaser must be a person qualified to hold a settlement purchase lease or a group purchase lease or a closer settlement lease under this section, and shall be subject to all conditions affecting the debtor.

In

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In default of sale within such period or further period the settlement purchase lease or group purchase lease or closer settlement lease shall be liable to be forfeited.

(8) If any settlement purchase lease or group purchase lease or closer settlement lease is mortgaged and the mortgagee enters into possession of the same under his mortgage, he may hold the same for a period of two years after the date of his entering into possession as aforesaid, or for such further period as the Minister may permit.

Every mortgagee who enters into possession of a settlement purchase lease or group purchase lease or closer settlement lease shall, within a period of twenty-eight days after the date of entering into possession, notify the Minister of such entry, and in default of notice within such period the settlement purchase lease or group purchase lease or closer settlement lease shall be liable to be forfeited.

But the mortgagee shall not, notwithstanding the terms of his mortgage, so enter into possession of the mortgaged settlement purchase lease or group purchase lease or closer settlement lease more than once, except by permission of the Minister.

Such mortgagee shall not foreclose the mortgage except with the consent of the Minister. Such consent shall be applied for and may be given or refused, as in the case of a sale; and the provisions of subsection two of this section shall apply thereto.

Such mortgagee shall not transfer the settlement purchase lease or group purchase lease or closer settlement lease except in accordance with this section or by way of discharge of mortgage.

If within such period or further period the mortgagee does not obtain the certificate of the Minister to a foreclosure, or does not transfer the settlement purchase lease or group purchase lease or closer settlement lease in accordance with this section, the same shall be liable to be forfeited.

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A foreclosure or transfer in contravention of this section shall be void and any agreement or contract for the sale of any settlement purchase lease or group purchase lease or closer settlement lease made without the permission of the Minister shall render such settlement purchase lease or group purchase lease or closer settlement lease liable to be forfeited if such agreement or contract is not submitted for the approval of the Minister within three months from date of execution thereof.

The fact that the mortgagee or some person by his authority occupies or uses any part of the mortgaged settlement purchase lease or group purchase lease or closer settlement lease shall be prima facie evidence that the mortgagee has entered into possession of the settlement purchase lease or group purchase lease or closer settlement lease under the mortgage.

(9) (a) An alien may acquire and hold a settlement purchase lease or a group purchase lease or a closer settlement lease, but shall become naturalised within a period of five years after acquiring such lease. If, however, such alien fails to become naturalised within such period, he shall absolutely forfeit all his interest in such settlement purchase lease or group purchase lease or closer settlement lease and the land shall vest in His Majesty the King, and shall thereafter be dealt with and disposed of under the provisions of this Act or the Closer Settlement Acts, and in no other way.

The land shall not be open to any application until again notified for the purpose.

(b) Nothing contained in this Act shall prejudice the rights of any of the subjects of a foreign power between which and the United Kingdom of Great Britain and Northern 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.

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(10) The provisions of this section shall not cease to apply after the issue of a perpetual lease grant, and no transfer or other dealing or conveyance or assignment in contravention of such provisions shall be valid for any purpose whatsoever.

Special provisions relating to transfers.

12. (1) (a) The transfer before grant of a settlement purchase lease or a group purchase lease or a closer settlement lease shall be effected in the form and manner prescribed by regulations made under the Closer Settlement Acts.

(b) The provisions of subsection two of section two hundred and fifty-nine, and the provisions of section two hundred and sixty-one of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall, mutatis mutandis, extend to and in respect of any such transfer.

(2) No transfer of the lands described in the grant of a settlement purchase lease or a group purchase lease or a closer settlement lease shall be registered by the Registrar-General unless the Minister certifies in the form prescribed by regulations made under the Closer Settlement Acts that all the conditions of the grant have been duly performed up to the date of such certificate, and the registration of such transfer shall be evidence of the performance of all the conditions under the grant up to the date of the aforesaid certificate.

Application of certain provisions of other Acts.

13. Sections thirty-three, thirty-five, 35A, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, and fifty-two of the Closer Settlement Act, 1904, subsections three and (3A) of section twenty-one and section twenty-two of the Closer Settlement (Amendment) Act, 1909, section twelve of the Closer Settlement (Amendment) Act, 1914, section three of the Closer Settlement (Amendment) Act, 1918, and paragraph (b) of section three of the Closer Settlement (Amendment) Act, 1937, sections one hundred and seventy-eight, one hundred and eighty, 194c, two hundred and thirty-one, two hundred and forty, two hundred and fifty-one, two hundred

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hundred and fifty-seven, two hundred and seventy-six, and two hundred and seventy-seven of the Crown Lands Consolidation Act, 1913, and section four of the Crown Lands (Amendment) Act, 1932, as amended respectively by subsequent Acts, shall mutatis mutandis apply to settlement purchase leases group purchase leases and closer settlement leases under this Act.

14. (1) A settlement purchase lease or a group purchase lease or a closer settlement lease shall be liable to be forfeited if any rent is not paid by the due date or upon breach of any condition attached to such settlement purchase lease or group purchase lease or closer settlement lease, but no forfeiture shall operate to extinguish any debt to the Crown in respect of such rent.

Forfeiture.
cf. Act No.
7, 1913,
s. 204.

(2) Where any settlement purchase lease or group purchase lease or closer settlement lease becomes liable to be forfeited in pursuance of the provisions of this Act, such forfeiture may be declared by the Minister by notification in the Gazette. On such notification all moneys paid in connection with the settlement purchase lease or group purchase lease or closer settlement lease shall be forfeited, and the title to the land shall vest in His Majesty the King and shall thereafter be dealt with and disposed of under the provisions of this Act or the Closer Settlement Acts and in no other way.

The land shall not be open to any application until again notified for the purpose.

(3) The Minister may waive incurred forfeiture either unconditionally or subject to such conditions as he may think fit.

(4) The Minister may by notification in the Gazette reverse the forfeiture of any settlement purchase lease or group purchase lease or closer settlement lease declared under subsection two of this section, and such reversal of forfeiture shall relate back to the date when the declaration of such forfeiture was notified and shall have the same effect as if the forfeiture so reversed had never been declared.

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(5) The provisions of this section shall apply to and in respect of any settlement purchase lease or group purchase lease or closer settlement lease whether the perpetual lease grant for the same has or has not issued.

Forfeiture
of leases
subject to
securities
held by
Rural Bank.

15. Where a settlement purchase or soldiers' group purchase in respect of which any loan has been made by the Rural Bank Department of the Rural Bank of New South Wales or which is subject to any mortgage, charge or lien in favour of the said Bank is converted under Part II of this Act into a settlement purchase lease or a group purchase lease and such settlement purchase lease or group purchase lease is forfeited while such loan is still outstanding or such mortgage charge or lien is still in force, the following provisions shall have effect:—

(a) In the application of section sixty-nine of the Government Savings Bank Act, 1906, as amended by subsequent Acts, to and in respect of the sale by the said Bank of the settlement purchase lease or group purchase lease that section shall have and take effect as if subparagraph (i) of paragraph four thereof were omitted and the following paragraph were inserted in lieu thereof:—

(i) in payment to the Crown of a sum equal to the amount of one year's instalment on the settlement purchase or soldiers' group purchase prior to the date of conversion thereof.

(b) The amount by reference to which the annual rent for the settlement purchase lease or the group purchase lease so sold is to be calculated shall be an amount equivalent to the debt to the Crown on the settlement purchase or soldiers' group purchase for which a purchaser from the said Bank would have been liable if such settlement purchase or soldiers' group purchase had been forfeited on
the

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the day immediately preceding the date of granting of the application for conversion of the settlement purchase or soldiers' group purchase and had been sold on that day by the said Bank in pursuance of section sixty-nine of the Government Savings Bank Act, 1906, as amended by subsequent Acts.

The annual rent for the settlement purchase lease or the group purchase lease so sold shall, as from the date of the sale, be two and one-half per centum of such amount.

PART VI.

MISCELLANEOUS.

- 16.** (1) The Closer Settlement Act, 1904, as amended by subsequent Acts, is amended—
- (a) by inserting in section 31A after the word "tender" the words "or of any land (not being land within any area designed for village or township settlement) which having been offered for sale by tender and not sold was subsequently acquired from the Crown by purchase upon application under the provisions of section four of the Closer Settlement (Amendment) Act, 1914." Amendment of Act No. 37, 1904.
Sec. 31A.
(Transfers.)
- (b) by inserting next after section 31A the following new section:— New sec.
31B.
- 31B. The provisions of subsection two of section two hundred and fifty-nine and the provisions of section two hundred and sixty-one of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall, mutatis mutandis, extend to and in respect of transfers of the nature referred to in section 31A of this Act, executed after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943. Application of secs. 259 (2) & 261 of C.L.C. Act, 1913.

Closer Settlement Amendment (Conversion).

Amendment
of Act No.
21, 1916.

New sec. 10B.

Transfers
of group
purchases.

(2) The Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, is amended by inserting next after section 10A the following new section:—

10B. The provisions of the Closer Settlement Acts relating to the transfer of settlement purchases, and the regulations thereunder shall extend, *mutatis mutandis*, to a transfer of a holding in course of purchase under section 4B of this Act.

Validation.

17. (1) Any transfer—

- (a) of a settlement purchase, where such transfer was executed before the commencement of this Act (and whether executed before or after the commencement of the Crown Lands, Closer Settlement and Returned Soldiers Settlement (Amendment) Act, 1935) and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers; or
- (b) of any land (not being land within any area designed for village or township settlement) acquired from the Crown by purchase by tender, where such transfer was executed before the commencement of this Act, and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers; or
- (c) of any land (not being land within any area designed for village or township settlement) which having been offered for sale by tender and not sold was subsequently acquired from the Crown by purchase upon application under the provisions of section four of the Closer Settlement (Amendment) Act, 1914, where such transfer was executed before the commencement of this Act and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers

shall be deemed to have passed to the transferee the whole estate and interest, whether at law or in equity,
of

Closer Settlement Amendment (Conversion).

of the transferor in the land the subject of the transfer as effectually to all intents and purposes as if a conveyance or assignment under seal of such estate and interest to such transferee had been duly executed by such transferor.

(2) Any transfer executed before the commencement of this Act of a holding in course of purchase under section 4B of the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, and made in the form and manner prescribed by regulations made under the Crown Lands Consolidation Act, 1913, or the Closer Settlement Acts, relating to transfers, shall be deemed to have passed to the transferee the whole estate and interest, whether at law or in equity, of the transferor in the land the subject of the transfer as effectually to all intents and purposes as if a conveyance or assignment under seal of such estate and interest to such transferee had been duly executed by such transferor.

(3) The effect given to duly registered deeds and instruments affecting lands hereditaments and other property by section twelve of the Registration of Deeds Act, 1897, shall be deemed always to have been annexed and to have been incident to all transfers of the nature referred to in subsections one and two of this section if duly registered under the said Registration of Deeds Act, 1897, after the prescribed registration or record thereof in the books of the Department of Lands shall have been duly effected.

(4) Any variation of a form of transfer so prescribed, not being in matter of substance, shall be deemed not to have affected the validity or regularity of the transfer, and the provisions of this section shall extend to and in respect of any transfer made in a form so varied and which has been so registered and recorded.

(5) Any alteration of the law made by this section shall not affect any action or proceeding concluded before or pending at the commencement of this Act.

Closer Settlement Amendment (Conversion).

Further
amendment
of Act No.
37, 1904.
Sec. 35.
(Inquiries
as to
fulfilment
of
conditions.)

18. (1) The Closer Settlement Act, 1904, as amended by subsequent Acts, is further amended by omitting from section thirty-five the words "imposed by this Act on a settlement purchase" and by inserting in lieu thereof the words "imposed by or in pursuance of the Closer Settlement Acts on any purchase or lease or permit to occupy under those Acts."

Amendment
of Act No.
21, 1909.
Sec. 21.
(Land un-
suitable for
disposal
under Acts.)

(2) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is amended by inserting next after subsection six of section twenty-one the following new subsection:—

(6A) Where any land has been disposed of (whether before or after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943) under subsection six of this section then upon default being made in the due payment of moneys in accordance with such terms and conditions as are applicable with respect to such disposition or if all or any of such of the other terms and conditions as are applicable with respect to such disposition have not been or are not being complied with, the contract for sale or lease may be cancelled by the Minister by notification in the Gazette and all moneys paid in connection therewith shall thereupon become forfeited.

Amendment
of Act No.
7, 1914.
Sec. 4.
(After-
auction
sale or
lease at
■pset price.)

(3) The Closer Settlement (Amendment) Act, 1914, as amended by subsequent Acts, is amended—

(a) by omitting from subsection one of section four the words "the Governor may grant or the Minister may lease such land" and by inserting in lieu thereof the words "such land may be sold or leased";

(b) by omitting from the same subsection the words "and upon default of the due payment thereof the contract for sale may be cancelled and any moneys paid may be forfeited by notification in the Gazette";

(c)

Closer Settlement Amendment (Conversion).

- (c) by inserting at the end of the same subsection the following words:—

Upon default being made in the due payment of moneys or if all or any of the terms and conditions attaching to any purchase or lease under this subsection (whether made before or after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943) have not been or are not being complied with, the contract for such sale or lease may be cancelled by the Minister by notification in the Gazette and all moneys paid in connection therewith shall thereupon become forfeited, except to the extent that the Minister, in pursuance of subsection two of this section, directs that the whole or part thereof shall be credited or applied as payment in respect of the purchase of any other area.

19. (1) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is further amended by inserting at the end of subsection six of section twenty-one the following words:—

Further amendment of Act No. 21, 1909.

Sec. 21.

Subsection three of this section shall extend to and in respect of land disposed of under this subsection by way of sale in like manner as it applies to and in respect of settlement purchases.

(Land unsuitable for disposal under Acts.)

(2) The Closer Settlement (Amendment) Act, 1914, as amended by subsequent Acts, is further amended by inserting next after subsection one of section four the following new subsection:—

Further amendment of Act No. 7, 1914.

Sec. 4.

(1A) Subsection three of section twenty-one of the Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, shall extend to and in respect of land sold under subsection one of this section in like manner as it applies to and in respect of settlement purchases.

(After-auction sale or lease at upset price.)

Closer Settlement Amendment (Conversion).

Amendment
of Act No.
48, 1918.

Sec. 3.

(Subdivi-
sion of
settlement
purchases.)

20. The Closer Settlement (Amendment) Act, 1918, as amended by subsequent Acts, is amended—

- (a) by omitting from the short heading to section three the word “settlement”;
- (b) by omitting from section three the words “settlement purchase” wherever occurring and by inserting in lieu thereof the word “purchase”;
- (c) by inserting in the same section before the words “may make” the words and symbols “under the Closer Settlement Acts (not being a purchase of land within any area designed for village or township settlement)”;
- (d) by omitting from the same section the word “holding” and by inserting in lieu thereof the word “purchase.”

Amendment
of Act No.
74, 1912.

Sec. 7.

(Amounts of
deposits,
instalments,
and interest
on settle-
ment pur-
chases.)

21. (1) The Closer Settlement (Amendment) Act, 1912, as amended by subsequent Acts, is amended by inserting at the end of section seven the following words:—

or is a member of the forces or a discharged member of the forces within the meaning of the War Service Land Settlement Act, 1941, and where any such member of the forces or discharged member of the forces has paid a deposit in connection with an application for a settlement purchase after the commencement of the lastmentioned Act, the Minister may, upon application, grant a refund thereof.

Further
amendment
of Act No.
48, 1918.

Sec. 15.

(Vesting of
land in
applicant.)

(2) The Closer Settlement (Amendment) Act, 1918, as amended by subsequent Acts, is further amended by inserting in subsection one of section fifteen after the word “application” the following further proviso:—

Provided further that if an applicant under this Part of this Act is a member of the forces or a discharged member of the forces within the meaning of the War Service Land Settlement Act, 1941, no payment by way of deposit shall be required.

(3)

Closer Settlement Amendment (Conversion).

(3) The Crown Lands (Amendment) Act, 1932, Amendment of Act No. 69, 1932. as amended by subsequent Acts, is amended by inserting at the end of subsection one of section eighteen the following words:— Sec. 18.

This subsection shall not be construed as imposing an obligation to pay a deposit in connection with any settlement purchase in any case where, under the Closer Settlement Acts, no deposit is required. (Settlement purchases and group purchases; deposits, instalments, & interest.)

22. The Crown Lands (Amendment) Act, 1941, is amended by omitting from subsection two of section three the word "forty-three" wherever occurring and by inserting in lieu thereof the word "forty-five." Amendment of Act No. 66, 1941. Sec. 3. (Waiver of interest and rent.)

23. (1) The power to make regulations conferred by the Closer Settlement Acts shall extend to authorise the making under the Closer Settlement Acts of regulations not inconsistent with this Act prescribing all matters which, by this Act, are required or permitted to be so prescribed or which are necessary or convenient to be so prescribed for carrying out or giving effect to this Act. Regulations.

(2) In addition to the matters referred to in subsection one of this section regulations may be so made prescribing the application of any of the provisions of the Crown Lands Consolidation Act, 1913, the Closer Settlement Acts, the Returned Soldiers Settlement Act, 1916, the War Service Land Settlement Act, 1941, and any Act amending any of those Acts, to applications for, holdings comprising, and dealings with, settlement purchase leases group purchase leases or closer settlement leases.

By Authority:

ALFRED HENRY PETTIFER, Acting Government Printer, Sydney, 1943.

[1s.]

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of New South Wales.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 9 December, 1943.

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. 38, 1943.

An Act to make provision for the conversion of certain settlement purchases and soldiers' group purchases into leases in perpetuity; to make provision for reduction of rent of certain homestead farms; to make provision for the setting apart for disposal as leases in perpetuity of certain forfeited holdings; for these and other purposes to amend the Closer Settlement Acts and certain other Acts in certain respects; to validate certain transfers; and for purposes connected therewith. [Assented to, 15th December, 1943.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Closer Settlement Amendment (Conversion).

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 :—

PART I.

PRELIMINARY.

Short title,
commence-
ment and
division
into Parts.

1. (1) This Act may be cited as the "Closer Settlement Amendment (Conversion) Act, 1943" and shall be read and construed with the Closer Settlement Acts.

(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall not be construed so as to affect the operation of the War Service Land Settlement Act, 1941, or to limit or take away any power or authority vested in the Minister or any other person by that Act.

(4) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—s. 1.

PART II.—CONVERSION OF SETTLEMENT PURCHASES AND SOLDIERS' GROUP PURCHASES INTO LEASES IN PERPETUITY—ss. 2-4.

PART III.—REDUCTION OF RENT OF HOMESTEAD FARMS (CONVERSIONS OF SETTLEMENT PURCHASES)—s. 5.

PART IV.—SETTING APART OF FORFEITED HOLDINGS AS LEASES IN PERPETUITY—ss. 6-9.

PART V.—GENERAL—ss. 10-15.

PART VI.—MISCELLANEOUS—ss. 16-23.

PART II.

CONVERSION OF SETTLEMENT PURCHASES AND SOLDIERS'
GROUP PURCHASES INTO LEASES IN PERPETUITY.

Conversion.

2. (1) The holder or the owner (subject to mortgage) of any settlement purchase the title to which commenced before the fifteenth day of December, one thousand nine hundred

Closer Settlement Amendment (Conversion).

hundred and thirty-seven or of any soldiers' group purchase the title to which commenced before the date of the commencement of this Act, may within one year from such date apply to convert such purchase into a lease in perpetuity, in accordance with the provisions of this Part.

In the case of an application under this section by the owner (subject to mortgage) the consent of the mortgagee to the application shall not be necessary.

(2) An application shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Closer Settlement Acts.

(3) The Minister may at his discretion grant or refuse any application, and where an application is granted the conversion shall be deemed to have taken effect as from the date of such granting.

(4) No application shall be granted by the Minister if he is of opinion, after report by an advisory board, that the lands held by the applicant and the spouse of the applicant substantially exceed a home maintenance area.

(5) The lease in perpetuity into which a settlement purchase is converted under this section shall be termed a "settlement purchase lease" and the lease in perpetuity into which a soldiers' group purchase is converted shall be termed a "group purchase lease."

(6) Where any purchase converted under this section is or, immediately before such conversion, was subject to a mortgage charge or other security—

- (a) the mortgagee or person holding or entitled to the benefit of the mortgage charge or other security shall be deemed to retain the rights, powers and remedies which are expressly or impliedly given to him by the mortgage charge or other security against the mortgagor and to have the same rights, powers, and remedies which are so expressly or impliedly given in respect of the settlement purchase lease or group purchase lease, as the case may be, as

he

Closer Settlement Amendment (Conversion).

he had or would have had in respect of the purchase if the conversion had not been effected, and the covenants, conditions, stipulations and provisions of the mortgage charge or other security shall be deemed to apply to and to be capable of being enforced as if such mortgage charge or other security had been given or executed in respect of the settlement purchase lease or group purchase lease into which the purchase has been converted; and

- (b) if the mortgage charge or other security is constituted, wholly or in part, by a transfer registered in the books of the Department of Lands, such transfer shall be deemed to extend to the settlement purchase lease or group purchase lease into which the purchase is converted, in the same manner as it applied to the purchase so converted and such transfer shall be recorded in the books of that Department as a transfer of the settlement purchase lease or group purchase lease.

(7) The Minister may permit the withdrawal of an application at any time before granting, subject to payment by the applicant of the costs incurred in dealing with such application.

(8) Where an application under this section is granted payment of the amount which, on the day next preceding the date of the granting of the application, would be required to complete the purchase from the Crown of the settlement purchase or soldiers' group purchase, shall be waived.

In calculating the amount referred to in this subsection no account shall be taken of any amount payable in respect of stamp duty.

Annual rent. 3. (1) The annual rent for a settlement purchase lease or a group purchase lease shall be two and one-half per centum of the lesser of the following amounts:—

- (a) an amount equivalent to the sum which, on the day next preceding the date of granting
of

Closer Settlement Amendment (Conversion).

of the application for conversion, would be required to complete the purchase from the Crown of the settlement purchase or soldiers' group purchase;

- (b) an amount equivalent to the fair market value of the land as determined by an advisory board as at the date of application for conversion, calculated on a freehold basis, inclusive of all improvements, or, in a case where an advance was made to the applicant or his predecessor in title under section seven of the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, for the purpose of clearing, fencing, draining, water supply, grading and general improvement of the land or for the erection of buildings thereon, an amount equivalent to the fair market value of the land as so determined less the sum so advanced.

In calculating the amount referred to in paragraph (a) of this subsection no account shall be taken of any amount payable in respect of stamp duty.

If the applicant is dissatisfied with the determination of the advisory board under paragraph (b) of this subsection he may appeal therefrom to the local land board. Any such appeal shall be in the nature of a rehearing and shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts. The local land board shall have jurisdiction to hear and determine any such appeal.

Any such determination of a local land board may be the subject of an appeal or reference to the Land and Valuation Court and that Court shall have jurisdiction to hear and determine any such appeal or reference.

- (2) Rent in respect of a settlement purchase lease or a group purchase lease shall be payable annually in advance

Closer Settlement Amendment (Conversion).

advance, the due date of payment being the last day of November in each year:

Provided that if such rent is paid within a period of two months from that day it shall be deemed to have been paid on the due date of payment:

Provided further that, in respect of the period from the date of granting of the application for conversion to the last day of November next succeeding, an adjustment of the rent shall be made and the amount of the rent as so adjusted shall be payable in advance, the due date of payment being the date of granting of the application; and any amount payable in respect of stamp duty on the settlement purchase or soldiers' group purchase shall also be payable on such due date of payment; but in either case if the amount payable is paid by the applicant within a period of two months from the date of the notice calling upon him for payment, it shall be deemed to have been paid on the due date of payment; and if, in either case, the amount payable is not paid within the said period of two months the Minister may cancel the granting of the application for conversion.

Conditions
of settle-
ment
purchase
lease or
group pur-
chase lease.

4. (1) A settlement purchase lease or a group purchase lease shall be subject to a condition of residence for a term of five years from the date of granting of the application for conversion, but such term shall be reduced by the period of residence performed in respect of the purchase of which it is a conversion.

(2) The Minister shall, at the date of granting of the application for conversion, determine which of the conditions then attaching to the purchase and binding on the applicant in pursuance of the provisions of the Closer Settlement Acts or the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, or of regulations made under any of those Acts, shall attach to the settlement purchase lease or the group purchase lease, as the case may be.

The conditions so determined shall attach accordingly and shall be binding upon the applicant and his successors in title.

PART

Closer Settlement Amendment (Conversion).

PART III.

REDUCTION OF RENT OF HOMESTEAD FARMS (CONVERSIONS
OF SETTLEMENT PURCHASES).

5. (1) Where before the commencement of the Crown Lands (Amendment) Act, 1917, a settlement purchase was converted into a homestead farm, the holder of such homestead farm may within one year from the commencement of this Act apply for reduction of the annual rent of such homestead farm in accordance with the provisions of this Part. Reduction
of rent.

(2) An application shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Closer Settlement Acts.

(3) The Minister may at his discretion grant or refuse any application.

(4) No application shall be granted by the Minister if he is of opinion, after report by an advisory board, that the lands held by the applicant and the spouse of the applicant substantially exceed a home maintenance area.

(5) Where any such application is granted the annual rent of the homestead farm shall, as from the date of such granting, be payable at the rate of two and one-half per centum per annum of the capital value of the land at such date.

(6) The provisions of section three of the Crown Lands (Amendment) Act, 1932, as amended by subsequent Acts, shall not apply to the annual rent payable in accordance with subsection five of this section.

(7) Where an application is granted under this section in respect of a homestead farm, no application to reconvert such homestead farm into a settlement purchase in accordance with the provisions of section 194A of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall be entertained.

PART

Closer Settlement Amendment (Conversion).

PART IV.

SETTING APART OF FORFEITED HOLDINGS AS LEASES IN
PERPETUITY.

Application
of Part IV.

6. (1) Notwithstanding anything contained in any other Act land to which this Part applies may be dealt with and disposed of in accordance with the provisions of this Part.

(2) The land to which this Part applies shall be holdings of any of the following classes which have been forfeited:—

- (a) settlement purchases;
- (b) soldiers' group purchases;
- (c) settlement purchase leases;
- (d) group purchase leases;
- (e) closer settlement leases,

together with any adjacent Crown lands.

Setting
apart.

7. (1) Any land to which this Part applies may be set apart by notification in the Gazette by the Minister in accordance with this Part as a closer settlement lease area.

(2) Where land to which this Part applies is set apart under and subject to the provisions of subsection one of this section as a closer settlement lease area, such land shall be dealt with as follows:—

- (a) The Minister shall notify in the Gazette particulars of the farms available for disposal as closer settlement leases and of their respective areas, capital values and annual rents, and shall declare the farms available for application as from a date to be specified in the notification. He shall also in such notification set out what special conditions and restrictions shall attach to such farms:

Provided that any such condition or restriction may upon application made as prescribed by regulations made under the Closer Settlement Acts and for sufficient cause be modified by the local land board.

(b)

Closer Settlement Amendment (Conversion).

- (b) Such setting apart shall have the effect of revoking any reserves or parts of reserves made under any Act within the boundaries of the land 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.
- (c) The Minister may at any time by notification in the Gazette modify, alter or revoke any setting apart of land as a closer settlement lease area.

8. On and after the date notified for that purpose any person who is qualified to apply for a settlement purchase under the Closer Settlement Acts may apply for any farm notified as available as a closer settlement lease. Applications
for closer
settlement
leases.

The application shall be made in the manner and in or to the effect of the form prescribed by regulations made under the Closer Settlement Acts, and shall be accompanied by a deposit of one year's rent in advance.

The provisions of section twenty-eight of the Closer Settlement Act, 1904, as amended by subsequent Acts, and the regulations thereunder and the provisions of section ten of the Closer Settlement (Amendment) Act, 1916, as amended by subsequent Acts, shall, mutatis mutandis, apply to and in respect of any application made under this section.

9. (1) The title to a closer settlement lease shall commence from the date of application therefor, if valid, and shall be a lease in perpetuity. Closer
settlement
leases.

(2) Every such closer settlement lease shall be subject to the special conditions and restrictions (if any) which attach to the same pursuant to section seven of this Act, to such other conditions and restrictions relating to mining, cultivation, destruction of vermin and noxious weeds, insurance against fire, and other matters

Closer Settlement Amendment (Conversion).

matters as may be prescribed by regulations made under the Closer Settlement Acts and to the following conditions and provisions:—

- (a) The annual rent for a closer settlement lease shall be two and one-half per centum of the capital value of the farm and shall be payable in advance, the due date of payment being the last day of November in each year:

Provided that if such rent is paid within a period of two months from that day it shall be deemed to have been paid on the due date of payment:

Provided further that an adjustment shall be made of the rent payable on the last day of November next succeeding the date of application for the closer settlement lease having regard to the period from such last day of November to the first anniversary of the date of such application.

- (b) A condition of residence on a closer settlement lease shall attach thereto for a term of five years, and shall be performed by the holder thereof for the time being, and residence shall commence within six months after the allowance of the application.
- (c) The holder of the closer settlement lease shall make substantial and permanent improvements on the land to the value of ten per centum of the capital value thereof, within two years from the date of commencement of the closer settlement lease, and to an additional fifteen per centum of such capital value within five years of such commencement. Existing improvements on the land shall to the amount of their value be held to fulfil this condition.

Boundary fencing shall be deemed to be an improvement within the meaning of this paragraph.

PART

Closer Settlement Amendment (Conversion).

PART V.

GENERAL.

10. After the expiration of the term of residence in respect of a settlement purchase lease or a group purchase lease or a closer settlement lease the local land board shall inquire whether all the conditions (other than payment of moneys due to the Crown) attaching to such settlement purchase lease or group purchase lease or closer settlement lease have been duly complied with; and if it is found by the local land board that all such conditions have been duly complied with, the Governor, upon payment of all such moneys, shall issue in the form prescribed by regulations made under the Closer Settlement Acts a grant of the settlement purchase lease or the group purchase lease or the closer settlement lease to the lessee, his heirs and assigns for ever: Issue of
perpetual
lease grant.

Provided that in any case where a certificate of fulfilment of conditions has been issued by the local land board in respect of the purchase of which a settlement purchase lease or group purchase lease is a conversion, a grant may be issued under this section in respect of the settlement purchase lease or group purchase lease without further inquiry by the local land board.

Any grant issued under this section shall contain—

- (a) a reservation of all minerals in the land;
- (b) the conditions which attach to the settlement purchase lease or group purchase lease pursuant to a determination of the Minister under subsection two of section four of this Act or which attach to the closer settlement lease pursuant to this Act; and
- (c) such other reservations and exceptions as may by the Governor be deemed expedient in the public interest.

11. (1) A settlement purchase lease or a group purchase lease or a closer settlement lease shall not be transferable (except by way of mortgage or release of mortgage) to a person who at the date of the proposed transfer Restrictions
on transfer.

Closer Settlement Amendment (Conversion).

transfer already holds an area of land which, when added to the area proposed to be acquired by transfer, will in the opinion of the Minister substantially exceed a home maintenance area.

(2) Application for permission to transfer (except by way of mortgage or release of mortgage) or otherwise deal with a settlement purchase lease or a group purchase lease or a closer settlement lease shall be made to the Minister in the form prescribed by regulations made under the Closer Settlement Acts and such transfer or other dealing shall not be effected, or if effected shall not be valid, unless the consent thereto of the Minister has been obtained.

The Minister shall have discretion to give or refuse such consent.

cf. Act
No. 16, 1943
(N.Z.),
s. 50 (3).

(3) Without prejudice to the generality of the discretion conferred on the Minister by subsection two of this section the Minister shall, in considering any such application for permission, have regard to the desirability of preventing undue increases in the price of land and its use for speculative or uneconomic purposes, taking into account the circumstances of the particular case and all other relevant considerations including in particular the following matters—

- (a) the amount of the purchase money, rent or other consideration to be paid and the extent to which it exceeds the fair market value of the land or the rent or other consideration appropriate to that fair market value;
- (b) the terms of the transaction, and the terms of any other transaction in any way related thereto.

Where upon consideration of the application and having regard to the matters referred to in this subsection the Minister is of opinion that consent to the transfer or other dealing should not be given he may refuse such consent:

Provided that the Minister shall refuse such consent where the amount of the purchase money, rent or other consideration

Closer Settlement Amendment (Conversion).

consideration exceeds by ten per centum or more the fair market value of the land as determined by an advisory board or the rent or other consideration appropriate to the fair market value as so determined.

If either party to the transfer or other dealing is dissatisfied with the determination of the advisory board he may appeal therefrom to the local land board. Any such appeal shall be in the nature of a rehearing and shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts. The local land board shall have jurisdiction to hear and determine any such appeal.

Any such determination of a local land board may be the subject of an appeal or reference to the Land and Valuation Court and the Court shall have jurisdiction to hear and determine any such appeal or reference.

Where an appeal is made to the local land board or an appeal or reference made to the Land and Valuation Court and the fair market value of the land as determined by the local land board or Court is in excess of the fair market value of the land as determined by the advisory board plus ten per centum thereof, the Minister shall refuse consent to the transfer if the price being paid by the proposed transferee as aforesaid is in excess of the fair market value as determined by the local land board or the Land and Valuation Court, as the case may be.

For the purposes of any comparison of purchase money, rent or other consideration with the fair market value of the land, which is required or authorised by this subsection, such adjustments shall be made of the amount of purchase money, rent, consideration or value as may be necessary to equate such amount to the amount which would be appropriate had the transfer or other dealing been on a freehold basis and had the fair market value been calculated on a freehold basis, and such comparison shall be made by reference to the amounts as so adjusted.

(4) Subject to this section, no person under the age of sixteen years, if a male, or under the age of twenty-one

Closer Settlement Amendment (Conversion).

twenty-one years, if a female, shall be eligible to acquire or hold a settlement purchase lease or a group purchase lease or a closer settlement lease.

(5) If a settlement purchase lease or a group purchase lease or a closer settlement lease devolves under a will or intestacy upon a person who is not qualified under this section to hold the same, such person may nevertheless hold such settlement purchase lease or group purchase lease or closer settlement lease for a period of three years after the death of the testator or intestate, or for such further period as the Minister may permit. Within such period or further period such person may, upon application to the Minister, and on showing that he is then qualified under this section to hold the same, receive from the Minister a certificate to that effect, which shall entitle him to hold the settlement purchase lease or group purchase lease or closer settlement lease; or such person may, subject to this section, sell and transfer the settlement purchase lease or group purchase lease or closer settlement lease.

If by the provisions of the will or by law such person has power to sell the settlement purchase lease or group purchase lease or closer settlement lease, the sale may be effected under such power; in any other case the sale may be effected with the consent of all persons beneficially entitled to the settlement purchase lease or group purchase lease or closer settlement lease, or by order of the Supreme Court in its equitable jurisdiction, which may be obtained in the manner prescribed by rules of court, or until such rules are made, by summons in chambers.

If such person does not within such period or further period obtain the certificate of the Minister as aforesaid nor transfer the settlement purchase lease or group purchase lease or closer settlement lease as aforesaid, the same shall be liable to be forfeited.

(6) It shall be competent for two or more persons who are not subject jointly or severally to any disqualification in that behalf specified in this section to acquire by
transfer

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transfer and to hold a settlement purchase lease or a group purchase lease or a closer settlement lease, but only after the issue of the certificate of fulfilment of conditions in respect of the settlement purchase lease or the group purchase lease, or in respect of the purchase of which the same is a conversion, or in respect of the closer settlement lease.

(7) Any execution creditor who has seized under process of any court any settlement purchase lease or group purchase lease or closer settlement lease, and has offered the same for sale by public auction if the debtor's interest in the land is not then sold to a bona fide purchaser who must be a person qualified to hold a settlement purchase lease or a group purchase lease or a closer settlement lease under this section, may, in the manner prescribed by regulations made under the Closer Settlement Acts, go into possession of the settlement purchase lease or group purchase lease or closer settlement lease.

If a condition of residence attaches to the settlement purchase lease or group purchase lease or closer settlement lease such condition shall, for a period of two years after the commencement of such possession, or for such further period as shall be approved by the Minister, be deemed to be fulfilled, if a nominee of such execution creditor, to be approved by the chairman of the local land board, resides upon the settlement purchase lease or group purchase lease or closer settlement lease.

The said execution creditor shall, within two years after the commencement of such possession, or within such further period as shall be approved by the Minister, sell the said debtor's interest in the settlement purchase lease or group purchase lease or closer settlement lease to a bona fide purchaser. Such purchaser must be a person qualified to hold a settlement purchase lease or a group purchase lease or a closer settlement lease under this section, and shall be subject to all conditions affecting the debtor.

In

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In default of sale within such period or further period the settlement purchase lease or group purchase lease or closer settlement lease shall be liable to be forfeited.

(8) If any settlement purchase lease or group purchase lease or closer settlement lease is mortgaged and the mortgagee enters into possession of the same under his mortgage, he may hold the same for a period of two years after the date of his entering into possession as aforesaid, or for such further period as the Minister may permit.

Every mortgagee who enters into possession of a settlement purchase lease or group purchase lease or closer settlement lease shall, within a period of twenty-eight days after the date of entering into possession, notify the Minister of such entry, and in default of notice within such period the settlement purchase lease or group purchase lease or closer settlement lease shall be liable to be forfeited.

But the mortgagee shall not, notwithstanding the terms of his mortgage, so enter into possession of the mortgaged settlement purchase lease or group purchase lease or closer settlement lease more than once, except by permission of the Minister.

Such mortgagee shall not foreclose the mortgage except with the consent of the Minister. Such consent shall be applied for and may be given or refused, as in the case of a sale; and the provisions of subsection two of this section shall apply thereto.

Such mortgagee shall not transfer the settlement purchase lease or group purchase lease or closer settlement lease except in accordance with this section or by way of discharge of mortgage.

If within such period or further period the mortgagee does not obtain the certificate of the Minister to a foreclosure, or does not transfer the settlement purchase lease or group purchase lease or closer settlement lease in accordance with this section, the same shall be liable to be forfeited.

A

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A foreclosure or transfer in contravention of this section shall be void and any agreement or contract for the sale of any settlement purchase lease or group purchase lease or closer settlement lease made without the permission of the Minister shall render such settlement purchase lease or group purchase lease or closer settlement lease liable to be forfeited if such agreement or contract is not submitted for the approval of the Minister within three months from date of execution thereof.

The fact that the mortgagee or some person by his authority occupies or uses any part of the mortgaged settlement purchase lease or group purchase lease or closer settlement lease shall be prima facie evidence that the mortgagee has entered into possession of the settlement purchase lease or group purchase lease or closer settlement lease under the mortgage.

(9) (a) An alien may acquire and hold a settlement purchase lease or a group purchase lease or a closer settlement lease, but shall become naturalised within a period of five years after acquiring such lease. If, however, such alien fails to become naturalised within such period, he shall absolutely forfeit all his interest in such settlement purchase lease or group purchase lease or closer settlement lease and the land shall vest in His Majesty the King, and shall thereafter be dealt with and disposed of under the provisions of this Act or the Closer Settlement Acts, and in no other way.

The land shall not be open to any application until again notified for the purpose.

(b) Nothing contained in this Act shall prejudice the rights of any of the subjects of a foreign power between which and the United Kingdom of Great Britain and Northern 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.

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(10) The provisions of this section shall not cease to apply after the issue of a perpetual lease grant, and no transfer or other dealing or conveyance or assignment in contravention of such provisions shall be valid for any purpose whatsoever.

Special
provisions
relating to
transfers.

12. (1) (a) The transfer before grant of a settlement purchase lease or a group purchase lease or a closer settlement lease shall be effected in the form and manner prescribed by regulations made under the Closer Settlement Acts.

(b) The provisions of subsection two of section two hundred and fifty-nine, and the provisions of section two hundred and sixty-one of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall, mutatis mutandis, extend to and in respect of any such transfer.

(2) No transfer of the lands described in the grant of a settlement purchase lease or a group purchase lease or a closer settlement lease shall be registered by the Registrar-General unless the Minister certifies in the form prescribed by regulations made under the Closer Settlement Acts that all the conditions of the grant have been duly performed up to the date of such certificate, and the registration of such transfer shall be evidence of the performance of all the conditions under the grant up to the date of the aforesaid certificate.

Application
of certain
provisions
of other
Acts.

13. Sections thirty-three, thirty-five, 35A, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, and fifty-two of the Closer Settlement Act, 1904, subsections three and (3A) of section twenty-one and section twenty-two of the Closer Settlement (Amendment) Act, 1909, section twelve of the Closer Settlement (Amendment) Act, 1914, section three of the Closer Settlement (Amendment) Act, 1918, and paragraph (b) of section three of the Closer Settlement (Amendment) Act, 1937, sections one hundred and seventy-eight, one hundred and eighty, 194c, two hundred and thirty-one, two hundred and forty, two hundred and fifty-one, two hundred

Closer Settlement Amendment (Conversion).

hundred and fifty-seven, two hundred and seventy-six, and two hundred and seventy-seven of the Crown Lands Consolidation Act, 1913, and section four of the Crown Lands (Amendment) Act, 1932, as amended respectively by subsequent Acts, shall mutatis mutandis apply to settlement purchase leases group purchase leases and closer settlement leases under this Act.

14. (1) A settlement purchase lease or a group purchase lease or a closer settlement lease shall be liable to be forfeited if any rent is not paid by the due date or upon breach of any condition attached to such settlement purchase lease or group purchase lease or closer settlement lease, but no forfeiture shall operate to extinguish any debt to the Crown in respect of such rent.

Forfeiture.
cf. Act No.
7, 1913,
s. 204.

(2) Where any settlement purchase lease or group purchase lease or closer settlement lease becomes liable to be forfeited in pursuance of the provisions of this Act, such forfeiture may be declared by the Minister by notification in the Gazette. On such notification all moneys paid in connection with the settlement purchase lease or group purchase lease or closer settlement lease shall be forfeited, and the title to the land shall vest in His Majesty the King and shall thereafter be dealt with and disposed of under the provisions of this Act or the Closer Settlement Acts and in no other way.

The land shall not be open to any application until again notified for the purpose.

(3) The Minister may waive incurred forfeiture either unconditionally or subject to such conditions as he may think fit.

(4) The Minister may by notification in the Gazette reverse the forfeiture of any settlement purchase lease or group purchase lease or closer settlement lease declared under subsection two of this section, and such reversal of forfeiture shall relate back to the date when the declaration of such forfeiture was notified and shall have the same effect as if the forfeiture so reversed had never been declared.

(5)

Closer Settlement Amendment (Conversion).

(5) The provisions of this section shall apply to and in respect of any settlement purchase lease or group purchase lease or closer settlement lease whether the perpetual lease grant for the same has or has not issued.

Forfeiture
of leases
subject to
securities
held by
Rural Bank.

15. Where a settlement purchase or soldiers' group purchase in respect of which any loan has been made by the Rural Bank Department of the Rural Bank of New South Wales or which is subject to any mortgage, charge or lien in favour of the said Bank is converted under Part II of this Act into a settlement purchase lease or a group purchase lease and such settlement purchase lease or group purchase lease is forfeited while such loan is still outstanding or such mortgage charge or lien is still in force, the following provisions shall have effect:—

(a) In the application of section sixty-nine of the Government Savings Bank Act, 1906, as amended by subsequent Acts, to and in respect of the sale by the said Bank of the settlement purchase lease or group purchase lease that section shall have and take effect as if subparagraph (i) of paragraph four thereof were omitted and the following paragraph were inserted in lieu thereof:—

(i) in payment to the Crown of a sum equal to the amount of one year's instalment on the settlement purchase or soldiers' group purchase prior to the date of conversion thereof.

(b) The amount by reference to which the annual rent for the settlement purchase lease or the group purchase lease so sold is to be calculated shall be an amount equivalent to the debt to the Crown on the settlement purchase or soldiers' group purchase for which a purchaser from the said Bank would have been liable if such settlement purchase or soldiers' group purchase had been forfeited on the

Closer Settlement Amendment (Conversion).

the day immediately preceding the date of granting of the application for conversion of the settlement purchase or soldiers' group purchase and had been sold on that day by the said Bank in pursuance of section sixty-nine of the Government Savings Bank Act, 1906, as amended by subsequent Acts.

The annual rent for the settlement purchase lease or the group purchase lease so sold shall, as from the date of the sale, be two and one-half per centum of such amount.

PART VI.

MISCELLANEOUS.

16. (1) The Closer Settlement Act, 1904, as amended by subsequent Acts, is amended—

Amendment
of Act No.
37, 1904.

- (a) by inserting in section 31A after the word "tender" the words "or of any land (not being land within any area designed for village or township settlement) which having been offered for sale by tender and not sold was subsequently acquired from the Crown by purchase upon application under the provisions of section four of the Closer Settlement (Amendment) Act, 1914."

Sec. 31A.
(Transfers.)

- (b) by inserting next after section 31A the following new section:—

New sec.
31B.

31B. The provisions of subsection two of section two hundred and fifty-nine and the provisions of section two hundred and sixty-one of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall, mutatis mutandis, extend to and in respect of transfers of the nature referred to in section 31A of this Act, executed after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943.

Application
of secs.
259 (2) &
261 of C.L.C.
Act, 1913.

Closer Settlement Amendment (Conversion).

Amendment
of Act No.
21, 1916.

New sec. 10B.

Transfers
of group
purchases.

(2) The Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, is amended by inserting next after section 10A the following new section:—

10B. The provisions of the Closer Settlement Acts relating to the transfer of settlement purchases, and the regulations thereunder shall extend, mutatis mutandis, to a transfer of a holding in course of purchase under section 4B of this Act.

Validation.

17. (1) Any transfer—

- (a) of a settlement purchase, where such transfer was executed before the commencement of this Act (and whether executed before or after the commencement of the Crown Lands, Closer Settlement and Returned Soldiers Settlement (Amendment) Act, 1935) and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers; or
- (b) of any land (not being land within any area designed for village or township settlement) acquired from the Crown by purchase by tender, where such transfer was executed before the commencement of this Act, and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers; or
- (c) of any land (not being land within any area designed for village or township settlement) which having been offered for sale by tender and not sold was subsequently acquired from the Crown by purchase upon application under the provisions of section four of the Closer Settlement (Amendment) Act, 1914, where such transfer was executed before the commencement of this Act and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers

shall be deemed to have passed to the transferee the whole estate and interest, whether at law or in equity,
of

Closer Settlement Amendment (Conversion).

of the transferor in the land the subject of the transfer as effectually to all intents and purposes as if a conveyance or assignment under seal of such estate and interest to such transferee had been duly executed by such transferor.

(2) Any transfer executed before the commencement of this Act of a holding in course of purchase under section 4B of the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, and made in the form and manner prescribed by regulations made under the Crown Lands Consolidation Act, 1913, or the Closer Settlement Acts, relating to transfers, shall be deemed to have passed to the transferee the whole estate and interest, whether at law or in equity, of the transferor in the land the subject of the transfer as effectually to all intents and purposes as if a conveyance or assignment under seal of such estate and interest to such transferee had been duly executed by such transferor.

(3) The effect given to duly registered deeds and instruments affecting lands hereditaments and other property by section twelve of the Registration of Deeds Act, 1897, shall be deemed always to have been annexed and to have been incident to all transfers of the nature referred to in subsections one and two of this section if duly registered under the said Registration of Deeds Act, 1897, after the prescribed registration or record thereof in the books of the Department of Lands shall have been duly effected.

(4) Any variation of a form of transfer so prescribed, not being in matter of substance, shall be deemed not to have affected the validity or regularity of the transfer, and the provisions of this section shall extend to and in respect of any transfer made in a form so varied and which has been so registered and recorded.

(5) Any alteration of the law made by this section shall not affect any action or proceeding concluded before or pending at the commencement of this Act.

Closer Settlement Amendment (Conversion).

Further amendment of Act No. 37, 1904. Sec. 35. (Inquiries as to fulfilment of conditions.)

18. (1) The Closer Settlement Act, 1904, as amended by subsequent Acts, is further amended by omitting from section thirty-five the words "imposed by this Act on a settlement purchase" and by inserting in lieu thereof the words "imposed by or in pursuance of the Closer Settlement Acts on any purchase or lease or permit to occupy under those Acts."

Amendment of Act No. 21, 1909. Sec. 21. (Land unsuitable for disposal under Acts.)

(2) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is amended by inserting next after subsection six of section twenty-one the following new subsection:—

(6A) Where any land has been disposed of (whether before or after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943) under subsection six of this section then upon default being made in the due payment of moneys in accordance with such terms and conditions as are applicable with respect to such disposition or if all or any of such of the other terms and conditions as are applicable with respect to such disposition have not been or are not being complied with, the contract for sale or lease may be cancelled by the Minister by notification in the Gazette and all moneys paid in connection therewith shall thereupon become forfeited.

Amendment of Act No. 7, 1914. Sec. 4. (After-auction sale or lease at upset price.)

(3) The Closer Settlement (Amendment) Act, 1914, as amended by subsequent Acts, is amended—

(a) by omitting from subsection one of section four the words "the Governor may grant or the Minister may lease such land" and by inserting in lieu thereof the words "such land may be sold or leased";

(b) by omitting from the same subsection the words "and upon default of the due payment thereof the contract for sale may be cancelled and any moneys paid may be forfeited by notification in the Gazette";

(c)

Closer Settlement Amendment (Conversion).

- (c) by inserting at the end of the same subsection the following words:—

Upon default being made in the due payment of moneys or if all or any of the terms and conditions attaching to any purchase or lease under this subsection (whether made before or after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943) have not been or are not being complied with, the contract for such sale or lease may be cancelled by the Minister by notification in the Gazette and all moneys paid in connection therewith shall thereupon become forfeited, except to the extent that the Minister, in pursuance of subsection two of this section, directs that the whole or part thereof shall be credited or applied as payment in respect of the purchase of any other area.

19. (1) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is further amended by inserting at the end of subsection six of section twenty-one the following words:—

Further amendment of Act No. 21, 1909.

Sec. 21.

Subsection three of this section shall extend to and in respect of land disposed of under this subsection by way of sale in like manner as it applies to and in respect of settlement purchases.

(Land unsuitable for disposal under Acts.)

(2) The Closer Settlement (Amendment) Act, 1914, as amended by subsequent Acts, is further amended by inserting next after subsection one of section four the following new subsection:—

Further amendment of Act No. 7, 1914.

Sec. 4.

(1A) Subsection three of section twenty-one of the Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, shall extend to and in respect of land sold under subsection one of this section in like manner as it applies to and in respect of settlement purchases.

(After-auction sale or lease at upset price.)

Closer Settlement Amendment (Conversion).

Amendment
of Act No.
48, 1918.

Sec. 3.
(Subdivi-
sion of
settlement
purchases.)

20. The Closer Settlement (Amendment) Act, 1918, as amended by subsequent Acts, is amended—

- (a) by omitting from the short heading to section three the word “settlement”;
- (b) by omitting from section three the words “settlement purchase” wherever occurring and by inserting in lieu thereof the word “purchase”;
- (c) by inserting in the same section before the words “may make” the words and symbols “under the Closer Settlement Acts (not being a purchase of land within any area designed for village or township settlement)”;
- (d) by omitting from the same section the word “holding” and by inserting in lieu thereof the word “purchase.”

Amendment
of Act No.
74, 1912.

Sec. 7.

(Amounts of
deposits,
instalments,
and interest
on settle-
ment pur-
chases.)

21. (1) The Closer Settlement (Amendment) Act, 1912, as amended by subsequent Acts, is amended by inserting at the end of section seven the following words:—

or is a member of the forces or a discharged member of the forces within the meaning of the War Service Land Settlement Act, 1941, and where any such member of the forces or discharged member of the forces has paid a deposit in connection with an application for a settlement purchase after the commencement of the lastmentioned Act, the Minister may, upon application, grant a refund thereof.

Further
amendment
of Act No.
48, 1918.

Sec. 15.

(Vesting of
land in
applicant.)

(2) The Closer Settlement (Amendment) Act, 1918, as amended by subsequent Acts, is further amended by inserting in subsection one of section fifteen after the word “application” the following further proviso:—

Provided further that if an applicant under this Part of this Act is a member of the forces or a discharged member of the forces within the meaning of the War Service Land Settlement Act, 1941, no payment by way of deposit shall be required.

(3)

Closer Settlement Amendment (Conversion).

(3) The Crown Lands (Amendment) Act, 1932, as amended by subsequent Acts, is amended by inserting at the end of subsection one of section eighteen the following words:—

This subsection shall not be construed as imposing an obligation to pay a deposit in connection with any settlement purchase in any case where, under the Closer Settlement Acts, no deposit is required.

Amendment
of Act No.
69, 1932.
Sec. 18.
(Settlement
purchases
and group
purchases;
deposits,
instalments,
& interest.)

22. The Crown Lands (Amendment) Act, 1941, is amended by omitting from subsection two of section three the word "forty-three" wherever occurring and by inserting in lieu thereof the word "forty-five."

Amendment of
Act No. 66,
1941.
Sec. 3.
(Waiver of
interest and
rent.)

23. (1) The power to make regulations conferred by the Closer Settlement Acts shall extend to authorise the making under the Closer Settlement Acts of regulations not inconsistent with this Act prescribing all matters which, by this Act, are required or permitted to be so prescribed or which are necessary or convenient to be so prescribed for carrying out or giving effect to this Act.

Regulations.

(2) In addition to the matters referred to in subsection one of this section regulations may be so made prescribing the application of any of the provisions of the Crown Lands Consolidation Act, 1913, the Closer Settlement Acts, the Returned Soldiers Settlement Act, 1916, the War Service Land Settlement Act, 1941, and any Act amending any of those Acts, to applications for, holdings comprising, and dealings with, settlement purchase leases group purchase leases or closer settlement leases.

In the name and on behalf of His Majesty I assent to this Act.

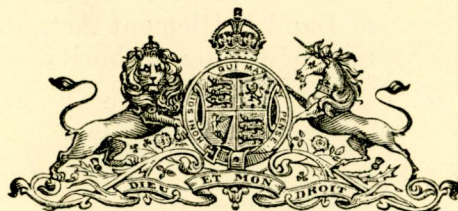
WAKEHURST,
Governor.

Government House,
Sydney, 15th December, 1943.

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 25 November, 1943.

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to make provision for the conversion of certain settlement purchases and soldiers' group purchases into leases in perpetuity; to make provision for reduction of rent of certain homestead farms; to make provision for the setting apart for disposal as leases in perpetuity of certain forfeited holdings; for these and other purposes to amend the Closer Settlement Acts and certain other Acts in certain respects; to validate certain transfers; and for purposes connected therewith.

Closer Settlement Amendment (Conversion).

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority of
5 the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Closer Settle-
ment Amendment (Conversion) Act, 1943" and shall be
10 read and construed with the Closer Settlement Acts.

Short title,
commence-
ment and
division
into Parts.

(2) This Act shall commence on a day to be
appointed by the Governor and notified by proclamation
published in the Gazette.

(3) This Act shall not be construed so as to affect
15 the operation of the War Service Land Settlement Act,
1941, or to limit or take away any power or authority
vested in the Minister or any other person by that Act.

(4) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—s. 1.

20 PART II.—CONVERSION OF SETTLEMENT PURCHASES
AND SOLDIERS' GROUP PURCHASES INTO LEASES IN
PERPETUITY—ss. 2-4.

PART III.—REDUCTION OF RENT OF HOMESTEAD
25 FARMS (CONVERSIONS OF SETTLEMENT PUR-
CHASES)—s. 5.

PART IV.—SETTING APART OF FORFEITED HOLDINGS
AS LEASES IN PERPETUITY—ss. 6-9.

PART V.—GENERAL—ss. 10-15.

PART VI.—MISCELLANEOUS—ss. 16-23.

PART II.

30

CONVERSION OF SETTLEMENT PURCHASES AND SOLDIERS'
GROUP PURCHASES INTO LEASES IN PERPETUITY.

2. (1) The holder or the owner (subject to mortgage) Conversion.
of any settlement purchase the title to which commenced
35 before the fifteenth day of December, one thousand nine
hundred

Closer Settlement Amendment (Conversion).

hundred and thirty-seven or of any soldiers' group purchase the title to which commenced before the date of the commencement of this Act, may within one year from such date apply to convert such purchase into a lease in
5 perpetuity, in accordance with the provisions of this Part.

In the case of an application under this section by the owner (subject to mortgage) the consent of the mortgagee to the application shall not be necessary.

(2) An application shall be made in the manner and
10 in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Closer Settlement Acts.

(3) The Minister may at his discretion grant or refuse any application, and where an application is
15 granted the conversion shall be deemed to have taken effect as from the date of such granting.

(4) No application shall be granted by the Minister if he is of opinion, after report by an advisory board, that the lands held by the applicant and the spouse of
20 the applicant substantially exceed a home maintenance area.

(5) The lease in perpetuity into which a settlement purchase is converted under this section shall be termed a "settlement purchase lease" and the lease in perpetuity
25 into which a soldiers' group purchase is converted shall be termed a "group purchase lease."

(6) Where any purchase converted under this section is or, immediately before such conversion, was subject to a mortgage charge or other security—

30 (a) the mortgagee or person holding or entitled to the benefit of the mortgage charge or other security shall be deemed to retain the rights, powers and remedies which are expressly or impliedly given to him by the mortgage charge
35 or other security against the mortgagor and to have the same rights, powers, and remedies which are so expressly or impliedly given in respect of the settlement purchase lease or group purchase lease, as the case may be, as

he

Closer Settlement Amendment (Conversion).

5 he had or would have had in respect of the
purchase if the conversion had not been effected,
and the covenants, conditions, stipulations and
provisions of the mortgage charge or other
security shall be deemed to apply to and to be
capable of being enforced as if such mortgage
charge or other security had been given or
executed in respect of the settlement purchase
lease or group purchase lease into which the
10 purchase has been converted; and

(b) if the mortgage charge or other security is
constituted, wholly or in part, by a transfer
registered in the books of the Department of
Lands, such transfer shall be deemed to extend
15 to the settlement purchase lease or group pur-
chase lease into which the purchase is converted,
in the same manner as it applied to the purchase
so converted and such transfer shall be recorded
in the books of that Department as a transfer
20 of the settlement purchase lease or group
purchase lease.

(7) The Minister may permit the withdrawal of an
application at any time before granting, subject to pay-
ment by the applicant of the costs incurred in dealing
25 with such application.

(8) Where an application under this section is
granted payment of the amount which, on the day next
preceding the date of the granting of the application,
would be required to complete the purchase from the
30 Crown of the settlement purchase or soldiers' group
purchase, shall be waived.

In calculating the amount referred to in this subsection
no account shall be taken of any amount payable in
respect of stamp duty.

35 **3.** (1) The annual rent for a settlement purchase lease or a group purchase lease shall be two and one-half per
centum of the lesser of the following amounts:—

(a) an amount equivalent to the sum which, on
the day next preceding the date of granting
of

Annual rent.

Closer Settlement Amendment (Conversion).

of the application for conversion, would be required to complete the purchase from the Crown of the settlement purchase or soldiers' group purchase;

- 5 (b) an amount equivalent to the fair market value of the land as determined by an advisory board as at the date of application for conversion, calculated on a freehold basis, inclusive of all improvements, or, in a case where an advance
10 was made to the applicant or his predecessor in title under section seven of the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, for the purpose of clearing, fencing, draining, water supply, grading and
15 general improvement of the land or for the erection of buildings thereon, an amount equivalent to the fair market value of the land as so determined less the sum so advanced.

In calculating the amount referred to in paragraph (a)
20 of this subsection no account shall be taken of any amount payable in respect of stamp duty.

- If the applicant is dissatisfied with the determination of the advisory board under paragraph (b) of this subsection he may appeal therefrom to the local land board.
25 Any such appeal shall be in the nature of a rehearing and shall be made in the manner and in or to the effect of the form and shall be accompanied by the deposit prescribed by regulations made under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.
30 The local land board shall have jurisdiction to hear and determine any such appeal.

Any such determination of a local land board may be the subject of an appeal or reference to the Land and Valuation Court and that Court shall have jurisdiction
35 to hear and determine any such appeal or reference.

(2) Rent in respect of a settlement purchase lease or a group purchase lease shall be payable annually in advance

Closer Settlement Amendment (Conversion).

advance, the due date of payment being the last day of November in each year:

Provided that if such rent is paid within a period of two months from that day it shall be deemed to have
5 been paid on the due date of payment:

Provided further that, in respect of the period from the date of granting of the application for conversion to the last day of November next succeeding, an adjustment of the rent shall be made and the amount of the rent as so
10 adjusted shall be payable in advance, the due date of payment being the date of granting of the application; and any amount payable in respect of stamp duty on the settlement purchase or soldiers' group purchase shall also be payable on such due date of payment; but in
15 either case if the amount payable is paid by the applicant within a period of two months from the date of the notice calling upon him for payment, it shall be deemed to have been paid on the due date of payment; and if, in either case, the amount payable is not paid within the
20 said period of two months the Minister may cancel the granting of the application for conversion.

4. (1) A settlement purchase lease or a group purchase lease shall be subject to a condition of residence for a term of five years from the date of granting of
25 the application for conversion, but such term shall be reduced by the period of residence performed in respect of the purchase of which it is a conversion.

Conditions
of settle-
ment
purchase
lease or
group pur-
chase lease.

(2) The Minister shall, at the date of granting of the application for conversion, determine which of the
30 conditions then attaching to the purchase and binding on the applicant in pursuance of the provisions of the Closer Settlement Acts or the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, or of regulations made under any of those Acts, shall attach to the settle-
35 ment purchase lease or the group purchase lease, as the case may be.

The conditions so determined shall attach accordingly and shall be binding upon the applicant and his successors in title.

PART

Closer Settlement Amendment (Conversion).

PART III.

REDUCTION OF RENT OF HOMESTEAD FARMS (CONVERSIONS
OF SETTLEMENT PURCHASES).

5 5. (1) Where before the commencement of the Crown Reduction
Lands (Amendment) Act, 1917, a settlement purchase of rent.
was converted into a homestead farm, the holder of such
homestead farm may within one year from the commence-
ment of this Act apply for reduction of the annual rent
of such homestead farm in accordance with the pro-
10 visions of this Part.

(2) An application shall be made in the manner and
in or to the effect of the form and shall be accompanied
by the deposit prescribed by regulations made under the
Closer Settlement Acts.

15 (3) The Minister may at his discretion grant or
refuse any application.

(4) No application shall be granted by the Minister
if he is of opinion, after report by an advisory board,
that the lands held by the applicant and the spouse of
20 the applicant substantially exceed a home maintenance
area.

(5) Where any such application is granted the
annual rent of the homestead farm shall, as from the
date of such granting, be payable at the rate of two and
25 one-half per centum per annum of the capital value of
the land at such date.

(6) The provisions of section three of the Crown
Lands (Amendment) Act, 1932, as amended by subse-
quent Acts, shall not apply to the annual rent payable in
30 accordance with subsection five of this section.

(7) Where an application is granted under this
section in respect of a homestead farm, no application
to reconvert such homestead farm into a settlement pur-
chase in accordance with the provisions of section 194A
35 of the Crown Lands Consolidation Act, 1913, as amended
by subsequent Acts, shall be entertained.

PART

Closer Settlement Amendment (Conversion).

PART IV.

SETTING APART OF FORFEITED HOLDINGS AS LEASES IN PERPETUITY.

6. (1) Notwithstanding anything contained in any Application of Part IV.
5 other Act land to which this Part applies may be dealt with and disposed of in accordance with the provisions of this Part.

(2) The land to which this Part applies shall be holdings of any of the following classes which have been
10 forfeited:—

- (a) settlement purchases;
- (b) soldiers' group purchases;
- (c) settlement purchase leases;
- (d) group purchase leases;
- 15 (e) closer settlement leases,

together with any adjacent Crown lands.

7. (1) Any land to which this Part applies may be set apart by notification in the Gazette by the Minister Setting apart.
in accordance with this Part as a closer settlement
20 lease area.

(2) Where land to which this Part applies is set apart under and subject to the provisions of subsection one of this section as a closer settlement lease area, such land shall be dealt with as follows:—

- 25 (a) The Minister shall notify in the Gazette particulars of the farms available for disposal as closer settlement leases and of their respective areas, capital values and annual rents, and shall declare the farms available for application
30 as from a date to be specified in the notification. He shall also in such notification set out what special conditions and restrictions shall attach to such farms:

35 Provided that any such condition or restriction may upon application made as prescribed by regulations made under the Closer Settlement Acts and for sufficient cause be modified by the local land board.

(b)

Closer Settlement Amendment (Conversion).

- (b) Such setting apart shall have the effect of revoking any reserves or parts of reserves made under any Act within the boundaries of the land 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.
- (c) The Minister may at any time by notification in the Gazette modify, alter or revoke any setting apart of land as a closer settlement lease area.

8. On and after the date notified for that purpose any person who is qualified to apply for a settlement purchase under the Closer Settlement Acts may apply for any farm notified as available as a closer settlement lease.

Applications
for closer
settlement
leases.

The application shall be made in the manner and in or to the effect of the form prescribed by regulations made under the Closer Settlement Acts, and shall be accompanied by a deposit of one year's rent in advance.

The provisions of section twenty-eight of the Closer Settlement Act, 1904, as amended by subsequent Acts, and the regulations thereunder and the provisions of section ten of the Closer Settlement (Amendment) Act, 1916, as amended by subsequent Acts, shall, mutatis mutandis, apply to and in respect of any application made under this section.

9. (1) The title to a closer settlement lease shall commence from the date of application therefor, if valid, and shall be a lease in perpetuity.

Closer
settlement
leases.

(2) Every such closer settlement lease shall be subject to the special conditions and restrictions (if any) which attach to the same pursuant to section seven of this Act, to such other conditions and restrictions relating to mining, cultivation, destruction of vermin and noxious weeds, insurance against fire, and other matters

Closer Settlement Amendment (Conversion).

matters as may be prescribed by regulations made under the Closer Settlement Acts and to the following conditions and provisions:—

- 5 (a) The annual rent for a closer settlement lease shall be two and one-half per centum of the capital value of the farm and shall be payable in advance, the due date of payment being the last day of November in each year:

10 Provided that if such rent is paid within a period of two months from that day it shall be deemed to have been paid on the due date of payment:

15 Provided further that an adjustment shall be made of the rent payable on the last day of November next succeeding the date of application for the closer settlement lease having regard to the period from such last day of November to the first anniversary of the date of such application.

- 20 (b) A condition of residence on a closer settlement lease shall attach thereto for a term of five years, and shall be performed by the holder thereof for the time being, and residence shall commence within six months after the allowance of the application.

- 25 (c) The holder of the closer settlement lease shall make substantial and permanent improvements on the land to the value of ten per centum of the capital value thereof, within two years from the date of commencement of the closer settlement lease, and to an additional fifteen per centum of such capital value within five years of such commencement. Existing improvements on the land shall to the amount of their value be held to fulfil this condition.

30 Boundary fencing shall be deemed to be an improvement within the meaning of this paragraph.

PART

Closer Settlement Amendment (Conversion).

PART V.

GENERAL.

10. After the expiration of the term of residence in respect of a settlement purchase lease or a group purchase lease or a closer settlement lease the local land board shall inquire whether all the conditions (other than payment of moneys due to the Crown) attaching to such settlement purchase lease or group purchase lease or closer settlement lease have been duly complied with; and if it is found by the local land board that all such conditions have been duly complied with, the Governor, upon payment of all such moneys, shall issue in the form prescribed by regulations made under the Closer Settlement Acts a grant of the settlement purchase lease or the group purchase lease or the closer settlement lease to the lessee, his heirs and assigns for ever:

Issue of
perpetual
lease grant.

- Provided that in any case where a certificate of fulfilment of conditions has been issued by the local land board in respect of the purchase of which a settlement purchase lease or group purchase lease is a conversion, a grant may be issued under this section in respect of the settlement purchase lease or group purchase lease without further inquiry by the local land board.

- Any grant issued under this section shall contain—
- (a) a reservation of all minerals in the land;
 - (b) the conditions which attach to the settlement purchase lease or group purchase lease pursuant to a determination of the Minister under subsection two of section four of this Act or which attach to the closer settlement lease pursuant to this Act; and
 - (c) such other reservations and exceptions as may by the Governor be deemed expedient in the public interest.

11. (1) A settlement purchase lease or a group purchase lease or a closer settlement lease shall not be transferable (except by way of mortgage or release of mortgage) to a person who at the date of the proposed transfer

Restrictions
on transfer.

Closer Settlement Amendment (Conversion).

transfer already holds an area of land which, when added to the area proposed to be acquired by transfer, will in the opinion of the Minister substantially exceed a home maintenance area.

- 5 (2) Application for permission to transfer (except by way of mortgage or release of mortgage) or otherwise deal with a settlement purchase lease or a group purchase lease or a closer settlement lease shall be made to the Minister in the form prescribed by regula-
 10 tions made under the Closer Settlement Acts and such transfer or other dealing shall not be effected, or if effected shall not be valid, unless the consent thereto of the Minister has been obtained.

The Minister shall have discretion to give or refuse
 15 such consent.

- (3) Without prejudice to the generality of the discretion conferred on the Minister by subsection two of this section the Minister shall, in considering any such application for permission, have regard to the desira-
 20 bility of preventing undue increases in the price of land and its use for speculative or uneconomic purposes, taking into account the circumstances of the particular case and all other relevant considerations including in particular the following matters—

- 25 (a) the amount of the purchase money, rent or other consideration to be paid and the extent to which it exceeds the fair market value of the land or the rent or other consideration appropriate to that fair market value;
 30 (b) the terms of the transaction, and the terms of any other transaction in any way related thereto.

Where upon consideration of the application and having regard to the matters referred to in this subsection
 35 the Minister is of opinion that consent to the transfer or other dealing should not be given he may refuse such consent:

Provided that the Minister shall refuse such consent where the amount of the purchase money, rent or other consideration

cf. Act
 No. 16, 1943
 (N.Z.),
 s.50(3).

Closer Settlement Amendment (Conversion).

consideration exceeds by ten per centum or more the fair market value of the land as determined by an advisory board or the rent or other consideration appropriate to the fair market value as so determined.

- 5 If either party to the transfer or other dealing is dissatisfied with the determination of the advisory board he may appeal therefrom to the local land board. Any such appeal shall be in the nature of a rehearing and shall be made in the manner and in or to the effect of the form
- 10 and shall be accompanied by the deposit prescribed by regulations made under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts. The local land board shall have jurisdiction to hear and determine any such appeal.
- 15 Any such determination of a local land board may be the subject of an appeal or reference to the Land and Valuation Court and the Court shall have jurisdiction to hear and determine any such appeal or reference.

Where an appeal is made to the local land board or an

20 appeal or reference made to the Land and Valuation Court and the fair market value of the land as determined by the local land board or Court is in excess of the fair market value of the land as determined by the advisory board plus ten per centum thereof, the Minister shall re-

25 fuse consent to the transfer if the price being paid by the proposed transferee as aforesaid is in excess of the fair market value as determined by the local land board or the Land and Valuation Court, as the case may be.

For the purposes of any comparison of purchase money,

30 rent or other consideration with the fair market value of the land, which is required or authorised by this subsection, such adjustments shall be made of the amount of purchase money, rent, consideration or value as may be necessary to equate such amount to the amount which

35 would be appropriate had the transfer or other dealing been on a freehold basis and had the fair market value been calculated on a freehold basis, and such comparison shall be made by reference to the amounts as so adjusted.

(4) Subject to this section, no person under the

40 age of sixteen years, if a male, or under the age of twenty-one

Closer Settlement Amendment (Conversion).

twenty-one years, if a female, shall be eligible to acquire or hold a settlement purchase lease or a group purchase lease or a closer settlement lease.

- (5) If a settlement purchase lease or a group
5 purchase lease or a closer settlement lease devolves
under a will or intestacy upon a person who is not
qualified under this section to hold the same, such person
may nevertheless hold such settlement purchase lease or
group purchase lease or closer settlement lease for a
10 period of three years after the death of the testator or
intestate, or for such further period as the Minister may
permit. Within such period or further period such
person may, upon application to the Minister, and on
showing that he is then qualified under this section to
15 hold the same, receive from the Minister a certificate
to that effect, which shall entitle him to hold the settle-
ment purchase lease or group purchase lease or closer
settlement lease; or such person may, subject to this
section, sell and transfer the settlement purchase lease
20 or group purchase lease or closer settlement lease.

- If by the provisions of the will or by law such person
has power to sell the settlement purchase lease or group
purchase lease or closer settlement lease, the sale may
be effected under such power; in any other case the sale
25 may be effected with the consent of all persons bene-
ficially entitled to the settlement purchase lease or group
purchase lease or closer settlement lease, or by order
of the Supreme Court in its equitable jurisdiction, which
may be obtained in the manner prescribed by rules of
30 court, or until such rules are made, by summons in
chambers.

- If such person does not within such period or further
period obtain the certificate of the Minister as aforesaid
nor transfer the settlement purchase lease or group
35 purchase lease or closer settlement lease as aforesaid,
the same shall be liable to be forfeited.

(6) It shall be competent for two or more persons
who are not subject jointly or severally to any disqualifica-
tion in that behalf specified in this section to acquire by
transfer

Closer Settlement Amendment (Conversion).

transfer and to hold a settlement purchase lease or a group purchase lease or a closer settlement lease, but only after the issue of the certificate of fulfilment of conditions in respect of the settlement purchase lease
5 or the group purchase lease, or in respect of the purchase of which the same is a conversion, or in respect of the closer settlement lease.

(7) Any execution creditor who has seized under process of any court any settlement purchase
10 lease or group purchase lease or closer settlement lease, and has offered the same for sale by public auction if the debtor's interest in the land is not then sold to a bona fide purchaser who must be a person qualified to hold a settlement purchase lease or a group purchase lease
15 or a closer settlement lease under this section, may, in the manner prescribed by regulations made under the Closer Settlement Acts, go into possession of the settlement purchase lease or group purchase lease or closer settlement lease.

20 If a condition of residence attaches to the settlement purchase lease or group purchase lease or closer settlement lease such condition shall, for a period of two years after the commencement of such possession, or for such further period as shall be approved by the Minister, be
25 deemed to be fulfilled, if a nominee of such execution creditor, to be approved by the chairman of the local land board, resides upon the settlement purchase lease or group purchase lease or closer settlement lease.

The said execution creditor shall, within two years
30 after the commencement of such possession, or within such further period as shall be approved by the Minister, sell the said debtor's interest in the settlement purchase lease or group purchase lease or closer settlement lease to a bona fide purchaser. Such purchaser must be a
35 person qualified to hold a settlement purchase lease or a group purchase lease or a closer settlement lease under this section, and shall be subject to all conditions affecting the debtor.

In

Closer Settlement Amendment (Conversion).

In default of sale within such period or further period the settlement purchase lease or group purchase lease or closer settlement lease shall be liable to be forfeited.

(8) If any settlement purchase lease or group
5 purchase lease or closer settlement lease is mortgaged
and the mortgagee enters into possession of the same
under his mortgage, he may hold the same for a period
of two years after the date of his entering into possession
as aforesaid, or for such further period as the
10 Minister may permit.

Every mortgagee who enters into possession of a
settlement purchase lease or group purchase lease or
closer settlement lease shall, within a period of twenty-
eight days after the date of entering into possession,
15 notify the Minister of such entry, and in default of notice
within such period the settlement purchase lease or group
purchase lease or closer settlement lease shall be liable
to be forfeited.

But the mortgagee shall not, notwithstanding the
20 terms of his mortgage, so enter into possession of the
mortgaged settlement purchase lease or group purchase
lease or closer settlement lease more than once, except
by permission of the Minister.

Such mortgagee shall not foreclose the mortgage
25 except with the consent of the Minister. Such consent
shall be applied for and may be given or refused, as
in the case of a sale; and the provisions of subsection
two of this section shall apply thereto.

Such mortgagee shall not transfer the settlement pur-
30 chase lease or group purchase lease or closer settlement
lease except in accordance with this section or by way
of discharge of mortgage.

If within such period or further period the mortgagee
does not obtain the certificate of the Minister to a fore-
35 clusurē, or does not transfer the settlement purchase
lease or group purchase lease or closer settlement lease
in accordance with this section, the same shall be liable
to be forfeited.

Closer Settlement Amendment (Conversion).

- A foreclosure or transfer in contravention of this section shall be void and any agreement or contract for the sale of any settlement purchase lease or group purchase lease or closer settlement lease made without the
- 5 permission of the Minister shall render such settlement purchase lease or group purchase lease or closer settlement lease liable to be forfeited if such agreement or contract is not submitted for the approval of the Minister within three months from date of execution thereof.
- 10 The fact that the mortgagee or some person by his authority occupies or uses any part of the mortgaged settlement purchase lease or group purchase lease or closer settlement lease shall be prima facie evidence that the mortgagee has entered into possession of the settle-
- 15 ment purchase lease or group purchase lease or closer settlement lease under the mortgage.

- (9) (a) An alien may acquire and hold a settlement purchase lease or a group purchase lease or a closer settlement lease, but shall become naturalised
- 20 within a period of five years after acquiring such lease. If, however, such alien fails to become naturalised within such period, he shall absolutely forfeit all his interest in such settlement purchase lease or group purchase lease or closer settlement lease and the land shall vest
- 25 in His Majesty the King, and shall thereafter be dealt with and disposed of under the provisions of this Act or the Closer Settlement Acts, and in no other way.

The land shall not be open to any application until again notified for the purpose.

- 30 (b) Nothing contained in this Act shall prejudice the rights of any of the subjects of a foreign power between which and the United Kingdom of Great Britain and Northern Ireland there is now subsisting, or may hereafter subsist, any treaty of commerce whereby the
- 35 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.

Closer Settlement Amendment (Conversion).

(10) The provisions of this section shall not cease to apply after the issue of a perpetual lease grant, and no transfer or other dealing or conveyance or assignment in contravention of such provisions shall be valid
5 for any purpose whatsoever.

12. (1) (a) The transfer before grant of a settle-
ment purchase lease or a group purchase lease or a
closer settlement lease shall be effected in the form and
manner prescribed by regulations made under the Closer
10 Settlement Acts.

Special
provisions
relating to
transfers.

(b) The provisions of subsection two of
section two hundred and fifty-nine, and the provisions of
section two hundred and sixty-one of the Crown Lands
Consolidation Act, 1913, as amended by subsequent
15 Acts, shall, mutatis mutandis, extend to and in respect
of any such transfer.

(2) No transfer of the lands described in the
grant of a settlement purchase lease or a group purchase
lease or a closer settlement lease shall be registered by
20 the Registrar-General unless the Minister certifies in the
form prescribed by regulations made under the Closer
Settlement Acts that all the conditions of the grant have
been duly performed up to the date of such certificate,
and the registration of such transfer shall be evidence
25 of the performance of all the conditions under the grant
up to the date of the aforesaid certificate.

13. Sections thirty-three, thirty-five, 35A, forty-six,
forty-seven, forty-eight, forty-nine, fifty, fifty-one, and
fifty-two of the Closer Settlement Act, 1904, subsections
30 three and (3A) of section twenty-one and section
twenty-two of the Closer Settlement (Amendment)
Act, 1909, section twelve of the Closer Settlement
(Amendment) Act, 1914, section three of the Closer
Settlement (Amendment) Act, 1918, and paragraph (b)
35 of section three of the Closer Settlement (Amendment)
Act, 1937, sections one hundred and seventy-eight, one
hundred and eighty, 194c, two hundred and thirty-one,
two hundred and forty, two hundred and fifty-one, two
hundred

Application
of certain
provisions
of other
Acts.

Closer Settlement Amendment (Conversion).

hundred and fifty-seven, two hundred and seventy-six, and two hundred and seventy-seven of the Crown Lands Consolidation Act, 1913, and section four of the Crown Lands (Amendment) Act, 1932, as amended respectively 5 by subsequent Acts, shall mutatis mutandis apply to settlement purchase leases group purchase leases and closer settlement leases under this Act.

14. (1) A settlement purchase lease or a group purchase lease or a closer settlement lease shall be liable 10 to be forfeited if any rent is not paid by the due date or upon breach of any condition attached to such settlement purchase lease or group purchase lease or closer settlement lease, but no forfeiture shall operate to extinguish any debt to the Crown in respect of such rent.

Forfeiture.
cf. Act No.
7, 1913,
s. 204.

15 (2) Where any settlement purchase lease or group purchase lease or closer settlement lease becomes liable to be forfeited in pursuance of the provisions of this Act, such forfeiture may be declared by the Minister by notification in the Gazette. On such notification all 20 moneys paid in connection with the settlement purchase lease or group purchase lease or closer settlement lease shall be forfeited, and the title to the land shall vest in His Majesty the King and shall thereafter be dealt with and disposed of under the provisions of this Act or the 25 Closer Settlement Acts and in no other way.

The land shall not be open to any application until again notified for the purpose.

(3) The Minister may waive incurred forfeiture either unconditionally or subject to such conditions as he 30 may think fit.

(4) The Minister may by notification in the Gazette reverse the forfeiture of any settlement purchase lease or group purchase lease or closer settlement lease declared under subsection two of this section, and such 35 reversal of forfeiture shall relate back to the date when the declaration of such forfeiture was notified and shall have the same effect as if the forfeiture so reversed had never been declared.

(5)

Closer Settlement Amendment (Conversion).

(5) The provisions of this section shall apply to and in respect of any settlement purchase lease or group purchase lease or closer settlement lease whether the perpetual lease grant for the same has or has not issued.

- 5 **15.** Where a settlement purchase or soldiers' group purchase in respect of which any loan has been made by the Rural Bank Department of the Rural Bank of New South Wales or which is subject to any mortgage, charge or lien in favour of the said Bank is converted under Part II of this Act into a settlement purchase lease or a group purchase lease and such settlement purchase lease or group purchase lease is forfeited while such loan is still outstanding or such mortgage charge or lien is still in force, the following provisions shall have effect:—
- 10
- 15

Forfeiture
of leases
subject to
securities
held by
Rural Bank.

- (a) In the application of section sixty-nine of the Government Savings Bank Act, 1906, as amended by subsequent Acts, to and in respect of the sale by the said Bank of the settlement purchase lease or group purchase lease that section shall have and take effect as if subparagraph (i) of paragraph four thereof were omitted and the following paragraph were inserted in lieu thereof:—
- 20

- (i) in payment to the Crown of a sum equal to the amount of one year's instalment on the settlement purchase or soldiers' group purchase prior to the date of conversion thereof.
- 25

- (b) The amount by reference to which the annual rent for the settlement purchase lease or the group purchase lease so sold is to be calculated shall be an amount equivalent to the debt to the Crown on the settlement purchase or soldiers' group purchase for which a purchaser from the said Bank would have been liable if such settlement purchase or soldiers' group purchase had been forfeited on
- 30
- 35

the

(c)

Closer Settlement Amendment (Conversion).

the day immediately preceding the date of granting of the application for conversion of the settlement purchase or soldiers' group purchase and had been sold on that day by the said Bank in pursuance of section sixty-nine of the Government Savings Bank Act, 1906, as amended by subsequent Acts.

The annual rent for the settlement purchase lease or the group purchase lease so sold shall, as from the date of the sale, be two and one-half per centum of such amount.

PART VI.

MISCELLANEOUS.

16. (1) The Closer Settlement Act, 1904, as amended by subsequent Acts, is amended—

Amendment
of Act No.
37, 1904.
Sec. 31A.
(Transfers.)

(a) by inserting in section 31A after the word "tender" the words "or of any land (not being land within any area designed for village or township settlement) which having been offered for sale by tender and not sold was subsequently acquired from the Crown by purchase upon application under the provisions of section four of the Closer Settlement (Amendment) Act, 1914."

(b) by inserting next after section 31A the following new section:—

New sec.
31B.

31B. The provisions of subsection two of section two hundred and fifty-nine and the provisions of section two hundred and sixty-one of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall, mutatis mutandis, extend to and in respect of transfers of the nature referred to in section 31A of this Act, executed after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943.

Application
of secs.
259 (2) &
261 of C.L.C.
Act, 1913.

Closer Settlement Amendment (Conversion).

(2) The Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, is amended by inserting next after section 10A the following new section:—

Amendment
of Act No.
21, 1916.
New sec. 10B.

5 10B. The provisions of the Closer Settlement Acts relating to the transfer of settlement purchases, and the regulations thereunder shall extend, mutatis mutandis, to a transfer of a holding in course of purchase under section 4B of this Act.

Transfers
of group
purchases.

17. (1) Any transfer—

Validation.

10 (a) of a settlement purchase, where such transfer was executed before the commencement of this Act (and whether executed before or after the commencement of the Crown Lands, Closer Settlement and Returned Soldiers Settlement (Amendment) Act, 1935) and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers; or

15 20 (b) of any land (not being land within any area designed for village or township settlement) acquired from the Crown by purchase by tender, where such transfer was executed before the commencement of this Act, and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers; or

25 30 (c) of any land (not being land within any area designed for village or township settlement) which having been offered for sale by tender and not sold was subsequently acquired from the Crown by purchase upon application under the provisions of section four of the Closer Settlement (Amendment) Act, 1914, where such transfer was executed before the commencement of this Act and was made in the form and manner prescribed by regulations made under the Closer Settlement Acts relating to transfers

35 shall be deemed to have passed to the transferee the whole estate and interest, whether at law or in equity,
(2) of

Closer Settlement Amendment (Conversion).

of the transferor in the land the subject of the transfer as effectually to all intents and purposes as if a conveyance or assignment under seal of such estate and interest to such transferee had been duly executed by such transferor.

(2) Any transfer executed before the commencement of this Act of a holding in course of purchase under section 4B. of the Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, and made in the form and manner prescribed by regulations made under the Crown Lands Consolidation Act, 1913, or the Closer Settlement Acts, relating to transfers, shall be deemed to have passed to the transferee the whole estate and interest, whether at law or in equity, of the transferor in the land the subject of the transfer as effectually to all intents and purposes as if a conveyance or assignment under seal of such estate and interest to such transferee had been duly executed by such transferor.

(3) The effect given to duly registered deeds and instruments affecting lands hereditaments and other property by section twelve of the Registration of Deeds Act, 1897, shall be deemed always to have been annexed and to have been incident to all transfers of the nature referred to in subsections one and two of this section if duly registered under the said Registration of Deeds Act, 1897, after the prescribed registration or record thereof in the books of the Department of Lands shall have been duly effected.

(4) Any variation of a form of transfer so prescribed, not being in matter of substance, shall be deemed not to have affected the validity or regularity of the transfer, and the provisions of this section shall extend to and in respect of any transfer made in a form so varied and which has been so registered and recorded.

(5) Any alteration of the law made by this section shall not affect any action or proceeding concluded before or pending at the commencement of this Act.

Closer Settlement Amendment (Conversion).

18. (1) The Closer Settlement Act, 1904, as amended by subsequent Acts, is further amended by omitting from section thirty-five the words "imposed by this Act on a settlement purchase" and by inserting in lieu thereof the words "imposed by or in pursuance of the Closer Settlement Acts on any purchase or lease or permit to occupy under those Acts."

Further amendment of Act No. 37, 1904. Sec. 35. (Inquiries as to fulfilment of conditions.)

(2) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is amended by inserting next after subsection six of section twenty-one the following new subsection:—

Amendment of Act No. 21, 1909. Sec. 21.

(Land unsuitable for disposal under Acts.)

(6A) Where any land has been disposed of (whether before or after the commencement of the Closer Settlement Amendment (Conversion) Act, 1943) under subsection six of this section then upon default being made in the due payment of moneys in accordance with such terms and conditions as are applicable with respect to such disposition or if all or any of such of the other terms and conditions as are applicable with respect to such disposition have not been or are not being complied with, the contract for sale or lease may be cancelled by the Minister by notification in the Gazette and all moneys paid in connection therewith shall thereupon become forfeited.

(3) The Closer Settlement (Amendment) Act, 1914, as amended by subsequent Acts, is amended—

Amendment of Act No. 7, 1914.

(a) by omitting from subsection one of section four the words "the Governor may grant or the Minister may lease such land" and by inserting in lieu thereof the words "such land may be sold or leased";

Sec. 4. (After-auction sale or lease at upset price.)

(b) by omitting from the same subsection the words "and upon default of the due payment thereof the contract for sale may be cancelled and any moneys paid may be forfeited by notification in the Gazette";

(c)

Closer Settlement Amendment (Conversion).

(c) by inserting at the end of the same subsection the following words:—

5 Upon default being made in the due payment
of moneys or if all or any of the terms and
conditions attaching to any purchase or lease
under this subsection (whether made before or
after the commencement of the Closer Settle-
ment Amendment (Conversion) Act, 1943) have
not been or are not being complied with, the
10 contract for such sale or lease may be cancelled
by the Minister by notification in the Gazette
and all moneys paid in connection therewith
shall thereupon become forfeited, except to the
extent that the Minister, in pursuance of sub-
15 section two of this section, directs that the whole
or part thereof shall be credited or applied as
payment in respect of the purchase of any other
area.

19. (1) The Closer Settlement (Amendment) Act, Further
20 1909, as amended by subsequent Acts, is further amended amendment
by inserting at the end of subsection six of section of Act No.
twenty-one the following words:— 21, 1909.
Sec. 21.

25 Subsection three of this section shall extend to (Land
and in respect of land disposed of under this sub- unsuitable
section by way of sale in like manner as it applies for disposal
to and in respect of settlement purchases. under Acts.)

(2) The Closer Settlement (Amendment) Act, Further
1914, as amended by subsequent Acts, is further amended amendment
by inserting next after subsection one of section four of Act No.
30 the following new subsection:— 7, 1914.
Sec. 4.

(1A) Subsection three of section twenty-one of (After-
the Closer Settlement (Amendment) Act, 1909, as auction
amended by subsequent Acts, shall extend to and in sale or
respect of land sold under subsection one of this lease at
section in like manner as it applies to and in respect upset price.)
35 of settlement purchases.

17—C

Closer Settlement Amendment (Conversion).

20. The Closer Settlement (Amendment) Act, 1918, as amended by subsequent Acts, is amended—

Amendment
of Act No.
48, 1918.

- (a) by omitting from the short heading to section three the word "settlement";
- 5 (b) by omitting from section three the words "settlement purchase" wherever occurring and by inserting in lieu thereof the word "purchase";
- 10 (c) by inserting in the same section before the words "may make" the words and symbols "under the Closer Settlement Acts (not being a purchase of land within any area designed for village or township settlement)";
- 15 (d) by omitting from the same section the word "holding" and by inserting in lieu thereof the word "purchase."

Sec. 3.
(Subdivi-
sion of
settlement
purchases.)

21. (1) The Closer Settlement (Amendment) Act, 1912, as amended by subsequent Acts, is amended by inserting at the end of section seven the following

Amendment
of Act No.
74, 1912.

20 words:—

Sec. 7.
(Amounts of
deposits,
instalments,
and interest
on settle-
ment pur-
chases.)

- or is a member of the forces or a discharged member of the forces within the meaning of the War Service Land Settlement Act, 1941, and where any such member of the forces or discharged member of the forces has paid a deposit in connection with an application for a settlement purchase after the commencement of the lastmentioned Act, the Minister may, upon application, grant a refund thereof.

30 (2) The Closer Settlement (Amendment) Act, 1918, as amended by subsequent Acts, is further amended by inserting in subsection one of section fifteen after the word "application" the following further proviso:—

Further
amendment
of Act No.
48, 1918.

Sec. 15.

- 35 Provided further that if an applicant under this Part of this Act is a member of the forces or a discharged member of the forces within the meaning of the War Service Land Settlement Act, 1941, no payment by way of deposit shall be required.

(Vesting of
land in
applicant.)

(3)

Closer Settlement Amendment (Conversion).

(3) The Crown Lands (Amendment) Act, 1932, as amended by subsequent Acts, is amended by inserting at the end of subsection one of section eighteen the following words:—

Amendment
of Act No.
69, 1932.
Sec. 18.

5 This subsection shall not be construed as imposing an obligation to pay a deposit in connection with any settlement purchase in any case where, under the Closer Settlement Acts, no deposit is required.

(Settlement
purchases
and group
purchases;
deposits,
instalments,
& interest.)

10 22. The Crown Lands (Amendment) Act, 1941, is amended by omitting from subsection two of section three the word "forty-three" wherever occurring and by inserting in lieu thereof the word "forty-five."

Amendment of
Act No. 66,
1941.
Sec. 3.
(Waiver of
interest and
rent.)

15 23. (1) The power to make regulations conferred by the Closer Settlement Acts shall extend to authorise the making under the Closer Settlement Acts of regulations not inconsistent with this Act prescribing all matters which, by this Act, are required or permitted to be so prescribed or which are necessary or convenient to be so prescribed for carrying out or giving effect to this Act.

Regulations.

25 (2) In addition to the matters referred to in subsection one of this section regulations may be so made prescribing the application of any of the provisions of the Crown Lands Consolidation Act, 1913, the Closer Settlement Acts, the Returned Soldiers Settlement Act, 1916, the War Service Land Settlement Act, 1941, and any Act amending any of those Acts, to applications for, holdings comprising, and dealings with, settlement purchase leases group purchase leases or closer settlement leases.

30 settlement leases.

