

**CLOSER SETTLEMENT (MISCELLANEOUS PROVISIONS)
AMENDMENT BILL, 1981 (No. 2)**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Crown Lands (Miscellaneous Provisions) Amendment Bill, 1981.

The objects of this Bill are to amend the Closer Settlement Act, 1904, and certain other Acts so as—

- (a) to allow the Minister to declare purposes to be public purposes within the meaning of certain provisions of the Closer Settlement Acts and to revoke or vary any such declarations (Schedules 1 (1) and 2);
- (b) to make provision for and with respect to the transfer of permits to occupy land, including a requirement to obtain the Minister's consent to a transfer (other than a transfer by way of mortgage or discharge of mortgage) (Schedule 1 (2));
- (c) to enable a local land board to impose such conditions as it determines upon the granting of a permission to enclose a road (in addition to conditions relating to the payment of rent and the provision of gates or suitable substitutes) (Schedule 1 (3) (a), (b));
- (d) to require the holder of a road permit to advise the officer in charge of the local land board office if the land with which the road is enclosed is transferred (Schedule 1 (3) (c));
- (e) to provide that the Minister, in addition to a local land board, may direct the provision of gates or suitable substitutes where a permission to enclose a road has been granted and, in that connection, to provide for the lodging of objections and the hearing of objections by a local land board (Schedule 1 (3) (d));
- (f) to remove the requirement to prescribe—
 - (i) the holders of the offices to whom the Minister may delegate his powers, authorities, duties and functions under the Closer Settlement Acts; and
 - (ii) the powers, authorities, duties and functions of the Minister that may be delegated under those Acts

(Schedule 3); and

(g) to provide that the prescription of a minimum annual rent does not affect the calculation of the price payable on conversion of certain leases into settlement purchases where the price is expressed to be 40 times the annual rent (Schedule 5),

and to make other amendments to the Closer Settlement Act, 1904, and certain other Acts, of a minor, consequential or ancillary nature.

**CLOSER SETTLEMENT (MISCELLANEOUS
PROVISIONS) AMENDMENT BILL, 1981 (No. 2)**

No. , 1981.

A BILL FOR

An Act to amend the Closer Settlement Act, 1904, and certain
other Acts.

[MR GORDON—11 November, 1981.]

Closer Settlement (Miscellaneous Provisions) Amendment.

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

5 Short title.

1. This Act may be cited as the "Closer Settlement (Miscellaneous Provisions) Amendment Act, 1981".

Commencement.

2. (1) Except as provided in subsections (2)–(6), this Act 10 shall commence on the date of assent to this Act.

(2) Sections 4–6 shall, in their application to a provision of Schedules 1–3, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1–3 shall 15 commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Subject to section 11, section 7 and Schedule 4 shall 20 commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(5) Section 8 and Schedule 5 shall be deemed to have commenced on 8th October, 1971.

(6) Subject to section 11, section 9 and Schedule 6 shall 25 commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Closer Settlement (Miscellaneous Provisions) Amendment.

Schedules.

3. This Act contains the following Schedules :—

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

5 SCHEDULE 2.—AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT) ACT, 1914.

SCHEDULE 3.—AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT) ACT, 1918.

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

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

SCHEDULE 6.—AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT) ACT, 1977.

15 Amendment of Act No. 37, 1904.

4. The Closer Settlement Act, 1904, is amended in the manner set forth in Schedule 1.

Amendment of Act No. 7, 1914.

20 5. The Closer Settlement (Amendment) Act, 1914, is amended in the manner set forth in Schedule 2.

Amendment of Act No. 48, 1918.

6. The Closer Settlement (Amendment) Act, 1918, is amended in the manner set forth in Schedule 3.

Closer Settlement (Miscellaneous Provisions) Amendment.

Amendment of Act No. 21, 1937.

7. The Closer Settlement (Amendment) Act, 1937, is amended in the manner set forth in Schedule 4.

Amendment of Act No. 38, 1943.

5 8. The Closer Settlement Amendment (Conversion) Act, 1943, is amended in the manner set forth in Schedule 5.

Amendment of Act No. 78, 1977.

9. The Closer Settlement (Amendment) Act, 1977, is amended in the manner set forth in Schedule 6.

10 **Savings.**

10. A delegation—

(a) made under section 5 of the Closer Settlement (Amendment) Act, 1918; and

15 (b) in force immediately before the day appointed and notified under section 2 (3) in respect of Schedule 3,

shall be deemed to be a delegation made under section 5 of the Closer Settlement (Amendment) Act, 1918, as in force after the day so appointed and notified.

Repeal of certain provisions of this Act.

20 11. (1) Section 7, Schedule 4 and subsection (2) are repealed with effect on and from the day of publication in the Gazette of a proclamation appointing a day under section 2 (6) in respect of section 9 and Schedule 6.

Closer Settlement (Miscellaneous Provisions) Amendment.

(2) Section 9, Schedule 6 and subsection (1) are repealed with effect on and from the day of publication in the Gazette of a proclamation appointing a day under section 2 (4) in respect of section 7 and Schedule 4.

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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE CLOSER SETTLEMENT ACT, 1904.

(1) Section 4 (7), (8)—

After section 4 (6), insert :—

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(7) In any provision of the Closer Settlement Acts, “public purpose” means, in addition to any purpose specified as a public purpose in that provision, any purpose for the time being declared by the Minister, by notification in the Gazette, to be a public purpose within the meaning of that provision.

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(8) The Minister may, by notification in the Gazette, revoke or vary a declaration made for the purposes of the definition of “public purpose” in subsection (7).

(2) Section 39 (10)–(19)—

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After section 39 (9), insert :—

(10) A permit to occupy granted under this section may, subject to subsection (11), be transferred.

(11) A permit to occupy referred to in subsection (10) may only be transferred with the consent of the Minister.

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(12) Application for the consent of the Minister to a transfer as required by subsection (11) shall be made to the Minister in the approved form.

Closer Settlement (Miscellaneous Provisions) Amendment.

SCHEDULE 1—*continued.*

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

5 (13) No transfer for which the consent of the Minister is required by subsection (11) shall be effected, or if effected shall be valid, unless the consent of the Minister has been first obtained.

(14) The Minister may, in his discretion, give or refuse the consent applied for under subsection (12).

10 (15) Without limiting the generality of subsection (14), the Minister may require, as a condition precedent to the giving of his consent to the transfer of a permit to occupy under that subsection, the proposed transferee to lodge with the Minister a security in such amount and such form
15 as the Minister approves to ensure compliance with the terms and conditions applicable to the permit to occupy.

(16) Nothing in subsection (11) applies to or affects the giving of a mortgage or the discharge of a mortgage.

20 (17) Subsections (10)–(16) have effect notwithstanding any term or condition applicable to the permit to occupy concerned.

(18) Any term or condition applicable to a permit to occupy immediately before its transfer under this section shall bind the transferee.

25 (19) Subsections (10)–(18) apply to permits to occupy granted before, as well as after, the date of commencement of Schedule 1 (2) to the Closer Settlement (Miscellaneous Provisions) Amendment Act, 1981.

Closer Settlement (Miscellaneous Provisions) Amendment.

SCHEDULE 1—*continued.*

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

(3) (a) Section 46 (1)—

5 Omit “by this section”, insert instead “in this subsection and to impose conditions as provided in subsection (1A) in the same way as it may give directions or impose conditions in respect of permits under this subsection”.

10 (b) Section 46 (1A)—

After section 46 (1), insert :—

15 (1A) A local land board may grant permission to enclose a road under subsection (1) subject to such conditions as it determines in addition to conditions relating to the payment of rent and the provision of gates or suitable substitutes referred to in that subsection.

(c) Section 46 (4A)—

After section 46 (4), insert :—

20 (4A) Where permission has been granted to enclose a road in accordance with this section and the land with which the road has been enclosed, or that part of the land which the enclosure traverses or bounds, is subsequently transferred, the transferor shall, in the prescribed manner and within the prescribed time, notify the officer in charge of the land board office for the land board district in which the road is situated of the date of the transfer and the name and address of the transferee.

30 Penalty : \$100.

Closer Settlement (Miscellaneous Provisions) Amendment.

SCHEDULE 1—*continued.*

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

(d) Section 46 (8)–(15)—

5 After section 46 (7), insert :—

10 (8) Where permission has been granted to enclose a road in accordance with this section or a determination has been made that constitutes such a permission, the Minister may at any time and from time to time direct that such gates, or suitable substitutes, as he may consider necessary shall be erected or made so as not to interfere unnecessarily with any traffic.

15 (9) Notice of a direction given under subsection (8) shall be sent by post to the holder of the permission to enclose the road to which the direction relates.

20 (10) The holder of a permission to enclose a road may, within 28 days after service of a notice on him under subsection (9), object in writing to the Minister against the direction.

 (11) The Minister shall refer any objection made in accordance with subsection (10) to a local land board for inquiry.

25 (12) The Minister and the objector shall be entitled to appear or to be represented at, and to be heard before, an inquiry referred to in subsection (11).

30 (13) A local land board to which an objection has been referred under subsection (11) may either confirm, vary or revoke the direction in respect of which the objection is made.

Closer Settlement (Miscellaneous Provisions) Amendment.

SCHEDULE 1—*continued.*

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

5 (14) A direction under subsection (8) (not being
a direction revoked under subsection (13)) shall—

(a) where an objection has not been made in
accordance with subsection (10), take
effect as from the expiration of 28 days
10 from the date of service of the notice under
subsection (9) in respect of the direction;
and

(b) where an objection has been made in
accordance with subsection (10), take
effect, or if varied under subsection (13)
15 shall take effect as so varied, as from the
date of the local land board's decision under
subsection (13).

(15) Where a direction given by the Minister
under subsection (8) has taken effect, or has taken
20 effect as varied, as referred to in subsection (14) and
that direction conflicts with a direction given by a
local land board under subsection (1), the direction
given by the local land board shall, to the extent that
it is inconsistent with the Minister's direction or the
25 Minister's direction as so varied, be of no force or
effect.

(4) (a) Section 48—

After "prescribed manner", insert "and accompanied
by the prescribed fee".

30 (b) Section 48—

Omit "prescribed deposit", insert instead "prescribed
fee".

Closer Settlement (Miscellaneous Provisions) Amendment.

SCHEDULE 2.

(Sec. 5.)

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

5 (1) Section 13 (1)—

Omit “for any purpose notified in the Gazette as a public purpose”, insert instead “for any purpose which is, for the time being, notified in the Gazette as being a public purpose for the purposes of this subsection”.

10 (2) Section 13 (1A)—

After section 13 (1), insert :—

(1A) The Minister by notice published in the Gazette may revoke or vary a notification of a purpose as a public purpose for the purposes of subsection (1).

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SCHEDULE 3.

(Sec. 6.)

AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1918.

(1) Section 5 (1)—

20 Omit “prescribed office the exercise or performance of such”, insert instead “office under the Minister’s administration the exercise or performance”.

(2) Section 5 (1)—

25 Omit “as may be prescribed in relation to the holder of that office”.

(3) Section 5 (2)—

Omit “a prescribed”, insert instead “an”.

Closer Settlement (Miscellaneous Provisions) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1918—*continued.*

(4) Section 5 (3)—

5 Omit "prescribed".

(5) Section 5 (4), (5)—

Omit the subsections.

(6) Section 5 (7)—

Omit the subsection.

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SCHEDULE 4.

(Sec. 7.)

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

Section 3A (1) (a)—

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Omit "but does not include a holding within an irrigation area or a permission to occupy granted under the Closer Settlement Acts", insert instead "and a permit to occupy granted under section 39 of the Closer Settlement Act, 1904, but does not include a holding within an irrigation area".

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Closer Settlement (Miscellaneous Provisions) Amendment.

SCHEDULE 5.

(Sec. 8.)

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

5 Section 4B (1)—

After “the conversion”, insert “disregarding any increase in that rent by reason of the prescription of an amount as a minimum rent”.

SCHEDULE 6.

(Sec. 9.)

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AMENDMENT TO THE CLOSER SETTLEMENT (AMENDMENT)
ACT, 1977.

Section 3A of the Closer Settlement (Amendment) Act, 1937, as to be inserted by section 7 of, and Schedule 4 to, the Closer Settlement (Amendment) Act, 1977, and as subsequently amended—

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From subsection (1) (a), omit “but does not include a holding within an irrigation area or a permission to occupy granted under the Closer Settlement Acts”, insert instead “and a permit to occupy granted under section 39 of the Closer Settlement Act, 1904, but does not include a holding within an irrigation area”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981
(50c)



