

Act No. 12, 1907.

CLOSER SETTLEMENT
(AMENDMENT).

An Act to amend the Closer Settlement Act, 1904, and the Closer Settlement (Amendment) Act, 1906; and for other purposes.
[19th December, 1907.]

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:—

Preliminary.

Short title.

1. This Act may be cited as the "Closer Settlement (Amendment) Act, 1907," and shall be construed with the Closer Settlement Act, 1904 (hereinafter referred to as the Principal Act), and the Closer Settlement (Amendment) Act, 1906.

*Advisory boards.*Constitution of
advisory boards.

2. The Governor may, for the purposes of this Act, constitute three boards to be called Closer Settlement Advisory Boards, and may dissolve and reconstitute any such board. Any such board is hereinafter in this Act referred to as an "Advisory Board."

Each such board shall consist of three members to be appointed by the Governor. One of such members shall be so appointed chairman of the board.

In case of the absence or illness of a member of any such board, the Governor may appoint a deputy, who, during such absence or illness, shall have the power of a member of such board.

Report by board.

3. (1) Every such board shall, at the request of the Minister and within such time or extended time as he may appoint, report to him as follows:—

- (a) Whether any, and if so what, land (not being, in the opinion of the board, of a value less than ten thousand pounds, exclusive of the value of the improvements thereon) within an area to be specified by the Minister is suitable to be acquired for closer settlement.
- (b) The estimated value of such land and of the improvements thereon respectively.
- (c) The price at which the board recommends the acquisition of the land, and the method of arriving at such price.

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- (d) In the event of the board recommending the acquisition of part only of any property, the value of the residue, and whether it will be depreciated in value by such acquisition, and, if so, by what amount.
- (e) The use to which the land may be put, and the capacity of the land for carrying stock, or for agriculture or other profitable use, the number of farms into which it could be suitably subdivided, and the possibilities of irrigating, and such other particulars as the Minister requires.
- (f) On any matter as to which the Minister requires a report.

(2) For the above purposes the board, or any member of the board, or any person authorised in writing by the chairman of the board, may, on giving the prescribed notice to the owner, enter any land and inspect the same, and any improvements thereon. Powers of inspection.

Purchase and resumption of land.

4. (1) Where an advisory board reports that any land is suitable to be acquired for closer settlement, the Governor may,— Power to purchase or resume land.

- (a) subject to this Act, purchase it by agreement with the owner; or, failing such agreement,
- (b) where the value of the land, without the improvements thereon, as estimated by the advisory board, exceeds twenty thousand pounds, resume it under this Act: Provided that this limitation of value shall not apply to land referred to in the next following section.

(2) Every purchase or resumption shall be subject to approval by resolutions of both Houses of Parliament. Approval by Parliament.

(3) Before resuming any land, the Governor shall, by proclamation in the Gazette, notify that he proposes to acquire such land for the purposes of closer settlement.

5. (1) Where, after the sixth day of November, one thousand nine hundred and seven, an Act has been passed sanctioning the construction of a line of railway, the Governor may, within six months after the passing of such Act, by proclamation in the Gazette, notify that he proposes to acquire for the purposes of closer settlement the land therein specified, being land situate within fifteen miles on either side of the line of the proposed railway, being the property of one owner, and exceeding ten thousand pounds in value, exclusive of the value of any improvements thereon. Where land is within fifteen miles of a proposed railway line.

(2) On such proclamation, the following provisions shall apply to any purchase or resumption of such land:—

- (a) The Governor may purchase or resume such land, and any land not exceeding ten thousand pounds in value, exclusive of the value of any improvements thereon, forming the residue of the same property and worked with it and situate outside the said distance from the line of railway.
- (b)

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- (b) The advisory board, or the court determining the value of any such land, shall, in estimating or determining such value, exclude any added value which would accrue to the land from the construction of the line of railway.
- (c) Where the land is resumed, the owner may require the Governor to include in the resumption any land not exceeding ten thousand pounds in value, exclusive of the value of any improvements thereon, forming the residue of the same property and worked with it and situate inside or outside the said distance from the line of railway, or forming a part of such residue which by the resumption may be so severed from the rest of the area not resumed as, in the opinion of the advisory board, to render it unworkable with such area.

Restriction of disposition.

6. Where the Governor, by proclamation under either of the two last preceding sections, notifies that he proposes to acquire any land for the purposes of closer settlement, no disposition of such land shall operate to defeat the power of the Governor to resume the same under this Act. Such restriction shall cease after the expiration of twelve months from the date of such proclamation.

Resumption under this Act.

7. The resumption of land under this Act shall be effected by notification in the Gazette.

On such notification being made, the land shall, subject to the right of retainer hereinafter provided, vest in His Majesty for the purposes of the Principal Act, the Closer Settlement (Amendment) Act, 1906, and this Act, and be dealt with thereunder.

Restrictions on right of resumption.

8. (1) Where under this Act or the Principal Act a resumption is made of part only of land which before such resumption formed and was owned and worked as one property, the following provisions shall apply :—

- (a) Unless otherwise agreed between the Minister and the owner, the land resumed shall be in one continuous block, or in areas separated only from each other by lands not owned by the person owning the area resumed.
- (b) The advisory board, or the court determining the value of such land, shall have regard not only to the value of the land resumed, but also to the damage (if any) caused by the severing of the land resumed from such of the residue as does not include land retained by the owner in pursuance of this Act, or land agreed to be sold, or which was leased with an option to purchase.

(2) For the purposes of this section, a block may be continuous although some parts thereof are separated from other parts by roads, rivers, or watercourses.

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9. If the owner or mortgagee is dissatisfied with the amount at which the Governor has offered to purchase the land and improvements, or where no such offer has been made, the valuation of the same by the advisory board, he may apply to have the fair market value of the land and improvements determined by a court as hereinafter provided by lodging with the Minister a notice of appeal in the prescribed form, within twenty-eight days after the notification of the resumption, or within such further time as may be allowed by the Minister, or as may, on application in a summary way, be allowed by a Supreme Court judge.

Application to have amount determined by a court.

10. The matter of such appeal shall be heard and determined by a court constituted as provided in section eighteen of the Principal Act, and the decision of the judge and of one of the assessors of such court shall be the determination of the Court, and shall be final.

Constitution of court.

11. The Governor may, notwithstanding the resumption of any land and any proceedings consequent thereon, at any time agree with the owner as to the price to be paid for the land: Provided that the conditions and restrictions of this Act shall apply to such agreement as if the same were a purchase under this Act.

Agreement after resumption.

12. Where the Governor has by proclamation (not being a proclamation under section five) notified that he proposes to acquire any land for the purposes of closer settlement, the owner of such land may, within four weeks after the date of such proclamation, require the Governor to include in any resumption to be made in pursuance of such proclamation any land forming the residue of the same property, and worked with it; and the Governor shall in any such resumption include such residue:

Right of owner to require contiguous land to be resumed.

Provided that the Governor shall not be compelled to resume—

- (a) any land agreed to be sold, or which is leased with an option to purchase, or which is subject to a lease which at the time of the resumption has more than five years to run; or
- (b) any land forming such residue, where such residue exceeds twenty thousand pounds in value, exclusive of the value of any improvements thereon.

13. (1) The owner of any land proposed to be resumed under this Act may retain out of such land a part thereof, but so that the value of such part, together with the value of the land forming the residue, if any, of the same property, and worked with it, shall not exceed ten thousand pounds; such value in each case being exclusive of the value of any improvements on the land. Where more than one person is the owner of such land, only one such right may be exercised.

Retainer by owner of part of land resumed.

Such right shall be deemed to be waived unless the owner asserts the same in the prescribed manner within four weeks after the proclamation notifying that the Governor proposes to acquire the land for the purposes of closer settlement, specifying the area, situation, boundaries, and value (without improvements) of the land which he proposes to retain.

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(2) The area, situation, and boundaries of the land to be so retained shall be determined by the Minister on the recommendation of an advisory board. But if the owner is dissatisfied with such determination he may, within one week after service on him of notice of such determination, waive the exercise of his right of retainer by notice served on the Minister.

Retainer by agreement with Minister.

14. After notification of resumption under this Act, the owner may, with the consent of the Minister, retain the whole or any part of his estate for such period and upon such conditions as may be agreed upon.

Incorporation of sections of Principal Act.

15. The provisions of sections twenty, twenty-one, twenty-two, twenty-three, forty-four, and forty-five of the Principal Act relating to the acquisition of land under that Act, and proceedings in relation thereto shall apply to a similar acquisition and proceedings relating thereto under this Act.

Savings.

16. The foregoing provisions of this Act relating to the purchase and resumption of land and the determination and payment of the value of the same, and matters consequent thereon, are in addition to and not in substitution for any other provisions in the Principal Act, or the Closer Settlement (Amendment) Act, 1906.

Amendment of Principal Act.

Amendment of section 16 of Principal Act.

17. Subsection four of section sixteen of the Principal Act is repealed, and the following is substituted in its place:—

(4) The owner of any land referred to the closer settlement board shall have the right to require the Governor to include in such reference any land forming the residue of the same property and worked with it:

Provided that the Governor shall not be compelled to include in such reference or to resume—

- (a) any land agreed to be sold, or which is leased with an option to purchase, or which is subject to a lease which at the time of the reference has more than five years to run; or
- (b) any land forming such residue where such residue exceeds twenty thousand pounds in value, exclusive of the value of any improvements thereon:

Provided also that such right shall be asserted on the prescribed form within four weeks of the notification of the intention to refer.

The power of resumption, if exercised at all, shall, unless otherwise agreed between the parties, be exercised with respect to the whole of the land referred to the said board under this subsection.

Supplemental.

Regulations.

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