

## Act No. 109, 1902.

## APPRAISEMENT.

An Act to amend the Acts relating to Crown lands; to provide for the appraisement of conditional purchases and conditional leases and homestead selections, and for the payments to be made and conditions to be performed in respect thereof; and for other purposes incidental thereto. [22nd December, 1902.]

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:—

## Short title.

1. This Act may be cited as the "Appraisement Act, 1902," and shall be read and construed with the Crown Lands Acts.

## Interpretation.

2. In this Act—

"Board" means the local land board as defined by the Crown Lands Act of 1889.

"Crown Lands Acts" means the Crown Lands Act of 1884 and the Acts amending the same.

"Holding" means any number of portions of land held by one person bona fide in his own interest, in fee-simple, or as conditional purchases or conditional leases of the same or of different series, and being contiguous or separated only by roads or watercourses.

## Limitation of Act.

3. This Act shall apply to any conditional purchase (not being a mining conditional purchase) or conditional lease or homestead selection applied for before or after the passing of this Act, but an appraisement shall not be made under this Act of any conditional purchase or conditional lease or homestead selection the capital value of which has been determined upon application for appraisement under the Crown Lands (Amendment) Act, 1899, and not more than one appraisement shall be made under this Act of the same conditional purchase or conditional lease or homestead selection.

## Application for appraisement.

4. Any holder of land held under conditional purchase or conditional lease or homestead selection who is resident on some part of his holding, of which such land is a portion, or who is excepted or excused from such residence under section eleven, may apply to have the capital value of such land determined hereunder.

5.

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5. (1) Every such application shall be made in the prescribed form, accompanied by the declaration and fee prescribed, and shall be dealt with as provided by section six of the Crown Lands Act of 1889. Form of application.

(2) Every such application shall, subject to section three, include all conditional purchases and conditional leases of the same series then held by the applicant, and may include more than one series; and if such land or any part thereof is subject to any mortgage, the consent of the mortgagee in the prescribed form shall accompany the application: Provided that an applicant shall not be entitled to have the capital value determined under this Act of any area in excess of what is, in the opinion of the board, sufficient for the applicant to maintain his home thereon. Series to be included.

6. Where any land to which this Act applies is held by two or more persons as joint owners, such persons shall be deemed to be a holder within the meaning of section four, and one of such persons shall comply with the condition of residence under this Act. Joint owners.

7. The board, if it is satisfied that the land included in the application is held bona fide for the sole use and benefit of the applicant, shall estimate the capital value per acre of the land without improvements as at the date of the application, and shall determine such value at the nearest multiple of one shilling and eight pence. Board to determine value.

8. Where the capital value of land under conditional lease has been determined in pursuance of this Act, such land or any part thereof, if applied for under additional conditional purchase during the currency of the lease, shall be taken at the value so determined. Value of lease taken under additional purchase.

9. (1) The balance of purchase money due on a conditional purchase after any such determination shall be the value so determined, to which shall be added any interest payment of which has been suspended or is in arrear, less the amount paid and appropriated as purchase money on such conditional purchase; and no interest which has been paid shall go towards the reduction of the balance of the purchase money owing at the date of such determination, or be refunded or set off against any instalments payable after such date. Determination to relate back.

(2) If the total amounts which have been paid as instalments, exclusive of interest on the original value, exceed the value so determined, such total amounts shall be deemed to be the value at which the conditional purchase has been so determined.

(3) The annual payments in respect of a conditional purchase comprised in an application under this Act payable pending the determination of the value of such purchase under this Act, shall be made as if this Act had not been passed; but any such annual payments payable after the date of such determination shall be made at the rate of five per centum of the value of the land as so determined, and shall, when not a first instalment, be taken to include interest at the rate of four per centum per annum on the balance of the purchase money.

(4)

*Appraisement.*

(4) In any case where payment of interest on the conditional purchase has been suspended the amount of such interest shall be paid before the deed of grant of the land is issued.

Residence.

10. Every applicant who has obtained a reduction of the capital value of any land shall, from the date of his application until the expiration of five years thereafter, live continuously and bona fide on some portion of the holding as his usual home without any other habitual residence; but this term of residence shall be reduced by any period not exceeding two and a half years, during which the applicant has, immediately preceding such date, so resided upon some part of his holding.

Exceptions in respect of residence.

11. In any case where an applicant—

- (a) is the holder of any conditional purchase, other than a conditional purchase under section forty-seven of the Crown Lands Act of 1884, or of any conditional lease and is the original conditional purchaser or lessee, or a person on whom such purchase or lease has devolved under the will or on the intestacy of such original purchaser or lessee, and such purchaser, lessee, or person has not transferred such purchase or lease unless upon transfer by way of bona fide mortgage or security only; or
- (b) is on application as prescribed excused from the condition of residence by the board where the holding is such as is defined in section two, and the board decides that the circumstances of the case warrant his being so excused;

the condition of residence under this Act shall not attach to such purchase or lease either at the date of the application or afterwards.

Forfeiture.

12. (1) If any annual payment or other amount due under this Act is not duly paid in respect of any conditional purchase or conditional lease the Minister may declare such purchase or lease forfeited.

(2) If the board, after due inquiry, finds that the condition of residence under this Act has not been fulfilled, or that by any transfer, conveyance, assignment or otherwise, the ownership of any land under conditional purchase or conditional lease has been wrongfully acquired or transferred, or has purported to have been so acquired or transferred, in order to evade such condition of residence or any provision of this Act, the Minister may declare every conditional purchase or conditional lease of such land or any part thereof to be forfeited.

(3) A forfeiture under this section shall be a forfeiture to His Majesty of the land, together with all moneys paid in respect of the same, and all improvements on the land.

Conditions to be performed before grant.

13. The holder of land held under conditional purchase shall not be entitled to a grant in fee-simple of the land, unless and until the condition of residence required by this Act has been certified by the  
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*Public Health (Night-soil Removal).*

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the board upon due inquiry to have been fulfilled, and unless and until all other conditions required to be performed before the issue of such grant have been duly performed.

**14.** The applicant for appraisement shall pay costs not exceeding Payment of costs. three pounds incurred by the Crown in dealing with his application, and, if the costs exceed the amount prescribed to be lodged with the application, the applicant shall pay the difference between the amount deposited and the actual costs incurred. In any case the deed of grant shall not issue until payment of the costs is made.

**15.** This Act shall apply to applications already made and not Applications already made and not adjudicated upon to be entertained. adjudicated upon as if made under this Act.

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