

No. , 1912.

A BILL

To amend the Closer Settlement Acts the Closer Settlement Promotion Act, 1910, and for other purposes.

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 "Closer Settlement (Amend- Short title. ment) Act, 1912," and shall be construed with the Closer Settlement Act, 1904, the Closer Settlement (Amendment) Act, 1906, the Closer Settlement (Amendment) Act, 1907, the Closer Settlement (Amendment) Act, 1909, and the Closer Settlement Promotion Act, 1910.

2. In this Act "land-locked districts" means districts Definition. pro- claimed as such, and the boundaries of which are defined by the Governor, it having been considered that the lands within such boundaries are suitable for closer settlement.

Resumption of lands suitable for closer settlement.

3. The Governor, by proclamation in the Gazette, may, at any time, notify a list of estates wholly or partly suitable for closer settlement and to which the provisions of this section shall apply. On such proclamation being so made, no disposition (except with the consent of the Minister), of any such estate or of any part thereof shall operate or shall be deemed to have operated to defeat the power of the Governor to resume the same or any part thereof under this Act. Such proclamation shall cease to have effect after the expiration of twelve months from its date, except as to any land included in a proclamation under the next following section :

Notification of lists of estates suitable for closer settlement.

Provided that any proclamation under this section may be rescinded or altered in whole or in part by the Minister by proclamation in the Gazette.

4. (1) Where an advisory board reports to the Minister that land suitable for closer settlement is privately owned, the Governor, by proclamation in the Gazette, may declare that the provisions of this section shall apply to any such land, the property of one owner, and not being of less value than five thousand pounds, exclusive of the value of the improvements thereon :

Proclamation applying provisions of this section to certain lands.

Provided that the provisions of this and the next preceding section shall not apply to land held by trustees under a will or settlement which came into force and effect before the commencement of this Act or held by trustees under an authority which directs them to sell the land :

Provided also that a copy of any such proclamation shall be laid before both Houses of Parliament within fourteen days after it has been made, if Parliament is then sitting, or within fourteen days after the next meeting of Parliament if Parliament is not then sitting. If such proclamation is not objected to by specific resolution of each House of Parliament within twenty-one days after being laid before it, such proclamation shall take effect.

(2) After the date of such proclamation, no disposition of such land, unless made with the consent of the Minister as hereinafter in this Act provided, shall operate to defeat the power of the Governor to resume the same under this Act.

Restriction on disposal.

(3) As soon as practicable after the date aforesaid the Minister shall cause a copy of such proclamation and a plan showing the land described therein, and a notification of the value placed upon the land and improvements thereon by the advisory board to be served on the owner of the land, or where such owner is absent from New South Wales on his agent in New South Wales, or where in such case there is no such agent in New South Wales known to the Minister, on the occupier, or, where the land is vacant, by notification to the owner in the Gazette. Such copy, plan, and notice may be served personally or by post.

Service of valuation of advisory board.

(4)

Closer Settlement (Amendment).

(4) Such owner shall within two months after the date of the Minister's notification of value as aforesaid, or where the owner at such date is absent from the Commonwealth, within four months after such date, or within such further time as the Minister or a judge of the Supreme Court on summary application to him may allow, notify, or cause to be notified in writing, to the Minister the amount which he claims as the value of the land and of the improvements thereon. In the event of any appeal following upon a subsequent resumption, the said amount shall be taken to be the value claimed by the owner.

Notification of owner's valuation.

5. (1) The Governor at any time may purchase, by agreement with the owner, the land, or any part of the land, subject to such restriction, or may resume it by notice in the Gazette :

Purchase or resumption by Governor.

Provided that the land so resumed shall not be of less value than five thousand pounds, without the value of the improvements thereon, unless the owner consents to the resumption, or unless the land consists or forms part of the unsold and unleased residue of an area as to which the Minister and the owner have come to an agreement in pursuance of this Act that such area should be sold or leased by such owner.

(2) For the purposes of any resumption the value of the land shall be the fair market value of the land and the improvements thereon at the date of the said proclamation :

Value to be fair market value.

Provided that if the owner satisfies the Minister that he has used all available means to sell the land to promote bona-fide closer settlement under the provisions of the Closer Settlement Promotion Act, 1910, or in any other approved way, the value of the land shall, for the purposes of resumption under this Act, be the fair market value of the land and the improvements thereon at the date of the resumption :

Provided that where the owner fails to notify or cause to be notified to the Minister, in pursuance of the last preceding section, the amount which he claims as the value of the land and of the improvements thereon, such fair market value shall be the valuation of the advisory board :

Provided also that an additional amount shall be paid to the owner for improvements necessary for the profitable working of the land which have been effected between the date of the proclamation and that of the resumption, and that an amount equal to the extent of the depreciation of the value of the improvements on the land between the said dates may be deducted from the amount to be so paid.

(3) Every purchase or resumption under this Act of land of or above the value of twenty thousand pounds, whether effected under one or more such purchases or resumptions, out of any one estate shall be subject to approval by both Houses of Parliament.

Approval by Parliament.

(4)

Closer Settlement (Amendment).

(4) Land so purchased or resumed shall be disposed of or otherwise dealt with under the Principal Act and the Acts amending the same. Disposal of land.

6. Subject to this Act, the provisions of the Principal Act, and of the Closer Settlement (Amendment) Act, 1907, and of the Closer Settlement (Amendment) Act, 1909, relating to the acquisition of land under those Acts and proceedings in relation thereto, shall so far as applicable apply to similar acquisitions and proceedings under the preceding provisions of this Act : Application of provisions of Acts of 1904, 1907, and 1909.

Provided that in so applying sections twelve and thirteen of the Closer Settlement (Amendment) Act, 1907, the words "ten thousand" shall be read instead of the words "twenty thousand" in section twelve; and the right of retainer provided by section thirteen shall be limited to an area recommended by the Advisory Board, provided that such area—together with the residue, if any, of the same property and worked with it—shall not be less than what in the opinion of the Advisory Board is a home-maintenance area. And the area to be retained by him shall include the land on which his dwelling-house is erected.

7. The Governor, by proclamation in the Gazette, may cancel or amend any proclamation under section two or section three of this Act as to all or any part of the land affected thereby. Cancellation of certain proclamations.

Determination of price to be paid for land resumed.

8. (1) Sections eighteen of the Closer Settlement Act, 1904, and nine and ten of the Closer Settlement (Amendment) Act, 1907, are hereby repealed.

(2) If the owner or mortgagee of land resumed 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 shall so notify the Minister in the prescribed form—such notification shall be served 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. The owner or mortgagee shall set out in such notification the amount which he claims as the value of the land and of the improvements thereon.

Where such owner or mortgagee fails to set out the amount he claims as aforesaid, the valuation of the advisory board shall be deemed to be the fair market value of the land and of the improvements thereon. After service of the aforesaid notification the fair market value of the land resumed and of the improvements thereon shall be determined by arbitration in the manner provided by the next following section.

Appointment

Closer Settlement (Amendment).

Appointment and duties of arbitrators.

(3) Within one month after service of the notification referred to in the next preceding section the owner or mortgagee shall nominate and appoint an arbitrator—such nomination and appointment to be in the prescribed form—and within one month after the receipt of such nomination the Governor shall also appoint an arbitrator.

(4) The arbitrators shall within one month after the arbitrator has been appointed by the Governor proceed to make such inspection and investigation as they may deem necessary to enable them to give their award, and for the purposes aforesaid the arbitrators shall be entitled to have access to any of the owner's or mortgagee's books or papers relating to the management of the estate, and to any reports or official documents in connection with such estate which are in possession of the Crown.

(5) The arbitrators shall give their award within three months after the aforesaid appointment by the Governor, or within such further time as may be allowed by the Minister.

The joint award of the arbitrators shall be final and conclusive, and capable of enforcement.

(6) In any case of disagreement between the arbitrators they may jointly appoint a disinterested person as umpire, provided that if the arbitrators are not unanimous as to the person to be appointed as umpire, they shall report the fact to the Minister and to the owner or mortgagee, and thereupon the President of the Land Appeal Court shall be the umpire.

The umpire's award shall be final and conclusive, and capable of enforcement.

(7) In the case of the death, illness, or incapacity of an arbitrator, the owner or mortgagee, or the Governor, as the case may be, shall—within one month after such death, illness, or incapacity, has been reported to the Minister—appoint an arbitrator in the place of such first-mentioned arbitrator. And if, under similar circumstances, an umpire is unable to act, the arbitrators may appoint an umpire in his place: Provided that in any such circumstances an enlargement of the period within which the arbitrator's award was to be given may be allowed by the Minister.

(8) The fee allowable for any arbitrator or umpire shall not exceed six guineas per diem, which shall include all expenses, other than actual cost of conveyance by railway, steamer, vehicle, or otherwise.

Costs.

(9) The provisions of section twenty-three of the Closer Settlement (Amendment) Act, 1909, shall govern the proceedings by way of arbitration, and the necessary words to give effect to this provision are hereby inserted in substitution of the words "determined by the court."

Repeals.

Repeals.

9. The provisions of the hereinafter mentioned sections relating to closer settlement boards contained in the Closer Settlement Act, 1904, are hereby repealed, viz. :—

Repeal of sections of previous Acts.

Sections, five, six, seven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen (subsections one and two), nineteen, and forty-one.

Amendment of the Closer Settlement (Amendment) Act, 1906.

10. Section eight of the Closer Settlement (Amendment) Act, 1906, is hereby amended by omitting the words "and adjoining such land," and by inserting the words "or any part thereof" after the word "land" and before the word "added."

Amendment of Act of 1906.

Amendment of the Closer Settlement (Amendment) Act, 1907.

11. Section five, subsection one, of the Closer Settlement (Amendment) Act, 1907, is amended by inserting the words "or within a radius of fifteen miles from the terminus thereof" next before the expression "being the property of one owner."

Amendment of the Closer Settlement (Amendment) Act, 1909.

12. Section eight of the Closer Settlement (Amendment) Act, 1909, is hereby amended by the substitution of the words "age of sixteen years" for the words "age of eighteen years."

Amendment of Act of 1909.

Section nineteen, subsection one, of the same Act is amended by inserting the words "or within a radius of fifteen miles from the terminus thereof" next after the words "proposed railway."

Section twenty-one of the same Act is amended by inserting next after the word "same" in subsection (six) the words "or which in the opinion of the advisory board should be granted in exchange for other land," and by inserting after the word "tender" the words "or exchange."

Amendments of the Closer Settlement Promotion Act, 1910.

13. Section three of the Closer Settlement Promotion Act, 1910, is amended by substituting the word "cause" for the word "notify"; by inserting the words "to be notified" next after the word "commissioners"; and by the addition at the end of the section of the following proviso :—

Provided that for the purposes of this section the provision of paragraph (b) of section twenty-six of the Closer Settlement Act, 1904, shall not operate to disqualify an applicant merely on the ground that the land he desires to purchase is held by him as a tenant with a right of purchase.

14.

Closer Settlement (Amendment).

Alternative provisions, or to stand in addition to clauses 2 to 6.

Estates within land-locked districts.

1. The Governor, by proclamation in the Gazette, may at any time proclaim and define the boundaries of land-locked districts—such proclamation may in the same manner be rescinded or altered.

On the expiration of two years from the date of such proclamation there shall be levied, and the owner or mortgagee shall pay yearly to the Colonial Treasurer—in addition to any other tax leviable from and payable by such owner or mortgagee—a tax at the rate of _____ per pound of the advisory board's valuation of any estate situate within the so defined boundaries of any closer settlement district where and to the extent that such valuation exceeds the sum of five thousand pounds, such valuation shall be of the land and any improvements thereon.

For the purposes of this section the Colonial Treasurer shall have the same rights and powers of collecting and enforcing payment of the aforesaid tax as are conferred on the Commissioner of Taxation under the provisions of the Land and Income Tax Assessment Act of 1895, and any Acts amending the same.

All moneys collected under the provisions of this section shall be credited to the closer settlement fund.

Exemption from payment of tax.

2. If, within two years from the date of the proclamation referred to in the next preceding section, the Closer Settlement Advisory Board shall issue to the owner or mortgagee of any land a certificate that such land is not suitable for closer settlement, or, if such owner or mortgagee shall satisfy the Minister that he has used all available means to sell the land to provide bona fide closer settlement under the provisions of the Closer Settlement Promotion Act, 1910, or in any other approved way, but has failed, and the Minister so certifies, then, and in either such case, the owner or mortgagee shall be exempted from payment of the tax provided by the aforesaid section for such period as may be determined and set forth in such certificate.

3. The provisions of this section shall be in addition to and not in substitution for any of the powers of resumption provided by the Closer Settlement Act, 1904, or any of the Acts amending the same.

14. Section six of the Closer Settlement Promotion Act, 1910, is hereby amended by the addition of the words "not being less than three in number" after the words "remaining applicants." Amendments of Promotion Act of 1910.

15. The following sentence is added at the end of subsection (d) of section eight of the Closer Settlement Promotion Act, 1910:—"The first instalment shall be paid at the end of the first year from the date of commencement of title, or within three months thereafter."

Reference to the Land Appeal Court and rehearing by local land board.

16. (1) The Minister may refer any decision or recommendation of any local land board given or made before or after the commencement of this Act to the Land Appeal Court for determination in any case where he deems that further consideration is necessary or desirable. Reference to Land Appeal Court.

(2) Where the Minister considers that further consideration of any decision or recommendation by the local land board, given or made before or after the commencement of this Act is necessary or desirable, he may return it to such board for such purpose, and such board may, with or without taking further evidence, uphold, reverse, alter, or amend its previous decision or recommendation as it may consider just. Re-hearing by local land board.

(3) Where, after such further consideration, the withdrawal of an application for a settlement purchase is permitted, the board may retain the whole or such portion of the deposit as may seem justifiable. Retention of part or whole of deposit upon withdrawal.

Fair market value.

17. The term "fair market value" in section nine of the Closer Settlement (Amendment) Act, 1907, and section twenty of the Closer Settlement (Amendment) Act, 1909, shall be construed strictly and not be deemed to include or sanction any allowance, compensation, or percentage for the forced sale of the subject property. Fair market value.

Rights and liabilities of minors.

18. Any person between the ages of sixteen and twenty-one years who, before or after the commencement of this Act, has made or acquired, or shall make or acquire, a settlement purchase, and shall during his ownership, either personally or by an agent, enter into any agreement for or in relation to the performance of any work or rendering of any services on such settlement purchase or in relation thereto, or to the loan of money or the sale or purchase of goods and chattels of any description whatsoever, or shall in like manner enter into any agreement connected with the occupation, management, or general purposes of such settlement purchase not being in violation of the Rights and liabilities of minors.

the provisions of this Act or the Closer Settlement Act, 1904, or any Act amending the same, shall be subject to the same liabilities and have the same rights in respect of such agreement as if he were of the full age of twenty-one years.

Fulfilment of the conditions of residence.

19. Any person who is the holder of any holding, and is living continuously thereon as his bona-fide home without any other habitual residence at the time of making or acquiring a settlement purchase, may, with the consent of the local land board, or the Minister, and subject to such conditions as may be agreed upon, carry out the condition of residence attached to such settlement purchase by residing on the holding first aforesaid: Provided that the land so held and resided upon shall be within a reasonable working distance of such settlement purchase.

Residence may be fulfilled on other land.

Sale or lease of forfeited settlement purchases.

20. If in any case land acquired under the Closer Settlement Promotion Act, 1910, shall subsequently become forfeited, and the commissioners shall be unable—within a reasonable time—to resell it upon acceptable terms as a settlement purchase, they may dispose of such land by sale or lease—either by auction or tender—upon such terms and conditions as the Minister may agree to. Any movable improvements on land acquired and forfeited as aforesaid may be disposed of in a similar manner, separately from the land.

Dedication of lands.

21. The Minister by notice in the Gazette may and shall be deemed to have had the power to reserve or dedicate lands within a settlement purchase area—in such manner as may seem best for the public interest—for any purpose which shall have been notified in the Gazette as a public purpose; and upon such notice being published in the Gazette such lands shall become and be reserved or dedicated accordingly, and may at any time be granted in fee simple for such purpose.

The Minister shall have the same powers of revocation of any reservation or dedication as are conferred upon him by section one hundred and five of the Crown Lands Act of 1884 in respect to reservations and dedications of Crown lands.

Reduction

Reduction of the capital value of settlement purchases (Boree Creek Estate).

22. Whereas it is desirable and expedient that the capital values of the settlement purchases specified in column four of Schedule A hereto shall be reduced to the amounts specified in column five thereof, it is hereby enacted that the capital values of the said settlement purchases shall be deemed to be and to have been at the respective dates of application therefor, the amounts set out against each settlement purchase in the said column five. Value of Boree Creek Estate farms.

The amounts lodged as deposits and paid as instalments in connection with such settlement purchases, exclusive of interest on such instalments, shall be applied in reduction of the purchase money, and no refund will be made of any sums so paid. The annual instalment of balance of purchase money and interest shall be five per centum of the amounts set out in the said column five in respect of each settlement purchase mentioned therein.

Resumption of certain leases.

23. (1) Sections fourteen, fifteen, sixteen, seventeen, and eighteen of the Crown Lands (Amendment) Act, 1908, are hereby repealed.

(2) An advisory board shall at the request of the Minister report to him— Advisory board to report as to leases.

(a) whether any, and if so, what land comprised in an improvement lease or scrub lease, or lease granted under the provisions of section eighteen of the Crown Lands Act Amendment Act, 1903, the whole or any part of the area of any such lease is situated within fifteen miles of a then existing railway is suitable to be acquired for closer settlement ;

(b) the estimated value of the land comprised in such lease with the improvements thereon ;

(c) the use to which such 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 ;

(d) on any matter to which the Minister requires a report.

(3) For the above purpose the said 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 of the lease, enter any land and inspect the same and any improvements thereon. Power of entry and inspection.

24. Where any such advisory board reports that any of the land comprised in an improvement lease or scrub lease, or lease granted under the provisions of section eighteen of the Crown Lands Act Amendment Act, 1903, is suitable to be acquired for closer settlement, the Minister may, in his discretion, notify in the Gazette that such lease or part thereof is, and thereupon the lease or such part thereof shall be deemed to be resumed by the Crown, subject nevertheless to approval by resolutions of both Houses of Parliament: Provided that if the lands so resumed comprise the greater part of the area of such lease the lessee shall have the right to require the Minister to resume the residue of the lease. Such right shall be asserted on the prescribed form before or within four weeks after the said notification in the Gazette. After such notification the owner may, with the consent of the Minister, retain the whole or any part of the land comprised in the lease for such period and upon such conditions as may be agreed upon.

Notification of resumption of lease.

25. (1) The Minister may agree with the person who at the time of the notification in the Gazette as aforesaid was owner of the lease as to the amount of compensation to be paid such person, but such person may, within twenty-eight days after such notification, or within such further time as the Minister may allow, if no such agreement has been made, notify, by way of appeal in the prescribed form, the Minister that he requires such compensation to be determined by the local land board as hereinafter provided.

Compensation payable to lessee.

(2) After receipt of such notification the Minister shall refer the matter to the local land board for determination of the amount of compensation to be paid to the lessee when computed in the manner hereinafter provided. The determination of the local land board, subject to appeal to the Land Appeal Court, shall be final and conclusive.

26. (1) The amount of such compensation shall be computed as follows:—

Measure of compensation.

- (a) A sum equal to the amount produced when the annual rental payable for the lease at the date of resumption is multiplied by a number corresponding with the number of years that the lease had to run from the aforesaid date. For this purpose any fractional part of a month shall be reckoned as one month; also
- (b) a sum equal to the full value of the improvements (not to exceed the cost of making such improvements) in which the lessee had tenant-right; also
- (c) a sum equal to the amount produced when the amount of the value of any improvements on the land leased, and in which the lessee had not tenant-right, is multiplied by a fraction of

of which the number of years that the lease had to run from the date of resumption is the numerator, and the full term of the lease is the denominator; and also

(d) a sum equal to ten per centum on the totals of the amounts provided by paragraphs (a), (b), and (c) of this subsection.

(2) No further or additional compensation shall be payable to or recoverable by the lessee or any other person.

Costs.

27. The provisions of section twenty-three of the Closer Settlement (Amendment) Act, 1909, shall, mutatis mutandis, apply to the proceedings before the local land board and the Land Appeal Court, for determining the compensation to be paid, and in so applying the said provisions reference to the Governor therein shall include the Minister, and the expressions "determined by the court" and "to purchase the land" are respectively to be read as "determined by the local land board or the Land Appeal Court in compensation for the resumption of the lease."

28. The provisions of sections twenty, twenty-one, twenty-two, twenty-three, forty-four, and forty-five of the Closer Settlement Act, 1904, relating to the acquisition or resumption of land under that Act, and to the proceedings relating thereto, shall apply, mutatis mutandis, to the resumption of improvement leases, scrub leases, or leases granted under the provisions of section eighteen of the Crown Lands Act Amendment Act, 1903, under this Act and proceedings in relation thereto.

Application of sections of Closer Settlement Act, 1904.

29. Any land comprised in an improvement lease or scrub lease, or lease granted under the provisions of section eighteen of the Crown Lands Act Amendment Act, 1903, which has been resumed by the Crown in pursuance of this Act shall be dealt with under the Crown Lands Acts and this Act, but shall not be available for the purposes of any application thereunder until a notification declaring it to be so available has been published in the Gazette.

Disposal of land.

29. The following amendments are made in the Closer Settlement Act, 1904:—

Section twenty-nine, subsection (b)—The words "improvements, cultivation, or otherwise" are substituted for the words "improvements and cultivation"

Section thirty-one—The following is added at the end of the section:—"No mortgagee acting under the power of the mortgage and no execution creditor under the process of any court shall submit for sale by public auction any settlement purchase without first having obtained the written consent of the Minister thereto."

Section thirty-eight—"Minister" is substituted for "Governor"

Section

Section thirty-nine—"Minister" is substituted for "Governor"

Section fifty-three—The words "one calendar month" are substituted for the words "fourteen days" wherever occurring.

30. In section seven of the Closer Settlement (Amendment) Act, 1906, the word "Minister" is substituted for the word "Governor".

Power to make regulations.

31. The Governor may exercise, for the purpose of this Act, the powers of making regulations conferred upon him by section fifty-three of the Closer Settlement Act, 1904. Power to make regulations.

Closer Settlement (Amendment).

SCHEDULE.

Farm. 1.	Name. 2.	Settlement purchase number. 3.	Capital value, including value of improvements.	
			4.	5.
1	Brown, Thomas John Cairns ...	1909/10	£ 2,150 0 0 (£4 6s. per acre.)	£ 1,987 10 0 (£3 19s. 6d. per acre.)
5	Lattin, Alfred Augustus ...	1909/2	£ 2,349 2 3 (£4 5s. 6d. per acre.)	£ 2,198 0 0 (£4 per acre.)
6	Brown, Charles Alexander ...	1909/9	£ 2,683 17 8 (£4 9s. 6d. per acre.)	£ 2,518 19 0 (£4 4s. per acre.)
8	Scott, Ernest James ...	1909/6	£ 2,268 15 2 (£4 1s. 6d. per acre.)	£ 2,129 11 5 (£3 16s. 6d. per acre.)
10	Peebles, John Alexander ...	1909/4	£ 2,548 0 0 (£4 11s. per acre.)	£ 2,422 0 0 (£4 6s. 6d. per acre.)
21	Hodges, Charles Cyril ...	1909/8	£ 2,440 6 0 (£4 12s. per acre.)	£ 2,347 9 3 (£4 8s. 6d. per acre.)
23	Reedy, John ...	1909/7	£ 2,096 16 3 (£3 19s. 6d. per acre.)	£ 2,004 10 0 (£3 16s. per acre.)
27	Geppert, August ...	1909/1	£ 2,575 15 8 (£4 7s. 6d. per acre.)	£ 2,487 9 5 (£4 4s. 6d. per acre.)
30	Scott, Andrew Johnstone Hudson	1909/3	£ 2,324 0 0 (£4 3s. per acre.)	£ 2,198 0 0 (£3 18s. 6d. per acre.)