



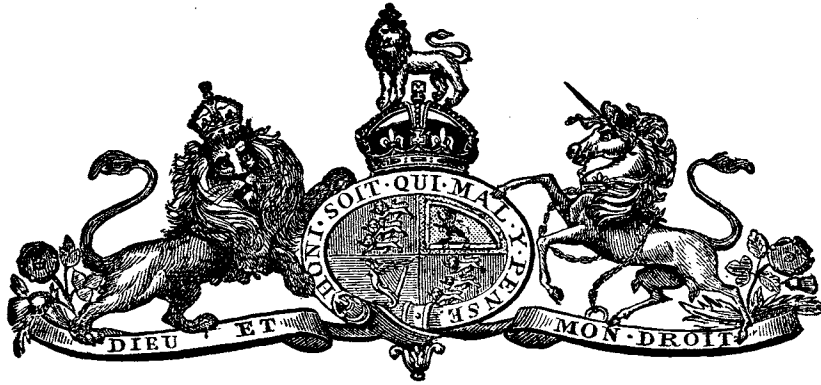
## THE CLOSER SETTLEMENT ACT, 1911.

### ANALYSIS.

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"Capital value."  
"Estate."  
"Unimproved value."
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25. Amendments to Principal Act.
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TASMANIA.

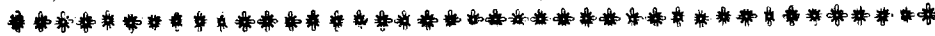


1911.

ANNO SECUNDO

GEORGII V. REGIS.

No. 15.



AN ACT to further amend "The Closer Settlement Act, 1906." [2 December, 1911.] <sup>A.D.</sup> 1911.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Closer Settlement Act, 1911," and shall be read and construed as one with "The Closer Settlement Act, 1906" (hereinafter called the Principal Act), and any Act amending the same. Short title.  
6 Ed. VII. No. 33 (Tas.).  
7 Ed. VII. No. 29 (Tas.).

2 Section Three of the Principal Act is hereby amended by inserting the following definitions at the end thereof:— Amendment of  
Section 3 of the  
Principal Act.

vii. "Block" means a block of private land in one area; provided that the area shall not be deemed divided by reason merely of its being intersected by a road or stream: "Block."

viii. "Capital value" of any land means the sum which the fee simple of the land might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to require: "Capital value."

*Closer Settlement Amendment.*

A.D. 1911.

"Estate,"

"Unimproved value."  
9 Ed. VII. No. 7.

- ix. "Estate" means an owner's block, and in the case of an owner of Two or more blocks includes all the blocks which are held and worked as one and the same property under one and the same management :
- ix. "Unimproved value" shall have the meaning assigned thereto in Section Two of "The Land Valuation Act, 1909."

## POWER TO ACQUIRE LAND FOR CLOSER SETTLEMENT.

*Power to Acquire and Take.*

Power to acquire land for closer settlement.

**3** For the purposes of closer settlement under the Principal Act, as amended by this Act, the Minister may on the recommendation of the Board, in the manner hereinafter provided, acquire and take for the Crown blocks of private land in any part of the State; and all land so acquired and taken shall thereupon become Crown land as if the same had never at any time been alienated from the Crown.

*Incorporation of "Lands Clauses Act."*

Incorporation of "Lands Clauses Act."

**4**—(1) The provisions of "The Lands Clauses Act" shall (except in so far as they are inconsistent with or modified by this Act, and except Sections Eight and Nine thereof) be incorporated with this Act in like manner as if the land to be taken or acquired were land to be taken or acquired for any works or undertaking within the meaning of "The Lands Clauses Act."

(2) For the purposes of this Act in the construction of "The Lands Clauses Act," the words "Special Act" shall mean this Act, and the words "promoters of the undertaking" shall mean the Minister.

(3) Such provisions, so far as they relate to parties seized, possessed, or entitled to lands or any estate or interest therein, shall apply and extend to owners of land required for the purposes of closer settlement, both as regards land acquired or to be acquired by agreement or taken or to be taken compulsorily.

*Inspection of and Report on Land.*

Repeal and re-enactment of Section 8.

Officer to inspect and report.

**5** Section Eight of the Principal Act is hereby repealed, and the following section substituted therefor:—

"**8** When the Minister thinks that there is a legitimate demand by desirable applicants for land for the purpose of closer settlement, and that it is desirable to acquire private land for the purpose of closer settlement, he may so inform the Board. Thereupon the Board, upon giving to the owner such notice as may be prescribed, may direct some competent person, who may be an officer of the Public Service, to inspect and report as to the suitability or otherwise of any land for the purpose of closer settlement."

*Closer Settlement Amendment.*

**6** Section Nine of the Principal Act is hereby repealed, and the following section substituted therefor:—

**9** The said officer, with such assistants as he thinks fit, may at any time enter any private land forming the whole or any part of any estate, and remain thereon during daylight for such time as may be necessary to enable him to obtain sufficient information (and if need be to make surveys) for the preparation of his report.”

A.D. 1911. C.A.

Repeal and re-enactment of Section 9.

Authority of officer to enter and inspect and make report.

*Voluntary Acquisition.*

**7** Section Twelve of the Principal Act is hereby repealed, and the following section substituted therefor:—

**12** Upon the written recommendation by the Board that any private land is suitable, and should be acquired for any of the purposes of this Act, the Minister may conclude the acquisition thereof by purchase at a price not exceeding that recommended by the Board, and may execute all deeds and instruments, and do and perform all acts necessary for the completion of any such purchase.”

Repeal and re-enactment of Section 12.

Upon recommendation of Board Minister may acquire land.

*Compulsory Acquisition.*

**8** The compulsory provisions of this Act shall apply only where the private land recommended by the Board to be acquired exceeds Twelve thousand Pounds in unimproved value.

Cases in which compulsory powers can be exercised.

**9** If the Minister decides to acquire any land recommended by the Board, and the owner refuses to sell, or it appears to the Minister that no agreement for sale can be come to, he may take such land compulsorily in the manner and subject to the conditions hereinafter contained.

Land may be taken compulsorily.

Provided that nothing in this Act shall be deemed to authorise the compulsory acquisition of lands set aside as endowments or reserves.

**10—(1)** The owner of an estate in possession, the whole of which is proposed to be taken compulsorily, shall have the right to select in One block and retain out of the estate, for the purposes of residence or business, land the unimproved value of which does not exceed Five thousand Pounds.

Right of owner to retain part.

Where more than One person is an owner in possession of an estate the right to select may be exercised by the joint owners in such a way as they may decide, or, in the event of their disagreement, in such a way as the compensation court may determine, provided that the area selected shall not exceed Five thousand Pounds in unimproved value.

(2) If there is a homestead upon the land proposed to be taken by the Minister, he may require the owner, in exercising his right to select and retain, to exercise it so as to include the homestead in the block selected, together with the outbuildings belonging or adjacent thereto. If there is more than One homestead upon the land, the owner may specify which one is to be so included as aforesaid.

*Closer Settlement Amendment.*

- A.D. 1911.**
- Claim to retain part.** (3) Such right shall be deemed to be waived unless the owner asserts his right in his claim as hereinafter provided, and also specifies therein with reasonable particularity, the area, situation, and boundaries and unimproved value of the land he proposes to select and retain.  
If the owner proposes to select and retain a block having a frontage on a road, river, lake, or sea, the width and depth of the block shall be so regulated as not to exceed the proportion of 1 to 2, the first figure representing the width; and in all other cases the block shall be laid off as nearly as practicable in the form of a square.
- Exercise of right.** (4) The right to select and retain shall be so exercised as not to prejudicially affect the land proposed to be taken, save to the extent necessary in order to enable the owner to select and retain up to the prescribed maximum value.
- Right to require whole estate to be taken.** (5) If the land proposed to be taken compulsorily comprises less than the whole of the estate, the owner, without prejudice to his right to select and retain pursuant to Subsection (1), shall have the right to require the whole of the estate to be taken, if he expressly asserts his right in the hereinafter mentioned claim.
- Restriction on disposition of estate.** (6) In order to prevent any evasion or avoidance of the provisions of this section the area of the whole estate shall be computed as at the date of publication in the "Gazette" of notice of intention to acquire the land compulsorily as hereinafter provided, and no subsequent disposition of the estate, or any part thereof, shall operate to defeat the power of the Minister to acquire or take the land.
- When restriction on disposition to cease.** (7) If the Minister does not proceed with the purchase, and the land is not acquired or taken by him within Six months after the date of such publication, then the said restriction on the disposition of the land shall cease to have effect.
- Notice of intention to take land to be gazetted.** **11**—(1) Whenever it is intended to take land compulsorily the Minister shall cause notice of such intention to be published in the "Gazette" and in some newspaper generally circulating in the district in which such land is situated.  
(2) Such notice (hereinafter called "the requisition") may be in such form as may be prescribed, and shall specify the acreage and description of the land, and so far as is known the name and address of its owner, and shall expressly require every claimant to serve his claim for compensation on the Minister in the form and manner and within the period prescribed.
- Service of requisition on owner.** **12**—(1) As soon as conveniently may be after such publication of the requisition, the Minister shall serve on the owner of the land to be taken, if he is in Tasmania, a copy of the requisition as published in the "Gazette."  
(2) The service may be effected either personally or by leaving a copy of the requisition as gazetted with some other person apparently of the age of Sixteen years or upwards for him at his last or most usual place of abode or of business, or, in the case of a corporation, in the manner prescribed.

*Closer Settlement Amendment.*

(3) The requisition, when served, shall be accompanied by a plan and description, setting forth the acreage of the land to be taken. A.D. 1911.

**13**—(1) Not later than Thirty days after the service of the requisition, in the case of an owner in the Commonwealth of Australia at the time of the publication, or One hundred days in any other case, the owner shall serve on the Minister a claim setting forth, with all such plans, descriptions, and particulars as the circumstances may require (that is to say):—

Owner to serve claim on Board. Particulars to be specified therein.

- i. The owner's demand (if any) to select and retain land out of the estate, with the acreage, description, position, and value thereof, and the acreage of the whole estate :
- ii. The owner's demand (if any) that the whole of the estate be taken with its acreage and description :
- iii. The nature and particulars of the owner's estate or interest in the land to be taken, and of the estate or interest of every person who so far as he knows has any estate or interest in the land to be taken, and the nature and particulars of all incumbrances, liens, and interests affecting the same respectively :
- iv. Each matter on account of which compensation is claimed, with full particulars of the nature and extent of the claim :
- v. The amount claimed respectively for land to be taken and for land injuriously affected by the taking of such first-mentioned land, giving the amount for each item separately :
- vi. The total amount claimed :
- vii. The full name of owner and address for service : and
- viii. Such further or other particulars as may be prescribed.

(2) Every such claim shall be deemed a claim within the meaning of "The Lands Clauses Act."

**14**—(1) The owner not later than Fourteen days after service of the claim for compensation, shall file in the office of the Registrar of the Supreme Court—

Further procedure on compulsory taking of land.

- i. A copy of the claim : and
- ii. A notice stating the name and address of the person he appoints to act as his arbitrator, and some address in Tasmania at which he may be served ; and shall serve a copy of such notice on the Minister.

(2) Within Fourteen days after receiving the notice of the appointment of the owner's arbitrator, the Minister shall also file in the office of the said Registrar a notice stating the name and address of the person he appoints to act as his arbitrator, and shall serve a copy of such notice on the owner by leaving the same at his address for service given in his notice as aforesaid,

*Closer Settlement Amendment.*

A.D. 1911 (11) (3) If the owner makes default in making or serving his claim, or if the owner or the Minister makes default in appointing an arbitrator, or in doing any other act, matter or thing by this Act required or directed to be done, or if any arbitrator appointed by either party dies or resigns or becomes incapable or refuses or fails to act as arbitrator, then, on summary application in that behalf by either party, a judge of the Supreme Court may, on such terms as to costs and otherwise as he thinks fit, appoint an arbitrator, or give such directions and make such orders as in his opinion are necessary or expedient to enable the claim to be heard and determined and an award to be made, and, if the default consists of not making or serving the claim, to enable the award to be made and acted upon in the absence of the claim as fully and effectually as if the claim were properly before the umpire and arbitrators.

## COMPENSATION COURT.

*Constitution.*

Compensation  
Court.

15 (1) There shall be constituted a Court, which shall be called the Compensation Court. Such Court shall consist of an umpire and also of Two arbitrators appointed as aforesaid.

(2) Notwithstanding anything contained in any Act, all claims for compensation under this Act shall, subject to this Act, be determined by the Court so constituted.

(3) Notwithstanding the provisions of "The Lands Clauses Act" the umpire, instead of being nominated by the Two arbitrators, shall by the operation of this Act, and without further or other authority, be such Judge of the Supreme Court as the Governor shall from time to time appoint.

*Determination of Requisition and Claim, &c.*

Claim and  
requisition sub-  
ject to order of  
Court.

16 The requisition and claim, and all matters connected therewith, shall as soon as practicable be determined by the Compensation Court in manner following (that is to say):—

i. The said Court, having regard to the limitations and provisions of this Act, shall in the first place determine and by its award declare—

(a) What land the Minister is entitled or required to take; and

(b) What land, if any, the owner is entitled to retain: and

ii. After such determination and award as aforesaid, the said Court, having regard to the provisions of "The Lands Clauses Act" and this Act, shall then determine and by separate award declare—

(a) What sum is to be paid by way of compensation, and to whom; and

(b) Whatever else may be necessary for the purpose of adjusting the rights of all parties interested in or affected by the proceedings:



*Closer Settlement Amendment.*

Provided that at any time before the separate award has been made, the Minister may discontinue the proceeding on terms of paying costs and expenses, as provided in Paragraph III. of this Section, and the discontinuance shall be effected as provided in that paragraph :

A.D. 1911.

- III. The discontinuance shall be effected by gazetting a notice under the hand of the Minister that the requisition has been revoked and the proceedings discontinued. A copy of such notice shall be filed with the Registrar of the Supreme Court, and a copy shall be served on each claimant at his address so far as known. The claimants shall be entitled to payment of the proper costs and expenses incurred up to the date of the discontinuance, and the amount thereof shall, where necessary, be fixed by the umpire of the Compensation Court, if that Court has been constituted, or if not, then by a Judge of the Supreme Court, or as such umpire or Judge directs. The claimants shall be entitled to include as expenses any loss directly and reasonably caused by reason of the requisition and the proceedings thereon

**17—**(1) In determining what sum is to be paid by way of compensation in respect of land taken or injuriously affected by the taking, the Compensation Court shall, notwithstanding anything contained in any Act, have regard only to the capital value of the land.

Principle of determining compensation.

(2) The value of the land shall in every case be assessed at its capital value as at the date of the publication of the requisition.

**18—**(1) Subject to the provisions of the next succeeding section, the award of the umpire and the Two arbitrators, or of the umpire and One arbitrator, shall be the award of the Compensation Court, and shall be final and without appeal, and shall not in any event be set aside, reconsidered, and redetermined, or settled by the Supreme Court or any other Court or any Judge or any jury or special jury, or otherwise, anything in any Act to the contrary notwithstanding.

Award final and conclusive.

(2) The award, and any supplementary award made as hereinafter provided, may be made a rule of the Supreme Court on the application of the Minister or any party thereto.

(3) Notwithstanding anything contained in "The Lands Clauses Act," the costs of and incidental to each arbitration shall be determined by the Compensation Court at such amount as the Court deems just and reasonable, and shall be borne by either or both parties as the Court may award.

**19** The Court may from time to time—

- i. Before the publication in the "Gazette" of the Proclamation referred to in the next succeeding Section, of its own motion :

Court may make supplementary award.

*Closer Settlement Amendment.*

A.D. 1911.

11. Within Twenty-one days after such proclamation, on the application of the Minister or any party concerned make a supplementary award for the purpose of remedying any defect in or of giving fuller effect to the original award.

*Proclamation and Effect of Award.*

Governor to proclaim lands taken.

20 Within One month after the expiration of Twenty-one days after the making of such original award, or of any subsequent supplementary award, the Governor shall, by proclamation, declare that the land specified in that behalf in such award or supplementary award is compulsorily taken under this Act.

Land then to vest in His Majesty.

21 On and from the date of the publishing of such proclamation in the "Gazette," the land therein specified as aforesaid shall, without further or other authority than this Act, become and be deemed to be absolutely vested in His Majesty for an estate in fee simple in possession, freed and discharged from all other estates and from all encumbrances, liens, claims, and interests whatsoever.

*Compensation.*

When compensation payable.

22 The compensation-money shall in every case be deemed to be payable on the date on which the effective occupation of the land acquired is given up to His Majesty by the owner or other the person in actual occupation at the date of the publication of such Proclamation in the "Gazette." Before payment of such money the party claiming payment shall make out a title to the said land, or to the interest claimed by him therein, to the satisfaction of the Solicitor-General.

If compensation not paid on proper date, interest payable.

23 In any case where by reason of such proclamation having been so published before the amount of the compensation is fixed by the Compensation Court, or for any other reason not imputable to the act, neglect, or default of the person entitled, any compensation-money is not duly paid or satisfied on the date when it becomes payable, then for the period elapsing between that date and the date when the money is duly paid or satisfied, interest thereon at such rate as is agreed on, or as in default of agreement is fixed by the said Court, shall also be payable.

*Temporary Retention of Estate by Owner.*

Owner may elect to retain possession for a specified period.

24 At any time before the publication of such proclamation, the owner may give notice in writing to the Minister that he elects to remain in possession of the land to be specified in the proclamation for a period to be stated in such notice, not exceeding Twelve months from the date on which the proclamation is gazetted, and he shall thereupon have a right to occupy such land for the period so stated, subject to the following conditions (that is to say):—

I. No part of the compensation-money shall be payable until the expiration of the said period, and until effective occupation is acquired by the Minister on behalf of the Crown:

*Closer Settlement Amendment.*

- ii. At all times during the said period the Minister and any persons authorised by him, either generally or particularly, shall have full and free right of ingress, egress, and regress through, over, and upon such land, for the purpose of survey, road-making, or inspection, in the same manner and to the same extent as if such land were unoccupied Crown lands, and doing thereto as little damage as possible: A.D. 1911.
- iii. At all times during the said period the occupier, at his own cost in all things, shall keep the land and all buildings, fences, and other erections thereon in good and substantial condition and repair, and also shall insure and keep insured all buildings and erections of an insurable nature in the name of the Minister on behalf of the Crown in such sum and insurance office as the Minister approves; and if the occupier fails or neglects so to do the Minister may do so in his stead and at his cost in all things: Provided that in so far as any such insurance is subsisting in the name of the Minister the premiums thereon shall be payable by the occupier:
- iv. Whilst in possession of the land under this Section the occupier shall pay and discharge all taxes, rates, and outgoings, and shall be deemed to be an occupier within the meaning of -
- "The Local Government Act, 1906,"
  - "The Codlin Moth Act, 1888,"
  - "The Rabbits Destruction Act, 1889,"
  - "The Public Health Act, 1903,"
  - "The Boundary Fences Act, 1908,"
  - "The Californian Thistle Act, 1883":
- And every Amendment of the foregoing Acts; and Every Act administered by a local governing body:
- v. Except with the previous written consent of the Minister, and upon such terms as he thinks fit to impose, the occupier shall not—
- (a) Assign, sublet, or in any way part with possession, of the land or any part thereof; nor
  - (b) Plough any part thereof which is laid down in grass:
- vi. If the occupier fails or neglects to faithfully observe any of the aforesaid conditions, then irrespective of any other right or remedy exercisable by His Majesty or the Minister, the occupier shall, whilst such failure or neglect continues, be liable to pay a rental at the rate of Five per centum per annum on the amount of the compensation-money; and such rental, together with all costs and expenses incurred by or on behalf of His Majesty under this section, may be deducted from the compensation-money

*Closer Settlement Amendment.*

A.D. 1911.

## MISCELLANEOUS.

*Amendments in Principal Act.*Amendments to  
Principal Act.**25** The Principal Act is hereby amended as follows:--

- i. As to Subsection (1) of Section Eleven, by striking out the word "offered:"
- As to Subsection (3) of Section Eleven, by striking out the words "the land," and inserting the words "any estate" in lieu thereof:
- ii. As to paragraph III. of Subsection (2) of Section Twenty-one by inserting the words "or compensation for" after the words "price of."
- iii. As to Section Twenty-eight—by inserting at the end of paragraph II. thereof the words "and provision may be made for reserving allotments to the extent of One in every Six, and leasing the same to *bonâ fide* immigrants into the State at such rent, and upon such terms and conditions as the Minister, with the advice of the Board, may think proper."
- iv. As to Subsection (1) of Section Twenty-nine—
  - (a) By omitting the words "the allotments and building dwelling-houses thereon" from line Four, and substituting therefor the words "draining, erecting buildings upon, or otherwise improving the allotments:"
  - (b) By omitting the words "fencing and building" from line Eight and substituting therefor the words "such improvements."
- v. As to Section Thirty—by inserting the following proviso at the end of paragraph II.—
 

"Provided, that in the case of a lease of Crown land, or of land which, in the opinion of the Board, is heavily timbered or uncleared, the period of Four years shall be substituted for the period of One year mentioned in line Two of this paragraph:"
- vi. As to Section Forty-one—by inserting at the end thereof the following—
 

"If any such allotment, after being reoffered at a reduced rent pursuant to the foregoing provisions, remains undisposed of, and the Board is of opinion that such allotment is not likely to be taken upon lease as one allotment, the Minister, on the recommendation of the Board, and subject to the regulations, may lease such allotment or any part thereof, either from year to year or for any term of years not exceeding Five. to any person, including the holder of a lease under this Act, at such rent, and subject to such terms, reservations, and conditions as, with the advice of the Board, the Minister thinks proper."

*Closer Settlement Amendment.**Regulations.*

A.D. 1911.

**26** In addition to the powers conferred upon him by the Principal Act to make regulations, the Governor may from time to time make regulations for all or any of the following purposes, that is to say:—

Regulations.

- i. Prescribing the forms of notices, requisitions, and claims in respect of land to be taken compulsorily under this Act, and the procedure and forms to be used in making and disposing of claims for compensation in respect of the compulsory taking of land :
- ii. Generally any other purpose for which regulations are contemplated or required :
- iii. For the purpose of carrying this Act into effect generally.

*Condition to be contained in Grant.*

**27** The grant deed to be issued to any lessee who shall purchase the land leased to him under the provisions of Section Thirty-five of the Principal Act shall contain in every case the following proviso:—

Condition to be contained in grant.

“No person who shall hold land in Tasmania (exclusive of the land hereby granted) of an unimproved value exceeding Five thousand Pounds shall be capable of acquiring a title against the Crown to the land hereby granted for a period exceeding One year: Provided, nevertheless, that the breach of this condition on the part of any owner shall not invalidate the title of any person acquiring title by conveyance, transfer, or otherwise through such owner.”

*Repeal.*

**28** Section Four of “The Closer Settlement Act, 1908,” is hereby repealed.

Repeal.

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