



ANALYSIS

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1991, No. 141

An Act to amend the Education Lands Act 1949

[18 December 1991

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Education Lands Amendment Act 1991, and shall be read together with and deemed part of the Education Lands Act 1949 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1992.

2. Interpretation—Section 2 of the principal Act is hereby amended by repealing the definition of the term “Minister”, and inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Minister’ means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

“ ‘Ministry’ means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

“ ‘Secretary’ means the chief executive of the Ministry:”.

3. Minister may declare land to be no longer needed for educational purposes—The principal Act is hereby amended by inserting, after section 5, the following section:

“5A. (1) The Minister may from time to time, by notice in the *Gazette*, declare any land of the Crown to be no longer needed for educational purposes.

“(2) Where, immediately before the publication of a notice under subsection (1) of this section, any land of the Crown to which the notice relates was held—

“(a) For education or educational purposes; or

“(b) For, or for the purpose or purposes of, a school or other educational institution (whether or not any particular school or institution); or

“(c) For any purpose related to or connected with a school or other educational institution (whether or not any particular school or institution); or

“(d) For any similar purpose,—

on the publication of the notice the land shall cease to be so held, and may be disposed of as land no longer required for a public work.

“(3) Nothing in subsection (2) of this section limits or affects any provision of—

“(a) The Land Act 1948; or

“(b) The Treaty of Waitangi Act 1975; or

“(c) The Public Works Act 1981.”

4. Leasing of certain school sites and other lands—

(1) Section 6 of the principal Act is hereby amended by repealing subsections (1) (as amended by section 142 (2) of the Education Act 1989) and (2), and substituting the following subsections:

“(1) Subject to subsection (1A) of this section, any Board in which a school site is vested may let—

“(a) The whole site, if it is not used for the purposes of a school; or

“(b) Any part of the site that is not needed for the purposes of the school using the site, in any other case.

“(1A) The Board shall not let any site or part of a site under subsection (1) of this section except—

“(a) With the earlier written consent of the Secretary; and

“(b) Upon and subject to terms and conditions specified in the consent.

“(1B) The Secretary shall not consent to the letting of any site or part of a site under subsection (1) of this section unless satisfied on reasonable grounds that its use (under a lease containing the terms and conditions specified) for the purposes for which it is to be let—

“(a) Is in the public interest; and

“(b) Either—

“(i) Will bring no significant educational disadvantage (or no educational disadvantage at all) to any school concerned, and will bring benefits to a school or schools concerned or to its or their community; or

“(ii) Will bring the school or schools concerned educational benefits that outweigh any educational disadvantages.

“(1c) Subject to subsection (1D) of this section, where any school site is land of the Crown, the Minister may let, or grant a licence to occupy, any part of it that is not needed for the purposes of the school using it.

“(1D) The Minister shall not let or grant a licence to occupy any part of a site under subsection (1c) of this section unless satisfied on reasonable grounds that its use (under a lease containing the terms and conditions specified) for the purposes for which it is to be let—

“(a) Is in the public interest; and

“(b) Either—

“(i) Will bring no significant educational disadvantage (or no educational disadvantage at all) to any school concerned, and will bring benefits to a school or schools concerned or to its or their community; or

“(ii) Will bring the school or schools concerned educational benefits that outweigh any educational disadvantages.

“(1E) The Secretary may from time to time (whether before or after the execution of the lease or licence) agree in writing with the Board of any school concerned that the Board should receive all or a specified part or proportion of the rent paid under a lease or licence under this section; and in that case the Board shall receive rent accordingly.”

(2) The said section 6 is hereby consequentially amended by repealing subsection (5), and substituting the following subsection:

“(5) Subject to subsection (1E) of this section, all money received by way of rent under any lease or licence under this section of a school site or part of a school site shall, as soon as conveniently may be, be paid into the Ministry’s Departmental Bank Account.”

(3) Subsection (6) of the said section 6 (as added by section 3 of the Education Lands Amendment Act 1956) is hereby amended—

- (a) By omitting the words “the Board of a high school or an Education Board”, and substituting the words “ any school”; and
 - (b) By omitting the words “or of the Board”, and “or the Board, as the case may be”.
- (4) Subsection (7) of the said section 6 (as added as aforesaid) is hereby amended—
- (a) By omitting the words “or of the Board, as the case may be”; and
 - (b) By repealing the proviso.

5. Disposal of revenue received for licences—The principal Act is hereby amended by repealing section 6E (as inserted by section 4 of the Education Lands Amendment Act 1975), and substituting the following section:

“6E. (1) The Secretary may from time to time (whether before or after the giving of the licence or permit) agree in writing with the Board concerned that the Board should receive all or a specified part or proportion of the payments made under a licence or permit under this Act; and in that case the Board shall receive payment accordingly.

“(2) Subject to subsection (1) of this section, all payments received under any licence or permit shall, as soon as conveniently may be, be paid into the Ministry’s Departmental Bank Account.”

This Act is administered in the Ministry of Education.
