

New Zealand.



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1927, No. 65.

Title. AN ACT to amend the Education Reserves Act, 1908.
[5th December, 1927.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title. 1. This Act may be cited as the Education Reserves Amendment Act, 1927, and shall be read together with and deemed part of the Education Reserves Act, 1908 (hereinafter referred to as the principal Act).

Interpretation. 2. (1) For the purposes of the principal Act the terms "high schools" and "secondary education" have respectively the same meanings as the terms "secondary schools" and "secondary instruction" as used in the Education Act, 1914.

(2) Section two of the principal Act is hereby consequentially amended by repealing the definitions of the terms "high schools" and "secondary education."

Lessee of land comprised in education reserve may surrender lease in exchange for new lease. 3. (1) Except as otherwise provided in this section, the owner of any lease granted in respect of land comprised in an education reserve administered by a Land Board and in force at the commencement of this Act may, with the approval of the Minister given on the recommendation of the Land Board, and on payment of such valuation fee as may be required, surrender his lease and obtain from that Board in exchange therefor a new lease of the same land in accordance with the provisions of paragraph (e) of section five of the Public Bodies' Leases Act, 1908, as modified by this section.

(2) Every new lease granted under this section shall be for a term of twenty-one years, with a perpetual right of renewal for further terms of twenty-one years, and shall provide for an annual rental of an amount equal to five per centum of the capital value of the land comprised in the lease reduced by an amount equal to the amount as determined by the Land Board which the lessee would be entitled in accordance with the terms of his lease to receive from an incoming lessee in respect of the value of improvements as at the date of surrender.

(3) All the provisions of Part III of the Land Act, 1924, relating to conditions as to residence in respect of renewable leases (including the provisions as to exemptions from such conditions) shall apply with respect to leases granted under this section.

(4) Every new lease issued pursuant to this section shall be deemed to be subject to all existing encumbrances, liens, and interests (if any) registered against the surrendered lease at the date of surrender, and the provisions of paragraph (c) of section ninety-six of the Land Act, 1924, shall, with the necessary modifications, apply thereto.

(5) For the purpose of fixing the rental to be reserved by any renewed lease granted in terms of a lease granted under this section no account shall be taken of any improvements existing at the time of such renewal that have been effected or that have been paid for by the lessee.

(6) Clause fifteen of the First Schedule to the Public Bodies' Leases Act, 1908, shall have no application to any lease granted under this section.

(7) The provisions of this section shall not apply with respect to any land which if it were Crown land available for disposal under the Land Act, 1924, would in the opinion of the Land Board be classified under section one hundred and twenty-seven of that Act as town land, or village land, or suburban land, or to any land unless in the opinion of the Board and the Minister such land is not suitable for subdivision. In determining whether or not any land is suitable for subdivision as aforesaid regard shall be had not only to the suitability for subdivision of the land in itself, but also to its suitability for subdivision in conjunction with any area or areas of adjoining Crown land or other land administered by the Land Board which may then be or may thereafter become available for disposal.

4. Section three of the Education Reserves Amendment Act, 1914, as amended by section ten of the Education Reserves Amendment Act, 1924, is hereby further amended by repealing subsections two, three, three A, and four thereof, and substituting the following subsections:—

As to sale or exchange of education reserves and endowments.

“(2) The Board may also sell or exchange in the manner aforesaid and for any purpose any reserve or endowment, or portion thereof, if the Board and the Minister are of opinion that the sale or exchange is for the benefit of the reserve or endowment or otherwise to the advantage of primary or secondary education, as the case may be.

“(3) The proceeds of every sale under this section, after deducting such costs and expenses incidental to the sale as may be prescribed, may, in the discretion of the Minister, be invested—

“(a) In the purchase of other land; or

“(b) In any manner in which trust funds may be invested pursuant to the Trustee Act, 1908.

“(4) Any land purchased or received in exchange pursuant to this section shall become vested in His Majesty in trust for the same educational purposes as the land sold or given in exchange therefor, and shall be administered and dealt with accordingly by the Land Board of the district in which it is situated.

“(5) Where any moneys have been invested on mortgage pursuant to subsection three hereof, and the lands mortgaged thereafter become vested in His Majesty under any power of sale expressed or implied in the mortgage, such lands shall be held in trust for the educational purposes for which the land from the sale of which such moneys were derived was held.”

Additional leasing
powers of Trustees
of high schools.

5. (1) The Trustees of any high school under the principal Act may, with the approval of the Minister, grant leases in accordance with the following provisions of this section of any lands vested in them. The powers hereby conferred are in addition to the leasing-powers conferred on such Trustees by section two of the Education Reserves Amendment Act, 1911.

(2) Where the Trustees propose to lease any land in accordance with this section they may appoint a day for the receipt of applications for such land, and shall give public notice thereof in one or more newspapers circulating in the district in which the land is situated. All applications received in respect of such land on or before the day so appointed shall be deemed to be simultaneous, and where simultaneous applications are made in respect of the same land the order of selection shall be decided by ballot.

(3) Lands which have been notified for application under this section and which have not been selected on the day mentioned in the notification shall remain open for selection, and where simultaneous applications are made in respect of any such lands the provisions of the last preceding subsection as to selection by ballot shall apply.

(4) Before taking a ballot or otherwise disposing of any applications under this section the Trustees may, in such manner as they think fit, inquire into all matters affecting an applicant's suitability, and may reject any applicant who refuses to answer any inquiries as to such matters or who fails to answer any such inquiries to the satisfaction of the Trustees.

(5) No person under the age of twenty-one years shall be eligible to acquire a lease under this section save by will or by operation of law.

(6) Any lease granted by the Trustees under this section may be subject to any or all of the following conditions, namely:—

- (a) That the lessee shall be required to reside on the land comprised in his lease for such period as the Trustees may determine:
- (b) That the lessee shall not graze upon any land comprised in his lease a greater number of stock than the Trustees may from time to time authorize:
- (c) That no improvements of a permanent character shall be made by the lessee without the consent in writing of the Trustees first having been obtained thereto:
- (d) That the lessee shall from time to time plant and properly maintain on defined portions of the land comprised in his lease such numbers and varieties of trees as the Trustees may appoint:

(e) That the lessee at the expiration or sooner determination of his lease shall be entitled to receive in respect of all trees planted and maintained as aforesaid the actual cost to the lessee of those trees on the ground, and the cost of planting the same, in the same manner as he may be entitled under his lease to receive the value of permanent improvements made by him with the approval of the Trustees:

(f) Such other conditions under the Public Bodies' Leases Act, 1908, as are not inconsistent with the foregoing provisions of this section.

6. (1) The Trustees of any high school may, with the approval of the Minister, accept the surrender of any lease heretofore granted over any land used for pastoral purposes, and may in lieu thereof grant to the lessee a new lease for any term not exceeding thirty-five years at such rental and subject to such conditions as may be fixed by the Trustees with the approval of the Minister.

Trustees may accept surrender of leases of pastoral lands and grant new leases in lieu thereof.

(2) Every new lease issued pursuant to this section shall be deemed to be subject to all existing encumbrances, liens, and interests (if any) registered against the surrendered lease at the date of surrender, and the provisions of paragraph (c) of section ninety-six of the Land Act, 1924, shall, with the necessary modifications, apply thereto.

7. Notwithstanding anything to the contrary in the Public Bodies' Leases Act, 1908, or in any lease granted by the Trustees of a high school, the Trustees at any time not earlier than two years before the expiry of any lease of pastoral land that does not confer a right of renewal may, with the approval of the Minister, reoffer that land for selection by way of lease.

Notice of intention to offer new lease of pastoral land.

8. (1) Section two of the Education Reserves Amendment Act, 1911, is hereby amended by repealing subsection one, and substituting the following subsection:—

Leasing-powers of Trustees of high schools to be subject to approval of Minister.

“(1) The Trustees of a high school under the principal Act may, with the approval of the Minister, but not otherwise, grant leases of any lands vested in them.”

(2) Section nine of the Education Reserves Amendment Act, 1924, is hereby consequentially repealed.

Consequential repeal.

9. Section four of the Education Reserves Amendment Act, 1924, is hereby amended by adding to subsection three the following words: “For the purposes of this subsection the number of pupils in average attendance at any school shall be computed in accordance with regulations made under the Education Act, 1914.”

Section 4 of Education Reserves Amendment Act, 1924, amended.