

New Zealand



ANALYSIS

- | Title. | |
|---|--|
| 1. Short Title. | 8. Land may be declared available for reserves. |
| 2. Interpretation. | 9. Power to grant easements. |
| 3. Extending purposes for which moneys in Housing Account may be expended. | 10. Execution of documents on behalf of Crown for purposes of principal Act. |
| 4. Extending purposes for which land may be acquired. | 11. State Advances Corporation to be agent of Crown. |
| 5. Authorizing local authorities to consent to streets less than 66 ft. wide. | 12. Drains constructed by Board in boroughs may be declared public drains. |
| 6. Access-ways. | 13. Validation of acts done in anticipation of this Act. |
| 7. Certificates of title for land subject to the principal Act. | |

1940, No. 14

Title.

AN ACT to amend the Housing Act, 1919.

[30th August, 1940

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 Housing Amendment Act, 1940, and shall be read together with and deemed part of the Housing Act, 1919 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. III, p. 798

Interpretation.

2. For the purposes of the principal Act,—

“ Access-way ” means an access-way authorized by section six of this Act:

“Local authority” means a Borough Council, Town Board, County Council, or Road Board:

“Road”, “street”, and “access-way” include every bridge, culvert, kerb, drain, channel, footway, crossing, fence, barricade, or other thing belonging thereto, or lying upon the line or within the limits thereof:

The expression “land subject to the principal Act” shall be deemed to include—

(a) All land of the Crown set apart or reserved for any of the purposes of Part I of the principal Act, whether before or after the passing of this Act:

(b) All land acquired by or on behalf of the Crown for any of the purposes of Part I of the principal Act, whether before or after the passing of this Act:

References to the acquisition of land shall be deemed to include references to the taking of the land under the Public Works Act, 1928, to its vesting pursuant to any Act, and to its purchase, leasing, or acquisition in any other manner whatsoever; and “to acquire” has a corresponding meaning.

See Reprint of Statutes, Vol. VII, p. 622

3. In addition to all other moneys payable out of the Housing Account in accordance with section twenty-nine of the principal Act, there may from time to time, with the approval of the Minister, be paid out of the Housing Account as provided in that section all moneys required for all or any of the following purposes:—

Extending purposes for which moneys in Housing Account may be expended.

(a) The construction, alteration, maintenance, and repair of roads or streets adjoining, passing through, or providing access to land subject to the principal Act and of access-ways, upon such terms and conditions as may be agreed upon between the Board and the local authority having control of the district in which any such road, street, or access-way is situated:

- (b) The construction, alteration, operation, maintenance, and repair of garages, pumping-stations, flood-protection works, and other works upon or for the benefit or protection of land subject to the principal Act:
- (c) The acquisition of land for access-ways or for providing roads or streets or for any of the purposes referred to in the last preceding paragraph:
- (d) The payment to any local authority or public body of such amounts as may be agreed upon in respect of its undertaking any of the works referred to in paragraphs (a) and (b) of this section, or in respect of the setting-apart, reservation, or acquisition for the purposes of Part I of the principal Act (including those mentioned in paragraph (c) of this section) of any land vested or formerly vested in the local authority or public body:
- (e) The payment of damages, compensation, or costs in respect of any injury, damage, or loss arising out of the setting-apart, reservation, acquisition, development, or improvement of any land for the purposes of Part I of the principal Act or out of any work undertaken for the purposes of the said Part I.

Extending purposes for which land may be acquired.

4. (1) The powers of setting apart, reserving, and acquiring land for the purposes of Part I of the principal Act are hereby extended to include respectively power to set apart, reserve, and acquire land for any of the following purposes:—

- (a) For access-ways or for providing roads or streets to give access to land subject to the principal Act:
- (b) For any of the works referred to in paragraph (b) of section three of this Act.

(2) All land so set apart, reserved, or acquired for any such purpose (whether before or after the passing of this Act) shall be deemed to be land subject to the principal Act unless or until it has become a road or street or otherwise ceased to be subject to that Act.

(3) Any land subject to the principal Act may from time to time, with the approval of the Minister, be disposed of to any local authority for any of the purposes referred to in this section.

5. Notwithstanding anything to the contrary in the Municipal Corporations Act, 1933, or any other Act, it shall be lawful for any local authority to consent under section twelve of the Land Act, 1924, to the proclaiming of any land as a street of a width less than sixty-six feet but not less than forty feet if the land is land subject to the principal Act or if the street is required to provide access to any such land.

Authorizing local authorities to consent to streets less than 66 ft. wide.

1933, No. 30

See Reprint of Statutes, Vol. IV, p. 627

Access-ways.

6. (1) The Board may from time to time lay out and construct, on land subject to the principal Act, access-ways for the purpose of providing more direct access for foot-passengers from any road or street to any other road or street, or from one part to another part of any road or street.

(2) Every access-way shall be of such width as the Board thinks fit, and shall be used only for foot-passengers, and the entrances thereto shall be so fenced or barricaded that horses, cattle, or motor-vehicles cannot enter the access-way.

(3) The Governor-General may, by Order in Council published in the *Gazette*, declare that any access-way laid out or constructed by the Board within a borough shall be vested in the Corporation of the borough and be under the control and management of the Council of the borough, and thereupon the access-way and the soil thereof, and all materials of which it is composed, shall be deemed to be vested in that Corporation in fee-simple, and the Council shall have the control and management of the access-way and power to alter, maintain, and repair it in accordance with this section.

(4) The Governor-General may in like manner declare that any access-way laid out or constructed by the Board in any district not being a borough shall be under the control and management of the local authority having control of the district, and thereupon the local authority shall have the control and management of the access-way accordingly, and power to alter, maintain, and repair it in accordance with this section, but the access-way and the soil thereof, and all materials of which it is composed, shall continue to be vested in the Crown.

(5) Where any Order in Council under this section relates to the whole or any part of the land comprised in any certificate of title, a copy of the Order in Council

shall be registered without fee in the District Land Registry Office, and, in the case of an Order in Council under subsection three of this section, the certificate of title shall be cancelled wholly or so far as it relates to that part of the land, as the case may require.

(6) Nothing in this section shall be construed to constitute any access-way a road or a street.

(7) No local authority shall authorize any person to erect a building on any site adjoining any access-way unless the site has a frontage to a road, or to some street, private street, or duly authorized private way within the meaning of the Municipal Corporations Act, 1933.

(8) No person shall acquire any right to erect a building by reason of the existence or construction of any access-way.

(9) No person shall be entitled to require from any Borough Council any contribution under the Fencing Act, 1908, by reason of the ownership of any access-way by the Corporation of the borough.

7. (1) Where any land subject to the principal Act is not comprised in any certificate of title, the District Land Registrar shall, at the request of the Board, issue in the name of His Majesty the King a certificate of title for an estate in fee-simple in the land, with a memorial endorsed thereon that the land is subject to the principal Act.

(2) Where any land subject to the principal Act is comprised in any certificate of title in the name of His Majesty, whether issued under the last preceding subsection or otherwise, then, notwithstanding anything to the contrary in any Act or rule of law, the fee-simple estate in the land shall not be merged or be deemed to have been merged in any other interest possessed by His Majesty, but shall enure as a separate estate available for the purposes of the principal Act.

(3) Nothing in the foregoing provisions of this section shall apply with respect to any land acquired on behalf of His Majesty by way of lease.

8. (1) The Governor-General may from time to time, by Proclamation, declare any land subject to the principal Act to be Crown land available for

1933, No. 30

See Reprint
of Statutes,
Vol. I, p. 677

Certificates of
title for land
subject to the
principal Act.

Land may be
declared
available for
reserves.

reservation under the Land Act, 1924, and thereupon that land shall be deemed to be Crown land available for reservation accordingly, and shall cease to be subject to the principal Act.

See Reprint of Statutes, Vol. IV, p. 622

(2) Where any Proclamation under this section relates to the whole or any part of the land comprised in any certificate of title, a copy of the Proclamation shall be registered without fee in the District Land Registry Office, and the certificate of title shall be cancelled wholly or so far as it relates to that part of the land, as the case may require.

9. The Board may from time to time grant any easement, right of way, right of occupation, or any other right, privilege, or concession in, upon, over, or under any land subject to the principal Act.

Power to grant easements.

10. (1) Any deed or document required to be executed on behalf of His Majesty for the purposes of the principal Act may be executed on behalf of His Majesty by the State Advances Corporation.

Execution of documents on behalf of Crown for purposes of principal Act.

(2) Notwithstanding anything to the contrary in any Act or rule of law, it shall not be necessary for any memorandum of transfer to His Majesty of any land acquired for the purposes of the principal Act to be executed by or on behalf of the transferee.

11. (1) In respect of the exercise of its functions under the principal Act the State Advances Corporation shall be deemed to be and to have always been the agent of the Crown, and shall be entitled accordingly to all the privileges which the Crown enjoys.

State Advances Corporation to be agent of Crown.

(2) Nothing in this section shall be construed to affect the validity of any payment made by the Corporation before the passing of this Act.

12. For the purposes of section two hundred and thirty-three of the Municipal Corporations Act, 1933, every private drain constructed by or vested in the Board for the purposes of Part I of the principal Act and serving two or more dwellings shall be deemed to be a common private drain.

Drains constructed by Board in boroughs may be declared public drains. 1933, No. 30

13. All acts done before the passing of this Act that by virtue of this Act would have been valid and lawful if this Act had been in force when they were done shall be deemed to have been validly and lawfully done under the authority of this Act.

Validation of acts done in anticipation of this Act.