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1951, No. 60

Title.

AN ACT to amend the Land Act 1948.

[5 December 1951

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

1. This Act may be cited as the Land Amendment Act 1951, and shall be read together with and deemed part of the Land Act 1948 (hereinafter referred to as the principal Act).

Short Title.

1948, No. 64

## PART I

## MISCELLANEOUS AMENDMENTS

2. (1) Section two of the principal Act (as amended by subsection two of section nine of the Coal Mines Amendment Act 1950) is hereby further amended as follows:—

Amending definition of "minerals" to include coal.  
1950, No. 37

(a) By inserting in the definition of the term "minerals", after the word "metals", the word "coal":

(b) By omitting from the same definition the words "or coal within the meaning of the Coal Mines Act 1925".

(2) The Coal Mines Amendment Act 1950 is hereby amended by repealing so much of the Schedule as relates to the Land Act 1948.

(3) Section eight of the Coal Mines Amendment Act 1950 is hereby amended by inserting, after the words "the Crown", the words "not being Crown land subject to the Land Act 1948".

3. (1) Section forty-eight of the principal Act is hereby amended by inserting in subsection one, after the words "Crown land", the words "and by section sixty of this Act as to the granting or reservation of rights of way, water rights, or other easements over Crown land".

Creation of easements over land held for Government purpose, and provisions as to leases and licences of such land.

(2) Section forty-eight of the principal Act is hereby further amended by adding the following subsections:—

"(4) Every lease or licence granted under this section shall be drawn up and executed in the manner provided by Part V of this Act as if the land were Crown land, but it shall not be necessary to register any such lease or licence under the Land Transfer Act 1915, unless the Board in any case otherwise determines.

See Reprint of Statutes, Vol. VII, p. 1162

"(5) The District Land Registrar shall, if the lease or licence is produced to him for registration, register it in the manner provided in Part V of this Act as if the land were Crown land, and likewise shall register all subsequent dealings with the lease or licence and all

See Reprint  
of Statutes,  
Vol. VII,  
p. 1162

such subsequent dealings shall be subject to the provisions of Part V of this Act. Where the Crown is the registered proprietor under a certificate of title under the Land Transfer Act 1915 of the whole or part of the land in any lease or licence under this section, the lease or licence shall contain a reference to every certificate of title issued in respect of any land therein, and the District Land Registrar shall enter a memorial of the lease or licence and of all subsequent dealings with the lease or licence on every such certificate of title.

“(6) The provisions of section eighty-five of this Act as to rebates on payments shall not apply to any lease or licence granted under this section, unless the Board in any case otherwise determines.”

Board may  
waive payment  
of interest  
under licence  
of land not  
immediately  
productive or  
profitable.

4. Section fifty-seven of the principal Act is hereby amended by inserting in subsection one, after the words “payment of rent”, the words “or interest”.

Amending  
provisions as  
to rental value  
of leases to  
discharged  
servicemen.  
1950, No. 96

5. Section sixty-three of the principal Act (as amended by section ten of the Land Amendment Act 1950) is hereby further amended by inserting in subsection five, before the first proviso, the following proviso:—

“Provided that, where, in the case of any such lease granted at any time on or after the first day of November, nineteen hundred and fifty, the Board decides that on account of special circumstances, as to the existence of which the decision of the Board shall be final, it would be equitable that the rent be based on some other rental value, the rental value shall be determined by the Board at such amount as the Board considers equitable having regard to those circumstances:”

Amending  
provisions as to  
disposal of  
land in special  
cases.

6. Section sixty-seven of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:—

“(2) Any Crown land available for disposal under this Act which in the opinion of the Board ought not for any reason to be permanently alienated from the Crown by way of sale may be leased for any term, not exceeding thirty-three years, with or without a right of renewal, perpetual or otherwise, for the same term. Any such lease and any renewal thereof shall be at such rent

and subject to such terms and conditions as the Board in each case determines, but no such lease and no renewal of any such lease shall confer any right of acquiring the fee simple.”

7. Section eighty-seven of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one the words “ at the value at which they are included in the rental value of the land ”, and substituting the words “ at the value as determined by the Board of those improvements at the date of purchase ”:

(b) By inserting in subsection three, after the words “ rental value of the land ”, the words “ shall be reduced by the amount at which the improvements purchased were included in the rental value ”.

8. (1) Section one hundred and sixteen of the principal Act is hereby amended by omitting the word “ warrant ”.

(2) Section one hundred and sixteen of the principal Act is hereby further amended by adding the following subsections as subsections two, three, four, five, and six thereof:—

“(2) Notwithstanding anything in section twelve of the Land Transfer Act 1915, no warrant or other authority shall be necessary for the issue of such a certificate of title other than a certificate by the Commissioner of Crown Lands and the Chief Surveyor as provided for in subsection three of this section.

“(3) On completion of all necessary surveys (if any) the Commissioner may file in the office of the District Land Registrar a certificate in the form set out in the Second Schedule to this Act certified as correct by the Commissioner and the Chief Surveyor. Every such certificate shall have the same effect as a warrant issued under section twelve of the Land Transfer Act 1915, and the District Land Registrar shall issue a certificate of title for the land under that Act accordingly.

“(4) The land comprised in any certificate of title issued pursuant to such a certificate by the Commissioner and the Chief Surveyor shall be deemed to be subject to the Land Transfer Act 1915 as from the date fixed by the last mentioned certificate as the date of acquisition

Amending provisions as to purchase of improvements during currency of lease or licence.

Issue of certificate of title on payment of purchase price.

See Reprint of Statutes, Vol. VII, p. 1166

of title thereto, and that date shall for all purposes whatsoever be deemed the ante-vesting date in the same manner as if the ante-vesting date had been inserted in a Crown grant of the land.

“(5) Every certificate by the Commissioner and the Chief Surveyor under this section shall be conclusive evidence to the District Land Registrar of the matters required by this section to be therein stated.

“(6) The provisions of sections fourteen and fifteen of the Land Transfer Act 1915 shall, with the necessary modifications, apply to a certificate of title issued pursuant to subsection three of this section as if the certificate of the Commissioner and the Chief Surveyor were a warrant by the Governor-General and as if the certificate of title had been issued pursuant to such a warrant.”

(3) The principal Act is hereby amended by adding as the Second Schedule thereto the Second Schedule set out in the Schedule to this Act.

(4) Section one hundred and twenty-four of the principal Act is hereby amended by omitting from subsection one the word “warrant”.

9. Notwithstanding anything in the Servicemen's Settlement Act 1950, the proviso to subsection six of section one hundred and twenty-two of the principal Act (as in force before the passing of the Land Amendment Act 1950) and the proviso to subsection two of section one hundred and thirty-one of the principal Act shall be deemed to have ceased to apply with respect to Crown land other than farm land on the twenty-third day of February, nineteen hundred and fifty (being the date of the commencement of the Servicemen's Settlement and Land Sales Regulations 1949, Amendment No. 1).

10. (1) Section one hundred and twenty-three of the principal Act is hereby amended by adding to subsection two the following proviso:—

“Provided that, notwithstanding anything hereinbefore contained, the Land Valuation Committee or the Land Valuation Court shall not determine the value of the improvements referred to in paragraph (b) of subsection five of section one hundred and twenty-two of this Act to be less than the value at the commencement of the lease, determined as provided in subsection

See Reprint  
of Statutes,  
Vol. VII,  
p. 1167

1942 basic  
values deemed  
to have ceased  
to apply to  
land other  
than farm  
land as from  
23 February  
1950.  
1950, No. 96  
1950, No. 41

Serial number  
1950/15

Provisions as  
to value of  
Crown's  
improvements.

three of this section, of all improvements included in the rental value or purchase price at the commencement of the lease.”

(2) Section one hundred and twenty-three of the principal Act is hereby further amended by adding the following subsections:—

“ (3) For the purposes of this section the value at the commencement of the lease of all improvements included in the rental value or purchase price at the commencement of the lease shall be—

“ (a) The value as recorded in the schedule to the lease, in any case where in the opinion of the Board the schedule contains a true and complete list of the improvements and a true and complete statement of their value; or

“ (b) The value as determined by the Board in any case where in the opinion of the Board the schedule does not contain a true and complete list of the improvements or does not contain a true and complete statement of their value.

“ (4) A certificate by the Commissioner as to the total value at the commencement of the lease, determined in accordance with subsection three of this section, of all improvements included in the rental value at the commencement of the lease shall be sufficient evidence of that value for the purposes of any application to the Land Valuation Court under this section.”

(3) Section one hundred and thirty-three of the principal Act is hereby amended by adding to subsection two the following proviso:—

“ Provided that, notwithstanding anything hereinbefore contained, the Land Valuation Committee or the Land Valuation Court shall not determine the value of the improvements referred to in paragraph (b) of subsection one of section one hundred and thirty-one of this Act to be less than the value at the commencement of the lease, determined as provided in subsection three of this section, of all improvements included in the rental value at the commencement of the lease.”

(4) Section one hundred and thirty-three of the principal Act is hereby further amended by adding the following subsections:—

“(3) For the purposes of this section the value at the commencement of the lease of all improvements included in the rental value at the commencement of the lease shall be—

“(a) The value as recorded in the schedule to the lease, in any case where in the opinion of the Board the schedule contains a true and complete list of the improvements and a true and complete statement of their value; or

“(b) The value as determined by the Board, in any case where in the opinion of the Board the schedule does not contain a true and complete list of the improvements or does not contain a true and complete statement of their value.

“(4) A certificate by the Commissioner as to the total value at the commencement of the lease, determined in accordance with subsection three of this section, of all improvements included in the rental value at the commencement of the lease shall be sufficient evidence of that value for the purposes of any application to the Land Valuation Court under this section.”

Lessee may purchase Crown's improvements when lease exchanged for a renewable lease.

11. Section one hundred and twenty-six of the principal Act is hereby amended by adding the following subsection:—

“(4) Where the lessee surrenders his lease and receives in exchange a renewable lease under this Act pursuant to the foregoing provisions of this section, the lessee shall be entitled to purchase, in accordance with the provisions of Part VIII of this Act, the improvements on the land that do not belong to the lessee as if the surrendered lease had expired on the date of surrender and as if the lessee were entitled to a renewal thereof on that date.”

## PART II

### REVIEW OF LIABILITIES OF DISCHARGED SERVICEMEN

Interpretation.

12. Section one hundred and fifty-two of the principal Act is hereby amended by adding the following subsection:—

“(3) In this Part of this Act the expression ‘1942 basic value’, in relation to any land, means the basic value thereof as determined for the purposes of this Part of this Act in accordance with the provisions of section fifty-three of the Servicemen's Settlement and Land Sales Act 1943.”

13. (1) The principal Act is hereby amended by repealing sections one hundred and fifty-four to one hundred and sixty-four.

Repealing existing provisions as to review of liabilities.

1950, No. 96

(2) Sections sixteen to nineteen of the Land Amendment Act 1950 are hereby consequentially repealed.

14. The principal Act is hereby further amended by inserting, after section one hundred and fifty-three, the following section:—

Servicemen to be notified of 1942 basic value.

“ 154. Any serviceman or discharged serviceman to whom section one hundred and fifty-five hereof applies and who has not before the commencement of this section been notified by the Board of the 1942 basic value as at the date of the disposal of the land as determined by the Board of the fee simple of the land held by him shall be entitled upon making written application to the Commissioner to be notified by the Commissioner of that basic value.”

15. The principal Act is hereby further amended by inserting, after section one hundred and fifty-four (as enacted by the last preceding section), the following section:—

Application for review of liabilities.

“ 155. (1) Any serviceman or discharged serviceman who is the holder of a lease or licence of farm land under this Act or under the Small Farms Act 1932–33, or who holds farm land disposed of under this Act or under section sixteen of the Land Laws Amendment Act 1944, and who has been granted a loan to facilitate his settlement on the land by the Rehabilitation Board constituted under the Rehabilitation Act 1941, may, at any time not earlier than three years and not later than six years after the date of the commencement of the term of the lease or licence or, as the case may be, the date on which the land was disposed of under this Act or under the said section sixteen, apply to the Commissioner for a review of his liabilities to the Crown or to the State Advances Corporation of New Zealand on the ground that the 1942 basic value of the land as determined by the Board as at the date of the disposal of the land exceeded the true 1942 basic value thereof, and the Commissioner shall refer the application to the Board:

1932–33, No. 43

1944, No. 34

1941, No. 25

“ Provided that no such right of review shall lie in any case where the 1942 basic value of the land has been determined by the Land Valuation Court under

subsection two of section three or subsection three of section thirty of the Servicemen's Settlement Act 1950, or by that Court or the Land Sales Court under section fifty-one of the Servicemen's Settlement and Land Sales Act 1943, and the liabilities of the serviceman or discharged serviceman are based on the 1942 basic value as so determined.

1950, No. 41  
1943, No. 16

“(2) Where any serviceman or discharged serviceman who is qualified to apply under this section for a review of his liabilities has transferred his interest in the land to a serviceman or discharged serviceman who has been granted a loan to facilitate his settlement on the land by the Rehabilitation Board constituted under the Rehabilitation Act 1941, his right so to apply shall enure for the benefit of the transferee:

1941, No. 25

“Provided that no such application shall be made by any transferee except within the period during which the application could have been made had the interest not been transferred.”

Review by the Board.

16. The principal Act is hereby further amended by inserting, after section one hundred and fifty-five (as enacted by the last preceding section), the following section:—

“156. (1) On receipt of an application made under section one hundred and fifty-five of this Act the Board, after considering such evidence as it thinks fit, shall review its determination of the 1942 basic value made as at the date of the disposal of the land, and, should the Board consider that that basic value exceeds the true 1942 basic value of the land, the Board shall determine—

“(a) The true 1942 basic value of the land; and

“(b) What consequential reductions shall be made in respect of the rental value and rent or the purchase price of the land or the principal moneys originally secured by any mortgage or instrument by way of security to the Crown or to the State Advances Corporation of New Zealand in order to put the applicant in the same monetary position as he would have been in had the 1942 basic value been correctly determined as at the date of the disposal of the land, and the Board and the said Corporation shall make

such adjustments as are thereby rendered necessary in the liabilities of the applicant to the Crown or to the Corporation, as the case may be.

“(2) Every determination of the Board made under this section shall forthwith be communicated to the applicant, together with a statement as to whether the Board considers that the basic value as determined by it as at the date of the disposal of the land exceeds the true 1942 basic value and, if so, what is the true 1942 basic value and what adjustments will in consequence be made to the liabilities of the applicant, together also with a statement of the applicant’s right under section one hundred and fifty-seven of this Act to apply to the Land Valuation Court to fix that value.”

17. The principal Act is hereby further amended by inserting, after section one hundred and fifty-six (as enacted by the last preceding section), the following section:—

Appeal against Board’s determination.

“157. (1) Where an applicant is dissatisfied with the determination of the Board as to the 1942 basic value of the land, he may, within two months after the communication to him of the determination of the Board under section one hundred and fifty-six of this Act, or within such further time as under any special circumstances of sickness or accident or otherwise the Board or the Court may in its discretion allow, apply to the Land Valuation Court to fix the 1942 basic value.

“(2) Every such application shall be made by notice in writing filed in the nearest office of the Court in the district in which the land is situated.

“(3) Where in any case the applicant does not apply to the Land Valuation Court within the time prescribed or allowed under subsection one of this section to fix the 1942 basic value of the land, the determination of the Board shall be final and conclusive.”

18. The principal Act is hereby further amended by inserting, after section one hundred and fifty-seven (as enacted by the last preceding section), the following section:—

Determination of 1942 basic value by Land Valuation Court.

“158. (1) On every such application the Court shall by order determine the 1942 basic value of the fee simple of the land as at the date of the commencement of the

term of the lease or licence or, as the case may require, as at the date on which the land was otherwise disposed of by the Crown.

“(2) Where the Court determines that the true 1942 basic value of the land is less than the 1942 basic value as determined by the Board as at the date of the disposal of the land, the Board shall determine what consequential adjustments should be made in the rental value and rent or the purchase price of the land or the principal moneys secured by any mortgage or instrument by way of security to the Crown or to the State Advances Corporation of New Zealand so as to put the applicant in the same monetary position as he would have been in had the 1942 basic value been correctly determined by the Board as at the date of the disposal of the land. The decision of the Board as to what consequential adjustments should be made shall be final and conclusive.”

No second  
review.

19. The principal Act is hereby further amended by inserting, after section one hundred and fifty-eight (as enacted by the last preceding section), the following section:—

“159. Subject to the provisions of section one hundred and fifty-seven of this Act relating to applications to the Court, where any review of liabilities is made in relation to any land as aforesaid, no application for a further review of liabilities shall be made in relation to that land.”

Adjustments  
to be endorsed  
on certificate  
of title.

20. The principal Act is hereby further amended by inserting, after section one hundred and fifty-nine (as enacted by the last preceding section), the following section:—

“160. (1) The District Land Registrar, on receipt of a certificate signed by the Commissioner setting forth particulars as to any reduction or adjustment in the liabilities of any applicant made pursuant to section one hundred and fifty-six or section one hundred and fifty-eight hereof shall endorse a memorial of the certificate on the registered copy of the lease or licence or, as the case may require, on the relevant certificate of title, mortgage, or other document.

“(2) Where the liability of any applicant under an instrument by way of security is reduced or adjusted pursuant to section one hundred and fifty-six or section

one hundred and fifty-eight hereof, the Registrar of the Supreme Court in whose office the instrument is registered, on receipt of a certificate signed by the Commissioner setting forth particulars of the reduction or adjustment, shall attach the certificate to the instrument and endorse on the instrument a reference to the reduction or adjustment specified in the certificate.

“(3) No fee shall be payable to any District Land Registrar or Registrar of the Supreme Court in respect of the receipt or filing of any certificate under this section.”

21. Where before the passing of this Act application has been made under Part X of the principal Act for a review of the liabilities of any serviceman or discharged serviceman or an appeal has been lodged against any determination of the Board on any such application, and the application or appeal has not been determined at the passing of this Act, the application or appeal shall be determined and all subsequent action shall be taken as if this Act had not been passed.

Saving as to applications pending.

## SCHEDULE

Schedule.

### NEW SECOND SCHEDULE TO THE PRINCIPAL ACT

Section 8

#### “SECOND SCHEDULE

CERTIFICATE UNDER SECTION 116 OF THE LAND ACT 1948 FOR THE ISSUE OF A CERTIFICATE OF TITLE UNDER THE LAND TRANSFER ACT 1915

Name, occupation, and address of person entitled to Crown grant:

Statutory authority for issue of certificate of title:

Area and description of land:

Purchase price:

Fees collected:

Date from which entitled:

Trusts, reservations, and restrictions affecting land, and general remarks:

We hereby certify that the above particulars are correct, and the District Land Registrar is hereby authorized to issue accordingly a certificate of title under the Land Transfer Act 1915 instead of a Crown grant.

Chief Surveyor.

Commissioner of Crown Lands.”