



## ANALYSIS

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1965, No. 48

**An Act to amend the Land Act 1948**

[19 October 1965]

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

**1. Short Title**—This Act may be cited as the Land Amendment Act 1965, and shall be read together with and deemed part of the Land Act 1948 (hereinafter referred to as the principal Act).

**2. Appointment of Surveyor-General**—Section 6 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) No person shall be qualified for appointment as or to hold the office of Surveyor-General unless he is a surveyor registered under the Surveyors Act 1938.”

**3. Land Settlement Board**—(1) Section 12 of the principal Act is hereby amended by repealing paragraph (k) of subsection (1), and substituting the following paragraph:

“(k) Not more than two other members to be appointed by the Minister.”

(2) Section 12 of the principal Act is hereby further amended by inserting, after subsection (11), the following subsection:

“(11A) The following provisions shall apply to every person appointed under paragraph (k) of subsection (1) of this section:

“(a) He shall be appointed for a term of not more than five years, but may from time to time be re-appointed, or may at any time be removed from office by the Minister for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Minister:

“(b) If he dies, is removed from office, resigns, or becomes ineligible to be a member of the Board, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made:

“(c) Unless he sooner vacates his office as provided in paragraph (a) of this subsection, every person so appointed shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.”

(3) The provisions of subsection (11A) of section 12 of the principal Act (as inserted by subsection (2) of this section), as far as they are applicable and with the necessary modifications, shall apply with respect to every member of the Board appointed under paragraph (k) of subsection (1) of that section who is in office immediately before the passing of this Act as if he had been appointed by the Minister for a term expiring with the thirty-first day of December, nineteen hundred and sixty-eight.

**4. Application for rehearing**—Section 17 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Any person aggrieved by any decision of the Board or any determination of an administrative nature by the Board may, within twenty-one days after being notified of that decision or determination, apply to the Board for a

rehearing, and the Board may, at any time within one month after receiving the application, grant a rehearing of the case if it thinks that justice requires it, and on the rehearing may reverse, alter, modify, or confirm the previous decision or determination in the same case:

“Provided that the Board shall not grant a rehearing where the decision or determination relates to the allotment of land to any person other than the person aggrieved unless that land has been allotted by the Board pursuant to the powers conferred on it by section 54 of this Act.”

**5. Appeal against decision of the Board**—Section 18 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where any lessee or licensee under any lease or licence granted under this Act or any former Land Act considers himself aggrieved by any decision of the Board affecting the lease or licence, he may appeal to the Supreme Court if, within one month after being notified of that decision, he gives notice of appeal to the Board, and also to such persons (if any) as have appeared before the Board as opponents of the case or claim or application to which the decision relates, and also gives security, to be approved by the Registrar of the Court, for the costs of the appeal:

“Provided that no such appeal shall lie—

- “(a) Where by any provision of this Act the decision of the Board is final:
- “(b) Where under this Act there is a right of appeal against the decision to the Land Valuation Court:
- “(c) Against any decision of the Board in relation to the allotment of land:
- “(d) Where the Board has made a determination of an administrative nature.”

**6. Alienation of land**—Section 52 of the principal Act is hereby amended by omitting from subsection (2) (as added by section 5 (1) of the Land Amendment Act 1950) the words “urban land or commercial or industrial”.

**7. Crown land in mining districts**—Section 55 of the principal Act is hereby amended—

- (a) By inserting in subsection (3), after the words “prospect for gold, and”, the words “upon application in that behalf under the Mining Act 1926 and in accordance with the provisions of that Act”:

- (b) By inserting in subsection (4) after the words “the Warden may”, the words “upon application in that behalf under the Mining Act 1926 and in accordance with the provisions of that Act”.

**8. Rent and interest under leases and licences—**(1) The principal Act is hereby further amended—

- (a) By omitting from subsection (1) of section 56 the words “the rate of four and one-half per cent per annum”, and substituting the words “such rate as may be fixed by the Governor-General, by Order in Council”;
- (b) By omitting from subsection (6) of section 88 the words “four and one-half per cent”, and substituting the words “such proportion as may be fixed by the Governor-General, by Order in Council”;
- (c) By omitting from subsection (2) of section 153 the words “the rate of four and one-half per cent”, and substituting the words “such rate as may be fixed by the Governor-General, by Order in Council”.

(2) Section 121 of the principal Act is hereby amended by omitting from subsection (2) the word “one-tenth”, and substituting the words “such proportion as may be fixed by the Governor-General, by Order in Council”.

(3) Notwithstanding anything in the foregoing provisions of this section, the provisions of the principal Act shall continue to apply, as if this section had not been enacted, to every lease or licence granted before the date of the commencement of this section during the term thereof that is current on that date.

(4) This section shall come into force on the first day of December, nineteen hundred and sixty-five.

**9. Minerals reserved to the Crown—**Section 59 of the principal Act is hereby amended by adding to paragraph (c) of subsection (3) (as amended by section 6 (b) of the Land Amendment Act 1950) the words “or any building used for industrial or commercial purposes”.

**10. Exchange of Crown and other land—**Section 61 of the principal Act is hereby amended by omitting from subsection (1) the words “The Governor-General may in any case where he deems it expedient in the public interest to do so, grant in fee simple”, and substituting the words “The Board may, in any case where it considers it expedient in the public interest to do so, authorise the grant in fee simple of”.

**11. Appeal against decision of Board where improvements purchased during currency of lease**—The principal Act is hereby further amended by inserting, after section 87, the following section:

“87A. (1) Any lessee who is dissatisfied with the determination of the Board under section 87 of this Act may, within one month after receiving notice in writing of the determination of the Board, appeal from that determination to the Land Valuation Court. Every such appeal shall be filed in the nearest office of the Court in the district in which the land is situated, and a copy of the appeal shall be served on the Commissioner.

“(2) Every appeal under this section shall contain or be accompanied by such particulars, information, or documents as may be prescribed or as may be required by the Court or any Land Valuation Committee, and shall be verified by the statutory declaration of the appellant.

“(3) After hearing the appeal the Land Valuation Committee to which the appeal is referred shall determine the value of the improvements as at the date of election to purchase by the lessee. Subject to the right of appeal to the Land Valuation Court vested in any party, the purchase price of the improvements shall be fixed in accordance with the value so determined by the Committee.

“(4) Notwithstanding anything in subsection (3) of this section, the Land Valuation Committee or the Land Valuation Court shall not determine the value of the improvements to be less than the value at the commencement of the lease, determined as provided in subsection (5) of this section, of all improvements included in the rental value at the commencement of the lease.

“(5) 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 a true and complete statement of their value.

“(6) A certificate by the Commissioner as to the total value as at the commencement of the lease, determined in accordance with subsection (5) 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 appeal to the Land Valuation Court under this section.”

**12. Transfer by trustees**—The principal Act is hereby further amended by inserting, after section 91, the following section:

“91A. (1) Where any lease or licence has been assigned to any trustee with the consent of the Board or pursuant to section 90 of this Act or to this section, the consent of the Board shall not be necessary to any assignment of the lease or licence to any person as trustee on the appointment of a new trustee or the retirement of a trustee or to any beneficiary under the trust.

“(2) Any person who assigns any lease or licence pursuant to the provisions of subsection (1) of this section shall forthwith notify the Commissioner of the full name and address of the assignee, the power under which the assignment has been made, and whether the assignment is to a new trustee or to a beneficiary under the trust. No such assignment shall be registered by the District Land Registrar unless and until he is satisfied that the notice required by this subsection has been given to the Commissioner.”

**13. Improvements to be effected**—(1) Section 104 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “to such value”, and substituting the words “of such nature and quantity”:

(b) By omitting from subsection (2) the word “value”, and substituting the words “nature and quantity”.

(2) Every determination of the Board made for the purposes of section 104 of the principal Act before the passing of this Act requiring the holder of a lease or licence to effect on the land comprised in the lease or licence improvements of such nature and quantity as were specified by the Board shall be deemed to have been validly made.

**14. Rates payable under temporary tenancies**—(1) Section 112 of the principal Act is hereby amended by omitting from subsection (1) the words “not exceeding”, and substituting the words “of less than”.

(2) Section 112 of the principal Act is hereby further amended by repealing subsection (3) (as added by section 3 of the Land Amendment Act 1952), and substituting the following subsection:

“(3) Every licence to occupy Crown land granted under this Act for a term of one year or more or on a tenancy of one year or more shall, for the purposes of this section, be deemed to be a licence for a term certain of one year or more, notwithstanding that it is subject to the provisions of subsection (2) of section 68 of this Act (which confers on the Board the right to determine the licence in the circumstances specified in that subsection).”

(3) Section 3 of the Land Amendment Act 1952 is hereby consequentially repealed.

**15. Variation of area of land or terms and conditions of lease or licence—**(1) Section 113 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 12 of the Land Amendment Act 1950), and substituting the following subsection:

“(1) Notwithstanding the provisions of section 82 of this Act or of any other Act, where any lease or licence is registered in the Land Transfer Office, and—

“(a) Land is incorporated in or excluded from the lease or licence; or

“(b) Any survey or resurvey of the land comprised in the lease or licence discloses that the area of land shown in the lease or licence is incorrect; or

“(c) Any term or condition of the lease or licence is varied, whether by increase or reduction of the rental value or yearly rent or otherwise howsoever,—

the Commissioner may prepare and sign a certificate setting forth such particulars with respect to any alteration in area, rental value, rent, purchase money, instalments of purchase money and interest, or other matters as he may deem necessary in the circumstances of the case. The certificate shall, if the District Land Registrar so requires, in any case where land has been incorporated in or excluded from the lease or licence or where there is any alteration in area, have endorsed thereon or attached thereto a plan of that land, and shall in every case be produced to the District Land Registrar, who shall thereupon endorse on the relevant lease or licence a memorial of the same.”

(2) Section 12 of the Land Amendment Act 1950 is hereby consequentially repealed.

**16. Issue of title to land of the Crown**—Section 116 of the principal Act is hereby amended by adding the following subsection:

“(7) Where any land owned by the Crown is to be granted in fee simple under the authority of this Act or of any other Act, the grant and issue of a certificate of title in lieu of a Crown grant to the person entitled thereto may be effected in the manner provided by the foregoing provisions of this section, which provisions shall extend and apply with such modifications as are necessary. The provisions of this subsection shall be in addition to and not in substitution for any other authority providing for the issue of or conveyance of title to land alienated from the Crown.”

**17. Renewal of existing leases**—Section 125 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

“(3) Where any land is held at the commencement of this Act on pastoral licence granted under any former Land Act, the Board shall as soon as possible after the commencement of this Act determine whether the land should be held on pastoral lease or be disposed of under any other tenure under this Act:

“Provided that the Board may determine that the whole or any part of the land shall not again be made available for disposal under this Act.

“(3A) Where in any such case the Board determines that the land should be held on pastoral lease, the licensee shall on the expiration of the current term of the licence be entitled to a renewal lease of the land as if the pastoral licence owned by him were a pastoral lease under this Act.

“(3B) Where the Board determines that the land should be disposed of under any tenure under this Act other than a pastoral lease, then, on the expiration of the current term of the licence,—

“(a) The Board may, without public notice under section 53 of this Act, allot to the licensee on the tenure so determined the whole or any part of the land in accordance with the provisions of section 54 of this Act:

“(b) If the land or any part of the land is not allotted to the licensee under any tenure under this Act, the provisions of section 109 of this Act shall apply as if the expired licence were a pastoral occupation licence under this Act for a term of not less than five years.”

**18. Exchange of pastoral leases for renewable leases**—The principal Act is hereby further amended by inserting, after section 126, the following section:

“126A. (1) Where the Board at any time during the currency of a pastoral lease granted under this Act reclassifies the land comprised in the lease as farm land for the purposes of subsection (1) of section 51 of this Act, the holder of the lease may, with the consent of every person having a registered interest in the lease, at any time thereafter during the term thereof surrender his lease and obtain in exchange therefor a renewable lease under this Act over the land comprised in the surrendered lease, and any lease so granted shall for the purposes of subsection (4) of section 58 of this Act (as enacted by section 2 of the Land Amendment Act 1960) be deemed to be a renewal lease:

“Provided that any renewable lease granted under this subsection in exchange for a lease of land comprised in an endowment or reserve vested in any corporate body or person and administered by the Board shall not confer on the lessee any right of acquiring the fee simple.

“(2) The rental value of the land, the value of improvements, and the yearly rent for the purposes of any new lease granted under subsection (1) of this section shall be calculated as if the lessee were entitled to a renewable lease as at the date of commencement of the surrendered pastoral lease. The determination of the Board as to those values shall be final and conclusive.

“(3) The term of every such new lease shall be computed from the date of surrender of the pastoral lease, and shall terminate on the same date on which the pastoral lease would have terminated if it had not been surrendered.

“(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.

“(5) The costs of any survey required for the grant under this section of a renewable lease shall be borne by the lessee.”

**19. Application for reduction in rental value**—Section 139 of the principal Act is hereby amended by inserting in subsection (3), after the words “commencement of this Act”, the words “nor to a renewal lease granted under Part VIII of this Act”.

**20. Reduction in rent to cease to operate where lease transferred to person who is not a discharged serviceman**—Section 153A of the principal Act (as inserted by section 8 of the Land Amendment Act 1953) is hereby amended—

- (a) By adding to paragraph (b) of subsection (1) the words “or enters into an agreement to transfer, sublease, or otherwise dispose of, at any future date, his interest to any person (not being such a serviceman or discharged serviceman)”:
- (b) By inserting in subsection (1), after the words “instrument of disposition”, the words “or, as the case may be, the date when that person enters into possession of the land pursuant to the agreement”.

**21. Land and foreshore may be set apart as reserves**—

(1) Section 167 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 11 (1) of the Land Amendment Act 1953), and substituting the following subsection:

“(1) The Minister may from time to time, by notice in the *Gazette*, set apart as a reserve any Crown land, and, with the prior consent in writing of the Minister of Marine, any foreshore (as defined in the Harbours Act 1950) adjacent thereto and vested in the Crown, for any purpose which in his opinion is desirable in the public interest, or, with the like consent, any foreshore (as so defined) and vested in the Crown for addition to any reserve set apart under this section or the corresponding provisions of any former enactment. Every such notice shall take effect from the date thereof or from such later date as is specified in the notice.”

(2) Section 167 of the principal Act is hereby further amended—

- (a) By inserting in subsection (4), after the words “Crown land”, the words “or any foreshore”:
- (b) By inserting in subsection (4), after the words “the land”, the words “or foreshore”.

(3) Section 9 of the Wildlife Act 1953 is hereby amended by inserting in paragraph (b) of the proviso to subsection (1), after the words "Land Act 1948", the words "and any foreshore adjacent to any such land".

(4) Section 11 of the Land Amendment Act 1953 is hereby consequentially amended by repealing subsection (1).

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This Act is administered in the Department of Lands and Survey.

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