



ANALYSIS

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1977, No. 51

An Act to amend the Land Act 1948

[21 November 1977]

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 1977, and shall be read together with and deemed part of the Land Act 1948 (hereinafter referred to as the principal Act).

2. Change of title of Assistant Director-General to Deputy Director-General—(1) The principal Act is hereby amended by repealing section 7, and substituting the following section:

“7. Deputy Director-General—(1) There shall from time to time be appointed under the State Services Act 1962 a Deputy Director-General of Lands who shall, without further appointment, be the deputy of the Director-General.

“(2) Subject to the control of the Director-General, the Deputy Director-General shall have and may exercise all the functions, duties, and powers of the Director-General.

“(3) On the occurrence from any cause of a vacancy in the office of Director-General (whether by reason of death, resignation, or otherwise) and in the case of absence from duty of the Director-General (from whatever cause arising), and so long as any such vacancy or absence continues, the Deputy Director-General shall have and may exercise all the functions, duties, and powers of the Director-General.

“(4) The fact that the Deputy Director-General exercises any function, duty, or power of the Director-General shall be conclusive evidence of his authority to do so.”

(2) Sections 4 (2) (d) and 12 (1) (h) of the principal Act are hereby consequentially amended by omitting the word “Assistant”, and substituting in each case the word “Deputy”.

(3) Section 11 (1) of the principal Act is hereby consequentially amended by omitting the words “Surveyor-General, or of the Assistant Director-General”, and substituting the words “Deputy Director-General, or of the Surveyor-General”.

(4) Unless the context otherwise requires, every reference to the Assistant Director-General of Lands in any Act, regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever in force at the commencement of this Act shall, after the commencement of this Act, be read as a reference to the Deputy Director-General of Lands.

(5) The person holding office as Assistant Director-General of Lands at the commencement of this Act shall be deemed to have been appointed as Deputy Director-General of Lands.

(6) Every act of authority done by the Assistant Director-General of Lands pursuant to any Act, regulation, rule, order, notice, or other authority, and subsisting at the commencement of this Act, shall continue and have effect after the commencement of this Act as if it had been done by the Deputy Director-General of Lands.

3. Delegation of powers by Minister—The principal Act is hereby amended by inserting, after section 11, the following section:

“11A. (1) Subject to the provisions of any other Act relating to the delegation of the Minister’s powers under that Act, the Minister may from time to time, by writing under his hand, either generally or particularly, delegate to any officer or officers of the Department all or any of the powers exercisable

by him as Minister under any enactment including powers delegated to him under any enactment, but not including the power to delegate under this section.

“(2) Subject to any general or special directions given or conditions attached by the Minister, an officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

“(3) Until a delegation made under this section is revoked, it shall continue in force according to its tenor; and, in the event of the Minister by whom any such delegation has been made ceasing to hold office, the delegation shall continue to have effect as if made by the person for the time being holding office as Minister.

“(4) In the event of an officer to whom a delegation under this section has been made ceasing to hold the office that he held when the delegation was made, the delegation shall continue to have effect as if made to the person for the time being holding that office or, if there is no person holding that office, to the person (if any) for the time being authorised to exercise the powers of the holder of that office.

“(5) The fact that an officer of the Department exercises any power of the Minister shall, in the absence of proof to the contrary, be sufficient evidence that he has been authorised to do so by a delegation under this section.

“(6) Every delegation made under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.”

4. Leases of private land—(1) The principal Act is hereby amended by inserting, after section 40, the following section:

“40A. (1) The Board, on behalf of Her Majesty, may, with the approval of the Minister, lease from any person any private land for use in conjunction with Crown land.

“(2) Any such lease may be entered into on such terms and conditions as the Board thinks fit:

“Provided that, before entering into the lease, the Board shall ascertain, by report and valuation by at least one competent valuer and by such other means as the Board thinks fit, the value of the land and its suitability for the use proposed in respect thereof.

“(3) On the approval of the Minister being given to a proposal to lease private land pursuant to this section, the

Board may execute all agreements, deeds, and instruments and do and perform all acts necessary to obtain the lease.

“(4) Where any private land is leased to the Board pursuant to this section, the Board shall, subject to the terms and conditions of the lease, have the powers in respect of the land that it would have if the land were Crown land.”

(2) Section 28 (1) of the principal Act is hereby consequentially amended by inserting, after paragraph (a), the following paragraph:

“(aa) In payment of the rental and other expenses relating to any lease of private land entered into by the Board pursuant to section 40A of this Act:”

(3) Section 42 of the principal Act (as substituted by section 3 (1) of the Land Amendment Act 1954) is hereby consequentially amended by adding the following subsection:

“(6) The foregoing provisions of this section shall not apply in respect of any private land leased by the Board pursuant to section 40A of this Act.”

5. Cropping of pastoral lands—(1) Section 108 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(1A) A lessee or licensee of pastoral land may, with the prior consent in writing of the Board, given subject to such conditions as it may deem necessary, do any of the following things on the land comprised in his lease or licence:

“(a) Cultivate any portion for the purpose of growing crops for sale:

“(b) Afforest (including any necessary clearing of bush or scrub) any portion for the purpose of growing timber for sale.”

“(2) Any consent of the Commissioner or the Board under this section shall, unless the Board otherwise determines, be subject to the condition that the lessee or licensee shall, on the termination of his lease or licence, leave the whole of any area that has been ploughed or cultivated properly laid down in good permanent grasses and clovers to the satisfaction of the Commissioner or the Board, as the case may be; and may be subject to such other conditions, restrictions, and directions as the Commissioner or the Board, as the case may be, may deem necessary.”

(2) Section 109 (2) of the principal Act is hereby consequentially amended by omitting from the proviso the words “subsection (1) of”.

6. Right of acquisition of fee simple—Section 122 of the principal Act (as substituted by section 13 of the Land Amendment Act 1950) is hereby amended by omitting from subsection (10) (as amended by section 2 (4) of the Land Valuation Proceedings Amendment Act 1968) the words “the Administrative Division of the Supreme Court”, and substituting the words “the Land Valuation Tribunal”.

7. Rates of interest—Section 170B of the principal Act (as inserted by section 6 of the Land Amendment Act 1968) is hereby amended—

(a) By omitting from subsection (1) (a) the figure “5”, and substituting the figure “3”:

(b) By repealing paragraph (b) of subsection (1), and substituting the following paragraph:

“(b) Where the lease, licence, mortgage, or other document provides that the rate or rates of interest payable thereunder may be reviewed, the Board, on giving to the lessee, licensee, purchaser, mortgagor, or other person liable not less than 3 months’ notice thereof in writing, may review, in accordance with any applicable provisions of the document, that rate or those rates; and, on any such review, may increase or reduce that rate or those rates or any of them in order to conform to the current rates of interest for the time being fixed by the Minister of Finance.”

8. Time for laying information for offences—(1) Section 182 of the principal Act is hereby amended by adding the following subsection:

“(2) Notwithstanding section 14 of the Summary Proceedings Act 1957, any information in respect of any offence against this Act may be laid at any time within 1 year from the time when the matter of the information arose.”

(2) Section 176 (3) of the principal Act is hereby amended by omitting the words “, and any such information shall be laid not later than 2 years after the time when the matter of the information arose”.