



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p>2. Crown easements over Crown land</p>	<p>3. Special leases may limit or exclude trespass rights</p> <p>4. Bringing down interests</p> <p>5. Repeal of restriction on acquisition of land</p>
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1998, No. 66

An Act to amend the Land Act 1948

[23 June 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Land Amendment Act 1998, and is part of the Land Act 1948 (“the principal Act”).

2. Crown easements over Crown land—The principal Act is amended by inserting, after section 60, the following section:

“60AA. Despite any enactment or rule of law, the Commissioner may under section 60 create an easement to Her Majesty, in favour of any adjacent Crown land, over all or any part of any land (whether or not already held under lease or licence) that the Commissioner thinks—

“(a) Likely to be disposed of; or

“(b) Likely to become conservation area under the Conservation Act 1987; or

“(c) Likely to become a reserve under the Reserves Act 1977.”

3. Special leases may limit or exclude trespass rights—The principal Act is amended by inserting, after section 67, the following section:

“67A. (1) A lease under section 67 may provide that specified people or kinds of people have the right to enter and remain on the land held under it or any specified part of it without the consent of the lessee, either unconditionally or subject to the observance of any conditions specified in the lease; and in that case—

“(a) Subject to paragraph (b), when any person (or person of the kind) specified enters or remains on the land or part, the Trespass Act 1980 applies as if the person were not a trespasser on it; but

“(b) If the right is subject to the observance of a condition and the person fails or refuses to observe it,—

“(i) The lessee (or any employee or other person acting under the lessee’s authority) may orally notify the person of the failure or refusal and warn the person to leave the land or part, to stay off the land or part, or both; and

“(ii) At any time after the warning, the person does not have the benefit of paragraph (a); and

“(iii) If the person was warned to leave the land or part, the warning has effect as a warning under section 3 of that Act; and

“(iv) If the person was warned to stay off the land or part, the warning has effect as a warning under section 4 of that Act.

“(2) A lease under section 67 may empower the Commissioner to authorise people (whether specified people or people of any specified kind) to enter and remain on the land held under it or any specified part of it without the consent of the lessee, either unconditionally or subject to the observance of any conditions specified in the authority; and in that case—

“(a) Subject to paragraph (b), when any person (or person of the kind) authorised enters or remains on the land or part, the Trespass Act 1980 applies as if the person were not a trespasser on it; but

“(b) If the authority is subject to the observance of a condition and the person fails or refuses to observe it,—

“(i) The Commissioner, the lessee, or any employee or other person acting under the authority of the Commissioner or the lessee, may orally notify the person of the failure or refusal and warn the person to leave the land or part, to stay off the land or part, or both; and

“(ii) At any time after the warning, the person does not have the benefit of paragraph (a); and

“(iii) If the person was warned to leave the land or part, the warning has effect as a warning under section 3 of that Act; and

“(iv) If the person was warned to stay off the land or part, the warning has effect as a warning under section 4 of that Act.”

4. Bringing down interests—The principal Act is amended by repealing section 114, and substituting the following section:

“114. (1) In this section, ‘interest’ includes an easement, a lien, and a land covenant.

“(2) If a lessee or licensee acquires an estate in fee simple in land held under the lease or licence concerned, to the extent that the lease or licence is or was subject to (or has or had the benefit of) an interest that applied in relation to the land,—

“(a) The estate acquired is subject to the interest (or has the benefit of the interest) as if it had been created in respect of the estate; and

“(b) Before issuing a certificate of title for the land, the District Land Registrar must take all steps, and make all entries in the registers, necessary to record the existence of the interest.

“(3) If under section 65 (2) of the Crown Pastoral Land Act 1998 a lessee or licensee is granted a special lease of land held under the lease or licence concerned, to the extent that the lease or licence is or was subject to (or has or had the benefit of) an interest that applied in relation to the land,—

“(a) The special lease is subject to the interest (or has the benefit of the interest) as if it had been created in respect of the special lease; and

“(b) Before registering the special lease, the District Land Registrar must take all steps, and make all entries in the registers, necessary to record the existence of the interest.

“(4) If—

“(a) A lease or licence is surrendered, and in exchange the lessee or licensee is granted a new lease or licence of land held under it; or

“(b) On the expiry of a lease or licence, the lessee or licensee is granted a new lease or licence of land held under it; or

“(c) On the expiry of a lease or licence, the lessee or licensee is granted a renewal of it; or

“(d) The former lessee of any land buys an estate in fee simple in land held under it on deferred payments, under a licence granted (so far as the land in which the estate is being bought is concerned) in substitution for the former lease,—

the new, renewed, or substituted lease or licence is subject to (or has the benefit of) every interest to which the surrendered, expired, or former lease or licence was subject (or had the benefit of); and the District Land Registrar must record the interest on it (if more than 1, in order of their registered priority).”

5. Repeal of restriction on acquisition of land—The following provisions are repealed:

- (a) Section 175 of the principal Act;
- (b) Section 4 of the Land Amendment Act 1952.

This Act is administered in Land Information New Zealand.
