

New Zealand.



ANALYSIS.

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1887, No. 32.

AN ACT to amend "The Land Act, 1885."

[23rd December, 1887.]

Title.

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

1. The Short Title of this Act is "The Land Act Amendment Act, 1887." It shall be read together with and be deemed to form part of "The Land Act, 1885" (hereinafter referred to as "the said Act").

Short Title.

2. The boundaries of the Land Districts of Auckland, Hawke's Bay, Otago, and Southland, as defined in section nineteen of the said Act, shall cease to be the boundaries of such districts, and the limits of such districts shall hereafter be the same as those of the Land

Land Districts of
Auckland, Hawke's
Bay, Otago, and
Southland defined.

Registration Districts of Auckland, Hawke's Bay, Otago, and Southland, as the said districts are respectively constituted under "The Land Transfer Act, 1885."

Governor by notification in *Gazette* may declare rural lands open for selection.

3. The Governor may from time to time, by notification in the *Gazette* and by public notification, declare (anything in the several Appendices to the said Act, or in the said Act, to the contrary notwithstanding) that any pieces or parcels of rural land within the colony, including land now open for selection, shall be open for sale or selection in the manner and upon the conditions mentioned in this Act: Provided always that this section shall not apply to lands now or hereafter to be open under Parts V. or VII. of the said Act: Provided also that, before causing any notification to be published, the Governor shall require the Surveyor-General to report, and it shall be his duty to report, upon the nature and value of such lands.

Exceptions.

Price of land to be stated in notifications.

4. The notifications mentioned in section three shall fix the price at which, and the time when, the land mentioned therein shall be open for selection, but such price shall not be less than twenty shillings per acre for first-class land, or ten shillings per acre for second-class land, except in the case of lands within the land districts, where the same may, by virtue of the said Act or its Appendices, be sold at a less price; in which case the minimum price may be less than the foregoing prices, but shall not be less than the minimum price at which the same may be sold in terms of the said Act or Appendices, and, except in the Provincial Districts of Nelson, Marlborough, and Wellington, where the price of second-class land may be any price not less than five shillings per acre.

The Governor may, in such notification, assign a price to each section within a block, and he may, subject to a new notification being given, and to the provisions of this Act fixing the minimum prices of land, raise or reduce such price. He may also, where the land within a block is declared open at the same price per acre, by a subsequent notification or notifications raise or reduce such price.

Land may be selected forty-five days after notification.

5. The time to be mentioned in any notification aforesaid at which the land mentioned therein shall be open for selection at the price or prices mentioned therein shall be a time not less than forty-five days after the first public notification thereof.

Lands to be open for cash, or on deferred payments, or perpetual lease, at option of applicant.

6. All lands notified as aforesaid shall, at the time mentioned in the public notification, be open for purchase for cash at the price or prices mentioned therein, or (at the option of the person seeking to purchase or select the same) for selection on deferred payments or on perpetual lease at their respective equivalents in prices, to be arrived at as provided for by the said Act.

Disqualifications under principal Act to apply.

7. No person shall be entitled to select land under the provisions of this Act under the deferred-payment system or by way of perpetual lease who is disqualified by the said Act from acquiring the same under such systems respectively; and any person so acquiring land under either of such systems shall hold the same subject to the conditions in the said Act with regard to such systems as modified by this Act.

Definition of simultaneous applications.

8. All applications for sections of surveyed land shall be deemed to be simultaneous if made on the same day, but priority of applica-

tions on the same day for unsurveyed land shall determine the right thereto.

9. All rural lands which at any time heretofore have been proclaimed, or which may hereafter be proclaimed, open for selection on deferred payments or on perpetual lease shall be open either for purchase for cash, subject as in this Act mentioned, or for selection on deferred payments or perpetual lease, at the option of the applicant. The cash price per acre to be paid for any such land shall be estimated from the price at which the same shall have been open for selection according to the respective equivalents mentioned in the said Act.

Rural lands now open on deferred payments or perpetual lease declared open for sale for cash or occupation on either tenure.

10. The Governor, on being satisfied by the certificate of the Surveyor-General that any rural lands in the colony are of inferior quality and not capable of being profitably worked in small holdings, may, by notification in the *Gazette*, from time to time declare any such lands to be second-class lands.

Second-class lands may be declared on certificate of Surveyor-General.

11. No person shall be entitled to purchase for cash within any one land district more than six hundred and forty acres of first-class land and two thousand acres of second-class land under this Act. And every person applying for land for cash shall, at the time he makes his application, make and lodge a statutory declaration in the form set forth as follows:—

Limitation of cash purchases.

“I, A. B. [*insert occupation and place of abode*], do solemnly and sincerely declare that I am purchasing the under-mentioned land solely for [my own use and benefit], or [the use and benefit of C.D. and E.F. who reside in the colony and for whom I am trustee], and not directly or indirectly for the use or benefit of any other person or persons whomsoever, and that [I am not the holder either in my own name], or [the said C.D. and E.F. are not the holders either in their own names], or in the name of any other person of freehold land or of land held under the deferred-payment system or the perpetual lease system in the Land District of _____, to an extent which, added to the acreage comprised in this present application, would exceed 640 acres of first-class land, and 2,000 acres of second-class land. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled ‘The Justices of the Peace Act, 1882.’”

Declaration.

Trustee in this section includes the Public Trustee or the guardian of an infant, but does not include any Trustee in Bankruptcy, or person to whom the estate of another has been assigned within the meaning of any such Act. Notwithstanding anything contained in section six, if at any time in any financial year the sum realised for cash sales of rural land shall amount to one hundred and fifty thousand pounds, no further sales for cash shall be made during such year.

12. In the event of any of the statements in such declaration being false, the purchaser, in addition to incurring the penalties for making a false declaration, shall forfeit all right to the land, and all moneys paid in respect thereof; and the land shall be again open for sale as if it had never been sold; or if he shall have parted with the said land, then he shall be held subject to a penalty equal to twenty-five per centum upon the purchase money, to be recovered summarily.

Forfeiture in case of false statement in declaration.

Application and payment for cash lands.

13. Every purchaser of rural lands under this Act or the said Act, or any of the Appendices thereto, for cash, shall lodge a written application for the same with the Commissioner, in such form as may be prescribed, together with a deposit of one-fifth of the estimated price of the land described in such application, and shall pay the whole remainder of the purchase-money thereof immediately upon the granting of his application, and if not paid within thirty days his deposit shall be forfeited, and the lands shall be again open for sale or occupation forthwith.

Conditions of occupation of second class lands on deferred payment or on perpetual lease.

14. All second-class lands taken up under this Act either on deferred payment or on perpetual lease shall be held subject to the conditions following, that is to say,—

(1.) Subsections five to eight, both inclusive, of section one hundred and fourteen, and subsections one to three, both inclusive, of section one hundred and forty-nine of the said Act, shall not apply in respect thereto; but, instead thereof respectively, each selector of such lands on deferred payments, or lessee thereof on perpetual lease, shall put on the land comprised in his license or lease, as the case may be, substantial improvements to a value equal to ten per centum of the price of the land within one year from the date of his license or lease, and to a value equal to another ten per centum within two years from the date of his license or lease, and thereafter, but within six years from the date of his license or lease, to a value equal to another ten per centum on the price of the land.

(2.) The declarations in sections one hundred and thirteen and one hundred and forty-three of the said Act shall, with respect to second-class lands, be amended by the substitution of “two thousand acres” for “three hundred and twenty acres” and “six hundred and forty acres” therein respectively.

As to dealing with simultaneous applications.

15. Where simultaneous applications are made under this Act for the same land by persons wishing to have land on the same tenure or on different tenures, then the priority of choice between them shall be decided by lot.

Freehold of deferred payment or perpetual lease lands may be acquired as soon as prescribed improvements effected.

16. Every person who, at any time now or hereafter, may be the holder of land on deferred payment or perpetual lease under the said Act or this Act, shall be entitled to acquire the freehold of such land so soon as he has carried out all such improvements, if any, as are required to be made by his license, and if he shall have fulfilled all the conditions of his license except the condition for payment of his fees or rent on the land which are required by his license or lease, on application to the Commissioner for the purpose, and paying the full price of the land, or so much thereof, in the case of land held on deferred payment, as shall not have been paid by him during his occupation thereof, anything contained to the contrary in Part III. or Part IV. of the said Act notwithstanding.

Applications for purchase of land in mining districts to be published.

17. Every present or future holder of land within any mining district held on perpetual lease may apply for the purchase thereof to the Warden of the district, who shall, at the cost of the applicant, publicly advertise, in such manner as he shall think best fitted to give

publicity thereto, that such application has been made, and that any objections to the purchase may be lodged with him. At the expiration of thirty days from the date of the first publication of the aforesaid advertisement the Warden shall forward the application, together with the objections thereto, if any, and his own report, to the Commissioner, who shall send the same to the Minister for his decision thereon.

Objections thereto.

If the prescribed improvements have been made thereon, and the full price of the land be paid by the applicant, it shall be lawful for the Minister to grant the application, and to cause all necessary things to be done to give effect to the same.

All land acquired under this section shall be subject to the provisions relating to resumption of lands for mining purposes contained in any present or future Act relating thereto.

Provided that no application shall be granted which shall interfere with or prejudice the right of any holder of a miners' right mining claim, mining lease, or licensed holding, to discharge into any such watercourse within the said land any tailings, mining *débris*, or waste water produced or used in or upon any claim within the mining district.

18. Unsurveyed land shall only be open for application after public notification, and the Commissioner, on the estimated cost of the survey being deposited with him, may allow any applicant for the purchase of unsurveyed land to have such land surveyed, at his own expense, by a surveyor employed by the Surveyor-General in that behalf, and an allowance in the amount of purchase-money for the same shall be made to the purchaser for the cost of the survey at any rate not exceeding the ordinary rate for the survey of rural lands which may be prescribed by the survey regulations for the time being in force. Should the land be reserved or withdrawn from sale, the applicant shall be paid the cost of the survey at the aforesaid rate; but, should the applicant in any case refuse or delay to complete the purchase of the land after survey, if open for sale, he shall forfeit the cost of such survey.

Applications for unsurveyed lands.

19. All public reserves sold on deferred payments since the commencement of the said Act, or to be hereafter sold on deferred payments under the authority of "The Public Reserves Sale Act, 1878," or any other Act authorising the sale of reserves on deferred payments, shall be deemed to be sold under the provisions of Part III. of the said Act.

Public reserves sold on deferred payments to be sold under said Act.

20. Any selector of rural land on deferred payments holding a license under section one hundred and fourteen of the said Act may, on application to the Commissioner, obtain an extension of his license for a period of four years, and in any such case,—

Extension of licenses.

(1.) The license of such selector extended as aforesaid in respect of such land shall be deemed to be for a period of fourteen years from the date of the original license:

(2.) The yearly fee in respect of the license so extended shall be deemed to be an amount equal to one-fourteenth of the price of the land payable from the date of the original license in equal parts, half-yearly in advance, on the first day of January and the first day of July in each year, to the Receiver of Land Revenue:

(3.) The payments made in respect of the original license up to the date of the extension thereof shall be retained as so many back payments, and payments in advance under the extended license commencing from the date of the original license as the payments represent.

Holders of bush lands exempt from condition of residence on certain conditions.

21. Any holder of bush lands on deferred payment (including those of special settlements) under section one hundred and fourteen of the said Act or any regulations under Part V. thereof, shall be exempt from the conditions of residence therein contained, if he shall from time to time, as required by the conditions of his license, bring into cultivation and put permanent improvements of a substantial nature on the lands in his holding to twice the amount actually required by the said section or regulations respectively, anything contained therein to the contrary notwithstanding.

Adjustment between local authorities of thirds of price of land.

22. The third of the price or value of land, or of the rental thereof, disposed of on deferred payments or perpetual lease, required to be paid to local bodies under sections one hundred and twenty-seven, one hundred and twenty-eight, one hundred and thirty, and one hundred and sixty of the said Act, and under clause nine of Appendix C to the said Act, and the fourth of the rent required to be so paid by section two hundred and eight of the said Act, including all such moneys as aforesaid as have not yet been paid as required, shall be paid as follows, that is to say,—

If the land in respect whereof the money to be allocated arises—

- (1.) Is situate within a borough or town district, it shall be paid to the Borough Council or Town Board thereof; but, if the land be outside of a borough or town district, then the money shall be paid to the Council of the county or to the Road Board of the road district wherein the land is situate, as the Minister shall determine it would most advantageously be expended in each case;
- (2.) Is situate within either of the Counties of Kawhia, West Taupo, East Taupo, Sounds, Fiord, or Stewart Island, which are excepted from the operation of "The Counties Act, 1886," and wherein there are no road districts, it shall be expended, under the direction of the Minister or any person whom he appoint, for the objects directed by the aforesaid section.

It is hereby declared that the provisions of section one hundred and twenty-seven of the said Act, relating to the payment of the third of the price of deferred-payment lands to local bodies, shall apply, and shall be deemed to have applied from the date of the enactment of the said section, in respect of all lands held on deferred payments within any special settlement and village settlement, in the same manner as it applies to such lands outside of the said settlements: Provided always that, where any arrangement has been made between the Minister and any association formed for the purpose of taking up land under the special-settlement regulations, whereby such third was to be paid to such association, it shall be lawful for the Minister to carry out such arrangement on his being satisfied that the money has been spent upon the purposes for which the same are to be set aside under the said Act or this Act,

23. Any moneys, as mentioned in the last-preceding section, which by the said Act are directed to be expended in the construction of roads within any lands, or for the opening-up of any particular lands, may from time to time be expended in or towards the construction or contributing towards the construction of water-races for the supply of water to, or for the drainage of, such lands, if the Minister shall think the said lands would be more benefited by such last-mentioned expenditure, and he gives his written consent thereto.

Money authorised for roads may be spent for supply of water.

24. Notwithstanding the provisions of section one hundred and thirty-two of the said Act, any holder of a pastoral deferred-payment license may, with the consent of the Minister, surrender his license, and obtain from the Commissioner in exchange a lease of the same land as a small grazing-run under Part VII. of the said Act, subject as follows:—

Holders of pastoral deferred-payment licenses may exchange for leases of small grazing-farms.

- (1.) The lease shall be antedated to the date of the license which is surrendered.
- (2.) The rent under the lease shall be an amount equal to two and a half pounds per centum on the price of the land under the license, and shall be computed from the commencement of the license.
- (3.) The payments made in respect of the license up to the time of surrender shall be retained as so much back-rent and rent in advance under the lease as the said payments represent.

Provided always that all applications under this section must be made before the first day of January, one thousand eight hundred and ninety.

25. Part VII. of the said Act shall hereafter be read as if the limit of the area of any run had been twenty thousand acres instead of five thousand acres, and where the words "five thousand acres" occur in such Part "twenty thousand acres" shall hereafter be read: Provided always that no small run shall exceed five thousand acres unless the Surveyor-General shall certify that the land is not suitable for occupation as small runs in less areas, and provided also that the words "six thousand acres," in subsection one of section two hundred of the said Act, shall read as if the words had been "twenty-one thousand acres."

Area of small-grazing runs extended.

26. Any holder of land on perpetual lease under Part IV. of the said Act may exchange his lease for a license, to hold the land on deferred payments under Part III. of the said Act.

Lease may be exchanged for license.

27. The said Act is hereby amended as follows, that is to say,—
- (1.) Section twenty-five, relating to the recovery of the possession of Crown lands or reserves from any person in the unlawful occupation thereof, is hereby amended by the substitution of the following words in place of the second paragraph of the said section, that is to say,—

Amendments of said Act.
As to illegal occupation of forfeited lands.

If, on the hearing of such plaint, the defendant does not appear, or appears but fails to establish in himself an absolute right or title to the possession of the land, or if it is shown by or on behalf of the plaintiff, to the satisfaction of the Court hearing the

- plaint, that the title under which the defendant claims has, as between himself and Her Majesty, expired or become liable to forfeiture or cancellation, the Court shall declare such title to be extinguished, and may order that possession of the land sought to be recovered be given by the defendant to the plaintiff, either forthwith, or on or before such a day as the Court thinks fit to name, and that the defendant do pay the costs.
- Crown lands not to be sold for non-payment of rates by occupier. (2.) Section one hundred and nineteen shall not be construed as being limited to the protection of the interests of the selector of land on deferred payments, but no such land, nor any Crown lands of any sort held under any other tenure less than freehold under the said Act, shall be capable of being sold for non-payment of rates by the occupier thereof.
- Section one hundred and twenty-three of said Act repealed. (3.) Section one hundred and twenty-three is hereby repealed, and the following words substituted in lieu thereof:—
The sum received for improvements at such sale shall be returned to the original selector less all costs and expenses incident to the recovery of the possession of the land and the sale thereof.
- As to rent of runs to be paid in advance. (4.) Section one hundred and seventy-two is hereby amended by the omission of subsection two, and the substitution of the following in lieu thereof:—
The amount to be paid in advance at the time of auction by the purchaser of the license of any run shall be a half-year's rent.
- Amendment of section one hundred and eighty of said Act. (5.) Subsection one of section one hundred and eighty is hereby amended by the addition thereto of the words following:—
Or five times such amount in cases where the annual rent does not exceed fifty pounds.
- Abatement of rent when run diminished. (6.) Section one hundred and eighty-three shall be read and construed as if the words "has not been so revoked" had been originally inserted therein, in the place of the words "has been so revoked," where the latter words occur in the said section.
- Rents of Clutha River Trust lands may be applied towards road-making. 28. The Board constituted under "The Clutha River Conservators' Board Act, 1875," shall be deemed to have had conferred on it, as from the date of the passing thereof, power to apply any proportion of the rents, license-fees, or other moneys arising from the lands in the said Act mentioned, or any accumulation thereof respectively, in payment for the survey of such lands or in road-making for the improvement thereof: Provided that all sums to be hereafter expended in such road-making shall be subject to the approval of the Governor, and shall not exceed the sum of five shillings per acre.
- Retrospective power of applying proceeds of sales of Clutha River Trust lands towards road-making. 29. Section twelve of "The River Boards Act 1884 Amendment Act, 1885," shall be deemed to have, and to have had from the passing of the said Act, retrospective operation so as to have permitted and to permit the Trustees therein named to deal, as in the said section mentioned, with one-third of the price of land which had been sold, as therein mentioned, prior to the passing of the said Act.

30. The Kermadec Islands shall, for purposes of administration of the said Act and this Act, be deemed to be included within the Land District of Auckland; but the Governor may, from time to time, make special provision as to such administration, and bring into force within the said islands such parts of the aforesaid Acts as he shall think fit, or make other provisions as he shall think best suited to the circumstances of the islands and the occupation of the Crown lands therein; and may make a special grant in freehold, free of cost, of not exceeding one hundred acres to Thomas Bell, who was residing on the islands at the time of their becoming annexed to the colony, the said land to include the homestead and cultivations of the said Thomas Bell on Sunday Island; and may also grant to the said Thomas Bell a special occupation-license for pastoral purposes over not more than twelve hundred acres on the same island, for a term not exceeding twenty-one years, subject to such conditions as he shall think fit, with power to revoke any such license.

Special provisions as to Kermadec Islands.

31. Sections thirty-six to forty-one, both inclusive, of the said Act shall remain in force until the termination of the next session of Parliament, and no longer.

Existing Land Boards continued in operation until end of next session.

32. Out of any moneys that may from time to time be appropriated for that purpose by the General Assembly, there shall be paid to every member of any Land Board on account of his attendance at any meeting of the Board, or for inspecting any land when requested so to do by a resolution of the Board, any money expended by him in payment for coach, railway, steamboat, or other conveyance, or in lieu thereof an allowance to be fixed by the Board not exceeding sixpence per mile, computed for one way only of the distance over which he may have to travel; and also a sum of ten shillings per day for every day during which he may be necessarily absent from his residence for either of the purposes aforesaid. Such payments to be made only in the case of members residing a distance exceeding three miles from the place of meeting.

Travelling allowances of members of Boards.

33. The provisions of section twenty-eight of "The Crown Lands (Nelson) Leasing Act, 1867," and section seventy-one of "The Nelson Waste Lands Act, 1874," shall not be enforced after the coming into operation of this Act in respect to any lease or leases granted under either of the said Acts, but the following provision shall have full force and effect with respect to any such lease or leases still subsisting, viz.: If the lessee of any lease issued under "The Crown Lands (Nelson) Leasing Act, 1867," or "The Nelson Waste Lands Act, 1874," shall, after the coming into operation of this Act, fail to pay the annual rent therefor, or other moneys payable in respect thereof, on or before the thirtieth day of June in each and every year of the term for which the said lease shall have been granted, the said lessee shall pay a fine equal to one-tenth of the rent so in arrear; and if the said rent so in arrear and the said fine or any part thereof respectively shall remain unpaid on the thirty-first day of December in any year, such lease shall be liable to be forfeited.

Provisions with regard to Nelson leases.

34. The Governor in Council may from time to time make, revoke, and alter regulations in order to provide for the carrying out of any matter or thing necessary to be done under the provisions of

Governor may make regulations under Act.

the said Act, as altered by this Act, in cases where, through the alterations made by this Act, the same may be deemed necessary.

Repeals.

35. The following sections and parts of sections of the said Act are hereby repealed, that is to say,—

Sections forty-two, one hundred and forty-two, and clauses five and six of Appendix C; and also

All enactments, words, phrases, and references throughout the said Act and the Appendices thereto which shall be inapplicable in the construction of or inconsistent with the context of the said Act as amended by this Act, or which have been rendered nugatory by this Act.

Saving of said Act.

36. No provisions of the said Act shall be deemed to be restricted, annulled, or repealed by this Act further than herein is provided.