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1947, No. 64

Title.

AN ACT to amend the Laws relating to Crown and other Lands, including the Swamp Drainage Act, 1915, the Public Reserves, Domains, and National Parks Act, 1928, and the Land Subdivision in Counties Act, 1946. [27th November, 1947

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

Short Title.

1. This Act may be cited as the Land Laws Amendment Act, 1947.

PART I

SMALL FARMS

This Part to be read with Small Farms Act, 1932-33, 1932-33, No. 43

2. This Part of this Act shall be read together with and deemed part of the Small Farms Act, 1932-33 (in this Part referred to as the principal Act).

Application of this Part.

3. This Part of this Act shall apply to all liabilities incurred, whether before or after the passing of this Act, by any serviceman or discharged serviceman in respect of:—

(a) Rent under any lease granted under the principal Act:

(b) Principal moneys under any mortgage given to His Majesty the King or to the State Advances Corporation of New Zealand over the estate in the land comprised in any lease granted under the principal Act to secure the value of any improvements existing on the land at the date of the granting of the lease:

(c) The purchase price under any agreement for sale and purchase entered into under the provisions of section sixteen of the Land Laws Amendment Act, 1944, or principal moneys secured by any mortgage given to the State Advances Corporation of New Zealand to secure a loan granted to pay the purchase price or any part thereof under any such agreement.

1944, No. 34

4. (1) Any serviceman or discharged serviceman who holds or hereafter acquires a lease of Crown land under the principal Act, or who holds or hereafter acquires Crown land disposed of under section sixteen of the Land Laws Amendment Act, 1944, may at any time not earlier than three years or later than six years after the date of the commencement of the term of the lease or, as the case may be, the date as at which the land was disposed of under the said section sixteen, apply for a review of any liabilities to which this Part of this Act applies on the ground that the rent or purchase price at which the land was disposed of was excessive, or, as the case may require, that the amount of the principal moneys originally secured by any such mortgage as aforesaid was excessive.

Application for review of liabilities to which this Part applies.

(2) Every such application shall be in writing, and shall be made to the Commissioner of Crown Lands for the Land District in which the land to which it relates is situated.

(3) Every application shall be referred to the Land Settlement Board established under the provisions of section thirty-nine of the Statutes Amendment Act, 1941 (hereinafter referred to as the Board).

1941, No. 26

5. (1) On receipt of any application made under the last preceding section the Board shall consider the application and, after hearing such evidence as it thinks fit, shall review its determination or determinations made prior to the disposal of the land in respect of the unimproved value of the land and the value of the improvements thereon, and shall determine whether such determination or determinations should be sustained or varied, and what reductions, if any, should be made in respect of the rent or the purchase price of the land, or, as the case may require, in respect of the principal moneys originally secured by the mortgage.

Determination of application by Board.

(2) Every determination of the Board made under this section shall forthwith be communicated to the applicant, together with a full statement of the effect thereof and of his right of appeal as hereinafter mentioned.

Right of
appeal to
Land Sales
Court.

1943, No. 16

6. (1) Within sixty days after the communication of any determination under the last preceding section, or within such further time as under special circumstances of sickness or accident or otherwise the Board may in its discretion allow, the applicant may appeal to the Land Sales Court established under Part I of the Servicemen's Settlement and Land Sales Act, 1943 (hereinafter referred to as the Court), from the determination or any part thereof. Every such appeal shall be by way of rehearing.

(2) Every appeal shall be made by notice in writing forwarded to the office of the Court nearest to the place where the land affected is situated.

1943, No. 16

(3) Subject to the provisions of this Part of this Act, the Court shall deal with every such appeal in as nearly as possible the same manner as if it were an appeal to the Court from an order of a Land Sales Committee determining the basic value of the land under the Servicemen's Settlement and Land Sales Act, 1943:

Provided that, in the case of any lease, where the estate of the lessee is not subject to a mortgage to His Majesty the King or to the State Advances Corporation of New Zealand in respect of improvements the Court shall be concerned only with the unimproved value of the land.

Determination
of basic
value by
Court.

7. On any such appeal the Court shall by order determine the basic value of the land as at the date of the commencement of the term of the lease, or, as the case may require, as at the date at which the land was otherwise disposed of by the Crown, and in any case where a mortgage has been given to His Majesty the King or to the State Advances Corporation of New Zealand in respect of improvements, the order shall determine separately, as at the date aforesaid, the unimproved value of the land and the value of the improvements in respect of which the mortgage was given.

8. Where the unimproved value of the land in any lease, as determined by the Court, is less than the unimproved value on which the rent payable under the lease is based, the rent shall be proportionately reduced as from the commencement of the term of the lease, and the rent account shall be so adjusted as to give the lessee full credit for all payments of rent made by him up to the date of the order.

Adjustment
by Court
of rent.

9. Where a mortgage has been given to His Majesty the King or to the State Advances Corporation of New Zealand in respect of improvements, and the value of those improvements as determined by the Court is less than the amount of the principal moneys originally secured by the mortgage, the amount of the principal moneys originally so secured shall be reduced as from the date of the mortgage in conformity with the order of the Court and the instalments payable by the mortgagor shall be reduced accordingly, and the appropriate account or accounts shall be so adjusted as to give the mortgagor full credit for all payments, whether by way of deposit or of principal and interest, made by him up to the date of the order.

Adjustment
by Court
of mortgages
given for
value of
improvements.

10. Where the land is held under agreement for sale and purchase the basic value determined as aforesaid shall be the price at which, in the opinion of the Court, the land should have been disposed of in the first instance, and if that basic value is less than the purchase price set out in the agreement the price shall, as from the date of that agreement, be reduced to an amount equal to the basic value and the instalments payable by the purchaser shall be reduced accordingly, and the sale and purchase account shall be so adjusted as to give the purchaser full credit for all payments, whether by way of deposit or as instalments of principal and interest, made by him up to the date of the order.

Adjustment
by Court of
agreements
for sale
and purchase.

11. Where the land is held under a certificate of title subject to the restriction imposed by subsection six of section sixteen of the Land Laws Amendment Act, 1944, the basic value determined as aforesaid shall be the price at which, in the opinion of the Court, the land should have been disposed of in the first instance,

Adjustment
by Court of
mortgages on
restricted
freehold
titles.

and if that basic value is less than the purchase price of the land the amount of the principal moneys originally secured by the mortgage given to the State Advances Corporation of New Zealand shall be reduced as from the date of the mortgage in conformity with the order of the Court and the instalments payable by the mortgagor shall be adjusted accordingly, and the appropriate account or accounts shall be so adjusted as to give the mortgagor full credit for all payments, whether by way of deposit or as instalments of principal and interest, made by him up to the date of the order.

Board's
determination
final if no
appeal.

12. Where in any case the applicant, following the receipt by him of a determination of the Board under section five of this Act, does not appeal to the Court within the time prescribed or allowed, the determination of the Board shall be final and conclusive. Every adjustment, whether in respect of the rent or the purchase price of the land, or in respect of the amount of the principal moneys originally secured by the mortgage, or in respect of any such instalments as aforesaid, required to give full effect to that determination shall thereupon be made in accordance with the foregoing provisions of this Part of this Act in all respects as if the determination were an order of the Court.

Only one
application in
respect of
any land to
be made
under this
Part.

13. Subject to the foregoing provisions of this Part of this Act relating to appeals, where any review of liabilities is made in relation to any land under this Part, no application for a further review of liabilities shall be made in relation to that land.

District
Land
Registrar to
endorse titles
according to
adjustments.

14. (1) The District Land Registrar on receipt of a certificate signed by the Commissioner of Crown Lands or by a Deputy Registrar of the Court, setting forth particulars as to any reduction made pursuant to this Part of this Act in the rent payable under any lease, or in the purchase price set out in any agreement for sale and purchase, or in the amount of any mortgage, or as to any other matter whatsoever arising out of this

Part of this Act, shall endorse a memorial of the certificate on the registered copy of the lease or, as the case may require, on the relevant certificate of title, mortgage, or other document.

(2) Where the principal moneys secured by any mortgage to which this Part of this Act applies are collaterally secured by any instrument by way of security over any stock or chattels, a copy of the certificate under this section shall be forwarded to the Registrar of the Supreme Court in whose office the instrument is registered, and the Registrar shall attach the copy of the certificate to the instrument and endorse on the instrument a reference to the reduction or other 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.

PART II

LAND SUBDIVISION IN COUNTIES

15. This Part of this Act shall be read together with and deemed part of the Land Subdivision in Counties Act, 1946 (in this Part referred to as the principal Act).

This Part to be read with Land Subdivision in Counties Act, 1946. 1946, No. 23

16. Section nine of the principal Act is hereby amended by adding to subsection five the words "No right-of-way shall at any time be granted or reserved over any land which is the subject of a scheme plan, except with the prior approval of the Minister."

Restriction on creation of right-of-way where land is the subject of a scheme plan.

17. Section twelve of the principal Act is hereby amended by adding to subsection five the words "Any such bond shall be deemed to create an interest in land for the purposes of section one hundred and forty-six of the Land Transfer Act, 1915, and any Chief Surveyor may on behalf of His Majesty lodge with the District Land Registrar a caveat under that Act in respect of the land shown in the scheme plan. Any such caveat may be withdrawn either as to the whole or as to any part of the land, by the Chief Surveyor."

Registration of caveat to protect bond given under section 12 of principal Act.

Saving approval by Governor of subdivision under previous law.

18. Section twenty-two of the principal Act is hereby amended by inserting in subsection two, after the words "approved by", the words "the Governor, or by the Governor in Council, or".

PART III

MISCELLANEOUS

Land

Section 40 of Statutes Amendment Act, 1945 (as to disposal of Crown land for commercial and industrial purposes), amended.
1945, No. 40

19. (1) Section forty of the Statutes Amendment Act, 1945, is hereby amended by repealing subsections four and five, and substituting the following subsections:—

“(4) Subject to the provisions hereinafter contained, the land shall be disposed of by way of lease at such rent, on such terms and conditions, and in such manner and form as may from time to time be approved by the Minister.

“(5) Any lease granted under this section may be for any term, not exceeding fifty years, without right of renewal, or may be for a term of thirty-three years with a perpetual right of renewal for further successive terms of thirty-three years, as the Minister approves. In no case shall the lessee have the right of acquiring the freehold.”

(2) The said section forty is hereby further amended by repealing subsection seven, and substituting the following subsection:—

“(7) The purchase price in the case of a sale in fee-simple shall be fixed by the Minister.”

Public Reserves, Domains, and National Parks

20. Section fifty-two of the Public Reserves, Domains, and National Parks Act, 1928, is hereby amended by inserting in subsection one, after paragraph (h), the following paragraph:—

“(hh) In any case where the area of the domain is not less than ten acres, with the prior consent of the Minister, appropriate and use any part of the domain as a site for a caretaker's residence.”

Use of domain land as sites for caretakers' residences.
See Reprint of Statutes, Vol. VI, p. 1155

Swamp Drainage

21. Section three of the Swamp Drainage Amendment Act, 1928, is hereby amended by repealing subsection ten and substituting the following subsection:—

“(10) The provisions of this section relating to appeals and to the authentication of the classification list shall apply to every amendment of the list made by the Minister, and to every case where, after application has been made to the Minister to amend the classification list, the Minister informs the applicant that he is of opinion that the circumstances do not justify an amendment. For the purposes of this subsection the reference in subsection five of this section to the period of twenty-one days shall be read as a reference to the period of twenty-one days next following the date of service on the appellant of notice of the amendment under the last preceding subsection or, as the case may require, the date of service on the appellant of a notice under this subsection declining to make the amendment.”

Section 3 of
Swamp
Drainage
Amendment
Act, 1928
(as to
classification
of lands),
amended.

See Reprint
of Statutes,
Vol. IV,
p. 569