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1952, No. 34

Title.

AN ACT to provide for the closer settlement of farm land, for the acquisition of farm land that is, or, when subdivided and developed, will be, capable of substantially increased production, to prevent the undue aggregation of farm land, and to require that, for a period of three years from the passing of this Act, persons acquiring farm land shall personally reside on and farm the land.

[16 October 1952

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 Settlement Promotion Act 1952.

Interpretation.

2. (1) In this Act, unless the context otherwise requires,—

“Agricultural purposes” has a meaning corresponding to the term “agriculture”, which for the purposes of this definition means the cultivation of the soil for the production of food products and other useful products of the soil, and includes the use of land for horticultural or pastoral purposes, or for the keeping of pigs, bees, or poultry:

1948, No. 50

“Court” means the Land Valuation Court constituted under the Land Valuation Court Act 1948:

1948, No. 64

“Crown land” means Crown land within the meaning of the Land Act 1948:

1941, No. 25

“Discharged serviceman” has the same meaning as in Part I of the Rehabilitation Act 1941:

“ Farm land ” means land that, in the opinion of the Land Valuation Committee or, as the case may be, of the Land Valuation Court, is or should be used exclusively or principally for agricultural purposes :

Provided that, where land that is being used exclusively or principally for agricultural purposes could, in the opinion of the Committee or, as the case may be, of the Court, be used with greater advantage to the community generally for non-agricultural purposes, it shall for the purposes of this Act be deemed not to be farm land :

“ Land Settlement Board ” means the Land Settlement Board established under the Land Act 1948, No. 64 1948 :

“ Land Valuation Committee ” means a Land Valuation Committee appointed under the Land Valuation Court Act 1948; and the expression “ the Land Valuation Committee ” or “ the Committee ”, when used in relation to any land or transaction, means the particular Land Valuation Committee to which any application or other matter arising under this Act and relating to that land or transaction has been referred :

“ Lease in perpetuity ” means a lease in perpetuity granted under the Land Act 1892 or the Land for Settlements Act 1892: 1892, No. 37 1892, No. 31

“ Minister ” means the Minister of Lands :

“ Transfer ” includes a conveyance, assignment, or other disposition :

“ West Coast settlement land ” means land subject to the West Coast Settlement Reserves Act 1892, No. 22 1892.

(2) For the purposes of this Act the current market value of any land or of any estate or interest in land at any time shall be the sum determined by an order of the Land Valuation Court as being the sum which the land or estate or interest might be expected to realize at that time if offered for sale, unencumbered by any mortgage or other charge thereon, on such terms and conditions

as a *bona fide* seller might reasonably be expected to require and as a willing but prudent and informed purchaser might reasonably be expected to accept.

PART I

TAKING OF FARM LAND FOR SETTLEMENT

Taking of Farm Land

Power to
take land for
settlement.

3. (1) Where the Minister is of opinion that additional farm land is required for the settlement of landless discharged servicemen and others requiring land on which to establish themselves in farming and that sufficient land cannot be acquired for that purpose by voluntary negotiation, he may, on the recommendation of the Land Settlement Board, take any farm land that in the Minister's opinion is suitable or adaptable for settlement and is, or, when subdivided and developed, will be, capable of substantially increased production:

Provided that land shall not be taken from any owner unless he owns farm land, in fee simple or on lease perpetually renewable or on lease in perpetuity, which, in the opinion of the Minister or, as the case may be, of the Committee or the Court, in the aggregate amounts to three or more economic farms or could by subdivision provide three or more economic farms:

Provided further that nothing in this subsection shall affect the right of any person to claim a retention area under subsection four of this section.

(2) Any such land may be taken notwithstanding that it may be the whole or a part of the land comprised in—

(a) A lease or licence of Crown land:

(b) A lease of West Coast settlement land,—

and, unless the context otherwise requires, every reference in this Act to land shall accordingly, in its application to any land comprised in any such lease or licence, be deemed to be a reference to the interest of the lessee or licensee in the land.

(3) Except as provided in subsection two of this section, no land shall be so taken if it is—

(a) Maori land within the meaning of the Maori Land Act 1931:

See Reprint
of Statutes,
Vol. VI, p. 103

(b) Land held or administered by any statutory trustee or statutory Board or body for or on behalf of Maoris within the meaning of that Act.

(4) The owner of any farm land shall have the right to retain an area which—

(a) Is, or (when farmed to a standard of average efficiency by the type of farming by which the land is then being farmed) will be, the equivalent of two economic farms, or could by subdivision provide two economic farms; and

(b) Will also be sufficient to provide a separate economic farm (when utilized for the type of farming for which the land is most suitable or adaptable and farmed to a standard of average efficiency) for each child of the owner who at the date of the receipt by the owner of the notice under section four hereof is under the age of twenty-one years and, at the Minister's discretion, for each child of the owner who at that date has attained the age of twenty-one years and is in the Minister's opinion likely to follow farming as a career,—

or, at his option, any smaller area, the area so retained in either case to contain the homestead if the owner so desires.

(5) Subsection four of this section shall not apply in any case where the owner is farming any other land (whether as owner or as lessee or licensee under a lease or licence perpetually renewable or a lease in perpetuity) of an area which, in the opinion of the Committee or, as the case may be, the Court, is, or (when farmed to a standard of average efficiency by the type of farming by which the land is then being farmed) will be, the equivalent of two or more economic farms, or could by subdivision provide two economic farms, and is also sufficient to provide a separate economic farm (when utilized for the type of farming for which the land is most suitable or adaptable and farmed to a standard of average efficiency) for each child of the owner who at the date of the receipt by the owner of the notice under section four hereof is under the age of twenty-one years and, at the Minister's discretion, for each child of

the owner who at that date has attained the age of twenty-one years and is in the Minister's opinion likely to follow farming as a career:

Provided that in every case the owner shall be entitled if he so desires to retain his homestead.

(6) For the purposes of this Part of this Act the term "owner", in relation to any land, means the legal owner or all the legal owners of the land or, in the case of Crown land or West Coast settlement land, means the lessee or licensee of the land.

(7) Nothing in this section shall be deemed to affect the power of the Crown to acquire land by way of purchase or by way of gift or otherwise under the Land Act 1948 or any other Act.

1948, No. 64

Notice of
intention to
take land.

4. (1) Whenever the Minister intends to take any land under this Part of this Act he shall give notice of his intention to the owners and occupiers of the land and to all other persons having any interest in the land, so far as they can be ascertained.

(2) Every notice under this section shall specify the date on which possession of the land is required, and a date (not being less than sixty days after the date of the notice) on or before which objections may be made under the next succeeding section.

(3) Every notice relating to part only of any property shall have attached thereto a plan or diagram showing the boundaries and area of the land to which the notice relates.

(4) Any notice under this section may be at any time revoked by a subsequent notice under this section.

Objections.

5. (1) Any owner or occupier of any land affected by a notice under the last preceding section or any other person having any interest in the land may object to the taking of the land.

(2) Every objection under this section shall be made in writing setting out the grounds of the objection, and shall be served on the Minister within the time specified in that behalf in the notice of intention to take the land.

(3) Where the owner desires to exercise the right to retain any part of the land under subsection four of section three of this Act, he shall claim that right in an objection under this section, and shall set out therein a description of that part of the land showing its approximate area and its boundaries or approximate boundaries,

whether or not he also objects to the taking of the balance of the land. If no such claim is made as aforesaid the owner shall be deemed to have waived his right to retain any part of the land if the land is taken.

(4) If, after receiving an objection under this section, the Minister does not revoke the notice of his intention to take the land, the following provisions shall apply:—

- (a) If the objection does not relate to the right to retain part of the land, the Minister shall cause a copy of the objection to be filed in an office of the Land Valuation Court:
- (b) If the objection relates only to the right to retain part of the land and the Minister agrees to the retention of the area specified in the objection, the objection shall be deemed to be withdrawn:
- (c) If the objection relates to the right to retain part of the land (whether or not it also relates to the taking of the balance of the land) and the Minister does not agree to the retention of the area specified in the objection, the Minister shall, within thirty days after receiving the objection, or within such further time as may be allowed by the Land Valuation Court, by notice in writing, make to the owner an offer stating the area or approximate area of land that the Minister is prepared to allow the owner to retain and specifying its boundaries or approximate boundaries, or alternatively, the Minister may notify the owner that he does not consider that the owner is entitled to retain any part of the land:
- (d) If the owner does not, within thirty days after receiving a notice under paragraph (c) of this subsection, agree to the area so offered or, as the case may be, agree that no part of the land shall be retained, the Minister shall cause a copy of the objection to be filed in an office of the Land Valuation Court:
- (e) If the owner agrees to the area so offered by the Minister or, as the case may be, agrees that no part of the land shall be retained and the objection relates only to the area to be retained, the objection shall be deemed to be withdrawn:

(f) The objection may be withdrawn by the objector, either wholly or partly, at any time.

Hearing of
objection by
Land
Valuation
Committee.
1948, No. 50

6. After any such objection has been heard by a Land Valuation Committee or, as the case may be, by the Court pursuant to the Land Valuation Court Act 1948, the Committee or the Court may make an order allowing the objection or disallowing it either unconditionally or upon or subject to such conditions (whether as to the date of vesting or as to the area of land to be taken or otherwise) as the Committee or the Court thinks fit:

Provided that the area of land to be taken shall not be varied by the inclusion of any additional land without the consent of the objector.

Land to be
taken by notice
in *Gazette*.

7. (1) If no objection is made as aforesaid to the taking of the land specified in any such notice, or if the order of the Court disallows all such objections, or if all such objections are withdrawn or deemed to be withdrawn, the Minister may, by notice in the *Gazette*, declare that the land is taken for settlement.

(2) Subject to any conditions imposed under section six of this Act, the land so taken shall be the land specified in the notice of intention to take the land, except where the Minister, at the request of the owner, agrees to a variation of the area to be taken, whether by the exclusion of any part of the land or by the inclusion of any additional land.

(3) Upon a date to be specified in that behalf in the *Gazette* notice (in this Part referred to as the date of vesting) the land specified in the *Gazette* notice shall be deemed to be vested in Her Majesty the Queen, and to be freed from all restrictions, encumbrances, liens, and interests, except those specified in that behalf in the notice.

(4) Where any land comprised in a lease or licence of Crown land becomes vested in Her Majesty as aforesaid, the interest of the lessee or licensee in that land shall be deemed to be merged in the interest already owned or held by Her Majesty, and the land shall be deemed to be Crown land subject to the Land Act 1948.

1948, No. 64

(5) Where any land other than land comprised in a lease or licence of Crown land becomes vested in Her Majesty as aforesaid, the land, or (in the case of any

West Coast settlement land) the interest of the lessee therein, shall be deemed to be Crown land subject to the Land Act 1948.

1948, No. 64

(6) Where—

- (a) The land in respect of which the interest of the lessee or licensee becomes vested in Her Majesty as aforesaid is the whole or a part of the land comprised in a certificate of title in the name of Her Majesty; or
- (b) The land or interest vested in Her Majesty as mentioned in subsection five of this section is the whole or a part of the land comprised in a certificate of title in the name of the owner or lessee,—

the District Land Registrar shall, as the case may require, cancel the certificate of title either wholly or so far as it relates to that part of the land comprised therein. No such cancellation shall in any way affect the rights of any person entitled to any registered easement not acquired by Her Majesty. Every certificate of title that is partially cancelled under this subsection shall be retained by the District Land Registrar who shall, when required by the person entitled thereto, issue to that person, without payment of any fee, a certificate of title for the balance of the land comprised in the partially cancelled certificate of title.

8. (1) Where the interest of the lessee or licensee in any part of the land comprised in any lease or licence (other than a deferred payment licence) becomes vested in Her Majesty under the last preceding section, the rent payable under the lease or licence shall be abated in the proportion of the whole rent payable thereunder which the value of that part of the land bears to the value of the whole of the land comprised in the lease or licence immediately before that vesting, excluding in each case the value of the improvements on the land belonging to the lessee or licensee. In the event of any dispute as to those values, or any of them, the matter shall be decided by the Land Valuation Court in accordance with the provisions of this Act.

Adjustments in leases and licences where interest in part of land is taken.

(2) Where the interest of the licensee in any part of the land comprised in any licence to occupy pending the completion of the purchase under a system of deferred

payments becomes vested in Her Majesty under the last preceding section, the purchase money payable by the licensee under the licence shall be reduced by a proportion thereof equal to the proportion which the value of that part of the land bears to the value of the whole of the land comprised in the licence immediately before that vesting, excluding in each case the value of the improvements on the land belonging to the licensee, and thereupon such adjustments as may be necessary shall be made in respect of future instalments of purchase money and interest. In the event of any dispute as to those values, or any of them, the matter shall be decided by the Land Valuation Court in accordance with the provisions of this Act.

Compensation

Compensation.

9. (1) Every person having any estate or interest in any land taken under this Part of this Act shall be entitled to compensation therefor.

(2) In any case where land is taken under this Part of this Act the Minister shall offer such sum as he thinks fit, and if the offer is not accepted by the claimant the compensation payable shall be ascertained by the Land Valuation Court as hereinafter provided.

(3) The amount of compensation to be awarded on a claim under this Part of this Act shall be the value (as at the date of vesting) of the claimant's estate or interest, based on the current market value of the land as determined under this Act:

Provided that the Court may add to the compensation as so assessed such amount or amounts as the Court considers the claimant to be entitled to by reason of any special loss caused to the claimant by reason of the compulsory taking of the land; and full particulars of every amount so added and of the grounds on which it is added shall be specified in the award of the Court.

(4) Without limiting the meaning of the term "special loss", it is hereby declared that for the purposes of this Act that term shall include any expenses necessarily incurred by the claimant in the re-adjustment of any mortgage where the land taken forms a part of the security for a mortgage.

10. (1) No claim for compensation under this Part of this Act, other than a claim for special loss under the proviso to subsection three of the last preceding section, shall be made after a period of six months from the date of vesting specified in the *Gazette* notice taking the land, and no claim for special loss under that proviso shall be made after a period of twelve months from the date of that vesting.

Claims for compensation.

(2) Every claim for compensation shall be made in writing in the prescribed form or to the like effect, and shall be filed in the office of the Court nearest to the land to which the claim relates.

(3) A copy of the claim shall be served on the Minister.

(4) In any case where no claim is made as aforesaid, the Court may, upon the application of the Minister, deal with the matter as if a claim had been made in accordance with this section.

11. Every order of the Court determining a claim for compensation shall be final as regards the amount awarded, but shall not be deemed to be final as regards the right or title of the claimant or any other person to receive the compensation or any part thereof.

Order awarding compensation.

12. (1) At any time before an order fixing the compensation to be paid in respect of the taking of any land has been made, the Minister may discontinue the proceedings on terms of paying costs and expenses as hereinafter provided.

Power to discontinue proceedings on payment of costs and expenses.

(2) The discontinuance shall be effected by gazetting a notice by the Minister that the *Gazette* notice taking the land is revoked and the proceedings are discontinued.

(3) A copy of the notice shall be filed in the office of the Court nearest to the land to which the notice relates, and a copy shall be served on each claimant.

(4) Where in any such case the District Land Registrar has under subsection six of section seven of this Act cancelled or partially cancelled any certificate of title in respect of the land, the District Land Registrar shall, without payment of any fee, either—

- (a) Revive the cancelled or partially cancelled certificate of title to the effect that it shall continue in force as if the land had not been taken for settlement; or

- (b) Issue a new certificate of title for the land in the name of the person who was the registered proprietor under the cancelled or partially cancelled certificate of title at the date of the taking of the land for settlement, subject to all encumbrances, liens, and interests (if any) that existed on the land at that date; or
- (c) In any case where under the said subsection six the District Land Registrar has issued a new certificate of title for the balance of the land comprised in a partially cancelled certificate of title, issue a new certificate of title for the portion of the land in respect of which the former certificate of title was partially cancelled in the name of the person who was the registered proprietor under the partially cancelled certificate of title at the date of the taking of the land for settlement, subject to all encumbrances, liens, and interests (if any) that existed on that portion of the land at that date.

(5) The claimant shall be entitled to payment of the following amounts, which shall, where necessary, be fixed by the Court, namely:—

- (a) The proper costs and expenses incurred by him up to the date of the discontinuance:
- (b) Where the Crown has been in possession of the land, a reasonable sum by way of rent for the period during which the Crown was in possession.

Title to and Application of Compensation

13. In any case where any person who has any right or title to prefer a claim for compensation is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives, the Public Trustee, if the Court so directs, shall represent the claimant and may act on his behalf in all matters incident to the claim or the hearing thereof, and in every such case the moneys payable as compensation shall be paid to the Public Trustee and shall be held by him subject to the provisions of the next succeeding section.

Public
Trustee to
represent
absentee
claimants.

14. If any doubt or dispute arises as to the right or title of any person to receive any compensation awarded under this Part of this Act, or any compensation agreed to be paid by the Minister under this Part of this Act,—

When title doubtful, compensation to be paid into Public Trust Office.

- (a) In the case of compensation awarded by the Court, the Minister may, within the period of sixty days after the sealing of the order awarding the compensation, cause the sum awarded to be paid to the Public Trustee; and the Public Trustee shall deal with and apply the moneys in such manner and shall pay them to such persons as the Supreme Court, upon the application of any of the parties interested or of the Public Trustee, may order :
- (b) In the case of compensation agreed to be paid, the Minister may cause the sum agreed on to be paid to the Public Trustee; and the Public Trustee shall deal with and apply the moneys in such manner and shall pay them to such persons as the Supreme Court, upon the application of any of the parties or of the Public Trustee, may order :
- (c) In any case which may be heard or disposed of by the Supreme Court under this section, that Court may order that all or any costs incurred in or in relation to the case, either before the Land Valuation Court or before the Supreme Court, shall be paid by such of the parties, whether claimant, Minister, or a person interested as aforesaid, or that the costs be apportioned between such parties in such manner respectively as the Supreme Court may order; and that Court may vary or revoke any order previously made by the Land Valuation Court as to costs.

15. (1) If compensation has been awarded or has been agreed to be paid under this Part of this Act in respect of land or any interest therein taken from any person having a partial or qualified interest only in the

How compensation in case of limited interests to be dealt with.

land, and not entitled to sell or convey the land or interest, as the case may be, the compensation shall be dealt with as follows:—

(a) If the compensation amounts to one thousand pounds or upwards, it shall be paid to the Public Trustee, and the Public Trustee shall apply the same, upon an order of the Supreme Court made on the application of any person claiming any interest in the same or of the Public Trustee, to one or more of the following purposes, that is to say:—

(i) To the discharge of any debt or encumbrance affecting the land or interest taken, or affecting any of the land settled therewith, or to the same or like uses, trusts, or purposes:

(ii) In the purchase of other lands to be transferred, limited, and settled upon the like uses, trusts, or purposes:

(iii) In removing any buildings on the land, or substituting others in their stead:

(iv) In the purchase of such securities as the Supreme Court may direct, to be settled in the same manner as the land:

(v) In the payment to any party becoming absolutely entitled thereto:

(b) If the compensation is more than fifty but less than one thousand pounds it shall be paid to the Public Trustee, and the Public Trustee may apply the same to any of the above mentioned purposes; but no order of the Supreme Court shall be necessary:

Provided that in any such case the Public Trustee may, if he thinks fit, apply to the Supreme Court for directions as to the purposes to which the compensation shall be applied:

(c) If the compensation is not more than fifty pounds it shall be paid to the parties entitled to the rents and profits of the land; or, in the case of the disability or incapacity of the parties, to their respective husbands, guardians, committees, or trustees, as the case may be.

(2) The provisions of this section shall not be deemed to prevent any person who has a partial or qualified interest in land to which interest he is solely entitled, and which he may absolutely sell or dispose of, from receiving any compensation in respect of that interest to which he may be declared entitled under any order, or which has been agreed to be paid to him as aforesaid.

16. Until any compensation paid to the Public Trustee under this Part of this Act is paid or applied by the Public Trustee as provided by section fourteen or section fifteen of this Act, the Public Trustee shall invest the same in the Common Fund of the Public Trust Office or upon other investments upon which any moneys held by the Public Trustee may by law be invested, and shall pay the annual proceeds thereof to the party for the time being entitled to the rents and profits of the land in respect of which the compensation was awarded or agreed to be paid.

Public Trustee
may invest
compensation
money.

17. (1) If the land in respect of which compensation is awarded or agreed to be paid is subject to a mortgage, the compensation, or so much thereof as is required for the purpose, shall, upon the application of the mortgagee, be paid in discharge of the mortgage debt, or of part thereof, so far as the compensation will go; and, if the land is a part of lands subject to a mortgage debt, and the mortgagee requires a part of the debt to be discharged, the Land Valuation Court, unless the parties otherwise agree, shall determine what part of the compensation shall be paid in discharge of part of the mortgage debt, so that the remaining part of the mortgaged lands constitutes as good security as theretofore for the part of the mortgage debt remaining undischarged.

Mortgaged
lands.

(2) In this section the expression " mortgage debt ", in relation to any mortgage, includes the interest payable on the mortgage up to six months beyond the day on which notice was received by the mortgagee of the land affected being taken under this Part of this Act.

(3) The mortgagor under any mortgage affecting any land taken under this Part of this Act shall be deemed to have the right, on giving to the mortgagee not less than one month's notice in writing of his intention so to do, to repay so much of the principal moneys secured by

the mortgage as does not exceed the amount of compensation awarded or agreed to be paid in respect of so much of the land taken as was subject to the mortgage, with interest up to the date of repayment only or the date of expiration of the said notice only, whichever date is the later, at the expiration of six months from the day on which notice was received by the mortgagee of the taking of the land, unless an earlier date is provided by the mortgage. Where any question arises as to what portion of the compensation moneys was awarded or agreed to be paid in respect of so much of the land taken as was subject to the mortgage, that question, unless the parties otherwise agree, shall be determined by the Land Valuation Court.

(4) Nothing in the last preceding subsection shall in any way affect the rights of the mortgagee under subsection one of this section to require the whole or part of the compensation moneys to be paid in discharge or partial discharge of the mortgage debt.

Lands subject
to rentcharge.

18. (1) If the land is subject to any rentcharge, the Land Valuation Court, unless the parties otherwise agree, shall determine what part of the compensation shall be paid to the party entitled to the rentcharge in redemption thereof; and, if the land is part of land subject to any rentcharge, the Court, unless the parties otherwise agree, shall determine what part of the compensation shall be paid in the redemption thereof, so that the remaining part of the land subject to the rentcharge shall be as good security as theretofore for the part of the rentcharge remaining unredeemed.

(2) In this section the term "rentcharge" includes an annuity.

Lands on which
rent is payable.

19. If the land is part of land in respect of which any rent is payable, the Land Valuation Court, unless the parties otherwise agree, shall determine what part of the rent shall cease to be payable, so that the rent ceasing to be payable shall bear the same proportion to the whole rent as the value of the land in respect of which compensation is awarded or agreed to be paid bears to the value of the whole land.

Miscellaneous

20. (1) During the period between the giving of the notice of intention to take any land under this Part of this Act and the date of the vesting of the land in Her Majesty, the owner or occupier of the land—

Land taken to be properly farmed until date of vesting.

- (a) Shall continue to farm the land in accordance with the accepted practice of good husbandry in the district in which the land is situated:
- (b) Shall maintain all buildings, fences, structures, and fixtures on the land in good and substantial repair, excepting depreciation from fair wear and tear, weather, or natural causes, without neglect of the owner or occupier, damage by fire, earthquake, tempest, or inevitable accident:
- (c) Shall not overstock the land to the extent that the grazing value of the land may be injuriously affected:
- (d) Shall not do anything upon or under the land with the purpose or effect of rendering the development or settlement of the land more difficult or costly.

(2) If any owner or occupier fails to comply with the provisions of this section the Court may reduce the compensation to be awarded to him by the amount of the loss or damage caused by the non-compliance, and may if necessary amend its award accordingly.

21. (1) Any person authorized by the Land Settlement Board either specially or generally may from time to time after the publication in the *Gazette* of the notice taking any land under this Part of this Act and before the date of the vesting of the land in Her Majesty enter upon the land and carry out any works or do any other things considered necessary for the purpose of promoting the development or settlement of the land.

Power to carry out works on land before date of vesting.

(2) Any person having any estate or interest in the land who is prejudicially affected by the exercise of the powers conferred by this section shall be entitled to compensation therefor as for a special loss under this Part of this Act.

(3) The value of any improvements effected under this section shall not be taken into account by the Court in assessing the value of the land for the purposes of compensation.

Entry on
land for
purposes of
inspection, &c.

22. Any person authorized by the Land Settlement Board either specially or generally may enter on any land at any time for the purpose of making any inspection, valuation, or survey for the purposes of this Part of this Act.

PART II

CONTROL OF SALES AND LEASES OF FARM LAND TO PREVENT UNDUE AGGREGATION AND ENSURE PERSONAL RESIDENCE

Consent of Court Required to Certain Transactions

Transactions
to which this
Part applies.

23. (1) Subject to the provisions of this section, this Part of this Act shall apply to every contract or agreement—

- (a) For the sale or transfer of any freehold estate or interest in farm land, whether legal or equitable:
- (b) For the leasing of any farm land for a term of not less than three years:
- (c) For the sale or transfer of any leasehold estate or interest in farm land, whether legal or equitable, of which a period of not less than three years is unexpired:
- (d) For the sale or transfer of a lease of Crown land (being farm land) where, by virtue of section two hundred and eight of the Land Act 1924 or the corresponding provisions of any former Land Act, the consent of the Land Settlement Board is not required to the sale or transfer:
- (e) For the granting of an option to purchase or otherwise acquire any freehold or leasehold estate or interest in farm land as aforesaid or to take any lease as aforesaid.

See Reprint
of Statutes,
Vol. IV, p. 718

(2) Where any lease or any contract or agreement for a lease contains a provision enabling the lease or the contract or agreement for a lease to be renewed for any period or successive periods upon the expiration of the original term thereof, the period or periods for which the lease or contract or agreement may be so renewed shall, for the purposes of this Part of this Act, be deemed to be part of the original term thereof.

(3) Except as provided in section thirty of this Act, nothing in this Part of this Act shall apply with respect to—

- (a) Any transaction entered into before the passing of this Act, or the exercise of any option granted before the passing of this Act:
- (b) Any contract or agreement for the transfer of any estate or interest without any valuable consideration in money or money's worth:
- (c) Any contract or agreement for the transfer of any estate or interest by way of security only or for the retransfer of property so transferred on the discharge of the security:
- (d) Any contract or agreement for the sale or transfer of any estate or interest to a trustee for the benefit of the wife or husband or a child or children or a grandchild or grandchildren of the vendor:
- (e) Any contract or agreement for the transfer of any estate or interest from a trustee to a trustee on the appointment of a new trustee or the retirement of a trustee:
- (f) Any contract or agreement for the transfer by a trustee, executor, or administrator to a beneficiary of any estate or interest to which the beneficiary is entitled under any trust, will, or intestacy:
- (g) Any contract or agreement for the sale or transfer of any estate or interest by a trustee, executor, or administrator to a purchaser pursuant to an option given in any trust or will:
- (h) Any contract or agreement for the sale or transfer of any estate or interest by or to the Crown:
- (i) Any transaction for which the consent of the Land Settlement Board is required under any Act or regulations:
- (j) Any transaction in respect of which the confirmation of the Maori Land Court is required under Part XIII or Part XVIII of the Maori Land Act 1931, or any transaction which is effected by an order of the Maori Land Court or of the Maori Appellate Court:

See Reprint
of Statutes,
Vol. VI, p. 103

- (k) Any contract or agreement for the sale or transfer of any estate or interest by or by direction of the Board of Maori Affairs or any Maori Land Board or to any such Board:
- (l) Any transaction for which the approval, consent, or permission of the Minister of Maori Affairs or of the Board of Maori Affairs or of both that Minister and that Board is required under any Act or regulations:
- (m) Any alienation of any estate or interest in land by the Maori Trustee as agent for the owner or owners under Part III of the Maori Purposes Act 1950:
- (n) Any contract or agreement for the dedication of a road or street:
- (o) Any contract or agreement for the sale or transfer of any estate or interest by the Government of a foreign State to the Government of any other foreign State:
- (p) Any contract or agreement for the granting of an option where the exercise of the option would result in a transaction of a class to which this Part of this Act does not apply:
- (q) Any contract or agreement for the sale or transfer or lease of any estate or interest pursuant to an option to which the consent of the Court has been granted under this Act:
- (r) Any contract or agreement for the sale or transfer of any estate or interest in farm land of an area of not more than five acres:
- (s) Any transaction of a class for the time being exempted from this Part of this Act by regulations made under this Act.

24. (1) Notwithstanding anything in this Part of this Act, the consent of the Court shall not be required to any contract or agreement to which this Part of this Act applies where—

- (a) The purchaser or lessee does not own, lease, hold, or occupy in fee simple or under any tenure of more than one year's duration, either severally, jointly, or in common with any other person, any farm land outside a city or borough or town district; and

1950, No. 98

Consent of Court not required in certain cases.

- (b) The purchaser or lessee has not after the passing of this Act transferred, granted, leased, or otherwise disposed of any estate or interest in farm land to any person as a trustee for any person or created any trust in respect of any estate or interest in farm land; and
- (c) In the case of a transaction entered into before the thirty-first day of August, nineteen hundred and fifty-five, the purchaser or lessee intends to reside personally on the land and personally to farm it exclusively for his own use and benefit or the Minister has consented to the transaction; and
- (d) The purchaser or lessee makes a statutory declaration as to the matters provided in paragraphs (a), (b), and (c) of this subsection, and deposits that declaration with the District Land Registrar or the Registrar of Deeds, as the case may require, within one month after the date of the transaction or, in the case of a transaction relating to land situated in the Chatham Islands, within three months after the date of the transaction.

(2) If a true copy of the declaration referred to in paragraph (d) of subsection one of this section is presented to the Registrar, he shall without payment of any fee certify on that copy that the original has been duly presented in accordance with the provisions of that paragraph.

(3) For the purposes of subsection one of this section—

- (a) The interest of a Maori in any Maori land where that interest has not been partitioned shall not be deemed to be land owned, leased, held, or occupied by him:
- (b) Land owned, leased, held, or occupied by a company the members of which are less than ten in number shall be deemed to be owned, leased, held, or occupied in common by every member of the company; and land owned, leased, held, or occupied by any member of any such company shall be deemed to be owned, leased, held, or occupied by the company:

- (c) Land owned, leased, held, or occupied by a husband or wife, as the case may be, of any person shall be deemed to be owned, leased, held, or occupied by that person:
- (d) No account shall be taken of any land owned, leased, held, or occupied by any person as a mortgagee, trustee, executor, or administrator only.

Prohibiting
transactions
without consent
of Court.

25. (1) Where any transaction to which this Part of this Act applies is entered into, the transaction shall be deemed to be entered into in contravention of this Part of this Act, unless—

(a) The transaction is entered into subject to the consent of the Court and an application for the consent of the Court to the transaction is made within one month after the date of the transaction or, in the case of a transaction relating to land situated in the Chatham Islands, within three months after the date of the transaction; or

(b) In any case to which section twenty-four of this Act applies, the statutory declaration referred to in that section is deposited with the District Land Registrar or the Registrar of Deeds within the time specified in that section.

(2) No person shall—

(a) Enter into any transaction in contravention of this Part of this Act whether as vendor, purchaser, lessor, lessee, or other party, and whether as principal or agent; or

(b) Procure or induce any other person to enter into any transaction in contravention of this Part of this Act.

(3) No person shall be entitled to any commission, reward, or other valuable consideration in respect of any transaction entered into in contravention of this Part of this Act.

(4) Where any transaction is entered into in contravention of this Part of this Act, or where any condition upon or subject to which the Court grants its consent to any transaction is not complied with, the transaction shall be deemed to be unlawful and shall have no effect.

(5) Where any transaction to which this Part of this Act applies is entered into subject to the consent of the Court, the transaction shall not have any effect unless the Court consents to it and the conditions upon or subject to which the consent is granted are complied with.

26. The District Land Registrar or the Registrar of Deeds, on receipt of a statutory declaration in the prescribed form as to the matters provided in paragraphs (a), (b), and (c) of subsection one of section twenty-four of this Act, or on being satisfied by such evidence as he deems necessary that this Part of this Act does not apply to the transaction, shall, if the instrument or instruments relating to the transaction are otherwise in order, accept the same for registration.

Powers of District Land Registrar and Registrar of Deeds.

Applications for Consent

27. Applications for the consent of the Court to any transaction entered into subject to the consent of the Court may be made in accordance with the Land Valuation Court Act 1948 by or on behalf of any party to the transaction.

Applications for consent.

1948, No. 50

Granting or Refusal of Consent

28. If in any case the Land Valuation Committee is satisfied that, having regard to the provisions of this Part of this Act, any application for the consent of the Court to any transaction should be granted, the Committee may make an order consenting to the transaction in accordance with the application without calling on the applicant or hearing evidence.

Consent without hearing in certain cases.

29. (1) If the Land Valuation Committee, upon considering an application for consent and after hearing such evidence as it thinks fit, is satisfied—

Consent after hearing.

(a) That the completion of the transaction will not cause an undue aggregation of farm land; and

(b) That in the case of a transaction entered into before the thirty-first day of August, nineteen hundred and fifty-five,—

(i) The purchaser or lessee intends to reside personally on the land and personally to farm it exclusively for his own use and benefit; or

(ii) Having regard to all the circumstances of the case the purchaser or lessee should not be required to reside personally on the land and personally to farm it exclusively for his own use and benefit,—

the Committee shall make an order consenting to the transaction, but if it is not so satisfied it shall make an order refusing the application.

(2) It is hereby declared that the provisions of this Part of this Act requiring purchasers and lessees to reside personally on the land and personally farm it exclusively for their own use and benefit shall have effect for the purpose of providing sufficient farm land for the settlement of discharged servicemen and other persons duly qualified as farmers, and, in considering any application for an order dispensing with that requirement, the Committee shall give due consideration to that purpose.

(3) Without limiting the grounds on which the Committee may dispense with the requirement that the purchaser or lessee shall reside personally on the land and personally farm it exclusively for his own use and benefit, but subject to the provision of this Part of this Act relating to the undue aggregation of farm land, the Committee may dispense with that requirement if it is satisfied that—

(a) The production of the land will be substantially increased if it is acquired by the purchaser or lessee and the land is not suitable or adaptable for closer settlement; or

(b) Having regard to the purpose to which the purchaser or lessee proposes to devote the land and to his ability to achieve that purpose, its acquisition by him will be in the public interest.

(4) Any order by the Committee dispensing with the requirement that the purchaser or lessee should reside personally on the land and personally farm it exclusively for his own use and benefit may be made subject to such conditions as the Committee thinks fit.

30. (1) Notwithstanding anything in Part XII of the Maori Land Act 1931, the Maori Land Court shall not confirm any alienation under Part XIII of that Act or any resolution under Part XVIII of that Act if the alienation or resolution would in the opinion of that Court cause an undue aggregation of farm land.

Maori land not to be alienated if undue aggregation of farm land would result.

See Reprint of Statutes, Vol. VI, p. 103 1950, No. 98

(2) Where the Maori Trustee is appointed the agent for the owner or owners of any land under Part III of the Maori Purposes Act 1950, the Maori Trustee shall not alienate any part of that land if the alienation would in his opinion cause an undue aggregation of farm land.

31. (1) In considering whether the acquisition of the land affected by any application to the Land Valuation Court for its consent will cause an undue aggregation of farm land, the Land Valuation Committee shall have regard to the following matters:—

Matters to be considered in determining whether undue aggregation.

- (a) Whether the farm land already owned, leased, held, or occupied in fee simple or under any tenure of more than one year's duration by the purchaser or lessee, either severally, jointly, or in common with any other person, is sufficient to support the purchaser or lessee and his wife and such of his children as are dependent on him in a reasonable manner and in a reasonable standard of comfort; and
- (b) Whether, having regard to the farm land already owned, leased, held, or occupied in fee simple or under any tenure of more than one year's duration by the purchaser or lessee, either severally, jointly, or in common with any other person, the acquisition of additional farm land would, judged by ordinary and reasonable standards, be considered excessive; and
- (c) The nature of the use to which the purchaser or lessee proposes to devote the land and his ability to achieve that purpose; and
- (d) Whether the acquisition would be in or against the public interest; and
- (e) Such other matters as, having regard to the circumstances of each particular case, the Committee considers relevant.

(2) For the purposes of this section,—

- (a) Any estate or interest in farm land which after the passing of this Act the purchaser or lessee has transferred, granted, leased, or otherwise disposed of to any person as trustee for any person or in respect of which after that date the purchaser or lessee has created any trust shall be deemed to continue to be owned by the purchaser or lessee unless the Minister or, as the case may be, the Committee or the Court has consented to the transaction:
- (b) The interest of a Maori in any Maori land where that interest has not been partitioned shall not be deemed to be land owned, leased, held, or occupied by him:
- (c) Land owned, leased, held, or occupied by a company the members of which are less than ten in number shall be deemed to be owned, leased, held, or occupied in common by every member of the company; and land owned, leased, held, or occupied by any member of any such company shall be deemed to be owned, leased, held, or occupied by the company:
- (d) Land owned, leased, held, or occupied by a husband or wife, as the case may be, of any person shall be deemed to be owned, leased, held, or occupied by that person unless the Land Valuation Committee is satisfied that that person and his or her spouse are living separate and apart by virtue of an order of any Court, or of an agreement for separation (whether written or oral), or by virtue of the fact that one spouse has deserted the other.

(3) In considering for the purposes of this section the area of land already owned, leased, held, or occupied by any person no account shall be taken of land vested in him as a mortgagee, trustee, executor, or administrator only.

Provisions as
to personal
residence.

32. (1) For the purposes of this Part of this Act a person shall not be deemed to reside personally on any land unless he makes upon the land his principal and

permanent place of residence and shall not be deemed personally to farm the land unless his occupation is to a substantial extent that of a farmer on that land.

(2) For the purposes of this Part of this Act a person shall be deemed to reside personally on land if he resides on land that adjoins the first mentioned land. For the purpose of this subsection, lands shall be deemed to adjoin if they are separated only by a railway, road, street, river, or stream, or in the opinion of the Land Valuation Committee are suitable for being farmed together or sufficiently adjacent to each other for one to be used as a residence for a person who is personally farming the other.

(3) Where land is held by the executors, administrators, or trustees of the deceased owner in trust for the persons beneficially entitled thereto under the will or intestacy of the deceased, the conditions as to residence and as to farming the land may be fulfilled by the persons so beneficially entitled, or by any of them, or by any suitable person or persons appointed by the executors, administrators, or trustees pending the vesting of the land in the persons entitled or during the minority of any beneficiary, as if they were the owners or lessees, as the case may be, of the land.

(4) For the purposes of this Part of this Act where land is acquired by a company the conditions as to residence and as to farming the land shall be deemed to be fulfilled if—

- (a) The Minister consents to the transaction; or
- (b) A person who is or several persons who between them are entitled to a majority of the votes at general meetings of the company personally resides or reside on the land and personally farms or farm it exclusively for the benefit of the company.

(5) For the purposes of this Part of this Act where land is acquired by a body corporate other than a company the conditions as to residence and as to farming the land shall be deemed to be fulfilled if—

- (a) The Minister consents to the transaction; or

(b) A person or persons appointed by the governing body of the body corporate personally resides or reside on the land and personally farms or farm it exclusively for the benefit of the body corporate.

(6) For the purposes of this Part of this Act, where land is acquired by the members of a partnership as an asset in the partnership business, the conditions as to residence and as to farming the land shall be deemed to be fulfilled if—

(a) The Minister consents to the transaction; or

(b) A member or members of the partnership who is or who between them are entitled under the partnership agreement to not less than one-third of the partnership profits and also on the dissolution of the partnership to not less than one-third of the surplus assets of the partnership personally resides or reside on the land and personally farms or farm it exclusively for the benefit of the partnership.

Taking of land where purchaser or lessee ceases to reside on it and farm it.

33. Where in the case of any transaction entered into before the thirty-first day of August, nineteen hundred and fifty-five, the consent of the Court has been granted to the transaction or that consent is not necessary by virtue of section twenty-four of this Act, and at any time within three years after the completion of the transaction, while the purchaser or lessee is failing to reside personally on the land and personally to farm it exclusively for his own use and benefit, or, in any case where personal residence has been dispensed with by consent of the Minister or by order of the Court, while the purchaser or lessee is failing to comply with any condition on which that dispensation was granted, the land is taken under Part I of this Act, no objection to the taking of the land may be made by the purchaser or lessee except on the ground that he has not failed or ceased to reside personally on the land and farm it exclusively for his own use and benefit, or, as the case may be, that he has not failed to comply with any such condition and in such a case the first proviso to subsection one of section three of this Act shall not apply.

34. (1) The Land Valuation Court may call upon any person to whom consent has been granted under this Part of this Act to show cause why that consent should not be revoked on the ground—

Power to
revoke consent
in certain cases.

- (a) That a false or misleading statement has been made in connection with the application for consent; or
- (b) That all the material facts in connection with the transaction were not submitted to the Land Valuation Court.

(2) Where the Land Valuation Court calls upon any person to show cause under this section, that person shall forthwith forward to the Court the order granting consent and shall not complete or proceed with the transaction to which the consent relates until the Court has determined whether or not the consent should be revoked.

(3) Unless cause is shown to the Land Valuation Court why the consent should not be revoked, the Court may by order revoke the consent, which shall thereupon, for the purposes of this Act, be deemed not to have been obtained.

Transfers of Leases and Licences of Crown Land

35. (1) Where any transaction is, as to part of the land affected thereby, a transaction to which this Part of this Act applies and is also, as to any other part of the land affected thereby, a transaction to which this Part does not apply as being a transaction for which the consent of the Land Settlement Board is required, an application for the consent of the Court to the transaction may be made under this Part of this Act, and in any such case the Land Valuation Court may, if it thinks fit, deal with the application as if this Part of this Act applied to the whole of the transaction, but as if the Court were bound by the provisions of any Act or regulations by which the Land Settlement Board would have been bound in dealing with any part of the transaction.

Land
Valuation
Court may
consent to
transactions on
behalf of Land
Settlement
Board.

(2) Where the Land Valuation Court makes an order consenting to the whole of any such transaction it shall not be necessary to obtain the consent of the Land Settlement Board to any part of the transaction.

PART III

MISCELLANEOUS

Service of
notices or
documents.

36. (1) In any case where it is provided by this Act that any notice or document is to be served on any person, the notice or document shall be delivered to that person, and may be delivered to him either personally or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice or document so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

(2) If the person is absent from New Zealand the notice or document may be delivered as aforesaid to his agent in New Zealand. If he is deceased the notice or document may be delivered as aforesaid to his personal representatives.

(3) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives, the notice or document shall be delivered in such manner as may be directed by an order of the Court.

(4) Notwithstanding anything in the foregoing provisions of this section, the Court may in any case make an order directing the manner in which any notice or document is to be delivered, or dispensing with the delivery thereof.

Death of
vendor or lessor
not to affect
application or
order for
consent.

37. (1) In the event of the death of the vendor or lessor in a transaction in respect of which an application for consent is pending under Part II of this Act, the application and all proceedings in respect thereof shall enure and be continued as if it had been made by or in respect of the personal representatives of the deceased person.

(2) In the event of the death of the vendor or lessor in a transaction to which consent has been granted under Part II of this Act, the order granting consent shall enure as if it had been granted to or in respect of the personal representatives of the deceased person.

Power to
award costs.

38. Subject to this Act and to any regulations made under this Act and to any rules of Court, the Court, upon the hearing of any proceedings, may order that the

whole or any portion of the costs of the proceedings or of any party thereto shall be paid by the Crown or by any of the parties to the proceedings.

39. The Governor-General may from time to time, by Order in Council, fix the maximum fees that may be charged by any solicitor to any client in respect of proceedings in the Court or before any Land Valuation Committee under this Act.

Solicitors' fees.

40. For the purposes of the Stamp Duties Act 1923, the date of the execution of any instrument relating to any transaction to which the consent of the Court is required under Part II of this Act shall be deemed to be the date of the sealing of the order consenting to the transaction or the date of the actual execution of the instrument, whichever is the later.

Stamping of instruments to which this Act applies. See Reprint of Statutes, Vol. VII, p. 402

41. (1) No stamp duty under the Stamp Duties Act 1923 or any other Act shall be chargeable in respect of any order of the Court, or in respect of any statutory declaration that is required for the purposes of this Act.

Exemptions from stamp duty and registration fees.

(2) Regulations may from time to time be made under this Act exempting from stamp duty any other classes of instruments required for the purposes of this Act.

(3) No fees shall be payable to any District Land Registrar or Registrar of Deeds for registering any instrument that is exempted from stamp duty by this section or by any regulations made as aforesaid or on the deposit of any statutory declaration under section twenty-four hereof.

42. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

Regulations.

(2) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

Offences.

43. (1) Every person commits an offence against this Act who—

(a) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations, order, or condition made or imposed under this Act:

(b) With intent to deceive makes any false or misleading statement or any material omission in any communication with or application to the Court or any Land Valuation Committee or any person (whether in writing or otherwise) for the purposes of this Act.

(2) Every person who commits an offence against this Act shall be liable on summary conviction—

(a) In the case of an individual, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both:

(b) In the case of a body corporate, to a fine not exceeding five hundred pounds.

(3) Section fifty of the Justices of the Peace Act 1927 shall not apply with respect to a prosecution for an offence against this Act.

See Reprint
of Statutes,
Vol. II, p. 365