



ANALYSIS

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1968, No. 152

An Act to amend the Land Settlement Promotion Act 1952
[19 December 1968]

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

1. Short Title—This Act may be cited as the Land Settlement Promotion and Land Acquisition Amendment Act 1968, and shall be read together with and deemed part of the Act heretofore cited as the Land Settlement Promotion Act 1952 (hereinafter referred to as the principal Act).

2. Altering Short Titles of principal Act and amending Acts—(1) The principal Act may hereafter be cited as the Land Settlement Promotion and Land Acquisition Act 1952.

(2) The Short Title of the principal Act, and the Short Titles of—

- (a) The Land Settlement Promotion Amendment Act 1959:
- (b) The Land Settlement Promotion Amendment Act 1961:
- (c) The Land Settlement Promotion Amendment Act 1963—

are hereby consequentially amended, in each case, by inserting, after the word “Promotion”, the words “and Land Acquisition”.

(3) Every reference in any enactment to the Short Title of any of the said Acts is hereby consequentially amended by inserting, after the word “Promotion”, the words “and Land Acquisition”.

PART I

AGGREGATION OF LAND

3. Matters to be considered in determining whether undue aggregation—(1) Section 31 of the principal Act is hereby amended by inserting in paragraph (a) of subsection (1), after the word “Whether”, the words “in any case where the purchaser or lessee is an individual”.

(2) Section 31 of the principal Act is hereby further amended by inserting in subsection (1), after paragraph (a), the following paragraph:

“(aa) Where the purchaser or lessee is a company and—

“(i) The principal object and business of the company is to farm land; and

“(ii) There are more than twenty-five shareholders in the company; and

“(iii) No one shareholder is entitled, either directly or by a nominee on his behalf, to more than one-fifth of the voting rights at general meetings of the company,—

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 company, either severally, jointly, or in common with any other person, is sufficient to enable it to operate efficiently and successfully and to pay adequate dividends to its shareholders:”.

(3) Section 31 of the principal Act is hereby further amended by repealing paragraph (d) of subsection (1), and substituting the following paragraph:

“(d) Whether the acquisition would be in or against the public interest, and, without limiting the matters to be taken into consideration, it is hereby declared that for the purposes of this paragraph it is in the public interest—

“(i) To ensure and preserve the diversification of the ownership of farm land by individuals or, in the case of farming by companies, by diversification of the ownership of shares in such companies:

“(ii) That underdeveloped or depreciated farm land be acquired by persons competent and able to bring the land into production:

“(iii) That the acquisition of land by any person will result in substantially increased production thereon:

“(iv) That the intended use of the land will be in the interests of the community generally.”

PART II

CONTROL OF ACQUISITION OF LAND

4. Commencement of this Part—This Part of this Act shall come into force on the first day of January, nineteen hundred and sixty-nine.

5. New Part IIA inserted in principal Act—The principal Act is hereby further amended by inserting, after section 35, the following new Part:

“Part IIA

“CONTROL OF ACQUISITION OF LAND

“**35A. Interpretation**—(1) In this Part of this Act—

“‘New Zealand citizen’ includes the wife of a New Zealand citizen:

“‘Overseas corporation’ means a body corporate which—

“(a) Is incorporated outside New Zealand; or

“(b) Is a company within the meaning of the Companies Act 1955 that is for the purposes of that Act a subsidiary of any company or body corporate incorporated outside New Zealand; or

“(c) Is a company, within the meaning of the Companies Act 1955, in which shares are held by persons who are not New Zealand citizens or are overseas corporations, being shares that in the aggregate carry the right to exercise or control the exercise of twenty-five percent or more of the voting power at any general meeting of the company.

“(2) For the purposes of this Part of this Act, a person, being an individual, shall be deemed to be ordinarily resident in New Zealand on any date if—

“(a) He has resided in New Zealand for not less than two and a half years during the period of three years immediately preceding that date; and

“(b) In the opinion of the Court or the Committee, as the case may be, he is likely to continue to reside permanently in New Zealand.

“(3) For the purposes of this Part of this Act, a body corporate shall be deemed to be ordinarily resident in New Zealand if it is incorporated in New Zealand and is not an overseas corporation.

“(4) For the purposes of this Part of this Act, where in any transaction there are two or more purchasers, then—

“(a) If one of the purchasers, being an individual, is not ordinarily resident in New Zealand, or, being a body corporate, is an overseas corporation, the provisions of this Part applicable to a purchase by persons or bodies corporate not ordinarily resident in New Zealand shall apply to the transaction:

“(b) If one of the purchasers is an individual ordinarily resident in New Zealand and no person referred to in paragraph (a) of this subsection is a purchaser under the transaction, the provisions of this Part applicable to a purchase by a person ordinarily resident in New Zealand shall apply to the transaction.

“(5) For the purposes of this Part of this Act, where the purchaser in any transaction is a trustee, the provisions of this Part shall apply as if each beneficiary were a purchaser.

“35B. Transactions to which this Part applies—(1) Notwithstanding anything in this Act, and subject to the provisions of sections 35c and 35d of this Act, 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 land, whether legal or equitable:

- “(b) For the leasing of any land for a term of not less than three years:
- “(c) For the sale or transfer of any leasehold estate or interest in land, whether legal or equitable, of which not less than three years is unexpired:
- “(d) For the granting of an option to purchase or otherwise acquire any freehold or leasehold estate or interest in land as aforesaid,—
- in any case where—
- “(e) The purchaser or lessee,—
- “(i) Being an individual and not being a trustee, is not a New Zealand citizen; or
- “(ii) Being a body corporate and not being a trustee, is an overseas corporation; or
- “(iii) Is a trustee under a trust any beneficiary of which is not a New Zealand citizen or is an overseas corporation; and
- “(f) The transaction relates—
- “(i) To any land which is designated or zoned for any public utility, amenity, reserve, or public work, or any proposed such purpose, under any operative regional planning scheme or proposed or operative district scheme under the Town and Country Planning Act 1953; or
- “(ii) To any area of five acres or over which is not zoned for commercial, industrial, or residential purposes under a proposed or operative district scheme under that Act.
- “(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.

“35c. Transactions exempt from this Part—Nothing in this Part of this Act shall apply with respect to—

- “(a) Any transaction entered into before the commencement of this Part, or the exercise of any option granted before the commencement of this Part:
- “(b) Any transaction of any of the kinds specified in paragraphs (b) to (p) and paragraph (s) of subsection (3) of section 23 of this Act:

“(c) Any transaction of a class for the time being exempted from this Part of this Act by regulations made under this Act:

“(d) Any transaction consented to in writing by the Minister with the concurrence of the Minister of Finance, not being a transaction in respect of which the Court has refused, on the merits, to grant its consent.

“**35D. Registration of dealings**—Notwithstanding anything in this Act or in any other Act, the District Land Registrar or the Registrar of Deeds shall not register any dealing to give effect to any contract or agreement specified in paragraphs (a) to (d) of subsection (1) of section 35B of this Act, unless—

“(a) The transaction is exempt from this Part of this Act under section 35C of this Act; or

“(b) The Court has consented to the transaction or, pursuant to section 35E of this Act, the consent of the Court is not required; or

“(c) The District Land Registrar or the Registrar of Deeds, as the case may be, is satisfied by a statutory declaration in the prescribed form made by every purchaser or lessee, or, where any purchaser or lessee is a body corporate, by a director or the secretary or other principal officer, that this Part of this Act does not apply to the transaction:

“Provided that the District Land Registrar or Registrar of Deeds may accept as sufficient proof that this Part of this Act does not apply to the transaction a certificate to that effect endorsed on the memorandum of transfer or lease or instrument of conveyance and signed by the solicitor for the purchaser or lessee.

“**35E. Consent of Court not required in certain cases**—
(1) Notwithstanding anything in this Part of this Act, the consent of the Court shall not be required to any transaction to which this Part applies where—

“(a) The purchaser or lessee—

“(i) Is a British subject who is not a New Zealand citizen, or is a British protected person within the meaning of the British Nationality and New Zealand Citizenship Act 1948; and

“(ii) Has resided in New Zealand for not less than two and a half years during the period of three years immediately preceding the date of the transaction and intends to continue to reside permanently in New Zealand; and

“(b) The purchaser or lessee makes a statutory declaration as to the matters provided in paragraph (a) 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 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 (b) of subsection (1) 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 deposited in accordance with the provisions of that paragraph.

“35F. **Prohibiting transactions without consent of Court**—Section 25 of this Act shall, with the necessary modifications, apply with respect to transactions to which this Part of this Act applies, as if references in that section to Part II of this Act were references to this Part and the reference to section 24 of this Act in paragraph (b) of subsection (1) were a reference to section 35E.

“35G. **Applications for consent and consent without hearing in certain cases**—Sections 27 and 28 of this Act shall, with the necessary modifications, apply with respect to transactions to which this Part of this Act applies, as if the reference in section 28 to Part II of this Act were a reference to this Part.

“35H. **Matters to be considered where purchaser or lessee is not a New Zealand citizen or is an overseas corporation**—(1) Notwithstanding anything in this Act, where any transaction is subject to the provisions of this Part of this Act, the Court or the Committee, as the case may be, shall not grant its consent to the transaction unless, having regard to the matters specified in subsections (2) and (3) of this section, the Court or the Committee is of the opinion that consent should be granted.

“(2) The Court or the Committee shall grant its consent to the transaction where it is satisfied that—

“(a) The purchaser or lessee, being an individual and not being a trustee, is a person who is ordinarily resident in New Zealand; or

“(b) In any case where the purchaser or lessee is a trustee, every beneficiary under the trust who is not a New Zealand citizen is ordinarily resident in New Zealand.

“(3) Subject to subsection (2) of this section, where the purchaser or lessee, being an individual, is a person who in the opinion of the Court or the Committee is not a person who is ordinarily resident in New Zealand or, being a body corporate, is an overseas corporation, the Court or the Committee shall not grant its consent, unless it is satisfied—

“(a) That the land is not designated or zoned for any public utility, amenity, reserve, or public work, or any proposed such purpose, under any operative regional planning scheme or proposed or operative district scheme under the Town and Country Planning Act 1953; and

“(b) That, where the land is not designated or zoned for any of the purposes specified in paragraph (a) of this subsection, the land is unlikely to be required for any such purpose. For the purposes of this paragraph the Court or the Committee may accept as sufficient evidence that the land is likely to be used for any purpose specified in paragraph (a) of this subsection a certificate by the Commissioner of Works or by a local authority within the meaning of the Town and Country Planning Act 1953 that any land comprised in the transaction, although not designated or zoned for that purpose, may be required for any of the purposes specified in that paragraph; and

“(c) That, where the land is farm land, the purchaser or lessee intends—

“(i) To conduct experimental or research work on the land that will be of benefit to the development of agricultural industries in New Zealand and be in the interests of the community generally; or

“(ii) To use the land for purposes other than agricultural purposes with greater advantage to the community generally; or

“(iii) In the case of an individual, to reside permanently in New Zealand and farm the land exclusively for his own use and benefit,— and that the purchaser or lessee has the ability and the means to achieve those purposes.

“(4) Notwithstanding anything in the foregoing provisions of this section, but without limiting any discretion of the Court under any other provision of this section, the Court shall grant its consent to the transaction where it is satisfied that—

“(a) The purchaser is a mortgagee who has become the purchaser of the land at a sale conducted by a Registrar of the Supreme Court in the exercise of the mortgagee’s power of sale under the mortgage; and

“(b) The principal sum secured by the mortgage was advanced by the mortgagee in good faith for investment purposes or in the ordinary course of business of the mortgagee; and

“(c) The purchase price does not exceed the aggregate of the amount due and owing under the mortgage, the reasonable expenses incurred by the mortgagee in connection with the sale, and any other money expended by the mortgagee up to the date of the sale on or about the land in the protection of his security.

“**35i. Power to revoke consent in certain cases**—The provisions of section 34 of this Act shall apply where consent to any transaction has been granted under this Part of this Act, as if it had been granted under Part II of this Act.”

6. Miscellaneous amendments of principal Act—(1) Section 24 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (b), the following paragraph:

“(bb) The transaction is not subject to Part IIA of this Act or the transaction is subject to that Part and the purchaser or lessee makes and files a declaration under section 35E of this Act within the time specified in that section; and”.

- (2) The principal Act is hereby further amended—
- (a) By omitting from paragraph (d) of subsection (1) of section 24 (as amended by section 2 (b) of the Land Settlement Promotion Amendment Act 1961) the words “paragraphs (a) and (b)”, and substituting the words “paragraphs (a), (b), and (bb)”:
 - (b) By omitting from section 26 (as amended by section 2 (c) of the Land Settlement Promotion Amendment Act 1961) the words “paragraphs (a) and (b)”, and substituting the words “paragraphs (a), (b), and (bb)”:
 - (c) By inserting in subsection (1) of section 29 (as substituted by section 3 of the Land Settlement Promotion Amendment Act 1961), after the words “this Part of this Act”, the words “, or, in any case to which Part IIA of this Act applies, the purposes of that Part,”:
 - (d) By inserting in section 37, after the words “Part II” wherever they occur, the words “or Part IIA”:
 - (e) By inserting in section 40, after the words “Part II”, the words “or Part IIA”.
- (3) Section 29 of the principal Act (as so substituted) is hereby further amended by adding to paragraph (b) the word “and” and by inserting, after that paragraph, the following paragraph:
- “(c) In any case to which Part IIA of this Act applies, that consent should be given under that Part,—”.
- (4) Section 2 of the Land Settlement Promotion Amendment Act 1961 is hereby consequentially repealed.

7. Acquisition of Maori land—(1) Section 213 of the Maori Affairs Act 1953 (as substituted by section 90 of the Maori Affairs Amendment Act 1967) is hereby amended by adding the following subsection:

“(9) Notwithstanding anything in subsection (8) of this section, in determining whether it should make an order under this section vesting any interest in land in any person who is not a New Zealand citizen or is an overseas corporation within the meaning of Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952 (as inserted by section 5 of the Land Settlement Promotion and Land Acquisition Amendment Act 1968), the Court shall, as far as possible, act in conformity with the relevant provisions of the said Part IIA of the Land Settlement Promotion and Land Acquisition Act

1952, and shall have regard to the several matters that a Land Valuation Committee is, by that Part of that Act, required to consider in relation to applications made thereunder.”

(2) Section 227 of the Maori Affairs Act 1953 (as substituted by section 100 of the Maori Affairs Amendment Act 1967) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) An alienation by way of transfer to a person who is not a New Zealand citizen or to an overseas corporation within the meaning of Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952 (as inserted by section 5 of the Land Settlement Promotion and Land Acquisition Amendment Act 1968) of any land which, if it were European land, could be acquired by that person or corporation only with the consent of the Land Valuation Court under that Part of that Act shall not be confirmed unless the Maori Land Court is satisfied that it should consent to the acquisition of the land accordingly.”

(3) Section 227 of the Maori Affairs Act 1953 (as so substituted) is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) In determining whether it should consent to the acquisition of any land by a person or corporation referred to in subsection (1A) of this section under a transfer before it for confirmation, the Court shall, as far as possible, act in conformity with the relevant provisions of the said Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952, and shall have regard to the several matters that a Land Valuation Committee is, by that Part of that Act, required to consider in relation to applications made thereunder.”

(4) Section 227 of the Maori Affairs Act 1953 (as so substituted) is hereby further amended by omitting from subsection (3) the words “subsection (1)”, and substituting the words “subsections (1) and (1A)”.

(5) Section 318 of the Maori Affairs Act 1953 (as substituted by section 116 of the Maori Affairs Amendment Act 1967) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) A resolution for the alienation by way of transfer or lease to a person who is not a New Zealand citizen or to an overseas corporation within the meaning of Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952 (as inserted by section 5 of the Land Settlement Promotion and

Land Acquisition Amendment Act 1968) of any land which, if it were European land, could be acquired by that person or that corporation only with the consent of the Land Valuation Court under that Part of that Act shall not be confirmed, unless the Maori Land Court is satisfied that it should consent to the acquisition of the land accordingly.”

(6) Section 318 of the Maori Affairs Act 1953 (as so substituted) is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) In determining whether it should consent to the acquisition by a person or corporation referred to in subsection (1A) of this section of any land by transfer or lease pursuant to a resolution as aforesaid, the Court shall, as far as possible, act in conformity with the relevant provisions of the said Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952, and shall have regard to the several matters that a Land Valuation Committee is, by that Part of that Act, required to consider in relation to applications made thereunder.”

8. Aliens Act 1948 amended—Section 3 of the Aliens Act 1948 is hereby amended by adding to subsection (2) the following paragraph:

“(d) Entitle an alien to acquire any property under a transaction to which Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952 (as inserted by section 5 of the Land Settlement and Land Acquisition Amendment Act 1968) applies, except in accordance with the provisions of that Part.”

This Act is administered in the Department of Lands and Survey.
