

New Zealand.



ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Reservation of road by Governor's warrant to have same effect as if reserved in Crown grant. Reservation of road in certificate of title not to vitiate the same.</p> <p>4. Certificate of title for balance of land not transferred may remain valid if sufficiently descriptive of such balance.</p> <p>5. Cost of survey for correction of plans, &c., to be paid out of Assurance Fund.</p>	<p>6. Surveyor-General or person authorised by him may enter land to make survey.</p> <p>7. Mortgagee's right to distrain goods, &c., of mortgagor repealed.</p> <p>8. Power to cancel surveyors' licenses.</p> <p>9. Memorandum of lease may be registered.</p> <p>10. Application of "Property Law Consolidation Act, 1883."</p> <p>11. Amendment of section 154 of "Land Transfer Act, 1885."</p> <p>12. Amendment of subsection 2 section 169 of "Land Transfer Act, 1885."</p>
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1888, No. 40.

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

[30th August, 1888.]

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

1. The Short Title of this Act is "The Land Transfer Act Amendment Act, 1888."

2. For the purposes of this Act,—

"Warrant" means and includes every warrant heretofore or hereafter issued under the hand of the Governor for the issue of a certificate of title in lieu of a Crown grant under the provisions of "The Land Transfer Act, 1885," or of any Act thereby repealed.

3. The reservation in any warrant, as hereinbefore defined, of any right of road, or right to take or lay off any road, shall, as from the date of such warrant, have the like effect as if such reservation had been contained in a Crown grant on the like date of the land the subject thereof.

Such reservation, and all rights existing by virtue thereof, shall be deemed sufficiently protected by the general reservation in any certificate of title of the right of the Crown to take and lay off roads under the provisions of any Act of the General Assembly, and no certificate of title shall be impeached on the ground of uncertainty or otherwise on account of any such reservation therein contained.

4. When any certificate of title is partially cancelled by indorsement thereon of a memorial of transfer of a portion of the land, the Registrar may at his discretion, allow the person entitled to the untransferred balance of the land to retain such certificate, and the

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same shall, as to such untransferred balance, remain in full force and virtue: Provided that the memorial shall clearly define what portion of the land has been transferred.

In the case of a transfer of a road-line to Her Majesty the Queen the District Land Registrar may cause such road-line to be marked upon the plan on the certificate, or upon a new plan upon the certificate, and to endorse a description of such road-line upon the said certificate; and in any such case it shall not be necessary to issue a certificate for such road-line, but the old certificate, or a new one, may be reissued without fee with such road-line, marked thereon with a memorandum that such transfer has been registered.

Cost of survey for correction of plans, &c., to be paid out of Assurance Fund.

5. The cost of any survey authorised by the Surveyor-General for correction of any Land Transfer plan or certificate shall be borne and paid by the Assurance Fund upon the certificate of the Surveyor-General that such survey has been duly made and was necessary for the purpose aforesaid.

Surveyor-General or person authorised by him may enter land to make survey.

6. The Surveyor-General, or any person authorised by him to make any survey required for the purposes of "The Land Transfer Act, 1885,"—

- (1.) May enter from time to time, during the daytime, upon any land, with such assistants as he thinks fit, for the purpose of making any survey which he is authorised to make, and may fix or set up thereon survey pegs, marks, or poles; or for the purpose of inspecting any such survey, or of altering, repairing, moving, or removing any survey peg, mark, or pole; and
- (2.) May do all things necessary for such survey in accordance with existing regulations, or for any inspection, repair, or alteration thereof.

Before entry, such surveyor shall, when practicable, give reasonable notice to the owner or occupier of the land, and shall, if required by such owner or occupier, produce and show the authority under which he claims to enter as aforesaid.

Any person wilfully preventing or obstructing any survey authorised as aforesaid, or destroying, effacing, or removing any survey pegs or marks relating thereto, shall incur for each such offence a penalty not exceeding twenty pounds, to be recoverable in a summary way before any two or more Justices of the Peace, and shall be liable to make good any loss or damage thereby occasioned.

The Surveyor-General may delegate his powers and duties under this section to the Chief Surveyor of any district so far as the same are to be exercised within the limits of such district.

Mortgagee's right to distrain goods, &c., of mortgagor repealed.

7. So much of section ninety-six of "The Land Transfer Act, 1885," as gives to a mortgagee power to distrain and sell the goods and chattels of the mortgagor is hereby repealed.

Power to cancel surveyors' licenses.

8. The Surveyor-General, subject to the approval of the Governor, may revoke, either absolutely or for such time as he shall think fit, the license of any surveyor licensed under "The Land Transfer Act, 1885," upon the ground of negligence, incompetence, or misconduct on the part of such surveyor. Any person whose license is so cancelled shall cease to be a licensed surveyor from and after the day when a notification of such cancellation is gazetted.

9. A memorandum of lease executed in the Form D in the Second Schedule to "The Land Transfer Act, 1885," may be registered notwithstanding that the term thereof shall be less than three years, but no lease or agreement for lease for a less period than three years shall be void by reason only of such memorandum not having been executed or registered.

Memorandum of lease may be registered.

10. The provisions of sections sixty-five, sixty-six, and sixty-seven of "The Property Law Consolidation Act, 1883," shall apply, and be deemed to have applied to "The Land Transfer Act, 1885," and any amendments thereof, and to any Acts thereby respectively repealed.

Application of "Property Law Consolidation Act, 1883."

11. The following words shall be added to section one hundred and fifty-four of "The Land Transfer Act, 1885:": "Nor shall any power of attorney be deemed to have been or to be revoked by the bankruptcy of the grantee or by the marriage of a female grantee."

Amendment of section 154 of "Land Transfer Act, 1885."

12. Subsection two of section one hundred and sixty-nine of "The Land Transfer Act, 1885," shall hereafter be read as if the following words were added thereto, namely: "and in the event of any such instrument being signed, executed, or acknowledged in any place where no law for taking an affidavit or declaration is in force, then such instrument shall be attested by the British Consul or Vice-Consul, who shall certify that no provision is made by the laws of such country for taking an affidavit or solemn declaration, and such certificate shall for all purposes be received as sufficient evidence thereof."

Amendment of subsection 2 section 169 of "Land Transfer Act, 1885."