

New Zealand.

ANALYSIS.

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1933, No. 39.

AN ACT to amend the Land Transfer (Hawke's Bay) Act, 1931. Title.
[22nd December, 1933.]

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

1. This Act may be cited as the Land Transfer (Hawke's Bay) Amendment Act, 1933, and shall be read together with and deemed part of the Land Transfer (Hawke's Bay) Act, 1931. Short Title.

2. In this Act—

The expression "the principal Act" means the Land Transfer Act, 1915: Interpretation.

The expression "the special Act" means the Land Transfer (Hawke's Bay) Act, 1931:

The expression "adopted" means used for the purpose of making a copy under section four of the special Act, and "adoption" has a corresponding meaning.

Registrar to make a new register for district.

3. (1) The Registrar is hereby directed to make a new register for the district, and for that purpose is hereby given all such necessary authority as is not expressly conferred by the special Act or this Act.

Repeal.

(2) This section is in substitution for section three of the special Act, and that section is hereby repealed accordingly.

Registrar may apply to Hawke's Bay Adjustment Court for declaratory order in respect of matters concerning the new register.

4. (1) The Registrar may at his discretion at any time apply to the Hawke's Bay Adjustment Court for an order under section twelve of the Hawke's Bay Earthquake Act, 1931, to define the rights and liabilities of any person or persons in or in relation to any land or interest in land within the district, if the definition of such right or liability by that Court would facilitate the making of the new register for the district.

(2) Notice of every such application shall be given by the Registrar by registered letter to every person known or believed by him to be entitled to any right or to be subject to any liability in respect of any land the subject-matter of the application.

(3) Every such application, until disposed of by the Court, shall be effective as a caveat by the Registrar, and he shall make an entry in the register that such application has been made.

Modification of section 40 of principal Act for purposes of special Act.

5. The Registrar shall have power, and from the passing of the special Act shall be deemed to have had power, to act under the provisions of section forty of the principal Act without the necessity of complying with the proviso to subsection two thereof; and he may dispense with copying any outstanding duplicate of any instrument.

Registrar may decline to issue certificates or to register certain instruments until prescribed conditions satisfied.

6. (1) Notwithstanding any enactment or rule of law to the contrary, the Registrar shall not be bound to issue any certificate of title upon a Warrant, or to embody in the provisional register as a folium thereof any certificate under the hand of the Commissioner of Crown Lands to the effect that any purchase-money has been paid, or to

register any lease or license issued under the Land Act, 1924, or the Land for Settlements Act, 1925, or any other Act, or to register any vesting of any estate or interest in any person whomsoever under a statute which does not expressly direct that the estate or interest shall vest free from all encumbrances, restrictions, liens, and interests, unless and until he is informed under the hand of the Commissioner of Crown Lands, or until he is reasonably satisfied, either,—

- (a) That on the said date (as defined by the special Act) no caveat was noted and no interest of any kind was registered in the old register or under the Deeds Registration Act, 1908, as the case may be, affecting the land comprised in such Warrant, certificate under the hand of the Commissioner of Crown Lands, lease, or license, or statute, as the case may be; or
- (b) If a caveat had been noted or an instrument had existed on the said date, then that such interest or caveat has been re-registered or disclosed in writing to the Registrar in such a manner as to enable him to bring forward a memorial of it, or that it has been otherwise protected in accordance with the provisions of this Act or the special Act.

(2) The Registrar on being satisfied of the existence of such a caveat or interest on the said date shall bring forward a memorial thereof on any certificate of title, provisional register, lease, or license, which he shall issue or register.

7. Where pursuant to section fifteen of the special Act any person is required to execute an instrument in replacement of a destroyed instrument, it shall not be necessary to obtain in respect of the new instrument any consent, approval, or confirmation that may have been required in respect of the destroyed instrument, but unless and until the contrary is proved, every such consent, approval, or confirmation shall be deemed to have been duly given in respect of the destroyed instrument on or before its registration.

New instruments executed under section 15 not dependent on any confirmation or approval that may have been required in respect of destroyed instruments.

8. Section four of the special Act is hereby amended as follows:—

Section 4 of special Act amended.

- (a) By inserting, after the words "no such remaining triplicate" in subsection four thereof, the words "or duplicate copy adopted in accordance with the next succeeding subsection"; and by inserting, after the words "every such remaining triplicate" in the same subsection, the words "or adopted duplicate"; and
- (b) By adding the following subsection:—

"(5) On the adoption of any triplicate of any registered instrument it shall be lawful for the Registrar to receive with the adopted triplicate two copies thereof, and to certify one of such copies free of cost, and to issue the same in substitution for the outstanding duplicate of the instrument upon which memorials are to be endorsed under section thirty-seven of the principal Act, and thereafter such copy shall have the same force and effect as if it were the original duplicate upon which memorials may be endorsed by the Registrar."

9. Section five of the special Act is hereby amended by omitting paragraph (c) of subsection one, and substituting the following paragraph:—

"(c) Any caveat lodged to protect any estate or interest; or".

10. Section five of the special Act is hereby further amended by omitting from subsection two the words "thereafter becoming", and substituting the words "who within the time limited as aforesaid or at any time thereafter becomes".

11. Section fourteen of the special Act is hereby amended as follows:—

- (a) By omitting from the proviso to subsection one the words "after the date when such interim certificate, or interim lease or license, was made or became conclusive as aforesaid"; and
- (b) By adding to subsection one the following additional proviso:—

"Provided also that in the case of the land comprised in any certificate of title or other instrument to which section five of this Act applies, a caveat lodged in accordance with this section shall not affect the estate or

Section 5 of special Act amended.

Section 5 of special Act amended to protect *bona fide* purchasers in certain cases.

Section 14 of special Act to be read subject to section 5 (2) thereof.

interest of a registered proprietor whose right or interest is protected by subsection two of that section."

12. Section seventeen of the special Act is hereby amended by adding thereto the following subsection:—

"(5) If the proprietor of any easement, or *profit à prendre*, or other encumbrance which had been registered, neglects to furnish such particulars of his easement, or *profit à prendre*, or other encumbrance, as the Registrar may require by notice in writing, directed to the usual or last known address of such proprietor, the Registrar may, at his discretion, at any time after the expiration of six calendar months from the date of such notice, remove any entry of such easement, *profit à prendre*, or other encumbrance from the register, or from any certificate of title, or other outstanding duplicate of the register, by marking the memorial thereof in the register with the words 'Removed.—See K. No. (day of , 19) D.L.R.', and a like entry shall be made or noted on every servient title or tenement against which the easement or *profit à prendre*, or encumbrance has been registered. From the date of such removal being noted by the Registrar such easement, or *profit à prendre*, or encumbrance shall cease and determine."

Section 17 of
special Act
amended.