



ANALYSIS

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1968, No. 42

An Act to abolish the Land Valuation Court and to transfer its jurisdiction to the Administrative Division of the Supreme Court; and to amend the Land Valuation Court Act 1948 and other enactments for that purpose and for purposes related thereto [4 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 and commencement—(1) This Act may be cited as the Land Valuation Proceedings Amendment Act 1968, and shall be read together with and deemed part of the Act heretofore cited as the Land Valuation Court Act 1948 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-nine.

*Transfer of Land Valuation Court's Jurisdiction to
Administrative Division of Supreme Court*

2. Land Valuation Court abolished and jurisdiction transferred to the Administrative Division of the Supreme Court—(1) The Land Valuation Court established under the principal Act is hereby abolished, and, subject to the provisions of the principal Act and this Act, all the powers and jurisdiction of that Court are hereby vested in and may be exercised by the Administrative Division of the Supreme Court.

(2) As from the commencement of this Act, all claims, applications, objections, appeals, proceedings, and other matters which, if this Act had not been passed, would be required to be made or referred to and heard and determined by the Land Valuation Court shall be made or referred to and heard and determined by the Administrative Division of the Supreme Court.

(3) All claims, applications, objections, appeals, proceedings, and other matters which before the commencement of this Act have been made or referred to the Land Valuation Court, but which have not been determined at the commencement of this Act, shall be deemed to have been made to the Administrative Division of the Supreme Court:

Provided that any such claim, application, objection, appeal, proceeding, or other matter which before the commencement of this Act has been wholly or partly heard but has not been determined shall be determined as if this Act had not been passed, except that section 18A of the principal Act (as inserted by section 8 of this Act) shall apply to the determination of the Court thereon.

(4) Every reference to the Land Valuation Court in the principal Act or any other Act (not being a reference only to "the Court" or a reference that is expressly amended by this Act) or in any rule, regulation, bylaw, judgment, order, contract, agreement, or other document whatsoever (including any reference heretofore substituted by any provision of the principal Act for a reference to any other Court) shall hereafter, unless the context otherwise requires, be read as a reference to the Administrative Division of the Supreme Court.

(5) Every reference to a Registrar of the Land Valuation Court in any enactment other than the principal Act (not being a reference that is expressly amended by this Act), or in any rule, regulation, bylaw, judgment, order, contract, agreement, or other document whatsoever shall hereafter, unless the context otherwise requires, be read as a reference to a Registrar of the Supreme Court.

(6) For the purposes of this section, the expression "Administrative Division of the Supreme Court" means the Administrative Division of that Court, including the two additional members appointed under section 3 of the principal Act (as substituted by section 5 of this Act).

Amendments of Principal Act

3. Alteration of Short Titles of principal Act and amending Acts—(1) The principal Act may hereafter be cited as the Land Valuation Proceedings Act 1948.

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

(a) The Land Valuation Court Amendment Act 1965; and

(b) The Land Valuation Court Amendment Act 1967—
are hereby consequentially amended, in each case, by omitting the word "Court", and substituting the word "Proceedings".

(3) Every reference in any enactment to the Short Title of any of the said Acts is hereby consequentially amended by omitting the word "Court", and substituting the word "Proceedings".

4. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing the definitions of the terms "Court" and "Registrar", and substituting, in their appropriate alphabetical order, the following definitions:

"'Additional member' means a person appointed under section 3 of this Act to be an additional member of the Administrative Division of the Supreme Court for the purposes of this Act:

"'Court' means the Administrative Division of the Supreme Court, including the additional members:

"'Registrar' means a Registrar of the Supreme Court; and includes a Deputy Registrar."

5. Additional members of Administrative Division of Supreme Court for purposes of Act—The principal Act is hereby amended by repealing sections 3 to 7, and substituting the following section:

“3. (1) For the purposes of the exercise by the Administrative Division of the Supreme Court of—

“(a) Its jurisdiction and powers under or by virtue of this Act; and

“(b) The jurisdiction and powers formerly vested in the Land Valuation Court under or by virtue of any other enactment in force at the commencement of this section—

there shall be two additional members of the Division (not being Judges of the Supreme Court), who shall be appointed by the Governor-General.

“(2) The additional members shall be appointed to hold office for five years, and shall be eligible for reappointment.

“(3) Any additional member may resign his office at any time by written notice given to the Minister of Justice.

“(4) Any additional member may be removed from office at any time by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

“(5) Every additional member shall retire from office on attaining the age of seventy-two years.

“(6) There shall be paid to the additional members, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Division were a statutory Board within the meaning of that Act.”

6. Oath to be taken by additional members—The principal Act is hereby further amended by repealing section 9, and substituting the following section:

“9. Before entering upon the exercise of the duties of their office, the additional members shall take and subscribe an oath before a Judge of the Supreme Court that they will faithfully and impartially perform the duties of their office.”

7. Quorum and decisions of Court—The principal Act is hereby further amended by repealing section 13, and substituting the following section:

“13. (1) The presence of a Judge of the Administrative Division and of at least one additional member shall be necessary to constitute a sitting of the Court.

“(2) The decision of a majority (including the Judge, or, where more than one Judge sits, including a majority of the Judges) of the members present at a sitting of the Court shall be the decision of the Court. If the members present are equally divided in opinion, the decision of the Judge, or of a majority of the Judges, shall be the decision of the Court.

“(3) If any question before the Court cannot be decided in accordance with subsection (2) of this section, the question shall be referred to the Court of Appeal for decision in accordance with the practice and procedure of that Court, which for that purpose shall have all the powers of the Court under this Act. The decision of the Court of Appeal in any proceedings under this subsection shall be final and shall take effect and be enforced as if it were a decision of the Court under this Act.”

8. Appeal to Court of Appeal in certain cases—(1) The principal Act is hereby amended by inserting, after section 18, the following section:

“18A. (1) Notwithstanding anything in any enactment, any party to any proceedings before the Court who is dissatisfied with any award or order of the Court may, with the leave of the Court or of the Court of Appeal, appeal to the Court of Appeal; and section 66 of the Judicature Act 1908 shall apply to any such appeal.

“(2) In determining whether to grant leave to appeal under this section, the Court to which the application for leave is made shall have regard to the following matters:

“(a) Whether any question of law or general principle is involved:

“(b) The importance of the issues to the parties:

“(c) The amount of money in issue:

“(d) Such other matters as in the particular circumstances the Court thinks fit.

“(3) The Court granting leave under this section may in its discretion impose such conditions as it thinks fit, whether as to costs or otherwise.

“(4) The decision of the Court of Appeal on any such appeal shall be final.”

(2) Section 17 of the principal Act is hereby repealed.

(3) Section 33 of the principal Act is hereby amended by omitting from subsection (4) the words “Subject as aforesaid, no such proceedings and no order thereon shall be liable to be challenged, reviewed, quashed, or called in question in any Court”.

9. Land Valuation Committees—(1) Section 19 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) Every Land Valuation Committee shall consist of such number of persons (not exceeding three) as the Governor-General in each case thinks fit, to be appointed by the Governor-General and to hold office during his pleasure.

“(2A) Where a Committee consists of one person, the person to be appointed shall be a Magistrate.

“(2B) Where a Committee consists of more than one person, one of the members to be appointed shall be a Magistrate and shall be appointed by the Governor-General to be the Chairman of the Committee; and the quorum at sittings of the Committee shall be such number as the Governor-General determines.”

(2) Section 20 of the principal Act is hereby amended by inserting, after the words “every Land Valuation Committee”, the words “, except a Magistrate,”.

10. Proceedings may be heard by Court instead of Committee where parties so request—Section 22 of the principal Act is hereby amended by repealing the proviso to subsection (1), and substituting the following proviso:

“Provided that with the leave of the Court, where all the parties to any claim, objection, application, or other proceeding so request, it shall not be referred to a Land Valuation Committee but shall be heard and determined by the Court.”

11. Appeals to Court against orders of Land Valuation Committees—(1) Section 26 of the principal Act (as amended by section 33 of the Statutes Amendment Act 1949 and section 3 of the Land Valuation Court Amendment Act 1964) is hereby further amended by repealing subsections (2) and (2A), and substituting the following subsections:

“(2) The prescribed time for the purposes of this section shall be—

“(a) Twenty-one days in the case of an order on a claim for compensation under the Public Works Act 1928:

“(b) Seven days in the case of an order under Part II of the Land Settlement Promotion Act 1952 granting unconditionally an application for consent to any transaction where there is no objection from the Crown representative appointed under section 36 of this Act:

“(c) Fourteen days in any other case.

“(2A) Every application for an extension of time within which to appeal to the Court from a final order of a Land Valuation Committee or from any part thereof may be made either before or after the expiration of the prescribed time for appeal, and may be made notwithstanding that the order of the Committee has been sealed as an order of the Court.”

(2) Section 26 of the principal Act is hereby further amended by adding the following subsection:

“(5) Subject to subsection (3) of section 13 and section 18A of this Act, the decision of the Court on any such appeal or review shall be final.”

12. Jurisdiction of Court in relation to Committee—The principal Act is hereby further amended by repealing section 27, and substituting the following section:

“27. (1) In the exercise of its powers and functions every Land Valuation Committee shall be subject to the general jurisdiction of the Court.

“(2) Proceedings before a Land Valuation Committee shall not be held bad for want of form.”

13. Consequential amendments of principal Act. Repeals—(1) The principal Act is hereby further amended in the manner indicated in the First Schedule to this Act.

(2) The following enactments are hereby consequentially repealed:

- (a) Section 33 of the Statutes Amendment Act 1949:
- (b) The Land Valuation Court Amendment Act 1964:
- (c) The Land Valuation Court Amendment Act (No. 2) 1967.

14. Savings as to existing appointments, awards, and orders—(1) Every person who at the commencement of this Act holds office as a member or deputy member of the Land Valuation Court (otherwise than as the Judge of the Court or as the Deputy Judge) shall be deemed for the purposes of the principal Act and this Act to have been appointed as an additional member or, as the case may require, a deputy additional member of the Administrative Division of the Supreme Court under the principal Act (as amended by this Act), and shall continue in office as such, subject to the principal Act (as so amended) for the unexpired portion of the term or period of his appointment and, in the case of a deputy, subject to the conditions and limitations, if any, specified in his appointment.

(2) All awards and orders of the Land Valuation Court shall continue in full force and effect according to their tenor, and may be enforced as if this Act had not been passed.

Amendments of Other Acts

15. Consequential amendments of other Acts—The enactments specified in the Second Schedule to this Act (as heretofore amended) are hereby further amended in the manner indicated in that Schedule.

SCHEDULES

Section 13 (1)

FIRST SCHEDULE

CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT

Section Affected	Amendment
Section 10	By repealing this section.
Section 12	By repealing subsection (2).
Section 14	By inserting in subsections (1) and (2), before the word "member", wherever that word occurs in those subsections, the word "additional". By omitting from subsection (1) the words "the Deputy Judge or", and also the words "as the case may require". By repealing subsection (3).
Section 15	By repealing this section.
Section 21	By omitting from subsection (3) the words "and, in the case of every application under the Servicemen's Settlement and Land Sales Act 1943, shall be verified by the statutory declaration of the applicant or of some other person with a knowledge of the facts".
Section 23	By omitting from the proviso to subsection (1) (as amended by section 29 (2) of the Servicemen's Settlement Act 1950) the words "subsection one of section twenty-nine of the Servicemen's Settlement Act 1950", and substituting the words "section 28 of the Land Settlement Promotion Act 1952".
Section 28	By omitting from subsection (1) the words "Land Valuation Court", in both places where those words occur, and substituting in each case the word "Court". By repealing subsections (2) and (3).
Sections 29, 30	By repealing these sections.
Section 33	By omitting the words "Land Valuation Court", wherever those words occur in subsections (1), (2), (3), (4), and (5), and substituting in each case the word "Court". By inserting in subsection (4), after the words "any rule or regulation made thereunder", the words "or under section 26B of the Judicature Act 1908".

FIRST SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Affected	Amendment
<p>Section 38</p> <p>First Schedule</p>	<p>By omitting the words “of the Supreme Court or of a Magistrate’s Court, as the Land Valuation Court directs, whereupon the order shall have the effect of a judgment of the Supreme Court or of the Magistrate’s Court, as the case may be”, and substituting the words “of a Magistrate’s Court, if the Court (within the meaning of this Act) so directs, whereupon the order shall have the effect of a judgment of the Magistrate’s Court”.</p> <p>By repealing this Schedule.</p>

SECOND SCHEDULE

Section 15

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Title of Act	Amendment
<p>1928, No. 21—The Public Works Act 1928. (1957 Reprint, Vol. 12, p. 475)</p>	<p>By inserting, after section 48, the following section:</p> <p>“48A. The Court—In this Part of this Act, the expression “the Court”, unless the context otherwise requires, means the Administrative Division of the Supreme Court, including the additional members holding office under the Land Valuation Proceedings Act 1948, in the exercise of its jurisdiction under that Act.”</p> <p>By omitting from subsection (1) of section 49 the words “the Land Valuation Court”, and substituting the words “the Court within the meaning of this Part of this Act”.</p> <p>By omitting from paragraph (a) of section 53 the words “Land Valuation Court”, and substituting the words “office of the Supreme Court”; by omitting from the said paragraph (a) the words “be filed in the Supreme Court and shall”; by omitting from paragraph (b) of the said section 53 the words “Land Valuation Court”, and substituting the word “Court”.</p>

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF OTHER ACTS—*continued*

Title of Act	Amendment
1928, No. 21—The Public Works Act 1928. (1957 Reprint, Vol. 12, p. 475)— <i>ctd.</i>	<p>By omitting from subsection (1) of section 54 the words "Land Valuation Court", and substituting the word "Court".</p> <p>By repealing subsection (2) of section 54, and substituting the following subsection: "(2) If the respondent gives notice in writing within the said sixty days, or within such further time as may be allowed by the Court, that he does not admit the claim, but makes no such offer, or if the claimant does not accept the offer so made, the claimant may file a copy of his claim in the Court, together with a notice in the form in the Third Schedule to this Act that he requires the claim to be heard in the Court."</p> <p>By omitting from section 56 the words "the Land Valuation Court", and substituting the words "the Court".</p> <p>By omitting from subsection (1) of section 90 the word "Judge", in both places where it occurs, and substituting in each case the words "presiding Judge".</p> <p>By omitting from paragraph (c) of section 91 the words "the Land Valuation Court", in both places where those words occur, and substituting in each case the words "the Court under this Part of this Act".</p> <p>By omitting from section 98 and section 101 the words "the Land Valuation Court", and substituting in each case the words "the Court".</p> <p>By omitting from subsection (2) of section 230 the words "Land Valuation Court", and substituting the words "office of the Supreme Court".</p> <p>By omitting from the Third Schedule the words "Land Valuation Court", where those words occur in the heading to the Schedule, and substituting the word "Court"; by omitting the words "To the Registrar [<i>or</i> Deputy Registrar] of the Land Valuation Court", and substituting the words "To the Registrar of the Supreme Court"; by omitting the words</p>

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF OTHER ACTS—*continued*

Title of Act	Amendment
1928, No. 21—The Public Works Act 1928. (1957 Reprint, Vol. 12, p. 475)— <i>ctd.</i>	“Land Valuation Court, as by the said Act provided”, and substituting the words “Court under Part III of the Public Works Act 1928”.
1939, No. 39—The Statutes Amendment Act 1939. (1957 Reprint, Vol. 12, p. 551)	By omitting from subsection (1) of section 64 the words “the Land Valuation Court”, and substituting the words “the Court”.
1944, No. 31—The Finance Act (No. 3) 1944. (1957 Reprint, Vol. 12, pp. 545, 563)	<p>By omitting from subsection (1) of section 29 the words “the Land Valuation Court”, and substituting the words “the Court”.</p> <p>By repealing paragraphs (a) and (b) of subsection (2) of section 34 (as substituted by section 4 (1) of the Finance Act 1959), and substituting the following paragraphs:</p> <p>“(a) A President of the Court, being such Judge of the Administrative Division of the Supreme Court as the Chief Justice from time to time assigns to the position of President:</p> <p>“(b) The two additional members of that Division holding office under section 3 of the Land Valuation Proceedings Act 1948 (as substituted by section 5 of the Land Valuation Proceedings Amendment Act 1968):”.</p>
1947, No. 46—The Public Works Amendment Act 1947. (1957 Reprint, Vol. 12, p. 599)	<p>By omitting from paragraph (a) of subsection (5) of section 4 the words “the Land Valuation Court”, and substituting the words “the Court under Part III of the principal Act”; by repealing the proviso to paragraph (c) of the said subsection (5), and substituting the following proviso:</p> <p>“Provided that, on application made within six months after the public notification of the substituted Proclamation, the time or times for any step or steps may be extended by the said Court to such period not exceeding five years from the execution of the works, and upon or subject to such conditions, as the Court thinks fit.”</p>

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF OTHER ACTS—*continued*

Title of Act	Amendment
1948, No. 64—The Land Act 1948. (1957 Reprint, Vol. 7, p. 1.)	By repealing the definition of the term "Land Valuation Court" in section 2.
1949, No. 46—The Maori Purposes Act 1949. (1957 Reprint, Vol. 13, p. 257.)	By omitting from subsection (1) of section 5 the words "the Land Valuation Court established under the Land Valuation Court Act 1948", and substituting the words "the Administrative Division of the Supreme Court under the Land Valuation Proceedings Act 1948".
1951, No. 19—The Valuation of Land Act 1951. (1957 Reprint, Vol. 16, p. 349.)	By repealing the definition of the term "Land Valuation Court" in section 2.
1951, No. 79—The Fees and Travelling Allowances Act 1951. (1957 Reprint, Vol. 4, p. 853)	By repealing so much of the Second Schedule as relates to subsection (4) of section 7 of the Land Valuation Court Act 1948.
1952, No. 34—The Land Settlement Promotion Act 1952. (1957 Reprint, Vol. 7, p. 553.)	<p>By repealing the definition of the term "Court", in subsection (1) of section 2, and substituting the following definition:</p> <p style="padding-left: 40px;">"Court" means the Administrative Division of the Supreme Court, including the additional members holding office under the Land Valuation Proceedings Act 1948, in the exercise of its jurisdiction under that Act."</p> <p>By omitting from paragraphs (a) and (d) of subsection (4) of section 5 the words "an office of the Land Valuation Court", and substituting in each case the words "the office of the Supreme Court".</p> <p>By omitting from paragraph (c) of section 14 the words "the Land Valuation Court", in both places where those words occur, and substituting in each case the words "the Court within the meaning of this Act".</p>
1953, No. 94—The Maori Affairs Act 1953. (Reprinted 1964, Vol. 3, p. 1925.)	By omitting from subsection (2) of section 245 the words "the Land Valuation Court established under the Land Valuation Court Act 1948", and substituting the words "the Supreme Court".

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF OTHER ACTS—*continued*

Title of Act	Amendment
1953, No. 94—The Maori Affairs Act 1953. (Reprinted 1964, Vol. 3, p. 1925.)— <i>continued</i>	<p>By omitting from subsections (3), (4), and (7) of section 245 the words "Land Valuation Court", and substituting in each case the words "Supreme Court".</p> <p>By omitting from subsection (2) of section 348 the words "the Land Valuation Court established under the Land Valuation Court Act 1948", and substituting the words "the Supreme Court".</p> <p>By omitting from subsections (3), (4), and (7) of section 348 the words "Land Valuation Court", and substituting in each case the words "Supreme Court".</p>
1954, No. 60—The Maori Vested Lands Administration Act 1954. (1957 Reprint, Vol. 9, p. 233.)	<p>By repealing the definition of the term "Valuation Court", in subsection (1) of section 2, and substituting the following definition:</p> <p style="padding-left: 40px;">" 'Valuation Court' means the Administrative Division of the Supreme Court, including the additional members holding office under the Land Valuation Proceedings Act 1948, in the exercise of its jurisdiction under that Act: "</p>
1954, No. 85—The Public Works Amendment Act 1954. (1957 Reprint, Vol. 12, p. 538.)	<p>By omitting from subsection (1) of section 2 the words "the Land Valuation Court", and substituting the words "the Court under Part III of the principal Act"; by omitting from subsections (2), (3), (4), and (5) of section 2 the words "the Land Valuation Court", wherever those words occur in those subsections, and substituting in each case the words "the said Court".</p>
1955, No. 38—The Maori Reserved Land Act 1955. (1957 Reprint, Vol. 9, p. 79.)	<p>By repealing the definition of the term "Valuation Court", in subsection (1) of section 2, and substituting the following definition:</p> <p style="padding-left: 40px;">" 'Valuation Court' means the Administrative Division of the Supreme Court, including the additional members holding office under the Land Valuation Proceedings Act 1948, in the exercise of its jurisdiction under that Act. "</p>

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF OTHER ACTS—*continued*

Title of Act	Amendment
1957, No. 88—The Oaths and Declarations Act 1957. (1957 Reprint, Vol. 11, p. 381.)	By omitting from paragraph (a) of subsection (2) of section 22 the words “the Judge of the Land Valuation Court”. By omitting from the Second Schedule the words “The Judge of the Land Valuation Court”.
1967, No. 123—The Rating Act 1967.	By repealing the definition of the term “Court”, in section 117, and substituting the following definition: “‘Court’ means the Administrative Division of the Supreme Court, including the additional members holding office under the Land Valuation Proceedings Act 1948, in the exercise of its jurisdiction under that Act:”.

This Act is administered in the Department of Justice.
