



ANALYSIS

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1962, No. 41

An Act to amend the Public Works Act 1928

[5 December 1962

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 Public Works Amendment Act 1962, and shall be read together with and deemed part of the Public Works Act 1928 (hereinafter referred to as the principal Act).

2. Surface, subsoil, or air space may be taken—Section 21 of the principal Act is hereby amended by inserting in subsection (1), after the word “subsoil” in each place where it appears, the words “or of the air space above the surface”.

3. Setting apart Crown land, public reserve, or domain for public work—Section 25 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where any Crown land is required to be set apart for any public work, the Minister may at any time, by notice in the *Gazette*, declare the land to be set apart for that public

work without complying with any of the provisions of this Act in respect of the taking or setting apart of other lands for that purpose, and every such declaration shall have the effect of and shall be deemed to be a Proclamation under section 23 of this Act.”

4. Declaration taking land by agreement—Section 32 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) The Minister, upon being satisfied as to the sufficiency of an agreement for the taking of any land or any estate or interest in land, may issue a declaration in writing that, an agreement to that effect having been entered into, the land, or the estate or interest in land, is thereby taken for the public work.

“(4A) Every declaration issued under subsection (4) of this section shall have the effect of and be deemed to be a Proclamation under section 23 of this Act, and the provisions of this Act relating to Proclamations shall apply to any such declaration as if it were a Proclamation issued under that section.”

5. Selling or leasing of interest in land or portion of land—The powers conferred by the principal Act on the Minister or a local authority, as the case may be, to sell or let or lease any land held, taken, purchased, or acquired for a public work shall include the powers—

- (a) To sell or let or lease any estate, interest, or easement in the land:
- (b) To sell or let or lease, together with or separately from the surface of the land,—
 - (i) The whole or any portion of the air space above the land:
 - (ii) The whole or any portion of the subsoil of the land.

6. Compensation with respect to Maori land—(1) The principal Act is hereby amended by repealing sections 104, 105, and 106, and substituting the following section:

“104. (1) Subject to the provisions of this section, where land is taken or proposed to be taken under this Part of this Act for any public work, or is injuriously affected thereby, or suffers any damage from the exercise of the powers given by this Act, the provisions of section 32 and of Part III of this Act shall, notwithstanding anything in any other enactment, apply in all respects as if the land were European land:

“Provided that the provisions of subsection (4) of section 32 of this Act shall not apply with respect to Maori land.

“(2) Except where any such land is owned by a single owner in severalty or is vested in trust in a body corporate or a trustee (other than the Maori Trustee), any claim shall be made by the Maori Trustee on behalf of any person having any freehold interest in the land and, in any such case, the Maori Trustee shall have all the rights and powers conferred on persons having rights to compensation under section 32 and Part III of this Act:

“Provided that the rights and powers conferred on the Maori Trustee by this subsection shall not be exercised in respect of any interest in land less than a freehold interest.

“(3) Where any such land is owned by a single owner in severalty or is vested in trust in a body corporate or a trustee (other than the Maori Trustee), the owner or, as the case may be, the body corporate or trustee may appoint the Maori Trustee as his agent to act in respect of any claim for compensation; and the Maori Trustee, in any such case, if he accepts the appointment, shall have all the powers and discretions of the person appointing him in respect of the claim.

“(4) Any compensation or purchase money agreed upon or awarded under this section in any case where the Maori Trustee is acting for the person entitled thereto shall be paid to the Maori Trustee, and, subject to the provisions of subsection (5) of this section, the Maori Trustee shall distribute any such compensation or purchase money, after making any proper deductions, to the persons entitled thereto.

“(5) In any case where he thinks fit, the Maori Trustee may apply to the Maori Land Court to determine to whom, and in what proportions, any compensation or purchase money paid to him under this section should, according to what the Court considers just and equitable in the circumstances, be distributed, and the compensation or purchase money shall be distributed in accordance with any order made by the Court on that behalf.

“(6) Any determination or decision of the Maori Trustee under subsection (2), subsection (3), or subsection (4) of this section shall be binding on all persons whom he represents and anything done or omitted to be done by the Maori Trustee in the exercise of his rights and powers under those subsections shall not be actionable at the suit of any person.

“(7) Notice of the taking of any land under this Part of this Act shall be served on the Maori Trustee by the Minister or, as the case may require, by the local authority.

“(8) Nothing in this section shall be construed to confer on the Maori Trustee any rights or powers in respect of any interest in any land other than land to which section 102 of this Act applies.”

(2) Notwithstanding the provisions of subsection (1) of this section, any application for compensation made to the Maori Land Court before the commencement of this section may, unless all persons affected otherwise agree, be dealt with and completed in all respects as if that subsection were not in force.

(3) Subsection (1) of section 29 of the Finance Act (No. 2) 1944 is hereby amended by omitting the words “or by the Maori Land Court”.

(4) Subsection (2) of section 48 of the principal Act and section 47 of the Maori Trustee Act 1953 are hereby repealed.

(5) This section shall come into force on the first day of April, nineteen hundred and sixty-three.

7. Declaration of motorway—Section 3 of the Public Works Amendment Act 1947 is hereby amended by inserting in paragraph (b) of subsection (1), after the word “land”, the words “or any part of the air space above or the subsoil below the surface of any land.”

8. Disposal of stopped road—Section 147 of the principal Act is hereby amended by inserting in subsection (2) (as inserted by subsection (2) of section 12 of the Public Works Amendment Act 1947), after the words “any portion of any”, the word “such”.

9. Disposal of land held for work of national and local importance—Section 31 of the Finance Act (No. 3) 1944 is hereby amended by adding the following subsection:

“(14) Notwithstanding anything to the contrary in the principal Act, any land taken, acquired, or used for any work or scheme in respect of which an agreement has been made under this section may be transferred or leased to any party to the agreement, or sold or otherwise disposed of and the proceeds thereof shared or distributed, in accordance with provisions of the agreement.”