

## LAND AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Land Act 1948.

*Clause 2* provides that land which has been set apart for State housing purposes under the Housing Act 1919 may be declared to be Crown land subject to the principal Act from a specified date which may be earlier than the notice, or may be set apart as reserves. The clause is made retrospective to 1 April 1954 in order to validate certain transactions since that date whereby State housing land has been declared to be Crown land for the purposes of making it available for commercial sites and group building schemes.

*Clause 3* re-enacts in an amended form the provisions of section 42 of the principal Act, which provides for the cancellation of the instruments of title for land that becomes Crown land. *Subsections (1) and (4)* have been amended consequentially on the provisions of *clause 2* of this Bill, *subsection (2)* is a new provision which authorizes the cancellation of instruments of title in respect of private land and Maori land acquired by the Crown under former Land Acts, and *subsections (3) and (5)* re-enact the existing provisions without amendment.

*Clause 4:* Section 60 of the principal Act enables the Land Settlement Board to grant or reserve easements when allotting land on any tenure under that Act. In some cases it has been found that drains and water pipes installed on land previously held under the Housing Act 1919 were not installed on the true lines as indicated on the general plans. Some land previously held under that Act has been declared to be Crown land under the Land Act 1948 and is being disposed of for commercial sites and also for housing under group housing schemes, subject to the grant or reservation of pipe line easements. This clause provides that where easements for the construction of pipe lines have been granted or reserved and it is not practicable to show the true course of the pipe line, the position thereof shall be indicated as nearly as possible in the instrument granting or reserving the easement. Where it is subsequently ascertained that the pipe line was not on the line or lines indicated, the easement is to have effect over the correct line as so ascertained as if it had been correctly set out in the instrument.

*Clause 5* enables land to be provisionally defined in leases and licences where before the issue of the lease or licence it had not been properly defined by survey. In such a case the District Land Registrar is to endorse the lease or licence as being limited as to parcels, and the limitation will not be removed until the Commissioner of Crown Lands has registered a certificate setting out the correct descriptions of the boundaries. The purpose of this provision is to enable Crown land to be disposed of promptly and to enable the purchaser to take title

pending the completion of the survey. It is particularly appropriate when sections are disposed of under group housing schemes where the builder concerned negotiates with individual purchasers for the sale of a particular house, and the purchasers make the necessary arrangements for finance. To enable this to be done the purchaser requires to take title in order to give the appropriate security, and the clause will enable title to be given at an early date and avoid delays caused by the necessity for prior survey.

*Clause 6:* Section 117 of the principal Act enables the Crown to resume land held on lease or licence. Under subsection (2) the lessee or licensee is entitled to compensation for improvements on the land resumed, and, except in the case of pastoral land held under pastoral lease or pastoral occupation licence, to compensation for the value of his interest in the unexpired term of his lease or licence over the land resumed. This clause places a lessee or licensee under a pastoral lease or licence in the same position as a lessee under any renewable lease where the land is resumed, and entitles him to compensation for the value of his interest in the unexpired term of the lease or licence.

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Hon. Mr Corbett

## LAND AMENDMENT

### ANALYSIS

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### A BILL INTITULED

AN ACT to amend the Land Act 1948.

Title.

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 Amendment Act 1954, and shall be read together with and deemed part of the Land Act 1948 (hereinafter referred to as the principal Act).
2. (1) The principal Act is hereby amended by inserting, after section forty-one, the following section:
- “41A. The Minister of Works may from time to time, by notice in the *Gazette*, declare any land set apart for the purposes of Part I of the Housing Act 1919 to be Crown land subject to this Act as from a date to be

Short Title.

1948, No. 64

State housing land may be declared to be Crown land or set apart as reserves.

See Reprint of Statutes, Vol. III, p. 798

specified in the notice, which date may be the date of the notice or any date before or after the date of the notice, and as from the date so specified the land shall be deemed to be Crown land subject to this Act."

1953, No. 67 (2) Section one hundred and sixty-seven of the principal Act is hereby amended by inserting, after subsection one (as substituted by subsection one of section eleven of the Land Amendment Act 1953), the following subsection:

See Reprint of Statutes, Vol. III, p. 798 "(1A) On the recommendation of the Minister of Works, any land set apart for the purposes of Part I of the Housing Act 1919 may be set apart as a reserve under subsection one of this section as if it were Crown land subject to this Act."

(3) The following enactments are hereby repealed, namely:

1940, No. 14 (a) Subsection two of section nine of the Housing Act 1919:  
(b) Section eight of the Housing Amendment Act 1940.

(4) This section shall be deemed to have come into force on the *first* day of *April*, nineteen hundred and fifty-four.

Cancellation of instruments of title. 1950, No. 96 3. (1) The principal Act is hereby amended by repealing section forty-two (as amended by subsection two of section two of the Land Amendment Act 1950), and substituting the following section:

"42. (1) Where—

"(a) Any private land purchased or acquired by the Board under this Act; or

See Reprint of Statutes, Vol. VI, p. 362 "(b) Any land acquired by the Crown under section nineteen or section twenty of the Maori Townships Act 1910 or the corresponding provisions of any former Maori Townships Act (whether before or after the commencement of this Act); or

"(c) Any land declared to be Crown land under section forty-one A of this Act; or

"(d) Any land set apart as a reserve under subsection one A of section one hundred and sixty-seven of this Act—

1952, No. 52 comprises the whole of the land for which any instrument of title has been issued under the Land Transfer Act 1952, the instrument of title shall be cancelled.

“(2) Where before the commencement of this Act any private land or Maori land has been purchased or acquired by the Crown for the purposes of any former Land Act and is subject to the Land Transfer Act 1952 or to the Deeds Registration Act 1908,—

1952, No. 52  
See Reprint  
of Statutes,  
Vol. VII,  
p. 1143

5       “(a) In the case of land that is, or was at the date of the purchase or acquisition, subject to the Land Transfer Act 1952 or any former Land  
10       Transfer Act the District Land Registrar shall, on the written request of the Commissioner and on the surrender to the Registrar of any outstanding instrument of title in the name of the Crown, cancel the instrument of title:

15       “(b) In the case of land that is, or was at the date of the purchase or acquisition, subject to the Deeds Registration Act 1908 the Registrar of Deeds shall, on the written request of the  
20       Commissioner and on the surrender to the Registrar of the instrument of title by which the land was vested in the Crown and any earlier instruments of title affecting that land, cancel the instruments of title and the relative entries in the index book.

25       “(3) Where any such land comprises part of the land for which any instrument of title has been issued, the instrument of title shall be cancelled so far as it relates to that part of the land. The District Land Registrar shall retain the partially cancelled instrument, and when  
30       required by the person entitled thereto shall issue to that person, without payment of any fee, a certificate of title for the balance of the land included in the partially cancelled instrument.

35       “(4) Notwithstanding anything in the foregoing provisions of this section, where the land is subject to a lease current at the date of the purchase or acquisition or declaration as Crown land or setting apart as a reserve, as the case may be, or at the commencement of this section, whichever is the later, the certificate of title  
40       shall enure in the name of Her Majesty the Queen until the expiry or sooner determination of the lease, and shall then be cancelled or partially cancelled, as the case may be.

“(5) No such cancellation shall in any way affect the rights of any person entitled to any registered easement not acquired by the Crown.”

1950, No. 96

(2) Section two of the Land Amendment Act 1950 is hereby consequentially amended by repealing subsection two. 5

Pipe line easements.

1950, No. 96

4. The principal Act (as amended by section eight of the Land Amendment Act 1950) is hereby further amended by inserting, after section sixty A, the following section: 10

“60B. (1) Where any easement granting or reserving a right to construct any pipe line over or through any land has been granted or reserved under section sixty of this Act and the Board is of the opinion that it is not practicable to show the true course of the pipe line, the position thereof shall be indicated as nearly as possible in the instrument granting or reserving the easement, and, until the contrary is proved, shall be deemed to be the true course. 15

“(2) Where it is subsequently ascertained that any pipe line the subject of the easement which was on the land at the time of the grant or reservation was not at that time on the line or lines so indicated, the grant or reservation shall apply with respect to the correct line upon which it is so ascertained that the pipe line was constructed, as if the correct line had been indicated in the instrument granting or reserving the easement, and all persons affected by the grant or reservation shall have the same rights, powers, and remedies and be subject to the same obligations as if the pipe line had been correctly indicated in the instrument granting or reserving the easement. 20 25 30

1952, No. 52

“(3) No action shall lie against the Crown under Part XI of the Land Transfer Act 1952 by reason of the fact that any pipe line in existence on the land at the time of the grant or reservation, if registered under that Act, was not on the line or lines indicated in the instrument making the grant or reservation. 35

“(4) In this section the term ‘pipe line’ means any pipes or system of pipes for the supply of water or for the disposal of storm water or sewage; and includes any septic tank; any drain, any well, and any water bore.” 40

5. Section eighty-two of the principal Act is hereby amended by inserting, after subsection one, the following subsections:

Provisional description of boundaries in leases and licences.

“(1A) Where the land comprised in any such lease or licence is not properly defined by survey or for any other reason cannot be fully described, the District Land Registrar may accept the lease or licence for registration, but in such a case he shall endorse on the registered copy of the lease or licence and on the outstanding copy thereof the words ‘Limited as to parcels’, and thereupon the provisions of Part XII of the Land Transfer Act 1952, as far as they are applicable and with the necessary modifications, shall apply to the lease or licence as if it were a certificate of title limited as to parcels issued under that Part of that Act.

1952, No. 52

“(1B) Where any lease or licence is limited as to parcels under the provisions of subsection one A of this section, it shall remain so limited until the Commissioner has lodged for registration with the District Land Registrar a certificate properly describing the land comprised in the lease or licence together with a plan defining that land, and on the registration of that certificate and plan the District Land Registrar shall, if necessary, amend the description of the land comprised in the lease or licence and in the plan thereon and shall endorse on the lease or licence a memorial to the effect that the lease or licence has ceased to be limited as to parcels, and the lease or licence shall thereupon take effect in all respects as an ordinary lease or licence duly registered under subsection one of this section.”

6. Section one hundred and seventeen of the principal Act is hereby amended by omitting from subsection two the words “except where the land is pastoral land held under lease or licence”.

Lessee or licensee under pastoral lease or licence entitled to compensation for value of unexpired term when land resumed.