

LAND AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Land Act 1948.

Clause 2: The effect of this clause is that the rates of rent and interest under leases and licences of Crown land and rebates of rent and interest are to be fixed by Order in Council, instead of being specified in the principal Act.

The first fixing of those rates by Order in Council is to have effect from 7 June 1956, but any alteration in existing rates will not apply to the current terms of leases and licences which had been granted before 7 June 1956 nor to leases and licences granted after that date where the Crown had been committed before that date to granting a lease or licence at the old rates.

Clause 3: Section 40 of the principal Act authorises the Crown to purchase private land and the interest of the lessees or licensees in Crown land or Maori land, and declares that private land so purchased shall be deemed to be Crown land under the principal Act, but there is no similar provision where interests in Maori land are purchased. This clause provides that all interests in Maori land purchased under this section shall be deemed to be Crown land subject to the principal Act, and will give to the Land Settlement Board the same powers of alienation and other powers with regard to those interests as it has with regard to freehold land.

Clause 4: Section 60 of the principal Act authorises the Land Settlement Board to grant or reserve easements over Crown land, but doubts have arisen as to whether the Board is empowered to grant easements in gross, that is, easements which are not appurtenant to other land. For example, it is doubtful if the Crown can grant to a local authority a drainage easement over Crown land where the local authority does not own land which will get the benefit of the easement. This clause re-enacts the provisions of subsections (1) and (2) of section 60 of the principal Act in order to make it clear that easements may be either appurtenant to other land or in gross.

Clause 5: Section 65 (2) of the principal Act provides that a deferred payment licence shall commence on 1 January or 1 July following the date of the licence, and subsection (5) provides that the first instalment of principal and interest shall be payable on 30 June or 31 December next following the commencement of the term. Subsection (6) provides that with the first instalment there shall be paid interest on the balance of purchase money for the broken period between the date of the licence and the date of the commencement of its term. This clause now provides that the interest for the broken period is to be paid on 30 June or 31 December next following the date of the licence instead of waiting until the date for payment of the first instalment under the licence, which would be six months later.

Clause 6: The purpose of this clause is to enable the Land Settlement Board, in cases where a short term licensee has effected improvements which he does not remove at the end of the licence, and where the Crown again alienates the land to some other person weighted with the value of those improvements, to pay to the outgoing licensee when the value of those improvements is received from the incoming licensee such amount as the Board thinks fit.

Clause 7: Section 89 of the principal Act provides that a lessee or licensee may not mortgage his interest, except to the Crown or to a department of State, without the consent of the Land Settlement Board. This clause provides that consent to a mortgage will not be required if the land does not exceed 5 acres in area.

Clause 8: Section 100 of the principal Act reserves to the Crown any timber on the land comprised in a lease or licence, but excludes timber which a licensee has himself planted. Sometimes a purchaser of a lease or licence buys from the outgoing lessee or licensee timber planted by him, and this clause also excludes timber so purchased from the reservation to the Crown.

Clause 9: Section 112 of the principal Act provides that rates are not payable by a licensee of Crown land if the term of his licence does not exceed one year. Section 48 of the principal Act authorises the Land Settlement Board to grant leases or licences of land held by the Crown for a Government purpose but not immediately required for that purpose, but as that land is not Crown land section 112 of the principal Act does not apply to any such lease or licence. The purpose of this clause is to apply those provisions to leases or licences granted under section 48.

Clause 10 repeals the Land Laws Amendment Act 1920 which was impliedly repealed by the principal Act but was omitted from the list of enactments repealed in the First Schedule to the principal Act.

Hon. Mr Corbett

LAND AMENDMENT

ANALYSIS

Title	6. Payment of value of improvements effected by licensee under short term licence
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2. Rent and interest under leases and licences	8. Consent of Commissioner not required to use of timber purchased by lessee or licensee
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A BILL INTITULED

An Act to amend the Land Act 1948

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

1. Short Title—This Act may be cited as the Land Amendment Act 1956, and shall be read together with and deemed part of the Land Act 1948 (hereinafter referred to as the principal Act).

2. Rent and interest under leases and licences—(1) The principal Act is hereby amended as follows:

- (a) By omitting from subsection three of section sixty-three the words "four and one-half per centum", and substituting the words "such proportion as may be fixed by the Governor-General, by Order in Council,": 5
 - (b) By omitting from subsection three of section sixty-five the words "the rate of four and five-eighths per centum per annum", and substituting the words "such rate as may be fixed by the Governor-General, by Order in Council": 10
 - (c) By omitting from subsection three of section eighty-eight the words "four and one-half per centum", and substituting the words "such proportion as may be fixed by the Governor-General, by Order in Council,": 15
 - (d) By omitting from paragraph (b) of subsection three of section one hundred and thirty-one the words "the rate of four and one-half per centum per annum", and substituting the words "such rate as may be fixed by the Governor-General, by Order in Council,": 20
 - (e) By omitting from subsection five of section one hundred and thirty-one the words "four and one-half per centum", and substituting the words "such proportion as may be fixed by the Governor-General, by Order in Council,". 25
- (2) Section eighty-five of the principal Act is hereby amended as follows: 30
- (a) By omitting from subsection one the word "one-tenth", and substituting the words "such proportion as may be fixed by the Governor-General, by Order in Council,": 30
 - (b) By omitting from subsection two the word "one-tenth", and substituting the words "such proportion as may be fixed by the Governor-General, by Order in Council,": 35
 - (c) By omitting from subsection three the words "the rate of four and one-eighth per centum per annum", and substituting the words "such rate as may be fixed by the Governor-General, by Order in Council,". 40

(3) The first Order in Council made after the commencement of this section fixing any rates or proportions for the purposes of any of the enactments amended by subsections *one* and *two* of this section shall be deemed to have had effect
5 as from the seventh day of June, nineteen hundred and fifty-six.

(4) Notwithstanding anything in subsections *one*, *two*, and *three* of this section, the provisions of the principal Act shall continue to apply, as if this section had not been passed,—

(a) To every lease or licence granted before the seventh
10 day of June, nineteen hundred and fifty-six, during the term thereof that was current on that date:

(b) To every lease or licence granted after the seventh day
of June, nineteen hundred and fifty-six, during the term or first term thereof, as the case may be, where
15 at any time before that date any officer of the Department had committed the Crown to the granting of a lease or licence at the rates in force before that date.

(5) The decision of the Land Settlement Board as to
20 whether or not any lease or licence is one to which subsection *four* of this section applies shall be final.

(6) This section shall be deemed to have come into force on the seventh day of June, nineteen hundred and fifty-six.

3. Purchase of interests in Maori land—Section forty of the
25 principal Act is hereby amended by inserting in subsection *five*, after the words “private land”, the words “and all interests in Maori land”.

4. Creation of easements—(1) Section sixty of the principal Act is hereby amended by repealing subsections one and two,
30 and substituting the following subsection:

“(1) The Board may from time to time grant or reserve any right of way, water rights, or other easements over or under any Crown land:

“Provided that where that Crown land is held under lease
35 or licence the lessee or licensee shall be entitled to compensation for any reduction in the value of his lease or licence by reason of the grant of any such easement.”

(2) Section sixty of the principal Act is hereby further amended as follows:

(a) By omitting from subsection three the words “either of
40 the last two preceding subsections”, and substituting the words “this section”:

(b) By omitting from subsection four the words “subsection two of”:

- (c) By omitting from subsection five (as added by section seven of the Land Amendment Act 1950) the words "subsection two of".

5. Payment of interest under deferred payment licences— Section sixty-five of the principal Act is hereby amended by repealing subsection six, and substituting the following subsection: 5

"(6) On the thirtieth day of June or the thirty-first day of December, as the case may be, next following the date of the licence there shall be paid by the licensee interest on the balance of the purchase money at the rate prescribed by or under subsection three of this section from the date of the licence to the date of the commencement of the term thereof." 10

6. Payment of value of improvements effected by licensee under short term licence— Section sixty-eight of the principal Act is hereby amended by adding to subsection three the following proviso: 15

"Provided that, if the land comprised in the licence or any part thereof is again alienated under this Act to some person other than the outgoing licensee weighted with the value as determined by the Board of all or some of the improvements existing at the time of the alienation on the land so alienated and effected or purchased by the outgoing licensee, there shall be paid to the outgoing licensee the whole or such part (if any) as the Board in its discretion decides of any money received by the Department in respect of the value of those improvements. Every such determination by the Board shall be final and be binding on the outgoing licensee." 20 25

7. Consent to mortgage not required where land does not exceed five acres— Section eighty-nine of the principal Act is hereby amended by adding to subsection one the following proviso: 30

"Provided that the consent of the Board shall not be required to any such mortgage where the land comprised in the lease or licence does not exceed five acres." 35

8. Consent of Commissioner not required to use of timber purchased by lessee or licensee— Section one hundred of the principal Act is hereby amended by inserting in the proviso, after the word "planted", the words "or purchased".

9. Rates payable under temporary tenancies—Section one hundred and twelve of the principal Act is hereby amended as follows:

- 5 (a) By inserting in subsection one, after the words “this Act”, the words “or a lease or licence is granted under section forty-eight of this Act, in either case”:
- (b) By omitting from subsection one, the words “the licensee” wherever they occur, and substituting in each case the words “the lessee or licensee”:
- 10 (c) By omitting from subsection one the words “his licence”, and substituting the words “his lease or licence”:
- (d) By omitting from subsection two the words “such licence”, and substituting the words “such lease or licence”.

15 **10. Repeal**—The First Schedule to the principal Act is hereby amended by inserting, after the reference to the Discharged Soldiers Settlement Amendment Act 1919, the following words:

- 20 “1920, No. 43—
The Land Laws Amendment Act 1920.”