

LAND SUBDIVISION IN COUNTIES AMENDMENT BILL

EXPLANATORY NOTE

This Bill makes miscellaneous amendments to the Land Subdivision in Counties Act 1946.

Clause 2: Under the principal Act the devise of part of a piece of land under a will is a subdivision of the land, and, if the part devised or the remaining part of the land has an area of less than 10 acres, the principal Act applies to the subdivision and the approval of the Minister of Lands must be obtained. If the subdivision is not approved the devise may lapse, and the purpose of this clause is to prevent such a lapse and to preserve the equitable interest of the devisee. In such a case the Court could give effect to the devise by ordering a sale of the land and a division of the proceeds or in some other way. Similar provision was made in the case of subdivisions in boroughs by section 23 of the Municipal Corporations Amendment Act 1953.

Clause 3: Section 5 (1) of the principal Act authorizes the Minister to approve a scheme plan subject to conditions restricting the use of all or any of the allotments shown on the plan, or to conditions restricting the use of land at road intersections, or to conditions imposing building-line restrictions. Under subsection (4), where the Minister imposes building-line restrictions those restrictions are to be registered against the title to the land. The purpose of this clause is to require all restrictions of any kind imposed by the Minister under section 5 (1) to be registered against the title to the land. The restrictions will thus be on record in the Land Transfer Office or Deeds Register Office, as the case may be, and will be apparent on a search of the title.

Clause 4: Section 12 (1) of the principal Act requires the subdividing owner to set aside as reserved for public purposes an area amounting to not less than 4 perches for each residential allotment of less than 2 acres. The amount to be set aside is the same whether the land being subdivided has a frontage to an existing formed road or whether the subdividing owner has to bear the cost of road formation. In the latter case the land set aside as reserve obtains the benefit of the roading and other work put into the subdivision by the subdividing owner.

The purpose of this clause is to make some adjustment in such a case by reducing from 4 perches to 3 perches the area to be set aside as reserve for each residential allotment of less than 2 acres. Similar provision was made by section 15 of the Land Subdivision in Counties Amendment Act 1953 where the subdividing owner sets aside an area as Crown land instead of as reserve, and the effect of the amendment will be that the area to be set aside by the subdividing owner will be the same whether the area is set aside as Crown land or as reserve.

Hon. Mr Corbett

**LAND SUBDIVISION IN COUNTIES
AMENDMENT**

Title.

ANALYSIS

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| 1. Short Title. | } | 3. Registration of notice of restrictions against use of land. |
| 2. Preserving equitable interest of devisee in land. | | 4. Area to be set aside as reserves. |
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A BILL INTITULED

AN ACT to amend the Land Subdivision in Counties Act 1946. 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 Subdivision in Counties Amendment Act 1954, and shall be read together with and deemed part of the Land Subdivision in Counties Act 1946 (hereinafter referred to as the principal Act). Short Title.
1946, No. 23

2. Section two of the principal Act is hereby amended by adding the following subsection: Preserving equitable interest of devisee in land.

“(3) Where the devise of any land under a will constitutes a subdivision to which this Act applies, nothing in this Act shall affect the equitable interest of the devisee in the land.”

Registration of
notice of
restrictions
against use
of land.

3. (1) Section five of the principal Act is hereby amended as follows:

(a) By omitting from subsection four the words “imposing a building-line restriction”, and substituting the words “imposing any restriction referred to in subsection one of this section”:

(b) By omitting from the same subsection the words “the building-line restriction” wherever they occur, and substituting in each case the words “the restriction”.

(2) Section seven of the principal Act is hereby amended by omitting from subsection three the words “building line” wherever they occur.

Area to be
set aside as
reserves.
1953, No. 93

4. Section twelve of the principal Act is hereby amended by inserting in subsection two, before the first proviso (as substituted by subsection two of section thirteen of the Land Subdivision in Counties Amendment Act 1953), the following additional proviso:

“Provided that, where land to be set aside under this subsection as reserved for public purposes has a frontage to any new road being constructed by the owner, the area to be so set aside shall amount to not less than three perches for each allotment of less than two acres which in the opinion of the Minister will be used for residential purposes.”