

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 8 October 1969.

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Seath

PUBLIC BODIES LEASES

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A BILL INTITULED

An Act to consolidate and amend the law relating to the powers of certain public bodies to lease land

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

No. 52—2

1. Short Title and commencement—(1) This Act may be cited as the Public Bodies Leases Act 1969.

(2) This Act shall come into force on the 1st day of January 1970.

2. Interpretation—In this Act, unless the context otherwise requires,— 5

“Farm land” means land which is used, or in the opinion of the leasing authority should be used, exclusively or principally for the cultivation of the soil for the production of food products and other useful products of the soil, including the use of the land for horticultural or pastoral purposes or the keeping of pigs, bees, or poultry; and “farming purposes” has a corresponding meaning: 10

“Leasing authority” means— 15

(a) Every borough council, town council, or county council, and the Waiheke Road Board:

(b) Every other person or body of persons, whether incorporated or not, declared by or pursuant to the provisions of any other enactment, whether passed before or after the commencement of this Act, to be a leasing authority for the purposes of this Act or for the purposes of the Public Bodies’ Leases Act 1908 or any corresponding former Act: 20

(c) Every person or body of persons declared by the Minister, pursuant to section 3 of this Act, to be a leasing authority for the purposes of this Act: 25

“Lessee” includes the successors, executors, administrators, and assigns of a lessee:

“Minister” means the Minister of Internal Affairs: 30

“Public notice” means a notice published in one or more newspapers circulating in the district in which the land to which the notice relates is situated.

Cf. 1908, No. 240, s. 2

3. Leasing authorities—(1) The Minister, if he thinks fit, may from time to time, by notice in the *Gazette*,— 35

(a) Declare that any person or body of persons, whether incorporated or not, having power to lease any land held in trust, reserved, or set apart for religious, charitable, educational, scientific, or public purposes (whether or not the land is vested in that person or body of persons and whether the trust or reservation or setting apart is created or made by 40

statute or in any other manner) is a leasing authority for the purposes of this Act:

Provided that no person or body of persons may be declared to be a leasing authority under this paragraph except at his or its request:

5 (b) Declare that any person or body of persons declared to be a leasing authority under paragraph (a) of this subsection, or by an Order in Council made under section 4 of the Public Bodies' Leases Act 1908 or
10 under the corresponding provisions of any former enactment (not being a borough council, town council, county council, or the Waiheke Road Board), shall cease to be a leasing authority for the purposes of this Act.

15 (2) Any such notice by the Minister may impose such exceptions, restrictions, limitations, or conditions (if any) as the Minister thinks fit on the exercise by the leasing authority of the powers conferred on leasing authorities by this Act.

20 (3) No notice by the Minister purporting to have been issued under this Act shall be questioned or invalidated on the ground of want of jurisdiction to issue it or of any irregularity in the exercise of such jurisdiction.

Cf. 1908, No. 240, s. 4

25 **4. Leasing powers conferred on leasing authorities by other Acts or by trusts**—(1) Subject to subsection (2) of this section, the powers conferred by this Act on a leasing authority shall be in addition to and not in substitution for any powers vested in that authority by any other Act for the
30 time being in force, whether passed before or after the commencement of this Act, or by any trust, whether created before or after the commencement of this Act, save that no power conferred by this Act shall be exercised by any leasing authority if the exercise of that power would be con-
35 trary to the provisions of any such Act or trust.

(2) After the commencement of this Act, the powers of leasing conferred on borough councils and town councils by Part XIII of the Municipal Corporations Act 1954 and on county councils by Part XIII of the Counties Act 1956 and
40 on the Waiheke Road Board by Part XIII of the Counties Act 1956 as applied to the Board by section 437 of that Act (*shall cease to have effect with respect to farm land*) shall, with respect to farm land, be exercised in accordance with the provisions of this Act.

45 Cf. 1908, No. 240, s. 3

5. Leasing of land to Crown—Notwithstanding anything in this Act or in any other Act, where any local authority or public body, whether or not it is a leasing authority under this Act, has power to lease any land, it may lease the land to Her Majesty the Queen by private contract for such term, at such rent, and subject to such conditions as it thinks fit. 5

Cf. 1943, No. 9, s. 20

PART I

LEASES OF LAND OTHER THAN FARM LAND 10

6. Application—This Part of this Act shall apply with respect to leases of land other than farm land, and in this Part the term “land” does not include farm land.

7. Powers of leasing authority to grant leases—(1) Where a leasing authority has power to let any land, it may let the land under the provisions of this Act on any of the following tenancies or leases: 15

- (a) A tenancy at will:
- (b) A tenancy determinable by the leasing authority at any time by 6 months’ notice, or any shorter notice: 20
- (c) A tenancy for any term not exceeding 50 years, without right of renewal:
- (d) A tenancy with a right of renewal for one or more terms, (*at a rent to be determined in the original lease*) the rent for the renewed terms to be determined by valuation in accordance with the provisions of the First Schedule to this Act, but so that the aggregate duration of the original and of the renewed terms shall not exceed 50 years: 25
- (e) A tenancy for any term not exceeding 21 years, with a perpetual right of renewal for the same or any shorter period, at a rent to be determined by valuation in accordance with the provisions of the First Schedule to this Act: 30
- (f) A tenancy for any term not exceeding 21 years, with a provision in accordance with the Second Schedule to this Act that on the expiration of the term a new lease for the same or any shorter term shall be offered for sale by auction, and so on from time to time in perpetuity: 35 40

- (g) A tenancy for any term not exceeding 21 years, with a provision in accordance with the Second Schedule to this Act that on the expiration of the term the lessee shall have an option either to accept a renewal lease in accordance with the First Schedule to this Act or to have a new lease offered for sale by auction in accordance with the Second Schedule to this Act, and so on from time to time in perpetuity:
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- (h) A tenancy in accordance with paragraph (e) or paragraph (f) or paragraph (g) of this subsection, save that the right of renewal or of having a new lease offered for sale by auction is limited in duration in such manner as the leasing authority thinks fit, instead of being perpetual.
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- (2) For the purposes of the Rating Act 1967, a tenancy granted under paragraph (b) of subsection (1) of this section for a term of not less than 12 months shall be deemed to be a tenancy for a term certain of not less than 12 months, notwithstanding that it is terminable pursuant to the provisions of that paragraph.
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- Cf. 1908, No. 240, s. 5

8. Leases may be sold by public auction or public tender—

(1) Except so far as this Act otherwise provides, every lease granted under this Part of this Act shall be sold by the leasing authority by public auction or public tender, of which public notice has been given.

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(2) Every such notice shall be so published not less than ~~(30 days)~~ 21 days before the day appointed for the auction, or before the last day appointed for making a tender, as the case may be, and twice after that notice and before the day so appointed.

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(3) Every such notice shall contain particulars as to the material provisions of the lease proposed to be sold, but, in relation to the provisions of the First Schedule or Second Schedule to this Act, it shall be sufficient in the notice to refer to that Schedule.

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(4) It shall not be necessary in any such sale by auction or tender for the leasing authority to accept the highest or any bid or tender, but no bid or tender other than the highest shall be accepted, except pursuant to subsection (5) of this section.

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(5) Notwithstanding anything in this section, a lease that has been offered for sale as aforesaid and not sold may at any time within 12 months after the day of the auction, or after the last day appointed for making a tender, as the case may be, (*may*) be sold by private contract at a rent not less than the upset rent at which the lease was so offered. 5

(6) Nothing in this section shall prevent a leasing authority from leasing any land by private contract for a tenancy at will, or for any term not exceeding (*2 years*) 5 years, or for a term determinable at any time by the leasing authority by 10 6 months' notice or any shorter notice.

Cf. 1908, No. 240, s. 8; 1914, No. 25, s. 2

9. Leasing authority may offer land for lease at a (*fixed rent*) rent determined by leasing authority—Notwithstanding anything in section 8 of this Act, a leasing authority may offer 15 any land for leasing, after calling for public applications, at a (*fixed*) rent determined by the leasing authority.

Cf. 1945, No. 40, s. 66

10. Payment by incoming lessee of value of improvements—Any lease granted under this Part of this Act 20 may contain a provision that the lessee shall pay to the leasing authority or to an outgoing lessee the value of any buildings, fixtures, or other improvements on the land, and in any such case the value of the said buildings, fixtures, or improvements shall be determined in such manner as the leasing 25 authority thinks fit.

Cf. 1908, No. 240, s. 11

PART II

LEASES OF FARM LAND

11. Powers of leasing authority to grant leases—Where a 30 leasing authority has power to let any farm land, it may let the land under the provisions of this Act on either of the following tenancies:

- (a) A tenancy for farming purposes for any term not exceeding 5 years, without right of renewal, in 35 accordance with the provisions of section 12 of this Act:
- (b) A lease for a term of 21 years or 33 years, as the leasing authority decides, with a perpetual right of renewal for the same term as that of the original lease, at a rent to be determined by valuation in accordance 40 with the provisions of the First Schedule to this Act.

12. Short tenancies for farming purposes—The following provisions shall apply with respect to every tenancy granted under paragraph (a) of section 11 of this Act, namely:

5 (a) The tenancy may be granted either after the calling for public applications or without competition:

(b) Subject to section 19 of this Act, the tenancy shall be at such rent and subject to such conditions as the leasing authority thinks fit:

10 (c) In the event of a breach of any of the conditions of the tenancy or in the event of the whole or any portion of the land being required by the leasing authority for any authorised purpose other than letting, the tenancy may be determined at any time by the leasing authority in respect of the whole or any part of the land over which it was granted, without the tenant being entitled to any compensation:

15 (d) The tenant under any such tenancy shall not be entitled to compensation for any improvements effected or purchased by him, but on the expiry or sooner determination of the tenancy he may, within such reasonable time as the leasing authority determines, remove any buildings, enclosures, fencing, or other improvements effected or purchased by him:

20 Provided that, if the land comprised in the tenancy or any part thereof is again let on any tenancy under section 11 of this Act to some person other than the outgoing tenant weighted with the value, as determined by the leasing authority, of all or some of the improvements existing at the time of letting on the land so let and effected or purchased by the outgoing tenant, there shall be paid to him the whole of the money received by the leasing authority in respect of the value of those improvements, less any money due to the leasing authority by the outgoing tenant in respect of the land and less any expenses incurred by the leasing authority in recovering possession of the land. Every such determination by the leasing authority shall be final and be binding on the outgoing lessee.

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13. Renewable leases—The following provisions shall apply with respect to every lease granted under paragraph (b) of section 11 of this Act, namely:

- (a) The lease shall be granted after the calling for public applications: 5
- (b) The yearly rent payable for the term of the lease, or, in any case where the lease provides for the rent to be reviewed at periodic intervals, for the first such period, shall be such amount as the leasing authority thinks fit: 10
- (c) Where the lease provides for the rent to be reviewed at periodic intervals, the yearly rent for the second and subsequent periods of the term of the lease and for the second and subsequent periods of each renewal lease shall be determined in respect of each of those periods in the manner provided in section 22 of this Act: 15
- (d) The lessee shall be entitled, in accordance with section 14 of this Act, to compensation for improvements effected or purchased by him: 20
- (e) The lease shall be subject to such other conditions, not inconsistent with this Act, as the leasing authority thinks fit.

14. Compensation for improvements—(1) Where—

- (a) The lessee under any lease of farm land granted under paragraph (b) of section 11 of this Act gives notice to the leasing authority under paragraph (c) of clause 5 of the First Schedule to this Act that he does not desire to accept a renewal lease of the land or does not within the time specified in clause 12 of that Schedule give notice to the leasing authority that he desires to accept a renewal lease of the land; or

Struck Out

- (b) Any such lease is surrendered by the lessee with the consent of the leasing authority,— 35

New

- (b) Any such lease is surrendered by the lessee or is determined by the leasing authority by re-entry or forfeiture,— 40

the lessee shall be entitled in accordance with this section to compensation from the incoming lessee or the leasing authority, as the case may be, for improvements on the land effected or purchased by him.

(2) In every such case the leasing authority shall cause a valuation (*to be made by a valuer registered under the Valuers Act 1948*) of the improvements on the land effected or purchased by the lessee to be made by a person whom the
 5 leasing authority reasonably believes to be competent to make
the valuation.

(3) As soon as possible after that valuation has been made, the leasing authority shall give to the lessee notice in writing informing him of the amount of that valuation and, except
 10 where the lease has been determined by re-entry or forfeiture,
 requiring him to notify the leasing authority in writing within 2 months whether he agrees to the amount of that valuation or requires that valuation to be determined by arbitration in accordance with subsection (4) of this section.

(4) Within 2 months after the giving of that notice to the lessee, he shall give notice in writing to the leasing authority stating whether he agrees to the valuation specified in the notice given to him or requires that valuation to be determined by arbitration. If he so requires, that valuation shall
 20 be determined in accordance with the provisions of clauses 7 to 11 of the First Schedule to this Act, which shall, with the necessary modifications, apply as if the valuation were being made to determine the rent payable under a renewal lease:

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New

Provided that this subsection shall not apply in any case where the lease has been determined by re-entry or forfeiture.

(5) If the lessee fails to give to the leasing authority within
 30 the time specified in subsection (4) of this section the notice referred in that subsection, he shall be deemed to have agreed to the valuation set out in the notice given to him under subsection (3) of this section.

(6) Where in any case to which subsection (1) of this
 35 section applies the land is to be again leased by the leasing authority under paragraph (b) of section 11 of this Act,—

(a) It shall be offered for lease weighted with the value of improvements effected or purchased by the former lessee as fixed under the foregoing provisions
 40 of this section:

New

Provided that, in any case where the lease has been determined by re-entry or forfeiture, if the leasing authority believes on reasonable grounds that the granting of a new lease of the land is being hindered by reason of the value of improvements as determined under subsection (2) of this section being excessive, the leasing authority, in its discretion, may from time to time reduce the value of the improvements and again offer the land for lease by public application: 5 10

(b) The value of those improvements shall be paid to the leasing authority by the incoming lessee before he is admitted into possession of the land:

Provided that, with the consent of the former lessee and of every person entitled to receive payment of any amount in respect of the whole or any part of those improvements, the said value or any part thereof may be paid by instalments over a period of years or be secured by way of mortgage to the former lessee or other person entitled. Any payment by instalments over a period of years shall be subject to such conditions as to payment of interest and otherwise, and any mortgage shall contain such provisions, as the leasing authority thinks fit: 15 20 25

(c) The value of those improvements when so paid to the leasing authority shall be paid by it to the former lessee or other person entitled to receive payment, less any money due to the leasing authority by the former lessee in respect of the land and improvements and less the amount of any expenses incurred by the leasing authority in recovering possession of the land. 30

(7) Where in any case to which subsection (1) of this section applies (*the land is not to be again leased by the leasing authority*) the leasing authority decides that the land is not to be again leased under paragraph (b) of section 11 of this Act, the value of the improvements on the land effected or purchased by the former lessee, as fixed under the foregoing provisions of this section, shall be paid by the leasing authority to the former lessee or other person entitled to receive payment, less any money due to the leasing authority by the former lessee in respect of the land and improvements and less any expenses incurred by the leasing authority in recovering possession of the land. 35 40 45

(8) Except as provided in subsections (6) and (7) of this section, no lessee shall have any right or claim against the leasing authority in respect of any improvements effected or purchased by him on land comprised in any land leased
5 under paragraph (b) of section 11 of this Act.

(9) In this section the term "improvements" means substantial improvements of a permanent nature; and includes reclamation from swamps; clearing of bush, gorse, broom, sweetbrier, or scrub; cultivation (including the clearing of
10 land for cropping, and the clearing and ploughing of land for, and the laying down of the land for or with, grasses); planting with trees or live hedges; the laying out and cultivating of gardens; fencing; draining; roading; bridging; sinking water wells or bores, or constructing water tanks, water supplies,
15 water races, irrigation works, head races, border dykes, or sheep dips; making embankments or protective works of any kind; in any way improving the character or fertility of the soil; the erection of any building; and the installation of any telephone or of any electric-lighting or electric-power plant.

20

New

(10) In this section the term "value of improvements" means the added value which at the time of valuation the improvements give to the land; and "valuation", in relation to improvements, has a corresponding meaning.

25 **15. Land to be properly farmed**—In every renewable lease of farm land granted or renewed after the commencement of this Act by any lessor which is a leasing authority or a public body, whether the lease is granted or renewed under this Act
30 or any other enactment, there shall be implied on the part of the lessee that he will throughout the term of the lease—

(a) Farm the land diligently and in a husbandlike manner according to the rules of good husbandry, and will not in any way commit waste, except pursuant to an express provision in the lease authorising the
35 lessee to commit waste:

(b) Keep the land free from wild animals, agricultural pests within the meaning of the Agricultural Pests Destruction Act 1967, and other vermin, and generally comply with the provisions of that Act:

40 (c) Properly clean and clear farm weeds and keep open all creeks, drains, ditches, and watercourses upon the land, including any drains or ditches which may be constructed by the lessor after the commencement of the term of the lease.

16. Inspection of leased land—(1) Any person authorised by the lessor in writing shall, on giving not less than 48 hours' notice in writing to the lessee or his agent, be entitled, at all reasonable times, to enter any farm land held on lease granted or renewed after the commencement of this Act by any lessor that is a leasing authority or a public body, whether the lease is granted or renewed under this Act or any other enactment, for the purpose of inspecting the land in order to ascertain whether the covenants implied on the part of the lessee by section 15 of this Act have been observed and performed by the lessee. 5 10

(2) Every person who obstructs any person authorised as aforesaid in the making of an inspection, or who refuses to answer any reasonable question put to him in writing by any person so authorised, or who makes to him any wilful misstatement, commits an offence, and is liable on summary conviction to a fine not exceeding \$100. 15

PART III

GENERAL PROVISIONS

17. Public applications for lease—Where under this Act land is to be leased after calling for public applications, the following provisions shall apply: 20

- (a) The leasing authority shall by public notice call for applications to lease the land:
- (b) The notice shall specify the **(yearly)** rent at which the land will be leased, the price at which any improvements thereon to be purchased by the lessee shall be purchased, and the **(time)** date and time of closing of applications and place for making applications, being not less than **(1 month)** 21 days from the date when the land is first notified as open for leasing: 25 30
- (c) If no application to lease the land has been received from a suitable applicant on or before the day specified in the notice, the land shall remain open for leasing on the terms advertised: 35
- (d) The leasing authority may at any time withdraw the land from leasing, notwithstanding that application to lease the land may have been made:
- (e) The leasing authority shall, in such manner as it thinks fit, inquire into all matters affecting an applicant's suitability, and may reject any application where the applicant refuses or fails to answer any such inquiries to the satisfaction of the leasing authority: 40

- (f) Where more than one application is made within the time specified, the leasing authority shall determine which applicant is the most suitable applicant for the land, and shall lease the land to him:
5 Provided that nothing in this paragraph shall compel the leasing authority to lease the land where in its opinion there is no suitable applicant:
- (g) In determining which applicant is the most suitable, the leasing authority shall take into account all relevant matters, including, but without limiting the generality of the foregoing provisions of this paragraph, the following matters:
10 (i) The purpose for which the land is suited or intended to be used:
15 (ii) The ability, having regard to his financial resources and other relevant matters of any kind whatsoever, of each applicant to use the land for the purpose for which it is suited or intended to be used:
20 (iii) In the case of farm land, the farming experience of each applicant:
- (h) Where in the opinion of the leasing authority there are 2 or more applicants equally suitable to take a lease of the land, the applicant entitled to the lease shall be determined by ballot held in such manner as the leasing authority decides:
25 (i) The leasing authority shall give not less than 7 days' public notice of the time and place at which any such ballot is to be held, and any person, whether an applicant or not, shall be entitled to be present at the holding of the ballot:
30 (j) Subject to the foregoing provisions of this section, the decision of the leasing authority on any question arising under this section shall be final.

35 **18. Commencement of lease—**(1) Every lease granted under this Act shall take effect in possession within 6 months after the granting thereof.

40 (2) It shall not be lawful for any leasing authority (except pursuant to the right to grant a renewable lease, or otherwise pursuant to the express provisions of this Act) to enter into any contract to grant a lease under this Act which is not to be executed and to take effect in possession within 6 months after the making of the contract.

Cf. 1908, No. 240, s. 9

19. Reservation of rack rent—Subject to the provisions of any other enactment, every lease granted under this Act shall reserve a rack rent without fine or premium, but, except as provided in this Act, the rent need not be uniform for the whole term: 5

Provided that nothing in this section shall apply with respect to any lease the grant of which under the provisions of any enactment requires the consent of a Minister of the Crown.

Cf. 1908, No. 240, s. 10 10

20. Covenants and conditions in leases—A lease granted under this Act may contain such powers of re-entry and such covenants and conditions not inconsistent with this Act as the leasing authority thinks fit:

Provided that, except where this Act otherwise provides, no such lease shall contain a covenant on the part of the leasing authority to pay compensation to the lessee for his improvements. 15

Cf. 1908, No. 240, s. 6

21. Lease may authorise waste—Any lease granted under this Act may authorise the lessee to extract minerals from the land demised or to cut timber, being minerals or timber belonging to the lessor, or to commit any other species of waste thereon, and in any such case the rent reserved may be, or may include, a royalty or other similar payment in respect of any minerals, timber, or other thing extracted or removed from the land. 20 25

Cf. 1908, No. 240, s. 7

22. Periodic review of rents—(1) Subject to this section, a lease granted under this Act may contain provision for the review of the yearly rent payable thereunder at such periodic intervals during the term of the lease, being not less than 5 years, as the leasing authority thinks fit. 30

(2) Where a lease contains any such provision for the review of rent— 35

(a) Not earlier than 9 months and not later than 3 months before the expiry by effluxion of time of any such period (not being the last such period of the term of the lease), or as soon thereafter as may be, the leasing authority shall cause a valuation to be made by a *(valuer registered under the Valuers Act 1948)* person whom the leasing authority reasonably believes to be competent to make the valuation of the fair annual rent of the land for the next ensuing period of the term of the lease, so that the rent so valued shall be uniform throughout the whole of that ensuing period: 40 45

- 5 (b) As soon as possible after that valuation has been made, the leasing authority shall give to the lessee notice in writing informing him of the amount of that valuation and requiring him to notify the leasing authority in writing within 2 months whether he agrees to the amount of that valuation or requires that valuation to be determined by arbitration in accordance with paragraph (c) of this subsection:
- 10 (c) Within 2 months after the giving of that notice to the lessee, he shall give notice in writing to the leasing authority stating whether he agrees to the valuation specified in the notice given to him or requires that valuation to be determined by arbitration. If he so requires, that valuation shall be determined in accordance with the provisions of clauses 7 to 11 of the First Schedule to this Act, which shall, with the necessary modifications, apply as if the valuation were being made to determine the rent payable under a renewal lease:
- 15 (d) If the lessee fails to give to the leasing authority within the time specified in paragraph (c) of this subsection the notice referred in that paragraph, he shall be deemed to have agreed to the valuation set out in the notice given to him under paragraph (b) of this subsection:
- 20 (e) The yearly rent agreed to or deemed to have been agreed to by the lessee or determined by arbitration under this subsection shall be the yearly rent payable under the lease for that ensuing period.
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30 **23. Powers of leasing authority as to surrender of lease, reduction of rent, etc.—**(1) A leasing authority may—

- 35 (a) Accept, on such terms and conditions as it thinks fit, a surrender of any lease, whether with respect to the whole or to any part of the land comprised in the lease:
- (b) At any time or times during the currency of a lease, reduce the rent to be paid thereunder during the remainder or any part of the remainder of the term:
- 40 (c) At any time or times during the currency or after the determination of a lease, compromise with the lessee for any rent due by him:

(d) On the surrender of a lease (whether with respect to the whole or to any part of the land comprised therein), grant to the lessee, or to any other person or persons with the consent of the lessee (without offering the same for sale by auction or tender), a new lease or new leases of the whole or any part or parts of the land comprised in the surrendered lease for the remainder or any part of the remainder of the term of the surrendered lease, at such rent as the leasing authority determines, and with such provisions as are authorised by this Act and as the leasing authority thinks fit, including therein, if the leasing authority thinks fit, the same right (if any) to a renewal lease or of having a new lease offered for sale by auction as that to which the lessee under the surrendered lease would have been entitled had it not been surrendered. 5 10 15

(2) In this section the term "lease" includes an agreement for a lease, and the term "lessee" has a corresponding meaning. 20

Struck Out

(3) This section applies to leases existing at the commencement of this Act as well as to future leases, and applies to all leases granted by a leasing authority whether under this Act or in the exercise of any other power in that behalf. 25

(4) No leasing authority which consists of a body of persons, whether incorporated or not, shall exercise any of the powers conferred by this section except pursuant to a resolution of the leasing authority. 30

Cf. 1908, No. 240, s. 12

24. Lease not invalidated by failure of leasing authority to observe provisions of Act—(1) No lease granted by a leasing authority shall be invalidated by any failure of the leasing authority to conform to the requirements of this Act as to the offer of a lease for sale by auction or public tender or public application or as to the making of a special order. 35

(2) Notwithstanding anything in this section, any lease granted in breach of the said requirements of this Act shall be voidable on the part of the leasing authority as against any lessee or other person who has fraudulently been party or privy to the said breach. 40

Cf. 1908, No. 240, s. 13

25. **Service of notices**—Any notice required to be given to a lessee under any provision of this Act may be given to him by causing it to be delivered to him personally, or to be left at his usual or last-known place of abode or business, or at
5 the address stated in any application made by him under this Act, or to be sent to him by registered letter addressed to him at that place of abode or business or address, and in the last-mentioned case shall be deemed to have been received by him on the day on which it would have been delivered in
10 the ordinary course of post.

26. **Application of Act to renewals of existing leases**—

(1) Notwithstanding anything in the Public Bodies' Leases Act 1908 or any provision expressed or implied in the lease,—

15 (a) This Act shall apply with respect to every lease granted by a leasing authority after the commencement of this Act in renewal of a renewable lease granted under the Public Bodies' Leases Act 1908 or any corresponding former Act and current at the commencement of this Act as if the renewable lease had been granted under this Act:
20

Provided that where the lease is a lease of farm land granted under paragraph (d) or paragraph (h) of section 5 of *(that Act)* the Public Bodies' Leases Act 1908, nothing in this paragraph shall
25 confer on the lessee a perpetual right of renewal or a right to compensation for improvements:

(b) Where any such renewable lease is a lease of farm land with a perpetual right of renewal for a term of less than 21 years, every renewal of that lease shall be a
30 lease with a perpetual right of renewal for a term of 21 years or 33 years, as the leasing authority decides.

(2) Notwithstanding anything in any other enactment or in any provision expressed or implied in the lease, the lessee under any lease of farm land current at the commencement of
35 this Act and granted under paragraph (f) or paragraph (g) of section 5 of the Public Bodies' Leases Act 1908 or to paragraph (b) of subsection (1) of section 152 of the Municipal Corporations Act 1954 or paragraph (b) of subsection (1) of section 172 of the Counties Act 1956, or the corres-
40 ponding provisions of any former enactment, shall be entitled at the expiration by effluxion of time of the current term of the lease to a lease with a perpetual right of renewal for terms of 21 years or 33 years, as the leasing authority decides, as if the current lease were a renewable lease granted under para-
45 graph (b) of section 11 of this Act.

(3) Where any lease to which subsection (1) or subsection (2) of this section applies does not contain provision for the review of the yearly rent at periodic intervals, any lease granted under this Act in renewal thereof may, if the leasing authority thinks fit, include a provision for the rent to be reviewed at periodic intervals, being not less than 5 years, in accordance with the provisions of section 22 of this Act. 5

27. Grant of renewable leases of farm land to existing lessees without competition—Where any lease of farm land granted by a leasing authority under the provisions of the Public Bodies' Leases Act 1908 or any other enactment for a term of not less than 7 years without right of renewal is current at the commencement of this Act, the leasing authority may, if it thinks fit, at the expiration of the term of the lease grant to the outgoing lessee a renewable lease of the land or any part thereof in accordance with Part II of this Act, and, notwithstanding anything in that Part, without calling for public applications. 10 15

28. Repeals and consequential amendments—(1) The following enactments are hereby repealed: 20

- (a) The Public Bodies' Leases Act 1908;
- (b) The Public Bodies' Leases Amendment Act 1914;
- (c) Section 20 of the Finance Act (No. 2) 1943;
- (d) Section 66 of the Statutes Amendment Act 1945.

(2) The enactments specified in the Third Schedule to this Act are hereby amended in the manner indicated in that Schedule. 25

(3) Every reference in any other Act, regulation, rule, order, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this Act to a lease granted under paragraph (e) or paragraph (f) or paragraph (g) of section 5 of the Public Bodies' Leases Act 1908 shall after the commencement of this Act be read as including a reference to a lease granted under paragraph (b) of section 11 of this Act. 30 35

SCHEDULES

FIRST SCHEDULE Sections 7 (1) (e), 11 (b)PROVISIONS OF RENEWABLE LEASE GRANTED UNDER
SECTION 7 (1) (e) OR SECTION 11 (b) OF THIS ACT

A RENEWABLE lease granted under section 7 (1) (e) of this Act may contain the following provisions, or any provisions substantially to the same effect, and a renewable lease of farm land granted under section 11 (b) of this Act shall contain the following provisions as far as they are applicable, namely:

1. On the expiry by effluxion of time of the term hereby granted, the lessee shall have a right to obtain, in accordance with the provisions hereinafter contained, a renewal lease of the land hereby demised, at a rent [*where the rent is to be reviewed at periodic intervals, insert for the first [number] years of the term of the renewal lease*] to be determined in accordance with the said provisions, for the term of [*the same period of years for which the original lease is granted or any shorter period, or, in the case of a lease of farm land, 21 years or 33 years, as the case requires*] computed from the expiration of the lease hereby granted, and subject to the same covenants and provisions as this lease, including this present provision for the renewal thereof, and all provisions ancillary or in relation thereto. [*Where the rent is to be reviewed at periodic intervals, add The rent for subsequent periods of [number] years of the term of the lease shall be determined in accordance with section 22 of the Public Bodies Leases Act 1969.*]

2. Not earlier than 9 calendar months and not later than 3 calendar months before the expiry by effluxion of time of the term of the lease hereby granted, or as soon thereafter as may be, the lessor shall cause a valuation to be made by a (*valuer registered under the Valuers Act 1948*) person whom the lessor reasonably believes to be competent to make the valuation of the fair annual rent of the land hereby demised, so that the rent so valued shall be uniform throughout (the whole term of the renewal lease) (or the whole of the first [number] years of the term of the renewal lease).

3. In making the said valuation no account shall be taken of the value of the following improvements on the said land: [*Specifying, as the lessor thinks fit, the kinds of improvements, whether made during the term or at any other time, which are not to be taken into account in the valuation of the rent.*]

4. As soon as possible after the said valuation has been made, the lessor shall give to the lessee notice in writing informing him of the amount of that valuation and requiring him to notify the lessor in writing within 2 calendar months whether he will accept a renewal lease at the rent specified in the notice.

5. Within 2 calendar months after the giving of that notice to the lessee, he shall give notice in writing to the lessor stating—

- (a) That he desires to accept a renewal lease at the rent stated in the notice given to him by the lessor; or
- (b) That he requires the rent for the renewal lease to be determined by arbitration; or
- (c) That he does not desire to accept a renewal lease.

6. If the lessee fails to give to the lessor within the time specified in clause 5 hereof the notice referred to in that clause, he shall be deemed to have agreed to accept a renewal lease at the rent specified in the notice given to him by the lessor.

7. Where the valuation of the rent payable under a renewal lease is to be determined by arbitration, that valuation shall be made by 2 persons as arbitrators, *(being valuers registered under the Valuers Act 1948)* each such person being reasonably believed by the party appointing him to be competent to make the valuation, one of whom shall be appointed by the lessor and the other by the lessee.

8. The arbitrators, before commencing to make the said valuation, shall together appoint a third person, *(being a valuer registered under the Valuers Act 1948)* who shall be an umpire as between them.

9. The decision of the 2 arbitrators if they agree or in such respects as they agree, or of the umpire if the arbitrators do not agree or in such respects as they do not agree, shall be binding on all parties.

10. The duty of the umpire, on reference to him of any question, shall be to consider the respective valuations of the 2 arbitrators in the matters in which their valuations do not agree, and then to make an independent and substantive valuation, and the last-mentioned valuation shall be the decision of the umpire; but in giving his decision on any question so referred to him the umpire shall in every case be bound to make a valuation not exceeding the higher and not less than the lower of the valuations made by the arbitrators respectively.

11. The provisions herein contained for the making of the said valuation shall be deemed to be a submission to arbitration under and within the meaning of the Arbitration Act 1908, or any enactment for the time being in force in substitution therefor or amendment thereof, and all the provisions of any such enactment shall, so far as applicable, apply accordingly.

12. Within 2 calendar months after the making of the said valuation and the giving of notice thereof to the lessee, the lessee shall give notice in writing signed by him or by his agent duly authorised in that behalf and delivered to the lessor stating whether the lessee desires to accept a renewal lease of the land.

13. Any such notice may be given by the lessee within the time aforesaid, although the term hereby granted has already expired by effluxion of time, or although the said valuation has not been made or notice thereof has not been given to the lessee until after the expiry of the said term by effluxion of time, unless before the giving of such notice by the lessee he has given up to the lessor the possession of the land hereby demised or has been duly ejected therefrom in pursuance of the judgment or order of any Court of competent jurisdiction.

14. If the lessee fails within the time aforesaid to give any notice under clause 12 hereof as to whether he desires a renewal lease or not, or if he gives notice in writing signed by himself or by his agent duly authorised in that behalf that he does not desire a renewal lease, his right to a renewal lease shall cease on the expiry of the time aforesaid, or on the date at which the notice is received by the lessor, as the case may be.

15. Any notice by the lessee under clause 5 or clause 12 hereof of his desire to accept a renewal lease shall be deemed to constitute a contract between the lessor and lessee for the granting and acceptance of a renewal lease at the rent accepted by the lessee or determined by arbitration, as the case may be [*where the rent is to be reviewed at periodic intervals, insert for the first [number] years of the term thereof*], and for the term and subject to the covenants and provisions referred to in clause 1 of these presents.

16. The term of any renewal lease shall run from the date of the expiry of the prior lease, and the rent thereunder shall accrue as from the said date instead of the rent reserved in the prior lease, notwithstanding the fact that the renewal lease may not be executed until after that date.

17. [*In the case of a lease under section 7 (1) (e)*] If the lease hereby granted is not renewed in accordance with the foregoing provisions, or if it is determined by forfeiture, re-entry, or otherwise, all buildings, and improvements on the land demised shall absolutely revert to the lessor free from any payment or compensation whatever.

or

Struck Out

17. [*In the case of a lease of farm land under section 11 (b)*] If the lease hereby granted is determined by forfeiture, re-entry, or on any other ground except effluxion of time or surrender, all buildings and improvements on the land demised shall absolutely revert to the lessor free from any payment or compensation whatever. If the lease hereby granted is not renewed in accordance with the foregoing provisions or is surrendered, the lessee shall be entitled to compensation for improvements in accordance with the provisions of section 14 of the Public Bodies Leases Act 1969.

New

17. [*In the case of a lease of farm land under section 11 (b)*] If the lease hereby granted is not renewed in accordance with the foregoing provisions or is surrendered or is determined by re-entry or forfeiture, the lessee shall be entitled to compensation for improvements in accordance with the provisions of section 14 of the Public Bodies Leases Act 1969.

Struck Out

18. Any notice required to be given to the lessee in accordance with the foregoing provisions may be sent by post to his last-known place of business or residence in New Zealand, and shall in such cases be deemed to have been duly received by him on the day on which it would be delivered at that place of business or residence in the ordinary course of post.

New

18. Any notice required to be given to the lessee in accordance with the foregoing provisions shall be given in the manner prescribed by section 25 of the Public Bodies Leases Act 1969.

19. Nothing in the foregoing provisions shall exclude or restrict the right of the lessee to obtain relief against any forfeiture or determination of the lease or of his right to a renewal thereof in the same cases and on the same conditions as if the lease had been granted otherwise than in the execution of statutory powers in that behalf.

20. The expression "lessor" as herein used includes the successors and assigns of the lessor, and the expression "lessee" as herein used includes the successors, executors, administrators, and assigns of the lessee.

Section 7 (1) (f)

SECOND SCHEDULE

PROVISIONS OF LEASE GRANTED UNDER SECTION 7 (1) (f)

A LEASE granted under section 7 (1) (f) of this Act may contain the following provisions, or any provisions substantially to the same effect:

1. Not earlier than 9 calendar months and not later than 3 calendar months before the expiry by effluxion of time of the term hereby granted, the lessor shall cause 2 separate valuations to be made by a (*valuer registered under the Valuers Act 1948*) person whom the lessor reasonably believes to be competent to make the valuation—namely, a valuation of all the buildings and improvements then on the land hereby demised, whether erected or made during or before the commencement of the term hereby granted [*or a valuation of any specified descriptions of buildings or improvements, as the leasing authority thinks fit*], and another valuation of the fair annual ground rent of the said land, without the buildings or improvements so to be valued, for a further term of [*the same period of years for which the lease is granted or any shorter period*] from the expiration of the term hereby granted, so that the rent shall be an even annual sum payable (throughout the term without increase or diminution during the term) (*or, where the rent is to be reviewed at periodic intervals for the first [number] years of the term of the lease. The rent for subsequent periods of [number] years of the term of the lease shall be determined in accordance with section 22 of the Public Bodies Leases Act 1969*).

2. As soon as possible after the said valuations have been made, the lessor shall give to the lessee notice in writing informing him of the amount of those valuations and requiring him to notify the lessor in writing within 2 calendar months whether he agrees to the amount of those valuations or requires those valuations or either of them to be determined by arbitration in accordance with clause 3 hereof.

3. Within 2 calendar months after the giving of that notice to the lessee, he shall give notice in writing to the lessor stating whether he agrees to the valuations specified in the notice given to him or requires those valuations or either of them to be determined by arbitration. If he so requires, those valuations or that valuation, as the case may be, shall be determined accordingly in accordance with the provisions of clauses 5 to 9 hereof.

4. If the lessee fails to give to the lessor within the time specified in clause 3 hereof the notice referred in that clause, he shall be deemed to have agreed to the valuations set out in the notice given to him under clause 2 hereof.

5. Where either or both of the said valuations are to be determined by arbitration, the valuation or valuations shall be made by 2 persons as arbitrators, (*being valuers registered under the Valuers Act 1948*) each such person being reasonably believed by the party appointing him to be competent to make the valuation, one of whom shall be appointed by the lessor and the other by the lessee.

6. The arbitrators shall, before commencing to make the valuation or valuations, together appoint a third person, (*being a valuer registered under the Valuers Act 1948,*) who shall be an umpire as between them.

7. The decision of the 2 arbitrators if they agree or in such respects as they agree, or of the umpire if the arbitrators do not agree or in such respects as they do not agree, shall be binding on all parties.

8. The duty of the umpire, on reference to him of any question, shall be to consider the respective valuations of the 2 arbitrators in the matters in which their valuations do not agree, and then to make an independent and substantive valuation, and the last-mentioned valuation shall be the decision of the umpire; but in giving his decision on any question so referred to him the umpire shall in every case be bound to make a valuation not exceeding the higher and not less than the lower of the valuations made by the arbitrators respectively.

9. The provisions herein contained for the making of a valuation or valuations shall be deemed to be a submission to arbitration under and within the meaning of the Arbitration Act 1908, or any enactment for the time being in force in substitution therefor or amendment thereof, and all the provisions of any such enactment shall, so far as applicable, apply accordingly.

10. Before the expiry by effluxion of time of the term hereby granted, the right to a lease of the land hereby demised for a further term of [*the period specified in clause 1 of these presents*], containing the same covenants and provisions as are contained in this lease (including the provisions herein contained for valuations and for the offer of a new lease for sale by auction, and all clauses auxiliary or in relation thereto), shall be offered by the lessor by public auction at the upset annual rent of the said land [*where the rent is to be reviewed at periodic intervals, insert for the first [number] years of the term of the lease*] as determined as aforesaid, without the buildings and improvements so valued as aforesaid, subject to the payment by the purchaser of the value of the said buildings and improvements as determined as aforesaid. [*Where the rent is to be reviewed at periodic intervals, add The rent for subsequent periods of [number] years of the term of the lease shall be determined in accordance with section 22 of the Public Bodies Leases Act 1969.*]

11. If any person other than the lessee becomes the purchaser at the said auction of the said right to a lease, that person shall within 2 calendar months from the date of the auction pay in cash to the lessor, in trust for the lessee, the amount of the value of the buildings and improvements so determined as aforesaid, and accept and execute a lease of the said land for the said further term at the annual ground rent [*where the rent is to be reviewed at periodic intervals, insert for the first [number] years of the term of the lease*] at which the right to the said lease has been so purchased by him.

12. The lessor shall on demand (all rent and outgoings payable by the lessee having previously been paid) pay over to the outgoing lessee the amount of the value of the said buildings and improvements paid to the lessor by the said purchaser without any deduction whatever.

13. Nothing in these presents contained shall be deemed to render the lessor liable to pay to the lessee any part of the value of any buildings or improvements save after having received the amount thereof as aforesaid.

14. Upon any sale by auction as aforesaid of the right to a lease, the lessor may make usual and any other fair and reasonable conditions of sale to carry out the intention of these presents, and in particular shall provide for the payment by the purchaser at the auction (if a person other than the outgoing lessee) of a deposit of one-fifth of the amount of the valuation of the buildings and improvements, or of such smaller deposit as is agreed upon between the lessor and the outgoing lessee, and that in the event of the purchaser refusing or neglecting to complete his purchase according to the conditions of sale he shall forfeit his deposit to the lessor for the benefit of the outgoing lessee.

15. In any such conditions of sale the lessor may in addition provide that, if the purchaser refuses or neglects to complete the purchase according to the conditions of sale, he shall pay to and for the benefit of the lessor as liquidated damages a sum not exceeding one-half of the total deficiency (if any) during the term of years of the rent agreed to be paid by the new purchaser at a subsequent sale by auction held in consequence of the default of the original purchaser, as compared with the rent that would have been reserved had such original purchaser not made default, together with all expenses attending the first sale. [*Where the rent is to be reviewed at periodic intervals, add For the purposes of this clause, the annual rent payable during the first [number] years of any such lease shall be deemed to be payable throughout the whole term of the lease.*]

16. If, for any reason whatsoever, the right to a new lease is not offered at auction before the expiry of the term hereby granted, or if, owing to the purchaser, other than the outgoing lessee, at any auction (whether the original auction or a subsequent one held on account of the default of the purchaser to complete) refusing or neglecting to complete his purchase according to the terms and conditions thereof, the purchase is not completed, then and in any such case the right to the new lease shall be offered at auction as soon as conveniently can be after the expiry of the term hereby granted or (as the case may be) after such refusal or neglect as aforesaid, notwithstanding that the term hereby granted has expired.

17. If the purchaser at the last-mentioned auction, being any person other than the outgoing lessee, makes default as aforesaid, the right to the new lease shall again be offered at auction as soon as conveniently can be after such default, and so on from time to time.

18. In every case in which the right to a new lease is sold by auction the new term shall run from the date of the expiration of the term hereby granted, but the rent shall not begin to run until the purchaser obtains possession.

19. The outgoing lessee shall have a right to bid for and to become the purchaser of the right to a new lease at any such auction.

20. The lessor shall be bound in all cases to accept at any such auction the highest bid made thereat for the new lease, if that bid is not less than the upset annual ground rent as determined in manner aforesaid.

21. If at any auction there is no bid equal to or greater than the upset annual ground rent as determined in manner aforesaid, then, at or (as the case may be) as from the expiry of the term hereby granted, the land hereby leased, with all buildings and improvements thereon (other than fixtures removable by the outgoing lessee before the expiration of the term), shall absolutely revert to the lessor free from any payment or compensation whatever.

22. At every auction held under the foregoing provisions the conditions of sale shall be the same (so nearly as may be) as those in respect of the first auction hereinbefore provided for.

23. In the event of the term hereby created being determined by forfeiture or otherwise than by effluxion of time, the lessee shall not be entitled to any compensation for buildings or improvements.

24. Nothing in the foregoing provisions shall exclude or restrict the right of the lessee to obtain relief against any forfeiture or determination of the lease or of any right in respect thereof in the same cases and on the same conditions as if the lease had been granted otherwise than in the execution of statutory powers in that behalf.

25. The expression "lessor" as herein used includes the successors and assigns of the lessor, and the term "lessee" as herein used includes the successors, executors, administrators, and assigns of the lessee.

THIRD SCHEDULE

Section 28 (2)

ENACTMENTS AMENDED

Enactment	Amendment
1948, No. 62 — The Trustee Savings Banks Act 1948 (1957 Reprint, Vol. 16, p. 240)	By omitting from paragraph (c) of subsection (6) of section 24 (as added by section 2 of the Trustee Savings Banks Amendment Act 1966) the words "paragraphs (e), (f), or (g) of section 5 of the Public Bodies' Leases Act 1908", and substituting the words " <u>paragraph (e), paragraph (f), or paragraph (g) of subsection (1) of section 7 or paragraph (b) of section 11 of the Public Bodies Leases Act 1969</u> ".
<i>New</i>	
1954, No. 76—The Municipal Corporations Act 1954 (1957 Reprint, Vol. 10, p. 377)	By inserting in section 151, before the words "The Corporation shall", the words "Subject, in the case of farm land as defined in the Public Bodies Leases Act 1969, to the provisions of that Act,".
1956, No. 64—The Counties Act 1956 (1957 Reprint, Vol. 3, p. 1)	By inserting in section 171, before the words "The Corporation shall", the words "Subject, in the case of farm land as defined in the Public Bodies Leases Act 1969, to the provisions of that Act,".
1961, No. 48 — The University of Otago Amendment Act 1961	By adding to subsection (2) of section 37 the following proviso: "Provided that nothing in paragraph (a) or paragraph (b) of this subsection shall apply with respect to farm land within the meaning of the Public Bodies Leases Act 1969."

THIRD SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1961, No. 49 — The University of Canterbury Act 1961	By adding to subsection (2) of section 51 the following proviso: “Provided that nothing in paragraph (a) or paragraph (b) of this subsection shall apply with respect to farm land within the meaning of the Public Bodies Leases Act 1969.”
1961, No. 50 — The University of Auckland Act 1961	By adding to subsection (2) of section 50 the following proviso: “Provided that nothing in paragraph (a) or paragraph (b) of this subsection shall apply with respect to farm land within the meaning of the Public Bodies Leases Act 1969.”
1961, No. 51 — The Victoria University of Wellington Act 1961	By adding to subsection (2) of section 51 the following proviso: “Provided that nothing in paragraph (a) or paragraph (b) of this subsection shall apply with respect to farm land within the meaning of the Public Bodies Leases Act 1969.”
1961, No. 52 — The Lincoln College Act 1961	By adding to subsection (2) of section 49 the following proviso: “Provided that nothing in paragraph (a) or paragraph (b) of this subsection shall apply with respect to farm land within the meaning of the Public Bodies Leases Act 1969.”
1963, No. 7 — The Massey University Act 1963	By adding to subsection (2) of section 50 the following proviso: “Provided that nothing in paragraph (a) or paragraph (b) of this subsection shall apply with respect to farm land within the meaning of the Public Bodies Leases Act 1969.”
1963, No. 8 — The University of Waikato Act 1963	By adding to subsection (2) of section 50 the following proviso: “Provided that nothing in paragraph (a) or paragraph (b) of this subsection shall apply with respect to farm land within the meaning of the Public Bodies Leases Act 1969.”