

PUBLIC WORKS AMENDMENT BILL

EXPLANATORY NOTE

1. This Bill provides for miscellaneous amendments to the Public Works legislation.

2. *Clause 2* rewrites section 13 of the principal Act so as to provide that the whole of any public reserve, public domain, or land held by any local authority or trustees for a particular purpose is not to be taken or set aside under the section without the consent of the Minister of Lands. The consent of the Minister of Lands will continue to be unnecessary where only part of the public reserve, public domain, or land is taken.

3. *Clause 3* amends section 22 of the principal Act so as to provide that notices of intention to take land which are or have been given under the section are to lapse after a specified date unless they are followed by a notice of confirmation or by a Proclamation taking the land. Where any notice lapses it may not thereafter be renewed for at least a year. In the case of any notice given after the commencement of the provision the lapse is to occur after one year from the date of the first publication of the notice; and in the case of any notice given before the commencement of the provision it is to occur after nine months from the date on which the clause comes into force or after one year from the date of the first publication of the notice, whichever is later.

4. *Clause 4* rewrites section 25 (2) of the principal Act so as to provide that the whole of any public reserve or public domain is not to be set aside under the section without the consent of the Minister of Lands.

5. Section 35 of the Public Works Act 1928 enables land acquired for a Government work and no longer required for that purpose to be declared Crown land subject to the Land Act 1948. *Clause 5* enables a similar course to be followed in any case where it is expedient to do so although the land is still required for the original work. This will, in some cases, facilitate the control and development of the land after the work has been completed—*e.g.*, in the case of land taken for sand dune reclamation.

6. *Clause 6* provides that easements to lay pipelines along or under roads may be granted by a local authority under section 41 of the principal Act without the consent of the Minister of Works.

7. *Clause 7* makes provision for accelerating the hearing of compensation claims by providing that claims for taking land may be heard before the issue of the Proclamation or Order in Council taking the land if—

- (a) The Minister or the local authority has given notice confirming the intention of taking the land; or
- (b) The execution has been completed of every portion of the work that will affect the amount of the land of the claimant which will have to be taken for the work or which will be injuriously affected or damaged thereby; or

- (c) The Railways District Engineer or the District Commissioner of Works or the local authority has declined an application by the owner or occupier of the land for leave to do something which may prejudice the proposed work.

Where the owner or occupier of any land takes advantage of the procedure for accelerating payment of compensation he is to be precluded from taking proceedings to prevent or delay the execution of the work or the taking of the land.

8. Section 23 of the Statutes Amendment Act 1951 varied the principles for determining the date as at which compensation is to be assessed by providing for the assessment to be made either at the date of entry for construction purposes or at the date at which the land is taken, whichever is the earlier. *Clause 8* amplifies the provision by applying the principles to the assessment of compensation paid under *clause 7* for land proposed to be taken.

9. Section 81 of the principal Act provides that, where the acts of a claimant for compensation who has notice of a proposed work render the execution of the work more costly, the additional cost is to be borne by the claimant and deducted from the compensation payable to him. *Clause 9* of the Bill gives a claimant relief from this provision where he has acted with the approval of a Railways District Engineer or a District Commissioner of Works or a local authority. By *clause 7* of the Bill failure to grant approval to any such act is made a ground for accelerating the payment of compensation for the taking of the land.

10. *Clause 10* relates to the manner in which compensation money or purchase money is to be dealt with when it is paid in respect of land in which persons have only a limited or partial interest. The clause increases the amount which may be paid direct to the persons entitled without being first paid to the Public Trustee, and also increases the amount which can be distributed by the Public Trustee without a Court order. It enables compensation or purchase money in respect of land under the control of a local authority to be paid to that authority subject to it being recorded in a separate account and invested separately and expended only for the permanent improvement of other lands held on the same or like uses or trusts or for repaying mortgages on any such lands or purchasing other lands to be held on the same or like uses or trusts.

11. *Clause 11* authorizes the authority which controls any road to require the authority in control of any structure upon, in, or over the road to remove the structure if it is or is likely to become dangerous to vehicles and persons in them using the road or if the structure is in the way of any work undertaken or proposed for the improvement of the road as a public highway. It also authorizes the removal of any structure if it is unsafe or likely to become unsafe because of any work on the road. The removal in either case is to be done by the authority in charge of the structure and where it is done as aforesaid the cost has to be borne by the two authorities in equal shares. Where the authority in charge of the structure fails to do the work the authority in control of the road can apply to the Supreme Court for an order requiring the authority in charge of the structure to remove it, and, if the Supreme Court makes an order for the removal, the whole of the cost involved is to fall on the authority in charge of the structure.

12. Section 147 of the principal Act imposes restrictions on the stopping of roads under the Public Works legislation, and provides that no road along the bank of a river is to be stopped either with or without the consent of

owners of lands in the vicinity. *Clause 12* omits this provision, and provides instead that no closed or stopped road along the bank of a river or stream or along the margin of a lake or the sea shall be granted or disposed of or added to any other land or alienated except with the consent of the Minister of Lands or under the Land Act 1948.

13. Section 209 of the principal Act authorizes the construction, use, and maintenance of roads or railways over private lands for the removal of timber in certain cases. Doubt has arisen as to whether the section applies where no work in the nature of construction is necessary to establish a road or tramway over the land or where there is an application for the use of an existing road or tramway. *Clause 13* removes this doubt and provides that the section shall apply in any such case as if the application was in respect of the construction of a road or tramway.

14. *Clause 14* provides that an Order in Council consenting to the laying off of a road or street of a width of less than sixty-six feet shall be deemed to be revoked if the local authority and the owner of the land affected deposit in the office of the District Land Registrar of the district in which the land is situated their written consent to the road or street not being so laid off. The clause also removes a technical defect in section 125 of the principal Act which now provides for the registration of the Order in Council made under that section only where it imposes conditions. No change in practice is involved in connection with the latter amendment.

15. *Clause 15* enables any authority which has control of a public work but is not the owner of the work to bring proceedings for damages in respect of injury to the work.

16. Under section 11 of the Public Works Amendment Act 1935 cattle-stops may be erected in conjunction with swing gates on roads in proper cases where the Minister approves the plans. *Clause 16* enables the approval to be given by the local authority having control of the road where the gate and cattle-stop are in accordance with specifications prescribed by the Minister.

17. *Clause 17* of the Bill empowers a County Council to lay out and construct access ways and service lanes within the county; and provides that any land outside a borough or town district which is formed as an access way or service lane may be declared by the Governor-General to be one for the purposes of the legislation. All such access ways and service lanes outside boroughs and town districts are to vest in the Crown as roads do.

18. *Clause 18* re-enacts the provisions made by section 15 of the Public Works Amendment Act 1948 for dispensing with survey in certain cases where land is being taken under the principal Act, and extends those provisions by providing—

- (a) That, where it is proposed to deal with the whole or the residue of the land comprised in any certificate of title issued under the Land Transfer Act 1915, it shall be a sufficient identification of the land to describe it as the whole or the residue of the land in the certificate of title:
- (b) That, where it is proposed to deal with the whole of the land comprised in a separate lot or other surveyed subdivision which is shown on a plan lodged in the office of the Chief Surveyor of the district in which the land is situated, it shall be sufficient to identify the land by reference to the lot or subdivision on the plan.

19. *Clause 19* authorizes the issue of certificates of title under the Land Transfer Act 1915 for lands of the Crown other than land for which special provision is made by any other Act.

20. *Clause 20* provides machinery whereby land taken by a local authority for a public work may be set aside by Proclamation for another public work for which the local authority is authorized to acquire land. The steps to be taken are similar to those provided in connection with the taking of land under sections 22 and 23 of the principal Act.

21. *Clause 21* makes it an offence to put sawdust or sawmill refuse or flaxmill refuse on any road or on any land from which it may fall or be blown or washed onto any road.

Hon. Mr. Goosman

PUBLIC WORKS AMENDMENT

ANALYSIS

Title.	
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2. Extent to which Crown lands, public reserves, roads, streets, &c., may be taken.	11. Removal of roadside structures. Repeal.
3. Lapse of notice of intention to execute works or take land.	12. Closed and stopped roads.
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5. Land on which public work is situated may be declared to be Crown land.	14. Orders in Council modifying provisions as to width of road or street.
6. Easements to lay pipelines along or under roads.	15. Controlling authority may bring action for damage to a public work.
7. Accelerating hearing of compensation claims.	16. Cattle-stops in conjunction with gates on roads.
8. Basis of compensation.	17. Access ways and service lanes in counties.
9. Permission for owner or occupier to do acts which may make contemplated work more costly.	18. Survey not required in certain cases. Repeal.
	19. Issue of certificates of title to lands held for public works.
	20. Change of purpose for which land held.
	21. Sawdust, &c., on roads.

A BILL INTITULED

AN ACT to amend the Public Works Act 1928.

Title.

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

1. This Act may be cited as the Public Works Amendment Act 1952, and shall be read together with and deemed part of the Public Works Act 1928 (hereinafter referred to as the principal Act).

Short Title.

See Reprint
of Statutes,
Vol. VII,
p. 622

Extent to which
Crown lands,
public reserves,
roads, streets,
&c., may be
taken.

2. (1) The principal Act is hereby amended by repealing section thirteen, and substituting the following section:—

“ 13. Whenever power is given to take any land for any public work under this Act, the power, except where otherwise specially provided, shall not include the power to take any part of any road or street; but shall include the power—

“(a) To set apart or procure the setting apart for the purpose of Crown land or land held for any Government work:

“(b) To take or set apart the whole or any part of any public reserve or public domain or of any land vested in any local authority for any purpose whatsoever, or of any land vested in trustees for any public purpose whatsoever, whether local or general:

“ Provided that the whole of any public reserve or public domain or the whole of any land vested in any local authority or trustees for any such purpose shall not be taken or set apart as aforesaid without the consent of the Minister of Lands.”

1948, No. 39

(2) Subsection one of section forty-seven of the Public Works Amendment Act 1948 is hereby consequentially repealed.

Lapse of notice
of intention to
execute works
or take land.

3. Section 22 of the principal Act is hereby amended by adding the following subsections:—

“(5) Every notice of intention to execute works and take land given under this section either before or after the commencement of this subsection shall, after the last date for confirmation specified in this subsection, cease to have effect and be deemed not to have been given unless, on or before that date, a Proclamation taking the land has been gazetted or the Minister or the local authority has, by a further notice in writing served on the owners and occupiers of the land required to be taken so far as they have been ascertained, confirmed the intention, subject to the provisions of this Act, of executing the work and taking the land. Where any such

notice of intention has been given after the commencement of this subsection the last date for confirmation shall be the date one year after the date of the gazetting of that notice; and where any such notice has been
 5 given before the commencement of this subsection the last date for confirmation shall be the date nine months after the date of the commencement of this subsection or the date one year after the date of the gazetting of the notice, whichever is the later. Where any such notice of
 10 intention given by the Minister or a local authority has ceased to have effect as aforesaid, the notice shall not be repeated until at least one year after the date on which the original notice ceased to have effect as aforesaid.

15 “(6) Any notice of intention may at any time be withdrawn either by a notice in writing or a letter to the owners and occupiers of the land affected so far as they have been ascertained.”

20 4. Section twenty-five of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:—

“ (2) The provisions of this section shall apply to any land held for a Government work and to the whole or any part of any public reserve or public domain in
 25 any case where the land, public reserve, or public domain is required to be set apart for any public work:

“ Provided that the whole of any public reserve or public domain shall not be so set apart without the consent of the Minister of Lands.”

30 5. Section thirty-five of the principal Act is hereby amended by repealing the second proviso, and substituting the following proviso:—

“ Provided also that, in the case of any land so held, taken, purchased, or acquired for a Government work,
 35 if the land is not required for that purpose or if for any other reason the Governor-General considers it expedient to do so, he may, on the recommendation of the Minister and without complying with any other requirements of this section, by Proclamation, declare the
 40 land to be Crown land subject to the Land Act 1948, and thereupon the land may be administered and disposed of under that Act accordingly.”

Setting apart of public reserves or domains for public works.

Land on which public work is situated may be declared to be Crown land.

Easements
to lay
pipelines
along or
under roads.

6. Section forty-one of the principal Act is hereby amended by adding to subsection two the following proviso:—

“ Provided that the provisions of this subsection shall not apply to the grant by a local authority to any person of an easement authorizing that person to lay a pipeline along or under any road.” 5

Accelerating
hearing of
compensation
claims.

7. (1) A claim for compensation in respect of the taking of any land of any person for any public work shall lie and may be enforced in accordance with the provisions of the principal Act notwithstanding that no Proclamation or Order in Council taking the land has issued or been made if— 10

(a) The Minister or the local authority has, by notice under subsection *five* of section twenty-two of the principal Act (as set out in section *three* of this Act) confirmed his or its intention of taking the land; or 15

(b) The execution has been completed of every portion of the work which will affect the amount of the land of that person which will have to be taken for the work or which will injuriously affect or damage the land of that person; or 20

(c) The Railways District Engineer or the District Commissioner of Works or the local authority has declined an application in respect of that land made in accordance with subsection *four* of section eighty-one of the principal Act (as set out in section *nine* of this Act). 25

(2) The making of a claim under this section in respect of the taking of any land shall operate as an agreement by the claimant under section thirty-two of the principal Act to his estate or interest in that land being taken subject to the compensation to be paid being left to be determined under Part III of the principal Act; and the making of any such claim under this section shall prevent the commencement or prosecution of any proceedings by or on behalf of the claimant to prevent or delay the execution of the work or the taking of the land. 30 35 40

(3) If no Proclamation or Order in Council taking the land has issued when the Court commences to hear any claim made under this section, the Minister or the

local authority shall, at the commencement of the hearing, notify as nearly as may be what land (if any) he or it proposes to take; and the Court shall hear the claim and assess compensation as if that land had been
5 so taken, and thereafter no further claim for compensation in connection with the work shall arise in respect of the land for the taking of which compensation has been assessed as aforesaid.

(4) Where at the commencement of the hearing of
10 any claim for compensation made under this section against a local authority the Proclamation or Order in Council taking the land has not issued or been made, the Court shall not proceed with the hearing of the claim unless it is satisfied that the work for which the land is
15 intended to be taken is a work for which the local authority is empowered to take land.

(5) For the purpose of any claim made under the provisions of this section, the forms prescribed in the Second and Third Schedules to the principal Act may be
20 varied to such extent as may be necessary to express the circumstances of the claim.

(6) Subsection one of section fifty-one of the principal Act is hereby amended by inserting in paragraph (a) and also in paragraph (c), after the word "taken",
25 the words "or to be taken".

8. (1) Section twenty-nine of the Finance Act (No. 3) 1944 is hereby amended by repealing subsection three (as substituted by subsection three of section twenty-three of the Statutes Amendment Act 1951), and
30 substituting the following subsection:—

Basis of
compensation.
1944, No. 31
1951, No. 81

"(3) In this section the term 'specified date' means—

"(a) In the case of any claim in respect of land of
35 the claimant which has been taken pursuant to sections twenty-two and twenty-three of the principal Act, the date on which the land became by Proclamation vested in the Crown or in the local authority, as the case may be; or, where compensation is claimed
40 under section *seven* of the Public Works Amendment Act 1952, and the Minister or the local authority has (before the issue of the Proclamation) notified the Court what land he or it proposes to take, the date of
45 that notification:

“(b) In the case of any other claim in respect of land of the claimant which has been or is proposed to be taken for any work, the date on which the land became by Proclamation or Order in Council vested in the Crown or in the local authority, as the case may be, or the date on which the land was first entered upon for the purpose of the construction or carrying out of the work, whichever is the earlier: 5

“(c) In the case of any claim in respect of any work for which no land of the claimant has been taken and no land of the claimant is proposed to be taken, the date of the commencement of the execution of the portion of the work that causes damage to or injuriously affects the land of the claimant.” 10 15

(2) Subsection *one* of this section shall be deemed to have come into force on the twenty-third day of February, nineteen hundred and fifty, in respect of land which was then farm land within the meaning of the Servicemen’s Settlement and Land Sales Act 1943, and on the first day of November, nineteen hundred and fifty, in respect of other land. 20

1943, No. 16

(3) Subsection three of section twenty-three of the Statutes Amendment Act 1951 is hereby consequentially repealed. 25

1951, No. 81

9. (1) Section eighty-one of the principal Act, as amended by section twenty-one of the Public Works Amendment Act 1948, is hereby further amended by adding the following subsections: 30

Permission for owner or occupier to do acts which may make contemplated work more costly.

1948, No. 39

“(4) If the owner or occupier of any land wishes to do anything upon or under the land which may cause the amount of compensation payable to him to be reduced under this section, he may apply for permission to do that thing upon or under his land. Every such application shall specify what the applicant wishes to do, on what part of his land he proposes to do it, and the address to which any reply to him may be sent. Every such application shall be made in writing sent by post in a registered letter addressed in accordance with the following requirements:-- 35 40

“(a) In the case of any land that is affected by a Proclamation defining the middle line of a railway that has been attested by the Minister of Railways or that is affected by a 45

notice of intention to take land that has been issued under the hand of the Minister of Railways, it shall be addressed to the Railways District Engineer of the district in which the land is situated:

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“(b) In the case of any land that is affected by any other Government work or scheme, it shall be addressed to the District Commissioner of Works for the district in which the land is situated:

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“(c) In the case of any land that is affected by any local work or scheme, it shall be addressed to the local authority.

“(5) In the case of any work or scheme in respect of which a public notice has been signed jointly by the Minister and a local authority having jurisdiction in the district in which the land is situated, separate applications in accordance with subsection *four* of this section shall be made by the owner or occupier of the land to the District Commissioner of Works and the local authority and neither shall be bound by the approval or refusal of the other.

“(6) If on receiving any such application the Railways District Engineer or the District Commissioner of Works or the local authority so requires, the applicant shall supply plans to the Railways District Engineer or the District Commissioner of Works or the local authority, as the case may be, and shall place pegs in the ground to show exactly what part of the land will be affected by the proposals, and shall notify the Railways District Engineer or the District Commissioner of Works or the local authority, as the case may be, when he has placed the pegs in the ground as aforesaid; and for the purposes of subsection *seven* of this section the period between the date of any such requirement and the date of compliance therewith shall not be taken into account.

“(7) The Railways District Engineer or the District Commissioner of Works or the local authority may decline any application made to him or it as aforesaid; and every such application that is not declined by notice in writing given to the applicant within three months after the date of the receipt of the application (exclusive of any period which is not to be taken into account in accordance with subsection *six* of this section) shall be

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deemed to have been granted and anything done on or under the land after approval of that thing has been granted or is deemed to have been granted shall not be subject to the provisions of this section. Notice under this subsection may be given to any applicant by delivering it to him personally or by sending it to him by post in a registered letter addressed to him at the address specified in his application. 5

“(8) Where any application or notice is sent by post as aforesaid it shall be deemed to be made or given at the time at which the letter would have been delivered in the ordinary course of post.” 10

(2) This section shall come into force three months after the date of the commencement of this Act.

Compensation
in case of
limited or
partial
interests.

10. (1) Subsection one of section ninety-two of the principal Act is hereby amended— 15

(a) By inserting, after the words “ If compensation is awarded or ”, the words “ compensation or purchase money ”:

(b) By inserting, after the words “ any interest therein taken ”, the words “ or purchased ”: 20

(c) By inserting, after the words “ such compensation ”, the words “ or purchase money ”:

(d) By omitting from paragraph (a) the words “ compensation amounts to two hundred pounds ”, and substituting the words “ compensation or purchase money amounts to one thousand pounds ”: 25

(e) By omitting from paragraph (b) the words “ compensation is more than twenty but less than two hundred pounds ”, and substituting the words “ compensation or purchase money is more than fifty pounds but less than one thousand pounds ”: 30

(f) By adding to paragraph (b) the following proviso:— 35

“ Provided that in any such case the Public Trustee may, if he thinks fit, apply to the Supreme Court for directions as to the purposes for which the compensation or purchase money shall be applied ”: 40

(g) By omitting from paragraph (c) the words “ compensation is not more than twenty pounds ”, and substituting the words “ compensation or purchase money is not more than fifty pounds ”. 45

(2) Section ninety-two of the principal Act is hereby further amended by inserting in subsection two, after the word "compensation", the words "or purchase money".

5 (3) Section ninety-two of the principal Act is hereby further amended by adding the following subsections:—

10 " (3) Notwithstanding the provisions of subsection one of this section, where the person having the partial or qualified interest in the land and not entitled to sell or convey it is a local authority the compensation money or purchase money may be paid to the local authority.

15 " (4) The local authority shall record any moneys paid to it under subsection *three* of this section in a separate account and shall invest them separately; and shall expend them only for the permanent improvement of other lands held for the same or like uses, trusts, and purposes or for all or any of the purposes set out in sub-paragraphs (i) and (ii) of paragraph (a) of that subsection, and so that the application of the money as

20 aforesaid will benefit persons in substantially the same locality."

(4) The principal Act is hereby amended—

25 (a) By inserting in section ninety-three, after the words "compensation was awarded", the words "or compensation or purchase money was paid":

30 (b) By inserting in subsection one of section ninety-four and also in section ninety-six, after the words "compensation is awarded" where they appear in each section, the words "or compensation or purchase money is paid":

35 (c) By inserting in sections ninety-three to ninety-five, after the word "compensation" in every other instance where it occurs in those sections, the words "or purchase money".

11. (1) In this section, unless the context otherwise requires,—

40 "Controlling authority", in relation to any road, means the authority in which is vested the control of the road; and includes the Governor-General or the Main Highways Board, as the case may be, where the control of the road is vested in the Governor-General or the Main Highways Board:

Removal of roadside structures.

“ Road ” includes any highway, street, or service lane:

“ Structure ” means any tower, pole, or post lawfully upon or in or over a road; and includes any equipment that must be removed with the structure if the structure is removed; but does not include any part of a bridge or culvert, or any fence, gate, or cattle stop erected in accordance with the principal Act, or anything provided for the assistance of traffic or any structure that was not on a road at the time when the structure was erected:

“ Utility authority ”, in relation to any structure, means the Crown, or any Minister of the Crown, local authority, company, or person authorized by or under this Act or any other Act or by any rule of law to construct, maintain, or use the structure.

(2) Where any structure has been erected upon or in or over any road by any utility authority either before or after the commencement of this section, and the controlling authority has by notice in writing to the utility authority or a responsible officer thereof required the removal of the structure either because the structure is or is likely to become dangerous to vehicles and persons in them using the road or because the structure is in the way of any work undertaken or proposed for the improvement of the road as a public highway, the utility authority shall remove the structure within such period as may be specified in the notice.

(3) Where any structure that has been erected upon or in or over any road by any utility authority, either before or after the commencement of this section, is unsafe or is likely to become unsafe because of any work undertaken or proposed to be undertaken for the improvement of the road as a public highway, the utility authority, after giving at least seven days' notice in writing of its intention to do so, may remove the structure.

(4) Subject to any agreement to the contrary, the reasonable costs incurred by a utility authority in removing any structure as aforesaid and (where reasonably necessary) in re-erecting the structure (or an

equivalent structure provided by the utility authority at its expense), including compensation payable to the owners and occupiers of the alternative site and a reasonable sum for proper overhead charges, shall be borne by
5 the controlling authority and the utility authority in equal shares and the amount payable to the utility authority may be recovered as a debt.

(5) Any dispute as to the length of the period within which any structure is required to be removed as aforesaid, or as to whether any structure is or is likely to become dangerous to vehicles and persons in them using a road, or as to whether any structure is unsafe or likely to become unsafe because of any work undertaken or proposed to be undertaken for the improvement of the
10 road, or as to where a structure removed under this section (or any equivalent structure) may be re-erected or placed in relation to the road, shall be heard and determined by a Magistrate's Court on application made to it in that behalf, and the decision of the Magistrate's
15 Court shall be final and binding on all parties. The costs and expenses of determining any dispute under this section shall be borne as the Magistrate's Court may direct.

(6) Notwithstanding anything to the contrary in
25 subsection *five* of this section, the period within which any structure is required to be removed as aforesaid may from time to time be extended by agreement between the parties or by a Magistrate's Court on application made to it in that behalf.

(7) If the utility authority, after receiving notice
30 under subsection *two* of this section, fails within the period determined as aforesaid to remove the structure that is the subject of the notice, the controlling authority, after giving ten days' further notice of its intention so
35 to do, may apply to the Supreme Court for an order requiring the utility authority to remove the structure within such period as may be specified in the order; and in any such case, if the Supreme Court orders the removal of the structure, the whole cost of carrying out
40 the removal and re-erection of the structure shall be borne by the utility authority and shall be recoverable from it by the controlling authority as a debt.

1950, No. 65

(8) Nothing in the Limitation Act 1950 or in any other Act or any rule of law shall cause or be deemed to have caused the right or title of the controlling authority of the road or of the authority in which the road is vested to be extinguished by reason of the road being occupied by any structure, and nothing in this or in any other Act or any rule of law shall entitle any utility authority to compensation otherwise than under this section for the removal of any structure from any road or in respect of the re-erection of any such structure (or equivalent structure), or in respect of any alteration of any road that necessitates any such removal or re-erection. 5 10

(9) In any case where any controlling authority (by giving notice under subsection *two* of this section) could have required any utility authority to remove any structure from any road, or where any utility authority (after giving notice under subsection *three* of this section) could have removed any structure from any road and recovered a share of the costs from the controlling authority under subsection *four* of this section, if the structure is removed by the utility authority by arrangement with the controlling authority, and the arrangement or any subsequent agreement between them does not determine or provide for the determination of how the reasonable costs mentioned in subsection *four* of this section shall be borne, the provisions of subsection *four* of this section shall apply to those costs. Every agreement made before or after the commencement of this section which would have been valid under this section if it had been made after the commencement of this section and had related to a structure removed after the commencement of this section shall be deemed to be valid and to have been validly made. 15 20 25 30

Repeal.
1948, No. 39
Closed and
stopped roads.

(10) Section *thirty-three* of the Public Works Amendment Act 1948 is hereby repealed. 35

12. (1) Section one hundred and forty-seven of the principal Act is hereby amended by omitting the words "and no road along the bank of a river shall be stopped either with or without consent". 40

(2) Section one hundred and forty-seven of the principal Act is hereby further amended by adding the following subsection as subsection two:—

5 “(2) No closed or stopped road or street along the bank of a river or stream or along the margin of a lake or the sea nor any portion of any closed or stopped road or street shall be granted or disposed of or added to any other land or alienated in any other manner without the consent of the Minister of Lands, who in his
10 discretion may refuse his consent or give his consent subject to such conditions as he thinks fit:

“ Provided that the consent of the Minister of Lands shall not be necessary in any case where the closed or stopped road is dealt with or disposed of under the Land
15 Act 1948.”

1948, No. 64

13. Section two hundred and nine of the principal Act is hereby amended by adding the following subsection:—

Roads or tramways for removal of timber.

20 “ (16) Where for any reason no work in the nature of construction is necessary to establish a road or tramway over the private land for the removal of the timber, or where the application is in respect of the use of an existing road or tramway, the provisions of this section shall apply, with the necessary modifications, as
25 if the application was in respect of the construction of a road or tramway.”

14. (1) Where any Order in Council has been made under the principal Act or any other Act either before or after the commencement of this section approving or
30 authorizing the provision, dedication, or laying off of any road or street at a width for the whole or any part or parts of its length of less than sixty-six feet, and the owner of the land to be provided, dedicated, or laid off and the local authority have, before dedication
35 of the proposed road or street, deposited in the office of the District Land Registrar of the district in which the land is situated their written agreement or consent to the road or street not being so provided, dedicated, or laid off, the Order in Council shall be deemed to have been

Orders in Council modifying provisions as to width of road or street.

revoked as from the date of the depositing of the agreement or consent as aforesaid; and the District Land Registrar shall note as cancelled every memorial of the Order in Council that has been endorsed upon any title affected thereby.

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(2) Section one hundred and twenty-five of the principal Act is hereby amended by omitting from subsection four the words "Where any such conditions are made".

Controlling authority may bring action for damage to a public work.

15. In any case where any authority (including the Crown or any Minister of the Crown or any public or local authority) has control of any public work but the ownership of that work is not vested in that authority, proceedings for the recovery of damages in respect of the removal or destruction of the work or in respect of any injury or damage thereto may be taken by that authority as if it were the owner of the work; but damages in respect of the removal or destruction of the work or of any injury or damage thereto shall not be recovered by both that authority and the owner of the work.

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Cattle-stops in conjunction with gates on roads.
1935, No. 27

16. Section eleven of the Public Works Amendment Act 1935 is hereby amended by repealing subsection four, and substituting the following subsection:—

"(4) The erection of any gate and cattle-stop, or of any cattle-stop in conjunction with an existing gate, shall not be commenced unless and until plans of the gate and cattle-stop have been submitted to and approved by the Minister or local authority having the control of the road. The Minister or local authority may make such alterations in or additions to any plans submitted to him or it as he or it thinks fit, and may require the erection of such protective or warning devices as he or it deems necessary; and the cattle-stop and gate shall be erected in accordance with the plans and requirements and in such position as the Minister or the local authority directs. The Minister may from time to time, by order in writing published in the *Gazette*, prescribe specifications for gates and cattle-stops, and no plans shall be approved by the local authority without the consent of the Minister unless they are in accordance with specifications prescribed under this section and then in force."

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17. (1) Section three of the Public Works Amendment Act 1948 is hereby amended by omitting from subsection one and from subsection three the words "land which at the date of the Order in Council is vested in His Majesty", and substituting in each case the words "any land".

Access ways
and service
lanes in
counties.
1948, No. 39

(2) Section three of the Public Works Amendment Act 1948 is hereby further amended by adding the following subsection:—

10 " (5) Every access way and every service lane declared as such under this section that is outside a borough or town district and the soil thereof and all materials of which it is composed, or which are capable of being used for the purposes thereof and are placed or
15 laid thereon, are hereby declared to be and are hereby vested in the Crown."

(3) Subsection one of section four of the Public Works Amendment Act 1948 is hereby amended by inserting, after the words "land outside a borough",
20 the words "or town district".

(4) Section four of the Public Works Amendment Act 1948 is hereby further amended by adding the following subsection:—

25 "(4) Any County Council may from time to time lay out and construct proposed access ways and service lanes within the County on land belonging to the Corporation of the County or on land that has been taken, purchased, or dedicated, or otherwise acquired for an access way or service lane."

30 (5) Section five of the Public Works Amendment Act 1948 is hereby amended by omitting the words "any Borough Council or Town Board", and substituting the words "any local authority".

18. (1) For the purposes of sections twenty-two,
35 twenty-three, twenty-eight, thirty-five, two hundred and sixteen, and two hundred and fifty-four of the principal Act—

Survey not
required in
certain cases.

40 (a) Where it is proposed to deal with the whole or the residue of the land comprised in any certificate of title issued under the Land Transfer Act 1915, it shall be a sufficient identification of the land to describe it as the whole or the residue of the land in the certificate of title:

See Reprint
of Statutes,
Vol. VII,
p. 1162

(b) Where it is proposed to deal with land previously dealt with and separately described in any Proclamation or Order in Council issued, or deemed to have been issued, under any of the said sections, the description there used shall be deemed to be a sufficient identification of the land: 5

(c) Where it is proposed to deal with the whole of the land comprised in a separate lot or other surveyed subdivision which is shown on a plan deposited in a Land Registry Office in accordance with the provisions of the Land Transfer Act 1915 or lodged in the office of the Chief Surveyor of the district in which the land is situated, it shall be sufficient to identify the land by reference to the lot or subdivision on the plan. 10 15

(2) In any such case no fresh survey or plan or certified map shall be necessary under any of the said sections of the principal Act for the purposes of any notice, recommendation, memorial, Proclamation, Order in Council, certificate, or warrant. 20

(3) Nothing in this section shall be deemed to derogate from the provisions of section one hundred and seventy-eight of the Land Transfer Act 1915. 25

(4) Where a Proclamation identifies any land by describing it as the whole or the residue of the land in a certificate of title that is limited as to parcels, the vesting of the land shall be subject to the same limitation as to parcels as affected the certificate of title. 30

(5) This section is in substitution for section fifteen of the Public Works Amendment Act 1948, and that section is hereby consequentially repealed.

19. (1) Except as provided in subsection *six* of this section, where any land has become vested in Her Majesty the Queen so that the fee simple estate and all other estates and interests therein of any person other than Her Majesty are extinguished, the District Land Registrar, on the completion of such surveys (if any) as may be necessary, shall at the request of the Minister issue a certificate of title for the land in the name of Her Majesty, and that certificate of title shall include a reference to the purposes (if any) for which the land is held. 35 40

See Reprint
of Statutes,
Vol. VII,
p. 1220

Repeal.
1948, No. 39

Issue of
certificates of
title to lands
held for public
works.

(2) Any instrument which relates to the land in any such certificate of title and is duly executed by a person having the necessary authority may thereafter be registered in accordance with the provisions of the Land Transfer Act 1915.

See Reprint
of Statutes,
Vol. VII,
p. 1162

(3) Any certificate of title issued before the commencement of this section in the name of Her Majesty and any instrument which is or has been duly executed by a person having the necessary authority and which relates to the land in any such certificate of title shall be deemed to have been lawfully issued or executed.

(4) Any land declared under the principal Act to be vested in Her Majesty in fee simple shall, for the purposes of this section, be deemed to be vested in Her Majesty so that the fee simple therein is extinguished.

(5) Where any District Land Registrar issues any certificate of title under this section he shall not prepare any duplicate of the certificate of title until the Minister so requests; and, where no request is made for the preparation of a duplicate of the certificate of title at the time when the request is made for the issue of the certificate of title,—

(a) The certificate of title shall be bound in the register, and for all the purposes of the Land Transfer Act 1915 the certificate of title so bound shall be deemed to be the duplicate certificate of title, and any duplicate of it thereafter prepared and issued at the request of the Minister shall be deemed to be the certificate of title:

(b) While the bound copy of the certificate of title is the only copy of the certificate of title which has been prepared it shall be endorsed to this effect.

(6) Nothing in this section shall apply to any land vested in Her Majesty the Queen in respect of which provision is made by any other Act for the issue of a certificate of title.

Change of
purpose for
which land
held.

20. (1) Where a local authority desires to change the purpose for which any land (other than a road, street, access way, or service lane) was taken, purchased, acquired, or set apart by it under the principal Act to some other purpose for which it is authorized to acquire land under the principal Act, the local authority shall,— 5

(a) Cause to be gazetted, and twice publicly notified at intervals not exceeding seven days, a notice—

(i) Showing the description of the land; and 10

(ii) Stating the purpose for which the land is held; and

(iii) Stating the purpose for which it is desired that the land should be set apart; and

(iv) Calling upon all persons affected to set forth in writing any objection to the proposed change of purpose and to send the written objection to the local authority within forty days from the date of the first publication of the notice: 15 20

(b) Upon receiving any such written objection, appoint a time and place in New Zealand at which the objector may appear before the local authority and support the objection by such evidence as the objector thinks fit. 25

(2) If within the said forty days no objection is made, or if after the consideration of all objections the local authority is of opinion that it is expedient that the land should be set apart for the proposed work, the local authority shall lay before the Governor-General a memorial, signed by two members of the local authority and containing particulars of the land affected and of the purpose for which it is held and of the work for which it is proposed to set the land apart. It shall not be necessary for any such memorial to be under seal. 30 35

(3) A statutory declaration (duly stamped with the proper stamp duty) by the Chairman, Mayor, or other chief executive officer of the local authority to the effect that the local authority is authorized by law to undertake the work for which it is proposed to set the land apart, that all of the foregoing provisions of this section have been complied with, and that the local authority is of opinion that the proposed change of purpose should be effected shall, in the absence of proof to the contrary, be sufficient evidence of those facts. 40 45

(4) Upon receiving sufficient evidence of those facts (by production of a statutory declaration as aforesaid or otherwise), the Governor-General may, by Proclamation, declare that the land, particulars whereof are contained
5 in or annexed to the Proclamation, is set apart for the public work therein mentioned.

(5) Every such Proclamation shall be publicly notified within one month after the making thereof, but a Proclamation shall not be invalidated by any error,
10 defect, or delay in the public notification thereof.

(6) Every such Proclamation shall have the effect of and be deemed to be a Proclamation under section twenty-three of the principal Act.

(7) The provisions of section *eighteen* of this Act shall, so far as they are applicable, apply in respect of
15 Proclamations issued pursuant to this section; and, where the provisions of that section are not applicable, the local authority shall attach to the memorial a plan in triplicate of the survey of the land, approved by the
20 Chief Surveyor of the land district in which the land is situated or his deputy, and showing accurately the position and extent of the land proposed to be set aside.

21. (1) Every person commits an offence against this section who does or causes or suffers to be done any of
25 the following things:—

(a) Casts or throws or suffers to fall on any road any sawdust or sawmill refuse or flaxmill refuse:

(b) Casts or throws or suffers to fall on any land any
30 sawdust or sawmill refuse or flaxmill refuse in a position where it is liable to fall or descend or to be carried by wind or storm, or to be washed down by any stream or flood or flow of water, onto any road.

(2) Every person who commits an offence against this
35 section shall be liable on summary conviction to a fine not exceeding ten pounds and, if the offence is a continuing one, to a further fine not exceeding ten pounds for every day or part of a day during which the offence continues.

Sawdust, &c.,
on roads.