

PUBLIC WORKS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Public Works Act 1928.

Clause 2 provides that in all cases where statutory authority is given to enter on any land and construct a public work (other than an emergency work) before the land is taken, and no other provision is made for the giving of notice of entry, the Minister or the local authority shall (when practicable) give to the owner or occupier of the land reasonable notice of the intention to enter thereon. Persons who enter must produce their authority when required by the owner or occupier. The term "emergency work" is defined for the purpose of the provision as meaning a strategic or defence work in time of war or imminent national danger and any work where the delay involved in giving the notice would increase risk of loss or damage.

Under section 99 of the principal Act surplus land may be granted instead of compensation if the land has been taken under section 34 of the Act for the use, convenience, or enjoyment of a public work, but not where it has been taken for the work itself. *Clause 3* extends section 99 so as to make it apply to all surplus public works land. A surplus arises because it is not always possible at the beginning of a work to define precisely what land will be required; also land may be needed during construction that is not required when the work is complete. In all cases the land that is taken is kept to a minimum.

Clause 4 repeals the provisions in section 104 of the principal Act which require that sittings of the Maori Land Court for the purpose of ascertaining the amount of compensation to be paid to Maoris shall be notified in the *Gazette* and the *Kahiti*. The *Kahiti* is no longer published, and the *Gazette* is not an effective means of notifying Maoris who might be interested. The rules of the Maori Land Court provide for all sittings to be notified in the *Panui*, copies of which are sent to all persons interested in the assessment of compensation.

Clause 5 repeals sections 118 and 119 of the principal Act under which a local authority may be compelled to contribute towards the cost of the construction and maintenance of roads in another district. There is no longer any need for these sections in view of the provisions for constructing and maintaining roads contained in the National Roads Act 1953. Existing warrants under the sections are to continue in force for adjustment purposes, but are not to apply to any work (whether construction or maintenance) done after the commencement of the Bill.

Clause 6 extends the provisions in section 131 of the principal Act for cancelling or varying conditions with respect to building lines so as to make the provisions apply where the conditions are imposed by a special order made under section 186 (1) (b) of the Municipal Corporations Act 1954.

Clause 7 extends the provision in section 132 of the principal Act enabling a local authority to grant a permit to build a garage infringing a building line so as to make the provision apply where the building line is imposed by a special order made under section 186 (1) (b) of the Municipal Corporations Act 1954.

Under the existing legislation, in any case where a claim for compensation in respect of the taking of land for a public work is made before the issue of the Proclamation taking the land and the Minister or the local authority notifies the Court what land he or it proposes to take, the compensation is to be calculated as at the date of the notification. *Clause 8* provides that, if in any such case the first entry upon the land for construction purposes has occurred at an earlier date, or the land was first injuriously affected by the work at an earlier date (e.g. by flooding on the construction of a dam), the earliest of the dates is to be the date as at which the compensation is to be calculated.

Hon. Mr Goosman

PUBLIC WORKS AMENDMENT

ANALYSIS

Title.	5. Cost of constructing or main- taining road used by traffic from other districts.
1. Short Title.	6. Cancellation or variation of con- ditions with respect to building lines.
2. Notice of intention to enter to construct works.	7. Permits to build garages which infringe a building line.
3. Grant of surplus land instead of compensation.	8. Date for determining basis of compensation.
4. Compensation to Maori owners.	

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 1955, 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

10 2. Section ten of the principal Act is hereby amended by adding the following subsection:
“(3) In every case where, under this Act or any other Act which relates to the construction of any public work, authority is given to enter on any land and construct Notice of
intention to
enter to
construct
works.

a public work (other than an emergency work) before the land has been taken and vested in Her Majesty or the local authority, as the case may be, and no other provision is made as to the giving of notice of entry, the Minister or the local authority, as the case may be, shall (when practicable) give to the owner or occupier of the land reasonable notice of the intention to enter thereon, and any person who enters or claims to enter or has entered on the land shall, if required by the owner or occupier, produce and show his authority to do so. For the purpose of this subsection the term "emergency work" means a strategic or defence work in time of war or imminent national danger and any work where the delay involved in giving the notice would increase the risk of loss or damage."

Grant of surplus land instead of compensation.

3. Section ninety-nine of the principal Act is hereby amended by omitting the words "the use, convenience, or enjoyment of the said public work but which is not required for such public work", and substituting the words "any public work or for the use, convenience, or enjoyment of any public work but which is not required for any public work".

Compensation to Maori owners.

4. Section one hundred and four of the principal Act is hereby amended—

(a) By omitting from paragraph (b) of subsection one the words "and every sitting of the said Court to be held for the purpose of dealing with such land shall be duly notified in the *Gazette* and *Kahiti*":

(b) By repealing subsection two.

Cost of constructing or maintaining road used by traffic from other districts.

5. (1) Sections one hundred and eighteen and one hundred and nineteen of the principal Act are hereby repealed.

(2) Every warrant issued under either of the said sections which was in force immediately before the commencement of this Act shall continue in force notwithstanding the repeal of the said sections, but shall not apply to any work (whether construction or maintenance) done after the commencement of this Act.

Cancellation or variation of conditions with respect to building lines.

6. (1) The principal Act is hereby amended by repealing section one hundred and thirty-one, and substituting the following section:

- “131. (1) Where by any Order in Council or memorandum of acceptance, or by any special order made under paragraph (b) of subsection one of section one hundred and eighty-six of the Municipal Corporations Act 1954, conditions have, whether before or after the commencement of this section, been imposed with respect to the building line in the case of any road or street, the Governor-General may from time to time, by Order in Council, on the application of the local authority having control of the road or street, amend the first mentioned Order in Council or the memorandum of acceptance or special order, as the case may be, by cancelling or varying the conditions so imposed thereby, and any such cancellation or variation may extend either to the whole or any part or parts of the said road or street.
- “(2) A copy of every Order in Council issued under the authority of this section shall be transmitted by the Minister to the District Land Registrar or the Registrar of Deeds, as the case may require, and the Registrar shall register that Order in Council against the title to all land affected thereby; and the original Order in Council or the memorandum of acceptance or special order shall thereupon be deemed to be amended, and shall have effect as so amended accordingly.”
- (2) Section twenty-seven of the Public Works Amendment Act 1948 is hereby consequentially repealed.
7. Section one hundred and thirty-two of the principal Act is hereby amended by omitting from subsection one, as set out in section twenty-eight of the Public Works Amendment Act 1948, the word “hereof”, and substituting the words “of this Act, or by any special order made under paragraph (b) of subsection one of section one hundred and eighty-six of the Municipal Corporations Act 1954”.
8. Section twenty-nine of the Finance Act (No. 3) 1944 is hereby amended by adding to paragraph (a) of subsection three, as set out in subsection one of section eight of the Public Works Amendment Act 1952, the words “or the date of the first entry upon the land for construction purposes, or the date on which the land is first injuriously affected by the work, whichever is the earliest.”

1954, No. 76

1948, No. 39

Permits to build garages which infringe a building line.

Date for determining basis of compensation. 1944, No. 31 1952, No. 58