

PUBLIC WORKS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Public Works Act 1928.

Clause 1 relates to the Short Title.

Clause 2 substitutes a new definition of the term "Maori" in section 2 of the principal Act to make it the same as the definition contained in the Maori Affairs Act 1953.

Clause 3: Section 102 of the principal Act provides that Maori land may be taken for a public work.

This clause amends section 102 to make it clear that land owned partly, as well as wholly, by Maoris may be taken for a public work.

Clause 4 inserts a new section 168A in the principal Act.

The new section provides that poles or towers, other than lighting standards required solely for effective highway illumination, on public highways outside a borough, town district, or county town must be erected or re-erected adjacent to the highway boundary or as near thereto as practicable, having regard to the desirability of cross-arms and wires not encroaching over private land, to the necessity of ensuring that any line is not susceptible to instability or to damage by, or interference from, natural causes or trees or structures or other lines or transmission lines, and to the necessity of ensuring that any line is reasonably accessible for repair and maintenance.

The section will not apply when the Commissioner of Transport determines (after consultation with the highway-controlling authority and the authority proposing to erect or re-erect a pole or tower) that the proposed position of a pole or tower will not result in danger to highway users, or if, in the public interest, it is essential that any pole or tower be re-erected without delay, or if, because of technical difficulties or disproportionate costs, it is not practicable to re-erect a pole or tower otherwise than in its previous position.

The Crown will be bound by the section.

Clause 5 amends section 217 of the principal Act (relating to Proclamations defining the middle lines of proposed railways).

The amendment will allow the registration of a certificate, signed by the Minister of Works or the Minister of Railways, to the effect that any land affected by a middle-line Proclamation and referred to in the certificate is land over, under, or through which the railway does not or will not pass.

This will obviate the need to arrange for partial revocations of the Proclamation as is the case at present.

Clause 6 makes it clear that no part of any public reserve or public domain may be proclaimed as road or street without the consent of the Minister of Lands.

Clause 7 amends section 6 of the Public Works Amendment Act 1947, which prohibits the placing of towers, poles, or other structures on motorways.

The amendment extends the prohibition to land taken, purchased, set apart, or otherwise acquired for the purpose of constructing a motorway.

Hon. Mr Allen

PUBLIC WORKS AMENDMENT

ANALYSIS

Title	
1. Short Title	5. Cancellation of registration of middle-line Proclamation
2. Interpretation	6. Taking and closing of roads and streets
3. Power to take Maori land for public work	7. Restrictions on poles, etc., on motorways
4. Poles, etc., on highways to be adjacent to boundaries	

A BILL INTITULED

An Act to amend the Public Works Act 1928

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

1. **Short Title**—This Act may be cited as the Public Works Amendment Act 1967, and shall be read together with and deemed part of the Public Works Act 1928* (hereinafter referred to as the principal Act).

10 2. **Interpretation**—Section 2 of the principal Act is hereby amended by repealing the definition of the term “Maori”, and substituting the following definition:

15 “Maori” means a person belonging to the aboriginal race of New Zealand; and includes a half-caste and a person intermediate in blood between half-castes and persons of pure descent from that race.”.

*1957 Reprint, Vol. 12, p. 475

Amendments: 1958, No. 28; 1960, No. 105; 1961, No. 32; 1962, No. 41; 1963, No. 42; 1964, No. 107; 1965, No. 26.

3. Power to take Maori land for public work—Section 102 of the principal Act is hereby amended by inserting, after the word “owned”, the words “wholly or partly”.

4. Poles, etc., on highways to be adjacent to boundaries—The principal Act is hereby amended by inserting, after section 168, the following section: 5

“168A. (1) Notwithstanding anything to the contrary in any Act or rule of law, no pole or tower, other than lighting standards required solely for effective highway illumination, shall be erected or re-erected on any public highway outside 10 a borough, town district, or county town otherwise than adjacent to the frontage line of the land adjoining the highway or as near thereto as is practicable, having regard to—

“(a) The desirability of any cross-arms and wires not en- 15 croaching over the land;

“(b) The necessity of ensuring that any line (within the meaning of section 141 of the Post Office Act 1959) or transmission line (within the meaning of subsection (2) of section 43 of the Public Works 20 Amendment Act 1948) is not susceptible to instability or to damage by, or interference from, natural causes, or trees, or structures, or other lines or transmission lines; and

“(c) The necessity of ensuring that any such line or trans- 25 mission line is reasonably accessible for repair and maintenance.

“(2) Subsection (1) of this section shall not apply in any case—

“(a) When the Commissioner of Transport determines 30 (after consultation with the authority having control of the highway and the authority proposing to erect or re-erect a pole or tower) that the proposed position of any pole or tower (although not complying with the said subsection (1)) is such that 35 the pole or tower will not be dangerous to vehicles and persons in them using any highway; or

“(b) If, in the public interest, it is essential that any pole or tower be re-erected without delay; or

“(c) If, because of technical difficulties or disproportionate 40 costs, it is not practicable to re-erect a pole or tower otherwise than in its previous position.

“(3) This section shall bind the Crown.”

5. Cancellation of registration of middle-line Proclamation—Section 217 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

5 “(3) Where the Minister is satisfied that any railway referred to in a Proclamation deposited under this section does not or will not pass over, under, or through any land against which the Proclamation is registered, or where the Minister considers it expedient so to do, he may cause to be
10 deposited, without fee, in the appropriate District Land Registry Office, a certificate, signed by or on behalf of the Minister, containing a description or reference to all land which it is desired be no longer affected by the Proclamation and authorising the cancellation of the registration of the
15 Proclamation against the land. On the deposit of such a certificate the District Land Registrar shall take all steps necessary to discharge or cancel the memorials or entries relating to the Proclamation in respect of the land referred to in the certificate.

20 “(4) Subsections (1), (2), and (3) of this section shall apply with respect to Proclamations, maps, and plans issued or made for the purposes of section 30 of this Act and of subsections (2), (4), and (5) of section 4 of the Public Works Amendment Act 1947.”

25 **6. Taking and closing of roads and streets**—Section 29 of the Public Works Amendment Act 1948 is hereby amended by adding to subsection (1) the following additional proviso:
“Provided also that the whole or any part of any public reserve or public domain shall not be so proclaimed with-
30 out the consent of the Minister of Lands.”

7. Restrictions on poles, etc., on motorways—Section 6 of the Public Works Amendment Act 1947 is hereby amended by inserting, after the word “motorway”, the words “or
35 on any land that has been taken, purchased, set apart, or otherwise acquired for the purpose of constructing a motorway,”.