

## PUBLIC WORKS AMENDMENT BILL

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### EXPLANATORY NOTE

*Clause 1* relates to the Short Title.

*Clause 2* amends section 2 of the principal Act.

*Subclause (1)* changes the title Minister of Works to Minister of Works and Development.

*Subclause (2)* inserts a new definition of Ministry of Works and Development.

*Subclause (3)* extends the definition of public work to include pre-school play centres, police stations, police training colleges, and police residences.

*Subclause (4)* provides for amendments consequential to the change in title of the Minister and the Ministry.

*Clause 3* inserts new sections 2A to 2C in the principal Act.

*New section 2A* establishes the Ministry of Works and Development.

*New section 2B* sets out the functions of the Ministry.

*New section 2C* empowers the Minister to give such directions as he thinks fit to the Commissioner of Works for the purpose of enabling the Ministry to carry out its functions.

*New section 2D* provides that nothing in section 2B or section 2C is to affect the exercise of powers conferred by other Acts.

*New section 2E* empowers the Minister to appoint such committees as he thinks fit to advise him on matters relating to the Ministry's functions.

*Clause 4* repeals section 7 (2) of, and the First Schedule to, the principal Act. Those provisions provide for the insertion in the Appropriation Act of a schedule in the prescribed form where money is proposed to be appropriated for the construction of a railway.

*Clause 5* amends section 18 of the principal Act. That section provides that nothing in the principal Act shall authorise the taking of stone from a quarry without the owner's consent, or the taking for a public work of land occupied by buildings, yards, gardens, etc., without the consent of the owner or the Governor-General in Council.

At present the section does not apply in respect of motorway works as the provisions of the principal Act are declared to apply to motorways as if they were railways authorised by a special Act. As railways are, under *clause 9*, to be authorised by Order in Council it is now necessary to provide specifically for section 18 not to apply to motorway works.

*Clause 6, subclause (1)* amends section 101B of the principal Act and increases the amount of additional compensation payable by way of *solatium* in respect of land acquired for a public work from \$500 to \$1,500.

*Subclause (2)* provides that the amendment will be deemed to have come into force on 11 June 1973, in respect of Government works, and will come into force on the passing of the Bill in respect of local works.

*Subclause (3)* provides that, although the amendment will not come into force until the passing of the Bill in respect of local works, the increased amount may be paid by local authorities in respect of land acquired on or after 11 June 1973.

In addition, every such payment made before the passing of the Bill is validated.

*Clause 7* provides for metric conversions.

*Clause 8* makes an amendment which is consequential to the enactment of the new section 212 by *clause 9* of the Bill.

*Clause 9, subclause (1)* repeals sections 212 and 213 of the principal Act, which provide for authorising the construction of railways, and substitutes a new section 212.

At present, the construction of railways must be authorised by a special Act.

Under the new section, the construction of a railway may be authorised by Order in Council.

*Subclause (2)* repeals certain provisions of the principal Act which provide that certain railways authorised under former Public Works Acts are deemed to have been authorised under the principal Act.

*Subclause (3)* provides that notwithstanding the repeal of any enactment by *subclause (2)*, every railway authorised under any such enactment, or under any special Act which is still in force, shall be deemed to have been authorised to be constructed under the new section 212 (i.e., by Order in Council).

*Subclause (4)* is a consequential amendment.

*Clauses 10 and 11* make amendments which are consequential to the enactment of the new section 212 by *clause 9* of the Bill.

*Clause 12* repeals certain spent provisions relating to Road Boards, all of which are now abolished.

*Clause 13* inserts a new section 330A in the principal Act. The new section provides for the correction of documents found to contain an error.

*Clause 14* inserts a new section 331A in the principal Act. The new section empowers the Minister, on behalf of the Crown, to buy shares in building-unit companies.

*Clause 15* inserts a new section 336A in the principal Act to replace section 42 of the Public Works Amendment Act 1948, relating to excavations near public works.

The new section contains more detailed provisions.

The new subsection (1) prohibits, except with the consent of the controlling authority of any public work, any excavation of or interference with land within 2.5 metres of any power or telephone line, within 6 metres of any pylon or tower supporting such lines or an aerial ropeway, and, in the case of any other public work, any excavation of or interference with land in the vicinity of the work if it is likely to produce any subsidence on to the work or of the land under the work.

The new subsection (2) provides that nothing in subsection (1) is to apply in respect of normal agricultural cultivation or the formation, repair, sealing, or resealing of any road or street.

The new subsection (3) makes failure to comply with subsection (1) an offence punishable by a maximum fine of \$500.

The new subsection (4) makes a person who offends against the provisions of subsection (1) liable for all damage thereby incurred.

*Clause 16* adds a new Fourteenth Schedule to the principal Act. The new Schedule sets out the Acts administered by the Ministry.

*Clause 17* rewrites subsection (6) of section 29 of the Public Works Amendment Act 1948, which relates to the taking, resumption, or allocation of land which is rendered unsuitable or inconvenient for occupation as the result of adjacent land being proclaimed road or street.

The subsection has been amended to empower the Minister to vest any such land in a person in exchange for land proclaimed road or street. In addition the Minister may vest any such land in the corporation of a county or town district. At present, such land may be vested only in the corporation of a borough. If no person or corporation is specified the land vests in the Crown.

*Clause 18* amends section 4 (7) of the Public Works Amendment Act 1963.

The amendment is intended to make it clear that a limited access road is not to be regarded as a road giving frontage to any land for the purpose of subdividing the land.

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*Hon. Mr Watt*

## PUBLIC WORKS AMENDMENT

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### ANALYSIS

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### 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 same, as follows:

**1. Short Title**—This Act may be cited as the Public Works Amendment Act 1973, and shall be read together with and deemed part of the Public Works Act 1928\* (hereinafter referred to as the principal Act).

\*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; 1967, No. 31; 1967, No. 113; 1970, No. 145; 1971, No. 124; 1972, No. 96

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting in the definition of the term “Minister” (as amended by section 2 (5) of the Ministry of Works Act 1943), after the word “Works”, the words “and Development”.

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(2) The said section 2 is hereby further amended by inserting, after the definition of the term “Minister”, the following definition:

“‘Ministry’ means the Ministry of Works and Development established by section 2A of this Act:”.

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(3) The said section 2 is hereby further amended—

(a) By inserting in paragraph (d) of the definition of the term “public work” (as substituted by section 3 (1) of the Public Works Amendment Act 1970), after the words “kindergarten within the meaning of the Education Act 1964”, the words, “, or any pre-school play centre recognised in accordance with regulations made under the Education Act 1964”:

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(b) By omitting from the said paragraph (d) (as so substituted) the words “or kindergarten”, and substituting the words “kindergarten, or pre-school play centre”:

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(c) By inserting, after paragraph (e) of the said definition, the following paragraph:

“(ca) Any police station, police training college, or residence for a member of the Police, and any other purpose in connection with any such police station, college, or residence:”.

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(4) Unless the context otherwise requires, every reference in any enactment, regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever, in force on the commencement of this Act,—

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(a) To the Minister of Works shall hereafter be read as a reference to the Minister of Works and Development:

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(b) To the Ministry of Works shall hereafter be read as a reference to the Ministry of Works and Development.

**3. New sections inserted**—(1) The principal act is hereby further amended by inserting, after section 2, the following sections:

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“**2A. Ministry of Works and Development**—There is hereby established a Department of State, to be called the Ministry of Works and Development, which, under the control of the

Minister, shall be charged with the administration of this Act and of the enactments specified in the Fourteenth Schedule to this Act and with such other functions as may be lawfully conferred on it.

5 “2B. **Functions of Ministry**—(1) The Ministry shall have and undertake such functions as are necessary for the due and proper administration of this Act and the other Acts administered by it.

10 “(2) Without limiting the general functions specified in subsection (1) of this section but subject to section 2D of this Act, the Ministry shall have the following functions:

15 “(a) The efficient execution of Government works, and projects and undertakings of national significance as directed by the Minister, including the investigation, design, construction, operation, and maintenance of such works, projects, and undertakings, having due regard to standards and costs and the best practical means whereby environmental conditions can be conserved, restored, or enhanced:

20 “(b) The assembly of information relating to the activities of the building and construction industry as a whole and the demands being made on the industry and their relation to available and potential resources:

25 “(c) The provision of advice to the Minister on the programming of Government works and on the priorities considered suitable for the building and construction industry as a whole, having regard to the matters referred to in paragraph (b) of this subsection:

30 “(d) The investigation of and research into techniques and materials used for building and construction work, and the dissemination of information throughout the building and construction industry:

35 “(e) The provision of advice and technical assistance to Government departments, local authorities, and other public bodies in connection with existing works or projects or with the development of proposals for new works or projects:

40 “(f) The provision of information, advice, and guidance to any person, body, undertaking, or authority on proposals for existing or proposed works or projects as directed by the Minister:

- “(g) The acquisition or leasing of land and buildings and the acquisition or hiring of plant, stores, and equipment for the purposes of the Ministry, ensuring their effective use and, when no longer required, providing for their disposal: 5
- “(h) The encouragement, investigation, and co-ordination of proposals for regional planning and for the development of natural resources, including the provision of advice, recommendations, and reports, as directed by the Minister: 10
- “(i) The preparation of reports and recommendations to the Minister or to other Government agencies on proposed Government works or existing Government works: 15
- “(j) The carrying out of inspections appropriate to the functions of the Ministry to ensure compliance with any regulations and standards laid down. 15
- “(3) In carrying out its functions the Ministry shall undertake such research and investigation as is considered by the Commissioner of Works to be appropriate and useful. 20
- “2c. **Powers of Minister**—The Minister shall be charged with the execution of Government works and may, for the purpose of enabling the Ministry to carry out any of its functions, give to the Commissioner of Works such directions as he thinks fit. 25
- “2d. **Other powers not affected**—Nothing in section 2B or section 2c of this Act shall affect the exercise by any other Minister of the Crown or Government department or by any local authority or public body or by any other person or authority of any powers for the time being conferred by any other Act. 30
- “2e. **Committees**—(1) The Minister may from time to time appoint such committees comprising 1 or more members as he thinks fit to advise or otherwise assist the Minister or the Commissioner of Works on such matters relating to the functions of the Ministry as the Minister may specify. 35
- “(2) Every member of a committee shall hold office at the pleasure of the Minister.
- “(3) Subject to any directions given to it by the Minister, every committee may regulate its own procedure. 40
- “(4) Every such committee is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

“(5) There may, if the Minister so directs, be paid to any member of a committee, out of money appropriated by Parliament for the purpose,—

5 “(a) Remuneration by way of fees, salary, or allowances in accordance with the Fees and Travelling Allowances Act 1951; and

“(b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of such committee—

10 and that Act shall apply accordingly.

“(6) No person shall, by reason only of his being a member of such a committee, be regarded as being employed in the State services for the purposes of the State Services Act 1962 or in the Government service for the purposes of the Super-  
15 annuation Act 1956.”

(2) Section 2 of the Ministry of Works Act 1943 is hereby repealed.

(3) Section 11 of the Civil Aviation Act 1964 is hereby amended by omitting from subsection (1) the words “sub-  
20 section (2) of section 2 of the Ministry of Works Act 1943”, and substituting the words “section 2c of the Public Works Act 1928”.

(4) Section 41 of the Housing Act 1955 is hereby consequentially amended by repealing subsection (1).

25 **4. Annual estimates**—The principal Act is hereby further amended by repealing subsection (2) of section 7 and the First Schedule.

**5. Certain land, etc., not to be entered on without consent**—Section 18 of the principal Act is hereby amended  
30 by inserting, after the word “railway”, the words “or a motorway”.

**6. Additional compensation for acquisition of designated land**—(1) Section 101B of the principal Act (as inserted by section 6 (1) of the Public Works Amendment Act 1970) is  
35 hereby amended by omitting from subsection (1) the expression “\$500”, and substituting the expression “\$1,500”.

(2) This section shall—

(a) Be deemed to have come into force on the 11th day of June 1973, in respect of Government works:

40 (b) Come into force on the passing of this Act, in respect of local works.



(3) Notwithstanding the provisions of paragraph (b) of subsection (2) of this section—

- (a) Every payment made before the passing of this Act but on or after the 11th day of June 1973 in accordance with section 101B of the principal Act (as amended by subsection (1) of this section) in respect of a local work is hereby validated and declared to have been lawfully made: 5
- (b) If a local authority has agreed to make any payment in accordance with the said section 101B (as so amended) in respect of land taken or acquired for a local work on or after the 11th day of June 1973, the local authority is hereby authorised to make that payment. 10

**7. Metric conversions**—(1) Section 101E of the principal Act (as inserted by section 6 (1) of the Public Works Amendment Act 1970) is hereby amended— 15

- (a) By omitting from subparagraph (i) of paragraph (a) of subsection (2) the words “30 miles”, and substituting the words “50 kilometres”: 20
- (b) By omitting from paragraph (b) of subsection (2) the words “30 miles”, and substituting the words “50 kilometres”:
- (c) By omitting from subsection (4) the words “30 miles”, and substituting the words “50 kilometres”: 25
- (d) By omitting from subsection (4) the words “50 miles”, and substituting the words “80 kilometres”.
- (2) Section 180 of the principal Act is hereby amended by omitting the words “one mile”, and substituting the words “1600 metres”. 30
- (3) Section 205 of the principal Act is hereby amended by omitting the word “mile”, and substituting the words “1600 metres”.

**8. Definition of railway**—Section 211 of the principal Act is hereby amended by omitting the words “or any special”. 35

**9. Railways to be authorised by Order in Council**—

- (1) The principal Act is hereby further amended by repealing sections 212 and 213, and substituting the following section:  
 “212. (1) Every railway shall be constructed only under the authority of the Governor-General by Order in Council. 40

“(2) Subsection (1) of this section shall not apply in respect of any railway not exceeding 3.25 kilometres in length intended to connect any other railway with a ballast pit or other undertaking required for the purposes of that other  
5 railway.

“(3) Land required for any such connecting railway may be taken as if the construction of such railway had been authorised under subsection (1) of this section.”

10 (2) Sections 215 and 345 of, and the Fifth, Sixth, Seventh, and Ninth Schedules to, the principal Act are hereby repealed.

(3) Notwithstanding the repeal of any enactment by this section, every railway the construction of which has been authorised or deemed to have been authorised under any such enactment or by any enactment continued in force by any  
15 such enactment, or under any special Act which is still in force, shall be deemed to have been authorised to be constructed under section 212 of the principal Act (as substituted by subsection (1) of this section), and so much of the Acts as are set out in the said Ninth Schedule shall continue  
20 in force and operate as if such repeal had not been made.

(4) Section 47 of the Government Railways Act 1949 is hereby amended by omitting from subsection (1) the words  
25 “, and for the purpose of section two hundred and twelve of the Public Works Act 1928 this Act shall in the case of each such railway and improvement be deemed to be a special Act”, and substituting the words “and authorised by an Order in Council made under section 212 of the Public Works Act 1928 (as substituted by section 9 (1) of the Public Works Amendment Act 1973)”.

30 **10. Power to make railways, railway stations, etc.**—Section 219 of the principal Act is hereby amended by omitting from subsection (1) the words “by a special Act”, and substituting the words “under this or any other Act”.

**11. Provisions of principal Act to apply to motorways—**  
35 Section 5 of the Public Works Amendment Act 1947 is hereby amended by omitting from subsection (1) the words “a special Act”, and substituting the words “an Order in Council made under section 212 of the principal Act”.

**12. Repealing provisions relating to Road Boards—**(1) The  
40 principal Act is hereby further amended by repealing sections 266 and 270.

(2) Section 33 of the Finance Act 1938 is hereby amended by omitting from subsection (1) the words “a Road Board,”.

**13. Amending documents**—The principal Act is hereby further amended by inserting, after section 330, the following section:

“330A. If any Proclamation, Order in Council, notice, declaration, or other document executed under this Act is found to contain an error, the Governor-General, Governor-General in Council, Minister, or other authorised person, as the case may require, may in a subsequent document of the same type amend the first-mentioned document to correct the error.”

**14. Shares in building-unit companies**—The principal Act is hereby further amended by inserting, after section 331, the following section:

“331A. (1) In this section, ‘building-unit company’ means a company registered under the Companies Act 1955 the articles of association of which provide that a registered holder of shares in the company is entitled, by virtue of being such holder, to occupy a specified portion of a building owned by the company.

“(2) On behalf of Her Majesty the Queen the Minister may purchase and shall be deemed always to have had the power to purchase any shares in the capital of any building-unit company, and may hold, sell, or otherwise dispose of the shares.

“(3) The Minister may from time to time exercise on behalf of Her Majesty the Queen all Her Majesty’s rights, powers, and privileges as the holder of any such shares.”

**15. Excavations near public works**—(1) The principal Act is hereby further amended by inserting, after section 336, the following section:

“336A. (1) Except with the prior written consent of the Minister, local authority, or other public authority having the control of a public work, and subject to such conditions as may be specified in the consent, no person shall—

“(a) In the case of any pole supporting an electric line, telephone line, or telegraph line, excavate or otherwise interfere with any land within 2.5 metres of the pole, if the excavation or interference is likely to disturb the pole or impair its stability:

5 “(b) In the case of any tower or pylon supporting any such line or supporting any aerial ropeway, excavate or otherwise interfere with any land within 6 metres of the outer edge of the visible foundations of the tower or pylon, if the excavation or interference is likely to disturb the tower or pylon or impair its stability:

10 “(c) In the case of any other public work, excavate or otherwise interfere with any land in the vicinity of the work if the excavation or interference is likely to produce, either directly or indirectly, a subsidence on to that work or a subsidence of that work or of the soil thereunder.

15 “(2) Nothing in subsection (1) of this section shall apply in respect of normal agricultural cultivation or the formation, repair, sealing, or resealing of any road or street.

20 “(3) Every person who wilfully contravenes or wilfully fails to comply with the provisions of subsection (1) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$500.

25 “(4) Every person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be civilly liable for all damage to the public work arising from the contravention or non-compliance, whether or not he has been prosecuted under subsection (3) of this section.”

(2) Section 42 of the Public Works Amendment Act 1948 is hereby repealed.

30 16. New Fourteenth Schedule added—The principal Act is hereby further amended by adding the Fourteenth Schedule set out in the Schedule to this Act.

17. Taking and closing of roads and streets—(1) Section 29 of the Public Works Amendment Act 1948 is hereby amended by repealing subsection (6), and substituting the following subsections:

35 “(6) If, as the result of any land being proclaimed as a road or street, any adjacent land is rendered unsuitable or inconvenient for occupation by the owner, lessee, or licensee, the Minister may, subject to subsection (6B) of this section, by the same or by a subsequent notice,—

40 “(a) Take the adjacent land; or

“(b) Resume it, if it is vested in the Crown and is comprised in a lease or licence; or

- “(c) Allocate it to the purposes of this subsection and of subsection (6A) of this section, if it is owned by or vested in the Crown for any purpose.
- “(6A) On the taking, resumption, or allocation of any land under subsection (6) of this section it shall vest in— 5
- “(a) The person specified in the notice as the person to whom it is granted in exchange for land proclaimed as road or street; or
- “(b) If no such person is specified, the corporation of the county, borough, or town district specified in the notice; or 10
- “(c) If no such person or corporation is specified, the Crown—
- free from all reservations, restrictions, trusts, rights, titles, estates, or interests of any kind whatsoever except so far as 15 may be otherwise provided for in the notice.
- “(6B) No land shall be taken, resumed, or allocated under subsection (6) of this section without the written consent of the owner, lessee, or licensee, and of every other person having a registered estate or interest in the land. 20
- “(6C) Any land taken, resumed, or allocated under subsection (6) of this section and vested, under subsection (6A) of this section, in—
- “(a) The corporation of a county, borough, or town district, may be dealt with by the corporation in all respects 25 as if it had been comprised in a road or street closed under this section:
- “(b) The Crown, shall be deemed to be stopped Government road.”
- (2) The Counties Amendment Act 1972 is hereby consequentially amended by repealing so much of the Second Schedule as relates to subsection (6) of section 29 of the Public Works Amendment Act 1948. 30

**18. Limited access roads**—Section 4 of the Public Works Amendment Act 1963 is hereby amended by inserting in 35 subsection (7), after the word “subdivide”, the words “or sell”.

SCHEDULE

Section 16

NEW FOURTEENTH SCHEDULE TO PRINCIPAL ACT

“FOURTEENTH SCHEDULE

Section 2A

ACTS ADMINISTERED BY MINISTRY OF WORKS AND DEVELOPMENT

- The Auckland Harbour Bridge Act 1950.
- The Christchurch-Lyttelton Road Tunnel Act 1956.
- The Engineering Associates Act 1961.
- The Engineers Registration Act 1924.
- The Geothermal Energy Act 1953.
- The National Roads Act 1953.
- The Quantity Surveyors Act 1968.
- The Soil Conservation and Rivers Control Act 1941.
- The Town and Country Planning Act 1953.
- The Tramways Act 1908.
- The Underground Water Act 1953.
- The Urban Renewal and Housing Improvement Act 1945.
- The Waikato Valley Authority Act 1956.
- The Water and Soil Conservation Act 1967.”