

PUBLIC WORKS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Public Works Act 1928.

Clause 1 relates to the Short Title.

Clause 2 inserts a new section 32A in the principal Act. The new section empowers any designating authority to acquire land by agreement and to develop and construct buildings on such land or on any other land owned by the designating authority for the purpose of granting the land as compensation for the taking or acquisition of designated land.

Clause 3 amends section 101A of the principal Act by extending the definition of the term "designated" in relation to any land to include—

- (a) Land taken for or in connection with irrigation or defence works or purposes;
- (b) Land taken for or in connection with electricity works;
- (c) Land that is the subject of a formal declaration by the Minister that it is required for irrigation, defence, or electricity works.

The effect of this is that when any land is taken for any such purpose the owner will be entitled to the payment of solatium and additional compensation under the present Part IIIA of the principal Act despite the fact that the land was not designated in the district scheme for the purpose for which it was taken.

The clause is retrospective to 11 August 1976.

Clause 4 inserts a new Part IIIB in the principal Act to provide for the granting of land as an alternative to compensation in cash for the taking or acquisition of designated land.

The new section 101G defines various terms used in the new Part IIIB. The definition of the term "designated" as extended by *clause 3* applies to the new Part.

The new section 101H provides that where any land that has been designated or made the subject of a requirement and which—

- (a) Contains a dwelling which was occupied by the owner as a private residence for himself and his family (if any) immediately before the giving of vacant possession; or
- (b) Was used by the owner for farming, commercial, or industrial purposes—

is taken or acquired, otherwise than at the request of the owner, for or in connection with the public work for which it was designated or made the subject of a requirement, and the designating authority is satisfied that land comparable to that so taken or acquired is not readily available on the market for sale or other disposition to the owner at a reasonable price for the

re-establishment in the same area of his place of residence or his farming, commercial, or industrial undertaking, the designating authority may grant to the owner in payment or satisfaction or in part payment or part satisfaction of the compensation to which the owner may otherwise be entitled—

- (c) Crown land or other land of the designating authority freely available for sale or other disposition; or
- (d) Land reserved, taken, purchased, or acquired for any public work which is no longer required for any public work or which is no longer required for the use, convenience, or enjoyment of any public work; or
- (e) Land acquired, and developed or developed and built on, under section 32A of the principal Act (as inserted by *clause 2*).

Subsection (2) provides that subsection (1) shall not apply unless the owner of the land—

- (a) Was the owner, or the spouse of the owner, of the land on the date on which it was designated or made the subject of a requirement; and
- (b) Was the owner of the land on the date on which the land was acquired by the designating authority.

Under subsection (3), land granted in full payment or satisfaction of compensation must be of a standard comparable to that of the land taken or acquired.

Subsection (4) applies the provisions of section 99 of the principal Act to the granting of land. That section provides for surveys and the issue of certificates of title by the District Land Registrar, and for the bringing forward, with the consent of the grantee, of encumbrances to which the land taken was subject.

Subsection (5) provides that, subject to section 101I (which relates to a person who is aged or infirm and lacks means), the designating authority may enter into an agreement for the repayment to the designating authority of any money agreed to be due by way of equality of exchange.

Subsections (6) to (8) provide for any money agreed to be due to the designating authority to be a charge on the land granted and for the charge to be registered under the Statutory Land Charges Registration Act 1928.

The new section 101I provides that where any money is owed to a designating authority under section 101H (5) by a person whom the designating authority determines, at the time of the grant of land, is aged or infirm and lacks means, the designating authority may determine that no interest shall be payable in respect of the whole or any part of that money; and the money shall be repaid to the authority—

- (a) On the sale of the land granted; or
- (b) On the vacation of the land by the person to whom the land is granted or (if that person was married when such land was granted) by the surviving partner of the marriage; or
- (c) On the death of the person to whom the land was granted, or (if that person was married when such land was granted) on the death of the surviving partner of the marriage—

whichever first occurs.

Clause 5 adds a new Fifteenth Schedule to the principal Act setting out the form of certificate for the issue of certificates of title for land granted under the new Part IIIA.

Hon. Mr W. L. Young

PUBLIC WORKS AMENDMENT

ANALYSIS

Title

1. Short Title
2. Acquisition of land for granting in exchange
3. Interpretation
4. New Part inserted

PART IIIb

ALTERNATIVE COMPENSATION

- 101g. Interpretation
- 101h. Granting of land as compensation
- 101i. Provisions relating to persons who are aged or infirm and lack means
5. New Fifteenth Schedule Schedule

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,
5 as follows:

1. **Short Title**—This Act may be cited as the Public Works Amendment Act 1976, and shall be read together with and deemed part of the Public Works Act 1928* (hereinafter referred to as the principal Act).
- 10 2. **Acquisition of land for granting in exchange**—The principal Act is hereby amended by inserting, after section 32, the following section:

*Reprinted 1975, Vol. 3, p. 2283

“32A. Any designating authority, as defined in section 101A (2) of this Act, may acquire any estate or interest in any land under section 32 of this Act and develop and construct buildings on such land or on any other land owned by the designating authority for the purpose of granting the land or any part of it in payment or satisfaction or in part payment or part satisfaction of the compensation payable to the person entitled for any land taken, purchased, or acquired for or in connection with a public work.” 5

3. Interpretation—(1) Section 101A (2) of the principal Act (as substituted by section 30 (1) of the Public Works Amendment Act 1975) is hereby amended by repealing the definition of the term “designated”, and substituting the following definition: 10

“‘Designated’ means, in relation to any land,— 15

“(a) Designated for a public work in an operative or proposed district scheme under the Town and Country Planning Act 1953; or

“(b) Made subject to a notice of intention to take, or to the powers conferred by a middle-line Proclamation, issued under this Act; or 20

“(c) Included in a reclamation area or a comprehensive urban renewal area under Part II or Part IIIA of the Urban Renewal and Housing Improvement Act 1945; or 25

“(d) Taken for or in connection with irrigation or defence works or purposes; or

“(e) Taken for or in connection with any work or purpose authorised under or by section 11 of the Electricity Act 1968; or 30

“(f) Made the subject of a formal declaration by the Minister, by public notification or by notice served on the owner of the land, that the land is required for or is to be taken for or in connection with any work or purpose specified in paragraph (d) or paragraph (e) of this definition.” 35

(2) This section shall be deemed to have come into force on the 11th day of August 1976.

4. **New Part inserted**—The principal Act is hereby further amended by inserting, after section 101F (as inserted by section 31 (1) of the Public Works Amendment Act 1975), the following new Part:

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“PART III B

“ALTERNATIVE COMPENSATION

10 “101G. **Interpretation**—In this Part of this Act, unless the context otherwise requires, ‘designated’, ‘designating authority’, ‘land’, ‘owner’, and ‘requirement’ have the same meanings as in section 101A of this Act.

“101H. **Granting of land as compensation**—(1) Notwithstanding anything in section 35 of this Act, where any land that has been designated or made the subject of a requirement and which—

15 “(a) Contains a dwelling which was occupied by the owner as a private residence for himself and his family (if any) immediately before the giving of vacant possession; or

20 “(b) Was used by the owner for farming, commercial, or industrial purposes—

is taken or acquired, otherwise than at the request of the owner, for or in connection with the public work for which it was designated or made the subject of a requirement, and the designating authority is satisfied that land comparable to that
25 for sale or other disposition to the owner at a reasonable price for the re-establishment in the same area of his place of residence or his farming, commercial, or industrial undertaking, the designating authority may, with the consent of the owner,
30 grant to the owner in payment or satisfaction or in part payment or part satisfaction of the compensation to which the owner may otherwise be entitled—

“(c) Crown land or other land of the designating authority freely available for sale or other disposition; or

35 “(d) Land reserved, taken, purchased, or acquired for any public work which is no longer required for any public work or which is no longer required for the use, convenience, or enjoyment of any public work; or

40 “(e) Land acquired, and developed or developed and built on, under section 32A of this Act.

“(2) Subsection (1) of this section shall not apply in respect of the owner of any land unless the owner—

“(a) Was the owner, or the spouse of the owner, of the land on the date on which it was designated or made the subject of a requirement; and

“(b) Was the owner of the land on the date on which the land was acquired by the designating authority.

“(3) Any land granted under subsection (1) of this section in full payment or satisfaction of compensation shall be of a standard comparable to that of the land so taken or acquired.

“(4) The provisions of section 99 of this Act shall, so far as they are applicable and with the necessary modifications, apply in respect of the granting of any land under this section:

“Provided that the reference in subsection (2) of that section to a certificate in the form set out in the Twelfth Schedule to this Act shall be read as a reference to a certificate in the form set out in the Fifteenth Schedule to this Act, and, where the designating authority is a local authority, the latter certificate may be certified by the authority.

“(5) Subject to section 101 of this Act, in granting to the person so entitled any such land, the designating authority may enter into an agreement with that person for the repayment to the designating authority of any money agreed to be due by way of equality of exchange on such terms and conditions (including interest) as may be agreed upon by the designating authority and that person.

“(6) Any money agreed to be so due shall constitute a debt due to the designating authority and shall be a charge on the estate or interest in the land so granted to that person and an instrument of charge may be registered against that land under the provisions of the Statutory Land Charges Registration Act 1928.

“(7) Except with the consent of the District Commissioner of Works, or General Manager of Railways, or any designating authority which is a local authority, as the case may require, no dealing in connection with any such estate or interest (other than a dealing which is not required to be executed by the registered proprietor) shall be registered while a charge under subsection (6) of this section is registered against the land.

“(8) For the purposes of the Statutory Land Charges Registration Act 1928 notice of any charge under subsection (6) of this section and any certificate releasing any such charge, and any consent under subsection (7) of this section,
5 may be signed by a District Commissioner of Works or the General Manager of Railways or designating authority which is a local authority, as the case may require.

“101I. **Provisions relating to persons who are aged or infirm and lack means**—Where any money is owed to a designating
10 authority under section 101H (5) of this Act by a person whom the designating authority determines, at the time of the grant under that section, is aged or infirm and lacks means, the designating authority may determine that no interest shall be payable in respect of the whole or any part of that
15 money; and the money shall be repaid to the authority—

“(a) On the sale of the land so granted; or

“(b) On the vacation of the land so granted by the person to whom the land is granted or (if that person was married when the land was granted) by the surviving partner of the marriage; or
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“(c) On the death of the person to whom the land was so granted or (if that person was married when the land was granted) on the death of the surviving partner of the marriage—
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whichever first occurs.”

5. New Fifteenth Schedule—The principal Act is hereby further amended by adding the Fifteenth Schedule set out in the Schedule to this Act.

Section 5**SCHEDULE**

NEW FIFTEENTH SCHEDULE TO PRINCIPAL ACT

"FIFTEENTH SCHEDULE

CERTIFICATE UNDER SECTION 99 OF THE PUBLIC WORKS ACT 1928 (AS APPLIED BY SECTION 101H (4) OF THE PUBLIC WORKS ACT 1928)

Name, Occupation, and Address of person to whom land is granted:

Nature of estate or interest granted:

Area and description of land to be granted in exchange *or* (part exchange) for land taken, purchased, or acquired:

Date from which entitled:

Encumbrances, liens, and interests to affect land to be granted:

Reservations and restrictions to affect land to be granted:

I hereby certify that the above particulars are correct and that the Minister of Works and Development, Minister of Railways, or other designating authority [*Describe*] has approved the granting of such land, and I hereby further certify that the District Land Registrar is hereby authorised to issue under the Land Transfer Act 1952 accordingly a certificate of title in form 1 in the First Schedule to that Act.

Commissioner of Works
or
 Assistant Commissioner of Works
or
 General Manager of Railways
or
 Designating Authority."