

# **Crown Pastoral Land Reform Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill is an omnibus Bill that amends the Crown Pastoral Land Act 1998 (the **CPLA**) and the Land Act 1948, and is introduced under Standing Order 263(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That single broad policy is to amend those Acts in the way indicated below to end tenure review and redesign the regulatory system to deliver improved Crown pastoral land outcomes.

### **Overall purpose and objectives**

The Crown owns approximately 1.2 million hectares of Crown pastoral land, largely in the South Island high country, making up 5% of New Zealand’s total land area. Most of this land is leased by the Crown for pastoral farming. This land encompasses some of New Zealand’s most iconic landscapes and is a taonga for New Zealanders.

In administering this land, Land Information New Zealand (**LINZ**) works closely with leaseholders who farm and live on the land, and have a strong connection to it. Some of these families have lived on the land for multiple generations.

The land also has particular significance for Māori—in particular Ngāi Tahu, as the majority of Crown pastoral land sits inside the takiwā of the iwi. Ngāi Tahu’s Treaty settlement acknowledged their rangatiratanga or right to retain their full tribal authority and control over their lands and all other valued possessions, including in relation to Crown pastoral land. Ngāi Tahu are kaitiaki (stewards) of their takiwā, based on the principle of “ki uta ki tai” or “mountains to the sea”—the integrated management of all the iwi’s resources.

There has been increasing public concern about the administration of Crown pastoral land by LINZ, and a loss of biodiversity and landscape values on current and former pastoral land over time.

This Bill makes changes to ensure that LINZ will administer Crown pastoral land in a way that maintains or enhances the ecological, landscape, cultural, heritage, and scientific values of the land for present and future generations, while providing for ongoing pastoral farming of the land.

In effect, these changes are intended to better manage and control any further development or intensification of pastoral farming activity on Crown pastoral land and encourage sustainable ongoing use of the land for pastoral farming and recreation.

The changes include—

- ending the tenure review process, which has resulted in much former Crown pastoral land being freeholded and subject to more intensive farming:
- moving towards an outcomes-based approach to encourage pastoral farming that is sustainable, and decision making that better recognises impacts on inherent values:
- providing a clearer, more transparent, statutory decision-making process, with stronger accountability mechanisms and more opportunity for public input:
- supporting strong and enduring Crown-Māori relationships and recognising the relationship of tangata whenua with their ancestral lands.

The Bill also outlines arrangements to provide for an efficient and fair transition for leaseholders.

### **Ending tenure review**

Tenure review is a voluntary process that provides for land with significant conservation values to be returned to full Crown ownership, and for land that has economic value to be freeholded to the pastoral leaseholder.

The Bill ends the tenure review process by repealing the relevant sections of the CPLA.

### **Redesigning regulatory system to deliver improved Crown pastoral land outcomes**

#### *Outcomes of Bill*

The Bill introduces a set of outcomes that anyone exercising powers under this Bill and the Land Act 1948 must seek to achieve.

In particular, the Commissioner of Crown Lands (the **Commissioner**) must seek to achieve the outcomes when making decisions on applications made by leaseholders to undertake certain activities on the land. The Bill sets out a process that the Commissioner must follow to do this.

The process set out in the Bill comprises 2 main parts—a classification of pastoral activities that leaseholders may want to undertake, according to the impact of those activities on inherent values, and a statutory decision-making process that applies to those activities classified as discretionary.

*Classification of activities*

The Bill includes a schedule classifying pastoral farming activities into—

- permitted pastoral activities—leaseholders may undertake these activities without applying for consent:
- discretionary pastoral activities—leaseholders must apply for a consent to undertake these activities:
- prohibited pastoral activities—leaseholders may not undertake these activities.

This classification is intended to improve the timeliness and efficiency of the decision-making process. It will enable LINZ to focus its resources on higher-risk activities, while allowing leaseholders to undertake activities that are part of day-to-day farming and have no more than minor impacts.

The Bill also includes provisions setting out the criteria used to classify activities. The schedule can be amended by Order in Council following public consultation, and will be reviewed regularly.

Activities are considered discretionary and remain so unless they meet the criteria for being permitted or prohibited.

*Statutory decision-making process*

The Bill sets out the process that the Commissioner must follow when making decisions on applications to undertake discretionary pastoral activities. The process includes—

- the application of an effects-based test aimed at both assessing the level of adverse effects of an activity and minimising those effects as far as possible:
- a “pastoral farming” test to establish whether an activity that has more than minor adverse effects on inherent values is necessary to enable the leaseholder to exercise their rights and obligations under the lease:
- a final decision-making stage where the Commissioner can carry out a range of further considerations before approving the application in full or in part, with or without conditions, or declining it.

During the process, the Commissioner will be required to consult the Director-General of Conservation and engage with Māori. The specific points at which this will occur will be worked through operationally with DOC and the relevant iwi.

There is no obligation on the Commissioner to approve any discretionary pastoral consent application.

The Bill also sets out a decision-making process in relation to applications for easements and recreation permits, to ensure that these decisions are consistent with the outcomes of the Bill.

*Monitoring and enforcement*

The Bill provides for more effective monitoring and enforcement to help ensure that the regulatory system is delivering on the outcomes of the Bill over time.

### **Increasing transparency, accountability, and public involvement**

The Bill includes changes aimed at increasing public confidence by improving the transparency of the Commissioner's decision making and holding LINZ more clearly to account for its administration of Crown pastoral land.

This includes clarifying roles and responsibilities, in particular LINZ's responsibility for the overall regulatory system and the Commissioner's role of statutory decision maker within that system.

Other changes are aimed at—

- strengthening accountability for roles and responsibilities:
- increasing transparency by requiring publication of the Commissioner's decisions and the rationale behind them:
- providing for increased public involvement.

### **Supporting the Crown-Māori relationship**

The Bill aims to support the Crown in its relationships with Māori under the Treaty of Waitangi, including by—

- requiring the Crown to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu, and other taonga in relation to considering discretionary consents and any protection mechanisms for Crown pastoral land:
- requiring the Crown to consult iwi in developing the Crown Pastoral Land Strategic Intentions document, regulatory instruments, and a monitoring framework for Crown pastoral land.

The Bill also reflects that obligations under the Treaty of Waitangi sit with the Crown, rather than with leaseholders.

### **Rights and responsibilities of leaseholders**

The stewardship role of leaseholders will continue to be a core feature of the regulatory system. The Bill contains no changes to the leaseholders' tenure, right to pasture, right to quiet enjoyment of their leasehold properties, rights of renewal, or responsibilities for weed and pest control.

### **Transitional arrangements**

Transitional mechanisms in the Bill are intended to provide an efficient and fair transition to the updated regulatory regime for leaseholders. The Bill's key transitional mechanisms clarify that—

- discretionary consent applications that are being processed when the new law comes into force will be considered under the new system:
- all tenure reviews will cease—except where the Commissioner has put a substantive proposal to the leaseholder.

### Departmental disclosure statement

Land Information New Zealand is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=307>

### Regulatory impact statements

Land Information New Zealand produced regulatory impact statements in April 2019 and February 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/high-country-advice>
- <https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### Clause by clause analysis

*Clause 1* relates to the Title.

*Clause 2* relates to commencement.

## Part 1

### Amendments to Crown Pastoral Land Act 1998

*Clause 3* provides that the Crown Pastoral Land Act 1998 is the principal Act amended by this Part.

*Clause 4* repeals the Long Title of the principal Act. The Long Title is replaced by the purpose provision inserted by *clause 5*.

*Clause 5* inserts *new section 1A*, which states the purpose of the principal Act. The purpose is to—

- provide for the administration of pastoral land; and
- state the outcomes that decision-makers under the Act and relevant provisions of the Land Act 1948 are to seek to achieve.

*Clause 6* amends section 2 of the principal Act, which defines certain terms used in the Act. New definitions are inserted, including definitions of the terms discretionary pastoral activity, permitted pastoral activity, and prohibited pastoral activity.

In relation to pastoral activities,—

- a permitted pastoral activity is an activity that does not require any consent under the principal Act, but may require permission under some other enactment:
- a discretionary pastoral activity requires consent under *new section 11*, and may also require permission under some other enactment:
- a prohibited pastoral activity is an activity that cannot be consented to, and cannot be applied for, under the principal Act.

The definition of inherent value is amended to—

- include a value arising from a landscape attribute or characteristic of a natural resource:
- remove the reference to recreational values:
- exclude values relating to or associated with farming activity.

In the principal Act and the Bill,—

- the term Commissioner means the Commissioner of Crown Lands:
- the term pastoral land means Crown land for the time being so classified under section 51 of the Land Act 1948.

*Clause 7* inserts *new section 2A* into the principal Act, which provides that the transitional, savings, and related provisions contained in *new Schedule 1AA* have effect for the purposes of this Bill.

*Clause 8* replaces Part 1 of the principal Act with *new sections 4 to 23*. Part 1 currently relates to pastoral leases and occupation licences. *New Part 1* carries over many of these provisions, but significantly changes the decision-making processes that relate to activities that may be undertaken on pastoral land by leaseholders and licence holders, as well as applicants for easements and recreation permits.

#### *Outcomes, activities on pastoral land, and decision-making process*

*New section 4* states the outcomes that decision-makers under the principal Act and the Land Act 1948 are to seek to achieve.

*New section 5* requires the Crown to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu, and other taonga where decisions are made in relation to pastoral land activities.

*New section 6* provides for the classification of pastoral activities on pastoral land as follows:

- activities described in *new sections 7 to 9* (which are currently provided for in sections 15 and 16 of the principal Act, and relate to the burning of vegetation and activities that affect or disturb soil) require consent under *new section 11* (if the activities are neither permitted activities nor prohibited activities under *new Schedule 1AB*):

- *new Schedule IAB* classifies pastoral activities as permitted pastoral activities, discretionary pastoral activities (currently provided for in section 18 of the principal Act), and prohibited pastoral activities.

*New section 7* relates to the burning of vegetation, which may be undertaken if classified as a permitted pastoral activity or consented to by the Commissioner under *new section 11*.

*New section 8* relates to activities that affect or disturb the soil, which may be undertaken on the same basis as applies to the burning of vegetation.

*New section 9* contains supplementary provisions relating to soil disturbance carried over from the current section 16.

*New section 10* requires applicants who wish to undertake any activity on pastoral land to provide sufficient information to enable the Commissioner to assess their applications.

*New section 11* sets out the decision-making options available to the Commissioner when considering an application—

- to undertake a discretionary pastoral activity; or
- for the grant of a recreation permit that relates to pastoral land; or
- for the grant, variation, or revocation of an exemption from a stock limitation (as provided for in *new section 16*).

The Commissioner must—

- decline to grant the application; or
- grant the application wholly or in part, in which case the Commissioner may impose any conditions, limitations, directions, or restrictions that the Commissioner thinks necessary (including for the purpose of reducing the adverse effects on inherent values).

On granting an application, the Commissioner must specify the period within which the activity must be carried out.

Every application that is accepted for consideration must be considered in accordance with *new section 11(3)* and in accordance with the decision-making process set out in *new section 12*.

*New section 12* sets out the decision-making test for discretionary pastoral activities (other than recreation permits). This involves a 2-step test as follows:

*Step 1*

- the Commissioner considers the affected inherent values, the level of adverse effects, and the availability of any reasonable alternatives:
- the Commissioner must not have regard to offsetting:
- if the Commissioner considers the residual adverse effects are more than minor, the Commissioner proceeds to step 2:

- if the Commissioner considers the residual adverse effects are no more than minor, the Commissioner must decide whether to grant the consent:

*Step 2*

- the Commissioner must be satisfied that the pastoral activity is necessary to enable the leaseholder or licensee to exercise their rights and obligations under their lease or licence:
- the Commissioner must take into account at least 1 of the factors set out in *subsection (5)*, but not take into account any factors set out in *subsection (6)*:
- the Commissioner may grant consent if satisfied that there is reason to consent:
- the Commissioner must decline to consent if not satisfied that there is reason to consent.

*New section 13* sets out a decision-making test that applies to applications for recreation permits that relate to pastoral land (which are provided for in section 66A of the Land Act 1948).

*Tenure and related provisions*

*New sections 14 to 22A* carry over provisions currently in Part 1 of the principal Act. Two significant provisions are as follows:

- *new section 16* relates to stock limitations (currently provided for in section 9 of the principal Act) and applies *new sections 10 to 12* to applications for the grant, variation, or revocation of an exemption from any stock limitation (as if it were an application for a discretionary pastoral activity), except in a case where a lease is transferred under section 89 of the Land Act 1948. Where a lease is transferred, the Commissioner can grant, vary, or revoke the exemption contemporaneously with the transfer without going through the process in *new sections 10 to 12* (these are cases where the exemptions provide for stock numbers and types equal to, or lower than, the previous holder's exemption):
- *new section 21* carries over the requirement currently in section 17 of the principal Act that a person obtain any necessary permission under any other enactment before undertaking a permitted pastoral activity or discretionary pastoral activity.

*Monitoring, strategic intentions, and reporting*

*New section 22B* requires the chief executive of Land Information New Zealand to prepare a monitoring framework for the purpose of the principal Act. The first monitoring framework has to be prepared and publicly released not later than 18 months after this section comes into force.

*New section 22C* requires the Commissioner to monitor compliance by any holder of a reviewable lease, reviewable licence, easement, or recreation permit.

*New section 22D* requires the chief executive and the Commissioner to prepare a strategic intentions document setting out the Crown's pastoral land strategic intentions.



The first strategic intentions document has to be prepared and publicly released not later than 18 months after this section comes into force.

*New section 22E* requires the Commissioner to publicly report on—

- decisions that determine applications for consent to undertake a discretionary pastoral activity;
- decisions that determine applications for a rehearing under section 17 of the Land Act 1948;
- enforcement decisions.

#### *Application of Land Act 1948*

*New section 23* carries over current section 23 of the principal Act, which provides that nothing in this Part limits or affects the continued application of the Land Act 1948 to any reviewable instrument or any land.

#### *Repeal of tenure review (Part 2)*

*Clause 9* repeals Part 2 of the principal Act, which contains the tenure review regime. As a consequence of the repeal, it is necessary to provide how existing proposals are to be dealt with and to amend references in the other Parts of the principal Act to provisions that are repealed.

The transitional, savings, and related provisions contained in *new Schedule 1AA* relate to pending applications for preliminary proposals, substantive proposals, or consents.

The consequential amendments that are necessary with the repeal of Part 2 are set out in *Schedule 3* of this Bill. Currently, various provisions of Part 2 are incorporated by reference elsewhere in the principal Act. *New Schedule 1AC* sets out the provisions of Part 2 that need to be preserved for this purpose.

#### *Further amendments to principal Act*

*Clause 10* amends section 83 of the principal Act, which states the objects of Part 3 of the Act. The amendment ensures that recreational values are protected under this Part, which relates to reviews of non-pastoral Crown land.

*Clause 11* amends section 84 of the principal Act, which sets out matters to be taken into account by the Commissioner under Part 3 of the Act, to require the Commissioner to take into account the outcomes stated in *new section 4*.

*Clause 12* amends section 86 of the principal Act, which applies where the Commissioner reviews land held under an unrenovable occupation licence. Section 86 states the different designations available to the Commissioner in these cases. This clause expands the options available to the Commissioner by providing for—

- land to be designated as unclassified Crown land;
- existing classified pastoral land to be added to an existing pastoral lease or leased under a new pastoral lease:

- land to be added to an existing special lease or leased under a new special lease.

*Clause 13* inserts *new section 87A* into the principal Act, and relates to designations that require the Minister of Land Information's approval. This section requires the Minister's approval before a preliminary proposal or substantive proposal designates land as land to be—

- added to an existing pastoral lease or special lease:
- leased under a new pastoral lease or special lease:
- reclassified as a different form of Crown land:
- disposed of in fee simple.

#### *New Part 4A*

*Clause 14* inserts *new Part 4A* into the principal Act (*new sections 100A to 100O*).

*New section 100A* enables the Commissioner to recover the actual and reasonable costs of any action taken to remedy or adequately mitigate a notified breach or alleged breach by the holder of a reviewable instrument or a consent granted under *new section 11*.

*New sections 100B and 100C* provide for the Commissioner to accept enforceable undertakings given by holders of reviewable instruments or consents granted under *new section 11*.

*New sections 100D to 100J* provide for infringement offences relating to specified contraventions. The infringement offences are—

- burning vegetation without a consent (if a consent is required by *new section 7*):
- affecting or disturbing soil without a consent (if a consent is required by *new section 8 or 9*):
- contravening a stock limitation or an exemption from a stock limitation:
- undertaking an activity without a recreation permit (if a permit is required under section 66A of the Land Act 1948):
- felling, selling, or removing any timber without a consent (if a consent is required under section 100 of the Land Act 1948).

*New section 100K* carries over the current section 19 of the principal Act, which enables the Commissioner to enforce breaches of statutory or contractual provisions relating to pastoral leases or licences.

*New section 100L* enables the classifications in *new Schedule 1AB* to be amended by Order in Council on the recommendation of the Minister made in accordance with the section.

*New section 100M* requires the chief executive to review *new Schedule 1AB* every 5 years.

*New section 100N* enables regulations to be made for the purpose of the principal Act. *New section 100O* enables the Commissioner and the chief executive, respectively, to set standards and issue directives on certain matters. The standards and directives have to be published.

*Clause 15* inserts *new Schedules 1AA, 1AB, and 1AC*.

*Clause 16* consequentially amends the principal Act as set out in *Schedule 3*.

## **Part 2**

### **Amendments to Land Act 1948**

*Clause 17* provides that *Part 2* amends the Land Act 1948.

*Clause 18* amends section 17 of the Land Act 1948 to enable persons aggrieved by decisions of the Commissioner under the Crown Pastoral Land Act 1998 (for example, decisions under *new sections 100A* (remedial action) and *100B* (enforceable undertakings) to apply for a rehearing under section 17).

*Clause 19* amends section 24 of the Land Act 1948 to provide that the Commissioner can support the New Zealand Walking Access Commission in meeting its public access objective in relation to pastoral land (as far as practicable).

*Clause 20* amends section 60 of the Land Act 1948 to—

- enable the Commissioner to take into account the outcomes stated in *new section 4* of the Crown Pastoral Land Act 1998 when considering whether to grant an easement over or under pastoral land;
- require the Commissioner to consult the Director-General of Conservation before granting an easement over or under pastoral land.

*Clause 21* amends section 66A of the Land Act 1948 to make the granting of recreation permits subject to the process requirements in *new section 13* of the Crown Pastoral Land Act 1998.

*Clause 22* amends section 100 of the Land Act 1948 to provide that *new sections 10 to 12* of the Crown Pastoral Land Act 1998 apply to activities undertaken under section 100. That section requires the Commissioner's prior consent before a lessee or licensee can fell, sell, or remove any timber, tree, or bush growing, standing, or lying on the land.

### **Schedules**

*Schedule 1* of the Bill contains *new Schedule 1AA* of the Crown Pastoral Land Act 1998 (transitional, savings, and related provisions).

*Clause 1* of *new Schedule 1AA* defines the terms amendment Act and commencement date for the purposes of this schedule.

*Clause 2* provides that pending substantive proposals under Part 2 of the Crown Pastoral Land Act 1998 are to continue to be dealt with in accordance with that Part.

*Clause 3* provides that tenure reviews under Part 2 of the Crown Pastoral Land Act 1998 are discontinued if a substantive proposal has not been put to the holder of a reviewable instrument before the commencement date defined in *clause 1*.

*Clause 4* provides that applications for consents, permits, or easements will be dealt with under the provisions in *new Part 1* of the Crown Pastoral Land Act 1998 if lodged but not finally dealt with before the commencement date.

*Clause 5* preserves other existing reviews of unrenovable occupation licences.

*Clause 6* excludes the right to compensation for the effects of the amendment Act.

*Schedule 2* of the Bill contains *new Schedules IAB and IAC*.

*New Schedule IAB* classifies pastoral activities for the purpose of the principal Act. The 3 categories of pastoral activities are—

- permitted pastoral activities (for which consent is not required under the principal Act, but permission may be required under other enactments) such as controlling invasive exotic pest plants:
- discretionary pastoral activities (which the Commissioner may consent to or decline under *new section 11*) such as providing new irrigation, burning vegetation, or clearing indigenous vegetation:
- prohibited pastoral activities (for which consent cannot be given or applied for under the principal Act).

*New Schedule IAC* contains the text of provisions in Part 2 of the principal Act (which is repealed by this Bill) that are referred to elsewhere in the Act. Where the principal Act refers to any of those provisions, the cross-reference is to be read as a reference to the corresponding provision set out in *new Schedule IAC*.

*Schedule 3* contains consequential amendments to the principal Act.

*Hon Eugenie Sage*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Crown Pastoral Land Reform Act **2020**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent. 5

**Part 1**

**Amendments to Crown Pastoral Land Act 1998**

**3 Principal Act**

This Part amends the Crown Pastoral Land Act 1998 (the **principal Act**). 10

**4 Long Title repealed**

Repeal the Long Title.

**5 New section 1A inserted (Purpose)**

After section 1, insert:

**1A Purpose** 15

The purpose of this Act is to—

- (a) provide for the administration of pastoral land; and
- (b) state the outcomes that persons who make decisions under this Act and relevant provisions of the Land Act 1948 are to seek to achieve.

**6 Section 2 amended (Interpretation)** 20

(1) In section 2, insert in their appropriate alphabetical order:

**chief executive** means the chief executive of the department



- discretionary pastoral activity** means an activity by a lessee or licensee of pastoral land that requires the consent of the Commissioner under **section 11 effect** has the meaning given to it by section 3 of the Resource Management Act 1991
- permitted pastoral activity** means an activity by a lessee or licensee of pastoral land that does not require the consent of the Commissioner under **section 11** 5
- prohibited pastoral activity** means an activity by a lessee or licensee of pastoral land that must not be undertaken on pastoral land
- (2) In section 2, replace the definition of **inherent value** with: 10
- inherent value**, in relation to any land,—
- (a) means a value that arises from an ecological, a landscape, a cultural, a heritage, or a scientific attribute or characteristic of a natural resource that—
- (i) is in or forms part of the land or exists by virtue of the conformation of the land; or 15
- (ii) relates to a historic place on or forming part of the land; but
- (b) does not include any value that relates to or is associated with farming activity
- 7 **New section 2A inserted (Transitional, savings, and related provisions)** 20
- After section 2, insert:
- 2A Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.
- 8 **Part 1 replaced** 25
- Replace Part 1 with:

<b>Part 1</b>		
<b>Pastoral leases and occupation licences</b>		
Subpart 1—Outcomes, activities on pastoral land, and decision-making process		
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<b>4</b>	<b>Outcomes for decision-makers</b>	
(1)	All persons performing or exercising functions, duties, or powers in relation to pastoral land under this Act or the Land Act 1948 must seek to achieve the following:	
	(a) maintaining or enhancing inherent values across the Crown pastoral estate for present and future generations, while providing for ongoing pastoral farming of pastoral land; and	10
	(b) supporting the Crown in its relationships with Māori under te Tiriti o Waitangi; and	
	(c) enabling the Crown to get a fair return on its ownership interest in pastoral land.	15
(2)	<b>Subsection (1)(c)</b> applies only to functions, duties, or powers that relate to rents, easements, or recreation permits in respect of pastoral land.	
<b>5</b>	<b>Māori interests</b>	
	In achieving the purpose of this Act, the Crown—	20
	(a) must recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu, and other taonga in any case where—	
	(i) consent for a discretionary pastoral activity is sought; or	
	(ii) a recreation permit over pastoral land is sought; or	25
	(iii) a stock limitation exemption or a variation or revocation of a stock limitation exemption is sought; or	
	(iv) a protective mechanism is being considered; and	
	(b) must consult Māori in accordance with this Act ( <i>see sections 22B</i> (monitoring framework), <b>22D</b> (strategic intentions document), and <b>1000</b> (standards and directives)).	30
<i>Classification of activities on pastoral land</i>		
<b>6</b>	<b>Classification of pastoral activities on pastoral land</b>	
(1)	Pastoral activities described in <b>sections 7 to 9</b> —	
	(a) are classified as set out in <b>Schedule 1AB</b> :	35

- (b) if neither permitted pastoral activities nor prohibited pastoral activities, may be undertaken on pastoral land only with the consent of the Commissioner under **section 11**.
- (2) The following classifications apply to pastoral activities on pastoral land:
- (a) permitted pastoral activities that may be undertaken on pastoral land with any necessary permission under any other enactment (*see* **section 21** and **Part 1 of Schedule 1AB**): 5
- (b) discretionary pastoral activities that may be undertaken on pastoral land only with the consent of the Commissioner under **section 11** and with any necessary permission under any other enactment (*see* **sections 10 and 21** and **Part 2 of Schedule 1AB**): 10
- (c) prohibited activities that must not be undertaken on pastoral land and may not be applied for or consented to (*see* **Part 3 of Schedule 1AB**).
- (3) Any question arising as to the class within which any pastoral activity falls must be decided by the Commissioner, whose decision is final, and sections 17 and 18 of the Land Act 1948 do not apply to that decision. 15
- (4) **Schedule 1AB** may be amended by Order in Council (*see* **section 100L**).

*Provision relating to burning*

- 7 Burning of vegetation**
- (1) A lessee or licensee of pastoral land must not undertake any pastoral activity that involves burning any vegetation on the land (whether felled or not), or cause or permit any vegetation on the land to be burned, except in accordance with **subsection (2)**. 20
- (2) The lessee or licensee may undertake the pastoral activity if—
- (a) the pastoral activity is for the time being classified as a permitted pastoral activity in **Part 1 of Schedule 1AB**; or 25
- (b) the Commissioner has consented to the pastoral activity under **section 11**, and the lessee or licensee complies with the terms and conditions of the Commissioner's consent and obtains any necessary permission under any other enactment (*see* **section 21**). 30
- (3) A lessee or licensee must not undertake any pastoral activity described in **subsection (1)** if that pastoral activity is for the time being classified as a prohibited pastoral activity, and may not apply for consent to do so under **section 11** while that classification applies.
- (4) In this section, **vegetation** does not include timber. 35

*Provisions relating to disturbance of soil***8 Activities affecting or disturbing soil**

- (1) A lessee or licensee of pastoral land must not undertake any pastoral activity described in **subsection (2)** on the land, except in accordance with **subsection (3)**. 5
- (2) The activities are—
- (a) clearing or felling any vegetation:
  - (b) cropping, cultivating, draining, or ploughing:
  - (c) top-dressing:
  - (d) sowing with seed: 10
  - (e) planting any vegetation:
  - (f) forming any path, road, or track:
  - (g) undertaking any other activity that affects, involves, or causes disturbance to, the soil.
- (3) The lessee or licensee may undertake the pastoral activity if— 15
- (a) the pastoral activity is for the time being classified as a permitted pastoral activity in **Part 1 of Schedule 1AB**; or
  - (b) the Commissioner has consented to the pastoral activity under **section 11**, and the lessee or licensee complies with the terms and conditions of the Commissioner's consent and obtains any necessary permission under any other enactment (*see section 21*). 20
- (4) A lessee or licensee must not undertake any pastoral activity described in **subsection (2)** if that pastoral activity is for the time being classified as a prohibited pastoral activity, and may not apply for consent to do so under **section 11** while that classification applies. 25

**9 Further provisions relating to section 8**

- (1) A consent under **section 11** to undertake an activity referred to in **section 8** may include provisions setting out the terms of any—
- (a) ongoing maintenance of the works formed by the activity:
  - (b) ongoing programme to maintain the pasture created or enhanced by the activity. 30
- (2) Anything done under the consent is subject to every condition, direction, and restriction that forms part of the Commissioner's consent.
- (3) For the purposes of this section (but not **subsection (1)**), every consent given under section 106 or 108 of the Land Act 1948 has effect according to its tenor as if it were a discretionary pastoral activity consented to under **section 11**. 35
- (4) This section does not forbid or prevent the doing of anything authorised—

- (a) by or under the Public Works Act 1981 or the Crown Minerals Act 1991; or
  - (b) under the Mining Act 1971.
- (5) Nothing in this section limits or affects the application or effect of section 100 of the Land Act 1948 (which relates to the preservation of timber). 5

*Process for applications to undertake activities on pastoral land*

**10 Application process**

- (1) An applicant who wishes to undertake any activity on pastoral land must provide sufficient information to enable the Commissioner to assess the application under **section 12 or 13** (as the case may be). 10
- (2) The Commissioner may decline to accept an application if the Commissioner thinks that the information provided with the application is insufficient or, alternatively, may obtain further information that the Commissioner thinks necessary to make a decision under **section 11**.
- (3) When assessing an application, the Commissioner may obtain any advice the Commissioner thinks necessary in order to make a decision under **section 11**. 15

*Process for Commissioner's decision*

**11 Commissioner's decision**

- (1) This section applies if the Commissioner accepts an application under **section 10**. 20
- (2) The Commissioner must—
  - (a) either—
    - (i) decline to grant the application; or
    - (ii) grant the application wholly or in part, with or without any conditions, limitations, directions, or restrictions that the Commissioner thinks necessary, including for the purpose of reducing the adverse effects on inherent values; and 25
  - (b) if they grant the application, specify the period within which the activity must be carried out.
- (3) In deciding whether to grant an application, the Commissioner— 30
  - (a) must apply the discretionary decision-making test in **section 12** (if the activity is a discretionary pastoral activity) or **section 13** (if the activity requires a recreation permit under section 66A of the Land Act 1948); and
  - (b) must consider current Government policy, except where the policy is inconsistent with this Act; and 35

- (c) may consider any plan for the management of part or all of the land subject to the reviewable lease or licence; and
- (d) may consider cross-boundary effects of the activity on neighbouring persons or on any neighbouring land (whether or not the land is subject to a pastoral lease or any other form of tenure); and 5
- (e) may consider New Zealand's commitment to reducing greenhouse gas emissions, where this is consistent with the outcomes stated in this Act; and
- (f) must consider the level of adverse effects and the importance of the inherent values; and 10
- (g) may consider any other matter the Commissioner considers relevant to determine the application.
- (4) Before taking any steps mentioned in **subsection (3)**, the Commissioner must consult the Director-General of Conservation.
- (5) Nothing in this section requires the Commissioner to consent to a proposed discretionary pastoral activity in any case. 15
- (6) In this section, **grant the application**,—
- (a) in relation to an application for a discretionary pastoral activity, means to consent to the activity:
- (b) in relation to an application for a recreation permit, means to grant the permit: 20
- (c) in relation to an application for an exemption from a stock limitation or the variation or revocation of an exemption, means to grant, vary, or revoke the exemption (*see section 16*).
- 12 Discretionary decision-making test for discretionary pastoral activities** 25
- (1) The Commissioner decides whether to consent to a discretionary pastoral activity on any pastoral land as follows:
- (a) they may decline to consent to the pastoral activity if satisfied that there is a reasonable alternative to the activity that has lesser adverse effects on inherent values: 30
- (b) they may consent to the pastoral activity if they decide under Step 1 (**subsections (3) and (4)**) that the activity has no more than minor adverse effects after actions have been taken to avoid, remedy, or mitigate the effects:
- (c) they must decline to consent to the pastoral activity if they decide that,— 35
- (i) in accordance with Step 1, the activity has more than minor adverse effects; and

- (ii) in accordance with Step 2 (**subsections (5) and (6)**), the activity is not necessary to enable the leaseholder or licensee to exercise their rights or obligations under their lease or licence:
- (d) they may consent to the pastoral activity if they decide that,—
- (i) in accordance with Step 1, the activity has more than minor adverse effects; and
- (ii) in accordance with Step 2, the activity is necessary to enable the leaseholder or licensee to exercise their rights and obligations under their lease or licence.
- (2) The Commissioner must consider all relevant matters under **section 11(3)** before deciding whether to consent to any discretionary pastoral activity.
- Step 1*
- (3) The Commissioner must decide if the adverse effects arising from the pastoral activity, after actions have been taken to avoid, remedy, or mitigate the effects, will be no more than minor.
- (4) For the purpose of **subsection (3)**,—
- (a) the Commissioner must be satisfied that—
- (i) the inherent values likely to be affected by the pastoral activity and the importance of those values have been identified; and
- (ii) the level of adverse effects (including cumulative effects) of the pastoral activity on those inherent values (with regard to the importance of those values) has been identified, including whether the effects could be avoided, remedied, or mitigated; and
- (iii) any reasonable alternative to the pastoral activity that has lesser adverse effects has been considered:
- (b) offsetting, including as a way of counterbalancing adverse effects, is not a relevant consideration in deciding the adverse effects.
- Step 2*
- (5) If the Commissioner decides that the pastoral activity has more than minor adverse effects in accordance with Step 1, they must not consent to the activity unless satisfied that the activity is necessary to enable the leaseholder or licensee to exercise their rights and obligations under their lease or licence, taking into account 1 or more of the following:
- (a) whether the pastoral activity forms part of the periodic clearance of vegetation as part of a regular cycle to maintain existing pasture created by oversowing, top-dressing, or cultivation:
- (b) whether the pastoral activity is required to provide reasonable access by way of tracks to areas of the land that are currently subject to a programme of oversowing or top-dressing for the grazing of livestock:

- (c) whether the pastoral activity is required to use, maintain, or replace consented existing infrastructure or buildings:
- (d) whether the pastoral activity contributes to the leaseholder or licensee meeting their obligations under their lease or licence or other enactments: 5
- (e) whether the pastoral activity is required to address an exceptional circumstance, for example, where there is a significant risk to the health or safety of the holder of the lease or licence or their stock:
- (f) any other relevant considerations.
- (6) For the purpose of deciding whether the activity is necessary to enable the leaseholder or licensee to exercise their rights and obligations under their lease or licence, the following are not relevant considerations: 10
- (a) the financial viability of farming under that lease or licence, or the economic sustainability of the pastoral farming enterprise:
- (b) any economic benefits associated with undertaking that activity. 15
- 13 Discretionary decision-making test for recreation permits**
- (1) The Commissioner decides whether to grant a recreation permit over pastoral land under section 66A of the Land Act 1948 as follows:
- (a) they may decline to grant the permit if satisfied that there is a reasonable alternative to the proposed activity that has lesser adverse effects on inherent values: 20
- (b) they may grant the permit if they decide under Step 1 (**subsections (3) and (4)**) that the proposed activity has no more than minor adverse effects:
- (c) they must decline to grant the permit if they decide that,— 25
- (i) in accordance with Step 1, the proposed activity has more than minor adverse effects; and
- (ii) in accordance with Step 2 (**subsection (5)**), the proposed activity does not meet the requirements of that subsection:
- (d) they may grant the permit if they decide that,— 30
- (i) in accordance with Step 1, the proposed activity has more than minor adverse effects; and
- (ii) in accordance with Step 2, the proposed activity meets the requirements in **subsection (5)**.
- (2) The Commissioner must consider all relevant matters under **section 11(3)** before deciding whether to grant a recreation permit. 35



	<i>Step 1</i>	
(3)	The Commissioner must decide if the adverse effects arising from the proposed activity, after actions have been taken to avoid, remedy, or mitigate the effects, will be no more than minor.	
(4)	For the purpose of <b>subsection (3)</b> ,—	5
	(a) the Commissioner must be satisfied that—	
	(i) the inherent values likely to be affected by the proposed activity and the importance of those values have been identified; and	
	(ii) the level of adverse effects (including cumulative effects) of the proposed activity on those inherent values (with regard to the importance of those values) has been identified, including whether the effects could be avoided, remedied, or mitigated; and	10
	(iii) any reasonable alternative to the proposed activity that has lesser adverse effects has been considered:	
(b)	offsetting, including as a way of counterbalancing adverse effects, is not a relevant consideration in determining the adverse effects.	15
	<i>Step 2</i>	
(5)	If the Commissioner decides that the proposed activity has more than minor adverse effects in accordance with Step 1, they must not grant the permit unless satisfied that the activity—	20
	(a) is an existing activity that previously has been allowed to be undertaken on the pastoral land under a recreation permit or other consent, right, or licence granted by the Commissioner; and	
	(b) if it is an activity that uses infrastructure or buildings, uses consented existing infrastructure or buildings.	25
	<b>Subpart 2—Tenure and related provisions</b>	
	<i>Pastoral leases</i>	
<b>14</b>	<b>Tenure</b>	
	A pastoral lease gives the holder—	
	(a) the exclusive right of pasturage over the land:	30
	(b) a perpetual right of renewal for terms of 33 years:	
	(c) no right to the soil:	
	(d) no right to acquire the fee simple of any of the land.	
<b>15</b>	<b>Term</b>	
	The term of a pastoral lease expires on the expiration of 33 years from 1 January or 1 July (whichever is the sooner) next following its commencement.	35

<b>16</b>	<b>Stock limitations</b>	
(1)	The repeal of section 66 of the Land Act 1948 by this Act does not affect—	
	(a) the validity or effect of any stock limitation:	
	(b) the validity or effect of any power of the Commissioner contained in any pastoral lease to grant an exemption from a stock limitation:	5
	(c) the validity or effect of any such exemption:	
	(d) the Commissioner’s power to vary or revoke such an exemption.	
(2)	An exemption from a stock limitation—	
	(a) is (and was) personal to the person who was the holder of the lease concerned at the time the exemption was granted; and	10
	(b) if not earlier revoked, expires (or expired) when that person ceases (or ceased) to be the holder of the lease.	
(3)	<b>Sections 10 to 12</b> apply to a decision by the Commissioner to grant, vary, or revoke an exemption from any stock limitation as if it were an application for a discretionary pastoral activity, except in the case of a lease transfer as provided for in <b>subsection (4)</b> .	15
(4)	The Commissioner may, at the time that or as soon as practicable after a lease is transferred under section 89 of the Land Act 1948, grant, vary, or revoke an exemption from a stock limitation that provides for stock numbers and types equal to, or lower than, the previous holder’s exemption, after considering—	20
	(a) whether the leaseholder is capable of managing the number of stock that the previous leaseholder had on the lease; and	
	(b) whether the land in its current state is capable of sustaining the number and types of stock in the previous exemption; and	
	(c) other relevant matters.	25
(5)	<b>Subsection (2)</b> is for the avoidance of doubt.	
(6)	<b>Subsections (1) to (4)</b> do not limit or affect the validity or effect of any condition subject to which a stock limitation, or an exemption from a stock limitation, may have been granted.	
<b>17</b>	<b>Renewal of lease after expiry</b>	30
(1)	<b>Subsection (2)</b> applies if, by the time a pastoral lease expired,—	
	(a) the Commissioner and the holder had agreed that, subject to the fixing of the amount of the rent to be paid under it, it would be renewed; but	
	(b) that amount had not yet been fixed.	
(2)	The Commissioner may grant a renewal of the lease to the same extent, and in the same manner, as if it had not expired, but the renewal takes effect from its expiry.	35

<b>18</b>	<b>Belated exchange of pastoral leases for reviewable leases</b>	
(1)	<b>Subsection (2)</b> applies if,—	
	(a) before the commencement of this Act, any land comprised in a pastoral lease was vested in a State enterprise under the State-Owned Enterprises Act 1986; and	5
	(b) before the land was vested,—	
	(i) all the land comprised in that lease had been reclassified as farm land; and	
	(ii) the former Land Settlement Board, the Department of Lands, or the Commissioner had agreed to issue a reviewable lease to the holder under section 126A of the Land Act 1948, in exchange for the pastoral lease; and	10
	(iii) no reviewable lease had in fact been issued; and	
	(c) since the land was vested, the holder has (or successive holders have) been paying rent as if the land were held on reviewable lease.	15
(2)	The Commissioner may, under the Land Act 1948, with the consent of the State enterprise concerned, grant a reviewable lease to the holder (or the holder's successor) to the same extent, and in the same manner, as if the land had not been vested and that section 126A were still in force.	
(3)	If a reviewable lease is granted under <b>subsection (2)</b> ,—	20
	(a) it is deemed to have been granted under section 126A of the Land Act 1948 immediately before the land comprised in it was vested in the State enterprise concerned; and	
	(b) the Land Act 1948 is deemed to have applied, and continues to apply, to it accordingly; and	25
	(c) every transfer of or other dealing with or activity that affects the pastoral lease in exchange for which it has been granted, and that occurs after the agreement to grant a reviewable lease in exchange for it, is deemed to have had effect as a transfer of or other dealing with or activity that affects it.	30
(4)	The granting of a reviewable lease under <b>subsection (2)</b> is a disposition for the purposes of section 24 of the Conservation Act 1987.	
	<i>Occupation licences</i>	
<b>19</b>	<b>Tenure</b>	
	An occupation licence gives the holder the exclusive right of pasturage over the land, but—	35
	(a) no right of renewal:	
	(b) no right to the soil:	

	(c) no right to acquire the fee simple of the land.	
<b>20</b>	<b>Term and expiry</b>	
(1)	The full term of an occupation licence granted under section 66AA of the Land Act 1948 commences on its commencement; and is the sum of—	
	(a) the term specified in it; and	5
	(b) the period commencing on its commencement and ending on the next 1 January or 1 July (whichever is the sooner).	
(2)	Unless earlier forfeited or surrendered, an occupation licence expires on the expiration of its full term.	
	<i>Permission under other enactments</i>	10
<b>21</b>	<b>Permission under other enactments still needed</b>	
(1)	This section applies if—	
	(a) any other enactment provides that a person must obtain permission under that enactment before undertaking an activity that is contrary to that enactment; and	15
	(b) the activity concerned is a permitted pastoral activity or discretionary pastoral activity under this Act.	
(2)	Nothing in this section prevents the Commissioner from consenting to a discretionary pastoral activity applied for under <b>section 10</b> .	
(3)	However, the authority conferred by this Act to undertake a permitted pastoral activity or discretionary pastoral activity does not in itself allow the person to undertake the activity without the required permission under the other enactment.	20
(4)	In <b>subsection (1)</b> , <b>permission</b> includes agreement, authority, consent, licence, permit, and right.	25
	<i>Provisions relating to boundaries and stock movement</i>	
<b>22</b>	<b>Boundary disputes</b>	
	Every dispute between the holders of adjacent pastoral land as to the boundary between them must be determined by the Commissioner or a person appointed by the Commissioner for the purpose.	30
<b>22A</b>	<b>Boundary adjustments</b>	
	For the purpose of securing more suitable boundaries of pastoral land held under lease or licence, the Commissioner may, as from a specified day, exclude part of it from the lease or licence and include it in some other lease or licence; and in that case the Commissioner may make any adjustments in rents payable that the Commissioner thinks just and equitable.	35

## Subpart 3—Monitoring, strategic intentions, and reporting

*Monitoring***22B Chief executive to prepare monitoring framework**

- (1) The chief executive must—
- (a) prepare, regularly update, and make available to the public a framework (the **monitoring framework**) for the overall performance of the department in relation to the purpose of this Act and the exercise of the department's stewardship responsibilities (under section 32 of the State Sector Act 1988) in relation to this Act; and 5
  - (b) regularly report on performance against the monitoring framework in relation to the purpose of this Act and those stewardship responsibilities. 10
- (2) In developing the monitoring framework, the chief executive—
- (a) must consult relevant iwi and representatives of holders of leases or licences; and
  - (b) may consult other stakeholders and the public. 15
- (3) The first monitoring framework must be prepared and made available to the public not later than 18 months after this section comes into force.

**22C Commissioner to monitor compliance by holders of reviewable leases or licences**

The Commissioner must monitor the compliance by— 20

- (a) holders of reviewable leases or licences of their obligations under their leases or licences, stock limitation exemptions under **section 16**, and any relevant decision under **section 11**; and
- (b) any person granted an easement (under section 60(1) of the Land Act 1948) or a recreation permit (under section 66A of that Act) over pastoral land of their obligations under the easement or recreation permit. 25

*Crown's pastoral land strategic intentions document and reporting requirements***22D Strategic intentions document**

- (1) The chief executive and the Commissioner must prepare a document setting out the Crown's pastoral land strategic intentions (the **strategic intentions document**). 30
- (2) The strategic intentions document must set out—
- (a) how the chief executive and the Commissioner propose to perform or exercise their relevant statutory functions, duties, and powers in relation to pastoral land; and 35

- (b) how Government policies and priorities will be reflected in the management of pastoral land (to the extent they are consistent with relevant legislation); and
- (c) relevant key performance indicators to demonstrate how the performance or exercise of the functions, duties, and powers is contributing to achieving the outcomes stated in **section 4**. 5
- (3) The strategic intentions document must be updated at least once every 3 years, or sooner at the request of the Minister.
- (4) In developing the strategic intentions document, the chief executive and the Commissioner— 10
- (a) must consult relevant iwi and representatives of holders of reviewable leases or licences; and
- (b) may consult other stakeholders and the public.
- (5) The chief executive and the Commissioner must report annually to the Minister on progress against the strategic intentions document and the chief executive must include that report into the department’s annual report. 15
- (6) The first strategic intentions document must be prepared and made available to the public not later than 18 months after this section comes into force.
- 22E Reporting requirements**
- (1) The Commissioner must publish on the department’s Internet site, as soon as practicable after it is made, a detailed summary of— 20
- (a) every decision of the Commissioner under this Act or the Land Act 1948 that relates to the use of pastoral land (including a decision that relates to a lease, a licence, a recreation permit, an easement, or an exemption from a stock limitation), other than a decision subject to a rehearing under section 17 of the Land Act 1948; and 25
- (b) every decision of the Commissioner that determines an application for a rehearing under section 17 of the Land Act 1948 (including a decision not to grant a rehearing) of a decision on an application to undertake a discretionary pastoral activity, and the original decision to which the application for a rehearing relates. 30
- (2) The summary should set out details of—
- (a) what the decision relates to; and
- (b) what the decision enables or does not enable (including any conditions imposed by the decision); and 35
- (c) the reasons for the decision.
- (3) The Commissioner must, as soon as practicable, publish on the department’s Internet site a summary of enforcement decisions that sets out the nature of the non-compliance and the reasons for taking enforcement action.

- (4) The Commissioner may defer or dispense with publication of a matter under this section (in whole or in part) if satisfied on reasonable grounds that good reason for withholding the publication would exist under the Official Information Act 1982.
- (5) For the purposes of **subsection (3)**, an **enforcement decision** is a decision under—
- (a) **section 100A** to recover the costs of remedial action:
  - (b) **section 100B** to accept an enforceable undertaking:
  - (c) **section 100G** to issue an infringement notice:
  - (d) **section 100K** to enforce a breach of statutory or contractual provisions.

#### Subpart 4—Application of Land Act 1948

### 23 Application of Land Act 1948 to this Part

Except as provided in **this Part**, nothing in this Part limits or affects the continued application of the Land Act 1948 to any reviewable instrument or any land.

### 9 Part 2 repealed

Repeal Part 2.

### 10 Section 83 amended (Objects of Part 3)

In section 83(b), after “inherent values”, insert “, including recreational values,”.

### 11 Section 84 amended (Matters to be taken into account by Commissioner)

Replace section 84(a) with:

- (a) the outcomes stated in **section 4** and the objects of this Part; and

### 12 Section 86 amended (Commissioner to review certain Crown land) 25

(1) Replace section 86(5) with:

- (5) The land (or various areas of it) must be designated as—
- (a) land to be retained in full Crown ownership and control—
    - (i) as a conservation area; or
    - (ii) as a reserve, to be held for a purpose specified in the proposal; or
    - (iii) for some specified Crown purpose; or
    - (iv) as Crown land without classification; or
    - (v) as a different classification of Crown land under section 51 of the Land Act 1948; or

- (b) land that may be added to an existing pastoral lease or leased under a new pastoral lease, but only if the land is already classified as pastoral land; or
- (c) land that may be added to an existing special lease or leased under a new special lease; or 5
- (d) land that may be disposed of in fee simple under the Land Act 1948 unencumbered or subject to any covenants or easements (or both) specified in the proposal.
- (2) After section 86(7), insert:
- (8) If a preliminary proposal designates any land as land that may be leased under a new pastoral lease, the lease may be on any terms that the Commissioner thinks fit, except that— 10
- (a) **section 4** applies; and
- (b) the rental must be set in accordance with Part 1A.
- (9) The ability to grant a new pastoral lease in accordance with this section applies despite anything to the contrary in the Land Act 1948. 15

**13 New section 87A inserted (Approval of Minister needed for some designations)**

After section 87, insert:

- 87A Approval of Minister needed for some designations** 20
- (1) The Commissioner must obtain the written consent of the Minister before a preliminary proposal or substantive proposal designates pastoral land as land to be—
- (a) added to an existing pastoral lease or special lease; or
- (b) leased by a new pastoral lease or special lease; or 25
- (c) reclassified as another form of Crown land; or
- (d) disposed of in fee simple.
- (2) The Minister must not consent provisionally to a designation described in **subsection (1)** in a preliminary proposal unless satisfied that it is reasonably likely that the Minister will consent to a substantive proposal containing the designation. 30

**14 New Part 4A inserted**

After Part 4, insert:



**Part 4A**  
**Miscellaneous provisions**

*Recovery of remedial costs*

**100A Costs of remedial action**

- (1) The Commissioner may recover as a debt due to the Crown the actual and reasonable costs of any remedial action taken to remedy or adequately mitigate a notified breach or alleged breach by the holder of— 5
- (a) a reviewable instrument of their obligations under the instrument; or
- (b) a consent granted in a decision under **section 11**.
- (2) For the purposes of this section, a breach or an alleged breach is notified to a holder if the Commissioner gives the holder a written notice that states— 10
- (a) the breach or alleged breach; and
- (b) the remedial action or mitigation that the Commissioner requires the holder to take; and
- (c) the period within which the Commissioner requires that remedial action or mitigation to be undertaken. 15
- (3) Notice of a breach or an alleged breach must not be served on a holder unless the Commissioner has reasonable grounds for believing that the breach has occurred.
- (4) For the purpose of carrying out any remedial action on any pastoral land held on lease or licence, the Commissioner or any person authorised by them in writing has, at all reasonable times, free rights of ingress, egress, and regress, in respect of that land. 20

*Enforceable undertakings*

**100B Commissioner may accept enforceable undertakings**

- (1) The Commissioner may accept an enforceable written undertaking, in a form prescribed by regulations made under this Act (if any), given by the holder of a reviewable lease or licence in connection with a matter relating to a breach or an alleged breach by the holder of— 25
- (a) their obligations under the lease or licence; or 30
- (b) a decision under **section 11**.
- (2) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the breach or alleged breach to which the undertaking relates.
- (3) The holder may withdraw or vary the undertaking with the consent of the Commissioner. 35

(4)	If the Commissioner considers that the holder is in breach of an undertaking, the Commissioner may apply to the court under <b>section 100K</b> , and <b>section 100K(2) to (6)</b> applies to a breach of undertaking as if it were a breach of a reviewable instrument.	
<b>100C Details of undertaking to be published</b>		5
	The Commissioner must give the holder of a reviewable instrument who is seeking to make an enforceable undertaking written notice of—	
	(a) their decision to accept or reject the undertaking; and	
	(b) the reasons for the decision.	
<i>Infringement offences</i>		10
<b>100D Infringement offences</b>		
(1)	A person commits an infringement offence against this Act if the person—	
	(a) undertakes without a consent under <b>section 7</b> (burning of vegetation) an activity on pastoral land that requires a consent under that section; or	
	(b) undertakes without a consent under <b>section 8 or 9</b> (activities affecting or disturbing soil) an activity on pastoral land that requires a consent under either of those sections; or	15
	(c) contravenes a stock limitation or an exemption from a stock limitation ( <i>see sections 11 and 16</i> ); or	
	(d) undertakes without a recreation permit under section 66A of the Land Act 1948 an activity on pastoral land that requires a recreation permit under that section; or	20
	(e) undertakes without a consent under section 100 of the Land Act 1948 (preservation of timber) an activity on pastoral land that requires a consent under that section.	25
(2)	For the purposes of <b>subsection (1)(a), (b), (d), and (e)</b> , it is not an infringement offence to contravene the terms of a consent or permit.	
<b>100E Proceedings for infringement offences</b>		
(1)	A person who is alleged to have committed an infringement offence against this Act or regulations made under this Act may—	30
	(a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or	
	(b) be served with an infringement notice under <b>section 100G</b> .	
(2)	If an infringement notice has been issued under <b>section 100G</b> , proceedings for the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957, and in that case the provisions of that section apply with all necessary modifications.	35

**100F Who may issue infringement notices**

The Commissioner may authorise an employee of the department or other person (an **issuer**), in writing, to issue infringement notices under this Act.

**100G Infringement notices**

- (1) An issuer may issue an infringement notice to a person if the issuer believes on reasonable grounds that the person is committing, or has committed, an infringement offence. 5
- (2) The issuer may deliver the infringement notice (or a copy of it) in person to the person alleged to have committed an infringement offence or send the notice by post addressed to that person's last known place of residence or business. 10
- (3) An infringement notice (or a copy of it) sent by post to a person under **subsection (2)** is to be treated as having been served on that person when it was posted.
- (4) An infringement notice must be in the prescribed form and must contain the following particulars: 15
  - (a) sufficient details of the alleged infringement offence to fairly inform a person of the time, place, and nature of the alleged offence; and
  - (b) the amount of the infringement fee; and
  - (c) the address of the place at which the infringement fee may be paid; and
  - (d) the time within which the infringement fee must be paid; and 20
  - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
  - (f) a statement that the person served with the notice has a right to request a hearing; and
  - (g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing; and 25
  - (h) any other particulars that may be prescribed.

**100H Reminder notices**

A reminder notice must be in the prescribed form, and must include the same particulars, or substantially the same particulars, as the infringement notice. 30

**100I Payment of infringement fees**

All infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account.

**100J Penalties for infringement offences**

A person who commits an infringement offence is liable to— 35

- (a) the infringement fee prescribed in regulations for that offence; or

- (b) a fine imposed by a court not exceeding the maximum fine prescribed in regulations for that offence.

*Breaches relating to reviewable instruments*

**100K Breaches of statutory or contractual provisions**

- (1) The Commissioner may apply to the District Court for the examination of anything the Commissioner alleges to be a breach of a reviewable instrument committed after the commencement of this section. 5
- (2) If satisfied on application under **subsection (1)** that the holder of a reviewable instrument has after the commencement of this Act committed a breach, the District Court may— 10
- (a) order the holder—
- (i) to take actions (specified by the court) to remedy the breach; or
- (ii) in default of taking those actions, to pay to the Commissioner exemplary damages (not exceeding \$50,000) for the breach; or
- (b) (without declaring the instrument forfeit) order the holder to pay to the Commissioner exemplary damages (not exceeding \$50,000) for the breach if, and only if,— 15
- (i) it is impossible, impracticable, or otherwise inappropriate to remedy the breach; or
- (ii) the breach has already been remedied; or 20
- (c) declare the instrument forfeit to the Crown, and order the holder to pay to the Commissioner an amount being, as seems appropriate to the court,—
- (i) the lower of \$50,000 and the likely costs to the Crown of remedying the breach; or 25
- (ii) exemplary damages (not exceeding \$50,000) for the breach.
- (3) The District Court must not make an order under **subsection (2)(c)** unless satisfied that every person with an interest in the land concerned at the time the application under **subsection (1)** was made— 30
- (a) has been given notice of the application; and
- (b) has had an adequate opportunity to appear and be heard in relation to it.
- (4) Sections 244 to 257 of the Property Law Act 2007 are not available in respect of a forfeiture under **subsection (2)(c)** of this section.
- (5) Section 105 of the Land Act 1948 does not apply to a breach of a reviewable instrument committed after the commencement of this Act. 35
- (6) In this section, **breach**, in relation to a reviewable instrument, means an action (or a failure or refusal to act) by the holder that—

- (a) contravenes section 100 of the Land Act 1948 or **section 7, 8, or 9** of this Act, in its application to the land; or
- (b) contravenes any provision of or covenant contained in the instrument.

*Further provisions relating to activities and regulations*

**100L Power to amend Schedule 1AB**

5

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend, replace, or delete any of the items or definitions in **Schedule 1AB** in accordance with this section.
- (2) The Minister may make a recommendation under **subsection (1)** in accordance with **subsections (3) to (7)**. 10
- (3) Only activities that are described in **sections 7 to 9** of this Act, or section 100 of the Land Act 1948, may be classified as permitted pastoral activities or prohibited pastoral activities.
- (4) Activities remain as discretionary pastoral activities unless they meet the criteria for permitted pastoral activities or prohibited pastoral activities. 15
- (5) An activity may be classified as a permitted pastoral activity only if the Minister is satisfied it meets the following criteria:
  - (a) the pastoral activity must have no more than minor effects on inherent values in all foreseeable circumstances, which include the possible effects of the activity in all possible locations across the Crown pastoral estate (including short-term, long-term, and cumulative effects); and 20
  - (b) the activity must—
    - (i) be required for pastoral farming; or
    - (ii) contribute to good husbandry, pest plant or animal control, or the maintenance or enhancement of inherent values. 25
- (6) An activity may be classified as a prohibited pastoral activity only if the Minister is satisfied that the activity would be likely to cause significant loss of inherent values that cannot be avoided in all foreseeable circumstances.
- (7) The Minister must consult the Minister of Agriculture and the Minister of Conservation before making a recommendation under this section. 30

**100M Chief executive to review Schedule 1AB**

- (1) The chief executive must review **Schedule 1AB** every 5 years.
- (2) Following the review, the chief executive must advise the Minister on any recommended changes to **Schedule 1AB**.

**100N Regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations providing for 1 or more of the following purposes:
- (a) prescribing the information required to be provided with an application for consent to undertake a discretionary pastoral activity (for example, the description and location of the pastoral activity, the inherent values affected, and mitigation): 5
  - (b) prescribing matters the Commissioner must take into account in deciding the level of adverse effects of a pastoral activity on inherent values: 10
  - (c) prescribing fees or charges payable for applications for consent to undertake discretionary pastoral activities:
  - (d) prescribing the information that must be contained in or accompany an enforceable undertaking under **section 100B**:
  - (e) prescribing infringement offences for the contravention of regulations made under this Act: 15
  - (f) prescribing penalties for infringement offences against this Act or regulations made under this Act, which,—
    - (i) in the case of infringement fees, must not be more than \$1,000; and 20
    - (ii) in the case of maximum fines, must not be more than twice the amount of the infringement fee for the offence:
  - (g) prescribing the form of infringement notices and infringement offence reminder notices:
  - (h) requiring persons to collect information and supply the information to the chief executive or the Commissioner for the purpose of this Act: 25
  - (i) making provisions, not inconsistent with this Act, that set out decision-making processes or otherwise provide for the administration of pastoral land under this Act:
  - (j) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect. 30
- (2) The power to prescribe fees or charges includes the power to prescribe any of the following:
- (a) the method by which the fees or charges are to be assessed, which may (without limitation) include a general charge and actual and reasonable costs in respect of a discretionary pastoral activity: 35
  - (b) the persons liable to pay the fees or charges:
  - (c) when the fees or charges must be paid:

- (d) the circumstances in which the fees or charges may be refunded, remitted, or waived (wholly or partly).
- (3) Fees and charges are a debt due to the Crown and may be recovered by the chief executive or the Commissioner (on behalf of the Crown) in any court of competent jurisdiction. 5
- (4) The Minister must not recommend the making of regulations under this section unless satisfied that the chief executive or the Commissioner has consulted relevant iwi, leaseholders, licensees, and the public on the development of the regulations.
- 1000 Commissioner may set standards and issue directives** 10
- (1) The Commissioner may set standards and issue directives in relation to—
- (a) the administration of pastoral land and its inherent values, including monitoring the state of the land;
- (b) compliance by holders of reviewable instruments with requirements under this Act. 15
- (2) The chief executive may set standards and issue directives in relation to the framework for determining applications for discretionary pastoral consents or recreation permits.
- (3) The chief executive or the Commissioner must not set a standard or issue a directive unless one of them has— 20
- (a) consulted iwi, representatives of holders of reviewable instruments, representatives of other persons who will be affected by the standard or directive, and the public; and
- (b) given the iwi, representatives, and public an opportunity to comment on the proposed standard or directive; and 25
- (c) considered any comments made by the iwi, representatives, and public.
- (4) The chief executive or the Commissioner must publish standards and directives on an Internet site maintained by the department.
- (5) A standard or directive is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 30
- 15 New Schedules 1AA, 1AB, and 1AC inserted**
- (1) Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.
- (2) After **Schedule 1AA**, insert the **Schedules 1AB and 1AC** set out in **Schedule 2** of this Act. 35
- 16 Consequential amendments**
- Amend the principal Act as set out in **Schedule 3**.

## Part 2 Amendments to Land Act 1948

### 17 Amendments to Land Act 1948

This Part amends the Land Act 1948.

### 18 Section 17 amended (Application for rehearing) 5

After section 17(2), insert:

- (3) This section applies with the necessary modifications if a person is aggrieved by any decision of the Commissioner under the Crown Pastoral Land Act 1998.

### 19 Section 24 amended (Powers and duties of Commissioners)

- (1) After section 24(1)(i), insert: 10

(ia) to support the New Zealand Walking Access Commission as far as practicable in meeting its public access objective where that relates to pastoral land:

- (2) After section 24(2), insert:

- (2A) The Commissioner may comment on, or provide input for, processes and decisions that may affect the Crown's interest as landowner of pastoral land (for example, district plan changes). 15

- (3) After section 24(4), insert:

- (5) See **section 4** of the Crown Pastoral Land Act 1998 for outcomes that persons performing or exercising functions, duties, or powers in relation to pastoral land must seek to achieve. 20

### 20 Section 60 amended (Creation of easements)

- (1) In section 60(1) and (3), replace “Board” with “Commissioner”.

- (2) After section 60(4), insert:

- (5) When determining whether to grant an easement over or under pastoral land, the Commissioner may consider— 25

(a) whether the easement is reasonably necessary for achieving the objectives of the applicant; and

(b) if the application satisfies **paragraph (a)**, the extent to which the application achieves the outcomes stated in **section 4** of the Crown Pastoral Land Act 1998; and 30

(c) any other matters the Commissioner considers relevant.

- (6) Before granting an easement over or under pastoral land, the Commissioner must consult the Director-General of Conservation.



**21 Section 66A amended (Recreation permit)**

- (1) In section 66A(1), (2), (2A), (3), (4), and (6), replace “Board” with “Commissioner” in each place.
- (2) After section 66A(7), insert:
- (8) If another enactment provides that a person must obtain permission under that enactment before undertaking an activity that is contrary to that enactment,— 5
- (a) the grant of a recreation permit does not in itself allow the proposed activity to be carried out without the required permission under the other enactment; but
- (b) nothing in this subsection prevents the granting of a recreation permit before permission under the other enactment has been obtained. 10
- (9) Without limiting subsection (6), a recreation permit may be granted wholly or in part, with or without any conditions, limitations, directions, or restrictions that the Commissioner thinks necessary, including for the purpose of reducing the adverse effects on inherent values. 15
- (10) The granting of a recreation permit in respect of pastoral land is subject to **sections 10, 11, and 13** of the Crown Pastoral Land Act 1998.
- (11) Before granting a recreation permit in respect of pastoral land, the Commissioner must consult the Director-General of Conservation.
- (12) Nothing in this section requires the Commissioner to grant a proposed recreation permit in any case. 20

**22 Section 100 amended (Preservation of timber)**

In section 100, insert as subsection (2):

- (2) **Sections 10 to 12** of the Crown Pastoral Land Act 1998 apply to a decision by the Commissioner to consent to any activity under this section that is for the time being classified as a discretionary pastoral activity under that Act. 25

**Schedule 1**  
**New Schedule 1AA inserted**

s 15(1)

**Schedule 1AA**  
**Transitional, savings, and related provisions**

5

s 2A

**Part 1**  
**Provisions relating to Crown Pastoral Land Reform Act 2020**

*Provisions relating to end of tenure review*

- |          |                                                                                                                                                                                                                     |    |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| <b>1</b> | <b>Interpretation</b>                                                                                                                                                                                               | 10 |
|          | In this Part,—                                                                                                                                                                                                      |    |
|          | <b>amendment Act</b> means the <b>Crown Pastoral Land Reform Act 2020</b>                                                                                                                                           |    |
|          | <b>commencement date</b> means the date on which <b>this Part</b> comes into force.                                                                                                                                 |    |
| <b>2</b> | <b>Pending substantive proposals</b>                                                                                                                                                                                |    |
| (1)      | This clause applies to the following substantive proposals relating to any pastoral land:                                                                                                                           | 15 |
|          | (a) every substantive proposal that any holder of a reviewable instrument accepted under section 60 of this Act before the commencement date and that is still being processed by the Commissioner as at that date: |    |
|          | (b) every substantive proposal that the Commissioner put to any holder of a reviewable instrument before the commencement date, where—                                                                              | 20 |
|          | (i) the holder has not accepted it before the commencement date; and                                                                                                                                                |    |
|          | (ii) the 3-month period in section 60(2) has not expired before the commencement date.                                                                                                                              |    |
| (2)      | Part 2 of this Act, as it read immediately before the commencement date, continues to apply to the substantive proposal.                                                                                            | 25 |
| (3)      | The Commissioner must take appropriate action in accordance with the applicable provisions of that Part.                                                                                                            |    |
| <b>3</b> | <b>Tenure reviews discontinued if substantive proposal not put to holder</b>                                                                                                                                        |    |
| (1)      | This clause applies to every—                                                                                                                                                                                       | 30 |
|          | (a) substantive proposal, other than one to which <b>clause 2</b> applies, in existence immediately before the commencement date; and                                                                               |    |
|          | (b) every preliminary proposal in existence immediately before the commencement date.                                                                                                                               |    |

- (2) Every proposal to which this clause applies ceases to have any effect.
- (3) All related reviews under this Act in existence immediately before the commencement date are discontinued and the Commissioner must not take any action to progress any of the reviews.
- 4 Pending decisions relating to applications for consents, recreation permits, or easements** 5
- (1) This clause applies to every application to the Commissioner for the grant of any of the following consents, permits, or easements in respect of pastoral land or unused Crown land under this Act or the Land Act 1948 that were lodged, but not finally dealt with, before the commencement date: 10
- (a) consents to undertaken pastoral activities:
- (b) recreation permits:
- (c) easements.
- (2) The Commissioner must deal with the application in accordance with **Part 1** of this Act (as replaced by the amendment Act). 15
- (3) Any rehearing that was applied for under section 17 of the Land Act 1948 on or after the commencement date and that relates to a decision taken by the Commissioner under this Act before that date must be determined as if the amendment Act had not been enacted.
- 5 Existing reviews of unrenovable occupation licences** 20
- (1) This clause applies to every review under section 86 of this Act of an unrenovable occupation licence that commenced, but was not completed, before the commencement date.
- (2) Nothing in the amendment Act affects the review and it must be dealt with as if the amendment Act had not been enacted. 25
- 6 No compensation payable**
- (1) No compensation is payable by the Crown for any loss or damage, or any adverse effect on or under any lease or other right or interest, arising from the enactment or operation of the amendment Act.
- (2) If there is any inconsistency between this clause and any other enactment or rule of law, this clause prevails over that enactment or rule of law. 30

**Schedule 2**  
**New Schedules 1AB and 1AC inserted**

s 15(2)

**Schedule 1AB**  
**Classification of pastoral activities on pastoral land**

5

s 6

**Part 1**

**Permitted pastoral activities (consent not required under this Act,  
but permission may be required under other enactments)**

- |   |                                                                                                                                |    |
|---|--------------------------------------------------------------------------------------------------------------------------------|----|
| 1 | Controlling invasive exotic pest plants, where—                                                                                | 10 |
|   | (a) any associated indigenous by-kill does not exceed 200 m <sup>2</sup> /ha; and                                              |    |
|   | (b) the by-kill cannot reasonably be avoided in the course of the control work; and                                            |    |
|   | (c) the invasive exotic pest plants are the dominant vegetation cover (comprising no less than 90% of vegetation cover); and   | 15 |
|   | (d) the area involved does not exceed 25 ha in any 5-year period.                                                              |    |
| 2 | Any other invasive exotic pest plant control that does not involve associated indigenous by-kill.                              |    |
| 3 | All earthworks, planting, gardening, tree felling, sowing of seed, or top-dressing within the existing curtilage of dwellings. | 20 |
| 4 | Soil disturbance (with an appropriate volume or area limitation) comprising—                                                   |    |
|   | (a) digging in posts, anchors, piles or supports (except for the purpose of constructing buildings):                           |    |
|   | (b) laying electric fence cables:                                                                                              |    |
|   | (c) burying dead animals, as long as the activity is undertaken at least 50 m away from any water body:                        | 25 |
|   | (d) clearing humps or filling hollows along existing fence lines:                                                              |    |
|   | (e) digging rabbit warrens:                                                                                                    |    |
|   | (f) digging long drops, which must be at least 50 m away from any water body:                                                  | 30 |
|   | (g) maintaining existing wild flood irrigation:                                                                                |    |
|   | (h) removing tree stumps:                                                                                                      |    |
|   | (i) controlling invasive exotic pest plants, but this does not include associated clearance of indigenous vegetation:          |    |
|   | (j) preparing bait lines for animal pest control:                                                                              | 35 |

	(k) maintaining existing stock water troughs.	
5	Fencing within existing cultivated paddocks.	
6	Riparian planting using indigenous species sourced from local seeds.	
7	Clearing wind-felled trees, except where the timber is for sale or off-farm commercial use.	5
8	Laying of water pipes underground within existing cultivated areas using a ripper and mounted cable layer.	
9	Laying cables, domestic water pipelines, and other infrastructure underground from the main source of supply to existing buildings, as long as the activity does not involve associated clearance of indigenous vegetation and any cables or pipelines do not traverse water bodies.	10
10	Burning slash, stumps, or dead vegetation within existing consented cultivated paddocks.	
11	Boom spraying of exotic vegetation within existing consented cultivated paddocks.	15
12	Maintaining existing drains, water races or culverts.	
13	Maintaining existing consented top-dressing.	
14	Maintaining existing consented seed sowing.	
15	Maintaining existing consented cultivation.	
16	Maintaining existing consented roads, paths, or tracks (including laying local gravel).	20
17	Maintaining any other existing consented activity as provided for in <b>section 8(3)</b> .	
18	Repairing and maintaining existing fencing within its existing footprint.	
	<b>Part 2</b>	25
	<b>Discretionary pastoral activities (Commissioner may consent or decline)</b>	
1	Any activity described in <b>section 7(1)</b> (burning vegetation) or <b>8(2)</b> (affecting or disturbing soil) of this Act or section 100 of the Land Act 1948 (preservation of timber), other than an activity that is a permitted pastoral activity or prohibited pastoral activity, remains a discretionary pastoral activity.	30
2	Pastoral activities that are discretionary pastoral activities include, but are not limited to,—	
	(a) new or additional irrigation:	
	(b) burning vegetation:	35
	(c) clearing indigenous vegetation:	

(d)	felling, selling, or removing any exotic timber, tree, or bush (not including invasive exotic pest plant species where the activity is a permitted pastoral activity) under section 100 of the Land Act 1948:	
(e)	cropping, cultivating, draining, or ploughing:	
(f)	top-dressing:	5
(g)	sowing seed:	
(h)	planting vegetation (other than riparian planting):	
(i)	forming new paths, roads, or tracks:	
(j)	soil disturbance for the construction of buildings:	
(k)	new fencing (other than an activity that is a permitted pastoral activity):	10
(l)	clearing drains (other than an activity that is a permitted pastoral activity):	
(m)	constructing water storage infrastructure:	
(n)	spray and pray.	
<b>Part 3</b>		15
<b>Prohibited pastoral activities (consent cannot be given or applied for under this Act)</b>		
1	Cropping, cultivating, draining or ploughing indigenous wetlands, except taking water for stock water troughs where this does not affect natural wetland water levels.	20
2	Digging a long drop within 20 m of any water body.	
3	Burying a dead animal within 20 m of any water body.	
<b>Part 4</b>		
<b>Interpretation</b>		
	In this schedule,—	25
	<b>clearing vegetation</b> —	
(a)	means the removal, felling, mechanical or chemical topping, or modification of any vegetation; and	
(b)	includes cutting, crushing, mulching, spraying with herbicide, or burning; but	30
(c)	does not include clearing by grazing	
	<b>cropping</b> means growing forage crops for animals and producing vegetables, fruit, grain, and similar products	
	<b>cultivated paddock</b> —	
(a)	means a paddock that is currently cultivated; but	35

(b) does not include a paddock where cultivation was carried out historically, but was not maintained

**cultivation** means the mechanical tillage of soil to introduce seed or fertiliser, and includes activities such as ploughing, discing, and direct drilling

**curtilage** means the enclosed space of ground and buildings immediately surrounding a dwelling 5

**drain** means an artificial and constructed waterway or subsurface drainage structure that starts and drains water from predominantly flat land

**draining** means causing water to be drawn off land gradually or completely, where this is not part of ongoing maintenance of previously consented drainage works 10

**indigenous vegetation—**

(a) means vegetation or groundcover that contains any vascular plants, non-vascular plants, or lichens that are indigenous to any of the ecological regions of which the property forms part; but 15

(b) does not include plants within a domestic garden that are planted for the use of screening or shelter purposes (such as farm hedgerows)

**indigenous wetlands** includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of predominantly indigenous plants and animals that are adapted to wet conditions 20

**invasive exotic pest plants** includes pests listed in the National Pest Plant Accord and any other exotic pest plants

**ploughing** means turning over soil in preparation for cropping or cultivation

**spray and pray** means spraying a slope to remove vegetation, and replanting the slope in stock or forage crops. 25

### Schedule 1AC

#### Provisions of former Part 2 referred to elsewhere in this Act

ss 88, 89, 90, 93

#### 40 Protective mechanisms

- (1) A preliminary proposal may designate land as— 5
- (a) land to be restored to or retained in Crown ownership subject to the granting of a special lease; or
  - (b) land to be disposed of to a specified person; or
  - (c) land that may be disposed of to any person,— 10
- subject (in addition to any other conditions) to the creation of 1 or more protective mechanisms, each relating to 1 or more of the matters specified in **subsection (2)**.
- (2) The matters are—
- (a) the protection of a significant inherent value of the land concerned;
  - (b) the management of the land concerned in a way that is ecologically sustainable; 15
  - (c) public access across or to the land concerned;
  - (d) public enjoyment of the land concerned.
- (3) A preliminary proposal may not designate land as land to be disposed of subject to the creation of a covenant under section 22 of the Queen Elizabeth the Second National Trust Act 1977 without the prior written consent of the Queen Elizabeth the Second National Trust. 20
- (4) A preliminary proposal may not designate land as land to be disposed of subject to the creation of a covenant under section 77 of the Reserves Act 1977 if— 25
- (a) a local authority or other body approved by the Minister of Conservation is to be a party to the covenant; and
  - (b) the local authority or other body has not given its prior written consent to the designation.
- (5) A preliminary proposal may not designate land as land to be disposed of subject to the creation of a covenant under section 39 of the Heritage New Zealand Pouhere Taonga Act 2014 without the prior written consent of Heritage New Zealand Pouhere Taonga. 30

#### 43 Commissioner to give notice of preliminary proposals

- (1) The Commissioner must give notice of every preliminary proposal put under section 34(1),— 35



- (a) specifying the land, a day (no sooner than 40 working days after the publication of the last of the notices to be published), and an address; and
- (b) describing the proposal in general terms; and
- (c) indicating that any person or organisation may (no later than the day specified) give or send to the Commissioner at the address specified a written submission on the proposal. 5
- (2) The notice must not disclose any financial information.
- (3) The Commissioner must have the notice published—
- (a) in some newspaper circulating in the area where the land is situated; and
- (b) at least once in a daily newspaper published in Christchurch; and 10
- (c) at least once in a daily newspaper published in Dunedin.
- 44 Consultation with iwi authority**
- The Commissioner must—
- (a) have a copy of every notice under section 43 given to the iwi authority (within the meaning of the Resource Management Act 1991) of the area where the land concerned is situated; and 15
- (b) consult the authority on the proposal.
- 45 Information to be given to Minister of Conservation**
- The Commissioner must—
- (a) prepare, and give the Minister of Conservation,— 20
- (i) a summary of all matters raised by an iwi authority during consultation on a preliminary proposal under section 44; and
- (ii) a statement as to the extent to which objections to and comments on the proposal raised during the consultation have been allowed or accepted, or disallowed or not accepted; and 25
- (iii) a statement as to the extent to which objections to and comments on the proposal contained in the written submissions relating to the proposal received by the Commissioner (from any person or organisation) on or before the day specified in the notice given under section 43 at the address specified in the notice have been allowed or accepted, or disallowed or not accepted; and 30
- (b) give the Minister of Conservation copies of all those submissions.
- 46 Certain proposals require consent**
- (1) A preliminary proposal may not designate land as land to be disposed of subject to the creation of a covenant under section 22 of the Queen Elizabeth the Second National Trust Act 1977 without the prior written consent of the Queen Elizabeth the Second National Trust. 35

- (2) A preliminary proposal may not designate land as land to be disposed of subject to the creation of a covenant under section 7 of the Reserves Act 1977 if—
- (a) a local authority or other body approved by the Minister of Conservation is to be a party to the covenant; and
  - (b) the local authority or other body has not given its prior written consent to the designation. 5
- (3) A preliminary proposal may not designate land as land to be disposed of subject to the creation of a covenant under section 39 of the Heritage New Zealand Pouhere Taonga Act 2014 without the prior written consent of Heritage New Zealand Pouhere Taonga. 10
- 47 Commissioner to consider submissions**
- (1) The Commissioner must not put a substantive proposal to any holder of a reviewable instrument without having considered—
- (a) all matters raised by the iwi authority concerned during consultation on the preliminary proposal concerned under section 44; and 15
  - (b) all written submissions relating to that preliminary proposal received by the Commissioner (from any person or organisation) on or before the day specified in the notice given under section 43 at the address specified in that notice.
- (2) Nothing in **subsection (1)** prevents the Commissioner from considering any late or oral submission. 20
- 62 Final plan to be prepared**
- (1) Once the acceptance of a substantive proposal takes effect, the Commissioner must give the Chief Surveyor written notice of its acceptance, attaching a copy of the proposal. 25
- (2) As soon as is practicable after receiving the notice, the Chief Surveyor must—
- (a) determine whether any of the land needs to be surveyed before the proposal can be given effect to; and
  - (b) give the Commissioner written notice—
    - (i) of the land that needs to be surveyed; or 30
    - (ii) that none of the land needs to be surveyed.
- (3) If notified that any of the land needs to be surveyed, the Commissioner must have it surveyed, and have a plan or plans of it prepared and approved, under the Survey Act 1986.
- (4) Once the Commissioner— 35
- (a) has complied with **subsection (3)**; or
  - (b) has been notified that none of the land needs to be surveyed,—  
the Commissioner must—

(c)	have prepared a final plan of all the land to which the proposal relates, showing the various areas to which it relates, and (in respect of each) giving—	
(i)	a legal description; and	
(ii)	its designation by the proposal; and	5
(iii)	if it is designated as land to be restored to Crown ownership as a reserve, the purpose of the reserve; and	
(d)	submit 2 copies of the plan to the Chief Surveyor.	
<b>63</b>	<b>Approval of plan</b>	
	If (and only if) satisfied that—	10
(a)	the boundaries of the various areas shown on a plan submitted under section 62(4)(d) are, in the light of any discovered imprecisions in the boundaries shown or described in the accepted substantive proposal concerned, as close as may reasonably practicably be achieved to the boundaries shown or described in the proposal; and	15
(b)	to the extent allowed by the position of the boundaries shown on the plan,—	
(i)	the areas they define; and	
(ii)	the designations of those areas,—	
	accurately reflect the proposal,—	20
	the Chief Surveyor must sign and date on both copies of the plan a written notice approving it for the purposes of this Act, and return 1 copy to the Commissioner.	
<b>64</b>	<b>Commissioner to register accepted proposals and approved plans</b>	
	On receiving an approved plan, the Commissioner must lodge it and a copy of the proposal to which it relates with the Registrar-General of Land, who must register them against every record of title to land to which they relate.	25
<b>80</b>	<b>Creation of protective mechanisms</b>	
(1)	When an approved plan designating any land as land over which an easement under section 12 of the Reserves Act 1977 is to be created has been registered,—	30
(a)	the Commissioner—	
(i)	is deemed for the purposes of that section to be the owner of the land; and	
(ii)	must promptly give the Minister of Conservation an easement (for a purpose specified in subsection (1) of that section) over it, on the terms and conditions specified in the substantive proposal concerned; and	35

- (b) the Minister must promptly do all acts necessary to enable the acceptance of the easement.
- (2) When an approved plan designating any land as land over which an easement under section 7(2) of the Conservation Act 1987 is to be created has been registered,— 5
- (a) the Commissioner—
- (i) is deemed for the purposes of that section to be the owner of the land; and
- (ii) must promptly agree with the Minister of Conservation that the Minister should acquire an easement for conservation purposes over it, on the terms and conditions specified in the substantive proposal concerned; and 10
- (b) the Minister must promptly do all acts necessary to acquire the easement.
- (3) When an approved plan designating any land as land over which an easement under sections 26 to 29 of the Walking Access Act 2008 is to be created has been registered,— 15
- (a) the Commissioner—
- (i) is deemed for the purposes of that section to be the owner of the land; and 20
- (ii) must promptly give the New Zealand Walking Access Commission (established by section 6 of that Act) an easement over it to enable it to be used for a walkway, on the terms and conditions specified in the substantive proposal concerned; and
- (b) the New Zealand Walking Access Commission must promptly do all acts necessary to enable the creation of the easement. 25
- (4) When an approved plan designating any land as land over which a covenant under section 22 of the Queen Elizabeth the Second National Trust Act 1977 is to be created has been registered,— 30
- (a) the Commissioner is deemed for the purposes of this subsection to be the owner of the land; and
- (b) the Commissioner must promptly execute an open space covenant in favour of the trust over it, on the terms and conditions specified in the substantive proposal concerned; and
- (c) the board of directors of the Trust is deemed (by virtue of having given its consent under section 40) to have agreed those terms and conditions, and must promptly do everything necessary to enable the creation of the covenant. 35

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- (5) When an approved plan designating any land as land over which a covenant under section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987 is to be created has been registered, the Commissioner—
- (a) is deemed for the purposes of that section to be the owner of the land; and 5
  - (b) must promptly create the covenant over the land, on the terms and conditions specified in the substantive proposal concerned.
- (6) When an approved plan designating any land as land over which a covenant under section 39 of the Heritage New Zealand Pouhere Taonga Act 2014 is to be created has been registered,— 10
- (a) the Commissioner is deemed for the purposes of that section to be the owner of the land; and
  - (b) the Commissioner must promptly execute a heritage covenant over the land in favour of Heritage New Zealand Pouhere Taonga, on the terms and conditions specified in the substantive proposal concerned; and 15
  - (c) the Board of Trustees of the Trust is deemed (by virtue of having given its consent under section 40) to have agreed those terms and conditions, and must promptly do everything necessary to enable the creation of the covenant.

## Schedule 3

### Consequential amendments to principal Act

s 16

**Section 2**

In section 2, definition of **approved plan**, replace “section 63 (whether directly, or by virtue of its application by section 90)” with “section 90 (by virtue of its application of former section 63)”. 5

**Section 88**

In section 88, replace “The following sections apply to a preliminary proposal under this Part as if it were a preliminary proposal under Part 2” with “The following former sections set out in **Schedule 1AC** apply with any necessary modifications to a preliminary proposal under this Part”. 10

**Section 89**

In section 89(1), replace “section 43” with “the former section 43 set out in **Schedule 1AC**”. 15

**Section 90**

In section 90(1), replace “Section 47” with “The former section 47 set out in **Schedule 1AC**”.

In section 90(1), replace “Part 2” with “the former Part 2”.

In section 90(2), replace “The following sections apply to a substantive proposal under this Part as if it were a substantive proposal under Part 2” with “The following former sections set out in **Schedule 1AC** apply to a substantive proposal under this Part as if it were a substantive proposal under the former Part 2”. 20

**Section 93**

In section 93, replace “Section 80 (which enables the creation of protective mechanisms provided for in an accepted substantive proposal under Part 2)” with “The former section 80 set out in **Schedule 1AC** (which enabled the creation of protective mechanisms provided for in an accepted substantive proposal under the former Part 2)”. 25

**Section 95**

In section 95(1), delete “Part 2 or”. 30

**Section 96**

In section 96(1), delete “Part 2 or”.

**Crown Pastoral Land Reform Bill**

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