



## NEW ZEALAND

### ANALYSIS

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1950, No. 96

Title.

AN ACT to Amend the Land Act, 1948.

[1st December, 1950

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

Short Title.

1. This Act may be cited as the Land Amendment Act, 1950, and shall be read together with and deemed part of the Land Act, 1948 (hereinafter referred to as the principal Act).

1948, No. 64

2. (1) Section two of the principal Act is hereby amended as from the commencement of that Act by inserting in the definition of the term " Crown land ", after paragraph (b), the following paragraph:—

Land acquired under Maori Townships Act, 1910, to be deemed Crown land.

"(bb) Land acquired by the Crown under section nineteen or section twenty of the Maori Townships Act, 1910, or the corresponding provisions of any former Maori Townships Act;".

See Reprint of Statutes, Vol. VI, p. 362

(2) Section forty-two of the principal Act is hereby amended as from the passing of that Act as follows:—

(a) By inserting in subsection one, after the words " this Act ", the words " or acquired by the Crown under section nineteen or section twenty of the Maori Townships Act, 1910, or the corresponding provisions of any former Maori Townships Act (whether before or after the commencement of this Act) ":

(b) By omitting from subsection three the words " private land purchased by the Board is subject to a lease current at the date of purchase ", and substituting the words " land is subject to a lease current at the date of purchase or acquisition or at the commencement of this Act, whichever is the later ".

3. Section fifteen of the principal Act is hereby amended as follows:—

Delegation of powers of Land Settlement Board.

(a) By inserting in subsection one, after the words " any of its powers ", the words " to any committee of the Board or ":

(b) By omitting from subsection three and also from subsection four the word " Committee " wherever it appears, and substituting in each case the words " committee of the Board, Land Settlement Committee ".

4. (1) Section forty-eight of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:—

Amending provisions as to land held for Government purpose.

"(2) Where any land purchased, acquired, set apart, or held by the Crown for any Government purpose is not for the time being required for that purpose, the Board may, subject to the provisions of subsection three of

this section, grant a lease or licence of that land for such term, at such rent, and on such conditions as the Board in each case determines:

“ Provided that no lease or licence granted under this subsection shall confer on the lessee or licensee the right of acquiring the fee simple of the land.”

(2) Subsection three of section forty-eight of the principal Act is hereby amended as follows:—

(a) By inserting before the word “ licence ”, the words “ lease or ”:

(b) By adding the words “ and every such lease or licence shall be on such terms and conditions as that Minister approves ”.

5. (1) Section fifty-two of the principal Act is hereby amended by adding the following subsections as subsections two, three, four, five, six, seven, and eight thereof:—

“(2) In addition to the powers conferred by the last preceding subsection, the Board may offer any urban land or commercial or industrial land for acquisition under this Act by public auction at an upset price or rental value or by public tender at a minimum price or rental value.

“(3) The Board shall give not less than one month’s public notice of any offering of land under the last preceding subsection, and shall specify in the notice the time and place at which the auction is intended to be held or, as the case may be, the time and place for the lodging of tenders:

“ Provided that in special circumstances the Board may reduce the time to not less than ten days.

“(4) Any officer of the Department may conduct an auction under this section, and for the purposes of that auction he shall not require to be the holder of an auctioneer’s licence.

“(5) The Board may refuse to accept any bid or tender for any reason for which it may refuse or reject any application under section seventy-five or section one hundred and seventy-five of this Act.

“(6) Subject to the provisions of this section, every alienation by public auction or public tender under this section shall be subject to such conditions as the Board may prescribe.

Board may dispose of Crown land by public auction or public tender.

“(7) Land which has been offered for sale or lease by public auction or public tender under this section and which has not been disposed of on the day of the auction or the closing of tenders shall, subject to the next succeeding subsection, remain open for acquisition at the upset or minimum price or rental value.

“(8) Any offering of land which has been notified as open for acquisition under this section may at any time be withdrawn by the Board or the Commissioner, notwithstanding that bids or tenders have been received under subsection two of this section or that application to acquire the land has been made under the last preceding subsection.”

(2) Section sixty-three of the principal Act is hereby amended by adding to subsection three the words “ or, where the land is disposed of at auction or by tender, as fixed in the contract ”.

6. Section fifty-nine of the principal Act is hereby amended as follows:—

Amending provisions as to easements.

(a) By omitting from paragraph (a) of subsection three the words “ fifty yards ”, and substituting the words “ one hundred feet ”:

(b) By omitting from paragraph (c) of that subsection the words “ one hundred yards of any building ”, and substituting the words “ one hundred feet of any dwellinghouse ”.

7. Section sixty of the principal Act is hereby amended by adding the following subsection:—

Registration of easements without production of instrument of title.

“(5) Where under subsection two of this section the Board has granted any right of way, water right, or other easement over any Crown land held on lease or licence which is registered in the Land Transfer Office, and the lessee or licensee or other person entitled for the time being to the custody of the lease or licence neglects or refuses to produce the outstanding copy of the lease or licence to the District Land Registrar to permit the registration of the grant, the Board may, on being satisfied that the neglect or refusal is not justified, request the District Land Registrar to register the grant against the lease or licence in his office without production of the outstanding copy of the lease or licence, and the District Land Registrar shall register the grant accordingly.”

Board may  
impose  
building line  
restrictions.

8. The principal Act is hereby amended by inserting, after section sixty, the following section:—

“ 60A. (1) The Board in disposing of any land on any tenure under this Act may dispose of the same subject to a condition imposing a building line restriction by restricting the use of the land adjoining any road, street, access way, or service lane by prohibiting the erection of buildings or hoardings within a specified distance of one of the side lines or of the middle line of the road, street, access way, or service lane, or between a specified line and one of the side lines of the road, street, access way, or service lane.

“(2) For the purposes of this section the terms ‘ road ’, ‘ street ’, ‘ access way ’, and ‘ service lane ’ include a proposed road, street, access way, or service lane, as the case may be, and also include any area of land which in the opinion of the Board may be used for the purposes of a road, street, access way, or service lane.

“(3) Any building line restriction imposed pursuant to this section may at any time be revoked or amended or partially revoked or amended by the Board.

“(4) Where any land has been disposed of by the Board subject to a building line restriction, the Commissioner may prepare and sign a notice fully describing the restriction, and forward the notice to the District Land Registrar, who shall deposit the same in his office and register against the relevant certificate of title, lease, or licence, as the case may be, a memorandum under his hand that the land is subject to the building line restriction. Notice of the revocation or amendment of any building line restriction registered as aforesaid shall be given in like manner to the District Land Registrar, and shall be deposited and registered by him accordingly.

“(5) Registration as aforesaid shall affect with notice of the building line restriction all persons at any time having any estate or interest in the land.

“(6) Section one hundred and fourteen of this Act shall apply with respect to every building line restriction registered under this section.”

9. (1) Section sixty-two of the principal Act is hereby amended as follows:—

Disposal of industrial or commercial land.

(a) By inserting in paragraph (a) of subsection one, after the words “urban land” where they first appear, the words “or commercial or industrial land”:

(b) By adding to the same paragraph the following additional proviso:—

“Provided also that in any special case the Board may determine that any specified commercial or industrial land may be taken on lease only, but without the right of acquiring the fee simple, for any term with or without a right of renewal, but so that the aggregate term including renewals (if any) does not exceed fifty years.”:

(c) By repealing paragraph (b) of subsection one.

(2) Section one hundred and twenty-five of the principal Act is hereby amended by omitting from subsection two the words “and to leases current at the commencement of this Act of land classified as commercial or industrial land”.

(3) Section one hundred and twenty-six of the principal Act is hereby amended by omitting from the proviso to subsection one the words “or for a lease of land classified as commercial or industrial land”.

10. Section sixty-three of the principal Act is hereby amended by adding the following subsection:—

Leases to discharged servicemen.

“(5) Notwithstanding anything in the foregoing provisions of this section, where, after the first day of November, nineteen hundred and fifty (being the date of the commencement of the Servicemen’s Settlement Act, 1950), a renewable lease of Crown land is granted to a serviceman or discharged serviceman who has been granted a loan to facilitate his settlement on the land by the Rehabilitation Board constituted under the Rehabilitation Act, 1941, the rental value of the land shall be determined as if the Servicemen’s Settlement and Land Sales Act, 1943, had not been repealed, and the yearly rent shall be based on that rental value accordingly:

1950, No. 41

1941, No. 25

1943, No. 16

“Provided that, unless in any case the Board otherwise determines, where the lessee transfers, subleases, or otherwise disposes of his interest or any part of his

interest to any person (not being a serviceman or discharged serviceman who has been granted a loan by the Rehabilitation Board to facilitate his settlement on the land), the rental value and yearly rent as provided in the lease shall cease and determine as from the date of the registration of the transfer, sublease, or other instrument of disposition, and a new rental value and yearly rent based on the current value of the land as at that date shall be determined by the Board and shall take effect accordingly:

“ Provided also that on the death of the lessee the Board may, in its discretion, and subject to such conditions as the Board may prescribe, allow the lease to continue without any alteration in the rental value or yearly rent or may fix a new rental value or yearly rent as if the lease had been transferred at the date of the death of the lessee.”

**11.** (1) Section eighty-nine of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one the words “ unless he has first obtained the consent of the Board ”, and substituting the words “ without the consent of the Board ”:

(b) By adding to that subsection the words “ unless the variation is for the benefit of the mortgagor by extending the term of the mortgage or reducing the principal or rate of interest under the mortgage or otherwise howsoever ”.

(2) Section eighty-three of the principal Act is hereby amended by inserting in subsection two, after the words “ section eighty-nine of this Act ”, the words “ every variation of mortgage that does not require the consent of the Board under that subsection ”.

**12.** Section one hundred and thirteen of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

“(1) Where land is incorporated in or excluded from a lease or licence which is registered in the Land Transfer Office, or where any term or condition of any such lease or licence is varied, whether by increase or reduction of the rental value or yearly rent or otherwise howsoever, the Commissioner shall prepare and sign a certificate setting forth such particulars with respect to any alteration in area, rental value, rent, purchase

Amending provisions as to applications for consent of Board to dealings with leases and licences.

Registration of variations of leases and licences.

money, instalments of purchase money and interest, or other matters as he may deem necessary in the circumstances of the case. The certificate shall, in any case where land has been incorporated in or excluded from the lease or licence, have endorsed thereon or attached thereto a plan of that land, and shall in every case be produced to the District Land Registrar, who shall thereupon endorse on the relevant lease or licence a memorial of the same."

**13.** (1) The principal Act is hereby amended as from the commencement of that Act by repealing section one hundred and twenty-two, and substituting the following section:—

Right of acquisition of fee simple.

" 122. (1) In this section and the next two succeeding sections ' lease ' means a renewable lease under this Act under which the lessee has the right of acquiring the fee simple; a lease with perpetual right of renewal, absolute or conditional (other than a lease of land comprised in an endowment or reserve vested in any corporate body or person and administered by a Land Board, or a lease granted under the Hanmer Crown Leases Act, 1928) granted under any former Land Act and current at the commencement of this Act; a lease over any land acquired by the Crown under section nineteen or section twenty of the Maori Townships Act, 1910, or any former Maori Townships Act, current at the date of that acquisition or at the commencement of this Act, whichever is the later; a lease with perpetual right of renewal over an education reserve or endowment administered by a Land Board granted under the Education Reserves Act, 1928, or any former Education Reserves Act, and current at the commencement of this Act; a lease in perpetuity current at the commencement of this Act; a licence for occupation with right of purchase current at the commencement of this Act; or a licence for the occupation of pastoral land within a mining district issued pursuant to regulations under the Land Act, 1924, or any former Land Act, and current at the commencement of this Act; and ' lessee ' has a corresponding meaning.

See Reprint of Statutes, Vol. IV, p. 855

Ibid., Vol. VI, p. 362

Ibid., Vol. IV, p. 1003

Ibid., p. 622

"(2) Every lessee who has complied with all the conditions of his lease may at any time during the currency of his lease acquire the fee simple of the land



comprised therein upon the terms and subject to the conditions defined and at a price ascertained and determined in the manner provided by this section.

“(3) The right of purchase hereby conferred may be exercised by giving notice to the Commissioner and at the same time paying the prescribed valuation fee.

“(4) The delivery of the notice to the Commissioner shall constitute a contract between the lessee and the Crown for the purchase and sale of the land.

“(5) As soon as possible after the receipt of the notice the Board shall cause the following values to be ascertained:—

“(a) The value of the improvements which are then in existence and unexhausted on the land included in the lease, and which have either been put on the land by the lessee or his predecessors in title during the continuance of the lease or have been purchased by the lessee or his predecessors in title as existing at the commencement of the lease:

“(b) The value of all other improvements which are then in existence and unexhausted on the land included in the lease:

“(c) The value of the land included in the lease exclusive of the said improvements:

“ Provided that the sum of the values under paragraphs (a), (b), and (c) of this subsection shall not exceed the capital value of the land:

“ Provided also that where all the improvements on the land included in the lease have either been put on the land by the lessee or his predecessors in title during the continuance of the lease or have been purchased by the lessee or his predecessors in title as existing at the commencement of the lease, the Board may cause only the value of the land exclusive of the said improvements to be ascertained.

“(6) For the purposes of the last preceding subsection, the expression ‘capital value’ means the sum which the land and improvements thereon might be expected to realize at the time of valuation if offered for sale, unencumbered by any mortgage or other charge thereon, on such reasonable terms and conditions as a *bona fide* seller might be expected to require.

“(7) Subject to the rights of the lessee under subsection ten of this section, the sum of the values under paragraphs (b) and (c) of subsection five of this section shall be the purchase price of the land.

“(8) As soon as practicable after the values have been ascertained under subsection five of this section, the Commissioner shall deliver to the lessee a notice in writing informing him of those values and the purchase price of the land.

“(9) If the Board omits to cause the said values to be ascertained, or the Commissioner omits to deliver the said notice to the lessee within such time as may be reasonable, the lessee may require the values to be ascertained and notice to be given at any time thereafter, so long as he remains in possession of the land, whether the term of his lease has or has not expired, and his right to acquire the fee simple shall not be affected by any such omission or delay.

“(10) Within one month after the receipt of the notice referred to in subsection eight of this section, the lessee shall elect by notice in writing to the Commissioner whether to purchase the land for cash or on deferred payments, and shall state in the notice whether he agrees to the purchase price set out in the notice given him by the Commissioner, or whether he requires the purchase price to be determined by the Land Valuation Court as hereinafter provided. If the lessee omits to give to the Commissioner within the time limited therefor notice of his election as aforesaid, he shall be deemed to have agreed to the values set out in the notice given him by the Commissioner and to have elected to purchase the fee simple for cash at the purchase price set out therein.

“(11) The right of purchase conferred by this section on the holder of a lease in perpetuity or of a licence for occupation with right of purchase or of any lease under which the lessee or licensee has the right to acquire the fee simple at a price specified in the lease or licence or of any lease over any land acquired by the Crown under section nineteen or section twenty of the Maori Townships Act, 1910, or any former Maori Townships Act shall be in addition to and not in substitution for any right which the lessee or licensee already has of acquiring the fee simple of the land conferred by his lease or licence or by

See Reprint  
of Statutes,  
Vol. VI, p. 362

any former Land Act. In the case of any other lease the right conferred by this section is in substitution for any right (absolute or conditional) which the lessee already has of acquiring the fee simple, and no such right conferred by any such lease current at the commencement of this Act shall be exercisable after the commencement of this Act."

1949, No. 51

(2) Section thirty-one of the Statutes Amendment Act, 1949, is hereby amended by repealing subsection one.

Board need not value improvements when all improvements belong to lessee.

14. Section one hundred and thirty-one of the principal Act is hereby amended by adding to subsection one the following additional proviso:—

" Provided also that where all the improvements on the land included in the lease have either been put on the land by the lessee or his predecessors in title during the continuance of the lease or have been purchased by the lessee or his predecessors in title as existing at the commencement of the lease, the Board may cause only the value of the land exclusive of the said improvements to be ascertained."

Amending provisions as to payment of purchase money.

15. Section one hundred and twenty-four of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one the words " delivery of the notice or of the sealing of the order, as the case may be, and also interest at four and one half per centum per annum on the purchase price from that date to the date of payment ", and substituting the words " receipt of that payment by the Commissioner ":

(b) By omitting from paragraph (a) of subsection two the words " delivery of the notice or of the sealing of the order, as the case may be ", and substituting the words " receipt of that deposit by the Commissioner ".

Servicemen may apply for relief where land sold for cash.

16. (1) Section one hundred and fifty-four of the principal Act is hereby amended by adding to paragraph (c) the words " or under any sale under this Act ".

(2) Section one hundred and fifty-five of the principal Act is hereby amended by inserting in subsection one, after the words " farm land disposed of ", and also after the words " date as at which the land was disposed of ", the words " under this Act or ".

(3) Section one hundred and sixty-one of the principal Act is hereby amended by inserting in subsection three, after the words "less than", the words "the price at which the land was sold for cash or".

17. Section one hundred and fifty-four of the principal Act is hereby further amended by adding the following subsection as subsection two thereof:—

"(2) Where any land or interest in land in respect of which a right of review of liabilities exists under this Part of this Act is transferred to a serviceman or discharged serviceman who is qualified to make an application under section one hundred and fifty-five of this Act for a review of his liabilities, that right shall enure for the benefit of the transferee:

"Provided that no such application for review may be made by the transferee except within the period during which the application could have been made had the land or interest not been so transferred."

18. (1) Section one hundred and fifty-five of the principal Act is hereby amended by adding to subsection one the following proviso:—

"Provided that no serviceman or discharged serviceman shall be entitled to make an application under this section unless he has been granted a loan to facilitate his settlement on the land by the Rehabilitation Board constituted under the Rehabilitation Act, 1941."

(2) Section one hundred and fifty-four of the principal Act is hereby amended by inserting, before the words "This section and the next ten", the words "Subject to the proviso to subsection one of section one hundred and fifty-five of this Act,".

19. The principal Act is hereby amended by repealing section one hundred and fifty-six, and substituting the following section:—

"156. Notwithstanding anything in section one hundred and fifty-five of this Act, where a serviceman or discharged serviceman has acquired any land or any interest in any land by virtue of the operation of section fifty-one of the Servicemen's Settlement and Land Sales Act, 1943, or of section four of the Servicemen's Settlement and Land Sales Amendment Act, 1948, or of section thirty-one or section thirty-six of the Servicemen's Settlement Act, 1950, and his liabilities

Purchaser from serviceman entitled to apply for review of liabilities.

Restricting classes of servicemen entitled to apply for review of liabilities.

1941, No. 25

Limiting right to apply for review.

1943, No. 16

1948, No. 49

1950, No. 41

incurred in respect of the acquisition of that land or interest (excluding any liability under any mortgage given pursuant to section one hundred and sixty-four A of this Act) do not exceed the basic value as at the date of acquisition, as determined in accordance with the provisions of section fifty-three of the Servicemen's Settlement and Land Sales Act, 1943, of that land or interest, he shall not be entitled to any review of those liabilities under this Part of this Act."

1943, No. 16

Suspensory  
loans.

20. The principal Act is hereby amended by inserting in Part X, after section one hundred and sixty-four, the following section:—

"164A. (1) Where on or after the first day of November, nineteen hundred and fifty,—

"(a) The Board sells farm land or farm land and improvements, whether for cash or on deferred payments, to a serviceman or discharged serviceman who has been granted a loan by the Rehabilitation Board constituted under the Rehabilitation Act, 1941, to enable him to complete the purchase; or

1941, No. 25

"(b) The Board grants to such a serviceman or discharged serviceman a lease of farm land and at the same time sells to him the improvements thereon—

the Board may, in order to prevent the land or any interest therein being used for speculative purposes, require the purchaser, as a condition of the sale, to give a mortgage over the land or interest to His Majesty the King or to the State Advances Corporation of New Zealand to secure, on such terms and conditions as the Board prescribes, an amount not exceeding that part of the purchase price which is equal to the amount by which the value of the land or the land and improvements or the improvements only, as the case may be, determined as if the Servicemen's Settlement and Land Sales Act, 1943, had not been repealed, is less than the current market value as at the date of the purchase.

1943, No. 16

"(2) The following conditions shall be implied in every such mortgage, namely:—

"(a) A condition that the mortgagee may not enforce payment of principal or interest moneys secured under the mortgage so long as the purchaser continues to reside

personally on the land and to farm it exclusively for his own use and benefit and to observe and fulfil the covenants and conditions contained or implied in any prior mortgage over the same land given to His Majesty the King or to the State Advances Corporation of New Zealand but, if the purchaser at any time ceases so to reside on the land and so to farm the land or fails to observe and fulfil any of the covenants or conditions contained or implied in any such prior mortgage, the mortgagee under the first mentioned mortgage may enforce payment of the principal and interest moneys secured by that mortgage in accordance with the provisions of the mortgage:

“(b) A condition that, if at the expiration of ten years from the date when the mortgage was given the purchaser has not ceased to reside personally on the land and to farm it for his own use and benefit and has continued to observe and fulfil the covenants and conditions contained or implied in any prior mortgage as aforesaid, the mortgage shall be discharged at the expiration of that period and the liability of the purchaser thereunder shall absolutely cease and determine:

“(c) A condition that, if the purchaser dies within the said period of ten years without having committed a breach of any of the conditions implied on the part of the purchaser by paragraph (a) of this subsection, the mortgagee may, in his or its discretion, call up and compel payment of the principal and interest moneys secured by the mortgage or may allow the mortgage to continue for the balance of that period subject to the conditions as to residence being fulfilled by the executor, administrator, or trustee of the deceased purchaser or by a specified beneficiary in his estate.

“(3) The provisions of subsection two of this section shall not, except as provided therein, be deemed to restrict the generality of the power of the mortgagee

to require such terms and conditions to be included in any mortgage given under subsection one of this section as the mortgagee thinks fit.”

No review of liability under suspensory mortgage.

21. The principal Act is hereby further amended by inserting in Part X, after section one hundred and sixty-four A (as enacted by the last preceding section), the following section:—

“ 164B. (1) Except as provided in subsection two of this section, the right of review of liabilities conferred by this Part of this Act shall not apply with respect to or affect any mortgage given under section one hundred and sixty-four A of this Act.

“(2) In any case where under this Part of this Act the liability of a serviceman or discharged serviceman has been adjusted by the reduction of the principal sum secured by any mortgage (other than a mortgage given under section one hundred and sixty-four A of this Act) or of the purchase price under a deferred payment licence, and the land charged with the repayment of that mortgage or in respect of which the licence is held, as the case may be, is also charged with a mortgage given under section one hundred and sixty-four A of this Act, the mortgagee may vary the terms of the last mentioned mortgage by adding to the principal sum secured thereby the amount by which the principal sum secured by the first mentioned mortgage or the purchase money due under the deferred payment licence, as the case may be, has been reduced, together with any rebate of interest payments made under the first mentioned mortgage or under the licence up to the date of the order of the Court or the determination of the Board, as the case may be, which have been credited to the serviceman or discharged serviceman.”