



ANALYSIS

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1983, No. 43

An Act to amend the Reserves Act 1977

[29 November 1983

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

1. Short Title and commencement—(1) This Act may be cited as the Reserves Amendment Act 1983, and shall be read together with and deemed part of the Reserves Act 1977 (hereinafter referred to as the principal Act).

(2) This Act shall come into force 28 days after the date on which it receives the Governor-General's assent.

2. Interpretation—Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term "racing club", the following definition:

"Ranger" means any person appointed or deemed to be appointed under section 8 of this Act as a ranger for the purposes of this Act."

3. Classification of certain reserves vested in local authorities—(1) Section 16 of the principal Act (as substituted by section 4 (1) of the Reserves Amendment Act 1979) is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) Notwithstanding subsection (1) of this section, where a resolution is gazetted under section 14 (4) of this Act, the reserve shall, without further notice or gazetting, be held and administered for the purpose specified in the resolution, and shall be deemed to be classified accordingly.

“(2A) Notwithstanding subsection (1) of this section, where any reserve was—

“(a) Vested in a local authority which did not derive its title to the land from the Crown; or

“(b) Created under section 17 of the Land Laws Amendment Act 1920; or

“(c) Created under section 16 of the Land Act 1924; or

“(d) Created under section 13 of the Land Subdivision in Counties Act 1946; or

“(e) Purchased out of money paid out of the Land for Settlements Account in accordance with section 14 (2) of the Land Subdivision in Counties Act 1946; or

“(f) Created under Part XX of the Local Government Act 1974—

and is or remains vested in a local authority, that local authority shall, by resolution, classify the reserve according to its principal or primary purpose, as defined in sections 17 to 23 of this Act.

“(2B) Any local authority that classifies a reserve in accordance with subsection (2A) of this section shall forthwith give notice of that classification to the Commissioner.”

(2) Section 16 of the principal Act (as so substituted) is hereby further amended by omitting from subsection (8) the words “subsection (1) or subsection (2) of”.

(3) Section 16 of the principal Act (as so substituted) is hereby further amended by inserting in subsection (11) (b), after the words “pursuant to”, the words “Part XXVIII of the Municipal Corporations Act 1933,”.

4. Management plans for Government purpose and local purpose reserves—(1) Section 41 of the principal Act is hereby amended by repealing subsection (16), and substituting the following subsection:

“(16) This section shall not apply in respect of any Government purpose reserve or local purpose reserve unless the reserve is vested in an administering body or an administering body is appointed to control and manage the reserve, and the Minister in the notice of vesting or notice to control and manage directs that this section is to apply in respect of the reserve.”

(2) Subsections (3) and (4) of section 6 of the Wildlife Amendment Act 1980 are hereby consequentially repealed.

5. Rights of way and other easements—Section 48 of the principal Act is hereby amended by adding the following subsection:

“(4) Rights of way and other easements may be granted under this section to any person, including, notwithstanding any rule of law to the contrary, the Crown or the administering body in which the reserve is vested, and, where the right of way or other easement is granted to the Crown or administering body in which the reserve is vested, covenants and agreements in respect of any such transaction may be entered into by or on behalf of the Crown or by the administering body, as the case may be, in the one capacity so as to bind or benefit the Crown or the administering body in the other capacity as fully and effectually as if the Crown or the administering body were a separate person in each capacity.”

6. Powers in respect of nature reserves—(1) The principal Act is hereby amended by repealing section 57, and substituting the following section:

“57. (1) The Minister or the administering body of any nature reserve authorised by the Minister may issue permits granting access to a nature reserve subject to any conditions that are specified in any such permit.

“(2) The Minister or the administering body of any nature reserve authorised by the Minister may, by notice in the *Gazette*, declare that access to all or part of any nature reserve in the North Island, South Island, Stewart Island, or Chatham Island (but not any other island of the Chatham group) is permitted without a permit during such times or periods as are specified in the notice, and subject to any other conditions that are specified in the notice.

“(3) The Minister or the administering body of any nature reserve authorised by the Minister may, where he considers it necessary for the purposes specified in section 20 (1) of this

Act, by notice in the *Gazette*, prohibit the anchoring or mooring of boats within a specified area not more than half a nautical mile of the shore of any island that is wholly or principally a nature reserve, otherwise than in accordance with a permit granted under subsection (7) of this section.

“(4) No notice given under subsection (3) of this section shall specify any area that is within a marine reserve constituted under the Marine Reserves Act 1971.

“(5) The Minister or the administering body, as the case may be, shall not give any notice under subsection (3) of this section without the consent of the Minister of Fisheries given after consultation with the Fishing Industry Board, the consent of the Minister of Transport, and, where the area proposed to be specified in the notice is within the limits of any harbour, the consent of the appropriate harbour board.

“(6) Nothing in any notice given under subsection (3) of this section shall affect any right of navigation or apply in an emergency.

“(7) Where any notice has been given under subsection (3) of this section, the Minister or the administering body, as the case may be, may issue permits allowing any person to anchor or moor a specified vessel or any vessel within any area to which the notice relates subject to any conditions that are specified in the permit.

“(8) Where the giving of any notice under subsection (2) or subsection (3) of this section is not in conformity with and contemplated by the approved management plan for the reserve, the Minister or the administering body, as the case may be, shall give public notice in accordance with section 119 of this Act of the proposal to give the notice, and shall give full consideration to all objections and submissions received pursuant to section 120 of this Act in relation to the proposal.

“(9) The administering body of a nature reserve may from time to time, in the exercise of its functions under section 40 of this Act and to the extent necessary to give effect to the principles set out in section 20 of this Act,—

“(a) Subject to subsection (10) of this section, set apart and use any part or parts of the reserve as sites for residences for officers or servants of the administering body or for rangers, and for other buildings and structures necessary for the proper and beneficial management, administration, and control of the reserve and for the protection, preservation, and well-being of the indigenous flora and fauna and other features in the reserve:

“(b) Appoint officers, servants, and rangers, whether paid or unpaid:

“(c) Do such other things as may be considered necessary for the proper and beneficial management, administration, and control of the reserve and for the protection, preservation, and well-being of the indigenous flora and fauna and other features in the reserve.

“(10) The powers conferred on administering bodies by paragraph (a) of subsection (9) of this section shall not be exercised without the consent of the Minister, which shall not be given unless the Minister is satisfied that the residences, buildings, or structures are necessary for the purposes specified in that paragraph, and cannot readily be provided outside and in close proximity to the reserve.”

(2) Section 20 (2) (c) of the principal Act is hereby amended by inserting, after the word “Act”, the words “or in accordance with a notice given under subsection (2) of that section”.

7. Leases and licences relating to historic reserves—

(1) Section 58A of the principal Act (as inserted by section 19 (1) of the Reserves Amendment Act 1979) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The administering body with the prior consent of the Minister and in the exercise of its functions under section 40 of this Act (in the case of an historic reserve that is vested in an administering body), or the Minister, (in the case of any other historic reserve), may from time to time grant leases or licences to any person, body, voluntary organisation, or society (whether incorporated or not) for domestic residential purposes or for the carrying on of any activity, trade, business, or occupation in any building or on any specified site within the reserve and grant leases of any such building or site for any such purpose or purposes.”

(2) Section 58A of the principal Act (as so substituted) is hereby further amended by omitting from subsection (2) the words “(other than a lease or licence to which the proviso to paragraph (b) of that subsection applies)”.

8. Anchoring or mooring of vessels near island scientific reserves—Section 59 of the principal Act is hereby amended by adding the following subsections:

“(3) The Minister or the administering body of any scientific reserve authorised by the Minister may, where he considers it necessary for the purposes specified in section 21 (1) of this

Act, by notice in the *Gazette*, prohibit the anchoring or mooring of boats within a specified area not more than half a nautical mile of the shore of any island that is wholly or principally a scientific reserve, otherwise than in accordance with a permit granted under subsection (7) of this section.

“(4) No notice given under subsection (3) of this section shall specify any area that is within a marine reserve constituted under the Marine Reserves Act 1971.

“(5) The Minister or the administering body, as the case may be, shall not give any notice under subsection (3) of this section without the consent of the Minister of Fisheries given after consultation with the Fishing Industry Board, the consent of the Minister of Transport, and, where the area proposed to be specified in the notice is within the limits of any harbour, the consent of the appropriate harbour board.

“(6) Nothing in any notice given under subsection (3) of this section shall affect any right of navigation or apply in an emergency.

“(7) Where any notice has been given under subsection (3) of this section, the Minister or the administering body, as the case may be, may issue permits allowing any person to anchor or moor a specified vessel or any vessel within any area to which the notice relates, subject to any conditions that are specified in the permit.

“(8) Where the giving of any notice under subsection (3) of this section is not in conformity with and contemplated by the approved management plan for the reserve, the Minister or the administering body, as the case may be, shall give public notice in accordance with section 119 of this Act of the proposal to give the notice, and shall give full consideration to all objections and submissions received pursuant to section 120 of this Act in relation to the proposal.”

9. Licences to occupy reserves temporarily—(1) Section 74 (1) of the principal Act is hereby amended by omitting the words “under this section may be granted”, and substituting the words “may be granted under subsection (2) of this section for any purpose specified in that subsection,”.

(2) Section 74 (3) of the principal Act is hereby amended by omitting the words “subsection (1) or”.

10. Powers of officers—(1) Section 93 (5) of the principal Act is hereby amended by omitting the words “of the Department of Lands and Survey or”.

(2) Section 100 (7) (c) of the principal Act is hereby repealed.

11. Offences—Section 94 (2) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraphs:

“(d) Not being an officer of the Department or a ranger, acting in either case in the course of his official duties, enters any nature reserve in breach of section 20 (2) (c) of this Act, or in breach of any condition imposed in any permit granted or notice given under section 57 of this Act; or

“(da) Being a person in charge of any boat, anchors or moors that boat in breach of a notice given under section 57 (3) or section 59 (3) of this Act or in breach of any permit granted under section 57 (7) or section 59 (7) of this Act; or”.

12. Removal of boats in certain circumstances—The principal Act is hereby amended by inserting, after section 100, the following section:

“100A. (1) Where any boat is found in circumstances such that any person who is an officer within the meaning of section 100 of this Act (in this section called ‘the officer’) has good cause to suspect that the person in charge of the boat is committing an offence against paragraph (d) or paragraph (da) of section 94 (2) of this Act and the officer has good cause to suspect that the person in charge of the vessel is likely to continue to commit the offence or is likely to commit a further offence against those provisions, the officer may, while the boat is within the territorial sea of New Zealand (as defined in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977), seize the boat and remove it to the nearest practicable port or place of safe anchorage, or to a safe position more than half a nautical mile from the shore of the reserve.

“(2) Any officer may exercise the powers conferred on him by subsection (1) of this section with the aid of such assistants as he considers to be necessary for the purpose.

“(3) The production by any officer of his warrant, instrument of appointment, or other evidence of identification shall be sufficient evidence of the authority of that officer to exercise the powers conferred by subsection (1) of this section.

“(4) Without limiting the provisions of section 98 of this Act, any person who in any way prevents or hinders any officer or any assistant of any officer in exercising any power conferred by this section commits an offence against this Act.”

13. Bylaws—Section 106 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) For the avoidance of doubt it is hereby declared that the power to make bylaws conferred on administering bodies by this section is in addition to and not in substitution for any power to make bylaws relating to the reserve under any other Act.”

14. Approval of bylaws—Section 108 (1) of the principal Act is hereby amended by omitting the words “by an administering body under this Act”, and substituting the words “under this Act by an administering body”.

This Act is administered in the Department of Lands and Survey.
