Version
as at 22 October 2025

Public Works Act 1981

Public Act	1981 No 35
Date of assent	3 October 1981
Commencement	see section 1(2)

Contents

		Page
	Title	12
1	Short Title and commencement	12
	Preliminary	
2	Interpretation	13
2A	Transitional, savings, and related provisions	18
3	Power to declare specific public work to be essential work *[Repealed]*	19
4	Service and content of notices	19
4A	Powers of Minister of Lands	20
4B	Execution of contracts for public works, etc	20
4C	Delegation of Minister's powers	21

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry for Primary Industries (Part 19) and Land Information New Zealand.

Part 1
Establishment and functions of Ministry of Works and Development

[Repealed]

5	Ministry of Works and Development *[Repealed]*	22
6	Functions of Ministry *[Repealed]*	22
7	Powers of Minister *[Repealed]*	22
8	Other powers and functions not affected *[Repealed]*	22
9	Execution of contracts for Government works, etc *[Repealed]*	22
10	Annual report *[Repealed]*	22
11	Committees *[Repealed]*	22
12	Commissioner of Works and Assistant Commissioners of Works *[Repealed]*	23
13	Other officers and employees of Ministry *[Repealed]*	23
14	Delegation of Minister's powers *[Repealed]*	23
15	Delegation of powers by Commissioner of Works *[Repealed]*	23

Part 2
Acquisition of land for public works

15A	Interpretation	23
16	Empowering acquisition of land	23

Acquisition by agreement

17	Acquisition by agreement	24
18	Prior negotiations required for acquisition of land for essential works	25
19	Compensation certificate may be registered to protect agreement	27
20	Declaration may give effect to agreement	29
21	Land may be purchased or improved for granting as compensation	29

Compulsory acquisition of land

22	Only land required for essential works may be compulsorily taken *[Repealed]*	29
23	Notice of intention to take land	29
24	Objection to be heard by Environment Court	32
25	Environment Judge may conduct inquiry alone by agreement	34
26	When Proclamation may issue	35
27	Natural material on land may be acquired or taken for public work	36

Land required under Infrastructure Funding and Financing Act 2020

27A	Transfer of land taken for construction of eligible infrastructure	38

Extending estates in land that may be acquired or taken

28 Particular estates in land may be acquired or taken 38
29 Acquisition of certain public land 39
30 Subsisting licence may be acquired or taken for public work 39
31 Surface, subsoil, or air space may be acquired separately 39

Miscellaneous provisions

32 Survey and plan not required in certain cases 40
33 Protective fences to be made before boundary fences removed 40
34 Owner may require severed land to be taken 40
35 Acquisition or taking of land not to operate as merger of interests 41

Defining middle line of road or railway

36 Procedures for defining middle line *[Repealed]* 41
36A Transitional procedures for defining middle line 41
37 Land affected by middle line notice may be taken by Proclamation *[Repealed]* 41
38 Middle line notice to lapse after certain period *[Repealed]* 42
39 Registration of middle line notice may be cancelled *[Repealed]* 42

Part 2A
Acquisition or taking of land for critical infrastructure projects

39AA How this Part works 42
39AAB Interpretation 42

When this Part applies

39AAC When this Part applies 43

Exceptions to when this Part applies

39AAD Exception for protected Māori land 43
39AAE Exception if Part 2 process preferable in circumstances 43

Acquisition by agreement

39AAF Minister or local authority must attempt to acquire land by agreement 44

Compulsory acquisition

39AAG Minister or local authority may proceed to take land if negotiations unsuccessful 45
39AAH Notice of intention to take land 45
39AAI Submission process 48
39AAJ When Proclamation may issue 51

Compensation payable under this Part

39AAK Compensation payable under this Part 53
39AAL Circumstances in which compensation must not be paid under section 39AAK(2)(b) and (c) 55

39AAM Adjustment of compensation payable under this Part 56

Other matters

39AAN Adjustment to critical infrastructure project descriptions 57
39AAO Modifications to this Act for purposes of this Part 57
39AAP Review of this Part and sections 72F and 72G 58

Part 3
Dealing with land held for public works

39A Interpretation 58
40 Disposal to former owner of land not required for public work 58
41 Disposal of former Maori land when no longer required 60
42 Disposal in other cases of land not required for public work 60
42A Solatium payment for loss of opportunity to purchase 62
42B Notice of right to apply for solatium payment 63
43 Land may be sold on deferred payments 64
44 Application of purchase money 64
45 Land held for public work may be leased, etc 64
46 Sale and removal of timber and coal from land held for public work 65
47 Issue of record of title to land held for public work 65
48 Easement may be granted over land held for public work 66
49 Dealing with strata 66
50 Transfer of existing public works 67
51 Prohibiting acquisition of rights by adverse user of land held for public work 67
52 Setting apart Crown land, public reserve, etc, for public work 67

Part 4
Gazetting, revocation, amendment, and registration of documents

52A Interpretation 69
53 Proclamations and declarations not to take effect until gazetted 69
54 Revocation of Proclamation or declaration taking land 70
55 Amending or revoking documents 70
56 Minor misdescription not to invalidate documents 71
57 Plan and Proclamation or declaration to be registered 71
58 Proclamation or declaration not registrable to be lodged with Chief Surveyor 72

Part 5
Compensation

Preliminary

59 Interpretation 72

Entitlement

60 Basic entitlement to compensation 74
61 Exceptions to right to compensation 75
62 Assessment of compensation 75
63 Compensation for injurious affection where no land taken 77
64 Compensation for injurious affection to be assessed by reference to whole work 78
65 Compensation for land for which no general demand exists 78
66 Disturbance payments 79
67 Compensation for loss on repayment of mortgage 79
68 Compensation for business loss 80
69 Offer of compensation when entry made 80
70 Offer of compensation when land taken 81
71 Claimant's acts making execution of work more costly 81

Additional compensation

72 Additional compensation for acquisition of notified dwelling 84
72A Amount of compensation to be paid under section 72 86
72B Definitions of terms used in sections 72C and 72D 87
72C Additional compensation for acquisition of notified land 87
72D Circumstances in which compensation must not be paid under section 72C 88
72E Adjustment of compensation payable under section 72 or 72C 89
72F Additional compensation for protected Māori land acquired or taken for critical infrastructure project 90
72G Circumstances in which compensation must not be paid under section 72F(2) or (7) 93
73 Assistance to purchase dwelling 94
74 Assistance to purchase farm, commercial, or industrial property 95
75 Compensation for tenants of residential and business premises 97
76 Refund of expenses where acquisition of land abandoned 98

The claim

77 By whom compensation may be claimed 99
78 Limitation of time for claiming compensation 99
79 Minister or local authority may take proceedings to determine compensation if person entitled fails to make claim 100
80 Accelerating hearing of compensation claims 101
81 Public Trust may be ordered to represent infants, absentee owners, etc 102
82 Particulars to be inserted in claim 103
83 Serving of claims 104
84 Filing claims in District Court 104
85 Tribunal may require claimant or respondent to state particulars 104
86 Third party notice 105

87 Amendment of claim 105

The award

88 Award to be in writing 105
89 Separate sums to be awarded for items of claim 106
90 Costs in claims for compensation 106
91 Costs may be deducted from compensation awarded 106
92 Costs in claims beyond jurisdiction of Land Valuation Tribunal 106
93 Costs in claims withdrawn or abandoned 107
94 Interest on compensation money 107
95 Finality of award and enforcement 107
96 When title doubtful compensation, etc, to be paid to Public Trust 107
97 Compensation in case of limited interests, etc 108
98 Public Trust may invest compensation money 110
99 Mortgaged land 110
100 Land subject to rent charge 111
101 Land on which rent payable 111
102 Funds from which compensation to be paid 111

Part 6
Grants of land, etc, in lieu of compensation

103 Minister or local authority may grant easements, etc, in lieu of compensation 112
104 Tribunal may award easements as compensation 112
105 Granting of land as compensation where equivalent land not readily available 112
106 Granting of land as compensation in other cases 114
107 Provisions relating to grants of land in exchange 114
107A Grant of lease or licence as compensation 118
108 Execution of certificates 119
109 Execution of certificates on behalf of local authority 119

Part 7
Surveys and investigations

109A Interpretation 119
110 Powers of entry for certain survey purposes 119
111 Powers of entry for other survey and investigation purposes 120
111A Powers of entry for survey and investigation purposes other than by Minister or local authority 121
112 Offence to destroy survey marks 122

Part 8
Legalisation, stopping, and exchanging of roads

113 Interpretation 123
114 Declaring land to be road 123
115 Certificate of consent may be registered 124

116 Stopping roads 126
117 Dealing with stopped roads 126
118 Application of other Acts to stopped roads 128
119 Taking severances 128
120 Registration 129

Part 9
Roads

121 Interpretation *[Repealed]* 131
122 Certain roads vested in Crown *[Repealed]* 131
123 Provisions relating to construction of motorways to apply to roads constructed pursuant to middle line *[Repealed]* 131
124 Minister may make roads and declare Government or district roads *[Repealed]* 131
125 Roads in areas where no territorial authority exists, etc *[Repealed]* 131
126 Powers of Minister over roads under his control *[Repealed]* 131
127 Powers of Minister in regard to swing gates and cattlestops on roads *[Repealed]* 132

Damage to and nuisances on roads

128 Owner or occupier of land not to cause damage to bridge by removal of stone, etc *[Repealed]* 132
129 Penalties for damage to roads, bridges, etc *[Repealed]* 132
130 Notice to be given of local authority works *[Repealed]* 132
131 Poles, etc, on roads to be adjacent to boundaries *[Repealed]* 132
132 Removal of roadside structures *[Repealed]* 132
133 Removal of trees, hedges, etc, that obscure visibility or interfere with a public work 132
134 Service of notice 134
135 Emergency work on trees, etc 135

Part 10
Access ways and service lanes

[Repealed]

136 Minister may construct access ways and service lanes *[Repealed]* 135
137 Control and management may be vested in Council *[Repealed]* 135

Part 11
Motorways

[Repealed]

137A Interpretation *[Repealed]* 136
138 Governor-General may authorise and declare motorways *[Repealed]* 136
139 Middle line procedures *[Repealed]* 136
140 Power to make motorways *[Repealed]* 136

141 Land may be temporarily occupied *[Repealed]* 136
142 Compensation where road interfered with or wholly closed *[Repealed]* 136
143 Access to land cut off from road or separated by motorway *[Repealed]* 136
144 Alterations to roads, drains, etc *[Repealed]* 136
145 Restrictions on poles, etc, on motorways *[Repealed]* 137
146 Availability for traffic *[Repealed]* 137
147 Maintenance and control of motorways *[Repealed]* 137
148 Restrictions on use of motorways *[Repealed]* 137
148A Vehicles which may be operated on motorways *[Repealed]* 137
148B Restrictions on access to motorways *[Repealed]* 137
149 Construction of buildings and facilities on, over, under, or adjacent to motorways *[Repealed]* 137
150 Motorway deemed to be road *[Repealed]* 137
151 Application of Impounding Act 1955 *[Repealed]* 137
152 Offences *[Repealed]* 138

Part 12
Limited access roads

[Repealed]

152A Interpretation *[Repealed]* 138
153 Creation and revocation of limited access roads *[Repealed]* 138
154 Provisions of Acts relating to roads to apply to limited access roads *[Repealed]* 138
155 Access to and from land *[Repealed]* 138
156 Authorisation of crossing places *[Repealed]* 138
157 Restricting movement to or from a limited access road *[Repealed]* 138
158 Limited access road not a road for certain purposes *[Repealed]* 138
159 Requirements relating to declaration of limited access road *[Repealed]* 139
160 Certificate of land affected to be forwarded to District Land Registrar *[Repealed]* 139
161 Administration of limited access roads *[Repealed]* 139
162 Offences *[Repealed]* 139
163 Compensation *[Repealed]* 139

Part 13
Railways

163A Interpretation 139
164 Railways to be authorised by Order in Council *[Repealed]* 139
165 Presumption as to area of Crown land or reserves used for railway, revesting of land not used, etc 139
166 Power to make railways, railway stations, etc 140

167 Rights of way where railway along or across road on level *[Repealed]* 141
168 Compensation where road interfered with or wholly closed 141
169 Access to land cut off from road or separated by railway 142
170 Alterations to roads, drains, etc 143
171 Agreement as to use of railway bridge for combined traffic *[Repealed]* 143
172 Right of way on joint railway and common bridges *[Repealed]* 144
173 Land may be temporarily occupied 144
174 Application of Impounding Act 1955 145

Part 14
Railways and tramways regulation and inspection

New Zealand Railways Corporation railways

175 Inspection of railways 145

Local railways and tramways

176 Interpretation 146
177 General Manager to be appointed for every local railway 146
178 Appointment of Inspector 146
179 Notice of intended opening 147
180 Minister may postpone opening or working of local railway 147
181 Notice to Minister of accidents 148
182 Inquiry as to accidents 148
183 Returns of accidents 149

Part 15
Defence works

184 Crown may construct defence works 149
185 Destroying or altering defence works 149

Part 16
Protection of public works (including aerodromes)

[Repealed]

185A Interpretation *[Repealed]* 150
186 This Part not to derogate from Town and Country Planning Act 1977 *[Repealed]* 150
187 Control of use of land in vicinity of essential works *[Repealed]* 150
187A Control of use of land transferred to State enterprises *[Repealed]* 150
188 Removal of trees, buildings, etc, interfering with use of aerodrome *[Repealed]* 150
189 Minister may direct local authority or airport authority to serve notice under this Part and in default may serve notice on its behalf *[Repealed]* 150

Part 17
Artificial lakes and secondary use of public works land

Artificial lakes

189A	Interpretation	151
190	Regulations as to use of lake formed by construction of Government work	151

Secondary use

191	Secondary use of land held for public work	152
192	Compensation under this Part	154
193	Revenue and expenditure under this Part	154

Part 18
Government drains

[Repealed]

194	Minister to have powers of territorial authority *[Repealed]*	155
195	Government drains *[Repealed]*	155

Part 19
Irrigation

195A	Application of Part 19 of Public Works Act 1981	155
196	Interpretation	155
197	Minister may construct and maintain water supply works	156
198	Minister may appoint territorial authority or catchment board as his agent	156
199	Minister may supply water to any person from water supply works	156
200	Notification of investigation of proposed irrigation scheme	157
201	Report of National Authority on proposed irrigation scheme *[Repealed]*	157
202	Notification of proposed irrigation scheme	157
203	Poll for proposed irrigation scheme	159
204	Preparation of rolls	159
205	Voting	159
206	Publication of proposal to take a poll	160
207	When and how poll to be taken	160
208	Constitution of district, etc	160
208A	Reduction in size and abolition of irrigation district	161
209	Basic charge	163
210	Adjustment of basic charge *[Repealed]*	163
211	Water availability charge	163
212	Adjustment of water availability charge *[Repealed]*	164
212A	Alternative to basic and water availability charges	164
213	Determination of interest	165
214	Liability of occupier for annual charge	165

215 Determination of irrigable area 165
216 Water availability agreements 166
217 Supply of water 168
218 Diminished supply 168
219 Penalty for late payment 169
220 Irrigation notice 169
221 Charge on land 170
222 Application of this Part to existing schemes 171
223 Minister not bound to acquire land 172

Part 20
National and local works

224 Government and local authority may combine in works of both national and local importance 172

Part 21
General provisions

225 Licences and authorities may be held by the Crown 176
225A Inventions, etc, by employees *[Repealed]* 176
226 Shares in building-unit companies 176
227 Advances for purchase of plant and equipment 176
228 Authorising Government to construct public works outside New Zealand 177
229 Improvement of farm land 177
230 Minister of Crown may appoint person to sell stores, etc, by auction 178
231 Money due by local authority may be deducted from money payable by Government 178
232 Minister may execute instruments *[Repealed]* 178
233 Notice of entry to be given 178
234 Emergency entry on land 179
235 Power to alter or divert rivers, etc, for safety or maintenance of public work *[Repealed]* 180
236 Imposition of building and other restrictions on land held for Government work 180
237 Excavations near public works 180
238 Controlling authority may bring action for damage to public work 181
239 Removal and disposal of abandoned property from public works land 181
240 Recovery of land from persons holding illegal possession 183
241 Obstructing employees 184
242 Offences and penalties 184
243 Regulations 184
244 Amendments to Town and Country Planning Act 1977 185
245 Requirements for certain public works to be removed *[Repealed]* 186

246 Requirements and designations for certain public works to be removed *[Repealed]* 186
247 Amendments to other Acts 186
248 Repeals, revocation, and savings 186
249 Transitional provision *[Repealed]* 187

Schedule 1AA 188
Transitional, savings, and related provisions

Schedule 1 192
Notice of intention to take land for [*description of public work*] in [*name of district*]

Schedule 2 194
Statutory declaration

Schedule 2A 195
Critical infrastructure projects

Schedule 2B 200
Notice of intention to take land for critical infrastructure project

Schedule 3 203

Schedule 4 207
Notice requiring claim to be heard by Land Valuation Tribunal

Schedule 5 208
Certificate under section 107(7) of the Public Works Act 1981 for grant of land under section 105 or section 106 of that Act

Schedule 6 208
Certificate under section 107(7) of the Public Works Act 1981 for grant of land under section 106 of that Act

[Repealed]

Schedule 7 209
Act administered by Ministry of Works and Development

[Repealed]

Schedule 8 210
Enactments repealed

An Act to consolidate and amend the law relating to public works

1 Short Title and commencement

(1) This Act may be cited as the Public Works Act 1981.

(2) This Act shall come into force on 1 February 1982.

Preliminary

2 Interpretation

In this Act, unless the context otherwise requires,—

Chief Surveyor means the Chief Surveyor appointed for the land district in which is situated any land to be dealt with under this Act; and includes his deputy

common marine and coastal area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

construction and **execution**, in relation to a work, include the establishment, constitution, operation, maintenance and undertaking of the work; and **construct** and **execute** have corresponding meanings

critical infrastructure project is defined in section 39AAB

Crown land means all land included within that term in the Land Act 1948, except lands held or occupied by any person under the Crown on deferred payment, occupation with right of purchase, perpetual lease, lease in perpetuity, renewable lease, or under any other kind of lease or licence, or for any other estate or interest

defence work means—

(a) any naval establishment, army camp, or air force base:

(b) any arsenal and any other structure or place used for the purpose of constructing, repairing, making, or storing munitions or equipment for or belonging to the Armed Forces:

(c) any other fortification, camping ground, training ground, parade ground, rifle, artillery, tank, weapon, or bomb range, or other work however designated which is constructed or intended to be used for the purpose of defence, and all roads or other works which may be requisite for approach to or otherwise necessary or convenient for the purposes of any such defence work

drain means a passage, channel, or pipe on, over, or under the ground for the reception and discharge of stormwater or pollutants, whether continuously or intermittently

eligible infrastructure has the same meaning as in section 8 of the Infrastructure Funding and Financing Act 2020

Environment Court means the Environment Court constituted under the Resource Management Act 1991

Government work means a work or an intended work that is to be constructed, undertaken, established, managed, operated, or maintained by or under the control of the Crown or any Minister of the Crown for any public purpose; and includes land held or to be acquired for the purposes of the Conservation Act 1987 or any of the Acts specified in Schedule 1 of that Act (except

the common marine and coastal area), even where the purpose of holding or acquiring the land is to ensure that it remains in an undeveloped state

intellectual property includes all property rights constituted by the Patents Act 2013, the Designs Act 1953, the Trade Marks Act 2002, and the Plant Variety Rights Act 2022, and includes any trade secret; but does not include any property rights constituted by the Copyright Act 1994

land includes any estate or interest in land

local authority means—

(a) any regional council, territorial authority, catchment authority or regional water board, harbour board, water service provider, or electric power board:

(b) any of the following as constituted, established, or continued by the Education and Training Act 2020:

(i) a board:

(ii) the council of a university:

(iia) a polytechnic:

(iii) a wānanga:

(iv) Te Pūkenga—New Zealand Institute of Skills and Technology or any of its subsidiaries that provide education or training (or both):

(c) *[Repealed]*

(d) any other person or body (however designated) having authority, under any Act, to undertake the construction or execution of any public work

local SPV work means eligible infrastructure—

(a) that is constructed or intended to be constructed by or under the control of an SPV, or for the time being under the control of an SPV; and

(b) for which a local authority is the responsible infrastructure authority

local work means—

(a) a work constructed or intended to be constructed by or under the control of a local authority, or for the time being under the control of a local authority; and

(b) a local SPV work

motorway means a motorway declared as such by the Governor-General in Council under section 138; and includes all bridges, drains, culverts, or other structures or works forming part of any motorway so declared; but does not include any local road, access way, or service lane (or the supports of any such road, way, or lane) that crosses over or under a motorway on a different level

notice means a statement conveying the general effect of a matter or thing done or intended to be done

protected Māori land has the same meaning as in section 11 of the Infrastructure Funding and Financing Act 2020

public notice means a notice published in a newspaper circulating in the area in which the subject matter of the notice arises, or to which it relates; and, if there is no such newspaper, then by a printed or written placard posted in some conspicuous place on the land or works affected by such notice or to which it relates; and **publicly notified** has a corresponding meaning

public reserve and **reserve** have the same meaning as in the Reserves Act 1977

public work and **work** mean—

(a) every Government work or local work that the Crown or any local authority is authorised to construct, undertake, establish, manage, operate, or maintain, and every use of land for any Government work or local work which the Crown or any local authority is authorised to construct, undertake, establish, manage, operate, or maintain by or under this or any other Act; and include anything required directly or indirectly for any such Government work or local work or use:

(b) every Government work or local work constructed, undertaken, established, managed, operated, or maintained by any board (as defined in section 10(1) of the Education and Training Act 2020) and every use of land for any Government work or local work that the board constructs, undertakes, establishes, manages, operates, or maintains, and includes anything required (whether directly or indirectly) for any such Government work or local work or use:

(c) any Government work or local work that is, or is required, for—

(i) a university, polytechnic, or wānanga as defined in section 10(1) of the Education and Training Act 2020; or

(ii) the New Zealand Institute of Skills and Technology (as continued by that Act) or any of its subsidiaries that provide education or training (or both)

railway includes—

(a) the land upon which any railway is made or authorised to be made under this Act, and all buildings and erections of every kind thereon, and all land held for railway purposes; and

(b) all buildings, erections, wharves, jetties, works, rolling stock, motor vehicles, vessels, plant, machinery, goods, chattels, and other fixed or moveable property of every description or kind capable of being used in respect of a railway, and situated or to be situated on any such land or held or used, or reputed to be held or used in connection with or for the purposes of a railway; and

(c) all telephone, electric telegraph, or other communications installations used in connection with a railway

Registrar-General of Land means the Registrar-General of Land referred to in section 231 of the Land Transfer Act 2017, and includes the Registrar of Deeds

responsible infrastructure authority has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

road means a road as defined in section 121

SPV means an SPV that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure

State highway means a State highway declared as such under section 103 of the Land Transport Management Act 2003

stopping, in relation to a road, includes diverting

telecommunications installation includes any equipment, apparatus, structure, tunnel, manhole, pit, pole, wire, cable, tube, conduit, fibre, waveguide, or other physical medium used or intended to be used for or in connection with a telecommunications service

territorial authority means a territorial authority within the meaning of the Local Government Act 2002; and, in relation to land that does not form part of the district of any such territorial authority, means the Minister of the Crown responsible for the administration of that Act

water service provider has the same meaning as in section 4 of the Local Government (Water Services) Act 2025

working day means any day of the week other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year.

Compare: 1928 No 21 s 2

Section 2 **aerodrome**: repealed, on 5 April 2025, by section 483(1) of the Civil Aviation Act 2023 (2023 No 10).

Section 2 **airport authority**: repealed, on 5 April 2025, by section 483(2) of the Civil Aviation Act 2023 (2023 No 10).

Section 2 **common marine and coastal area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2 **critical infrastructure project**: inserted, on 27 August 2025, by section 4 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Section 2 **District Land Registrar**: repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 2 **eligible infrastructure**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 2 **Environment Court**: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 2 **essential work**: repealed, on 31 March 1987, by section 2(1) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 2 **Government work**: substituted, on 31 March 1987, by section 2(2) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 2 **Government work**: amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2 **Government work**: amended, on 25 November 2004, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).

Section 2 **Government work**: amended, on 10 April 1990, by section 37 of the Conservation Law Reform Act 1990 (1990 No 31).

Section 2 **intellectual property**: inserted, on 31 March 1987, by section 2(3) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 2 **intellectual property**: amended, on 24 January 2023, by section 159 of the Plant Variety Rights Act 2022 (2022 No 61).

Section 2 **intellectual property**: amended, on 13 September 2014, by section 249 of the Patents Act 2013 (2013 No 68).

Section 2 **intellectual property**: amended, on 20 August 2003, by section 201 of the Trade Marks Act 2002 (2002 No 49).

Section 2 **intellectual property**: amended, on 1 January 1995, by section 236(1) of the Copyright Act 1994 (1994 No 143).

Section 2 **local authority**: replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 2 **local authority** paragraph (a): amended, on 27 August 2025, by section 172 of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Section 2 **local authority** paragraph (b)(iia): inserted, on 22 October 2025, by section 51 of the Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56).

Section 2 **local authority** paragraph (b)(iv): amended, on 25 September 2020, by clause 4(2) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 2 **local authority** paragraph (c): repealed, on 5 April 2025, by section 483(3) of the Civil Aviation Act 2023 (2023 No 10).

Section 2 **local SPV work**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 2 **local work**: replaced, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 2 **Minister**: repealed, on 1 April 1988, by section 2(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 2 **Ministry**: repealed, on 1 April 1988, by section 2(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 2 **National Roads Board**: repealed, on 1 October 1989, by section 116(4) of the Government Roading Powers Act 1989 (1989 No 75).

Section 2 **Planning Tribunal**: repealed, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 2 **protected Māori land**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 2 **public foreshore and seabed**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2 **public work** and **work**: substituted, on 31 March 1987, by section 2(5) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 2 **public work** and **work** paragraph (b): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 2 **public work** and **work** paragraph (c): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 2 **public work** and **work** paragraph (c)(i): amended, on 22 October 2025, by section 51 of the Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56).

Section 2 **railway** paragraph (b): substituted, on 31 March 1987, by section 2(6) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 2 **Registrar-General of Land**: inserted, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 2 **responsible infrastructure authority**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 2 **SPV**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 2 **State highway**: amended, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 2 **territorial authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2 **Transit New Zealand**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2 **urban area**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2 **water service provider**: inserted, on 27 August 2025, by section 172 of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Section 2 **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section 2 **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 2A: inserted, on 19 April 2017, by section 190 of the Resource Legislation Amendment Act 2017 (2017 No 15).

3 Power to declare specific public work to be essential work

[Repealed]

Section 3: repealed, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

4 Service and content of notices

(1) Any notice under this Act may be served or given—

(a) by delivering it personally to the person on whom it is to be served or to whom it is to be given; or

(b) by leaving it, or sending it by post in a registered letter addressed to such person, at his usual or last known place of residence or business in New Zealand; or

(c) by so delivering or posting it to any agent or attorney of such person; or

(d) if such person is not known, or his whereabouts are not known, or his last place of residence or business is not known, or no agent or attorney of such person is known, to the person issuing the notice, by publishing it at least twice in a newspaper circulating in the locality in which the land affected by the notice is situated.

(2) If a notice is sent by post in the manner prescribed by subsection (1), it shall be deemed to be served at the time at which the letter would have been delivered in the ordinary course of post; and in proving service of any such notice it shall be sufficient to prove that it was properly addressed and that it was accepted by the post office as a registered letter and that the notice has not, to the knowledge of the person making the declaration or affidavit of service or otherwise proving service, been returned by the post office to the sender.

(3) If a notice is published in a newspaper in accordance with subsection (1), it shall be deemed to be served at the time of the last publication of the notice.

(4) A notice required to be sent to a Minister of the Crown may be sent to the chief executive of the Minister's department at Wellington or, as the case may require, to the General Manager of Railways at the New Zealand Railways Corporation office at Wellington.

(5) A notice required to be sent to a local authority may be sent to the chief executive at the office of the authority.

(6) Except as otherwise provided in this Act, every notice shall—

(a) specify—

(i) the purpose of the notice; and

(ii) the period covered (if intended to be intermittent); and

(iii) the rights of objection to the matters referred to in the notice; and

(iv) the name and address of an officer of the Ministry or local authority to whom inquiries in respect of the notice may be made; and

(v) if entry on land is intended, the statutory authority for the entry; and

(b) be signed, as the case may require, by—

(i) a Minister of the Crown or an authorised officer of the Minister's department on the Minister's behalf; or

(ii) the chief executive of the local authority or his or her deputy.

Compare: 1928 No 21 s 3

Section 4(4): substituted, on 1 April 1988, by section 3(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 4(5): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 4(6)(b)(i): substituted, on 1 April 1988, by section 3(2) of the Public Works Amendment Act 1988 (1988 No 43).

Section 4(6)(b)(ii): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

4A Powers of Minister of Lands

Without limiting the powers conferred on the Minister of Lands by any other Act, the Minister of Lands shall have power to—

(a) acquire any land, building, or structure required for any Government work, to settle the purchase price or compensation therefor, and to administer, develop, improve, transfer, or dispose of any such property:

(b) acquire or hire personal property, including plant, stores, and equipment required for the performance of any of the Minister's activities or undertakings, and dispose of such property when no longer required or when commercially practicable.

Section 4A: inserted, on 1 April 1988, by section 4 of the Public Works Amendment Act 1988 (1988 No 43).

4B Execution of contracts for public works, etc

(1) Every contract or instrument relating to a Government work, unless otherwise expressly provided in this or any other Act, shall be entered into in the name of the Crown, and may, notwithstanding anything to the contrary in any other Act, be executed on the Crown's behalf by any Minister of the Crown, or by any person or office holder authorised by a Minister of the Crown in that behalf, either generally or in respect of any specified contract or instrument or of any specified class or classes of contract or instruments.

(2) Every contract, deed, or other instrument relating to land acquired or to be acquired by the Crown under this Act, unless otherwise expressly provided in this or any other Act, shall be entered into in the name of the Crown and may, notwithstanding anything to the contrary in any other Act, be executed on the Crown's behalf by the Minister of Lands, or by any person or office holder authorised by the Minister in that behalf, either generally or in respect of any

specified contract, deed, or instrument or of any specified class or classes of contracts, deeds, or instruments.

(3) Every contract for the execution of local works shall be made in such manner as the local authority making it is authorised by law to make and execute its contracts.

(4) All such contracts may be varied and discharged in the same manner respectively.

Section 4B: inserted, on 1 April 1988, by section 4 of the Public Works Amendment Act 1988 (1988 No 43).

4C Delegation of Minister's powers

(1) Any Minister of the Crown may from time to time, either generally or particularly, delegate in writing to any officer of the Minister's department any of the powers conferred on the Minister by this Act, except the power of delegation conferred by this section.

(2) Despite subsection (1), the Minister for Land Information must not delegate the power to issue a notice of intention to take land under section 23(1).

(3) Any delegation under this section may be made to—

(a) a specified person; or

(b) a person of a specified class; or

(c) the holder for the time being of a specified office or appointment; or

(d) the holders for the time being of offices or appointments of a specified class.

(4) Subject to any general or special directions given or conditions or restrictions imposed by the Minister, the person to whom any powers, functions, and discretions are delegated may exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

(5) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with its terms in the absence of proof to the contrary.

(6) A delegation under this section shall not affect the exercise of any power, function, or discretion by the Minister.

(7) If the Minister by whom any delegation under this section is made ceases to hold office, the delegation shall continue to have effect as if made by the Minister's successor in office.

(8) Every delegation under this section shall be revocable at will, but any such revocation shall not take effect until it has been communicated to the delegate.

Section 4C: inserted, on 1 April 1988, by section 4 of the Public Works Amendment Act 1988 (1988 No 43).

Section 4C(2): replaced on 19 April 2017, by section 191 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Part 1
Establishment and functions of Ministry of Works and Development

[Repealed]

Part 1: repealed, on 1 April 1988, pursuant to section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

5 Ministry of Works and Development

[Repealed]

Section 5: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

6 Functions of Ministry

[Repealed]

Section 6: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

7 Powers of Minister

[Repealed]

Section 7: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

8 Other powers and functions not affected

[Repealed]

Section 8: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

9 Execution of contracts for Government works, etc

[Repealed]

Section 9: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

10 Annual report

[Repealed]

Section 10: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

11 Committees

[Repealed]

Section 11: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

12 Commissioner of Works and Assistant Commissioners of Works

[Repealed]

Section 12: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

13 Other officers and employees of Ministry

[Repealed]

Section 13: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

14 Delegation of Minister's powers

[Repealed]

Section 14: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

15 Delegation of powers by Commissioner of Works

[Repealed]

Section 15: repealed, on 1 April 1988, by section 5(2) of the Public Works Amendment Act 1988 (1988 No 43).

Part 2
Acquisition of land for public works

15A Interpretation

In this Part, unless the context otherwise requires, **Minister** means the Minister of Lands.

Section 15A: inserted, on 1 April 1988, by section 6 of the Public Works Amendment Act 1988 (1988 No 43).

16 Empowering acquisition of land

(1) The Minister is hereby empowered to acquire under this Act any land required for a Government work.

(2) Every local authority is hereby empowered to acquire under this Act any land required for a local work for which it has financial responsibility.

(3) In addition, a local authority is empowered to acquire under this Act any land required for a local SPV work for which it is the responsible infrastructure authority.

Compare: 1928 No 21 s 11

Section 16(3): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Acquisition by agreement

17 Acquisition by agreement

(1) The Minister or a local authority may enter into an agreement to purchase any land for any public work for which the Crown or local authority, as the case may be, is responsible.

(2) Any agreement to sell land to the Crown or a local authority for public work under this section may be implemented by a declaration under section 20 or by a transfer instrument under the Land Transfer Act 2017 for the stated public work.

(3) *[Repealed]*

(4) If the land sought is—

(a) Maori freehold land as defined in section 2 of Te Ture Whenua Maori Act 1993; and

(b) beneficially owned by more than 4 persons; and

(c) not vested in any trustee or trustees—

the Minister, or any person authorised generally or particularly in writing by him, or the local authority, as the case may be, may apply to the Maori Land Court for the district in which the land is situated for an order under the provisions of Part 9 of the Maori Affairs Amendment Act 1974. The Maori Land Court shall deal with the application as if a notice under an enactment had been issued to the owners.

(5) If an agent is appointed by the Maori Land Court, he shall, subject to the terms of the appointment, be deemed to be the owner of the land for the purposes of entering into an agreement under this section and of executing any transfer or conveyance.

(6) Where Public Trust is authorised by virtue of an order under section 81 to represent the owner, Public Trust may agree to so represent the owner for the purposes of this section and may execute any transfer or conveyance.

(7) Any agreement to sell the land to the Crown or to a local authority under this section may—

(a) specify the method of acquiring title to the land; and

(b) *[Repealed]*

Compare: 1928 No 21 s 32(1), (2)

Section 17(1): substituted, on 1 April 1988, by section 7 of the Public Works Amendment Act 1988 (1988 No 43).

Section 17(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 17(3): repealed, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 17(4)(a): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 17(6): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 17(7)(b): repealed, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

18 Prior negotiations required for acquisition of land for essential works

(1) Where any land is required for any public work the Minister or local authority, as the case may be, shall, before proceeding to take the land under this Act—

(a) serve notice of his or its desire to acquire the land on every person having a registered interest in the land; and

(b) lodge a notice of desire to acquire the land with the Registrar-General of Land who shall register it, without fee, against the record of title affected; and

(c) invite the owner to sell the land to him or it, and, following a valuation carried out by a registered valuer, advise the owner of the estimated amount of compensation to which he would be entitled under this Act or the betterment that he may be liable to pay; and

(d) make every endeavour to negotiate in good faith with the owner in an attempt to reach an agreement for the acquisition of the land.

(2) If, after a period of 3 months,—

(a) the owner fails to respond to any invitation issued under subsection (1); or

(b) the owner refuses to negotiate with the Minister or the local authority, as the case may be; or

(c) an agreement for the sale and purchase of the land is not made with the owner under section 17,—

the Minister or local authority may, within 1 year after notifying the owner under subsection (1), proceed to take the land under this Act.

(3) Any notice under subsection (1)—

(a) may be withdrawn by the Minister or local authority at any time; and

(b) shall, in relation to any person and his interest in the land, be deemed to have been withdrawn at the expiration of the period of 1 year beginning on the day after the date on which the notice was served on that person unless, before the expiration of that period,—

(i) proceedings have been commenced under subsection (2); and

(ii) notice of the commencement of those proceedings has been given to that person.

(4) Where any notice under subsection (1)—

(a) has been withdrawn by the Minister or local authority under subsection (3)(a); or

(b) has been deemed to be withdrawn by virtue of subsection (3)(b)—

the Minister or local authority, as the case may require, shall give notice to that effect to the Registrar-General of Land who shall register it, without fee, against the title to the land.

(5) If the land required is—

(a) Maori freehold land as defined in section 4 of Te Ture Whenua Maori Act 1993; and

(b) beneficially owned by more than 4 persons; and

(c) not vested in any trustee or trustees—

the Minister, or any person authorised generally or particularly in writing by him, or the local authority, as the case may be, before complying with the provisions of subsection (1), may apply to the Maori Land Court for the district in which the land is situated for an order under the provisions of Part 10 of Te Ture Whenua Maori Act 1993. The Maori Land Court shall deal with the application as if a notice under an enactment had been issued to the owners.

(6) If an agent is appointed by the Maori Land Court, he shall, subject to the terms of the appointment, be deemed to be the owner of the land for the purposes of this section.

(7) Where—

(a) after reasonable inquiry the owner of the land cannot be found or is absent from New Zealand without appearing to have appointed an attorney with power to act on his behalf, and a period of 3 months has elapsed since notification was attempted to be given under subsection (1); or

(b) in the case of land to which subsection (5) relates, an order has not been made within 6 months after the application to the court under that subsection; or

(c) the owner of the land has indicated that he does not object to the acquisition but he has no power to sell the land; or

(d) the owner of the land is under a legal disability and he has no person to represent him; or

(e) the land is subject to a right of way by virtue of section 168 of the Land Transfer Act 1952 (as it was before the repeal of that Act) and the owner of the land has consented to the acquisition—

the Minister or local authority, as the case may be, may, without complying with the provisions of subsection (1) or subsection (2), proceed to take the land under this Act.

(8) Where Public Trust is authorised by virtue of an order under section 81 to represent the owner, Public Trust may agree to represent the owner for the purposes of this section.

Section 18(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 18(1)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 18(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 18(5): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 18(5)(a): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 18(7)(e): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 18(8): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

19 Compensation certificate may be registered to protect agreement

(1) Where the Minister or any local authority has entered into an agreement under section 17, or entered into an agreement for the payment of compensation under this or any other Act for damaging or injuriously affecting any land, or for the temporary occupation of any land, or for any condition or restriction to be applied in respect of any land, the Minister or local authority may forward a compensation certificate in accordance with this section to the Registrar-General of Land who shall, without fee, register it against the record of title to all land affected by it.

(2) Every compensation certificate under this section shall set out—

(a) the description of land affected by the certificate:

(b) brief particulars of the agreement which the Minister or local authority has entered into in respect of the land:

(c) the name and the address (if any) mentioned in the agreement of each person, other than the Minister or local authority, who is a party to the agreement:

(d) the place where, and the hours during which, a copy of the agreement may be inspected, and a reference by which the agreement may be identified.

(3) Notwithstanding anything contained in this section, where the land affected by an agreement comprises or includes part of the land in a record of title, and the part is not accurately defined in the agreement, a compensation certificate in respect of the agreement may be registered against the whole of the land in the record of title, and it shall not be necessary for the purpose of registering the compensation certificate to define accurately the land affected by the agreement.

(4) The validity of a compensation certificate shall not be affected by any misdescription in it of the land if sufficient information appears on the face of the compensation certificate to enable the Registrar-General of Land to satisfy himself of the identity of the land intended to be affected.

(5) Every person who acquires an estate or interest in any land in respect of which a compensation certificate under this section has been registered shall be bound by the agreement to which it relates to the same extent as the person from whom he acquired the estate or interest.

(6) Every person who applies at the place and within the hours specified in a compensation certificate for permission to inspect the copy of the agreement shall be shown the copy and any annexed plan, and, if the agreement requires payment of any money or the vesting of any land or the execution of any work, shall if he so requests be advised as soon as possible of the extent to which the agreement has been performed.

(7) Where the Minister or local authority is satisfied—

(a) that any land against which a compensation certificate is registered is not affected or no longer affected by the agreement to which the compensation certificate refers; or

(b) in any other case, as soon as all the requirements of the agreement have been performed or otherwise discharged so far as they affect any piece of land and that piece of land has ceased to be injuriously affected by the agreement and by any act done under the agreement—

the Minister or local authority shall notify the Registrar-General of Land to that effect who shall, without fee, note that the compensation certificate is discharged against the title to the land.

(8) Every compensation certificate, and every notice under subsection (7), shall be signed by the Minister or by some person authorised by the Minister in that behalf or, in the case of a local authority, shall be signed by the chief executive of the local authority.

Compare: 1948 No 39 s 17

Section 19(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 19(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 19(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 19(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 19(8): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

20 Declaration may give effect to agreement

(1) Where under this or any other Act, power is given to acquire land under this Act, the Minister, upon being satisfied—

(a) that the owner of the land has agreed to his land being acquired; and

(b) that no private injury will be done by the acquisition, or that compensation is provided by this Act for any private injury that will be done by the acquisition—

may issue a declaration in writing that, an agreement to that effect having been entered into, the land is thereby acquired for the purpose for which it is authorised to be acquired.

(2) Every declaration issued under subsection (1) shall have the effect of and be deemed to be a Proclamation under section 26, and the provisions of this or any other Act relating to Proclamations shall apply to any such declaration as if it were a Proclamation issued under that section, except that it shall not be necessary to publicly notify the declaration.

(3) Where an agreement for the purchase of any land has been entered into, title to the land, if not otherwise acquired, shall be transferred or surrendered to the Crown or to the local authority, as the case may be.

(4) Any land purchased and transferred or surrendered under this section shall be deemed to be land acquired under the authority of this Act.

Compare: 1928 No 21 s 32(4)–(6); 1962 No 41 s 4; 1970 No 145 s 5

21 Land may be purchased or improved for granting as compensation

Any notifying authority, as defined in section 59, may acquire any land under section 17 and develop and construct buildings on such land or on any other land owned by the notifying authority for the purpose of granting the land or any part of it in payment or satisfaction or in part payment or part satisfaction of the compensation payable to the person entitled for any land taken, purchased, or acquired for or in connection with a public work.

Compare: 1928 No 21 s 32A; 1976 No 165 s 2

Compulsory acquisition of land

22 Only land required for essential works may be compulsorily taken

[Repealed]

Section 22: repealed, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

23 Notice of intention to take land

(1) When land (other than land owned by the Crown) is required to be taken for any public work, the Minister in the case of a Government work, and the local authority in the case of a local work, shall—

(a) cause a survey to be made and a plan to be prepared, and lodged with the Chief Surveyor, showing the land required to be taken and the names of the owners of the land so far as they can be ascertained; and

(b) cause a notice to be published in the *Gazette* and twice publicly notified giving—

(i) a general description of the land required to be taken (including the name of and number in the road or some other readily identifiable description of the place where the land is situated); and

(ii) a description of the purpose for which the land is to be used; and

(iii) the reasons why the taking of the land is considered reasonably necessary; and

(iv) a period within which objections, other than objections by persons who are served with a copy of the notice under subsection (1)(c), may be made; and

(c) serve a notice on the owner of, and persons with a registered interest in, the land of the intention to take the land in the form set out in Schedule 1.

(1A) If the land to be taken is within a project area under the Urban Development Act 2020, the Minister or local authority must not do anything described in subsection (1) without the consent of the responsible Minister within the meaning of section 9 of that Act.

(2) The provisions of this section requiring the names of the owners of the land to be shown on the plan of the land shall have no application in respect of any Maori land unless title to the land is registered under the Land Transfer Act 2017, but instead the plan shall be endorsed with the advice that the names of the owners may be obtained at the appropriate Maori Land Court.

(2A) For the purposes of subsection (2), land that is registered with a qualified record of title is not land that is registered under the Land Transfer Act 2017.

(3) Every person having any estate or interest in the land intended to be taken may object to the taking of the land to the Environment Court in accordance with the provisions of the notice.

(4) Every notice of intention to take land given under this section shall, on the expiration of 1 year after the date of the publication in the *Gazette* of the notice, cease to have effect unless, on or before the expiration of that year,—

(a) a Proclamation taking the land has been published in the *Gazette*; or

(b) the Minister or the local authority has, by a further notice in writing served on the owner of the land, and persons with a registered interest in the land, intended to be taken, so far as they have been ascertained, confirmed the intention, subject to the provisions of this Act, of taking the land; or

(c) the intention to take is the subject of any inquiry by the Environment Court or an Ombudsman, or of any application for a judicial review, in which case the notice of intention shall remain valid for 3 months after the date of the Environment Court's report or the date on which the Environment Court received written notice of the withdrawal of the objection, or the date of the completion of any inquiry by an Ombudsman, or the judicial decision, as the case may be.

(5) Where the Minister or local authority has confirmed the intention of taking the land, the notice of intention so confirmed shall cease to have effect unless, on or before the expiration of 2 years after the date of such confirmation, a Proclamation taking the land has been published in the *Gazette*.

(6) Where any such notice of intention given by the Minister or a local authority has so ceased to have effect, the notice shall not be repeated until at least 6 months after the date on which the original notice or the confirming notice, as the case may require, ceased to have effect.

(7) A copy of the notice under subsection (1)(b) shall be lodged with the Registrar-General of Land and he shall register it without fee against the record of title affected.

(8) Any notice under this section may be withdrawn by the Minister or local authority and, if it is withdrawn, a notice to that effect shall be lodged with the Registrar-General of Land who shall register it without fee against the title to the land.

(9) No power in this section may be used to take protected Māori land for the purposes of a local SPV work.

Compare: 1928 No 21 s 22

Section 23(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 23(1)(b)(iii): amended, on 31 March 1987, by section 7 of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 23(1A): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

Section 23(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(2A): inserted, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 23(4)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 23(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(8): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(9): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

24 Objection to be heard by Environment Court

(1) On receiving a written objection under section 23, the Environment Court shall, as soon as practicable, send a copy of the objection to the Minister or local authority, as the case may require.

(2) Within 1 month after receiving a copy of the objection or within such further period as the Environment Court may allow, the Minister or local authority, as the case may require, shall send to the Environment Court and serve on the objector a reply to the objection containing the following information:

(a) the statutory or other authority under which it is proposed to take the land; and

(b) the nature of the work to be constructed or the purpose for which the land is required; and

(c) such other matters as may be appropriate having regard to the objections made and to any practice directions issued by the Environment Court.

(3) The Environment Court shall inquire into the objection and the intended taking and for that purpose shall conduct a hearing at such time and place as it may appoint.

(4) Not less than 15 working days' notice of the time and place so appointed shall be given to the objector and to the Minister or local authority, as the case may require.

(5) Every such hearing shall be held in public unless the objector gives written notice to the Environment Court before the date of the hearing that he requires the hearing to be held in private.

(6) At every such hearing the Minister or the local authority may be represented by counsel or by an officer of the Minister's department or local authority, as the case may require, and the objector may appear and act personally or by counsel or any duly authorised representative.

(6A) The Environment Court may, whether or not the parties consent,—

(a) accept evidence that was presented at a hearing described in section 39(1) of the Resource Management Act 1991, or at a related inquiry or appeal heard by the court; and

(b) direct how evidence is to be given to the court.

(7) The Environment Court shall—

(a) ascertain the objectives of the Minister or local authority, as the case may require:

(b) enquire into the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives:

(c) in its discretion, send the matter back to the Minister or local authority for further consideration in the light of any directions given by the court:

(d) decide whether, in its opinion, it would be fair, sound, and reasonably necessary for achieving the objectives of the Minister or local authority, as the case may require, for the land of the objector to be taken:

(e) prepare a written report on the objection and on the court's findings:

(f) submit its report and findings to the Minister or local authority, as the case may require.

(8) *[Repealed]*

(9) At the same time as the Environment Court submits its report and findings to the Minister or local authority, it shall send a copy of the report and findings to the objector, and make copies of them available to the public.

(10) The report and findings of the Environment Court shall be binding on the Minister or, as the case may be, the local authority.

(11) Any objection filed under section 23 may be withdrawn by the objector at any time before the court makes its report and findings under this section.

(12) Where the objection is withdrawn by the objector pursuant to subsection (11), the court shall not be obliged to make a report and findings under this section.

(13) The Environment Court may award such costs as it considers just either in favour of or against the objector, the Crown, or the local authority.

(14) Subject to sections 299 and 308 of the Resource Management Act 1991, no appeal shall lie from any report or recommendation of the Environment Court under this section.

Compare: 1928 No 21 s 22A(3)–(10); 1973 No 44 s 7(1)

Section 24 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(2)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(5): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(6): amended, on 1 April 1988, by section 8 of the Public Works Amendment Act 1988 (1988 No 43).

Section 24(6A): inserted, on 19 April 2017, by section 192 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 24(6A)(a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 24(7): substituted, on 31 March 1987, by section 8(1) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 24(7): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(7)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(7)(e): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(8): repealed, on 31 March 1987, by section 8(1) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 24(9): substituted, on 31 March 1987, by section 8(2) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 24(9): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(10): substituted, on 31 March 1987, by section 8(2) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 24(10): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(11): substituted, on 31 March 1987, by section 8(2) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 24(11): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(12): substituted, on 31 March 1987, by section 8(2) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 24(12): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(13): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(14): substituted, on 16 December 1983, by section 38(1) of the Town and Country Planning Amendment Act 1983 (1983 No 149).

Section 24(14): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 24(14): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 24(14): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

25 Environment Judge may conduct inquiry alone by agreement

An Environment Judge or alternate Environment Judge, sitting alone or with any other member of the court shall, if both the Minister or local authority and the objector agree, have jurisdiction to conduct the inquiry under section 24 and to report on the inquiry and make recommendations in respect of it.

Compare: 1928 No 21 s 22A(2)

Section 25 heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 25: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 25: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 25: amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 25: amended, on 16 December 1983, by section 38(2) of the Town and Country Planning Amendment Act 1983 (1983 No 149).

26 When Proclamation may issue

(1) If no objection is made within the time allowed under this Act or, if made, is withdrawn by the objector or is disallowed by the Environment Court, and the Minister or, as the case may be, the local authority, is of the opinion that the land should be taken for the public work specified in the notice given under section 23, and that no private injury will be done for which due compensation is not provided in this Act, the land intended to be taken may be taken in the following manner:

(a) subject to the provisions of section 32—

(i) a survey plan shall be prepared, in duplicate, showing accurately the position and extent of the land proposed to be taken; and

(ii) such plan shall be signed by the Chief Surveyor as evidence of its accuracy; and

(iii) a duplicate print of the title plan shall be prepared; and

(b) in the case of any Government work, the Minister shall recommend the Governor-General to issue a Proclamation taking the land:

(c) in the case of any local work—

(i) the local authority shall submit to the Governor-General a request to take the land proposed to be taken, together with the plan in duplicate unless the provisions of section 32 apply:

(ii) every such request shall be signed by the chief executive of the local authority, and need not be under seal:

(iii) a statutory declaration by the chairperson or mayor or the chief executive of the local authority, in the form set out in Schedule 2, may be accepted by the Governor-General as sufficient without making further inquiry:

(iv) every such declaration shall be accompanied, where applicable, by the relevant report of the Environment Court.

(2) The Governor-General may, if he thinks fit, by Proclamation declare that the land described in it is taken for the public work. Every such Proclamation shall be gazetted and publicly notified within 1 month after the date of its making; and every such public notification shall contain some readily identifiable description of the land taken, but a Proclamation shall not be invalidated by any error, defect, or delay in its gazetting or public notification.

(3) The land specified in the Proclamation shall, unless otherwise provided in the Proclamation or in this Act or in any other Act, become absolutely vested in fee simple in the Crown or in the local authority, as the case may require, freed and discharged from all mortgages, charges, claims, estates, or interests of whatever kind for the public work named in the Proclamation on the 14th day after the day on which the Proclamation is published in the *Gazette*.

Compare: 1928 No 21 s 23

Section 26(1): substituted, on 31 March 1987, by section 9 of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 26(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 26(1)(c)(ii): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 26(1)(c)(iii): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 26(1)(c)(iv): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 26(2): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 26(3): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

27 Natural material on land may be acquired or taken for public work

(1) In this section, **natural material** includes gravel, stone, clay, soil, sand, pumice, and limestone, or other similar material.

(2) Subject to subsection (3), where any work has been authorised to be carried out and any natural material is required in the construction or maintenance of the work, the Crown or the local authority by its employees, agents, or contractors may, subject to the conditions set out in this section,—

(a) enter during daylight on any land and dig and remove any natural material from it; and

(b) enter during daylight on any land for the purpose of gaining access to any river or stream, and, subject to the approval of the catchment authority, dig and remove natural material from the river or stream in such manner as will not divert or interrupt the course of the river or stream or damage any building, road, ford, or drain; and

(c) enter during daylight on any land so as to gain access to other land for any purpose authorised under this section.

(3) Entry shall not be made under subsection (2) without the consent of the owner or occupier, if the land is within the curtilage of a dwelling or other building or is within a stockyard, orchard, vineyard, plant nursery, shelter belt, airstrip, garden, or shrubbery.

(4) No natural material shall be dug or removed under subsection (2)(b) within 50 metres above or below any bridge, dam, or ford without the consent of the person or authority having control over the bridge, dam, or ford.

(5) Before entering on land under subsection (2), a Minister of the Crown or some officer acting on his behalf or the local authority, as the case may be, shall (except in the case of any earthquake, flood, landslide, or other emergency requiring immediate repair to or reconstruction of the work) give to the owner and the occupier of the land not less than 10 working days' notice in writing of the intention to enter and shall include in the notice—

(a) a description of the land affected; and

(b) the type of material required; and

(c) the approximate quantity of material required; and

(d) the use proposed to be made of the material to be removed; and

(e) how and when entry is to be made; and

(f) a statement of the owner or occupier's rights under subsection (6); and

(g) a statement that the owner or occupier will be entitled to compensation under this Act.

(6) The owner or occupier may, within 10 working days after receiving the notice and after giving notice to the Minister or local authority, as the case may be, of his intention to do so, object to the District Court nearest to the land concerned, and the court may summon the Minister or local authority or his or its representative to appear before the court at a time and place named in the summons.

(7) If it appears to the court that the taking proposed is unreasonable or unnecessary, the court may order that natural material from the land in question shall not be taken, or shall not be taken in the manner proposed; or the court may order that natural material be taken from such land in such manner and to such extent only and subject to such limitations and restrictions as the court thinks fit; and all persons concerned shall be bound by any such order.

(8) Nothing in this section shall derogate from the provisions of Part 3 of the Resource Management Act 1991.

Compare: 1928 No 21 s 17

Section 27(2): amended, on 1 April 1988, by section 9(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 27(2): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 27(5): amended, on 1 April 1988, by section 9(2) of the Public Works Amendment Act 1988 (1988 No 43).

Section 27(5)(g): substituted, on 1 April 1988, by section 9(3) of the Public Works Amendment Act 1988 (1988 No 43).

Section 27(8): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 27(8): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Land required under Infrastructure Funding and Financing Act 2020

Heading: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

27A Transfer of land taken for construction of eligible infrastructure

(1) This section applies to land acquired under this Part by a local authority—

(a) using the power conferred by section 16(3); or

(b) using the power conferred by section 16(2) in relation to land that is later required for the purpose set out in section 16(3).

(2) The local authority (that is a responsible infrastructure authority) may transfer the land to the responsible SPV for the purpose of a local SPV work.

(3) Sections 40 to 42A do not apply to—

(a) a transfer under subsection (2); or

(b) a transfer of the land back to the local authority under section 90 of the Infrastructure Funding and Financing Act 2020.

(4) If the local authority or the SPV that owns the acquired land no longer requires any of that land for eligible infrastructure, the authority or SPV must dispose of the land in accordance with sections 40 to 42A.

Section 27A: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Extending estates in land that may be acquired or taken

28 Particular estates in land may be acquired or taken

The power conferred by this or any other Act to acquire or take land for a public work shall include the power—

(a) to acquire or take and to hold the land subject to any particular estate, interest, easement, *profit à prendre*, covenant, or encumbrance, whether for the time being subsisting or not:

(b) to acquire or take and to hold separately—

(i) any particular estate or interest in the land, whether for the time being subsisting separately or not; or

(ii) any easement or *profit à prendre* over the land, whether for the time being subsisting or not.

Compare: 1939 No 39 s 62(1)

29 Acquisition of certain public land

Where there is power to acquire or take any land for a public work under this or any other Act, that power, unless otherwise specially provided,—

(a) shall not include the power to acquire or take any part of a road:

(b) shall include the power to acquire or take any land vested in any local authority or any land vested in trustees for any local or general public purpose.

Compare: 1928 No 21 s 13

30 Subsisting licence may be acquired or taken for public work

Where any land is taken or set apart for a public work, any subsisting licence, permit, right, privilege, or authority in respect of the land may be taken by the same or a subsequent Proclamation; and on and after a day to be named in the Proclamation the licence, permit, right, privilege, or authority shall vest in the Crown, or the local authority, as the case may be, freed and discharged from all mortgages, charges, claims, liens, bills of sale, and interests of any kind whatsoever. The provisions of this Act shall, so far as they are applicable and with the necessary modifications, apply in every such case as if the licence, permit, right, privilege, or authority were an interest in land.

Compare: 1948 No 39 s 18

31 Surface, subsoil, or air space may be acquired separately

(1) The Minister or local authority may, in acquiring or taking land for a public work, acquire only the surface, together with such part of the subsoil or of the air space above the surface as is deemed necessary, or may acquire or take all or only such part of the subsoil or of the air space above the surface as is deemed necessary excluding the surface.

(2) Where any land is so acquired or taken and any or all of the subsoil beneath that land is not so acquired or taken, the land shall, except pursuant to any agreement to the contrary, have no right of support from the subjacent soil.

(3) Where any land is so acquired or taken and any or all of the subsoil beneath that land is not acquired or taken it shall not be lawful for any person to extract minerals or otherwise interfere with the subjacent land until 6 months' notice of his intention to do so has been given in writing to the Minister in the case of a Government work, or to the local authority in the case of a local work.

(4) Where any land is so acquired or taken and any or all of the subsoil beneath that land is not acquired or taken, the Crown or the local authority, as the case may be, may at any time thereafter acquire or take in accordance with this Act any part of the subsoil underlying the land so acquired or taken, where the acquisition or taking is necessary for the support or protection of the work on the surface or in the air space above that subsoil.

Compare: 1928 No 21 s 21

Miscellaneous provisions

32 Survey and plan not required in certain cases

For the purposes of sections 20, 23, 26, 36, 37, 52, and 107—

(a) where it is proposed to deal with the whole or the residue of the land comprised in any record of title issued under the Land Transfer Act 2017, it shall be a sufficient identification of the land to describe it as the whole or the residue of the land in the record of title:

(b) where it is proposed to deal with land previously dealt with and separately described in any Proclamation, declaration, notice, or Order in Council issued, or deemed to have been issued, under any of those sections, the description there used shall be deemed to be a sufficient identification of the land:

(c) where it is proposed to deal with the whole of the land comprised in a separate lot or other surveyed subdivision which is shown on a plan lodged with the Registrar-General of Land in accordance with the provisions of the Land Transfer Act 2017, or lodged in the office of the Chief Surveyor of the land district in which the land is situated, it shall be sufficient to identify the land by reference to the lot or subdivision on the plan.

Compare: 1952 No 58 s 18

Section 32(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 32(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

33 Protective fences to be made before boundary fences removed

Nothing in this Act shall authorise any person to remove any fencing on or near the boundary of any land that has been or is intended to be acquired under this Act unless—

(a) other fences have been erected so that all land adjacent to that land is as effectually protected against damage by trespass as it would be if the fences were not removed; or

(b) the owner of the adjacent land has agreed in writing to the removal of the fencing.

Compare: 1928 No 21 s 33

34 Owner may require severed land to be taken

(1) Where part of the landholding of any person is taken compulsorily under this Act, that person may require the Minister or local authority, as the case may be, to take as a public work for the purposes of this section any other part of the holding where by reason of the taking that other part would become significantly—

(a) more costly to retain at the same standard as previously; or

(b) less useful to that person.

(2) Should any dispute arise as to whether or not any of the circumstances set out in this section apply to the land, the owner of the land may apply to the Environment Court for a determination of the matter. The decision of the Environment Court shall be final and binding on both parties.

(3) The Minister or local authority may subdivide, develop, provide access to, set apart, or dispose of any land taken under this section.

Section 34(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 34(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

35 Acquisition or taking of land not to operate as merger of interests

The acquisition or taking of any land under this Act shall not operate as a merger of interests unless or until the Minister or local authority requests that such merger be noted against the title affected by the Registrar-General of Land and the merger is so noted.

Section 35: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Defining middle line of road or railway

36 Procedures for defining middle line

[Repealed]

Section 36: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

36A Transitional procedures for defining middle line

Where a notice has been issued in the *Gazette* defining the middle line of a road or railway line under sections 36 to 39, that notice shall continue to have effect until its expiry or until the fifth anniversary of the date of commencement of the Resource Management Act 1991, whichever date first occurs, as if sections 36 to 39 had not been repealed.

Section 36A: inserted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

37 Land affected by middle line notice may be taken by Proclamation

[Repealed]

Section 37: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

38 Middle line notice to lapse after certain period

[Repealed]

Section 38: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

39 Registration of middle line notice may be cancelled

[Repealed]

Section 39: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Part 2A
Acquisition or taking of land for critical infrastructure projects

Part 2A: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AA How this Part works

(1) This Part applies (with some exceptions) if the Minister or a local authority requires land for a public work that is a critical infrastructure project (*see* section 39AAC).

(2) The Minister or local authority, as the case may be, must attempt to acquire the land by agreement with the owner of the land (*see* section 39AAF).

(3) If unsuccessful, the Minister or local authority may proceed to take the land using a modified form of the process set out in Part 2 of this Act (*see* section 39AAG).

(4) In all other aspects, the acquiring or taking of land under this Part must be undertaken in accordance with the provisions of this Act as modified expressly or by necessary implication (*see* section 39AAO).

(5) In certain circumstances, additional compensation is payable to owners of land for the acquiring or taking of their land under this Part (*see* section 39AAK).

(6) This section is only a guide. It does not affect the provisions to which it refers.

Section 39AA: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAB Interpretation

In this Part, unless the context otherwise requires,—

critical infrastructure project means a project listed in Schedule 2A

Crown body has the meaning given in section 11(2) of the Infrastructure Funding and Financing Act 2020

department means—

(a) an agency listed in Part 1 of Schedule 2 of the Public Service Act 2020:

(b) the New Zealand Defence Force:

(c) the New Zealand Police

Government work includes an undertaking described in section 224(1) if the Minister is responsible for acquiring the land for the undertaking

local work includes an undertaking described in section 224(1) if a local authority is responsible for acquiring the land for the undertaking

Minister means the Minister for Land Information

responsible department or Crown body means the department or Crown body responsible for the construction and execution of a Government work that is a critical infrastructure project.

Section 39AAB: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

When this Part applies

Heading: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAC When this Part applies

(1) The Minister must use this Part (instead of Part 2) to acquire or take under this Act any land required for a critical infrastructure project that is a Government work.

(2) A local authority must use this Part (instead of Part 2) to acquire or take under this Act any land required for a critical infrastructure project that is—

(a) a local work for which it has financial responsibility:

(b) a local SPV work for which it is the responsible infrastructure authority.

(3) This section is subject to the exceptions in sections 39AAD and 39AAE.

Section 39AAC: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Exceptions to when this Part applies

Heading: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAD Exception for protected Māori land

To the extent that any protected Māori land is required for a critical infrastructure project, this Part does not apply to the acquiring or taking of that land by the Minister or a local authority.

Section 39AAD: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAE Exception if Part 2 process preferable in circumstances

(1) The Minister must use Part 2 (instead of this Part) to acquire or take under this Act land required for a critical infrastructure project if the responsible

department or Crown body informs the Minister in writing that, in its opinion, it would be preferable to use the process under that Part.

(2) In forming an opinion for the purposes of subsection (1), the responsible department or Crown body—

(a) must consider the time frames and costs of the project; and

(b) may consider any other matters that it considers relevant.

(3) A local authority must use Part 2 (instead of this Part) to acquire or take under this Act land required for a critical infrastructure project if it informs the Minister in writing that, in its opinion, it would be preferable to use the process under that Part.

(4) In forming an opinion for the purposes of subsection (3), the local authority—

(a) must consider the time frames and costs of the project; and

(b) may consider any other matters that it considers relevant.

(5) If the Minister receives a notification under subsection (1) or (3), the acquiring or taking under this Act of all land required for the project must proceed in accordance with Part 2, and the Minister must publicly notify a statement to that effect.

(6) A decision under this section to use Part 2 instead of this Part—

(a) is irreversible; and

(b) is only available if the Minister receives a notification under subsection (1) or (3) before any notice of desire to acquire any land required for the project is served under section 18; and

(c) takes effect from the date of the public notification under subsection (5).

(7) In this section, **publicly notify** means to publish a notice on an internet site maintained by or on behalf of the department responsible for the administration of this Act.

Section 39AAE: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Acquisition by agreement

Heading: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAF Minister or local authority must attempt to acquire land by agreement

(1) The Minister or a local authority, as the case may be, must attempt to acquire land required for a critical infrastructure project by agreement with the owner of the land.

(2) For that purpose, sections 17 and 18 of Part 2 apply with the following modifications:

(a) any reference to a public work must be read as a reference to a critical infrastructure project; and

(b) any notice served or lodged by the Minister or local authority under section 18(1)(a) or (b) must specify that the notice relates to a critical infrastructure project; and

(c) the references in section 18(2) and (7) to proceeding to take the land under this Act must be read as references to proceeding to take the land under section 39AAG.

(3) To avoid doubt, the estimated amount of compensation required to be provided to the owner under section 18(1)(c) must be an estimate of the compensation to which the owner would be entitled under section 39AAK.

Section 39AAF: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Compulsory acquisition

Heading: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAG Minister or local authority may proceed to take land if negotiations unsuccessful

(1) This section applies if the Minister or a local authority, as the case may be, is unsuccessful in acquiring land required for a critical infrastructure project under section 39AAF because—

(a) no agreement has been reached with the owner; or

(b) section 18(7) applies.

(2) The Minister or local authority may proceed to take the land.

(3) For that purpose, sections 23 to 26 of Part 2 apply with the modifications set out in sections 39AAH to 39AAJ.

Section 39AAG: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAH Notice of intention to take land

(1) Section 23 must be read as if subsection (1) were replaced with the following subsections:

(1) When land (other than land owned by the Crown) is required to be taken for a critical infrastructure project, the Minister or the local authority, as the case may be, must—

(a) cause a survey to be made and a plan to be prepared, and lodged with the Chief Surveyor, showing the land required to be taken and the names of the owners of the land so far as they can be ascertained; and

(b) cause a notice to be published in the *Gazette* and twice publicly notified that includes the information prescribed in subsection (1AAC); and

(c) serve a notice in the form set out in Schedule 2B on the owner of, and persons with a registered interest in, the land of the intention to take the land; and

(d) separately, but at the same time as serving the notice under paragraph (c), provide to the owner of, and persons with a registered interest in, the land the reasons on which their or its opinion referred to in subsection (1AA)(b) is based.

(1AA) However, the Minister or local authority must not give or serve notice under subsection (1)(b) or (c) unless—

(a) 1 or more of the following apply:

(i) the project is allowed under the Resource Management Act 1991:

(ii) a designation (as defined in section 166(1) of the Resource Management Act 1991) is in place for the project:

(iii) a notice of requirement for the project has been given under section 168 or 168A or clause 4 of Schedule 1 of the Resource Management Act 1991:

(iv) a substantive application has been lodged under the Fast-track Approvals Act 2024 for a designation or an alteration to an existing designation and the project will be carried out under that designation or altered designation:

(v) a notice of requirement was lodged under the Natural and Built Environment Act 2023 for a designation or an alteration to an existing designation and the project will be carried out under that designation or altered designation (*see* Part 1 of Schedule 1 of the Fast-track Approvals Act 2024, which continues a fast-track consenting process begun under the Natural and Built Environment Act 2023); and

(b) in the Minister's or local authority's opinion, based on the information available to the Minister or local authority at the time the Minister or local authority decides to give or serve the notice under subsection (1)(b) or (c), the land is required to be taken for the project.

(1AAB) In forming an opinion for the purposes of subsection (1AA)(b),—

(a) the Minister must have regard to the matters in section 26(1B)(a)(i) to (iii) (as modified by section 39AAJ(1)):

(b) the local authority must have regard to the matters in section 26(1B)(a)(i) to (iii) (as modified by section 39AAJ(1)).

(1AAC) A notice for the purposes of subsection (1)(b) must include the following information:

(a) a general description of the land required to be taken (including the street address or some other readily identifiable description of the place where the land is situated); and

(b) a statement that the land is required for a critical infrastructure project (and that specifies the name of the project); and

(c) a summary of the Minister's or local authority's reasons for the opinion the Minister or local authority is required to form under subsection (1AA)(b); and

(d) the period within which a person (other than a person served with a notice under subsection (1)(c)) may—

(i) provide a written indication of their intention to make a submission; and

(ii) make a written submission; and

(e) information about how a person may seek an extension to the period in which those indications and submissions may be submitted; and

(f) the address or addresses to which those indications and submissions must be sent, which must be,—

(i) in the case of indications and submissions provided or made to the Minister, the addresses of the Minister and the responsible department or Crown body; and

(ii) in the case of indications and submissions provided or made to the local authority, its address.

(2) Section 23 must be read as if subsection (3) were replaced with the following subsections:

(3) Every person having an estate or interest in the land intended to be taken may make a submission on the taking of the land—

(a) to the Minister if the land is required for a critical infrastructure project that is a Government work:

(b) to the local authority if the land is required for a critical infrastructure project that is a local work.

(3A) An indication of an intention to make a submission, and a submission, must be made in accordance with—

(a) the notice given under subsection (1)(b); or

(b) if the submitter is the owner of, or a person with a registered interest in, the land, the notice served under subsection (1)(c).

(3) Section 23 must be read as if subsection (4)(c) were replaced with the following paragraph:

(c) the intention to take the land is the subject of a submission to the Minister or local authority, or an inquiry by the Ombudsman, or any

application for a judicial review, in which case the notice of intention remains valid for 3 months after, as the case may be,—

(i) the date on which the Minister or local authority provided each submitter with a copy of their or its decision under section 26(1D) (as modified by section 39AAJ(1)); or

(ii) the date on which the Minister or local authority receives written notice of the withdrawal of the submission; or

(iii) the completion of any inquiry by the Ombudsman; or

(iv) the date of the judicial decision.

(4) Section 23 must be read as if the following subsections were inserted after subsection (9):

(10) For the purposes of subsection (1AAC)(d)(i), the period must be 10 working days from the date on which the notice of intention to take the land is publicly notified for the second time.

(11) For the purposes of subsection (1AAC)(d)(ii), the period must be 20 working days from the end of the period specified under subsection (10).

Section 39AAH: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAI Submission process

Sections 24 and 25 must be read as if replaced with the following sections:

24 Process if no indications of submissions received by Minister or local authority

(1) Subsection (2) applies if the Minister or a local authority, as the case may be,—

(a) gives and serves notice under section 23 (as modified by section 39AAH) of an intention to take land required for a critical infrastructure project; and

(b) does not receive, in the time frame permitted under subsection (3), a written indication from any person with an estate or interest in the land of their intention to make a submission in relation to the taking of the land.

(2) The land may be taken in accordance with section 26 (as modified by section 39AAJ).

(3) For the purposes of subsection (1)(b), the **time frame permitted** means,—

(a) in relation to a person with an unregistered estate or interest in the land,—

(i) the period for indicating an intention to make a submission stated in the notice given under section 23(1)(b) (as modified by section 39AAH(1)); or

(ii) that period plus any extension granted to the person under section 25A (as inserted by operation of section 39AAI):

(b) in relation to the owner of, and persons with a registered interest in, the land,—

(i) 10 working days from the date on which the notice of intention to take the land is served under section 23(1)(c) (as modified by section 39AAH(1)); or

(ii) that period plus any extension granted to the owner or person under section 25A (as inserted by operation of section 39AAI).

25 Process if submissions received by Minister or local authority

(1) This section applies if—

(a) the Minister or local authority, as the case may be, gives and serves notice under section 23 (as modified by section 39AAH) of their or its intention to take land required for a critical infrastructure project; and

(b) in response, the owner or any other person with an estate or interest in the land—

(i) indicates, in writing and in the time frame permitted under section 24 (as modified by section 39AAI), their intention to make a submission to the Minister or local authority; and

(ii) in the time frame permitted under subsection (7), makes a submission.

Submissions received by Minister

(2) The responsible department or Crown body must, no later than 10 working days after the latest date on which submissions to the Minister may be received, or within any extension to that period granted to it under section 25A, provide the Minister with—

(a) a written response to the submissions received; and

(b) any new information it holds in relation to the matters raised in each submission and that it has not previously supplied to the Minister.

(3) The Minister must send to a submitter a copy of any information received from the department or Crown body in response to their submission, and the submitter has a right to respond to the Minister, with 1 further written submission, no later than 10 working days after receiving the information, or within any extension to that period granted to them under section 25A.

Submissions received by local authority

(4) Subject to section 25A(6), the local authority must, no later than 10 working days after the latest date on which submissions to it may be received, send each submitter a written response to their submission, and the submitter has a right to respond to the local authority with 1 further written submission no later than

10 working days after receiving the information, or within any extension to that period granted to them under section 25A.

General provisions applying to all submissions

(5) A submitter may withdraw a submission or further submission at any time before the Minister or local authority considers it for the purposes of forming an opinion under section 26(1) (as modified by section 39AAJ(1)).

(6) No submitter has a right to an oral hearing by the Minister or local authority under this section.

(7) For the purposes of subsection (1)(b)(ii), the **time frame permitted** means,—

(a) in relation to a person with an unregistered estate or interest in the land,—

(i) the period for making a submission stated in the notice given under section 23(1)(b) (as modified by section 39AAH(1)); or

(ii) that period plus any extension granted to the person under section 25A (calculated from the end date of the period in which that person may indicate their intention to make a submission):

(b) in relation to an owner of, or a person with a registered interest in, the land,—

(i) 20 working days from the date referred to in section 24(3)(b) (as modified by section 39AAI); or

(ii) that period plus any extension granted to the person under section 25A (calculated from the end date of the period in which the owner or person may indicate their intention to make a submission).

(8) In this section, a reference to section 25A must be read as a reference to section 25A as inserted by operation of section 39AAI.

25A Extensions to submission procedure time frames

(1) An interested person may request the Minister or a local authority, as the case may be, to grant 1 or more extensions to 1 or more of the following time frames specified in a notice given or served under section 23 (as modified by section 39AAH):

(a) the period within which the interested person may provide a written indication of their intention to make a submission:

(b) the period within which the interested person may make a submission:

(c) the period within which the interested person may make a further submission.

(2) A responsible department or Crown body may request the Minister to grant 1 or more extensions to the time frame specified in section 25(2) (as modified by section 39AAI).

(3) A request must be in writing.

(4) The Minister or local authority, as the case may be, may grant a request if,—

(a) in the Minister's or local authority's opinion, it is reasonable to do so; and

(b) the extension will not increase the specified time frame for that step of the submission procedure by more than 20 working days (whether of itself or in combination with any other extensions previously granted under this section for that step).

(5) The Minister or local authority must—

(a) decide whether to grant a request as soon as practicable, but no later than 3 working days after receiving the request; and

(b) as soon as practicable, give written notice of that decision to the interested person, responsible department or Crown body, or local authority, as the case may be.

(6) If the decision relates to a request under subsection (2), the Minister must also give written notice of their decision to all interested persons who have made a submission.

(7) A local authority may extend the time by which it must send written responses to submitters under section 25(4) (as modified by section 39AAI)—

(a) by no more than 20 working days; and

(b) if it considers it reasonable to do so; and

(c) provided it gives written notice of that fact to all interested persons who have made a submission.

(8) In this section, **interested person** means a person with an estate or interest in the land described in a notice referred to in subsection (1).

Section 39AAI: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAJ When Proclamation may issue

(1) Section 26 must be read as if subsection (1) were replaced with the following subsections:

(1) Subsection (1C) applies if—

(a) the Minister or a local authority has given and served notice under section 23 (as modified by section 39AAH) of an intention to take land required for a critical infrastructure project; and

(b) either—

(i) section 24(2) (as modified by section 39AAI) applies; or

(ii) the applicable time frame permitted for submissions and further submissions under section 25 (as modified by section 39AAI) has expired; and

(c) the Minister or local authority, as the case may be, is of the opinion that—

(i) the land should be taken for the critical infrastructure project; and

(ii) no private injury will be done for which due compensation is not provided in this Act.

(1A) In forming an opinion for the purposes of subsection (1)(c),—

(a) the Minister must have regard to—

(i) every submission and further submission that is made within the applicable time frame permitted under section 25 (as modified by section 39AAI) and not withdrawn; and

(ii) the responses and other information provided to the Minister under that section:

(b) the local authority must have regard to every submission and further submission that is made within the applicable time frame permitted under section 25 (as modified by section 39AAI) and not withdrawn.

(1B) In forming an opinion for the purposes of subsection (1)(c)(i),—

(a) the Minister must also have regard to—

(i) the objectives of the responsible department or Crown body; and

(ii) the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives; and

(iii) whether, in the Minister's opinion, it would be fair, sound, and reasonably necessary for achieving the objectives of the department or Crown body for the land to be taken:

(b) the local authority must also have regard to—

(i) its objectives; and

(ii) the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives; and

(iii) whether, in its opinion, it would be fair, sound, and reasonably necessary for achieving its objectives for the land to be taken.

(1C) The land intended to be taken may be taken in the following manner:

(a) subject to section 32,—

(i) a survey plan must be prepared showing accurately the position and extent of the land proposed to be taken; and

(ii) the plan must be signed by the Chief Surveyor as evidence of its accuracy; and

(iii) a duplicate print of the title plan must be prepared:

(b) in the case of a Government work, the Minister must recommend the Governor-General to issue a Proclamation taking the land:

(c) in the case of a local work,—

(i) the local authority must submit to the Governor-General a request to take the land proposed to be taken, together with the title plan unless section 32 applies:

(ii) the request must be signed by the chief executive of the local authority, and need not be under seal:

(iii) a statutory declaration by the chairperson, mayor, or chief executive of the local authority, in the form set out in Schedule 2, may be accepted by the Governor-General as sufficient without making further inquiry.

(1D) The Minister or the local authority must provide each submitter with a copy of their or its decision in relation to whether to proceed under subsection (1C).

(2) For the purposes of the statutory declaration required under section 26(1C)(c)(iii) (as modified by subsection (1)), Schedule 2 must be read as if paragraph 5 were omitted.

Section 39AAJ: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Compensation payable under this Part

Heading: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAK Compensation payable under this Part

(1) The compensation specified in subsection (2) must be paid to an owner of land if—

(a) the Minister or a local authority, as the case may be, has sought agreement with them to acquire their land; and

(b) the land is acquired or taken under this Part; and

(c) the payment of compensation is not excluded by section 39AAL.

(2) The compensation to be paid is—

(a) compensation to which the owner is entitled under Part 5 for the acquiring or taking of the land, except any compensation payable under section 72A(1)(b) or (c); and

(b) compensation in recognition of the land being acquired or taken for a critical infrastructure project; and

(c) compensation in recognition of the benefit to the Crown or local authority in not having to take the land compulsorily, if the owner is party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23 (as modified by section 39AAH).

(3) The compensation paid under subsection (2)(b) must—

(a) equal 5% of the total land value of the land; or

(b) be $92,000 if 5% of the total land value is equal to or more than $92,000.

(4) The compensation paid under subsection (2)(c) must—

(a) equal 15% of the total land value of the land; or

(b) be $5,000 if 15% of the total land value is equal to or less than $5,000; or

(c) be $150,000 if 15% of the total land value is equal to or more than $150,000.

(5) However, the compensation paid—

(a) under subsection (2)(b) must not in total exceed $92,000 regardless of—

(i) the number of owners of the land; and

(ii) the nature of the estate or interest each of the owners has in the land:

(b) under subsection (2)(c) must not in total exceed $150,000 regardless of—

(i) the number of owners of the land; and

(ii) the nature of the estate or interest each of the owners has in the land.

(6) If compensation is payable under subsection (2)(b) or (c) for land that is owned by more than 1 person, the compensation must be—

(a) paid only to those owners of land who qualify under subsection (1); and

(b) apportioned between those qualifying owners in proportion to the individual value each owner has in the land.

(7) For the purposes of this section, an owner of land referred to in section 18(7)(c), (d), or (e) must be treated as if they were a party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23.

(8) In this section,—

owner has the same meaning as in section 59

total land value has the same meaning as in section 72B.

(9) In subsection (6)(b), **individual value** means the portion of total land value for each category of interest or estate in land (for example, all leasehold interests in land) that is payable to an owner described in subsection (6)(a), determined by the percentage of the relevant category of interest or estate that the owner holds.

(10) To avoid doubt, this section does not limit or affect any entitlement to compensation under this Act that an owner of land to which subsection (1) does not

apply may have. (For example, if the Minister seeks agreement only with the fee simple owner of a parcel of land and the land is acquired or taken under this Part, an owner of any other estate or interest in that same parcel is entitled to compensation under this Act if the Act so provides for it.)

Section 39AAK: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAL Circumstances in which compensation must not be paid under section 39AAK(2)(b) and (c)

(1) Compensation must not be paid to an owner of land under section 39AAK(2)(b) unless the owner gives vacant possession of the land and all buildings and structures on the land to the Minister or local authority, as the case may be,—

(a) on or before the vacant possession date, or any later date that the Minister or local authority allows, if the land is acquired under an agreement that specifies a vacant possession date:

(b) within 1 month after the date on which the Minister or local authority serves notice on the vendor or person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the Minister or local authority allows, if—

(i) the land is acquired under an agreement that does not specify a vacant possession date; or

(ii) no agreement for sale is entered into and the land is taken by Proclamation.

(2) Compensation must not be paid to an owner of land under section 39AAK(2)(c) unless that owner gives vacant possession of the land and all buildings and structures on the land to the Minister or local authority, as the case may be,—

(a) on or before the vacant possession date, or any later date that the Minister or local authority allows, if the land is acquired under an agreement that specifies a vacant possession date; or

(b) within 1 month after the date on which the Minister or local authority serves notice on the vendor or person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the Minister or local authority allows, if the land is acquired under an agreement that does not specify a vacant possession date.

(3) Compensation must not be paid to an owner of land under section 39AAK(2)(b) unless the owner—

(a) is not a willing party to the acquisition of the land; or

(b) is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land under this Part.

(4) Compensation must not be paid to an owner of land under section 39AAK(2)(c) unless the owner is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land under this Part.

(5) Compensation must not be paid to an owner of land under section 39AAK(2)(b) or (c) if the land is—

(a) transferred under section 50 for another public work that is a critical infrastructure project:

(b) owned by a Crown body and acquired or taken by the Minister or a local authority:

(c) owned by a local authority and acquired or taken by the Minister or another local authority.

Section 39AAL: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAM Adjustment of compensation payable under this Part

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend section 39AAK by doing 1 or more of the following:

(a) increasing or decreasing the percentages in section 39AAK(3) and (4):

(b) increasing or decreasing the compensation limits in section 39AAK(3)(b) and (4)(b) and (c).

(2) The Minister must not recommend the making of an Order in Council under this section unless the Minister is of the opinion that it is necessary or desirable to do so having regard to the following:

(a) the purposes of the compensation payable under section 39AAK; and

(b) the matters in section 72E(2)(b) to (e); and

(c) the affordability of the compensation for the relevant departments, Crown bodies, and local authorities; and

(d) comments received in response to public consultation under subsection (3).

(3) Before recommending the making of an Order in Council under this section, the Minister must publicly consult about the proposed changes.

(4) An Order in Council cannot be made under this section more than once every 5 years irrespective of whether amendments are made to only some of the relevant provisions in the order.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 39AAM: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Other matters

Heading: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAN Adjustment to critical infrastructure project descriptions

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 2A by doing either or both of the following:

(a) amending the project description in the second column of that schedule for any item:

(b) amending the location description in the third column of that schedule for any item.

(2) The Minister must not recommend the making of an Order in Council under this section unless the Minister is satisfied that the scope of each project concerned will not be substantially different as a result of the amendment, taking into account—

(a) the purpose of the project; and

(b) the location, scale, and nature of the works involved in the project.

(3) To avoid doubt, no new items may be inserted into Schedule 2A by an order made under this section.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 39AAN: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAO Modifications to this Act for purposes of this Part

(1) For the purposes of this Part, this Act applies—

(a) with the modifications made by this Part; and

(b) with the modifications set out in the rest of this section; and

(c) with any other necessary modifications.

(2) Section 4(6)(a)(iii) must be read as if the reference to objections included a reference to any rights to make a submission under section 23(3) (as modified by section 39AAH(2)) or further submission under section 25 (as modified by section 39AAI).

(3) A notice under this Part may also be served or given—

(a) by sending it to the last known electronic address of the person on whom it is to be served or to whom it is to be given; or

(b) by sending it to the last known electronic address of any agent or attorney of that person.

Section 39AAO: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

39AAP Review of this Part and sections 72F and 72G

(1) The Minister must—

(a) review the operation of this Part and sections 72F and 72G 3 years after the date on which this Part commences; and

(b) prepare a report on that review.

(2) The Minister must ensure that, during the review, the people that the Minister thinks appropriate are consulted.

(3) The Minister must present the report to the House of Representatives as soon as practicable after it has been completed.

Section 39AAP: inserted, on 27 August 2025, by section 5 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Part 3
Dealing with land held for public works

39A Interpretation

In this Part, unless the context otherwise requires, **Minister** means the Minister of Lands.

Section 39A: inserted, on 1 April 1988, by section 11 of the Public Works Amendment Act 1988 (1988 No 43).

40 Disposal to former owner of land not required for public work

(1) Where any land held under this or any other Act or in any other manner for any public work—

(a) is no longer required for that public work; and

(b) is not required for any other public work; and

(c) is not required for any exchange under section 105—

the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority, as the case may be, shall endeavour to sell

the land in accordance with subsection (2), if that subsection is applicable to that land.

(2) Except as provided in subsection (4), the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority, unless—

(a) he or it considers that it would be impracticable, unreasonable, or unfair to do so; or

(b) there has been a significant change in the character of the land for the purposes of, or in connection with, the public work for which it was acquired or is held—

shall offer to sell the land by private contract to the person from whom it was acquired or to the successor of that person—

(c) at the current market value of the land as determined by a valuation carried out by a registered valuer; or

(d) if the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority considers it reasonable to do so, at any lesser price.

(2A) If the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority and the offeree are unable to agree on a price following an offer made under subsection (2), the parties may agree that the price be determined by the Land Valuation Tribunal.

(3) Subsection (2) shall not apply to land acquired after 31 January 1982 and before the date of commencement of the Public Works Amendment Act (No 2) 1987 for a public work that was not an essential work.

(4) Where the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority believes on reasonable grounds that, because of the size, shape, or situation of the land he or it could not expect to sell the land to any person who did not own land adjacent to the land to be sold, the land may be sold to an owner of adjacent land at a price negotiated between the parties.

(5) For the purposes of this section, the term **successor**, in relation to any person, means the person who would have been entitled to the land under the will or intestacy of that person had he owned the land at the date of his death; and, in any case where part of a person's land was acquired or taken, includes the successor in title of that person.

Section 40(1): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 40(1)(b): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 40(2): substituted, on 1 November 1982, by section 2 of the Public Works Amendment Act 1982 (1982 No 182).

Section 40(2): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 40(2A): inserted, on 1 November 1982, by section 2 of the Public Works Amendment Act 1982 (1982 No 182).

Section 40(2A): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 40(3): substituted, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 40(4): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

41 Disposal of former Maori land when no longer required

(1) Notwithstanding anything in sections 40 and 42, where any land to which section 40(2) applies was, immediately before its taking or acquisition,—

(a) Maori freehold land or General land owned by Maori (as those terms are defined in section 4 of Te Ture Whenua Maori Act 1993); and

(b) beneficially owned by more than 4 persons; and

(c) not vested in any trustee or trustees—

the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority, as the case may be, shall—

(d) comply with the requirements of section 40; or

(e) apply to the Maori Land Court for the district in which the land is situated for an order under section 134 of Te Ture Whenua Maori Act 1993.

(2) This section is subject to subpart 5 of Part 5 of the Urban Development Act 2020 (transfer or disposal of former Māori land).

Section 41(1): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 41(1)(a): substituted, on 1 July 1993, by section 362(1) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 41(1)(e): amended, on 1 July 1993, by section 362(1) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 41(2): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

42 Disposal in other cases of land not required for public work

(1) Where—

(a) any offer to sell land under section 40(2) has not been accepted within 40 working days or such further period as the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority considers reasonable; or

(b) any land is no longer required for a public work and subsections (2) and (4) of section 40 do not apply,—

the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority may—

(c) cause the land to be offered for sale to the owner of any adjacent land at a price fixed by a registered valuer; or

(d) cause the land to be offered for sale by public auction, public tender, private treaty, or by public application at a specified price.

(2) The chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority shall ensure that public notice is given of every public auction or invitation for public tenders or applications under this section, and that written notice of it is served on the person from whom the land was acquired if he can be readily ascertained, and on every owner of land adjoining the land proposed to be sold, not later than 20 working days before the date fixed for the auction or for the closing of tenders or applications, as the case may be.

(3) Subject to section 40(2), where any land held for a Government work—

(a) is not required for that work; or

(b) for any other reason the Minister considers it expedient to do so—

the Minister, without complying with any other requirements of this section, may by notice in the *Gazette* declare the land to be Crown land subject to the Land Act 1948, and thereupon, or from such later date as may be specified in that behalf in the notice, the land shall vest in the Crown as Crown land subject to that Act, and may be administered and disposed of under that Act.

(4) Except in any case to which section 40(2) applies, where the Crown holds an interest in any land of the type referred to in subsection (3), and that interest is not a fee simple one in severalty, the Minister, without complying with any other requirements of this section, may—

(a) in the case of any lease, tenancy, easement, or *profit à prendre*, transfer or surrender it in accordance with its terms; or

(b) by notice in the *Gazette* declare that interest to be under the control and management of the department within the meaning of the Survey Act 1986.

(5) Where any such interest is declared to be under the control and management of the department within the meaning of the Survey Act 1986 it may thereupon—

(a) in the case of any lease, tenancy, easement, or *profit à prendre*, be transferred or surrendered in accordance with its terms:

(b) in any other case, be administered and disposed of under the Land Act 1948 as if it were Crown land subject to that Act.

(6) Any land disposed of under section 40 or under this section may be transferred by a transfer instrument under the Land Transfer Act 2017. Any such transfer instrument may contain a recital that the land being transferred shall

be amalgamated with any other land in an existing record of title; and that recital shall be sufficient authority to the Registrar-General of Land to amend such record of title accordingly, without fee. On such amendment the land transferred shall become subject to and, where applicable, receive the benefit of, all encumbrances, easements, and other interests noted on the record of title.

(7) Within 1 month after the registration of the transfer instrument, the transferor shall give to the Chief Surveyor written notice of the registration and of the full name, address, and occupation of the transferee.

Compare: 1928 No 21 s 35; 1954 No 85 s 4(1)

Section 42(1): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 42(1)(a): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 42(1)(d): amended, on 31 March 1987, by section 10(1) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 42(1)(d) proviso: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 42(2): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 42(4)(b): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 42(5): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 42(6): substituted, on 16 December 1983, by section 2 of the Public Works Amendment Act 1983 (1983 No 150).

Section 42(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 42(7): added, on 16 December 1983, by section 2 of the Public Works Amendment Act 1983 (1983 No 150).

Section 42(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

42A Solatium payment for loss of opportunity to purchase

(1) Where—

(a) a recommendation made or deemed to have been made by the Waitangi Tribunal under section 8A of the Treaty of Waitangi Act 1975 for the return to Maori ownership of any land that is held for a public work takes effect as a final recommendation; or

(b) any provision of an Act of Parliament returns to Maori ownership any land that immediately before being so returned was held for a public work,—

any person (being the person from whom that land was acquired or the successor of the person from whom that land was acquired) who would, but for section 8A(5) of the Treaty of Waitangi Act 1975 or the effect of the Act of Parliament by which the land was returned to Maori ownership, have received

in respect of that land in the normal course of events an offer under section 40 or section 41 may, at the time at which the offer would have been made, apply to the Land Valuation Tribunal for a solatium payment from the Crown for the loss of the opportunity to purchase the land.

(2) Every person who makes an application to the Land Valuation Tribunal under subsection (1) shall, as soon as practicable after making that application, serve a copy of that application on the chief executive of the department within the meaning of section 2 of the Survey Act 1986.

(3) Subject to subsection (4), the Land Valuation Tribunal shall, in assessing the amount of any solatium payment payable under this section, take into account—

(a) the fact that the person from whom the land was acquired was paid, at the time of acquisition, the then market price as agreed or assessed; and

(b) any other payments made to the person from whom the land was acquired; and

(c) the fact that the offer under section 40 or section 41 would, in most cases, have been an offer to sell the land at the current market value of the land as determined by a valuation carried out by a registered valuer; and

(d) the reasonable likelihood of the offeree being financially capable of accepting the offer; and

(e) the degree of attachment that the offeree has to the land, including, in particular, the degree of attachment that exists by reason of the offeree or members of the offeree's family or both having been associated with the land over a considerable period of time; and

(f) the likely market value of the opportunity to purchase the land.

(4) No solatium payment payable under this section in respect of the loss of the opportunity to purchase any land shall exceed $20,000.

Section 42A: inserted, on 3 November 1995, by section 38 of the Waikato Raupatu Claims Settlement Act 1995 (1995 No 58).

Section 42A(2): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

42B Notice of right to apply for solatium payment

(1) Where the chief executive of the department within the meaning of section 2 of the Survey Act 1986 is advised by a State enterprise within the meaning of the State-Owned Enterprises Act 1986 or a mixed ownership model company (within the meaning of section 45P of the Public Finance Act 1989) that any land held by that State enterprise or mixed ownership model company for a public work is no longer required for a public work, that chief executive shall ascertain—

(a) whether an offer under section 40 or section 41 is required to be made to any person in respect of that land; and

(b) whether, in his or her opinion, any person is entitled to apply to the Land Valuation Tribunal under section 42A for a solatium payment for the loss of the opportunity to purchase that land.

(2) Where the chief executive of the department within the meaning of section 2 of the Survey Act 1986 ascertains, under subsection (1), that any person is, in the opinion of that chief executive, entitled to apply to the Land Valuation Tribunal under section 42A for a solatium payment in respect of the loss of the opportunity to purchase that land, that chief executive shall advise that person in writing of that person's entitlement.

Section 42B: inserted, on 3 November 1995, by section 38 of the Waikato Raupatu Claims Settlement Act 1995 (1995 No 58).

Section 42B(1): amended, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section 42B(1): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 42B(2): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

43 Land may be sold on deferred payments

Any land held for a public work and proposed to be sold pursuant to section 40 or section 42 may be sold on deferred payments extending over such period and on such terms and conditions, including a deposit, as the Minister or the local authority, as the case may be, may determine.

Compare: 1928 No 21 s 36

44 Application of purchase money

The purchase money or instalments of purchase money of land sold under section 40, section 42, or section 43 shall—

(a) be paid into a Crown Bank Account or a Departmental Bank Account in accordance with the Public Finance Act 1989; or

(b) be paid into and form part of the general revenues of the local authority—

as the case may require.

Section 44: substituted, on 8 August 1991, by section 2 of the Public Works Amendment Act 1991 (1991 No 87).

Section 44: amended, on 1 July 1998, by section 16(1) of the Local Government Amendment Act (No 3) 1996 (1996 No 83).

45 Land held for public work may be leased, etc

(1) If any land is held for any public work under this or any other Act or in any other manner, the Minister or local authority, as the case may be, may grant a

lease or tenancy of the land or a licence to occupy the land on such terms and conditions as he or it may think fit.

(2) *[Repealed]*

(3) *[Repealed]*

(4) *[Repealed]*

(5) All rents and profits derived from land under this section shall—

(a) be paid into a Crown Bank Account or a Departmental Bank Account in accordance with the Public Finance Act 1989; or

(b) be paid into the bank account of the Crown agency (within the meaning of the Public Finance Act 1989) holding or managing the land; or

(c) be paid into the general revenues of the local authority or controlling authority—

as the case may require.

(6) The Minister or local authority may at any time accept the surrender of any lease, tenancy, or licence to occupy granted under this section.

Compare: 1928 No 21 s 39

Section 45(2): repealed, on 29 July 1995, by section 8(2) of the Transit New Zealand Amendment Act 1995 (1995 No 42).

Section 45(3): repealed, on 29 July 1995, by section 8(2) of the Transit New Zealand Amendment Act 1995 (1995 No 42).

Section 45(4): repealed, on 29 July 1995, by section 8(2) of the Transit New Zealand Amendment Act 1995 (1995 No 42).

Section 45(5): substituted, on 8 August 1991, by section 3 of the Public Works Amendment Act 1991 (1991 No 87).

46 Sale and removal of timber and coal from land held for public work

(1) The Minister may, by notice in the *Gazette*, authorise the sale and removal of timber or coal on or under any land vested in the Crown for a public work.

(2) Nothing in subsection (1) shall limit the liability of the Crown for any damage that may be caused by reason of the removal of any such timber or coal.

(3) Nothing in this section shall derogate from the provisions of the Resource Management Act 1991.

Compare: 1928 No 21 s 40; 1971 No 25 s 245

Section 46(3): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 46(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

47 Issue of record of title to land held for public work

(1) Except as provided in subsection (4), where any land has become vested in the Crown or a local authority under this Act or any former Act relating to public

works, the Registrar-General of Land, on the completion of such surveys (if any) as may be necessary, shall at the request of the Minister or local authority issue a record of title for the estate in the land or part of the land specified in the request in the name of the Crown or local authority, as the case may require, and that record of title shall include a reference to the purposes (if any) for which the land is held, and may be subject to any relevant encumbrances or restrictions.

(2) Any instrument which relates to the land in any such record of title and which is duly executed by a person having the necessary authority may thereafter be registered in accordance with the provisions of the Land Transfer Act 2017.

(3) *[Repealed]*

(4) Nothing in this section shall apply to any land vested in the Crown in respect of which provision is made by any other Act for the issue of a record of title.

Compare: 1952 No 58 s 19

Section 47 heading: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 47(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 47(1): amended, on 16 December 1983, by section 3 of the Public Works Amendment Act 1983 (1983 No 150).

Section 47(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 47(3): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 47(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

48 Easement may be granted over land held for public work

The Crown or the local authority having control of the public work, as the case may be, may from time to time grant to any person any easement in, through, over, or under any land held for a public work, subject to such conditions and payment of rent as the Crown or the local authority thinks fit, including, except where otherwise specifically agreed, revocation without compensation on 3 months' notice in writing.

Compare: 1928 No 21 s 41

49 Dealing with strata

Every power conferred by this Act on the Minister or a local authority, as the case may be, to sell or let or lease any land held for a public work, or to grant an easement in respect of any such land, shall include the power to sell or let or lease, or grant any easement in respect of, together with or separately from the surface of the land,—

(a) the whole or any portion of the air space above the land:

(b) the whole or any portion of the subsoil of the land.

Compare: 1962 No 41 s 5

50 Transfer of existing public works

(1) Notwithstanding anything to the contrary in this Act or in any other Act, but subject to section 40, any existing public work or part of any existing public work may be disposed of by the Minister to a local authority, or by a local authority to the Minister or another local authority, for a public work, whether of the same kind or not, if reasonable provision for satisfying the requirements of the public interest in that work will continue to exist.

(2) Any agreement relating to the sale and purchase of a public work pursuant to this section may contain such provisions as the Minister and the local authority, or the 2 or more local authorities, think fit.

(3) If any agreement under this section involves a change of the ownership of any land, the land may be taken by the local authority or the Minister, as the case may require, by declaration under section 20, and the provisions of this Act as to the disposal of land held for a public work shall not apply.

Compare: 1945 No 45 s 35

51 Prohibiting acquisition of rights by adverse user of land held for public work

(1) No title to any land held for any public work, and no right, privilege, or easement in, upon, or over any such land, shall be acquired by possession or user adversely to or in derogation of the title of the Crown or of any local authority in which the land is vested.

(1A) Subsection (1) applies despite any enactment that prescribes a limitation period or other limitation defence.

(2) The provisions of subsection (1) shall be in addition to and not in derogation from the provisions of sections 51 and 159 of the Land Transfer Act 2017.

Compare: 1935 No 27 s 12

Section 51(1): amended, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

Section 51(1A): inserted, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

Section 51(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

52 Setting apart Crown land, public reserve, etc, for public work

(1) Subject to subsections (2) and (3), if the whole or any part of—

(a) a public reserve is required for any public work; or

(b) any Crown land, or common marine and coastal area, is required for any public work; or

(c) any wildlife management reserve, wildlife refuge, or wildlife sanctuary within the meaning of the Wildlife Act 1953 is required for any public work; or

(d) any land held for a Government work is required for another Government work—

the Minister may, by notice in the *Gazette*, declare the land to be set apart for that work without complying with any of the provisions of this Act in respect of the acquisition of other land for that purpose.

(2) The whole or any part of a public reserve shall not be set apart under subsection (1) without the consent of the Minister of Conservation, given after consultation with the administering body (if any) of the reserve.

(3) Land shall not be set apart under subsection (1) without the consent of—

(a) the Minister of Conservation, if it is a conservation area within the meaning of the Conservation Act 1987 or is managed by the Department of Conservation under section 61 or section 62 of that Act:

(aa) *[Repealed]*

(ab) *[Repealed]*

(b) the Minister of Transport or the Minister of Conservation, as may be appropriate, if it is part of the common marine and coastal area:

(c) the Minister of Conservation, if it is a wildlife management reserve, wildlife refuge, or wildlife sanctuary within the meaning of the Wildlife Act 1953.

(4) Subject to subsections (6) to (8), if the whole or any part of any land held by a local authority (other than a road, access way, or service lane) is required for another local work to be undertaken by that local authority, the Minister, on receiving a written request by the local authority signed by its chief executive, may by notice in the *Gazette* declare the land to be set apart for that other local work.

(5) The whole or any part of a public reserve held by a local authority shall not be set apart under this Act for a public work to be undertaken by the same local authority unless the land is designated for the work in the district plan of the territorial authority.

(6) Every request by a local authority under subsection (4) shall contain particulars of the land affected, of the work for which it is held, and of the work for which it is proposed to set the land apart.

(7) A statutory declaration by the chairperson or mayor or the chief executive of the local authority to the effect that the local authority is authorised by law to undertake the work for which it is proposed to set the land apart may be accepted by the Minister as sufficient evidence of that fact.

(8) Where the provisions of section 32 are not applicable, the local authority shall attach to the request to the Minister a plan in triplicate of the survey of the land, approved by the Chief Surveyor, showing accurately the position and extent of the land proposed to be set apart.

Compare: 1928 No 21 s 25; 1952 No 58 ss 4, 20; 1962 No 41 s 3

Section 52(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 52(1)(b): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 52(2): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 52(3)(a): substituted, on 1 April 1988, by section 15(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 52(3)(aa): repealed, on 1 April 1988, by section 15(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 52(3)(ab): repealed, on 1 April 1988, by section 15(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 52(3)(b): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 52(3)(b): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 52(3)(c): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 52(4): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 52(5): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 52(7): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Part 4
Gazetting, revocation, amendment, and registration of documents

52A Interpretation

In this Part, unless the context otherwise requires, **Minister** means the Minister of Lands.

Section 52A: inserted, on 1 April 1988, by section 16 of the Public Works Amendment Act 1988 (1988 No 43).

53 Proclamations and declarations not to take effect until gazetted

Except as provided in section 55, a Proclamation or declaration issued under this Act or under any former Public Works Act shall not be held or deemed to have taken or to take effect until it was or is published in the *Gazette* or such later date as may be specified in the Proclamation or declaration.

Compare: 1928 No 21 s 26

54 Revocation of Proclamation or declaration taking land

(1) If at any time after the issue or making of any Proclamation or declaration taking or acquiring land for a public work under this Act, and before the payment or award of any compensation in respect of its taking, it is found that the land or any part of it is not required for the purpose for which it was taken, the Governor-General may by a subsequent Proclamation, or the Minister may by a subsequent declaration, published in the *Gazette*, revoke the former Proclamation or declaration either wholly or so far as he thinks necessary.

(2) The former Proclamation or declaration shall thereupon, to the extent to which it has been so revoked, be void and of no effect as from the date on which it was made.

(3) Any registration which in respect of the taking or acquisition of that land has been effected by the Registrar-General of Land or any other person pursuant to section 57, or pursuant to any other authority in that behalf, shall thereupon be cancelled and be deemed to have been of no effect as from the date on which it was made, to the same extent to which the said Proclamation or declaration has been so revoked.

(4) Any person who has or had any interest in the land so acquired or taken and who has, in respect of that interest suffered any loss or damage by reason of the Proclamation or declaration shall be entitled to recover compensation for that loss or damage under this Act in the same manner as if it were compensation payable under this Act.

(5) Compensation under subsection (4) shall be recovered from—

(a) the Minister, in the case of any Proclamation or declaration relating to a Government work:

(b) the local authority, in the case of any Proclamation or declaration relating to a local work.

(6) A Proclamation or declaration may be revoked under this section whether made before or after the commencement of this Act.

Compare: 1928 No 21 s 27

Section 54(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

55 Amending or revoking documents

(1) If any Proclamation, Order in Council, notice, declaration, or other document executed under this Act is found to contain any error in form or substance, or if any error in form or substance exists in or in relation to its making or gazetting, the Governor-General, Governor-General in Council, Minister, or other authorised person, as the case may require, may in a subsequent document of the same type amend or revoke the first-mentioned document to correct the error,

and the subsequent document shall be deemed to have taken effect on the same date that the first-mentioned document took effect.

(2) If the first-mentioned document is secondary legislation, the subsequent document—

(a) is also secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); but

(b) has effect in accordance with subsection (1) despite not being first published.

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It must be published in the same way as the first-mentioned document	LA19 ss 69, 73
Presentation	The Minister must present it to the House of Representatives if the first-mentioned document was required to be presented	LA19 s 114, Sch 1 cl 32
Disallowance	It is disallowable if the first-mentioned document was disallowable	LA19 ss 115, 116

This note is not part of the Act.

Section 55(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

56 Minor misdescription not to invalidate documents

The validity of any Proclamation, Order in Council, or declaration under this Act shall not be affected by any misdescription in it of the land or of any interest in the land if sufficient information appears on the face of the Proclamation, Order in Council, or declaration, to enable the Registrar-General of Land to satisfy himself of the land intended to be affected.

Compare: 1928 No 21 s 330A; 1973 No 44 s 20

Section 56: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

57 Plan and Proclamation or declaration to be registered

(1) Except as provided in section 58, the Minister shall cause a copy of every Proclamation or declaration taking or acquiring or setting apart land and of any plan referred to in it not already held by the Registrar-General of Land, to be registered without fee by the Registrar-General of Land.

(2) If the land is not subject to the Land Transfer Act 2017—

(a) the Registrar-General of Land shall cause an entry of the Proclamation or declaration and plan to be made under the proper heading or title in the index book of the Deeds Register Office; and

(b) upon such registration the land shall thereupon become subject to the Land Transfer Act 2017.

(3) An error in any Proclamation or declaration shall not of itself prevent its registration in respect of the titles to land validly affected.

(4) If the land is subject to the Land Transfer Act 2017, the Registrar-General of Land must register the Proclamation or declaration and plan against the land.

(5) *[Repealed]*

Compare: 1928 No 21 s 28

Section 57(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 57(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 57(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 57(2)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 57(4): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 57(5): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

58 Proclamation or declaration not registrable to be lodged with Chief Surveyor

In the case of a Proclamation or declaration taking, acquiring, or setting apart any land which is not subject to the Land Transfer Act 2017, and dealings with which are not registrable under the Deeds Registration Act 1908, the Minister shall cause a copy of it to be lodged in the office of the Chief Surveyor, and the Chief Surveyor shall cause the land included in the Proclamation or declaration to be shown upon the proper plans and records of the district affected by the Proclamation or declaration in such manner as to prevent the land being disposed of in any manner at variance with the Proclamation or declaration.

Compare: 1928 No 21 s 29

Section 58: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Part 5
Compensation

Preliminary

59 Interpretation

In this Part and in Part 6, unless the context otherwise requires,—

claimant means any person claiming compensation under this Act

Land Valuation Tribunal or **Tribunal** means a Land Valuation Tribunal established under the Land Valuation Proceedings Act 1948; and the expression **Land Valuation Tribunal** or **Tribunal**, when used in relation to any land transaction, means the particular Land Valuation Tribunal to which any appli-

cation or matter arising under this Act and relating to that land or transaction has been made or referred

Minister means the Minister of Lands

notified, in relation to any land, means—

(a) made the subject of a requirement by a Minister of the Crown, a local authority, or a network utility operator under section 168 of the Resource Management Act 1991, or by a heritage protection authority under section 189 of that Act, or by any such body or person under clause 4 of Part 1 of Schedule 1 of that Act or under the corresponding provisions of any former enactment; or

(b) designated for a public work or a project or work, or made the subject of a heritage order, included in an operative or proposed district plan under the Resource Management Act 1991; or

(c) made subject to a notice of intention to take, or to the powers conferred by a middle line notice, issued under this Act; or

(d) *[Repealed]*

(e) made the subject of negotiations under section 17 or a notice under section 18(1), in which case the date of notification shall be the date on which the negotiations commenced or the date of the service of the notice, as the case may be

notifying authority means any person or local authority who or which has the financial responsibility for any public work in respect of which any land has been notified

owner, in relation to land, includes—

(a) a person who occupies the land under a lease, sublease, or licence, or a renewal of a lease, sublease, or licence, that—

  (i) is granted by the owner of the fee simple of the land or by the lessee of the land; and

  (ii) is not—

    (A) a weekly tenancy agreement; or

    (B) a monthly tenancy agreement; or

    (C) a tenancy to which the Residential Tenancies Act 1986 applies; or

    (D) a statutory tenancy (as defined in section 207 of the Property Law Act 2007):

(b) a tenant for life of the land:

(c) a beneficial owner of the land

respondent means the Minister in the case of Government works and the local authority in the case of local works.

Compare: 1928 No 21 s 101A; 1970 No 145 s 6; 1975 No 138 s 30(1)

Section 59 **Minister**: inserted, on 1 April 1988, by section 17(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 59 **notified** paragraph (a): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 59 **notified** paragraph (a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 59 **notified** paragraph (b): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 59 **notified** paragraph (b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 59 **notified** paragraph (d): repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 59 **owner**: replaced, on 19 April 2017, by section 193 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Entitlement

60 Basic entitlement to compensation

(1) Where under this Act any land—

(a) is acquired or taken for any public work; or

(b) suffers any injurious affection resulting from the acquisition or taking of any other land of the owner for any public work; or

(c) suffers any damage from the exercise (whether proper or improper and whether normal or excessive) of—

(i) any power under this Act; or

(ii) any power which relates to a public work and is contained in any other Act—

and no other provision is made under this or any other Act for compensation for that acquisition, taking, injurious affection, or damage, the owner of that land shall be entitled to full compensation from the Crown (acting through the Minister) or local authority, as the case may be, for such acquisition, taking, injurious affection, or damage.

(2) Where any compensation is payable under subsection (1) to any person who is the lessee under any lease granted by the Crown or the local authority that acquired or took any land that is subject to the lease, that person shall not be entitled to any damages arising from the breach of any express or implied—

(a) covenant for quiet enjoyment; or

(b) covenant not to derogate from the grant contained in that lease.

Compare: 1928 No 21 s 42(1)

Section 60(1): amended, on 1 April 1988, by section 18 of the Public Works Amendment Act 1988 (1988 No 43).

Section 60(1)(a): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 60(1)(b): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

61 Exceptions to right to compensation

(1) Compensation shall not be payable in respect of—

(a) any land taken for a road, motorway, or railway under this Act where the right to make a road over the land is otherwise reserved to the Crown, and has not lapsed or become barred:

(b) any road, service lane, or access way vested in a territorial authority by section 316 of the Local Government Act 1974.

(2) If—

(a) any road or service lane or access way, or a reserve for any such purpose; or

(b) any other land—

has been declared Government road or motorway or acquired by the Crown for any purpose, and the land comprising it was originally taken, purchased, or otherwise acquired by a territorial authority with the assistance of a subsidy, grant, or other payment paid or made by the Crown or the New Zealand Transport Agency, the compensation payable shall be reduced by the same proportion as the amount of that subsidy, grant, or payment bore to the full purchase price or compensation paid by the territorial authority.

Compare: 1928 No 21 s 42(2); 1972 No 132 s 8(1)

Section 61(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

62 Assessment of compensation

(1) The amount of compensation payable under this Act, whether for land taken, land injuriously affected, or otherwise, shall be assessed in accordance with the following provisions:

(a) subject to the provisions of sections 72 to 76, no allowance shall be made on account of the taking of any land being compulsory:

(b) the value of land shall, except as otherwise provided, be taken to be that amount which the land if sold in the open market by a willing seller to a willing buyer on the specified date might be expected to realise, unless—

(i) the assessment of compensation relates to any matter which is not directly based on the value of land and in respect of which a right to compensation is conferred under this or any other Act; or

(ii) only part of the land of an owner is taken or acquired under this Act and that part is of a size, shape, or nature for which there is no general demand or market, in which case the compensation for such land and the injurious affection caused by such taking or acquisition may be assessed by determining the market value of the whole of the owner's land and deducting from it the market value of the balance of the owner's land after the taking or acquisition:

(c) where the value of the land taken for any public work has, on or before the specified date, been increased or reduced by the work or the prospect of the work, the amount of that increase or reduction shall not be taken into account:

(d) the special suitability or adaptability of the land, or of any natural material acquired or taken under section 27, for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only pursuant to statutory powers, or a purpose for which there is no market apart from the special needs of a particular purchaser or the requirements of any government department or of any local authority:

(e) the Tribunal shall take into account by way of deduction from that part of the total amount of compensation that would otherwise be awarded on any claim in respect of a public work that comprises the market value of the land taken and any injurious affection to land arising out of the taking, any increase in the value of any land of the claimant that is injuriously affected, or in the value of any other land in which the claimant has an interest, caused before the specified date or likely to be caused after that date by the work or the prospect of the work:

(f) the Tribunal shall take into account, by way of deduction from the total amount of compensation that would otherwise be awarded, any increase in the value of the parcel of land in respect of which compensation is claimed that has occurred as a result of the exercise by the New Zealand Transport Agency of any power under section 91 of the Government Roading Powers Act 1989.

(2) In this section, the term **specified date** means—

(a) in the case of any claim in respect of land of the claimant which has been taken pursuant to section 26, the date on which the land became vested in the Crown or in the local authority, as the case may be:

(b) where compensation is claimed under section 80 and the Minister or the local authority has (before the issue of the Proclamation) notified the Tribunal what land he or it proposes to take—

(i) the date of that notification; or

(ii) the date of the first entry upon the land for construction purposes; or

(iii) the date on which the land is first injuriously affected by the work; or

(iv) the date of any agreement made under section 80(1)(c) or any date specified in such an agreement—

whichever is the earliest:

(c) in the case of any other claim in respect of land of the claimant which has been or is proposed to be taken for any work, the date on which the land became by Proclamation or declaration vested in the Crown or in the local authority, as the case may be, or the date on which the land was first entered upon for the purpose of the construction or the carrying out of the work, whichever is the earliest:

(d) in the case of any claim in respect of any work for which no land of the claimant has been taken and no land of the claimant is proposed to be taken, the date of the commencement of the execution of the portion of the work that causes damage to or injuriously affects the land of the claimant:

(e) *[Repealed]*

(3) Where any lessor's or lessee's estate or interest in any land is taken or acquired under this Act, such estate or interest may, if required by its owner, for the purpose of assessing compensation under this Act, be valued separately from the freehold.

Compare: 1944 No 31 s 29

Section 62(1)(f): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 62(1)(f): amended, on 1 October 1989, by section 116(4) of the Government Roading Powers Act 1989 (1989 No 75).

Section 62(2)(e): repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

63 Compensation for injurious affection where no land taken

(1) Where—

(a) substantial injurious affection to a person's land is caused by the construction (but not the maintenance or operation) of a public work; and

(b) the injurious affection is not caused by changes of traffic flows arising out of the opening of any new road or motorway or the widening, upgrading, or deviation of an existing road; and

(c) there would exist a right of action at common law in respect of the injurious affection by the owner of the land against the Crown or the local authority, as the case may require,—

the Crown (acting through the Minister) or local authority shall compensate that person to such extent as the injurious affection warrants.

(2) In determining the existence of any right of action for the purposes of subsection (1)(c), the existence of any statutory authority or immunity that may be available to the Crown or local authority shall be disregarded.

(3) The provisions of this section shall not apply where construction of that part of the public work which causes the injurious affection has been commenced before the claimant acquired the land that is injuriously affected.

Section 63(1): amended, on 1 April 1988, by section 19(a) of the Public Works Amendment Act 1988 (1988 No 43).

Section 63(2): amended, on 1 April 1988, by section 19(b) of the Public Works Amendment Act 1988 (1988 No 43).

64 Compensation for injurious affection to be assessed by reference to whole work

Where land is taken or acquired from any person for the purpose of constructing any public work which is to be situated partly on that land and partly on other land, compensation for injurious affection of the land retained by that person shall be assessed by reference to the effect of the whole of the public work on the land so retained and not only to the part situated on the land taken or acquired from that person.

Compare: Land Compensation Act 1973 s 44(1) (UK)

Section 64: amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

65 Compensation for land for which no general demand exists

(1) Where land that is taken or acquired for a public work was devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, compensation may be assessed on the basis of the reasonable cost of equivalent reinstatement in some other place if the Land Valuation Tribunal or, in the case of any claim not before the Tribunal, the Minister or the local authority, is satisfied that such reinstatement is in good faith intended.

(2) No person shall be entitled to compensation under this section unless—

(a) he was not a willing party to the taking or acquisition; or

(b) he was a willing party to the taking or acquisition principally because the land had been notified.

Compare: Land Compensation Act 1961 s 5(5) (UK)

Section 65(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

66 Disturbance payments

(1) Subject to subsection (2), the owner of any land taken or acquired under this Act for a public work shall be entitled to recover compensation for any disturbance to his land and in particular to recover, where appropriate,—

(a) all reasonable costs incurred by him in moving from the land taken or acquired to other land acquired by him in substitution for the land taken or acquired, including—

(i) *[Repealed]*

(ii) the reasonable valuation and legal fees or costs incurred in respect of the land taken or acquired:

(iii) the reasonable valuation and legal fees or costs incurred in respect of the land acquired in substitution, but not exceeding the reasonable valuation and legal fees or costs which would be incurred in respect of land with a market value equal to the land taken or acquired:

(iv) the actual and reasonable costs incurred by him in transporting his goods and chattels and those of his family from the land taken or acquired to the land acquired in substitution, but not exceeding the reasonable costs of such transport by road over a distance of 80 kilometres, or such greater distance as is necessary to reach the nearest land that reasonably could have been acquired in substitution:

(b) an allowance for any improvements not readily removable from the land taken or acquired which are of particular use to a disabled owner or any disabled member of an owner's family and which are not reflected in the market value of the land.

(2) No person shall be entitled to compensation under this section unless—

(a) he was not a willing party to the taking or acquisition; or

(b) he was a willing party to the taking or acquisition principally because the land had been notified.

Section 66(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 66(1)(a)(i): repealed, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

67 Compensation for loss on repayment of mortgage

(1) If, as a direct result of land being taken or acquired under this Act for a public work, any mortgage of that land has to be repaid in whole or in part, the mortgagor whose land is taken or acquired shall be entitled to an amount to compensate him for any loss incurred by reason of any difference in the interest rate fixed under the mortgage of the land taken or acquired and the rate fixed under the mortgage of the land acquired in substitution, during the term for

which the principal provided for in the previous mortgage had been advanced, but such difference shall not be calculated on a new interest rate any greater than interest rates prevailing in the locality for an equivalent mortgage up to the balance of the outstanding principal and for the balance of the term.

(2) No person shall be entitled to compensation under this section unless—

(a) he was not a willing party to the taking or acquisition; or

(b) he was a willing party to the taking or acquisition principally because the land had been notified.

Section 67(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

68 Compensation for business loss

(1) The owner of any land taken or acquired under this Act for a public work who has a business located on that land shall be entitled to compensation for—

(a) business loss resulting from the relocation of the business made necessary by the taking or acquisition which loss, unless the owner and the Minister or local authority otherwise agree, shall not be determined until the business has moved and (if the circumstances so require) until sufficient time has elapsed since the relocation of the business to enable the extent of the loss to be quantified; or

(b) loss of the goodwill of any such business, if—

(i) the land is valued on the basis of its existing use; and

(ii) the owner gives such assurances and undertakings not to dispose of the goodwill and not to engage in any similar trade or business as may be required by the Minister or local authority.

(2) No person shall be entitled to compensation under this section unless—

(a) he was not a willing party to the taking or acquisition; or

(b) he was a willing party to the taking or acquisition principally because the land had been notified.

Section 68(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

69 Offer of compensation when entry made

(1) Subject to sections 99 to 101, where entry is made by the Crown on land pursuant to a notice defining the middle line of a road, limited access road, motorway, or railway, and no agreement for the payment or determination of compensation has been made, the owner of any estate or interest in the land entered on shall be entitled on application to the Minister to be made a formal offer of compensation for the taking of his estate or interest in the land entered upon.

(2) Subject to subsection (5), the amount of the offer shall be such as the Minister considers adequate to fairly compensate the owner for his estate or interest.

(3) Unless the Minister and the owner otherwise agree, the offer shall be subject to the owner, before settlement, giving vacant possession of the land (if applicable) and supplying such details as the Minister may reasonably require in order to comply with sections 99 to 101.

(4) The offer shall be made to the owner within 1 month after the date of receipt of the application by the Minister and shall be open for acceptance for a period of 3 months after the date of the offer.

(5) If the extent of land to be taken cannot be accurately defined when the offer is made, the offer shall be deemed to be an offer by way of compensation without prejudice to the right of the Minister to make an application under section 79, or the right of the owner to bring a claim for compensation under this Act upon the issue of a Proclamation or declaration under this Act, and if the compensation so assessed is less than the amount paid to the owner by way of compensation, then the award of the Tribunal shall be for the payment by the claimant to the respondent of the amount of the difference and the costs of the inquiry.

(6) Subject to subsection (5), the acceptance of any offer may at the option of the owner be in full and final settlement of compensation or without prejudice to the owner's right to have compensation determined under this Part.

(7) Nothing in this section shall inhibit or delay the bringing of a claim for compensation under section 80.

Section 69(1): amended, on 1 April 1988, by section 20 of the Public Works Amendment Act 1988 (1988 No 43).

70 Offer of compensation when land taken

(1) Subject to sections 99 to 101, where any land is taken under this Act, and no agreement for the payment or determination of compensation has been made, the owner of any estate or interest in the land taken shall, notwithstanding the provisions of section 77, be entitled on application to the Minister or local authority to be made a formal offer of compensation for his estate or interest in the land taken.

(2) The provisions of subsections (2), (3), (4) and (6) of section 69 shall apply to the making of an offer under this section, and every reference in those subsections to the Minister shall be read as a reference to the Minister or the local authority, as the case may require.

71 Claimant's acts making execution of work more costly

(1) For the purposes of this section, the term **relevant date** means—

(a) the date on which notification was given under section 18(1)(a); or

(b) the date on which a requirement was notified under section 167 of the Resource Management Act 1991,—

as the case may be.

(2) If the Land Valuation Tribunal considers that the claimant in respect of any land taken or acquired for a public work has at any time after the relevant date done anything on or under the land with the purpose and effect of rendering the execution of the work more difficult or costly, the Tribunal shall take into account, by way of deduction from the amount of compensation to be awarded, any increase in the cost of executing the work caused or likely to be caused thereby; and if the Tribunal considers such increase in cost exceeds the value of the land taken, the award shall be for the payment by the claimant to the respondent of the amount of such excess and the costs of the inquiry.

(3) The carrying out of repairs or maintenance to any improvements on the land to a value not exceeding, in any 3-yearly period, 15% of the value of the improvements on that land as shown on the valuation roll for the district, shall for the purposes of this section be deemed not to have been done with the purpose and effect of rendering the execution of the work on that land more difficult or costly.

(4) Where any such claimant has at any time after the relevant date done anything on or under the land with the effect of rendering the execution of the work more difficult or costly he shall be presumed to have done so with that purpose unless he proves that in so doing he took reasonable precautions to avoid that effect.

(5) If the owner or occupier of any land wishes to do anything on or under the land which may cause the amount of compensation payable to him to be reduced under this section, he may apply for permission to do that thing on or under his land. Every such application shall specify what the applicant wishes to do, on what part of his land he proposes to do it, and the address to which any reply to him may be sent. Every such application shall be made in writing sent by post in a registered letter addressed in accordance with the following requirements:

(a) in the case of any land that is affected by a notice or a Proclamation defining the middle line of a railway that has been made or attested by the Minister of Railways or that is affected by a notice of intention to take that has been issued under the hand of the Minister of Railways, it shall be addressed to the Railways District Engineer of the district in which the land is situated:

(b) in the case of any land that is affected by any other Government work, it shall be addressed to the chief executive of the department within the meaning of section 2 of the Survey Act 1986 for the district in which the land is situated:

(c) in the case of any land that is affected by any local work, it shall be addressed to the local authority.

(6) If on receiving any such application the Railways District Engineer or the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or the local authority so requires, the applicant shall—

(a) supply plans to the Railways District Engineer or the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or the local authority, as the case may be, and place pegs in the ground, to show exactly what part of the land will be affected by the proposals; and

(b) notify the Railways District Engineer or the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or the local authority, as the case may be, when he has so placed the pegs in the ground—

and for the purposes of subsection (7), the period between the date of any such requirement and the date of compliance with it shall not be taken into account.

(7) The Railways District Engineer or the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or the local authority may decline any application so made to him or it; and every such application that is not declined by notice in writing given to the applicant within 3 months after the date of the receipt of the application (exclusive of any period which is not to be taken into account in accordance with subsection (6)) shall be deemed to have been granted, and anything done on or under the land after approval of that thing has been granted or is deemed to have been granted shall not be subject to the provisions of this section. Notice under this subsection may be given to any applicant by delivering it to him personally or by sending it to him by post in a registered letter addressed to him at the address specified in his application.

(8) Any person whose application is declined under subsection (7) may, within 15 working days after the receipt by him of the notice declining the application, appeal to the Environment Court against the declining of his application.

(9) Every such appeal shall be made and determined by the Environment Court in the manner prescribed by the Resource Management Act 1991 and any regulations made under that Act.

(10) The decision of the Environment Court on any such appeal shall be final and binding.

Compare: 1928 No 21 s 81; 1948 No 39 s 21; 1952 No 58 s 9

Section 71(1): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 71(1)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 71(2): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 71(5)(b): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 71(6): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 71(6)(a): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 71(6)(b): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 71(7): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 71(8): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 71(9): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 71(9): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 71(9): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 71(10): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Additional compensation

72 Additional compensation for acquisition of notified dwelling

(1) Compensation of up to $50,000 must be paid to the owner of land if—

(a) the land has been notified; and

(b) the land is taken or acquired for the public work for which it was notified; and

(c) the land contains a dwelling that is used as the land owner's principal place of residence; and

(d) the payment of compensation is not excluded by subsection (2) or (3).

(1A) The amount of compensation paid under subsection (1) must be determined in accordance with section 72A.

(1B) The compensation paid under subsection (1) must not in total exceed $50,000 regardless of—

(a) the number of owners of the land; or

(b) the nature of the estate or interest that the various owners of the land may hold.

(2) Compensation shall not be paid under subsection (1) unless—

(a) where the land has been acquired by an agreement which specifies a date for the giving of vacant possession, vacant possession of the land and all buildings and structures on the land has been given to the notifying authority on or before the specified date or such later date as the authority may in any case allow:

(b) where—

(i) the land has been acquired by an agreement which does not specify a date for the giving of vacant possession; or

(ii) no agreement for sale has been entered into and the land has been taken by Proclamation—

vacant possession of the land and all buildings and structures on the land has been given to the notifying authority within 1 month after the date on which the authority has served notice on the vendor or the person from whom the land was taken, as the case may be, that vacant possession is required, or within such longer period as the authority may in any case allow.

(3) Compensation shall not be payable under subsection (1) unless the person giving vacant possession—

(a) was the owner, or the spouse, civil union partner, or de facto partner of the owner, of the land on the date on which it was notified, or, where the owner has died since that date, was the person beneficially interested in the land; and

(b) was the owner of the land on the date on which vacant possession of the land and all buildings and structures on the land was given to the notifying authority; and

(c) the dwelling on the land was the principal place of residence of that person for a substantial part of the period between the date of notification and the date of so giving vacant possession; and

(d) was not a willing party to the taking or acquisition of the land, or was a willing party to the taking or acquisition principally because the land had been notified.

(4) If any payment of compensation under this section is to be made in respect of land that is owned by more than 1 person, the payment shall be made only to those owners who qualify for payment under subsection (3). If payment is to be made to more than 1 owner, the amount of the payment shall be apportioned between the owners in proportion to the shares in which they owned the land.

(5) Subject to subsection (6), if any compensation is payable under this section to a lessee or sublessee of land under a lease or sublease which, on the date on which vacant possession was given to the notifying authority, will expire less than 5 years after that date, the amount of compensation shall be reduced so that the amount to be paid bears the same proportion to the amount of compensation that would otherwise be payable as the period from the date on which vacant possession was given to the date of expiry of the lease or sublease bears to a period of 5 years.

(6) The amount of compensation under subsection (5) shall not be reduced under this subsection to less than the amount that the lessee or sublessee would have received under section 75 if the lessee or sublessee had been a tenant (as defined in section 75(4)).

(7) For the purposes of subsection (5), the date on which any lease or sublease containing a right of renewal will expire shall be deemed to be the date on which it would have expired if the right of renewal had been exercised.

Compare: 1928 No 21 s 101B; 1970 No 145 s 6(1); 1975 No 138 s 30(1)

Section 72(1): replaced on 19 April 2017, by section 194(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 72(1A): inserted on 19 April 2017, by section 194(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 72(1B): inserted on 19 April 2017, by section 194(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 72(3)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 72(6): amended on 19 April 2017, by section 194(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

72A Amount of compensation to be paid under section 72

(1) The amount of compensation paid under section 72(1) must be determined as follows:

(a) $35,000 must be paid to the owner of the land if the owner qualifies for compensation under section 72(1); and

(b) a further $10,000 must be paid to the owner if—

(i) the Minister or local authority, as applicable, and the owner, within 6 months after the negotiation start date, execute an agreement for the sale and purchase of the land under section 17; and

(ii) the agreement specifies a date on which vacant possession of the land, and all buildings and structures on the land, will be given to the notifying authority; and

(c) a further $5,000 may be paid to the owner if the Minister (if the land is taken or acquired for a Government work) or local authority (if the land is taken or acquired for a local work) decides, in his, her, or its discretion, that—

(i) the personal circumstances of the owner warrant such a payment and compensation is not otherwise paid under this Act for this purpose; or

(ii) the circumstances concerning the acquisition of the owner's principal place of residence warrant such a payment and compensation is not otherwise paid under this Act for this purpose.

(2) In this section, **negotiation start date** means the earlier of the following:

(a) the date on which the notifying authority notifies the owner of land in writing that it intends to acquire the land under section 17:

(b) the date on which the notifying authority serves notice in relation to land in accordance with section 18(1)(a).

(3) The amount of compensation determined under subsection (1) is subject to—

(a) section 39AAK(2)(a) in relation to a person described in section 39AAK(1):

(b) section 72F(10) in relation to a person described in section 72F(1) or (6).

Section 72A: inserted, on 19 April 2017, by section 195 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 72A(3): inserted, on 27 August 2025, by section 6 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

72B Definitions of terms used in sections 72C and 72D

In this section and sections 72C and 72D, unless the context otherwise requires,—

category value means the portion of total land value for each category of interest or estate in land (for example, for all leasehold interests in land)

individual value means the portion of category value that is payable to a qualifying owner, determined by the percentage of the relevant category of interest or estate that is held by the owner in land

land means all land that is acquired or taken from an owner under this Act by the Minister or a local authority for a particular notified public work

notification date means the date on which land is notified

qualifying owners means the owners of land who qualify for compensation under section 72C(1) and are not disqualified under section 72D(2)

total land value means the total amount of compensation payable under this Act, as assessed in accordance with section 62, for land

vacant possession date means the date on which vacant possession of land, and all buildings and structures on the land, is given to the notifying authority.

Section 72B: inserted, on 19 April 2017, by section 195 of the Resource Legislation Amendment Act 2017 (2017 No 15).

72C Additional compensation for acquisition of notified land

(1) Compensation must be paid to an owner of land if—

(a) the land has been notified; and

(b) the land is taken or acquired for the public work for which it was notified; and

(c) either of the following applies:

(i) the land does not contain a dwelling that was used as the owner of the land's principal place of residence for the period between the notification date and the vacant possession date:

(ii) the owner used a dwelling on the land as his or her principal place of residence for less than a substantial part of the period between the notification date and the vacant possession date; and

(d) the payment of compensation is not excluded by section 72D.

(2) The compensation paid under subsection (1) must—

(a) equal 10% of the total land value; or

(b) be $250 if 10% of the total land value is equal to or less than $250; or

(c) be $25,000 if 10% of the total land value is equal to or more than $25,000.

(3) However, the compensation paid under subsection (1) must not in total exceed $25,000 regardless of—

(a) the number of owners of the land; or

(b) the nature of the estate or interest each of the owners has in the land.

(4) If compensation is paid under subsection (1) for land that is owned by more than 1 person, the compensation must be—

(a) paid only to the qualifying owners; and

(b) apportioned between the qualifying owners in proportion to the individual value each owner has in the land.

(5) The amount of compensation paid under this section to an owner who is a lessee or sublessee of the land under a lease or sublease that will expire less than 5 years after the vacant possession date—

(a) must be reduced so that it bears the same proportion as the period from the vacant possession date to the date of expiry of the lease or sublease bears to a period of 5 years; but

(b) must not be reduced to less than the amount that the owner would have received under section 75 if the owner had been a tenant (as defined in section 75(4)).

(6) For the purposes of subsection (5), the date on which a lease or sublease that contains a right of renewal will expire is deemed to be the date on which it would have expired if the right of renewal had been exercised.

Section 72C: inserted, on 19 April 2017, by section 195 of the Resource Legislation Amendment Act 2017 (2017 No 15).

72D Circumstances in which compensation must not be paid under section 72C

(1) Compensation must not be paid to an owner of land under section 72C(1) unless vacant possession of the land and all buildings and structures on the land is given to the notifying authority by that owner—

(a) on or before the vacant possession date, or any later date that the authority allows, if the land is acquired under an agreement that specifies a vacant possession date:

(b) within 1 month after the date on which the authority serves notice on the vendor or the person from whom the land is taken (as the case may be)

that vacant possession is required, or within any longer period that the authority allows, if—

(i) the land is acquired under an agreement that does not specify a vacant possession date; or

(ii) no agreement for sale is entered into and the land is taken by Proclamation.

(2) Compensation must not be paid under section 72C(1) unless the person giving vacant possession—

(a) is one of the following:

(i) an owner of the land on the notification date:

(ii) the spouse, civil union partner, or de facto partner of an owner of the land on the notification date:

(iii) the person beneficially interested in the land if an owner dies after the notification date; and

(b) was an owner of the land on the vacant possession date; and

(c) was an owner of the land for a substantial part of the period between the notification date and the vacant possession date; and

(d) was—

(i) not a willing party to the taking or acquisition of the land; or

(ii) a willing party to the taking or acquisition principally because the land had been notified.

(3) Compensation must not be paid under section 72C(1) to an owner of land if that person is paid compensation for the loss of a dwelling on that land under section 72(1).

Section 72D: inserted, on 19 April 2017, by section 195 of the Resource Legislation Amendment Act 2017 (2017 No 15).

72E Adjustment of compensation payable under section 72 or 72C

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend section 72, 72A, or 72C by doing any or all of the following:

(a) increasing the compensation limit in section 72(1) and (1B):

(b) increasing the compensation limits in section 72A(1)(a) to (c):

(c) increasing or decreasing the percentages in section 72C(2)(a) to (c):

(d) increasing the compensation limits in section 72C(2)(b) and (c) and (3).

(2) The Minister must not recommend the making of an Order in Council under this section unless the Minister is of the opinion that it is necessary or desirable to do so having regard to the following:

(a) the purposes of the compensation payable under sections 72 and 72C (including the differences between the acquisition of land that includes the owner's home and the acquisition of land that does not include the owner's home):

(b) national average land and house sale prices:

(c) the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index:

(d) the level of solatium or similar compensation payable in comparable circumstances in jurisdictions outside New Zealand that have similar property rights and land acquisition regimes:

(e) changes to the matters referred to in paragraphs (b) to (d) since the compensation limits and percentages were last changed:

(f) comments received in response to public consultation under subsection (3).

(3) Before recommending the making of an Order in Council under this section, the Minister must publicly consult about the proposed changes.

(4) An Order in Council cannot be made under subsection (1)—

(a) until after the expiry of 5 years from the date of commencement of Part 3 of the Resource Legislation Amendment Act 2017; or

(b) more frequently than once every 5 years.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 72E: inserted, on 19 April 2017, by section 195 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 72E(2)(c): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 72E(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

72F Additional compensation for protected Māori land acquired or taken for critical infrastructure project

Mandatory payments

(1) The compensation specified in subsection (2) must be paid to an owner of protected Māori land if—

(a) the Minister or a local authority, as the case may be, has sought agreement with them to acquire their land for a critical infrastructure project; and

(b) the land is acquired or taken under Part 2; and

(c) except for any other protected Māori land, all other land acquired or taken, or to be acquired or taken, for the project (if any) has been, or will be, acquired or taken under Part 2A; and

(d) the payment of compensation is not excluded by section 72G.

(2) The compensation to be paid is—

(a) compensation in recognition of the land being acquired or taken for a critical infrastructure project; and

(b) compensation in recognition of the benefit to the Crown or local authority in not having to take the land compulsorily if the owner is party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23.

(3) The compensation paid under subsection (2)(a)—

(a) must be the amount calculated in accordance with section 39AAK(3); and

(b) must not exceed the amount specified in section 39AAK(5)(a) regardless of—

(i) the number of owners of the land; or

(ii) the nature of the estate or interest each owner has in the land.

(4) The compensation paid under subsection (2)(b)—

(a) must be the amount calculated in accordance with section 39AAK(4); and

(b) must not exceed the amount specified in section 39AAK(5)(b) regardless of—

(i) the number of owners of the land; or

(ii) the nature of the estate or interest each owner has in the land.

(5) If compensation is payable under subsection (2)(a) or (b) for land that is owned by more than 1 person, the compensation must be—

(a) paid only to owners who qualify under subsection (1); and

(b) apportioned between those qualifying owners in proportion to the individual value each owner has in the land.

Discretionary payments

(6) Subsection (7) applies to an owner of protected Māori land if—

(a) the circumstances in subsection (1)(a) to (c) apply to the owner and their land; but

(b) the owner is not entitled to the compensation payable under subsection (2)(b) because the land is acquired or taken after a notice of intention to take the land is given or served under section 23.

(7) The Minister or local authority, as the case may be, may, in their or its discretion, pay compensation to the owner if—

(a) the Minister or local authority has had regard to—

(i) the legal and practical constraints on the owner in reaching a decision to sell the land; and

(ii) any other matters relating to the nature of the landholding or its ownership structure that affect the practicality of selling the land; and

(iii) whether, because of constraints or matters referred to in paragraph (i) or (ii),—

(A) the land was acquired by agreement to which the owner was a party after a notice of intention to take the land was given or served under section 23; or

(B) the owner supported the taking of the land by Proclamation as the most practical means of executing the acquisition; and

(b) the payment of compensation is not excluded by section 72G.

(8) Compensation paid under subsection (7) must be equivalent to the amount that would be paid if it were payable under subsection (2)(b).

(9) If compensation is paid under subsection (7) for land that is owned by more than 1 person, the compensation must be—

(a) paid only to the owners who qualify under subsection (6); and

(b) apportioned between the owners in proportion to the individual value each owner has in the land.

Matters that apply to both categories of payment

(10) If an owner of land is paid compensation under subsection (2)(b) or (7), the owner is not entitled to any compensation under section 72A(1)(b) or (c) for the land.

(11) For the purposes of this section, an owner of protected Māori land who is an owner of land referred to in section 18(7)(c), (d), or (e) must be treated as if they were a party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23.

(12) In this section, **critical infrastructure project** has the meaning given in section 39AAB.

(13) In subsections (5)(b) and (9)(b), **individual value** means the portion of total land value for each category of interest or estate in land (for example, all leasehold interests in land) that is payable to an owner described in subsection

(5)(a) or (9)(a), as the case may be, determined by the percentage of the relevant category of interest or estate that the owner holds.

(14) *See* section 39AAP in relation to the Minister for Land Information's obligation to review this section.

Section 72F: inserted, on 27 August 2025, by section 7 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

72G Circumstances in which compensation must not be paid under section 72F(2) or (7)

(1) Compensation must not be paid to an owner of land under section 72F(2)(a) and (b) or (7) unless the owner gives vacant possession of the land and all buildings and structures on the land to the Minister or local authority, as the case may be,—

(a) on or before the vacant possession date, or any later date that the Minister or local authority allows, if the land is acquired under an agreement that specifies a vacant possession date:

(b) within 1 month after the date on which the Minister or local authority serves notice on the vendor or person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the Minister or local authority allows, if—

(i) the land is acquired under an agreement that does not specify a vacant possession date; or

(ii) no agreement for sale is entered into and the land is taken by Proclamation.

(2) Compensation must not be paid to an owner of land under section 72F(2)(a) unless the owner—

(a) is not a willing party to the acquisition of the land; or

(b) is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land for a critical infrastructure project.

(3) Compensation must not be paid to an owner of land under section 72F(2)(b) unless the owner is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land for a critical infrastructure project.

(4) Compensation must not be paid to an owner of land under section 72F(7) unless the owner is a willing party to the taking principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land for a critical infrastructure project.

Section 72G: inserted, on 27 August 2025, by section 7 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

73 Assistance to purchase dwelling

(1) Subject to the provisions of this section, where any land that—

(a) has been notified; and

(b) contains a dwelling used as a private residence—

is taken or acquired for the public work for which it was notified and the market value of the owner's interest in the land is insufficient to enable the owner to acquire another private residence of a standard reasonably equivalent to the residence on the land so taken or acquired, there may, in the discretion of the notifying authority, be advanced to the owner by the authority, in addition to the compensation otherwise payable under this Act, such amount as the authority considers reasonable to assist the owner to acquire another private residence of a reasonably comparable standard.

(2) An advance shall not be made to an owner of land under subsection (1) unless—

(a) the owner has given vacant possession of the land taken or acquired and all buildings and structures on the land to the notifying authority; and

(b) the owner was the owner of the land on the date on which vacant possession was so given; and

(c) the dwelling on the land was the principal place of residence of that person for a substantial part of the period between the date of notification and the date of so giving vacant possession; and

(d) the person giving vacant possession—

(i) was not a willing party to the taking or acquisition of the land; or

(ii) was a willing party to the taking or acquisition principally because the land had been notified.

(3) Any money advanced under this section shall constitute a debt due by the person to whom it is paid to the notifying authority who or which paid it, and shall be a charge on the estate or interest of that person in the land acquired by him, or in the land on which a dwelling is constructed by him, with the assistance of such money, and notice of the charge may be registered against that land under the provisions of subpart 5 of Part 3 of the Land Transfer Act 2017.

(4) Except with the consent of the chief executive of the department within the meaning of section 2 of the Survey Act 1986 (where the notifying authority is the Minister) or the notifying authority (in any other case), a dealing in connection with any such estate or interest (other than a dealing which is not required to be executed by the registered owner) shall not be registered while a charge under subsection (3) is registered against the land.

(5) For the purposes of subpart 5 of Part 3 of the Land Transfer Act 2017, notice of any charge under subsection (3) and any certificate releasing any such charge,

and any consent under subsection (4), may be signed by the chief executive of the department within the meaning of section 2 of the Survey Act 1986, where the notifying authority is the Minister.

(6) Any money advanced under this section shall be repaid to the notifying authority at such reasonable times and on such reasonable terms and conditions (including interest) as may be specified by the notifying authority when making the advance.

(7) If the owner considers that any provision specified by the notifying authority under subsection (6) (other than as to the amount of money paid) is unreasonable he may within 20 working days after receiving advice of the provision apply to the Land Valuation Tribunal for a review of the provision.

(8) On receipt of such an application the Land Valuation Tribunal shall review the provision and may confirm or alter it or may omit it and substitute some other reasonable provision.

Compare: 1928 No 21 s 101C; 1975 No 138 s 30(1)

Section 73(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 73(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 73(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 73(4): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 73(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 73(5): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 73(5): amended, on 1 April 1988, by section 22(b) of the Public Works Amendment Act 1988 (1988 No 43).

74 Assistance to purchase farm, commercial, or industrial property

(1) Subject to the provisions of this section, where any land that—

(a) has been notified; and

(b) is used for a farm or for a commercial or industrial undertaking—

is taken or acquired for the public work for which it was notified, and the market value of the owner's interest is insufficient to enable the owner to acquire a similar interest in a farm or commercial or industrial property, as the case may be, of a standard reasonably equivalent to that so taken or acquired on which to continue to carry on farming or the commercial or industrial undertaking, as the case may be, there may, in the discretion of the notifying authority, be advanced to the owner, in addition to the compensation otherwise payable under this Act, such amount of money as the authority considers reasonable to assist him to acquire other land reasonably equivalent to that so acquired

on which to continue to carry on farming or the commercial or industrial undertaking.

(2) No money shall be advanced under subsection (1) to any person unless that person—

(a) was not a willing party to the taking or acquisition of the land; or

(b) was a willing party to the taking or acquisition principally because the land had been notified.

(3) Any money advanced under this section shall constitute a debt due by the person to whom it is paid to the notifying authority who or which paid it, and shall be a charge on the estate or interest of that person in the land acquired by him with the assistance of such money, and notice of the charge may be registered against that land under the provisions of subpart 5 of Part 3 of the Land Transfer Act 2017.

(4) Except with the consent of the chief executive of the department within the meaning of section 2 of the Survey Act 1986 (where the notifying authority is the Minister) or the notifying authority (in any other case) no dealing in connection with any such estate or interest (other than a dealing which is not required to be executed by the registered owner) shall be registered while a charge under this section is registered against the land.

(5) For the purposes of subpart 5 of Part 3 of the Land Transfer Act 2017, notice of any charge under this section and any certificate releasing any such charge, and any consent under this section, may be signed by the chief executive of the department within the meaning of section 2 of the Survey Act 1986, where the notifying authority is the Minister.

(6) Any money advanced under this section shall be repaid to the notifying authority at such reasonable times and on such reasonable terms and conditions (including interest) as may be specified by the notifying authority when making the advance.

Compare: 1928 No 21 s 101F; 1975 No 138 s 31(1)

Section 74(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 74(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 74(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 74(4): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 74(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 74(5): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 74(5): amended, on 1 April 1988, by section 23(b) of the Public Works Amendment Act 1988 (1988 No 43).

75 Compensation for tenants of residential and business premises

(1) Subject to the provisions of this section, where—

(a) any land has been notified; and

(b) the land was, on the date on which it was notified, occupied by a tenant; and

(c) the tenant was on that date in occupation of the land under a tenancy agreement which commenced before the land was taken or otherwise acquired by the notifying authority; and

(d) the tenant occupied the land continuously from that date to the date on which he vacated the land so that vacant possession could be given to the notifying authority—

there may, in the discretion of the notifying authority, be paid to the tenant by the authority such compensation as is provided for in subsection (2), on receiving an application in that behalf from the tenant.

(2) Subject to subsection (3), the amount of compensation payable under subsection (1) shall be—

(a) in the case of a tenant who occupied the land for residential purposes, such sum of money as will fairly reimburse the tenant for—

(i) the actual and reasonable costs incurred by him in transporting his goods and chattels and those of his family to other accommodation, but not exceeding the reasonable costs of such transport by road over a distance of 80 kilometres, or such greater distance as is necessary to reach the nearest land that reasonably could have been acquired in substitution:

(ii) the value or loss in value of any floor coverings and soft furnishings that have been necessarily abandoned or spoilt or become less valuable as a result of moving to such other accommodation:

(b) in the case of a tenant who occupied the land for other purposes, such sum of money as will fairly reimburse him for the actual and reasonable costs incurred by him in transporting his equipment, plant, and stock to other accommodation, but not exceeding the reasonable costs of such transport by road over a distance of 80 kilometres, or such greater distance as is necessary to reach the nearest land that reasonably could have been acquired in substitution.

(3) Compensation shall not be paid under this section unless—

(a) not less than 10 working days' notice of the proposed move has been given by the tenant to the notifying authority; and

(b) application for payment by the tenant is made to the notifying authority before the expiry of 2 months after the date on which the transport

costs were incurred or on which the abandonment or spoiling of floor coverings or soft furnishings occurred, as the case may be.

(4) In this section, **tenant** means a person who has—

(a) a weekly tenancy agreement; or

(b) a monthly tenancy agreement; or

(c) a tenancy to which the Residential Tenancies Act 1986 applies; or

(d) a statutory tenancy (as defined in section 207 of the Property Law Act 2007).

Compare: 1928 No 21 s 101E; 1970 No 145 s 6(1)

Section 75(1)(b): amended, on 19 April 2017, by section 196(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 75(4): inserted, on 19 April 2017, by section 196(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

76 Refund of expenses where acquisition of land abandoned

(1) Subject to subsection (2), where—

(a) land has been notified in any of the ways described in paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of the definition of the term notified in section 59, and the notification has subsequently been cancelled or withdrawn; or

(b) a Proclamation or declaration has been revoked under section 54; or

(c) the Minister or a local authority has initiated negotiations for the acquisition for a public work of any land not previously advertised or available for sale, and the Minister or local authority discontinues the negotiations—

the notifying authority, the Minister, or the local authority, as the case may be, shall, on receiving an application in that behalf from the owner of the land, pay to the owner such sum of money as will fairly reimburse him for the actual and reasonable costs and expenses incurred by him as a direct result of the notification, the issue of the Proclamation or declaration that has been revoked, or the initiation of the negotiations, as the case may be.

(2) Payment shall not be made under this section unless the application for payment is made by the owner of the land to the notifying authority, or to the Minister or local authority, before the expiry of 6 months after the date on which the notification was cancelled or withdrawn, the Proclamation or declaration was revoked, or the owner was advised that negotiations would be discontinued, as the case may be.

Compare: 1928 No 21 s 101D; 1970 No 145 s 6(1)

Section 76(1)(c): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

The claim

77 By whom compensation may be claimed

A claim for compensation may be made by the owner of any land who claims to be entitled to compensation under this Act whether such person has or has not the power to sell and convey the land, or by any executor or administrator of such person; and any such claim on behalf of any beneficiary, ward, or mentally disordered person may be made by his trustee, guardian, or manager, respectively.

Compare: 1928 No 21 s 47

78 Limitation of time for claiming compensation

(1) Subject to the provisions of this or any other Act, a claim for compensation under this Act or any former Act relating to public works shall not be made (in respect of any land taken) after a period of 2 years after the date of the Proclamation or declaration taking the land, or (in respect of any other claim under this Act) after a period of 2 years after the execution of the works or the exercise of the power out of which such claim has arisen or may arise.

(2) For the purposes of this section the term **execution of the works** means the completion of the construction of any portion of a work where that portion in itself (and without reference to any other part of the work) causes the damage or injurious affection; and that portion of the work shall be deemed to be completed when anything further that may be required to be done to finish it will have no effect either to increase or lessen the damage or injurious affection.

(3) Either period of 2 years referred to in subsection (1) may, on application made either before or after the expiration of that period, be extended by the Minister or local authority, as the case may be, upon or subject to such conditions as he or it thinks fit, to such period (not exceeding 6 years after the date of the Proclamation or declaration taking the land or the date of execution of the work or the exercise of the power, as the case may require) as the Minister or local authority thinks fit.

(4) The period of 2 years referred to in subsection (1) shall, in the case of a claim in respect of damage arising out of the execution or operation of any irrigation works, be deemed to be a period of 2 years after the day on which the race or dam or other part of the works which in itself causes the damage is first filled for irrigation purposes to the level intended to be normal.

(5) Any applicant under subsection (3) who is dissatisfied with any decision made by the Minister or local authority under that subsection may appeal to the Tribunal in respect of that matter and the decision of the Tribunal shall be final.

Compare: 1928 No 21 s 45; 1939 No 39 s 63; 1944 No 31 s 30

79 Minister or local authority may take proceedings to determine compensation if person entitled fails to make claim

(1) At any time after the expiration of 3 months after the date on which any person has acquired any right to make a claim for compensation, if that person has failed to make the claim, the Minister or the local authority may give notice in writing to that person of his or its intention, after the expiration of 4 months after the date on which the notice is given, to apply to the Land Valuation Tribunal to determine what amount of compensation (if any) shall be paid to that person in respect of the matters and land specified in the notice, and in respect of all claims arising at or about the same time which the claimant may have.

(2) If after the expiration of that period of 4 months and of any extension of it which the Tribunal may allow on application made to it in that behalf within that period, the person to whom the notice has been given has failed to make the claim in accordance with section 82, the Minister or the local authority, as the case may be, may apply to the Land Valuation Tribunal to determine what amount of compensation (if any) shall be paid to that person in respect of the matters and land specified in the application, and to fix a suitable date for the hearing of the application.

(3) If application is made to the Tribunal under this section, notice of the application shall be given not less than 2 months before the date of the hearing of the application to the person whose rights are to be determined thereby, and that person may—

(a) not less than 20 working days before the date fixed for the hearing of the application, file in the office of the Tribunal nearest to the place where the land is situated, and serve on the applicant, particulars of the claim (if any) which he makes in respect of the matters and land to which the application relates:

(b) appear and be heard on the application or claim so filed.

(4) Subject to the provisions of this section, the Tribunal shall proceed to hear the parties and to examine the claim (if filed), or if no claim is filed to examine the application as if it were a claim duly made by the person to whom the application relates, but if no claim has been filed in accordance with subsection (3)(a), but the person whose rights are to be determined has appeared and been heard, the applicant shall be entitled to an adjournment for a reasonable period if he or it wishes to make any further investigation of any matter arising in the claimant's evidence.

(5) If the circumstances render it desirable to do so, the Tribunal may hear together 2 or more applications under this section.

Compare: 1954 No 85 s 2

80 Accelerating hearing of compensation claims

(1) A claim for compensation in respect of the taking of any land of any person for any public work shall lie and may be enforced in accordance with the provisions of this Act notwithstanding that no Proclamation or declaration taking the land has issued if—

(a) the Minister or the local authority has issued a notice under section 18(1)(a) in respect of the land; or

(b) the execution has been completed of every portion of the work which will affect the amount of the land of that person which will have to be taken for the work or which will injuriously affect or damage the land of that person; or

(c) the Minister or local authority and the owner of the land to be taken for any work have agreed to the land being taken and to the compensation being assessed in accordance with this Part.

(2) In any case to which subsection (1)(a) applies, the claimant shall by notice in writing require the Minister or local authority to indicate whether the Minister or local authority intends to proceed with the acquisition of the claimant's land.

(3) If the Minister or local authority confirms the intention to acquire the land or if paragraph (b) or paragraph (c) of subsection (1) applies, the claimant shall proceed with the claim under this section and the making of such a claim shall operate for the purposes of section 17 as an agreement by the claimant under section 17 to the claimant's estate or interest in that land being taken subject to subsection (7) and subject to the compensation to be paid being left to be determined under this Part.

(4) If at the expiration of a period of 3 months from the date on which the notice pursuant to subsection (2) was given to the Minister, or local authority—

(a) the Minister or local authority has not indicated in writing the intention to proceed with the acquisition of the claimant's land; or

(b) the notice given under section 18(1)(a) has not been withdrawn or has not lapsed,—

then the claimant may advise the Minister or local authority in writing that the notice given under subsection (2) is to constitute—

(c) an agreement by the claimant to the claimant's estate or interest in that land being taken, subject to subsection (7) and subject to the compensation to be paid being left to be determined under this Part; or

(d) a withdrawal of the notice given in respect of the claimant's land under section 18(1)(a).

(5) In any case to which subsection (1)(b) applies, the making of a claim under this section in respect of any land to be taken shall operate, for the purposes of section 17, as an agreement by the claimant to the claimant's estate or

interest in that land being taken subject to subsection (7) and subject to the compensation to be paid being left to be determined under this Part.

(6) Any requirement or claim made under this section shall—

(a) operate to automatically withdraw any objection made by the claimant under section 23 to the taking of the same land; and

(b) prevent the commencement or prosecution of any proceedings by or on behalf of the claimant to prevent or delay the execution of the work or the taking of the land which is the subject of the requirement or claim made under this section.

(7) If a Proclamation or declaration taking or acquiring the land has not been issued when the Land Valuation Tribunal commences to hear any claim made under this section, the Minister or the local authority shall, at the commencement of the hearing, notify as nearly as may be what land (if any) is proposed to be taken; and the Tribunal shall hear the claim and assess compensation as if that land had been so taken.

(8) For the purpose of any claim made under this section the forms prescribed in Schedules 3 and 4 may be varied to such extent as may be necessary to express the circumstances of the claim.

Section 80: substituted, on 31 March 1987, by section 11(1) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

81 Public Trust may be ordered to represent infants, absentee owners, etc

(1) If any person with whom it is desired to enter into an agreement under section 17 or section 18, or if any person who has or will have any right or title to claim compensation under this Act, is—

(a) an infant, a mentally disordered person, a person under some other legal disability, or a beneficiary under a trust, not having a guardian, manager, or trustee; or

(b) of unknown whereabouts and has no known agent; or

(c) unknown—

and in the absence of steps taken to appoint a person to represent that person, the Minister or the local authority may, after notifying Public Trust, apply to the District Court for an order authorising Public Trust to act as if it were the legal guardian, manager, trustee, or agent, as the case may require, of that person.

(2) On the making of such an order Public Trust shall for the purposes of this Act be deemed to be the legal guardian, manager, trustee, or agent of the person in respect of whom the order was made and, notwithstanding the provisions of any Act, rule of law, deed, or other instrument, may enter into an agreement with the Minister or local authority for the acquisition of the land under section 17 or section 18 or for the payment of the purchase price or compensation.

(3) If Public Trust is unable to reach agreement with the Minister or local authority on the compensation to be paid it may, on behalf of any person referred to in subsection (1), make and pursue a claim in accordance with the provisions of this Part for any compensation payable under this Act.

(4) In any case to which subsection (3) applies, any period of time prescribed by or under this Act in respect of any such claim shall not commence to run before the date on which the order was made under subsection (1).

(5) Any compensation payable pursuant to any such agreement with or claim by Public Trust shall be paid to Public Trust and shall become subject to the provisions of section 96.

Compare: 1928 No 21 ss 48, 49

Section 81 heading: amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 81(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 81(1): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 81(2): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 81(3): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 81(5): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

82 Particulars to be inserted in claim

(1) In order to obtain compensation the claimant shall serve upon the respondent a claim in writing, in one of the forms in Schedule 3, stating—

(a) the several areas and descriptions of the land taken or to be taken or injuriously affected or damaged in respect of which he makes his claim, and the nature and particulars of his interest therein; and if he claims as owner and the land is encumbered, leased, or subject to any easement, he shall give particulars of that encumbrance, lease, or easement:

(b) the reference to any *Gazette* or other notice of taking of the land:

(c) each matter on account of which he claims compensation, with full particulars of the nature and extent of the claim:

(d) the total amount claimed:

(e) the amount and date of any advance payment:

(f) his full name, together with his address, which address shall be deemed to be his address for service unless he gives written notice to the respondent of a change of address.

(2) The claim shall, if it relates to the value of land and is for a sum of compensation in excess of $1,000, be accompanied by a valuation report signed by a registered valuer.

Compare: 1928 No 21 s 51(1)

83 Serving of claims

(1) Claims for compensation under this Act shall be served as follows:

(a) where the Minister is the respondent, by being sent by registered letter addressed to the chief executive of the department within the meaning of the Survey Act 1986 at the chief executive's office in Wellington or by being delivered at the office of the solicitor to the department within the meaning of the Survey Act 1986 in the office of the chief executive:

(b) where the Minister of Railways is the respondent, by being sent by registered letter addressed to the General Manager of Railways at the New Zealand Railways Corporation office at Wellington, or by being delivered at that office:

(c) where a local authority is the respondent, by being sent by registered letter addressed to the local authority at its principal office, or by being delivered at that office.

(2) In any such case, the claimant shall be entitled on demand to receive from the officer for the time being in charge of any such office a receipt stating the day on which the claim was delivered or received.

Compare: 1928 No 21 s 51(2)

Section 83(1)(a): substituted, on 1 April 1988, by section 24 of the Public Works Amendment Act 1988 (1988 No 43).

Section 83(1)(a): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 83(1)(b): amended, on 1 April 1982, pursuant to section 120(5) of the New Zealand Railways Corporation Act 1981 (1981 No 119).

84 Filing claims in District Court

At any time after the expiration of 30 working days after the service of any claim under section 83, either the claimant or the respondent may file in the District Court nearest to where the land is situated a copy of the claim together with a notice in the form set out in Schedule 4 that he requires the claim to be heard by the Tribunal; and unless both the claimant and the respondent consent, the Tribunal shall not hear the claim earlier than 45 working days after the date of filing in the court of that notice.

Compare: 1928 No 21 s 53

85 Tribunal may require claimant or respondent to state particulars

(1) If the claimant does not give full particulars of his claim, or does not specify in his claim the amount claimed for each matter on account of which he claims

compensation, the respondent may by notice in writing require him to furnish those particulars.

(2) The claimant may, at any time after service of his claim on the respondent, by notice in writing require the respondent to furnish a reply to the claim, giving the reasons for not admitting the claim or any part of it.

(3) If the particulars or reasons referred to in subsection (1) or subsection (2) are not supplied at least 15 working days before the date appointed for the sitting of the Land Valuation Tribunal to hear the claim, the Tribunal may, if it thinks fit, on the application of either party made before or at the hearing—

(a) order the party in default to furnish the particulars:

(b) adjourn the hearing of the claim until the particulars are supplied and the party making application has had reasonable time to consider them:

(c) order that the costs occasioned by the adjournment shall be borne by the party in default.

Compare: 1928 No 21 s 52

86 Third party notice

(1) If the respondent considers that he or it is entitled to an indemnity from a third party in respect of the whole or any part of the claim, the respondent may serve upon that party a notice setting out the grounds of the claim to the indemnity and shall file a copy of it in the District Court nearest to where the land is situated.

(2) The third party shall, as from the time of the service of the third party notice upon him, be a party to the action with the same rights, powers, obligations, and duties as the respondent.

87 Amendment of claim

(1) On the hearing of any claim for compensation under this Act, it shall not be lawful for the claimant to adduce evidence in relation to any matter not disclosed in the claim but he may, with the leave of the Land Valuation Tribunal, amend his claim in any particular.

(2) Such leave shall be granted only on such terms and conditions as to notice to parties, payments of costs, or otherwise as the Tribunal thinks fit.

Compare: 1928 No 21 s 74

The award

88 Award to be in writing

The Land Valuation Tribunal shall make its award in writing, which shall be drawn up and signed by the District Court Judge constituting the Tribunal or, as the case may be, who is the chairman of the Tribunal, as soon as practicable after its making; and the District Court Judge shall deliver or transmit the

award to the Registrar of the High Court in the district in which the land is situated who shall file it in that court.

Compare: 1928 No 21 s 90(1)

89 Separate sums to be awarded for items of claim

The Land Valuation Tribunal may not award a gross sum in respect of 2 or more items of any claim for compensation, but the Tribunal shall in respect of each item of the claim award a particular sum as compensation to be paid to the claimant, subject to such conditions as it may think equitable, or determine that no compensation is payable in respect of it.

Compare: 1945 No 45 s 32

90 Costs in claims for compensation

(1) Subject to the provisions of this section, the costs of a hearing by the Land Valuation Tribunal under this Part shall be in the discretion of the Tribunal, which may direct to and by whom and in what manner those costs or any part of them shall be paid.

(2) Where the respondent has made an offer of any amount for compensation and the compensation awarded is less than the amount so offered, the Tribunal may order the claimant to bear his own costs and to pay the costs of the respondent in so far as the costs of either party are incurred after the making of the offer.

(3) If costs are not awarded in accordance with the provisions of subsection (2), the Tribunal shall, unless for special reasons it thinks it proper not to do so, order the respondent to bear his own costs and to pay the reasonable costs of the claimant.

(4) Without limiting the generality of the provisions of subsection (3), it is hereby declared that the fact that the Tribunal in any case considers that the amount claimed was unreasonably high having regard to the compensation awarded or the evidence before the Tribunal, shall be a special reason that the Tribunal may take into consideration for the purposes of that subsection.

Compare: 1939 No 39 s 64

91 Costs may be deducted from compensation awarded

Costs payable by the claimant may be deducted from the compensation payable to the claimant under the award; and if such costs exceed the compensation payable, the award shall be for the payment by the claimant of the amount of the excess.

Compare: 1928 No 21 s 85

92 Costs in claims beyond jurisdiction of Land Valuation Tribunal

The power of awarding costs conferred upon the Land Valuation Tribunal by section 90 shall extend to cases in which it is determined that the Tribunal has no jurisdiction to hear and determine the claim for compensation or any

particular portion of it, and any such award of costs in respect of such claim or part shall be dealt with and enforced in the same manner as an award of compensation.

Compare: 1928 No 21 s 86

93 Costs in claims withdrawn or abandoned

When any claim for compensation is at any time after its making withdrawn or abandoned, whether wholly or in part, costs may be awarded by the Land Valuation Tribunal in respect of that claim or that part of it in the same manner as if the claim or part had been heard and determined by the Tribunal; and any such award of costs shall be dealt with and enforced in the same manner as an award of compensation.

Compare: 1928 No 21 s 87

94 Interest on compensation money

The Land Valuation Tribunal may, if it thinks fit, order that there be included in the sum of any award interest, calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) Schedule 2 of the Interest on Money Claims Act 2016, on the whole or any part of the award for the whole or any part of the period between the specified date or, where appropriate, the date on which the claimant gives vacant possession of the land (whichever is later) and the date of making of the award.

Section 94: amended, on 1 January 2018, by section 29 of the Interest on Money Claims Act 2016 (2016 No 51).

95 Finality of award and enforcement

(1) Subject to section 26 of the Land Valuation Proceedings Act 1948, the award shall be final as regards the amount awarded, but shall not be final as regards the right or title of the claimant or any other person to receive the amount awarded or any part of it.

(2) If the sum awarded is not paid to Public Trust under section 96(a) within 45 working days after the filing of the award in the High Court, the award so made and filed shall have the effect of a judgment of the High Court, and may be enforced accordingly, subject to the provisions of this Act.

Compare: 1928 No 21 s 90(3), (4)

Section 95(2): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

96 When title doubtful compensation, etc, to be paid to Public Trust

If any doubt or dispute arises as to the right of any person to receive any compensation awarded under this Act, or any purchase money or compensation agreed to be paid by the Minister or a local authority under this Act,—

(a) in the case of compensation exceeding $1,000 awarded by the Land Valuation Tribunal, the respondent may, within the period of 45 working

days after the award has been filed in the High Court, cause the sum awarded to be paid to Public Trust; and Public Trust shall deal with and apply the money in such manner and shall pay it to such persons as the High Court, upon the application of any of the parties interested, may order:

(b) in the case of purchase money or compensation exceeding $1,000 agreed to be paid, the Minister or local authority, as the case may be, may pay the money to Public Trust; and the High Court may make such order in relation to it, upon the application of any of the parties interested, as it thinks just and proper; and Public Trust shall deal with and pay such purchase money or compensation in accordance with that order:

(c) in any case which may be heard or disposed of by the High Court under this section, that court may order that all or any costs incurred in or in relation to the case, either before the Tribunal or the High Court, shall be paid by such of the parties, whether claimant, respondent, or a person so interested, or that such costs be apportioned between such parties in such manner respectively as the High Court may order; and that court may vary or revoke any order previously made by the Tribunal as to costs:

(d) in the case of compensation not exceeding $1,000 awarded by the Tribunal, or purchase money, or compensation not exceeding $1,000 agreed to be paid, the Minister or local authority, as the case may be, may pay it to the parties entitled to the rents and profits of the land or to Public Trust to be disbursed by it as it thinks fit.

Compare: 1928 No 21 s 91

Section 96 heading: amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 96(a): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 96(b): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 96(d): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

97 Compensation in case of limited interests, etc

(1) If compensation is awarded or compensation or purchase money has been agreed to be paid by the Minister or a local authority in respect of—

(a) any land taken or purchased from any person having a partial or qualified interest only in the land and not entitled to sell or convey it; or

(b) any permanent injury done to any land in respect of which a person has a partial or qualified interest only and does not have the right or capacity to sell it—

the compensation or purchase money shall be dealt with as follows:

(c) if the compensation or purchase money amounts to $5,000 or more it shall be paid to Public Trust; and Public Trust shall apply it, upon an order of the High Court made on the petition of any person claiming any estate or interest in the money, to 1 or more of the following purposes:

(i) to the discharge of any debt or encumbrance affecting the land, or affecting any land settled therewith, or to the same or like uses, trusts, or purposes:

(ii) in the purchase of other land to be conveyed, limited, and settled upon the like uses, trusts, or purposes:

(iii) in removing any buildings on the land, or substituting others in their place:

(iv) in the purchase of such securities as the High Court may direct, to be settled in the same manner as the land:

(v) in payment to any party becoming absolutely entitled to it:

(d) if the compensation or purchase money is more than $250 but less than $5,000, it shall be paid to Public Trust, and Public Trust may apply it to any of the purposes referred to in paragraph (c) without an order of the High Court, but in any such case Public Trust may, if it thinks fit, apply to the High Court for directions as to the purposes for which the compensation or purchase money shall be applied:

(e) if the compensation or purchase money is not more than $250 it shall be paid to the parties entitled to the rents and profits of the land; or, in the case of disability or incapacity of such parties, to their respective spouses, guardians, committees, or trustees, as the case may be.

(2) The provisions of this section shall not prevent any person who had a partial or other qualified interest in the land to which interest he is solely entitled, and which he may absolutely sell or dispose of, from receiving any compensation or purchase money in respect of any interest to which he may be declared entitled under any award, or which has been agreed to be paid to him.

(3) Notwithstanding the provisions of subsection (1), where the person having the partial or qualified interest in the land and not entitled to sell or convey it is a local authority, the compensation money or purchase money may be paid to the local authority.

(4) The local authority shall record any money paid to it under subsection (3) in a separate account and shall invest it separately; and shall expend it only for the permanent improvement of other land held for the same or like uses, trusts, and purposes or for all or any of the purposes set out in subparagraphs (i) and (ii) of subsection (1)(c), so that such application of the money will benefit persons substantially in the same locality.

Compare: 1928 No 21 s 92; 1952 No 58 s 10

Section 97(1)(c): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 97(1)(d): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

98 Public Trust may invest compensation money

Until any compensation or purchase money deposited with Public Trust under this Act is applied as provided by section 96 or section 97, Public Trust shall invest it in its common fund, or in such other investments as are authorised by law for the investment of trust funds, or partly in the Common Fund and partly in such other investments, as Public Trust thinks fit, and shall pay the annual proceeds of it to the party for the time being entitled to the rents and profits of the land in respect of which the compensation was awarded or compensation or purchase money was paid.

Compare: 1928 No 21 s 93

Section 98 heading: amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 98: amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

99 Mortgaged land

(1) If the land in respect of which compensation is awarded, or compensation or purchase money is agreed to be paid, is subject to a mortgage, the compensation or purchase money or so much of it as is required for the purpose shall, on the application of the mortgagee, be paid in discharge of the mortgage debt, or part of it, so far as the compensation or purchase money will go; and if the land is part of land subject to a mortgage debt, and the mortgagee requires a part of the debt to be discharged—

(a) the mortgagor and mortgagee may agree; or

(b) failing agreement, the Tribunal shall determine—

what part of the compensation or purchase money shall be paid in discharge of part of the mortgage debt, so that the remaining part of the mortgaged land constitutes as good security as before for the part of the mortgage debt remaining undischarged.

(2) Notwithstanding anything in this section, the Minister or local authority, as the case may be, shall have a discretion to pay the mortgagor the full amount of any compensation where the compensation does not exceed $250, without incurring any liability to the mortgagee.

(3) The expression **mortgage debt** in this section includes the interest payable on such mortgage up to 6 months beyond the day on which notice was received by the mortgagee of the land affected being taken under this Act.

Compare: 1928 No 21 s 94

100 Land subject to rent charge

(1) If the land in respect of which compensation is awarded or compensation or purchase money is paid is subject to any rent charge—

(a) the owner of the land and the party entitled to the rent charge may agree; or

(b) failing agreement, the Tribunal shall determine—

what part of the compensation or purchase money shall be paid to the party entitled to rent charge in redemption of it.

(2) If the land is part of land subject to any rent charge—

(a) the owner of the land and the party entitled to the rent charge may agree; or

(b) failing agreement, the Tribunal shall determine—

what part of the rent charge shall be redeemed and what part of the compensation or purchase money shall be paid in its redemption, so that the remaining part of the land subject to the rent charge shall be as good security as before for the part of the rent charge remaining unredeemed.

(3) Notwithstanding anything in this section, the Minister or local authority, as the case may be, shall have a discretion to pay the owner of the land the full amount of any compensation where the compensation does not exceed $250, without incurring any liability to the holder of the charge.

(4) In this section, the expression **rent charge** includes an annuity.

Compare: 1928 No 21 s 95

101 Land on which rent payable

If the land in respect of which compensation is awarded or compensation or purchase money is paid is part of land in respect of which any rent is payable—

(a) the lessor and lessee may agree; or

(b) failing agreement, the Tribunal shall determine—

what part of that rent shall cease to be payable, so that the rent ceasing to be payable shall bear the same proportion to the whole rent as the value of the land in respect of which compensation is awarded or compensation or purchase money is paid bears to the value of the whole land.

Compare: 1928 No 21 s 96

102 Funds from which compensation to be paid

Money payable as compensation or as costs under this Act shall—

(a) if payable by the Crown, be paid out of money appropriated by Parliament for the works in respect of which the claim for compensation arises:

(b) if payable by a local authority, be paid out of the funds of such local authority available for such purposes—

but no member of a local authority shall be personally liable for any compensation or costs payable under this Act.

Compare: 1928 No 21 s 100

Section 102: amended, on 1 April 1988, by section 25(b) of the Public Works Amendment Act 1988 (1988 No 43).

Section 102(a): amended, on 1 April 1988, by section 25(a) of the Public Works Amendment Act 1988 (1988 No 43).

Part 6
Grants of land, etc, in lieu of compensation

103 Minister or local authority may grant easements, etc, in lieu of compensation

In any case where the amount of compensation or purchase money to be paid to any person is determined by agreement between that person and the Minister or a local authority, the Minister or that local authority may agree to grant to that person, his executors, administrators, assigns, and successors, any easement, right of way, right of occupation, or any other right, privilege, or concession in, upon, over, or under any land taken or reserved for the purpose of any public work, in satisfaction or part satisfaction of the compensation claimed by that person.

Compare: 1928 No 21 s 97

104 Tribunal may award easements as compensation

In any case where the amount of compensation to be paid to any claimant is determined by the Land Valuation Tribunal, the respondent may offer and the Tribunal may award to the claimant, his executors, administrators, assigns, and successors, in satisfaction or part satisfaction of the compensation claimed, any easement, right of way, right of occupation, or any other right, privilege, or concession in, upon, over, or under any land taken or reserved for the purpose of any public work; and the Tribunal may by its award declare which (if any) of such easements, rights, privileges, or concessions so offered shall be granted to the claimant in satisfaction or part satisfaction of his claim to compensation.

Compare: 1928 No 21 s 98

105 Granting of land as compensation where equivalent land not readily available

(1) Notwithstanding anything in section 62, where any land which has been notified and which—

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

(b) was used by the owner personally for any purpose—

is taken or acquired for the public work for which it was notified, and land reasonably equivalent to that so taken or acquired is not readily available on the market for sale or other disposition to the owner at a reasonable price for the re-establishment in the same area of his place of residence or other activity, the notifying authority, with the agreement of the owner, shall take all reasonable steps to grant to the owner in payment or satisfaction or part payment or satisfaction (subject to payment by way of equality of exchange where appropriate) of the compensation to which the owner may otherwise be entitled—

(c) Crown land or other land of the notifying authority not subject to any restriction on sale or other disposition; or

(d) land held for any public work which is no longer required for any public work or which is no longer required for any purpose incidental to any public work; or

(e) land acquired, and developed or built on under section 21.

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

(a) was the owner, or the spouse of the owner, of the land so taken or acquired on the date on which it was notified, or where the owner has died since that date, was the person beneficially interested in the land; and

(b) was the owner of the land on the date on which the land was so taken or acquired by the notifying authority; and

(c) was not a willing party to the taking or acquisition of the land, or was a willing party to the taking or acquisition principally because the land had been notified.

(3) Any land granted under subsection (1) shall be reasonably equivalent to the land so taken or acquired.

(4) No Crown land shall be granted under subsection (1) without the consent of the Minister having control of that land.

(5) The owner of any land that has been notified may apply to the Tribunal for an order requiring the notifying authority to take action in accordance with subsection (1).

(6) If the Tribunal is satisfied that the owner is a person to whom subsection (1) applies, and that it would be just and proper to do so, it may order the notifying authority to act in accordance with that subsection.

Compare: 1928 No 21 s 101H(1)–(3); 1976 No 165 s 4

Section 105(1): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

106 Granting of land as compensation in other cases

(1) Notwithstanding anything in section 62 or section 105, there may be granted, with the agreement of the person entitled, in payment or satisfaction or in part payment or part satisfaction of the compensation payable to that person, for any land taken or acquired for a public work, or for any damage done or injurious affection caused by reason of the construction or use of a public work, any Crown land or any land held for any public work.

(2) No Crown land shall be granted under subsection (1) without the consent of the Minister having control of that land.

Compare: 1928 No 21 s 99(1)

107 Provisions relating to grants of land in exchange

(1) In granting to the person so entitled any land under section 105 or section 106, the Minister or local authority may enter into an agreement with that person for the repayment to the Crown or the local authority of any money agreed to be due by way of equality of exchange on such terms and conditions (including interest) as may be agreed upon by the notifying authority and that person.

(2) If no agreement can be reached under subsection (1) in respect of land to be granted under section 105, as to the amount due by way of equality of exchange or as to the terms and conditions of repayment of any money due, the Minister or the local authority, or the person to whom the land is proposed to be granted, may apply to the Land Valuation Tribunal to fix the value of the property proposed to be so granted or the value of the land taken or acquired, or both, or to determine the terms and conditions of repayment.

(3) Every application under subsection (2) shall be made in accordance with Part 5 as if the application were a claim for compensation under that Part; and the said Part 5 shall, with the necessary modifications, apply in respect of every such application accordingly.

(4) Any money agreed under subsection (1) to be so due, or fixed by the Tribunal under subsection (2), shall constitute a debt due to the Crown or the local authority and shall be a charge on the estate or interest in the land so granted to that person, and an instrument of charge may be registered against that land under the provisions of subpart 5 of Part 3 of the Land Transfer Act 2017.

(5) Except with the consent of the chief executive of the department within the meaning of the Survey Act 1986 or General Manager of Railways (where the money is due to the Crown) or the local authority (where the money is due to the local authority), no dealing in connection with any such estate or interest (other than a dealing which is not required to be executed by the registered owner) shall be registered while a charge under subsection (4) is registered against the land.

(6) For the purposes of subpart 5 of Part 3 of the Land Transfer Act 2017, notice of any charge under subsection (4) and any certificate releasing any such charge, and any consent under subsection (5), may be signed by the chief executive of the department within the meaning of the Survey Act 1986 or the General Manager of Railways, or local authority, as the case may require.

(7) On completion of such surveys (if any) as may be necessary, there shall be registered with the Registrar-General of Land a certificate by the Minister, Minister of Railways, or the local authority, as the case may require, in the form set out in Schedule 5.

(8) Upon receipt of a certificate from the Minister or the Minister of Railways, the Registrar-General of Land must, without payment of any fee,—

(a) if there is no record of title for the land, create a record of title for the land; or

(b) if there is a record of title for the land, update the record of title for the land.

(8A) *[Repealed]*

(9) Every certificate issued under this section by a local authority shall be deemed to be a transfer instrument of the land described in it from the local authority to the person to whom the land is granted; and the Registrar-General of Land shall register it without fee.

(9A) Subject to subsection (9C), any certificate issued under this section may contain a recital that the land to which the certificate relates shall be amalgamated with any other land in an existing record of title; and that recital shall be sufficient authority to the Registrar-General of Land to amend such record of title accordingly, without fee. On such amendment the land granted shall become subject to and, where applicable, receive the benefit of, all encumbrances, easements, and other interests noted on the record of title.

(9B) Where any land is so amalgamated, the Registrar-General of Land may, if he or she thinks fit, dispense with any survey that would otherwise be required for the purposes of the issuing of a record of title under this section, and may issue a record of title qualified as described in section 17(1)(a) of the Land Transfer Act 2017.

(9C) Before including a recital in a certificate under subsection (9A), the Minister, Minister of Railways, or local authority, as the case may be, shall consult with the Registrar-General of Land as to whether or not it is practicable to amalgamate the land in an existing record of title and, if the Registrar-General of Land advises that it is not practicable to do so, no such recital shall be included in the certificate.

(10) If the Chief Surveyor considers it necessary or expedient or if in any case the Registrar-General of Land so requests, before any land is granted to any person under this section the Chief Surveyor shall allocate a new description

to the land, and shall forward to the Registrar-General of Land a copy of the description, and the Registrar shall amend his records accordingly.

(11) The land comprised in a record of title issued pursuant to a certificate issued under subsection (8), if it is not already subject to the Land Transfer Act 2017, becomes subject to that Act as from the date fixed by the certificate as the date of acquisition of title to it, and that date is for all purposes deemed to be the ante-vesting date.

(12) *[Repealed]*

(13) *[Repealed]*

(14) Where any land acquired under this Act is subject to or has the benefit of any encumbrance, lien, or interest, and land is to be granted in exchange under this section, any record of title issued under this section, with the consent of the person to whom the land is to be granted, may show that the land to which the certificate relates is to be subject to or is to have the benefit of any such encumbrance, lien, or interest that is specified in the certificate.

(15) Every instrument creating or evidencing or affecting any such encumbrance, lien, or interest, and all covenants and other provisions expressed or implied therein, shall be construed as if the land for which the record of title is issued were the land, or (as the case may be) part of the land, to which the instrument relates.

(16) The Registrar-General of Land must record on the relevant record of title memorials showing that the land is affected by subsections (14) and (15) and the certificate.

(17) Where any land subject to any reservation or restriction is taken or acquired under this Act and land is to be granted under this section, the land so granted shall, unless the Minister or the Minister of Railways or the local authority otherwise directs, be issued subject to that reservation or restriction.

(18) Every certificate issued under this section shall be conclusive evidence to the Registrar-General of Land of the matters required or permitted by this section to be therein stated, and that all consents required under this section have been obtained.

(19) Within 1 month after the registration of a certificate under this section, the grantor shall give to the Chief Surveyor written notice of the registration and of the full name, address, and occupation of the grantee.

Compare: 1928 No 21 ss 99, 101H(5)–(10); 1976 No 165 s 4

Section 107(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(5): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 107(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(6): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 107(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(7): amended, on 16 December 1983, by section 4(1) of the Public Works Amendment Act 1983 (1983 No 150).

Section 107(8): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(8A): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(9): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(9A): inserted, on 16 December 1983, by section 4(4) of the Public Works Amendment Act 1983 (1983 No 150).

Section 107(9A): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(9B): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(9C): inserted, on 16 December 1983, by section 4(4) of the Public Works Amendment Act 1983 (1983 No 150).

Section 107(9C): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(10): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(10): amended, on 16 December 1983, by section 4(5) of the Public Works Amendment Act 1983 (1983 No 150).

Section 107(11): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(12): repealed, on 16 December 1983, by section 4(6) of the Public Works Amendment Act 1983 (1983 No 150).

Section 107(13): repealed, on 16 December 1983, by section 4(6) of the Public Works Amendment Act 1983 (1983 No 150).

Section 107(14): substituted, on 16 December 1983, by section 4(7) of the Public Works Amendment Act 1983 (1983 No 150).

Section 107(14): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(15): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(16): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 197(18): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 107(19): added, on 16 December 1983, by section 4(8) of the Public Works Amendment Act 1983 (1983 No 150).

107A Grant of lease or licence as compensation

(1) Notwithstanding anything in section 62, where—

(a) the interest of a lessee or licensee in land is taken or acquired for a public work; and

(b) the lessee or licensee is entitled to compensation under section 105—

the notifying authority (unless the lessee or licensee is to be granted an estate in fee simple), with the agreement of the lessee or licensee, shall take all reasonable steps to grant to him a lease of any land, or a licence to occupy any land, described in paragraph (c), paragraph (d), or paragraph (e) of section 105(1), in payment or satisfaction or part payment or satisfaction of the compensation to which the lessee or licensee may otherwise be entitled, subject to payment by way of equality of exchange where appropriate.

(2) The provisions of subsections (3), (4), and (4A) of section 105, with the necessary modifications, shall apply in respect of any lease or licence granted under this section.

(3) The lessee or licensee of any land that has been notified may apply to the Tribunal for an order requiring the notifying authority to take action in accordance with subsection (1).

(4) If the Tribunal is satisfied that the lessee or licensee is a person to whom subsection (1) applies, and that it would be just and proper to do so, it may order the notifying authority to act in accordance with that subsection.

(5) Subject to subsection (6), all rents and profits derived from any lease or licence granted under this section shall be paid into—

(a) a Crown Bank Account, where the notifying authority is a Minister of the Crown:

(b) the appropriate revenue account of the notifying authority, in any other case.

(6) Any lease or licence granted in accordance with this section in respect of Crown land shall be granted by the Commissioner of Crown Lands appointed under section 12A of the Survey Act 1986, and shall be administered under the Land Act 1948.

(7) Nothing in this section shall oblige the notifying authority to grant a lease or licence on terms more favourable to the lessee or licensee than the lease or licence taken or acquired by the notifying authority.

Section 107A: inserted, on 16 December 1983, by section 5 of the Public Works Amendment Act 1983 (1983 No 150).

Section 107A(1)(a): amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 107A(5)(a): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 107A(6): amended, on 1 February 1990, pursuant to section 9(2) of the Survey Amendment Act (No 3) 1989 (1989 No 139).

108 Execution of certificates

Without affecting the authority of any other person to execute documents made or issued under this Act, the chief executive of the department within the meaning of the Survey Act 1986, and the General Manager of Railways in respect of railway land transactions, may on behalf of the Minister and the Minister of Railways, respectively, execute any certificate of grant of land under section 107.

Section 108: amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

109 Execution of certificates on behalf of local authority

Except as otherwise specially provided, any certificate of grant of land by a local authority under section 107 may be executed on its behalf by the chief executive of the local authority.

Section 109: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Part 7
Surveys and investigations

109A Interpretation

In this Part, unless the context otherwise requires, **Minister** means any Minister of the Crown.

Section 109A: inserted, on 1 April 1988, by section 28 of the Public Works Amendment Act 1988 (1988 No 43).

110 Powers of entry for certain survey purposes

(1) Subject to subsections (2) to (4), any person authorised either specifically or generally by the Minister or local authority, as the case may require, may, for the purposes of carrying out any public work or any proposed public work, and subject to the limitations of any authorisation so granted, enter and re-enter any land at reasonable times, with or without such assistance, aircraft, boats, vehicles, appliances, machinery, and equipment as are reasonably necessary for making any survey in accordance with survey regulations made under the Survey Act 1986.

(2) Before exercising any of the powers conferred by subsection (1), the Minister or local authority shall, where practicable, give reasonable notice to the owner or occupier of the land, as the case may require, of the intention to exercise those powers.

(3) If, under subsection (1), entry is made on any land without notice, advice that entry has been so made shall be given to the owner or occupier of the land as soon thereafter as is practicable, and if the owner or occupier cannot be found, the notice shall be displayed in a prominent place on the land.

(4) Any person exercising any power under subsection (1) shall have with him, and shall produce if required to do so, evidence of—

(a) his authority; and

(b) his identity.

Compare: 1928 No 21 s 107

111 Powers of entry for other survey and investigation purposes

(1) Subject to subsections (2) to (5), any person authorised either specifically or generally by the Minister or local authority, as the case may require, may, for the purposes of carrying out any public work or any proposed public work, and subject to the limitations of any authorisation so granted—

(a) enter and re-enter any land at reasonable times, with or without such assistants, aircraft, boats, vehicles, appliances, machinery, and equipment as are reasonably necessary for making any kind of survey or investigation:

(b) dig and bore into the land and remove samples of it:

(c) erect temporary buildings on the land:

(d) set out the lines of any works on the land.

(2) Unless the owner and occupier of the land otherwise agree, the powers conferred by subsection (1) shall not be exercised unless the owner and occupier of the land affected have been given 10 working days' notice in writing of—

(a) how and when entry is to be made; and

(b) the specific powers intended to be exercised; and

(c) a statement of the owner's or occupier's rights under subsection (4); and

(d) a statement that the owner or occupier may be entitled to compensation under this Act.

(3) Any person exercising any power under subsection (1) shall have with him, and shall produce if required to do so, evidence of—

(a) his authority; and

(b) his identity.

(4) The owner or occupier may, within 10 working days after receiving the notice and after giving notice to the Minister or local authority, as the case may be, of his intention to do so, object to the District Court nearest to the land concerned, and the court may summon the Minister or local authority, or his or its representative, to appear before the court at a time and place named in the summons.

(5) If it appears to the court that the proposed survey or investigation is unreasonable or unnecessary the court may—

(a) order that the survey or investigation shall not be undertaken, or shall not be undertaken in the manner proposed; or

(b) direct that the survey or investigation be undertaken in such manner and subject to such limitations and restrictions as the court thinks fit—

and all persons concerned shall be bound by any such order.

Compare: 1928 No 21 s 107

Section 111(2)(d): substituted, on 1 April 1988, by section 29 of the Public Works Amendment Act 1988 (1988 No 43).

111A Powers of entry for survey and investigation purposes other than by Minister or local authority

(1) In this section, **developer** means—

(a) *[Repealed]*

(b) a network operator within the meaning of section 5 of the Telecommunications Act 2001; or

(ba) a network utility operator within the meaning of section 166 of the Resource Management Act 1991 which has approval as a requiring authority under section 167 of that Act; or

(c) the Airways Corporation of New Zealand Limited, a company that is a State enterprise under the State-Owned Enterprises Act 1986.

(2) Where a developer wishes to undertake a survey or other investigation on any land for the purpose of gathering information necessary for any application for any right, designation, consent, or permit, or for the preparation of any report, required for any proposed development, the developer may, upon giving the owner and occupier of the land not less than 10 working days' notice of its intention to do so, apply to the District Court for an order under this section.

(3) On being satisfied that the proposed survey or investigation is necessary for the purposes of the proposed development, that the proposed development may properly be undertaken by the developer, and that the developer has taken all reasonable steps to negotiate an agreement for entry, the court may make an order authorising the developer to:

(a) enter and re-enter the land at reasonable times, with or without such assistants, aircraft, boats, vehicles, appliances, machinery, and equipment as are reasonably necessary for making any kind of survey or investigation:

(b) dig and bore into the land and remove samples of it.

(4) Every order made under this section shall specify—

(a) how and when entry is to be made; and

(b) the specific powers intended to be exercised; and

(c) such other conditions as the court thinks fit to impose.

(5) Before exercising any powers authorised by an order made under this section, the developer shall serve the order on the owner and occupier of the land to which the order relates.

(6) Every officer, employee, or agent of a developer acting in pursuance of an order made under this section shall have with him or her and shall produce on initial entry and if required to do so, evidence of his or her authority and identity.

(7) The developer shall fully compensate every person having any right, title, estate, or interest in any land or property injuriously affected by the exercise of any of the powers authorised by an order made under this section for all loss, injury, or damage suffered by that person.

(8) In default of agreement between the parties, claims for compensation under this section shall be made and determined within the time and in the manner provided by Part 5, and the provisions of that Part shall, as far as they are applicable and with the necessary modifications, apply with respect to claims under this section.

Section 111A: inserted, on 1 January 1988, by section 2 of the Public Works Amendment Act (No 3) 1987 (1987 No 110).

Section 111A(1)(a): repealed, on 1 April 1993, by section 173(2) of the Electricity Act 1992 (1992 No 122).

Section 111A(1)(b): substituted, on 20 December 2001, by section 158 of the Telecommunications Act 2001 (2001 No 103).

Section 111A(1)(ba): inserted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 111A(1)(ba): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 111A(1)(c): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 111A(2): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

112 Offence to destroy survey marks

(1) Every person who, without lawful authority or excuse, wilfully destroys, mutilates, defaces, takes away, or alters the position of any trigonometrical station, survey peg, mark, block, post, pole, or temporary building fixed or set up by any person under the authority of section 110 or section 111 commits an offence against this Act.

(2) Every person who wilfully obstructs any authorised person exercising any powers conferred on him by section 110 or section 111, or his assistants, in carrying out any such survey or investigation commits an offence against this Act.

(3) Where any person is convicted of an offence under subsection (1), the court may, in addition to imposing any penalty, order the person so convicted to pay

the cost of repairing, restoring, or reinstating any trigonometrical station, survey peg, mark, block, post, pole, or temporary building so destroyed, mutilated, defaced, taken away, or altered as to position.

Compare: 1928 No 21 s 108

Part 8
Legalisation, stopping, and exchanging of roads

113 Interpretation

In this Part, unless the context otherwise requires,—

Minister means the Minister of Lands

road includes an access way or service lane.

Section 113: substituted, on 1 April 1988, by section 30 of the Public Works Amendment Act 1988 (1988 No 43).

114 Declaring land to be road

(1) Subject to subsection (2), the Minister may, by notice in the *Gazette*, declare any land, whether owned by the Crown or not, to be road.

(2) Land shall not be declared to be road without the written consent of—

(a) the lessee or licensee, if the land is owned by the Crown and held under lease or licence:

(b) the body or persons in whom the land or its control is vested, and the lessee or licensee (if any), if the land is a reserve or an endowment or is held in trust. Notwithstanding anything to the contrary in any Act or rule of law, the body or persons in whom any land or its control is so vested shall have authority to give any consent that may be required for the purposes of this section:

(c) the owner or Minister in charge of the department of State that administers the land, if the land is not of a class referred to in paragraph (a) or paragraph (b):

(d) the Minister of Railways, if the land is held for a railway:

(e) the Minister of Conservation if the land is a public reserve, part of a public reserve, a conservation area within the meaning of the Conservation Act 1987, or is managed by the Department of Conservation under section 61 or section 62 of that Act:

(f) *[Repealed]*

(g) the New Zealand Transport Agency, in the case of a State highway or proposed State highway:

(h) the territorial authority in whose district the land is situated, in the case of a road or proposed road, as defined in section 315 of the Local Government Act 1974:

(i) all other persons who have any registered interest in the land, or any other interest disclosed by a register under the Land Transfer Act 2017 or the Deeds Registration Act 1908.

(3) On the date of the publication in the *Gazette* of a notice issued under subsection (1), or on such later date as may be specified in that notice as the date on which it shall take effect, all land to which the notice relates shall—

(a) vest in the territorial authority named in that behalf in the notice; or

(b) notwithstanding anything in section 316 of the Local Government Act 1974, vest in the Crown if no territorial authority is so named.

Compare: 1948 No 39 s 29(1), (2)

Section 114(2)(e): substituted, on 1 April 1988, by section 31(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 114(2)(f): repealed, on 1 April 1988, by section 31(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 114(2)(g): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 114(2)(i): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

115 Certificate of consent may be registered

(1) Where it is proposed that land shall be declared to be road pursuant to section 114, and any consents required under subsection (2) of that section have been given in writing, the Minister or local authority may forward a certificate in accordance with this section to the Registrar-General of Land who shall, without fee, register it against the title to all land affected.

(2) Every certificate under this section shall set out—

(a) the description of the land affected by the certificate and (unless the whole of the land comprised in a record of title or a surveyed lot is to be affected) the description of the portion to be declared to be road by reference to a plan approved by the Chief Surveyor:

(b) the name of each person who has given his written consent to the declaring of the land to be road:

(c) the total area of severed land and closed road that is to be vested in the registered owner in exchange or the fact that no such land is to be vested, as the case may require:

(d) the place where, and the hours during which, the plans and consents (or copies of them) may be inspected, and a reference by which they may be identified.

(3) The validity of a certificate under this section shall not be affected by any misdescription in it of the land if sufficient information appears on the face of the certificate for the Registrar-General of Land to identify the land intended to be affected by it.

(4) Where, after the registration of such a certificate, any person registers an interest in any land affected by it, the consent of that person shall not be required to the Minister making a declaration under section 114(1).

(5) If, before the giving of any notice under section 114, any mortgage or charge is registered against the land after the registration of the certificate, and the registered owner and the mortgagee or chargeholder stipulate in writing that the land or closed road being vested in the registered owner in exchange for the land being declared to be road is to be subject to such new mortgage or charge, the original consents shall be deemed to be varied accordingly.

(6) If, after such a certificate is registered, a transfer instrument of the fee simple of the land affected by the certificate is registered, any consent that is given on the condition that land or closed road shall be vested in the registered owner as at the date of the certificate shall be deemed to be given on the condition that such land or closed road shall be vested in the registered owner as at the date of the notice declaring the land to be road.

(7) Every person who applies at the place and within the hours specified in a certificate under this section for permission to inspect the copy of the consent shall be shown the copy and any plan referred to in it, and shall if he so requests be advised of the extent to which effect has been given to the consents obtained.

(8) Where the Minister or local authority is satisfied—

(a) that any land against which a certificate under this section is registered is not affected or is no longer affected by the proposal to which the certificate refers; or

(b) in any other case, as soon as the consents have been acted upon so far as they affect the title or titles against which the certificate is registered—

the Minister or territorial authority may notify the Registrar-General of Land to that effect and the Registrar shall, without fee, note the discharge against the title to the land.

(9) Every certificate or notice of discharge under this section shall be signed by the Minister or by some person authorised by the Minister in that behalf or, in the case of a territorial authority, shall be signed by the chief executive.

Section 115(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 115(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 115(2)(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 115(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 115(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 115(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 115(8): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 115(9): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

116 Stopping roads

(1) Subject to subsection (2), the Minister may, by notice in the *Gazette*, declare any road or part of a road to be stopped.

(2) A declaration shall not be made under subsection (1) unless—

(a) at least 10 working days' prior notice has been given to every territorial authority whose district adjoins the road or part of the road that is the subject of the declaration; and

(b) either—

(i) adequate road access to land adjoining the road is left or provided; or

(ii) the owners of the land adjoining the road or part of the road consent in writing to the stopping; and

(c) if the road or part of the road proposed to be stopped is a State highway, the written consent of the New Zealand Transport Agency to the closing of the road or part of the road has been obtained; and

(d) if the road or part of a road is under the control of a regional council or a territorial authority, the written consent of that council or authority has been obtained; and

(e) *[Repealed]*

Compare: 1928 No 21 s 147(1); 1948 No 39 s 29(3), (3A); 1972 No 132 s 8(1)

Section 116(2)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 116(2)(d): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 116(2)(e): repealed, on 1 April 1988, by section 32 of the Public Works Amendment Act 1988 (1988 No 43).

117 Dealing with stopped roads

(1) Notwithstanding anything in section 40, if a road as defined in section 315 of the Local Government Act 1974 has been stopped under this Act, the land comprising the stopped road may be dealt with by the territorial authority in the same manner and in all respects as if the road had been stopped pursuant to the Local Government Act 1974.

(2) The land comprising any Government road or State highway or part thereof that has been stopped may under this Act be disposed of or dealt with as land no longer required for a public work.

(3) In the case of any stopped road that was, immediately before its stopping, a State highway, Government road, or part thereof, or if in the case of any other stopped road the territorial authority so consents, the land comprising the stopped road—

(a) may, by the notice declaring the road to be stopped, or by a subsequent notice by the Minister, be vested or otherwise disposed of in exchange for any land required for any other road; or

(b) if not required for the purpose of exchange, may be dealt with as Crown land under the Land Act 1948 or, if the Minister in the case of stopped Government road or State highway or the territorial authority in the case of any other stopped road certifies that he or it considers it equitable to do so, may be vested in or otherwise disposed of to the owner of any adjoining land.

(4) If the land to be vested pursuant to subsection (3) adjoins land that is settled as a joint family home under the Joint Family Homes Act 1964, and the land to be so vested is intended to be included in the land so settled, it may be vested in the settlor or settlors of the joint family home.

(5) Before any land is so vested or disposed of, the Chief Surveyor shall allocate a new description to the land comprising the stopped road, and shall forward to the Registrar-General of Land a copy of that description, and the Registrar shall amend his records accordingly.

(6) All land disposed of under this section by way of lease or licence in exchange for land held under lease or licence from the Crown shall be deemed to be incorporated in that lease or licence from the Crown, and shall, subject to any consequential adjustment of rent, be held on the same tenure and upon the same terms and conditions, and be subject to the same rights, titles, interests, and encumbrances, as the other land comprised in that lease or licence.

(7) Notwithstanding anything in subsections (1), (2), and (3), if the land comprising any stopped road or any part of that land intersects or is adjacent to any reserve, endowment, or land held for a public work, the Minister may, by the notice declaring the road to be stopped or by a subsequent notice, declare that land or part to be added to the reserve, endowment, or land held for a public work, as the case may be; and thereupon the land shall vest in the owner of the land to which it is added and be subject to the same reservations and trusts as the land to which it is added.

(8) If any reserve or endowment is vested in the Crown or, not being so vested, is lawfully administered by the Commissioner of Crown Lands appointed under section 12A of the Survey Act 1986, any land added to it under subsection (7), or any part of land so added, may be incorporated in any lease or licence of adjacent land within the reserve or endowment.

(9) Any land incorporated in a lease or licence under subsection (6) shall, subject to any consequential adjustment of rent, be held on the same tenure and on the

same terms and conditions, and be subject to the same rights, titles, interests, and encumbrances, as the other land comprised in that lease or licence.

Compare: 1928 No 21 s 149; 1948 No 39 s 29(3B)–(3F), (4), (5)

Section 117(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 117(8): amended, on 1 February 1990, pursuant to section 9(2) of the Survey Amendment Act (No 3) 1989 (1989 No 139).

118 Application of other Acts to stopped roads

(1) Notwithstanding section 117, where any road or any portion of a road along the mark of mean high-water springs of the sea, or along the bank of any river, or the margin of any lake (as the case may be) is stopped under section 116—

(a) section 345(3) of the Local Government Act 1974 (relating to esplanade reserves) shall apply to the land comprising the road or portion of the road so stopped if that land was formerly a road vested in a local authority (including a State highway vested in a local authority):

(b) Part 4A of the Conservation Act 1987 (relating to marginal strips) shall apply to the land comprising the road or portion of the road so stopped if that land was formerly a Government road or a State highway or other road vested in the Crown.

(2) For the purpose of subsection (1), **lake** and **river** have the same meaning as in section 2(1) of the Resource Management Act 1991.

Section 118: substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 118(2): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

119 Taking severances

(1) If, as the result of any land being declared road by a notice under section 114, any adjacent land, whether owned by the Crown or not, would become significantly more costly to retain at the same standard as previously or significantly less useful to the owner, lessee, or licensee, the Minister may, by the same or a subsequent notice, declare such adjacent land to be taken under this subsection.

(2) On the declaration of the taking of any land under subsection (1), the land shall vest—

(a) in the registered owner or owners of the land comprised in the record of title specified in the notice as that in which the land taken is to be incorporated; or

(b) if no such title is specified, in the territorial authority specified in that behalf in the notice; or

(c) if no such title or territorial authority is specified, in the Crown—

free from all reservations, restrictions, trusts, rights, titles, estates, or interests of any kind whatsoever, except so far as may be otherwise provided for in the notice.

(3) No land shall be declared taken under subsection (1) without the written consent of the owner, lessee, or licensee, and of every other person having a registered estate or interest in the land.

(4) Any land taken under subsection (1) and vested under subsection (2) in—

(a) the territorial authority, may be dealt with by the territorial authority in all respects as if it had been comprised in a road stopped under section 116:

(b) the Crown, shall be deemed to be stopped Government road.

Compare: 1948 No 39 s 29(6), (6A)–(6C)

Section 119(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

120 Registration

(1) The provisions of sections 57 and 58 shall apply in respect of dealings in land under this Part.

(2) On the presentation to him of a copy of any notice stopping any road under this Part, together with a copy of the plan or plans referred to in it, the Registrar-General of Land must note the stopping on the appropriate record of title.

(3) The recital in any notice under this Part of the record of title for any parcel of land with which any land referred to in the notice is to be amalgamated in one record of title shall have the effect of vesting that land in the registered owner or owners for the time being of the land comprised in that record of title for an estate in fee simple in possession, and shall be sufficient authority to the Registrar-General of Land to issue such record of title, without fee.

(4) Notwithstanding anything in the Joint Family Homes Act 1964, the recital in any notice under this Part that any registered owner to whom subsection (3) applies is the settlor of any adjoining land as a joint family home under that Act, shall be deemed to be a sufficient application to the Registrar-General of Land to settle the additional land acquired under the notice as part of the joint family home under section 4 of that Act, and the provisions of that Act shall apply accordingly.

(5) The recital in any notice under this Part, or a certificate under the hand of the Commissioner of Crown Lands appointed under section 12A of the Survey Act 1986, that any land is to be incorporated in any lease or licence pursuant to this Part shall be sufficient authority to the Registrar-General of Land to make an appropriate entry without fee on any relevant record of title.

(6) The publication in the *Gazette* of any notice purporting to be issued under this Part shall be conclusive evidence that all conditions precedent to the issue

of the notice have been complied with, and no person shall be concerned to inquire whether any consent has been given or other condition attaching to the issue of the notice has been fulfilled.

(7) The consent of any person having a registered interest in any land in respect of which a notice is proposed to be issued under this Part or having an interest in it disclosed by a register under the Land Transfer Act 2017 or the Deeds Registration Act 1908, but not being the owner or the lessee or licensee of the land, may be dispensed with in any case if the Minister certifies that the interest of that person will not be prejudicially affected by the issue of such a notice.

(8) Where, in any case to which section 117(6) does not apply, any land that is subject to any registered encumbrance, lien, or interest is declared road with the consent under paragraph (b), or paragraph (c), or paragraph (i) of section 114(2) of the owner or body or persons in whom the land or its control is vested and with the consent of the person entitled to the registered encumbrance, lien, or interest, and other land is vested or otherwise disposed of in exchange for it, then, unless the notice otherwise directs, the other land shall be granted or disposed of subject to that registered encumbrance, lien, or interest.

(9) On the issue of a record of title for any land vested or otherwise disposed of in exchange so subject to any registered encumbrance, lien, or interest, every instrument creating or evidencing or affecting that encumbrance, lien, or interest, and all covenants and other provisions expressed or implied in it, shall be construed as if the land so granted or disposed of were the land or, as the case may be, part of the land to which the instrument relates.

(10) On the issue of a record of title for any land vested or otherwise disposed of in exchange so subject to any registered encumbrance, lien, or interest, the Registrar-General of Land must enter on the register a memorial setting out the effect in the circumstances of subsection (9).

(11) Where any land that is subject to any reservation or restriction is declared road and any other land is vested or otherwise disposed of in exchange for it under this Part, then, unless in any case the Minister otherwise directs, the other land shall be vested or disposed of subject to that reservation or restriction or such other reservations or restrictions as the Minister directs.

(12) The provisions of subsections (8) to (11) shall apply in respect of consents under section 119(3) to the taking of any land under that section as if they were consents under paragraph (b) or paragraph (c) or paragraph (i) of section 114(2) to the declaration of the land as road.

Compare: 1948 No 39 s 29(7)–(11), (13)–(17)

Section 120(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 120(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 120(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 120(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 120(5): amended, on 1 February 1990, pursuant to section 9(2) of the Survey Amendment Act (No 3) 1989 (1989 No 139).

Section 120(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 120(9): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 120(10): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Part 9
Roads

121 Interpretation

[Repealed]

Section 121: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

122 Certain roads vested in Crown

[Repealed]

Section 122: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

123 Provisions relating to construction of motorways to apply to roads constructed pursuant to middle line

[Repealed]

Section 123: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

124 Minister may make roads and declare Government or district roads

[Repealed]

Section 124: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

125 Roads in areas where no territorial authority exists, etc

[Repealed]

Section 125: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

126 Powers of Minister over roads under his control

[Repealed]

Section 126: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

127 Powers of Minister in regard to swing gates and cattlestops on roads

[Repealed]

Section 127: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

Damage to and nuisances on roads

128 Owner or occupier of land not to cause damage to bridge by removal of stone, etc

[Repealed]

Section 128: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

129 Penalties for damage to roads, bridges, etc

[Repealed]

Section 129: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

130 Notice to be given of local authority works

[Repealed]

Section 130: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

131 Poles, etc, on roads to be adjacent to boundaries

[Repealed]

Section 131: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

132 Removal of roadside structures

[Repealed]

Section 132: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

133 Removal of trees, hedges, etc, that obscure visibility or interfere with a public work

(1) In this section and in sections 134 and 135, unless the context otherwise requires,—

authority, in relation to a public work, means—

(a) any Minister of the Crown who is responsible for the work, where the work is a Government work:

(b) the local authority which has financial responsibility for the work, where the work is a local work—

and, in relation to a road, means the authority having control of the road

cut down, in relation to any tree, hedge, or shrub, includes the total removal of the tree, hedge, or shrub

road includes a motorway, access way, and service lane.

(2) The authority may require the owner or occupier of any land adjoining a road or public work to do any of the following things:

(a) to cut down, lower, or trim any tree, hedge, or shrub that is overhanging or overshadowing a road to such an extent as to damage the road, or to endanger or obstruct the lawful use of the road, or to be detrimental to the maintenance of the road and any associated drainage system:

(b) to cut down, lower, or trim any tree, hedge, or shrub, or remove any debris, if parts of it may be blown on to any road or public work or if it may otherwise interfere with the lawful use of the road or any public work:

(c) to cut down, lower, or trim any tree, hedge, or shrub on any land that is in such a position that it interferes with or is damaging, or is likely to interfere with or damage, any road or public work or the construction, operation, or maintenance of any road or public work:

(d) to cut down or grub up, and remove any tree, hedge, or shrub that is obstructing a road or its drainage system owing to the growth of any vegetation or the spreading of roots upon or under the road up to its middle line:

(e) to cut down, lower, or trim any tree, hedge, or shrub, or to lower or remove any wall, fence, or other structure, that in the opinion of the authority wholly or partially obscures visibility at any bend of a road, or at any road or railway crossing, or at any road intersection, or that causes any danger to the traffic on any road:

(f) to remove any structure that encroaches either wholly or partially on to a road or on to any land used for a public work, unless the encroachment has been authorised under section 129 and notice of termination has not been issued.

(3) Within 10 working days after service of a notice under subsection (2), the owner or occupier may apply to the District Court nearest to the land for an order setting aside the notice.

(4) A copy of any such application shall be served on the authority either before or immediately after it is lodged with the court.

(5) The Registrar of the court shall give notice of the time and place fixed for the hearing of the application to the applicant and the authority, and they shall be entitled to be present and to be heard, either personally or by their counsel or by an officer of the authority.

(6) On hearing the application, the court, whose decision shall be final, shall determine whether the notice should or should not be set aside, and in the former case the notice shall be deemed to be void.

(7) Every person on whom a notice has been served under this section commits an offence against this Act if he fails to comply with the requirement contained in the notice within 1 month after—

(a) the expiry of the time in which application may be made to a court, if he has not exercised that right; or

(b) the date of the court's order, if an application to set aside the notice has been made and it has not been set aside; or

(c) the date on which any application to the court has been withdrawn by the applicant—

whichever is the later, and shall be liable on conviction to a fine not exceeding $5 for every day or part of a day during which the offence has continued; and the authority, by its employees or agents, may enter on the land in respect of which the requirement was made, carry out the required work, and recover the cost from the owner.

(8) All costs and expenses incurred by an authority in carrying out any work under subsection (7) may be recovered from the person who failed to comply with the requirement as a debt due to the authority.

(9) The power of entry conferred by subsection (7) may be exercised in addition to or instead of the filing of a charging document for an offence under that subsection.

Compare: 1928 No 21 ss 169, 170, 171; 1948 No 39 s 32

Section 133(1) **authority** paragraph (a): substituted, on 1 April 1988, by section 36 of the Public Works Amendment Act 1988 (1988 No 43).

Section 133(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 133(9): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

134 Service of notice

(1) If, under the provisions of section 133, a requirement is made by an authority, the requirement shall be by notice in writing signed by any person appointed either generally or specially by the authority for the purpose of giving such notices and shall be served in accordance with section 4.

(2) If the notice is served by being published in a newspaper, the authority shall also affix a copy of the notice upon a conspicuous part of the property in respect of which the notice is issued, or on some public road adjacent to it.

Compare: 1928 No 21 s 171

135 Emergency work on trees, etc

(1) Notwithstanding anything in section 133, if there is imminent danger to life or property, or a likelihood of serious interference with any road or public work, arising from any tree, hedge, plant, or debris, the authority may, on giving such oral notice to the occupier or (if there is no occupier) the owner of the land on which the tree, hedge, plant, or debris is situated as is practicable in the circumstances, enter on the land and do such work as is necessary and sufficient to remove the danger or serious interference for such period as will be sufficient to enable the authority to take action under section 133 in respect of any further work that may be necessary.

(2) If any authority exceeds the powers conferred by this section or causes any unnecessary damage to be done, the work shall be deemed not to have been authorised by this section.

(3) If, under subsection (1), entry is made on any land without notice, advice that entry has been so made shall be given to the owner or occupier of the land as soon thereafter as is practicable, and if the owner or occupier cannot be found, the notice shall be displayed in a prominent place on the land.

(4) All costs and expenses incurred by an authority in lawfully carrying out any work under this section may be recovered as a debt due to the authority from the person who would have been liable to pay if the work had been done under section 133.

Compare: 1928 No 21 s 172A; 1956 No 39 s 4

Part 10
Access ways and service lanes

[Repealed]

Part 10: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

136 Minister may construct access ways and service lanes

[Repealed]

Section 136: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

137 Control and management may be vested in Council

[Repealed]

Section 137: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

Part 11
Motorways

[Repealed]

Part 11: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

137A Interpretation

[Repealed]

Section 137A: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

138 Governor-General may authorise and declare motorways

[Repealed]

Section 138: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

139 Middle line procedures

[Repealed]

Section 139: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

140 Power to make motorways

[Repealed]

Section 140: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

141 Land may be temporarily occupied

[Repealed]

Section 141: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

142 Compensation where road interfered with or wholly closed

[Repealed]

Section 142: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

143 Access to land cut off from road or separated by motorway

[Repealed]

Section 143: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

144 Alterations to roads, drains, etc

[Repealed]

Section 144: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

145 Restrictions on poles, etc, on motorways

[Repealed]

Section 145: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

146 Availability for traffic

[Repealed]

Section 146: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

147 Maintenance and control of motorways

[Repealed]

Section 147: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

148 Restrictions on use of motorways

[Repealed]

Section 148: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

148A Vehicles which may be operated on motorways

[Repealed]

Section 148A: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

148B Restrictions on access to motorways

[Repealed]

Section 148B: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

149 Construction of buildings and facilities on, over, under, or adjacent to motorways

[Repealed]

Section 149: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

150 Motorway deemed to be road

[Repealed]

Section 150: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

151 Application of Impounding Act 1955

[Repealed]

Section 151: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

152 Offences

[Repealed]

Section 152: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

Part 12
Limited access roads

[Repealed]

Part 12: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

152A Interpretation

[Repealed]

Section 152A: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

153 Creation and revocation of limited access roads

[Repealed]

Section 153: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

154 Provisions of Acts relating to roads to apply to limited access roads

[Repealed]

Section 154: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

155 Access to and from land

[Repealed]

Section 155: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

156 Authorisation of crossing places

[Repealed]

Section 156: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

157 Restricting movement to or from a limited access road

[Repealed]

Section 157: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

158 Limited access road not a road for certain purposes

[Repealed]

Section 158: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

159 Requirements relating to declaration of limited access road

[Repealed]

Section 159: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

160 Certificate of land affected to be forwarded to District Land Registrar

[Repealed]

Section 160: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

161 Administration of limited access roads

[Repealed]

Section 161: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

162 Offences

[Repealed]

Section 162: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

163 Compensation

[Repealed]

Section 163: repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

Part 13
Railways

163A Interpretation

In this Part, unless the context otherwise requires, **Minister** means the Minister of Transport.

Section 163A: inserted, on 1 April 1988, by section 43 of the Public Works Amendment Act 1988 (1988 No 43).

164 Railways to be authorised by Order in Council

[Repealed]

Section 164: repealed, on 1 April 1993, by section 28(1) of the Railway Safety and Corridor Management Act 1992 (1992 No 111).

165 Presumption as to area of Crown land or reserves used for railway, revesting of land not used, etc

(1) If out of any Crown land or public reserve or any land situated in the common marine and coastal area on which any railway has been constructed, no definite area or part of the land or reserve has been or may be set apart or acquired for

railway purposes, it shall be presumed that a width of 40 metres of the land or reserve (comprising 20 metres on each side of the centre line of the railway) has been set apart or acquired for the purposes of that railway, and shall be included within the limits of it and for all purposes be deemed to be part of the railway.

(2) If at any time it is desired that any portion of Crown land or reserve so presumed to be part of any railway, cease to be part of the railway, the Minister may from time to time, by notice in the *Gazette* defining accurately the portion desired to be retained as part of the railway, declare that the residue of it shall again become Crown land or a part of the public reserve from which it was originally taken; and such notice shall take effect accordingly, and the residue shall return to its original status as Crown land or public reserve, as the case may be.

(3) Nothing in this section shall affect or interfere with any public road on any Crown land or reserve within the area so included in the railway, and lying along, adjacent to, or crossed by any such railway, except under and subject to this Act.

Compare: 1928 No 21 s 218

Section 165(1): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

166 Power to make railways, railway stations, etc

Subject to the restrictions specified in this Part, the Minister may do the following things in respect of any railway authorised under this or any other Act:

(a) construct works of every description and material necessary to the making of the railway:

(b) take machinery and vehicles of any kind on to and across any land within the area set out in the notice defining the middle line of the railway, and use the machinery and vehicles on that land:

(c) make any part of the railway on and along any part of any road, access way, or service lane:

(d) make the railway on, across, over, or under any road, motorway, access way, service lane, railway, or tramway along the defined middle line; and alter the level of any road, access way, motorway, service lane, railway, or tramway for that purpose:

(e) subject to compliance with the Resource Management Act 1991, make the railway across any arm of the sea or any river, stream, lake, or water (whether navigable or not) by means of a bridge, causeway, or tunnel:

(f) subject to compliance with the Resource Management Act 1991, alter the course or the level of any river that is not navigable, or of any stream, watercourse, ditch, or drain:

(g) subject to compliance with the Resource Management Act 1991, make drains or conduits on or under any land adjacent to the railway for the purpose of carrying water off the railway, and at all times maintain them in good repair:

(h) remove or alter any drain or sewer or any pipes, wire, cable, or duct, together with any associated equipment, belonging to any person within or beyond the defined limits of the railway:

(i) make or construct all such buildings, stations, machinery, bridges, roads, approaches, and other structures and works in connection with the railway as the Minister thinks necessary:

(ia) make or construct all rolling stock, motor vehicles, vessels, plant, machinery, goods, chattels, and other fixed or moveable property of every description used in connection with the railway:

(j) construct such roads, service lanes, or access ways as the Minister thinks desirable for the purpose of giving access to any land whose access is severed by a railway:

(k) do all such things as are necessary for making, maintaining, altering, repairing, and using the railway.

Compare: 1928 No 21 s 219

Section 166(e): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 166(e): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 166(f): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 166(f): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 166(g): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 166(g): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 166(ia): inserted, on 31 March 1987, by section 12 of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

167 Rights of way where railway along or across road on level

[Repealed]

Section 167: repealed, on 1 April 1993, by section 28(1) of the Railway Safety and Corridor Management Act 1992 (1992 No 111).

168 Compensation where road interfered with or wholly closed

(1) Except as provided in section 63, compensation shall not be payable under this Act to any person in respect of—

(a) any road being wholly closed under the powers conferred by section 37; or

(b) the use or occupation of any road for any railway; or

(c) any inconvenience to the users of any land fronting or adjoining any such road—

if reasonable and sufficient access to the nearest road crossing over or under the railway is available by some other road, whether it has been provided or constructed by the Minister or not.

(2) If any question arises as to whether other reasonable and sufficient access is so available, it shall be determined in such manner as is agreed upon between the owners and occupiers of the land, the territorial authority having the control of roads in the district, and the Minister; and every such determination shall be conclusive as to the rights or claims of all persons affected.

(3) If no such agreement is reached, all claims for compensation in respect of the matters referred to in subsection (1) shall be determined in the manner provided by this Act, but no compensation shall be awarded if in the opinion of the Land Valuation Tribunal other reasonable and sufficient access is so available.

Compare: 1928 No 21 s 221

169 Access to land cut off from road or separated by railway

(1) If the making of a railway has—

(a) cut off all access by road to any land other than Crown land; or

(b) separated one piece of the land of any person from another piece of land of that person—

and the Minister has not provided access to the land so cut off or between the pieces of land so separated, the Minister shall provide access to the land so cut off or between the pieces of land so separated—

(c) by constructing a road, access way or service lane; or

(d) by constructing a crossing between the pieces of land that have been separated.

(2) No access need be provided under this section as a consequence of the land having been subdivided after the construction of the railway.

(3) Where the Minister is satisfied that alternative access has become available to any land that has been granted an access under this section, the Minister may close any access provided under this section on giving not less than 3 months' notice in writing to the owner and occupier of the land affected.

(4) If the owner or occupier of any land to which subsection (1) applies objects to any decision of the Minister under this section, the Minister shall appoint a competent person to confer with the owner and, if possible, to agree with him as to the matter in dispute; and if no agreement can be reached between

the parties the matter shall be referred to the nearest District Court, and the decision of the court thereon shall be final.

Compare: 1928 No 21 s 222

Section 169(4): amended, on 1 January 2004, by section 76 of the Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17).

170 Alterations to roads, drains, etc

(1) Where it is found necessary for the construction of a railway to alter any road, tramway, watercourse, or drain, or any other public work, or any water supply pipe or gas supply pipe, or any power supply or telecommunications link, the alterations shall be made in such manner as will—

(a) interfere as little as possible with the work altered; and

(b) so far as practicable, provide the public and every person entitled to use the work altered with the equivalent use and convenience as they had before the alteration.

(2) Before commencing any such alteration, the Minister shall cause a plan of it to be prepared and to be submitted to the local authority having the control of the work proposed to be altered, or to the owner of the water supply pipe or gas supply pipe, power supply, or link, or other work, as the case may be.

(3) If the local authority or owner objects to the proposed alteration, the Minister shall appoint a competent person to confer with the authority or owner, and to agree with it or him as to the manner in which the alteration shall be made; and if no agreement can be reached between the parties, the matter shall be referred to the District Court nearest to the work in question, and the decision of the court thereon shall be final.

(4) The Minister may at any time interfere with any such road, public work, pipe, power supply, or link so far as is necessary to effect all necessary repairs on any railway lawfully constructed thereon, but shall give to such local authority or owner not less than 10 working days' notice of his intention to do so, except in the circumstances set out in subsection (5).

(5) In any emergency or danger the Minister may carry out forthwith all such works as appear to him to be necessary, and shall as soon as possible give notice of doing so to such local authority or owner.

Compare: 1928 No 21 s 225

Section 170(3): amended, on 1 January 2004, by section 76 of the Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17).

171 Agreement as to use of railway bridge for combined traffic

[Repealed]

Section 171: repealed, on 1 April 1993, by section 28(1) of the Railway Safety and Corridor Management Act 1992 (1992 No 111).

172 Right of way on joint railway and common bridges

[Repealed]

Section 172: repealed, on 1 April 1993, by section 28(1) of the Railway Safety and Corridor Management Act 1992 (1992 No 111).

173 Land may be temporarily occupied

(1) Subject to the conditions specified in this section, the Minister may temporarily occupy and use any land for the purpose of constructing, reconstructing, or repairing a railway, and may do the following things on the land:

(a) take from the land stone, gravel, earth, and other materials:

(b) deposit any construction materials:

(c) deposit, permanently or temporarily, any material suitable for use in landscaping or restoration of that land or of the railway:

(d) form and use drains and hard standings:

(e) manufacture or fabricate materials and construct incidental works:

(f) erect workshops, sheds, and other buildings of a temporary nature, and store or use any plant or equipment.

(2) The engineer or other person having the charge of the railway shall, before so occupying or using any land and, except in the case of accident to the railway requiring immediate repair, give to the owner and to the occupier of the land not less than 10 working days' notice in writing, and shall include in the notice—

(a) a description of the land affected; and

(b) the nature of any work to be carried out; and

(c) the type of any material required; and

(d) the approximate quantity of any material required; and

(e) the use proposed to be made of any material to be removed; and

(f) how and when entry is to be made; and

(g) a statement of the owner or occupier's rights under subsection (3); and

(h) the estimated amount of compensation to which the owner or occupier would be entitled under this Act.

(3) The owner or occupier may, within 10 working days after receiving such a notice and after giving notice to the engineer or other person of his intention to do so, apply to the District Court nearest to the land concerned, and the court may thereupon summon the engineer or other person to appear before the court at a time and place to be named in the summons.

(4) If it appears to the court that the use proposed to be made of the land is unreasonable or unnecessary, the court may—

(a) order that the land in question shall not be occupied or used, or shall not be occupied or used in the manner proposed; or

(b) direct that the land be occupied and used or material taken from it in such manner and subject to such limitations and restrictions as it thinks fit—

and all persons concerned shall be bound by any such order.

Compare: 1928 No 21 s 229

174 Application of Impounding Act 1955

The person in charge of any railway or part of a railway, whether vested in the Crown or not, shall be deemed to be the occupier of it for the purposes of the Impounding Act 1955; and any act, matter, or thing permitted or required to be performed or done by the occupier of land as defined in that Act may be performed or done in respect of any such railway or part by the person so in charge or by any person authorised generally or particularly by him for that purpose.

Compare: 1928 No 21 s 234

Part 14
Railways and tramways regulation and inspection

New Zealand Railways Corporation railways

Heading: substituted, on 1 April 1982, pursuant to section 120(5) of the New Zealand Railways Corporation Act 1981 (1981 No 119).

175 Inspection of railways

No part of any railway constructed by the Minister of Transport under this Act or under any other Act relating to the construction of public works or railways shall be opened for traffic until—

(a) it has been inspected by some proper person appointed by the Minister of Transport for that purpose; and

(b) that person has reported to the Minister of Transport that he has inspected—

(i) the whole of that part; and

(ii) except in the case of an extension of an existing railway, all the rolling stock to be used on it—

and that the railway and rolling stock are in good and efficient repair and may be safely and conveniently used for public traffic.

Compare: 1928 No 21 s 237

Section 175: amended, on 1 April 1988, by section 44 of the Public Works Amendment Act 1988 (1988 No 43).

Section 175(a): amended, on 1 April 1988, by section 44 of the Public Works Amendment Act 1988 (1988 No 43).

Section 175(b): amended, on 1 April 1988, by section 44 of the Public Works Amendment Act 1988 (1988 No 43).

Local railways and tramways

176 Interpretation

In sections 177 to 183—

local railway means all railways and tramways, whether constructed under the authority of this Act or any other Act; but does not include railways vested in, or held or occupied by, the Crown or a railway operator (as that term is defined in section 2 of the New Zealand Railways Corporation Restructuring Act 1990)

Minister means the Minister of Transport

proprietors means the proprietors for the time being of any such local railway or in whom any such local railway is vested, or who have the management or control of such a railway.

Compare: 1928 No 21 s 240

Section 176 **local railway**: substituted, on 28 August 1990, by section 35 of the New Zealand Railways Corporation Restructuring Act 1990 (1990 No 105).

Section 176 **Minister**: inserted, on 1 April 1988, by section 45 of the Public Works Amendment Act 1988 (1988 No 43).

177 General Manager to be appointed for every local railway

There shall be for every local railway on which passengers are carried an officer called the General Manager, and the name and address of each General Manager shall be registered in the office of the Minister.

Compare: 1928 No 21 s 241

178 Appointment of Inspector

(1) The Minister may from time to time appoint any proper person to inspect any local railway, and that appointment may be—

(a) general, authorising the appointed person to inspect all or any local railways as occasion may from time to time require; or

(b) special, applying to any 1 or more specified sections of a local railway.

(2) Any person so appointed may at all reasonable times on producing his warrant of appointment, if required, enter on and examine any local railway, and the stations, works, and buildings, and the engines and carriages, and other rolling stock belonging to the railway.

(3) Every person who wilfully obstructs any person so appointed to inspect any local railway in the execution of his duty commits an offence against this Act.

Compare: 1928 No 21 s 244

179 Notice of intended opening

(1) A local railway or a portion of a local railway shall not be opened for the public conveyance of passengers—

(a) until 2 months after notice in writing of the intention of opening it has been given by its proprietors to the Minister; and

(b) until 30 days after notice in writing has been given by such proprietors to the Minister of the time when the railway or portion of railway will be in their opinion sufficiently completed for the safe conveyance of passengers and ready for inspection; and

(c) unless and until the Minister has given notice in writing to such proprietors that he has received from the person appointed under section 178 a certificate that the railway or the portion of it, as the case may be, is safe and fit for traffic.

(2) The proprietors of any local railway or portion of any local railway who open it or cause it to be opened without such notices having been duly given, commit an offence and shall be liable on conviction to a fine not exceeding $1,000 for every day or part of a day during which the railway or portion continues open until the said notices are duly given and the Minister has given his notice under subsection (1)(c) to the proprietors.

Compare: 1928 No 21 s 245

Section 179(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

180 Minister may postpone opening or working of local railway

(1) If the person appointed to inspect any local railway or portion of local railway, after inspecting it, reports in writing to the Minister that in his opinion the opening or the continued working of it would be dangerous to the public or to the persons employed on the railway, owing to—

(a) the incompleteness of the works or permanent way; or

(b) the need for necessary repairs in any part of the railway; or

(c) the insufficiency of the establishment for working the railway—

the Minister may from time to time—

(d) order the proprietors of the railway to postpone its opening or discontinue working it, as the case may require, for any period not exceeding 1 month at any one time, until it appears to the Minister that the opening may take place or the working may be resumed without danger to the public; or

(e) where an authorising order has been made under the Tramways Act 1908, direct that the works thereby authorised shall be completed in accordance with that order and any plan or documents mentioned in it, without suspending the traffic upon the tramway.

(2) The proprietors shall be entitled to a copy of the report on which any such order is founded.

(3) If any order made by the Minister under this section is not complied with by the proprietors of any local railway affected by it, they commit an offence and shall be liable on conviction to a fine not exceeding $1,000 for every day or part of a day during which the order is not complied with.

Compare: 1928 No 21 s 246

Section 180(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

181 Notice to Minister of accidents

(1) The General Manager of every local railway shall, within 48 hours after the occurrence upon the railway under his management of any accident which causes serious personal injury to any member of the public or to any person employed on the railway or which causes serious damage to the line, appliances, rolling stock, or plant, give notice of the accident by telegram or telephone to the Minister.

(2) If any such General Manager wilfully omits to give such a notice he commits an offence and shall be liable on conviction to a fine not exceeding $100.

Compare: 1928 No 21 s 247

Section 181(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

182 Inquiry as to accidents

(1) The Minister may cause an inquiry to be held in such manner as he thinks fit into any accident referred to in section 181 and, for the purpose of preventing the recurrence of any such accident, may direct the proprietors of the local railway to—

(a) make such alterations as are necessary in the construction or equipment of the railway or the rolling stock, plant, or machinery used on or in connection with it, or in the method of working it; and

(b) discontinue the working of the railway, or the use of such rolling stock, plant, or machinery, or the method of working them, as the case may require, until such alteration has been made.

(2) If any such direction is not complied with, the proprietors of the local railway commit an offence and shall be liable on conviction to a fine not exceeding $1,000 for every day or part of a day during which the non-compliance continues.

Compare: 1928 No 21 s 248

Section 182(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

183 Returns of accidents

(1) The Minister may order the General Manager of any local railway to make up and deliver to the Minister returns of serious accidents occurring in the course of the public traffic on the railway under his management, whether attended with personal injury or not.

(2) Such returns shall be made up in such form and manner as the Minister considers necessary with a view to the public safety.

(3) If any such returns are not so delivered within 14 days after they have been required, the General Manager commits an offence and shall be liable on conviction to a fine not exceeding $50 for every day or part of a day during which he neglects to deliver them.

Compare: 1928 No 21 s 249

Section 183(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 15
Defence works

184 Crown may construct defence works

The Crown is hereby empowered to construct and maintain any defence work in accordance with the Building Act 2004, where that Act applies to the work.

Compare: 1928 No 21 s 252

Section 184 heading: amended, on 1 April 1988, by section 46 of the Public Works Amendment Act 1988 (1988 No 43).

Section 184: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 184: amended, on 1 July 1992, by section 92(1) of the Building Act 1991 (1991 No 150).

Section 184: amended, on 1 April 1988, by section 46 of the Public Works Amendment Act 1988 (1988 No 43).

185 Destroying or altering defence works

Every person commits an offence and shall be liable on conviction to a fine not exceeding $1,000 who, on land held by the Crown, mutilates, defaces, takes away, destroys, or alters the position of, any defence work, survey peg, mark, block, post, or pole set up or affixed thereon, or who wilfully obstructs any officer, surveyor, or his assistants or employees engaged in carrying out any defence work, or any survey of any land to be taken, acquired, or held for the purposes of a defence work.

Compare: 1928 No 21 s 259

Section 185: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 16
Protection of public works (including aerodromes)

[Repealed]

Part 16: repealed, on 1 October 1991, pursuant to section 362 of the Resource Management Act 1991 (1991 No 69).

185A Interpretation

[Repealed]

Section 185A: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

186 This Part not to derogate from Town and Country Planning Act 1977

[Repealed]

Section 186: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

187 Control of use of land in vicinity of essential works

[Repealed]

Section 187: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

187A Control of use of land transferred to State enterprises

[Repealed]

Section 187A: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

188 Removal of trees, buildings, etc, interfering with use of aerodrome

[Repealed]

Section 188: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

189 Minister may direct local authority or airport authority to serve notice under this Part and in default may serve notice on its behalf

[Repealed]

Section 189: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Part 17
Artificial lakes and secondary use of public works land

Artificial lakes

189A Interpretation

In this Part, unless the context otherwise requires, **Minister** means any Minister of the Crown.

Section 189A: inserted, on 1 April 1988, by section 50 of the Public Works Amendment Act 1988 (1988 No 43).

190 Regulations as to use of lake formed by construction of Government work

(1) In this section, unless the context otherwise requires,—

artificial lake means a body of water formed or impounded by a Government work or by a work acquired by the Crown

natural lake means a lake that is not an artificial lake.

(2) Where a natural lake exists before the construction of a Government work, or a work acquired by the Crown, which increases the area of that lake, the whole of the lake as so increased in area shall be deemed to be a natural lake for the purposes of this section.

(3) In addition to all powers of making regulations in respect of lakes conferred on him by the Harbours Act 1950 or by any other Act, but subject to the Resource Management Act 1991 and subsection (4), the Governor-General may from time to time, by Order in Council, in respect of any artificial lake, make regulations—

(a) prohibiting, or permitting, regulating, and prescribing terms and conditions for, the use of the lake or its waters or any part of it or its waters:

(b) prohibiting, or permitting, regulating, and prescribing terms and conditions for, the discharge into or placing in the lake of any solid or liquid matter likely to settle in the lake, or cause an obstruction in it, or interfere with any authority or person lawfully using the lake, or its waters, or any part of it or its waters:

(c) prescribing fines, not exceeding $500 in any case, for the breach of any regulations made under this section.

(4) Any regulations made under subsection (3)(b) shall not permit the discharge or placing of any matter into or in the lake in contravention of any legislation.

(5) Regulations under this section may be made generally in respect of all artificial lakes, or in respect of any 1 or more of such lakes.

(6) The power of making regulations under this section shall be exercisable in respect of such parts of any natural lake as lie within 350 metres from—

(a) any part of a Government work constructed for the purpose of utilising the waters of the lake; or

(b) any outlet of the lake as it exists from time to time—

where a work designed for the control of the level of the waters of the lake is constructed on a river or stream flowing from the lake, in the same manner as if those parts of the natural lake were parts of an artificial lake.

(7) The power of making regulations under this section may be exercised in respect of such part of any river or stream as lies between a work constructed for the control of the level of the waters of a lake from which it flows and the outlet of the lake, in the same manner as if that part of the river or stream were an artificial lake.

(8) The provisions of Part 2 of the Fisheries Act 1908 shall apply to any artificial lake as if its waters were not private waters.

(9) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1948 No 39 s 36

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 190(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 190(3): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 190(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 190(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Secondary use

191 Secondary use of land held for public work

(1) If the Minister having control of any public work is of the opinion that it is practicable for any land at any time held for that work under this or any other Act to be applied also to any secondary use or uses, either public or private, without interfering with the public work for which the land is held, the Minister may, by notice in the *Gazette*, authorise the application of that land to that use or those uses.

(2) Every notice under this section shall specify the land affected by it and the secondary use or uses authorised by it.

(3) For the purposes of any such notice the land may be defined by survey data, or by physical features, or by such other means as seem to the Minister to be best suited to the circumstances.

(4) For the purpose of any such notice, any definition of secondary use may specify particular uses which alone are permitted, or may be in general terms with or without specified exceptions.

(5) At any time after any such notice has been signed, the Minister or the local authority, as the case may be, may apply the land to any authorised secondary use or may grant licences, permits, and privileges in respect of any authorised secondary use of the land to any persons upon or subject to such terms and conditions as the Minister or the local authority or any public body in which powers under this section may be vested thinks fit, for any period, with or without a right of renewal.

(6) Any such licence, permit, or privilege may be immediately revoked upon the breach of any of the terms or conditions upon or subject to which it is granted, or if in the opinion of the Minister or local authority concerned the service of the public so requires.

(7) If the secondary use authorised by any such notice includes the general characteristics of a reserve within the meaning of the Reserves Act 1977 or of a national park within the meaning of the National Parks Act 1980, the Minister, by the same or another notice, may specify which (if any) of the provisions of either of those Acts shall apply to the land, and may vest the control of it in—

(a) any local authority;

(b) the Minister of Internal Affairs;

(c) the Director-General of Conservation:

(d) any trustees empowered by or under any Act or any other lawful authority; or

(e) any persons acting as trustees for the inhabitants of the locality—

on such conditions as may be prescribed in the notice, and may make such other provisions in respect of such control as he thinks fit, having regard to the continued and future use of the land for the public work for which it was acquired.

(8) Any notice under this section may from time to time be amended or revoked by a subsequent notice.

(9) Nothing in this section shall derogate from the provisions of the Resource Management Act 1991.

Compare: 1948 No 39 s 37

Section 191(1): amended, on 1 April 1988, by section 51(a) of the Public Works Amendment Act 1988 (1988 No 43).

Section 191(1): amended, on 1 April 1988, by section 51(b) of the Public Works Amendment Act 1988 (1988 No 43).

Section 191(7)(b): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 191(7)(c): substituted, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 191(9): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 191(9): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

192 Compensation under this Part

(1) On the termination or revocation of any licence, permit, or privilege granted under section 191, or under regulations in force under section 190, compensation shall be payable only for improvements to the land made with the written approval of the grantor; and no compensation shall be payable if there has been a breach of any term or condition upon or subject to which the licence, permit, or privilege was granted unless the grantor agrees to waive the breach.

(2) Compensation shall not be payable in respect of any reduction of the value of any such licence, permit, or privilege caused by the operation or cessation of the public work.

Compare: 1948 No 39 s 38

193 Revenue and expenditure under this Part

(1) All revenue arising out of the granting of licences, permits, or privileges under section 191 or under regulations in force under section 190, and all fees, dues, and charges received by virtue of section 191 or those regulations shall—

(a) in the case of works under the control of the Minister, be paid into the account to which the cost of the public work has been charged:

(b) in the case of works under the control of a local authority, be paid into the general revenues of the local authority.

(2) All expenditure arising out of the granting of licences, permits, or privileges under section 191 or under regulations in force under section 190, and all refunds of fees, dues, and charges made and all compensation paid by virtue of sections 191 and 192 or those regulations shall—

(a) in the case of works under the control of the Minister, be paid out of money appropriated by Parliament for the purpose:

(b) in the case of works under the control of a local authority, be paid out of the general revenues of that local authority.

(3) *[Repealed]*

(4) In the case of works under the control of a local authority, any remission, either wholly or in part, of any fees, dues, and charges payable in respect of any such licence, permit, or privilege shall be made by resolution of the local authority.

Compare: 1948 No 39 s 39

Section 193(3): repealed, on 1 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

Part 18
Government drains

[Repealed]

Part 18: repealed, on 1 April 1988, pursuant to section 52 of the Public Works Amendment Act 1988 (1988 No 43).

194 Minister to have powers of territorial authority

[Repealed]

Section 194: repealed, on 1 April 1988, by section 52 of the Public Works Amendment Act 1988 (1988 No 43).

195 Government drains

[Repealed]

Section 195: repealed, on 1 April 1988, by section 52 of the Public Works Amendment Act 1988 (1988 No 43).

Part 19
Irrigation

195A Application of Part 19 of Public Works Act 1981

This Part shall apply only to irrigation schemes owned by the Crown, irrigation schemes under construction by the Crown, and to irrigation schemes that the Crown has agreed to construct, and not to irrigation schemes sold or otherwise disposed of by the Crown under Part 1 of the Irrigation Schemes Act 1990.

Section 195A: inserted, on 3 July 1990, by section 19 of the Irrigation Schemes Act 1990 (1990 No 52).

196 Interpretation

In this Part, unless the context otherwise requires,—

development period means the initial seasons of supply as specified by Order in Council under section 208

headworks means any works required for the impoundment, storage, taking, tapping, or withdrawal of water for any irrigation scheme, or the supply of water to any of those works, or the conveyance of water from any of those works to the off-farm distribution works in any irrigation district

irrigation district means an irrigation district constituted by Order in Council under section 208

land, in relation to any occupier or ratepayer in any irrigation district or proposed irrigation district, means all land occupied by that person in the

district or proposed district which aggregates not less than such area as may be specified by Order in Council under section 208

Minister means the Minister of Agriculture

occupier, in relation to any land, means the person in actual possession of the land or, if there is no such person, means the owner in fee simple of the land

season means such period, not exceeding 1 year, as may be specified by Order in Council under section 208 as commencing on a day specified in that order

water supply works means any water supply works constructed under this Act or any former Public Works Act relating to irrigation, including any races for the supply of water to any land in any irrigation district, whether or not such works are wholly in an irrigation district.

Compare: 1975 No 138 s 3

Section 196 **Minister**: inserted, on 1 April 1988, by section 53(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 196 **National Authority**: repealed, on 1 April 1988, by section 53(2) of the Public Works Amendment Act 1988 (1988 No 43).

197 Minister may construct and maintain water supply works

(1) The Minister is hereby empowered to investigate, design, construct, maintain, or control any water supply works which are proposed to be constructed, or which have been constructed wholly or partly, out of money appropriated by Parliament for the purpose, as part of an irrigation scheme.

(2) The Minister has, in respect of water supply works to which subsection (1) applies, all the powers, rights, duties, and authorities conferred, in respect of water supply works, upon a territorial authority under the Local Government Act 2002; except that in any case where a resolution is required it may be made by the Minister in writing under his or her hand and published in the *Gazette*.

Compare: 1928 No 21 s 274

Section 197(2): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

198 Minister may appoint territorial authority or catchment board as his agent

The Minister may, by agreement with any territorial authority or catchment board, appoint that territorial authority or catchment board as his agent to exercise on his behalf any of the powers or functions conferred upon him under this Part.

199 Minister may supply water to any person from water supply works

The Minister, for and on behalf of the Crown, may supply water from any water supply works constructed, maintained, or controlled by the Minister, whether under the authority of this or any other Act, to any person on such terms and conditions and for such consideration as the Minister thinks fit.

Section 199: amended, on 1 April 1988, by section 54 of the Public Works Amendment Act 1988 (1988 No 43).

200 Notification of investigation of proposed irrigation scheme

Public notification of an investigation by the Minister, territorial authority, or catchment board, as the case may be, into any proposed irrigation scheme shall be given by the Minister, territorial authority, or catchment board, as the case may be, as soon as practicable after the commencement of the investigation and shall be renewed annually until the investigation is completed or abandoned.

Compare: 1975 No 138 s 4

201 Report of National Authority on proposed irrigation scheme

[Repealed]

Section 201: repealed, on 1 April 1988, by section 55 of the Public Works Amendment Act 1988 (1988 No 43).

202 Notification of proposed irrigation scheme

(1) Where the investigation under section 200 has been completed and the Minister is of the opinion that the proposed irrigation scheme is practicable and economic and would result in increased productivity of the land, the Minister may publicly notify—

(a) the following matters:

(i) the land to be included in or excluded from the proposed irrigation district;

(ii) a description of the nature and extent of the proposed headworks; the nature and extent of the works that are to be included as off-farm distribution works for inclusion within the water charge calculation; and the nature of works that may form part of the on-farm irrigation development;

(iii) the annual basic charge or charges payable in respect of each hectare of irrigable land in the proposed irrigation district for the purpose of recovering a proportion of the capital costs of the headworks and of the off-farm distribution works;

(iv) the annual water availability charge or charges for each unit quantity or unit rate of supply of water to land in the proposed irrigation district;

(v) the scale of the reduced charges payable for each season of the development period, together with advice about when, after that period, the reductions become payable;

(vi) the number of seasons of supply over which the charges payable under section 214 are to be payable, commencing from the time of availability of supply of water as determined under section 217;

(vii) a statement that the charges are based on the estimated costs of the proposed scheme and the demand for water, and shall be subject to adjustment from the commencement of the supply of water and from the end of the season in which the charges reach the full amount to conform to the actual or re-estimated costs and demand as provided for in sections 210 and 212;

(viii) the general objectives of the scheme;

(ix) the estimated capability of the scheme;

(x) the general conditions of supply, including any proposed basis of allocation of water;

(xi) any factors which may have a bearing on supply generally or in particular cases;

(xii) the intended order of construction or availability of supply to any specified part of the scheme;

(xiii) the minimum percentage, being not less than 60%, of valid votes cast at any poll under this Part required by the Minister to be in favour of the proposed irrigation scheme as a prerequisite to its construction;

(xiv) the season; and

(xv) the minimum aggregate area of land occupied by any occupier that it is proposed to include in the proposed irrigation scheme:

(b) such other matters as the Minister considers relevant.

(2) For the purposes of any notice publicly notified under this section, the proposed irrigation district may be defined by survey data or by physical features or by such other means as in the opinion of the Minister may seem best suited in the circumstances.

(3) Any notice under this section may from time to time be amended or revoked by a subsequent notice publicly notified before any public notification of a poll under section 206 or any inquiry of occupiers under section 203(2).

Compare: 1975 No 138 s 6

Section 202(1): amended, on 1 April 1988, by section 56(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 202(1)(a): amended, on 1 April 1988, by section 56(2) of the Public Works Amendment Act 1988 (1988 No 43).

Section 202(1)(a)(iii): amended, on 16 December 1983, by section 9(a) of the Public Works Amendment Act 1983 (1983 No 150).

Section 202(1)(a)(iii): amended, on 1 November 1982, by section 5 of the Public Works Amendment Act 1982 (1982 No 182).

Section 202(1)(a)(iv): amended, on 16 December 1983, by section 9(b) of the Public Works Amendment Act 1983 (1983 No 150).

Section 202(3): amended, on 1 April 1988, by section 56(3) of the Public Works Amendment Act 1988 (1988 No 43).

203 Poll for proposed irrigation scheme

(1) Subject to section 207 and subsection (2), at the time of the public notification under section 202 of charges and of a description of the proposed scheme, or at any time thereafter, the Minister shall arrange for a poll to be taken on the question whether the proposed irrigation scheme should be undertaken.

(2) If the Minister is of the opinion that the acceptability of any proposed irrigation scheme could be fairly ascertained by an inquiry in writing of all the persons who are ratepayers in respect of land in the proposed irrigation district, the Minister may dispense with a poll and arrange to notify by post the said ratepayers of the charges and the description of the proposed scheme as notified under section 202.

(3) Each of the ratepayers notified under subsection (2) shall be entitled to such time as the Minister may stipulate, being not less than 10 working days, to advise the Minister in writing whether or not he agrees to the proposed irrigation scheme and the charges and the other matters relating to the proposed scheme as so notified to him.

Compare: 1975 No 138 s 7

Section 203(2): substituted, on 1 April 1988, by section 57 of the Public Works Amendment Act 1988 (1988 No 43).

204 Preparation of rolls

(1) For the purpose of any poll under this Part, the electoral officer of each territorial authority whose district or part of it is included in the proposed irrigation district must, at the Minister's request, prepare a special roll of the ratepayers each of whom is a ratepayer in respect of land in the proposed irrigation district.

(2) Where the proposed irrigation district extends over the district of 2 or more such territorial authorities, the special rolls so prepared for the several districts may be taken together, and the rolls so taken shall be the special roll of electors for the purposes of the poll to be taken under this Part.

(3) If, under this Part, a poll is to be taken of all or any of the ratepayers in the districts of 2 or more territorial authorities jointly, the Minister may select and appoint one of those territorial authorities to be the principal authority for the purposes of the poll.

Compare: 1975 No 138 s 8

Section 204(1): substituted, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

205 Voting

Only those persons appearing on the special roll prepared under section 204 shall be entitled to vote on any poll under this Part, and each such person shall be allowed 1 vote only.

Compare: 1975 No 135 s 9

206 Publication of proposal to take a poll

The Minister or the local authority intending to take any poll under this Part shall publish in any newspaper circulating in the proposed irrigation district a notice setting out the day on which, and the place or places where, the poll is to be taken.

Compare: 1975 No 138 s 10

207 When and how poll to be taken

(1) The day on which any poll under this Part shall be taken shall be the day specified in that behalf in the notice published under section 206, which day shall be—

(a) not less than 10 working days nor more than 20 working days after the date of the publication of the notice; and

(b) not less than 3 months nor more than 12 months after the date of public notification under section 200 of the investigation of the proposed irrigation scheme.

(2) On the day so specified a poll shall be taken by each territorial authority whose district or part of it is included in the proposed irrigation district, and, subject to any necessary modifications and to any direction given by the Minister, the poll shall be taken in the manner provided under the Local Electoral Act 2001.

(3) The reasonable cost of every poll under this Part that is not held simultaneously with the election of members of any local authority, and the reasonable additional costs incurred by a local authority for any poll under this Part that is held simultaneously with the election of members of the local authority, may be paid by the Crown out of money appropriated by Parliament for the purpose.

(4) Any dispute arising as to the amount to be paid by the Crown to any local authority under this section shall be determined by the Controller and Auditor-General after such inquiry as he thinks fit to make, and the decision of the Controller and Auditor-General in any such dispute shall be final.

Compare: 1975 No 138 s 11

Section 207(2): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

208 Constitution of district, etc

(1) If, of the valid votes cast at any poll taken under section 207, not less than the percentage of the valid votes stipulated in the public notification under section 202(1) required to be in favour of the proposed irrigation scheme are so in favour, or if all the persons who are ratepayers in respect of land in the proposed irrigation district advise the Minister in writing under section 203 of their agreement to the proposed irrigation scheme and the charges and other matters relating to the proposed scheme as so notified to them, the Governor-General may by Order in Council constitute as an irrigation district the land the Minister has notified under section 202 to be a proposed irrigation

district and specify the charges, conditions of supply, and any other relevant matters as notified under the said section 202.

(2) Where the Minister is of the opinion that—

(a) it is practicable and desirable, and will result in increased productivity of the affected land (within or outside the irrigation district); and

(b) that there would be no more than minor detraction from the existing benefits within an irrigation district—

the Minister may recommend to the Governor-General that the Order in Council constituting the irrigation district be amended—

(c) by altering the description of the land constituting the district to exclude some land or include more land; or

(d) by altering or adding to the charges, conditions of supply, or any other matter contained in the Order in Council—

and the Governor-General may, by Order in Council amend accordingly the Order in Council constituting the irrigation district.

(3) No recommendation shall be made to the Governor-General under subsection (2) without the consent of the same percentage of the occupiers of the land to be excluded or included as was specified in the notice given under section 202(1)(a)(xiii) as the minimum percentage required to be in favour of the proposed irrigation scheme as a prerequisite to its construction.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1975 No 138 s 12

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 208(2): amended, on 1 April 1988, by section 58 of the Public Works Amendment Act 1988 (1988 No 43).

Section 208(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

208A Reduction in size and abolition of irrigation district

(1) Notwithstanding anything in this Part, the Governor-General may, on the advice of the Minister, by Order in Council—

(a) abolish any irrigation district by revoking the Order in Council which constituted the district and any amending Order in Council made under section 208(2):

(b) reduce the size of an irrigation district by amending the Order in Council constituting the district, and any amending Order in Council made under section 208(2), to redefine the district or exclude any land from the district.

(2) Subject to subsection (4), on the abolition of an irrigation district or the reduction in size of an irrigation district under subsection (1), the provisions of this Part shall cease to apply in respect of the abolished district or in respect of the land no longer forming part of the district, as the case may be.

(3) If any Order in Council is made under subsection (1)(b), the basic charge and the water availability charge shall not be increased by virtue of that fact, and any subsequent adjustment of either of those charges under section 210 or section 212 shall be calculated as if the Order in Council had not been made.

(4) The owner and occupier of any land which formed part of an irrigation district, and which is no longer within the district by virtue of an Order in Council made under this section, shall be entitled to claim—

(a) reimbursement from the Minister for all costs and expenses actually and reasonably incurred by the owner and occupier in anticipation of the land being irrigated, to the extent that the costs and expenses are no longer of any value to the owner and occupier; and

(b) notwithstanding the provisions of section 60, full compensation from the Minister under Part 5 in respect of injurious affection of the land.

(5) Every claim for such reimbursement shall be made, determined, and paid in accordance with Part 5 as if it were a claim for compensation; and the provisions of that Part, so far as they are applicable and with the necessary modifications, shall apply accordingly.

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 208A: inserted, on 16 December 1983, by section 10 of the Public Works Amendment Act 1983 (1983 No 150).

Section 208A(1): amended, on 1 April 1988, by section 59 of the Public Works Amendment Act 1988 (1988 No 43).

Section 208A(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

209 Basic charge

(1) Notwithstanding that a basic charge may have been notified under section 202 or adjusted under section 210 (before its repeal), the Governor-General may from time to time, by Order in Council, determine the basic charge for each hectare of irrigable land in any irrigation district.

(2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 209: substituted, on 3 July 1990, by section 20(1) of the Irrigation Schemes Act 1990 (1990 No 52).

Section 209(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

210 Adjustment of basic charge

[Repealed]

Section 210: repealed, on 3 July 1990, by section 20(1) of the Irrigation Schemes Act 1990 (1990 No 52).

211 Water availability charge

(1) Notwithstanding that a water availability charge may have been notified under section 202 or adjusted under section 212 (before its repeal), the Governor-General may from time to time, by Order in Council, determine the annual water availability charge for each unit quantity or unit rate of supply of water in any irrigation district.

(2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 211: substituted, on 3 July 1990, by section 21(1) of the Irrigation Schemes Act 1990 (1990 No 52).

Section 211(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

212 Adjustment of water availability charge

[Repealed]

Section 212: repealed, on 3 July 1990, by section 21(1) of the Irrigation Schemes Act 1990 (1990 No 52).

212A Alternative to basic and water availability charges

(1) Notwithstanding anything in this Act, the Minister may elect not to set a basic charge and a water availability charge, but instead to set 1 or more charges in substitution therefor to recover from the occupiers in the scheme their share of capital, operation, and maintenance costs on a basis appropriate to the scheme.

(2) The amount of any charge set under this section and the basis upon which it may subsequently be varied shall be included in the notice given under section 202(1)(a) in place of the matters specified in subparagraphs (iii) to (v) and (vii) of that paragraph.

(3) Any charge set under this section may be varied by the Minister at any time upon the basis specified in the notice given under the said section 202.

(4) The provisions of this Part (except for sections 209 to 212) shall apply to any charge set under this section in the same manner, with any necessary modifications, as they apply to the basic charge and the water availability charge specified in this Part.

(5) In setting a charge in substitution for the charges payable under sections 214 and 216, the Minister may have regard to any of the matters specified in those sections.

(6) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a charge set under this section:

(b) a variation of a charge set under this section.

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must comply with subsection (2)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 212A: inserted, on 30 March 1987, by section 2(1) of the Public Works Amendment Act 1987 (1987 No 62).

Section 212A(1): amended, on 1 April 1988, by section 62(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 212A(5): amended, on 1 April 1988, by section 62(2) of the Public Works Amendment Act 1988 (1988 No 43).

Section 212A(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

213 Determination of interest

For the purposes of sections 209 to 212, interest shall be calculated at yearly rests and the rate of interest shall be the standard rate chargeable at the relevant time by The National Bank in respect of loans which may be made by The National Bank for development works of a comparable nature on farm land:

provided that the Minister may specify the addition of a further percentage to the interest rate to compensate for any deferral in the recovery of principal and interest when charges are set under section 212A.

Compare: 1975 No 138 s 17

Section 213: amended, on 1 July 1994, pursuant to section 5(1)(a) of the National Bank of New Zealand Limited Act 1994 (1994 No 3 (P)).

Section 213 proviso: added, on 30 March 1987, by section 2(2) of the Public Works Amendment Act 1987 (1987 No 62).

214 Liability of occupier for annual charge

(1) Except where a water availability agreement referred to in section 216 is entered into and the annual charge payable under that agreement is greater than the annual basic charge payable in respect of any land, every occupier of land in an irrigation district shall (subject to any deferments of charges for the development period as provided for in section 202 and the recovery of the deferred charges by approximately equal amounts) pay to the Minister an annual charge for each of the seasons in the period specified in the notice under section 202(1)(a)(vi).

(2) The annual charge referred to in subsection (1) as the liability of an occupier shall be an amount calculated in accordance with the following formula:

$$b \times h$$

where—

b is the basic charge calculated in accordance with section 209 and adjusted, if required, in accordance with section 210; and

h is the irrigable area of the land of the occupier in the irrigation district as determined in accordance with section 215.

(3) The annual charge referred to in subsection (1) as the liability of an occupier shall become payable to the Minister at the end of the irrigation season to which it relates, and shall be recoverable as a debt due to the Crown.

Compare: 1975 No 138 s 18

215 Determination of irrigable area

(1) The irrigable area of the land of any occupier in any irrigation district shall be determined by the Minister and may be so redetermined from time to time.

(2) Such irrigable area shall be expressed as the number, including any part of a whole number to 1 decimal place, of irrigable hectares.

(3) The irrigability of any area of land shall be determined after consideration of the nature of the land, the capability of the water supply works to supply water to the land, and any limitations to the capability of the water supply scheme to supply water to all the land in the irrigation district that is potentially irrigable.

(4) In determining from time to time the irrigable area of land, the Minister shall take into consideration any request made in writing by an occupier as to the irrigable area of any part of his land.

(5) Where any occupier is dissatisfied with any determination of the Minister under this section, the occupier and the Minister shall each appoint an assessor to determine the matter, and, subject to subsection (6), the decision of the assessors shall be final.

(6) Where the assessors appointed under subsection (5) are unable to agree on the irrigable area of the land of any occupier the assessors shall—

(a) appoint an adjudicator; or

(b) where they cannot agree on the appointment of an adjudicator, apply to the District Court nearest to the land concerned for the appointment of an adjudicator—

and the decision of the adjudicator shall be final.

Compare: 1975 No 138 s 19

Section 215(1): amended, on 1 April 1988, by section 63 of the Public Works Amendment Act 1988 (1988 No 43).

Section 215(4): amended, on 1 April 1988, by section 63 of the Public Works Amendment Act 1988 (1988 No 43).

Section 215(5): amended, on 1 April 1988, by section 63 of the Public Works Amendment Act 1988 (1988 No 43).

216 Water availability agreements

(1) The Minister may allocate water, to be supplied from the water supply works for any irrigation district, to the occupier of any land in the district, and may determine the conditions under which such water shall be so supplied. Each allocation shall be expressed as a number of unit quantities or unit rates of supply.

(2) Each such allocation to an occupier shall be compatible with a scheme approved by the Minister for the development through irrigation of the land of the occupier and, in determining such allocation, the Minister shall take into consideration any request made in writing by the occupier as to the allocation the occupier desires.

(3) The Minister, for and on behalf of the Crown, may enter into a water availability agreement with the occupier of any land in the irrigation district. Every such agreement shall be in accordance with any allocations and conditions the Minister has determined under subsections (1) and (10).

(4) Every occupier of land in respect of which a water availability agreement is entered into with the Minister shall, subject to the provisions of subsection (7) and subject to any deferments of charges for the development period as provided for in section 202 and the recovery of the deferred charges, pay to the Minister an annual water availability charge for each of the seasons in the period specified in the notice under section 202(1)(a)(vi).

(5) The annual water availability charge referred to in subsection (4) as the liability of an occupier shall be an amount calculated in accordance with the following formula:

$$a \times w$$

where—

a is the water availability charge calculated in accordance with section 211 and adjusted, if required, in accordance with section 212; and

w is the number of unit quantities or unit rates of supply allocated to that occupier in accordance with subsection (1).

(6) Every annual water availability charge referred to in subsection (4) as the liability of an occupier shall, unless that occupier is exempt from payment of it under subsection (7), become payable to the Minister at the end of the irrigation season to which it relates, and shall be recoverable as a debt due to the Crown.

(7) For an irrigation season in which the amount payable under a water availability agreement is equal to or less than the annual basic charge, the occupier shall be exempt from payment of the annual water availability charge.

(8) The holder of a water availability agreement may at any time apply to the Minister for a variation in the number of unit quantities or unit rates of supply allocated to the holder, or for the cancellation of the holder's allocation.

(9) On receiving such an application, the Minister may grant the application in whole or in part by varying or cancelling the applicant's allocation, as the case may be, if—

(a) the Minister is satisfied that to do so is likely to result in more beneficial use of the available water; and

(b) in the case of an application for a reduction or cancellation, the Minister is satisfied that as a result of—

(i) the increase of 1 or more other allocations with the consent of the recipients; or

(ii) the granting of 1 or more new allocations with the consent of the recipients; or

(iii) the availability of surplus water for supply in accordance with section 217(3)—

to do so will not adversely affect the revenue of the irrigation district.

(10) If the Minister so varies or cancels an allocation the Minister shall accordingly vary or cancel the water availability agreement of the applicant, and vary or make new water availability agreements in accordance with the increased or new allocations.

Section 216: substituted, on 1 April 1988, by section 64 of the Public Works Amendment Act 1988 (1988 No 43).

217 Supply of water

(1) The Minister shall determine a time as the commencement of availability of supply of water for each irrigation district or each part of it (being a time when water is made available to a substantial proportion of the district or part of it, as the case may be), and shall ensure that all occupiers in the district or part of it are notified in writing of the time of such commencement within 3 months before or after that time.

(2) At any time before the commencement of availability of supply in accordance with subsection (1), the Minister may supply any person with water from the water supply works on such terms and conditions as he thinks reasonable.

(3) If, at any time after the commencement of availability of supply, the Minister is of the opinion that the supply of water from the water supply works is likely to be in excess of the amount to be supplied in accordance with water availability agreements, the Minister may supply the surplus water to any person on conditions not more favourable than those applicable to water availability agreements.

Compare: 1975 No 138 s 21

Section 217(1): amended, on 1 April 1988, by section 65(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 217(2): amended, on 1 April 1988, by section 65(2) of the Public Works Amendment Act 1988 (1988 No 43).

Section 217(3): substituted, on 1 April 1988, by section 65(3) of the Public Works Amendment Act 1988 (1988 No 43).

218 Diminished supply

(1) Notwithstanding anything in this Part, if, during any season, water from the water supply works fails or becomes diminished, or the Minister is required by powers exercised under the Resource Management Act 1991 to cease or reduce the supply of water, so that it is impracticable to supply to any occupier the number of unit quantities or unit rates of supply agreed to be allocated or supplied to the occupier under this Part, no person shall, by reason of such failure or diminished supply or requirement, have any claim to compensation or any right of action or other remedy against the Crown or the Minister.

(2) If, during any season, it is impracticable to supply to any occupier the number of unit quantities or unit rates of supply agreed to be allocated or supplied to him under this Part, the charge payable by that occupier for that season shall be reduced by such amounts as the Minister considers reasonable.

(3) Notwithstanding subsection (2), in any case where a charge is payable under a water availability agreement, the charge payable under section 214 shall not be affected by the operation of this section.

Compare: 1975 No 138 s 23

Section 218(1): substituted, on 1 April 1988, by section 66(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 218(1): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 218(1): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 218(2): amended, on 1 April 1988, by section 66(2) of the Public Works Amendment Act 1988 (1988 No 43).

219 Penalty for late payment

(1) Subject to subsection (2), if demand is made in writing after the end of any season for payment of any annual basic charge or annual water availability charge or any other charge payable under this Part for the immediately preceding season, and payment is not made within 28 days after the date of the demand, the occupier shall pay to the Minister, in addition, an amount equal to 10% of the amount not paid.

(2) The Minister may, if he considers the circumstances so warrant, reduce or waive the additional amount to be so paid.

Compare: 1975 No 138 s 24

Section 219(2): amended, on 1 April 1988, by section 67 of the Public Works Amendment Act 1988 (1988 No 43).

220 Irrigation notice

(1) After any irrigation district is constituted under this Part, the Minister may without fee deposit with the Registrar-General of Land, for registration against the title of the land affected, a notice under his hand of the constitution of the irrigation district.

(2) Every notice deposited under this section shall describe the land affected by the notice, and shall state—

(a) that the land is subject to an annual charge under this Part;

(b) that particulars of the charge so payable, including the current amount and the basis of calculation, are available from such office as may be stated in it; and

(c) the *Gazette* reference of the Order in Council constituting the irrigation district.

(3) The Registrar-General of Land shall, on the deposit of any notice under this section, without fee register it against the title to the land affected by it.

(4) The registration of a notice under this section shall be deemed to give notice of the annual charge to all persons having any estate or interest in the land comprised in the title against which the certificate is registered, in mortgages and charges of that land, and in rights, easements, and appurtenances belonging to that land, or usually held and enjoyed with it, and their successors in title.

(5) In the event of the water supply works being abandoned, discontinued, or disposed of by the Minister, he shall, on payment of all money payable in respect of any charge referred to in any notice registered under subsection (3), without fee deposit with the Registrar-General of Land a release of the notice; and the Registrar-General of Land shall without fee register the release.

Compare: 1975 No 138 s 25

Section 220(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 220(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 220(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

221 Charge on land

(1) If at any time any money that is due and payable to the Crown in respect of any basic charge or water availability charge or of water supplied under this Part to or for the benefit of any land, whether or not such land is in an irrigation district, is unpaid, the Minister may without fee deposit with the Registrar-General of Land a certificate under his hand describing the land and specifying the amount due and unpaid in respect of it; and the Registrar-General of Land shall without fee register the certificate against the title to the land affected by it.

(2) While a certificate is so registered, no transfer, conveyance, mortgage, lease, or other instrument affecting the land or any estate or interest therein, or any part of it, shall be registered or lodged with the Registrar-General of Land without the prior written consent of the Minister.

(3) In addition to all other powers and remedies conferred on the Crown by any Act, agreement, or instrument, the Crown shall, for the recovery of the money specified in any certificate registered under subsection (1) against the title of any land, have the same powers and remedies under the Land Transfer Act 2017 or the Property Law Act 2007, as the case may be, as if the certificate were a mortgage of the land.

(4) On the payment of all money for the time being secured by any certificate registered under subsection (1), the Minister shall without fee deposit with the Registrar-General of Land a release of the certificate; and the Registrar-General of Land shall, without fee, register the release.

Compare: 1975 No 138 s 26

Section 221(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 221(1): amended, on 1 April 1988, by section 68 of the Public Works Amendment Act 1988 (1988 No 43).

Section 221(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 221(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 221(3): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 221(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

222 Application of this Part to existing schemes

(1) If the Minister has, at any time within 5 years before the commencement of this Act, supplied water for irrigation of land under any former enactment relating to irrigation schemes, and it appears to the Minister that—

(a) it is in the national interest; and

(b) there is sufficient support for the proposal from the occupiers of the land affected—

the Minister may decide that, in substitution for any existing provisions or arrangements applying thereto and subject to such modifications as are appropriate, including provisions for dealing with any existing assets and liabilities and their transfer to a district to be constituted under this Part, the provisions of this Part may be applied to that land or part of that land, and any additional land, as for a new scheme commencing with notification pursuant to section 202.

(2) The phasing in of a new scheme and the termination of the existing scheme or part of it shall not prevent the Minister from making or enforcing any charge, exercising any remedy, or recovering any debt due to the Crown, in respect of any scheme or part of a scheme so terminated.

(3) Notwithstanding the repeal of the enactments set out in Schedule 8, the provisions of Part 11 of the Public Works Act 1928 (including Part 1 of the Public Works Amendment Act 1960) and of section 29 of the Finance Act (No 2) 1936 shall continue in full force and effect as if such repeal had not been made to the extent necessary to enable any water supply works still being constructed, and those works already constructed, under any of those provisions, to be operated, maintained, repaired, and renewed, and to enable all agreements entered into by the Minister in respect of those works to be fully implemented, protected, and enforced.

(4) A decision under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1975 No 138 s 27

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 222(1): amended, on 1 April 1988, by section 69 of the Public Works Amendment Act 1988 (1988 No 43).

Section 222(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

223 Minister not bound to acquire land

(1) The Minister may erect, construct, provide, maintain, repair, and use any work, other than headworks outside the irrigation district, authorised by this Part, or the provisions of any former enactment relating to irrigation, without being bound to acquire the land or any portion of the land used for the purposes of that work; and for any of those purposes the Minister or any person acting with his authority may enter at any reasonable time upon any such land.

(2) If the Minister, acting under the authority of subsection (1) or under any other lawful authority, uses land for the purposes of any work described in the said subsection (1) without acquiring it, any compensation payable in respect of the use of the land shall be determined in accordance with section 60.

Compare: 1936 No 36 s 29

Part 20
National and local works

224 Government and local authority may combine in works of both national and local importance

(1) Notwithstanding anything to the contrary in any Act or rule of law, where, in the opinion of the Minister of Finance and any other Minister of the Crown, any undertaking, whether a public work within the meaning of this Act or not, is of both national and local importance, that Minister of the Crown and any local authority or local authorities may enter into and carry out such agreement for the acquisition, execution, control, and management of the undertaking as may to them seem most suited to the circumstances.

(2) Any agreement entered into under this section may provide—

(a) for a Minister or any local authority which is a party to the agreement to execute or carry out, or be responsible for the execution or carrying out of, the undertaking or any part of it, and to enter into contracts in connection with it:

(b) for the acquisition by the Minister of Lands on behalf of the Crown or by any local authority which is a party to the agreement of any land required for the undertaking:

(c) for the management and control of the undertaking or any part of it to be vested in any party to the agreement:

(d) for the maintenance of the undertaking, and for contributions by the parties to the agreement towards the costs of maintenance:

(e) for the apportionment or allocation of the cost of the undertaking between the parties to the agreement:

(f) for the payment by any party to the agreement of his or its share of the cost of the undertaking or the costs of its maintenance, either in one sum or by instalments spread over any period or by yearly or other payments as and when the costs are ascertained:

(g) for the payment by any party to the agreement in respect of money payable by that party of interest at such rate as the Minister of Finance approves:

(h) for the giving by any party to the agreement of security for the payment of any money payable by that party under the agreement:

(i) for such other terms and conditions as may be mutually agreed upon and for such other matters as in the opinion of the Minister are incidental to the general agreement:

(j) for the assignment of the rights and obligations of any party to another party:

(k) for any party to the agreement to issue any notice under section 187.

(3) Notwithstanding anything to the contrary in this Act, any land required for any undertaking in respect of which an agreement has been made under this section may be taken or acquired as for a public work under this Act either by the Minister or by any local authority which is a party to the agreement.

(4) In any case to which this section applies, the respondent to any claim for compensation in respect of land taken or in respect of any damage which arises out of the undertaking, shall, if the land is vested in the Crown, be the Minister, and if the land is vested in a local authority, be the local authority.

(5) Where the money to be paid by any local authority under any agreement entered into under this section is not all to be payable within the financial year in which the agreement is entered into, that money, or so much of it as consists of principal or the capital value of any instalments, shall be paid upon and subject to such terms and conditions as the Minister of Finance thinks fit.

(6) *[Repealed]*

(7) The Minister of Finance may, out of money appropriated by Parliament for the purpose of the undertaking, advance to any local authority the amount of

any money required to be paid or expended by the local authority under any agreement entered into under this section.

(8) *[Repealed]*

(9) *[Repealed]*

(10) *[Repealed]*

(11) *[Repealed]*

(12) *[Repealed]*

(13) *[Repealed]*

(14) If default is made by a local authority for more than 14 days in payment of any amount due by it under an agreement entered into under this section, the amount in respect of which default has been made, together with interest at the rate of 8% per annum or at such other rate as may be provided by the agreement, shall be recoverable as a debt due by the local authority in default to the Crown or, as the case may be, to the other local authority to which the amount should have been paid.

(15) A certificate under the hand of the Controller and Auditor-General shall, until the contrary is proved, be sufficient evidence of the amount in respect of which default has been so made and of the date on which it was payable.

(16) Without prejudice to the provisions of subsections (14) and (15), the Minister, for the purposes of recovering any amount due and payable by a local authority under any agreement entered into under this section, may appoint a receiver with power from time to time to make, levy, and collect a rate on all the rateable property in the whole or any specified part or parts of the district of the local authority in default, and for that purpose the receiver has all the powers of a receiver appointed under section 40B of the Receiverships Act 1993 and the provisions of sections 40B to 40D of that Act, with the necessary modifications, apply accordingly.

(17) Agreements may be made under this section in respect of any undertaking that has been completed or partially completed as well as in respect of any undertaking not commenced.

(18) Kāinga Ora–Homes and Communities or the New Zealand Transport Agency may be a party to an agreement with any local authority under this section in relation to any undertaking which, in the opinion of the Minister of Finance and any other Minister, is of both national and local importance in the same manner and to the same effect as if Kāinga Ora–Homes and Communities or the Agency were a Minister of the Crown.

(19) Notwithstanding anything to the contrary in this Act, any land taken, acquired, or used for any undertaking in respect of which an agreement has been made under this section may be transferred or leased to any party to the agreement, or sold or otherwise disposed of, and the proceeds thereof shared or distributed, in accordance with the provisions of the agreement.

(20) For the purposes of any agreement under this section, any party to the agreement which is a requiring authority within the meaning of the Resource Management Act 1991, in their or its own name or on behalf of all parties, may make any requirement under Part 8 of the Resource Management Act 1991, and make an application under any statutory provision for consent, authorisation, permission, a licence, a permit, a right, or any other type of approval.

Compare: 1944 No 31 s 31

Section 224(1): substituted, on 1 April 1988, by section 70(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 224(2)(a): amended, on 1 April 1988, by section 70(2) of the Public Works Amendment Act 1988 (1988 No 43).

Section 224(2)(b): substituted, on 1 April 1988, by section 70(3) of the Public Works Amendment Act 1988 (1988 No 43).

Section 224(2)(i): amended, on 1 April 1988, by section 70(4) of the Public Works Amendment Act 1988 (1988 No 43).

Section 224(6): repealed, on 1 July 1998, by section 16(1) of the Local Government Amendment Act (No 3) 1996 (1996 No 83).

Section 224(8): repealed, on 1 July 2003, by section 138(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 224(9): repealed, on 1 July 2003, by section 138(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 224(10): repealed, on 1 July 2003, by section 138(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 224(11): repealed, on 1 July 2003, by section 138(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 224(12): repealed, on 1 July 2003, by section 138(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 224(13): repealed, on 1 July 2003, by section 138(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 224(16): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 224(18): substituted, on 1 April 1988, by section 70(5) of the Public Works Amendment Act 1988 (1988 No 43).

Section 224(18): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 224(18): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 224(20): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 224(20): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Part 21
General provisions

225 Licences and authorities may be held by the Crown

It shall be lawful and shall be deemed to have always been lawful for the Crown to be granted or to acquire in any way and to hold, on the same terms and conditions as any of the Crown's subjects, any licence, permit, right, privilege, or authority which can be granted by the Crown or by any court or any public or local authority under any Act and which can be acquired or held by any of the Crown's subjects.

Compare: 1948 No 39 s 34

225A Inventions, etc, by employees

[Repealed]

Section 225A: repealed, on 1 April 1988, by section 71(1) of the Public Works Amendment Act 1988 (1988 No 43).

226 Shares in building-unit companies

(1) In this section, **building-unit company** means a company registered under the Companies Act 1993 the constitution of which provides that the registered holder of specified shares in the company is entitled, by virtue of being the holder of those shares, to occupy a specified portion of a building owned by the company.

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

(3) The Minister of Lands may from time to time exercise on behalf of the Crown all its rights, powers, and privileges as the holder of any such shares.

Compare: 1928 No 21 s 331A; 1973 No 44 s 21

Section 226(1): substituted, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 226(1): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 226(2): amended, on 1 April 1988, by section 72 of the Public Works Amendment Act 1988 (1988 No 43).

Section 226(3): amended, on 1 April 1988, by section 72 of the Public Works Amendment Act 1988 (1988 No 43).

227 Advances for purchase of plant and equipment

(1) Any authority to expend public money on or in relation to a Government work shall include the power to make advances of money to any person for the purchase of any machinery, plant, appliance, or equipment which is necessary

or desirable either for the better prosecution of that work or for the provision of necessary supplies for that work.

(2) Any advance under this section may be made upon such security and subject to such conditions as the Minister in charge of the department for the time being having control of the work thinks fit.

(3) That Minister may, for the purposes of this section, in the name and on behalf of the Crown, make and enforce such contracts and execute such instruments as he thinks fit.

Compare: 1958 No 28 s 3

228 Authorising Government to construct public works outside New Zealand

Notwithstanding anything to the contrary in any Act, it shall be lawful and be deemed to have always been lawful for the Government of New Zealand to construct and maintain outside New Zealand any work for the benefit of New Zealand that would, if constructed and maintained in New Zealand, be a public work within the meaning of this Act.

Compare: 1946 No 16 s 23

229 Improvement of farm land

(1) The Minister of Agriculture may, by arrangement with, and at the expense of, the owner or the occupier of any farm land, whether privately owned or not, carry out such work as he thinks fit for the purpose of improving that land.

(2) Where the full amount of the estimated cost of such work has not been paid to the Minister of Agriculture before the commencement of the work, the amount not paid shall constitute a debt due to the Crown and shall be a charge against the land, and notice of the charge may be registered against the land under the provisions of the Statutory Land Charges Registration Act 1928.

(3) Except with the consent of the chief executive of the new Ministry, a dealing in connection with any such land (other than a dealing which is not required to be executed by the registered owner) shall not be registered while a charge under subsection (2) is registered against the land.

(4) For the purposes of the Statutory Land Charges Registration Act 1928, notice of any charge under subsection (2) and any certificate releasing any such charge, and any consent under subsection (3), may be signed by the chief executive of the new Ministry.

Compare: 1939 No 39 s 61

Section 229(1): amended, on 1 April 1988, by section 73(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 229(2): amended, on 1 April 1988, by section 73(2) of the Public Works Amendment Act 1988 (1988 No 43).

Section 229(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 229(3): amended, on 1 March 1998, by section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 229(3): amended, on 1 April 1988, by section 73(3) of the Public Works Amendment Act 1988 (1988 No 43).

Section 229(4): amended, on 1 March 1998, by section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 229(4): amended, on 1 April 1988, by section 73(4) of the Public Works Amendment Act 1988 (1988 No 43).

230 Minister of Crown may appoint person to sell stores, etc, by auction

Any Minister of the Crown may from time to time appoint a registered auctioneer to conduct the sale by auction of any chattels which have been acquired or used for the purpose of any Government work under this Act, and which are required to be sold, or for the sale of which lawful authority exists.

Compare: 1928 No 21 s 331

Section 230 heading: amended, on 1 April 1988, by section 74 of the Public Works Amendment Act 1988 (1988 No 43).

Section 230: amended, on 18 December 2013, by section 27 of the Auctioneers Act 2013 (2013 No 148).

Section 230: amended, on 1 April 1988, by section 74(a) of the Public Works Amendment Act 1988 (1988 No 43).

Section 230: amended, on 1 April 1988, by section 74(b) of the Public Works Amendment Act 1988 (1988 No 43).

231 Money due by local authority may be deducted from money payable by Government

In all cases where under this Act, or any former Public Works Act, any money is authorised to be recovered from any local authority as a debt due to the Crown, the Minister of Finance may deduct the money or any portion of it from any subsidies or other money (if any) that may be payable by or on behalf of the Crown from time to time to the local authority under any law for the time being in force, but without prejudice to the right of any Minister of the Crown to recover the unsatisfied balance (if any) of the debt from the local authority as a debt due to the Crown in any court of competent jurisdiction.

Compare: 1928 No 21 s 332

Section 231: amended, on 1 April 1988, by section 75 of the Public Works Amendment Act 1988 (1988 No 43).

232 Minister may execute instruments

[Repealed]

Section 232: repealed, on 1 April 1988, by section 76 of the Public Works Amendment Act 1988 (1988 No 43).

233 Notice of entry to be given

Except as provided in section 234, in every case where, under this Act or any other Act which relates to the construction, maintenance, or operation of any

public work, authority is given to enter on any land and construct, maintain, or operate a public work before the land has been acquired and vested in the Crown or the local authority, as the case may be, and no other provision is made as to the giving of notice of entry, a Minister of the Crown or the local authority, as the case may be, shall give to the owner and occupier of the land, so far as they can be ascertained, not less than 10 working days' notice in writing of the intention to enter on the land.

Compare: 1928 No 21 s 10(3); 1955 No 59 s 2

Section 233: amended, on 1 April 1988, by section 77 of the Public Works Amendment Act 1988 (1988 No 43).

234 Emergency entry on land

(1) Where there is imminent danger to life or property or a likelihood of serious interference with or damage to any public work arising from any cause whatever and which requires immediate remedial measures, any Minister of the Crown or other authority having control of the public work may, on giving to the occupier or, if there is no occupier, to the owner of any land, such oral notice as may be practicable in the circumstances, enter on that land and do such work as is necessary and sufficient to remove the danger or the cause of the likelihood of serious interference.

(2) If, under subsection (1), entry is made on any land without notice, advice that entry has been so made shall be given to the occupier or, as the case may require, the owner of the land as soon thereafter as is practicable, and if the occupier or owner cannot be found, the notice shall be displayed in a prominent place on the land.

(3) Where the work done under this section includes work that could have been done under section 133, all costs and expenses incurred by any Minister of the Crown or other authority in respect of the latter work may be recovered as a debt due to that Minister or other authority from the person who would have been liable to pay if the work had been done under that section.

(4) No action or proceedings shall be brought against the Crown, any Minister of the Crown, or any local authority, or any officer or servant of any of them, or any member of a local authority, or against any other person whatever, to recover damages for any damage to property occasioned by any person in the exercise or performance in good faith of his powers, duties, or obligations under this section.

Compare: 1928 No 21 s 10(3); 1955 No 59 s 2

Section 234(1): amended, on 1 April 1988, by section 78(1) of the Public Works Amendment Act 1988 (1988 No 43).

Section 234(3): amended, on 1 April 1988, by section 78(2)(a) of the Public Works Amendment Act 1988 (1988 No 43).

Section 234(3): amended, on 1 April 1988, by section 78(2)(b) of the Public Works Amendment Act 1988 (1988 No 43).

Section 234(4): amended, on 1 April 1988, by section 78(3) of the Public Works Amendment Act 1988 (1988 No 43).

235 Power to alter or divert rivers, etc, for safety or maintenance of public work

[Repealed]

Section 235: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

236 Imposition of building and other restrictions on land held for Government work

(1) Subject to subsection (2), the Minister having control of any land held for a Government work or the Minister of Lands in respect of any Crown land, may, by notice in the *Gazette*, impose on any such land any restriction, prohibition, or requirement relating to the height or siting of any tree, shrub, hedge, building, tower, hoarding, fence, or other structure on the whole or any specified part of the land.

(2) If any such land is occupied otherwise than by the Crown, no such restriction, prohibition, or requirement shall be imposed except with the consent of the occupier.

(3) Any such restriction, prohibition, or requirement shall run with the land notwithstanding that the land may be subsequently disposed of by the Crown.

(4) The Minister shall lodge a copy of every notice made under this section with the Registrar-General of Land who shall without fee deposit it in his office and register against the title to all land affected by it a memorial that the land described in the notice is subject to the restriction, prohibition, or requirement imposed by the notice.

(5) Any such restriction, prohibition, or requirement may at any time in the same manner be revoked or varied.

Section 236(1): amended, on 1 April 1988, by section 79 of the Public Works Amendment Act 1988 (1988 No 43).

Section 236(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

237 Excavations near public works

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

(a) in the case of any pole supporting any electric line or telecommunications installation, excavate or otherwise interfere with any land—

(i) within 2 metres of the pole; or

(ii) at a greater depth than 750 millimetres between 2 metres and 5 metres of the pole:

(b) in the case of any tower or pylon supporting any electric line or telecommunications installation, or supporting any aerial ropeway, excavate or otherwise interfere with any land—

(i) within 6 metres of the outer edge of the visible foundations of the tower or pylon; or

(ii) at a greater depth than 3 metres between 6 metres and 12 metres of such outer edge:

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

(2) Nothing in subsection (1) shall apply in respect of normal agricultural cultivation or the repair, sealing, or resealing, of the existing surface of any road.

(3) Every person who wilfully contravenes or wilfully fails to comply with the provisions of subsection (1) commits an offence against this Act.

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

Compare: 1928 No 21 s 336A; 1973 No 44 s 22

Section 237(1): amended, on 1 April 1988, by section 80 of the Public Works Amendment Act 1988 (1988 No 43).

238 Controlling authority may bring action for damage to public work

In any case where any authority (including the Crown or any Minister of the Crown or any public or local authority) has control of any public work but the ownership of that work is not vested in that authority, proceedings for the recovery of damages in respect of the removal or destruction of the work, or in respect of any injury or damage to it, may be taken by that authority as if it were the owner of the work; but damages in respect of the removal or destruction of the work, or of any injury or damage to it, shall not be recovered by both that authority and the owner of the work.

Compare: 1952 No 58 s 15

239 Removal and disposal of abandoned property from public works land

(1) Any person authorised in that behalf by a Minister of the Crown in the case of a Government work, or by the local authority in the case of a local work, who has reason to believe that any property has been abandoned on land held for a public work may remove it or cause it to be removed to any place authorised for that purpose by the Minister or, as the case may be, by the local authority.

(2) Unless within 10 working days after the date on which any property is removed pursuant to subsection (1), the owner or some other person on his behalf takes

away the property from the place to which it was so removed, and pays to the Minister or to the local authority, as the case may be, the cost of removing it pursuant to subsection (1)—

(a) if the property—

(i) is not a motor vehicle; or

(ii) is a motor vehicle and has no registration plate affixed to it or is unregistered; or

(iii) is a motor vehicle and no licence to use it issued for the current licensing year is affixed to it—

the Minister or the local authority, as the case may be, may give not less than 10 working days' notice, by advertisement in 2 issues of a daily newspaper circulating in the district in which the land held for the public work is situated, of his or its intention to sell or destroy the property, but if the Minister or the local authority is satisfied that the condition of the property is such that it is of little or no value, he or it may dispense with the giving of such notice:

(b) if the property is a motor vehicle to which is affixed a licence to use the vehicle for the current licensing year, the Minister or the local authority may give not less than 10 working days' notice to the person last registered under Part 17 of the Land Transport Act 1998 in respect of the vehicle of his or its intention to sell or destroy the vehicle.

(3) The Minister or the local authority, or any other person, shall not be liable for any loss or damage occasioned by or following upon the removal of the property pursuant to subsection (1).

(4) Unless, before the expiry of the notice given under subsection (2), the owner of the property—

(a) pays to the Minister or the local authority the cost of removing the property pursuant to subsection (1), and the cost of the said advertisements; and

(b) takes away the property from the place to which it was removed—

the Minister or the local authority, at any time after the expiry of the notice, may sell the property to any person, who shall thereupon become the lawful owner of it, or the Minister or local authority may cause the property to be destroyed, and in neither case shall any liability attach to the Minister or to the local authority or to any other person for any loss or damage occasioned thereby.

(5) The proceeds of the sale of any property sold in accordance with this section shall be paid into a Crown Bank Account or the general revenues of the local authority, as the case may be.

(6) For the purposes of this section, a vehicle shall be deemed to have been abandoned if it is left unused for a period of more than 1 month without the approval of the Minister or local authority, as the case may be.

(7) For the purposes of this section, **vehicle** means a contrivance equipped with wheels or revolving runners upon which it moves or is moved; and includes a contrivance from which the road wheels or revolving runners have been removed.

(8) In this section, expressions defined in the Land Transport Act 1998 have, in relation to any motor vehicle, the meanings so defined.

Section 239(1): amended, on 1 April 1988, by section 81 of the Public Works Amendment Act 1988 (1988 No 43).

Section 239(2)(b): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 239(5): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 239(8): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

240 Recovery of land from persons holding illegal possession

(1) Where any person is in occupation of any land held for, or to be taken, purchased, or acquired for, any public work, without any right, title, or licence, or whose right, title, or licence has expired or been forfeited, cancelled, or extinguished, the Minister of Lands, or the local authority, in the case of a local work, or any person appointed in writing by any of them, may commence proceedings in the District Court nearest to the place where the land is situated to recover possession of the land and damages for use and occupation; and in any such case the jurisdiction of that court shall not be ousted on the plea that a question of title is involved, or that the value of the premises possession of which is sought to be recovered is above the jurisdiction of the court.

(2) If, on the hearing of any such action,—

(a) the defendant does not appear; or

(b) it is shown to the satisfaction of the court that the title under which the defendant claims has, as between himself and the Crown or the local authority, as the case may be, expired or become liable to forfeiture or cancellation—

the court shall declare such title to be extinguished, and may order that possession of the land be given by the defendant to the plaintiff, either forthwith or on or before such day as the court thinks fit to name; and that the defendant pay damages for use and occupation and the costs of the action.

(3) If delivery of the land is not made pursuant to such order the court may issue a warrant authorising and requiring the bailiff of the court or any constable to give possession of the land to the plaintiff.

(4) The provisions of sections 194 to 199 of the District Court Act 2016 shall, so far as they are not repugnant to or inconsistent with this section, apply to any proceedings taken under this section.

Compare: 1928 No 21 s 334

Section 240(1): amended, on 1 April 1988, by section 82 of the Public Works Amendment Act 1988 (1988 No 43).

Section 240(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 240(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

241 Obstructing employees

Every person who wilfully obstructs any engineer, overseer, employee, or other person in the performance of any duty, or in doing any work he has lawful authority to do, under this Act, commits an offence against this Act.

Compare: 1928 No 21 s 335

242 Offences and penalties

(1) Every person commits an offence against this Act who acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations or bylaws for the time being in force under this Act.

(2) Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable on conviction to a fine not exceeding $500 and, if the offence is a continuing one, to a further fine not exceeding $20 for every day or part of a day during which the offence has continued.

Section 242(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

243 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) classifying traffic and motorways, and permitting and regulating, or prohibiting, the use of motorways by any class or classes of traffic:

(b) *[Repealed]*

(c) generally providing for the control, protection, and proper use of motorways:

(d) *[Repealed]*

(e) prescribing the fees payable by any government department, local authority, or any other body corporate or person in respect of—

(i) preparing, checking, processing and, where applicable, gazetting any document:

(ii) any other regulatory activity that any department of State is authorised to undertake under this Act:

(iii) *[Repealed]*

(f) prescribing the fees payable for the granting of any lease, licence, permit, or other authority under this Act or under any regulations in force under this Act:

(g) prescribing rates of interest to be paid under any provision of this Act:

(h) providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(2) Regulations made under this Act may be made so as to apply generally throughout New Zealand or within any specified part or parts of New Zealand, or within the whole of New Zealand except such part or parts as may be specified in the regulations, and may be made so as to apply to all motorways or to any class or classes of motorways or to any motorway or part of it, and may provide for the exemption of any class or classes of motorways or of any motorway or part of it.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1947 No 46 s 12

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 243(1)(b): repealed, on 16 December 1983, by section 15(1) of the Public Works Amendment Act 1983 (1983 No 150).

Section 243(1)(d): repealed, on 16 December 1983, by section 15(1) of the Public Works Amendment Act 1983 (1983 No 150).

Section 243(1)(e): substituted, on 31 March 1987, by section 14 of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Section 243(1)(e)(ii): substituted, on 1 April 1988, by section 83 of the Public Works Amendment Act 1988 (1988 No 43).

Section 243(1)(e)(iii): repealed, on 1 April 1988, by section 83 of the Public Works Amendment Act 1988 (1988 No 43).

Section 243(1)(f): amended, on 16 December 1983, by section 15(2) of the Public Works Amendment Act 1983 (1983 No 150).

Section 243(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

244 Amendments to Town and Country Planning Act 1977

(1), (2) *Amendment(s) incorporated in the Act(s)*.

(3) *[Repealed]*

(4) *[Repealed]*

(5) *[Repealed]*

(6)–(9) *Amendment(s) incorporated in the Act(s)*.

Section 244(3): repealed, on 16 December 1983, by section 3(5) of the Town and Country Planning Amendment Act 1983 (1983 No 149).

Section 244(4): repealed, on 16 December 1983, by section 5(2) of the Town and Country Planning Amendment Act 1983 (1983 No 149).

Section 244(5): repealed, on 16 December 1983, by section 12(4) of the Town and Country Planning Amendment Act 1983 (1983 No 149).

245 Requirements for certain public works to be removed

[Repealed]

Section 245: repealed, on 16 December 1983, by section 40(4) of the Town and Country Planning Amendment Act 1983 (1983 No 149).

246 Requirements and designations for certain public works to be removed

[Repealed]

Section 246: repealed, on 16 December 1983, by section 40(4) of the Town and Country Planning Amendment Act 1983 (1983 No 149).

247 Amendments to other Acts

(1) *[Repealed]*

(2) *[Repealed]*

(3) *[Repealed]*

(4) *Amendment(s) incorporated in the Act(s)*.

Section 247(1): repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

Section 247(2): repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

Section 247(3): repealed, on 1 October 1989, by section 116(1) of the Government Roading Powers Act 1989 (1989 No 75).

248 Repeals, revocation, and savings

(1) The enactments specified in Schedule 8 are hereby repealed.

(2) The Order in Council fixing a day upon which section 36 of the Finance Act 1933 (No 2) shall come into force, published in *Gazette* 1934, Volume 1, at page 424 is hereby revoked.

(3) Notwithstanding the repeal of any enactment by this section, the powers and duties conferred on the Maori Trustee by section 104 of the Public Works Act 1928 (as substituted by section 6 of the Public Works Amendment Act 1962 and amended by section 2 of the Public Works Amendment Act 1964) shall, in respect of land taken for the purposes of a public work before 1 January 1975, continue and be exercised as if the said section 104 had not been repealed by section 12(8) of the Maori Purposes Act 1974.

(4) Notwithstanding the repeal of any enactment by this section or by section 15(2) of the Public Works Amendment Act 1973, every railway the construction of which has been authorised or deemed to have been authorised under any such enactment or by any enactment continued in force by any such enactment shall be deemed to have been authorised to be constructed under section 164, and so much of the Acts as are set out in Schedule 9 of the Public Works Act 1928 shall continue in force and operate as if such repeal had not been made.

(5) Despite the repeal of the Southland Electricity Act 1993 by section 3(1) of the Statutes Repeal Act 2017, section 20 of the Southland Electricity Act 1993 (which relates to the modification of sections 40 to 42 of this Act) continues to apply to the transfer of land or an interest in land to the company pursuant to the Southland Electricity Act 1993 as if that section had not been repealed.

Compare: 1928 No 21 s 346; 1973 No 44 s 15; 1974 No 144 s 12(9)

Section 248(5): inserted, on 3 June 2017, by section 4(1) of the Statutes Repeal Act 2017 (2017 No 23).

249 Transitional provision

[Repealed]

Section 249: repealed, on 19 April 2017, by section 197 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1AA
Transitional, savings, and related provisions

s 2A

Schedule 1AA: inserted, on 19 April 2017, by section 198 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Part 1
Provisions relating to Part 3 of Resource Legislation Amendment Act 2017

1 Interpretation

In this schedule,—

amendment Act means Part 3 of the Resource Legislation Amendment Act 2017

commencement date means the date on which the amendment Act comes into force.

2 New rule on evidence does not apply to hearings that have begun

Section 24(6A) does not apply to any hearing of the Environment Court under section 24 that begins on or before the commencement date.

3 Circumstances in which this Act applies as if unamended

(1) If the Minister or a local authority, as applicable, and the owner of land have, before the commencement date, executed an agreement for the sale and purchase of the land under section 17, this Act continues to apply to the agreement, and to any claim for compensation for or in respect of the land, as if the amendments referred to in subclause (3) had not come into force.

(2) If a Proclamation taking land has been issued in accordance with section 26 before the commencement date, this Act continues to apply to the Proclamation, and to any claim for compensation for or in respect of the land, as if the amendments referred to in subclause (3) had not come into force.

(3) The amendments referred to in subclauses (1) and (2) are the amendments, made by the amendment Act, that repeal, amend, replace, or insert the following provisions:

(a) section 4C(2):

(b) section 24:

(c) section 59:

(d) section 72:

(e) sections 72A to 72E:

(f) section 75.

4 Negotiation start date includes dates before commencement of amendment Act

To avoid doubt, the dates specified in paragraphs (a) and (b) of the definition of **negotiation start date** in section 72A(2) include dates that occur before the commencement date.

5 Extended time to comply with section 72A(1)(b) in certain circumstances

(1) If the negotiation start date that applies to the owner of land under section 72A(1)(b)(i) is 4 months or more before the commencement date, section 72A must be read as if—

(a) it requires the agreement referred to in that section to be executed within 2 months after the commencement date; and

(b) the deadline referred to in that section ("within 6 months after the negotiation start date") does not apply.

(2) However, no compensation must be paid to the owner of land under section 72A(1)(b) if—

(a) the negotiation start date that applies to the owner under section 72A(1)(b)(i) is 6 months or more before the commencement date; and

(b) the notifying authority serves notice in relation to the owner's land in accordance with section 18(1)(a) within 2 months after the commencement date.

Part 2
Provisions relating to Public Works (Critical Infrastructure) Amendment Act 2025

Schedule 1AA Part 2: inserted, on 27 August 2025, by section 8(a) of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

6 Definitions

In this Part,—

amendment Act means the Public Works (Critical Infrastructure) Amendment Act 2025

critical infrastructure project has the meaning given in section 39AAB

responsible department or Crown body has the meaning given in section 39AAB.

Schedule 1AA clause 6: inserted, on 27 August 2025, by section 8(a) of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

7 Application of Part 2A if section 18 notice served before amendment Act commences

(1) This clause applies if, before the amendment Act commences,—

(a) the Minister or a local authority, as the case may be, has served a notice under section 18 of the Minister's or local authority's desire to acquire land for a public work that falls within the definition of a critical infrastructure project but has not yet given or served a notice of intention under section 23 to take that land; and

(b) no notice of intention under section 23 has been given or served for any other land required for that public work.

(2) The Minister must proceed with any subsequent acquiring or taking of the land in accordance with Part 2A unless—

(a) the land is protected Māori land; or

(b) the responsible department or Crown body informs the Minister in writing that, in its opinion, taking into account the time frames and costs of the project and any other matters that it considers relevant, it would be preferable to complete the process under Part 2.

(3) The local authority must proceed with any subsequent acquiring or taking of the land in accordance with Part 2A unless—

(a) the land is protected Māori land; or

(b) it informs the Minister in writing that, in its opinion, taking into account the time frames and costs of the project and any other matters that it considers relevant, it would be preferable to complete the process under Part 2.

(4) If the Minister receives a notification under subclause (2)(b) or (3)(b), the acquiring or taking under this Act of all land required for the project must proceed in accordance with Part 2, and the Minister must publicly notify a statement to that effect.

(5) A decision under this clause to use Part 2 instead of Part 2A—

(a) is irreversible; and

(b) is only available if, after the amendment Act commences, the Minister receives a notification under subclause (2)(b) or (3)(b)—

(i) before any other notice of desire to acquire land for the project is served under section 18; and

(ii) before any notice of intention under section 23 is given or served for any land required for the project; and

(c) takes effect from the date of the public notification under subclause (4).

(6) To avoid doubt, if this clause applies (and the option under subclause (2)(b) or (3)(b) to proceed in accordance with Part 2 is not exercised),—

(a) the Minister or local authority, as the case may be, must comply with section 39AAG in relation to taking the land compulsorily; and

(b) no person has a right to object to the Environment Court to the taking of the land under section 23(3) (as that section read before the amendment

Act commenced), but every person with an estate or interest in the land is entitled to make a submission to the Minister or local authority in accordance with section 39AAI; and

(c) the owner of the land from whom the Minister or local authority sought agreement to acquire the land is entitled to the compensation described in section 39AAK(2).

(7) Any estimated amount of compensation previously provided to an owner of land affected by this clause must be adjusted to take account of the compensation to which the owner of land is entitled under section 39AAK(2), and written notice of the adjusted estimate must be given to the owner together with an explanation of why the estimate has been adjusted, including that the land is required for a critical infrastructure project.

(8) The adjusted estimate does not affect the validity of the relevant notice of desire to acquire land previously served on the owner under section 18.

(9) In subclause (4) and clause 8(2), **publicly notify** has the same meaning as in section 39AAE(7).

Schedule 1AA clause 7: inserted, on 27 August 2025, by section 8(a) of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

8 Application of Part 2A if section 23 notice given or served before amendment Act commences

(1) Subclause (2) applies if, before the amendment Act commences, the Minister or a local authority, as the case may be, has given or served a notice under section 23 of the Minister's or local authority's intention to take land for a public work that falls within the definition of a critical infrastructure project.

(2) The acquiring or taking of all land for the project must proceed in accordance with Part 2, and the Minister must publicly notify a statement to that effect.

Schedule 1AA clause 8: inserted, on 27 August 2025, by section 8(a) of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

9 No breach of good faith

The following apply if the Minister or a local authority proceeds to acquire or take land described in clause 7(1)(a) in accordance with Part 2A:

(a) of itself, the acquiring or taking of the land is not a breach of the good faith obligation referred to in section 18(1):

(b) the Minister or local authority is not required to repeat any of the prior negotiations required by that section before giving or serving notices of intention to take the land under section 23 (as modified by section 39AAH).

Schedule 1AA clause 9: inserted, on 27 August 2025, by section 8(a) of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Schedule 1
Notice of intention to take land for [*description of public work*] in [*name of district*]

s 23(1)(c)

To [*full name*] of [*address*]

1 Take notice that the [*insert Minister or name of local authority*] proposes to take under the Public Works Act 1981 your interest in the land described in the Schedule of this notice.

2 The land is required for [*insert description of public work*] and it is intended to use the land for [*describe the purposes for which the land is to be used*].

3 A plan of the land intended to be taken is attached. [*May be deleted if all the land is in a surveyed lot*.]

Reasons for taking land

4 The reasons why the [*insert Minister or name of local authority*] considers it essential to take your interest in the land are as follows: [*give reasons*].

Your right to object

5 Your interest in the land has not yet been taken.

6 You have a right to object to the taking of your interest in the land.

7 If you wish to object, you must send a written objection to the Registrar, Environment Court, Tribunals Division, Justice Department, Private Bag, Postal Centre, Wellington, within 20 working days after the service of this notice on you.

8 If you make an objection, a public hearing of the objection will be held unless you give written notice to the Environment Court that you want the hearing to be held in private.

9 If you make an objection,—

(a) you will be advised of the time and place of the hearing; and

(b) you will have the right to appear and be heard personally or to be represented by a barrister and solicitor or any other person you authorise.

Your right to compensation

10 This notice, and the right to object described above, relate to the taking of your interest in the land and not to your right to compensation. Under the Public Works Act 1981 you are entitled to full compensation, if your interest in the land is taken. If this compensation cannot be agreed between you and [*Minister or local authority*], it can be determined in separate proceedings before the Land Valuation Tribunal.

WARNING

This notice concerns your rights over the land referred to. If you are in any doubt about its effect you should obtain legal advice immediately.

Do not delay.

[Insert name] Land District

[*Describe in general terms the land required to be taken, including the postal address or some other readily identifiable description of the place where the land is situated.*]

[Add legal description of land]

Dated at [*place*, *date*]

Signature:

for Minister of Lands *or* chief executive of local authority

Schedule 1 heading: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 1 heading: amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Schedule 1: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 1: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1: amended, on 1 April 1988, by section 84(1) of the Public Works Amendment Act 1988 (1988 No 43).

Schedule 1: amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Schedule 2
Statutory declaration

s 26(1)(e)(iii)

I, [*full name*] chairperson *or* mayor *or* chief executive of the [*name of local authority*] of [*address*], do solemnly and sincerely declare that—

1 The [*name of local authority*] is a local authority authorised by [*specify statutory authority*] to carry out the public work for which the land described in the request of the [*name of local authority*] dated [*date*] is required.

2 That all the provisions of the Public Works Act 1981 as to taking the land have been complied with.

3 That the notice of intention was served on the owner and persons with a registered interest in the land on [*date*].

4 That notice of intention to take the land was published in the *Gazette* of [*date*] at page [*page number*].

5 That an objection *or* (no objection) to the taking of the land was made to the Environment Court.

6 That the [*name of local authority*] is of the opinion that the land should be used for the said work and that no private injury will be done for which due compensation is not provided by the Public Works Act 1981.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at [*place*, *date*], before me: [*name*]

Signature of Justice of the Peace:

(*or* other person authorised to take a statutory declaration)

Schedule 2: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 2: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 2: amended, on 31 March 1987, by section 2(7) of the Public Works Amendment Act (No 2) 1987 (1987 No 67).

Schedule 2A
Critical infrastructure projects

s 39AAB

Schedule 2A: inserted, on 27 August 2025, by section 9 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Project name	Project description	Approximate geographical location
Airport to Botany Bus Rapid Transit	Construct and operate a Bus Rapid Transit facility, and walking and cycling facilities, connecting the Auckland International Airport Precinct to Botany Town Centre through Manukau Central	Botany Town Centre to Auckland International Airport via Te Irirangi Drive, Great South Road, Ronwood Avenue, Osterley Way, Manukau Station Road, Lambie Drive, Puhinui Road, and State Highway 20B ending at Orrs Road
Alternative to the Brynderwyn Hills	Develop a road and associated infrastructure between Te Hana and State Highway 15 (Port Marsden Highway) or 1 or more sections of road between those 2 points	Between Te Hana and the State Highway 1 and State Highway 15 (Port Marsden Highway) intersection
Ashburton Second Urban Bridge	Construct a second urban bridge over the Ashburton River / Hakatere connecting Ashburton and Tinwald, including— • providing for vehicles, pedestrians, and cyclists: • a new roundabout at the South Street and Chalmers Avenue intersection, Ashburton: • a new intersection in Tinwald	Chalmers Avenue, Ashburton to Grahams Road, Tinwald, Canterbury
Auckland Level Crossings Removals	In stages, remove and grade-separate approximately 42 level crossings	Auckland
Carrington Residential Development	Develop approximately 4,000 to 4,500 residential dwellings of mixed typologies	40 hectares at 1A to 139 Carrington Road, Mt Albert, Auckland
Central Park Resilience	Develop a secondary indoor substation with line connections to the existing substation and line	92 and 96 Nairn Street, 67 Brooklyn Road, Wellington
Cross-town (Avondale–Southdown) Corridor	Complete a cross-isthmus rail corridor connecting Avondale and Westfield Junction, via Onehunga, by— • constructing an approximately 13-kilometre, 2-track railway from Avondale via Wesley, Mt Roskill, and	Between Avondale (PAK'nSAVE New North Road) and Westfield Junction, Auckland

Project name	Project description	Approximate geographical location
	Onehunga to KiwiRail's Southdown freight hub: • connecting the corridor to the existing North Island Main Trunk via Westfield Junction	
East–West link	Develop a road and associated infrastructure on the northern side of the Mangere Inlet from State Highway 20 at the Onehunga interchange to State Highway 1 in the vicinity of the Mount Wellington interchange	Between State Highway 20 at Onehunga and State Highway 1 at Mt Wellington
End of Life Bridge Replacement	Replace 8 end-of-life State highway bridges	State Highway 25 Boundary Creek Bridge, Te Mata, Coromandel State Highway 3 Manapepeki No 2 Culvert, between Mt Messenger and Tongapōrutu, New Plymouth, Taranaki State Highway 43 Kururau Stream Water Drive, Aukopae, King Country, Manawatū–Wanganui State Highway 36 Hauraki Stream Culvert, Hamurana, Bay of Plenty State Highway 25 Ramarama Stream Bridge, Whiritoa, Waikato State Highway 82 Waihao North Bridge, Waimate, Waihao Downs, Canterbury State Highway 27 Ohinekaua Stream Bridge, Tahuna–Patetonga Road, Waikato State Highway 6 Coal Creek Overbridge, Greymouth, West Coast
Four-Tracking Westfield to Pukekohe	Widen the existing rail corridor and expand the North Island Main Trunk between Westfield Junction (Newmarket) and Pukekohe (approximately 38 kilometres) from a 2-track to 4-track railway, including— • grade-separating Westfield Junction: • widening bridges, removing level crossings, and changing the configuration of station platforms:	38 kilometres of the North Island Main Trunk between Westfield Newmarket and Pukekohe

Project name	Project description	Approximate geographical location
	• new track, signals, and electrified lines	
Hamilton Southern Links	Develop 1 or more roads and associated infrastructure to support Hamilton's planned southern growth, including by— • improving existing roads (including State Highways 1, 1C, and 3); and • developing new roads	State Highway 1 from Kahikatea Drive to the Waikato Expressway at Tamahere, State Highway 1C between State Highways 23 and 3, and State Highway 3 from Hamilton Airport to central and east Hamilton
Hawke's Bay Expressway	Upgrade the existing State highway between Napier and Hastings	State Highway 2 between Napier and Hastings
High Voltage Direct Current Cable Replacement and Capacity Project (HVDC)	Upgrade the HVDC inter-island transmission link and replace undersea cables connecting the North Island and the South Island, including— • replacing, recovering, and disposing of 3 existing undersea cables and installing a fourth cable: • constructing new or extended cable termination stations at the Oteranga Bay and Ōraumoa / Fighting Bay sites, and relocating existing transmission lines to connect to the termination stations: • ancillary activities, including constructing, modifying, or upgrading access ways	Oteranga Bay, and associated access ways between South Makara Road and Oteranga Bay Fighting Bay, and the associated access ways between Tumbledown Bay Road and Ōraumoa / Fighting Bay
Hope Bypass	Undertake State highway improvements from the Salisbury Road extension to south of Hope township, including a new roading section bypassing Richmond and Hope townships	Richmond Deviation and associated intersections and the new highway section parallel to existing Gladstone Road, State Highway 6, Richmond and Hope townships, Tasman
Implementation of the Ōtākaro Avon River Corridor Regeneration Plan	Install infrastructure and facilities to regenerate the Avon River / Ōtākaro, including approximately 22 kilometres of stopbank and 18 pumping stations	Avon River / Ōtākaro Corridor and surrounds including Bexley Park, eastern Christchurch
Lower North Island Integrated Rail Mobility and PBC-Stage RS4.3	Upgrade existing rail network, comprising new or extended passing loops, additional stabling (Wellington and Palmerston North), a new depot and stabling facility (Masterton), and station	National rail network— • Wairarapa Line (between Wellington and Masterton):

Project name	Project description	Approximate geographical location
	upgrades (north of Waikanae and Wairarapa)	• North Island Main Trunk Line (between Wellington and Palmerston North)
Marsden Point Rail Link	Construct and operate an approximately 19-kilometre rail link corridor connection	From the North Auckland line at Oakleigh via Mata Hill, along the Ruakākā River to Northport, Marsden Point, Northland
Mill Road	Develop works between the Redoubt Road interchange on State Highway 1 in Manukau to the proposed Drury South interchange on State Highway 1 in Drury	Redoubt Road interchange on State Highway 1 in Manukau to the proposed Drury South interchange on State Highway 1 in Drury, Auckland
North-West Rapid Transit	Develop a rapid transit link between Brigham Creek and Auckland City centre, including associated infrastructure and connections	Alongside State Highway 16 north-west Auckland to Auckland Central
Papakura to Pukekohe Route Protection—Four-tracking and Active Mode Corridor	In stages, remove 6 level crossings and associated crossing interventions and establish an active mode corridor from Pukekohe to Drury Railway Station	North Island Main Trunk railway line between Papakura and Pukekohe, Auckland
Petone to Grenada and the Cross Valley Link	Plan, design, and construct a road between Petone and Grenada (P2G)	Between Petone and Grenada
	Plan, design and construct an urban arterial road (CVL)	Between Petone and Seaview
State Highway 1 Cambridge to Piarere Long Term Improvements Project	Develop a road and associated infrastructure from the southern end of the Waikato Expressway at Cambridge to the intersection of State Highway 1 and State Highway 29 at Piarere	State Highway 1 Cambridge to Piarere
State Highway 1 North Canterbury—Woodend Bypass Project (Belfast to Pegasus)	Extend the State Highway 1 Christchurch Northern Corridor between Belfast and Pegasus	State Highway 1 North Canterbury
State Highway 1 Wellington Improvements	Improve State Highway 1 between the Terrace Tunnel and Kilbirnie	North of Terrace Tunnel to Kilbirnie, Wellington City
State Highway 1 Whangārei to Port Marsden Highway	Develop a road and associated infrastructure between Whangārei and State Highway 15 (Port Marsden Highway) or 1 or more sections of road between those 2 points	State Highway 1, Whangārei to State Highway 1 and State Highway 15 (Port Marsden Highway) intersection
State Highway 16 North-West Alternative State Highway	Develop a road and associated infrastructure connecting Redhills North and State Highway 16 west of Kumeū-Huapai	State Highway 16 Auckland (west)

Project name	Project description	Approximate geographical location
State Highway 25 Pepe Stream Bridge Replacement	Replace the existing 1-way bridge and footpath bridge with a new bridge	Pepe Stream Bridge, Tairua
State Highway 29 Tauriko Network Connections (including Omanawa Bridge replacement)	Upgrade existing, and construct new, roading corridor between the vicinity of the Omanawa Bridge and a new connection with State Highway 2 together with upgrades to connections between State Highway 29 and State Highway 36 at the intersection with Taurikura Drive and State Highway 29A at the Barkes Corner roundabout	State Highway 29 and State Highway 29A area
Takitimu North Link—Stage 2	Develop a road and associated infrastructure between Te Puna and Ōmokoroa	Between Te Puna and Ōmokoroa, Bay of Plenty
Warkworth to Te Hana	Develop a road and associated infrastructure between Warkworth and north of Te Hana, or 1 or more sections of a State highway between those 2 points	Between Warkworth and north of Te Hana

Schedule 2B
Notice of intention to take land for critical infrastructure project

s 39AAH(1)

Schedule 2B: inserted, on 27 August 2025, by section 9 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Form

Notice of intention to take land for [*name of project from first column of Schedule 2A*] critical infrastructure project in [*name of district*]

To [*full name*] of [*address*]

1 The [*name of Minister or local authority*] proposes to take under the Public Works Act 1981 your interest in the land described in the Schedule of this notice.

2 The land is required for [*insert name of project from first column of Schedule 2A.*] critical infrastructure project and it is intended to use the land for [*describe the purposes for which the land is to be used, which must include at least the description of the project in the second column of Schedule 2A*].

3 A plan of the land intended to be taken is attached. [*It is not necessary to include this paragraph if all the land is in a surveyed lot*.]

Reasons for taking land

4 A summary of the reasons why the [*name of Minister or local authority*] considers that the land should be taken is as follows: [*give a summary of the reasons with reference to matters in section 26(1B)(a) (as modified by section 39AAJ(1)) if the Minister, or section 26(1B)(b) (as modified by section 39AAJ(1)) if the local authority, based on the information available at the time the decision is made to serve this notice, including a statement that the land is required for a critical infrastructure project*].

Your right to make submission

5 Your interest in the land has not yet been taken.

6 You have a right to make a submission on the taking of your interest in the land.

7 If you wish to make a submission, you must send a written indication of your intention to do so to [*names and addresses of Minister and responsible department or Crown body, or name and address of local authority*]. You must do this no later than 10 working days after this notice is served on you.

8 You have 20 working days to then submit your submission to [*names of Minister and responsible department or Crown body, or name of local authority*]. That 20-day period begins on the day after the last day on which you can send your written indication of your intention to make a submission.

9 You must include in your submission your reasons why the land should not be taken or why a different portion or interest in the land should be taken.

10 The [*name of Minister or local authority*] will consider your submission but there is no right to a hearing before the [*name of Minister or local authority*].

11 If, after you make your submission, [*name of Minister or local authority*] receives any information that you have not already been provided with in relation to the taking of your land, you will be provided with a copy of that information and you will have another 10 working days from the time that you receive the information to provide 1 further submission, should you wish to do so.

12 The [*name of Minister or local authority*] will then decide whether to recommend/request* the taking of the land. As part of the process of making that decision, the [*name of Minister or local authority*] will consider your submission, and, if you make one, your further submission.

*Select one.

13 The [*name of Minister or local authority*] may extend the time frame referred to in paragraphs 7, 8, and 11, 1 or more times, to a maximum of 20 working days in each case. If you want [*name of Minister or local authority*] to consider extending 1 or more of those time frames in relation to your submission or intended submission, you must make a written request to [*name and address of Minister or name and address of local authority*] and [*name of Minister or local authority*] must make a decision on your request no later than 3 working days after receiving it.

14 You will be provided with a copy of the decision of [*name of Minister or local authority*] on whether to recommend/request* the taking of the land.

*Select one.

Your right to compensation

15 This notice, and the right to make a submission described above, relate to the taking of your interest in the land and not to your right to compensation. Under the Public Works Act 1981 you are entitled to full compensation if your interest in the land is taken. If that compensation cannot be agreed between you and the [*name of Minister or local authority*], it can be determined in separate proceedings before the Land Valuation Tribunal.

16 Your right to compensation described in paragraph 15 includes a right to compensation in recognition of the land being taken for a critical infrastructure project.

WARNING

This notice concerns your rights over the land referred to. If you are in any doubt about its effect, you should obtain legal advice immediately.

Do not delay.

Schedule

[*Describe in general terms the land required to be taken, including the name of the land district and the postal address or some other readily identifiable description of the place where the land is situated, and state the legal description of the land.*]

Legal description of land

Dated at [*place*, *date*]

Signature:

for Minister for Land Information *or* chief executive of local authority

Schedule 2B form: inserted, on 27 August 2025, by section 9 of the Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46).

Schedule 3

s 82(1)

Form A

[*For cases where land is taken*]

Claim to compensation under the Public Works Act 1981

To [*insert either the Minister of Lands or the name of the local authority, as the case may be*]

By a Proclamation *or* (declaration) dated [*date*], the land mentioned in table A below, in which I have an interest as described in table B below, has been taken and vested in the Crown *or* [*name of local authority*] for the purpose of [*name of public work mentioned in Proclamation or declaration*]:

[*For cases where injurious affection also claimed add following paragraph*]

And the land mentioned in table C below, adjacent to the land so taken in which I have an interest as described in table D below, will be injuriously affected by the said work because [*state items of claim, with a reference number to each, and give in each case full particulars of the nature and extent of the claim*]: I hereby claim the sum of $[*amount*] as compensation for all loss arising out of the taking of the said land and the construction of the said public work (which sum is supported by the valuation attached) [*delete if not applicable*] and which is made up as follows:

$

Sum claimed as compensation for land taken:

[*Give full particulars of nature and extent of claim and how compensation has been calculated with, where applicable, reference to supporting valuation.*]

Sum claimed for disturbance:

[*Give full particulars of nature and extent of claim.*]

Sum claimed for damage:

[*Give full particulars of nature and extent of claim.*]

Sum claimed for injurious affection:

[*Give full particulars.*]

Total claim:

Dated at [*place*, *date*].

Claimant: [*full name*]

Address for service:

Signature:

Table A

Description of land taken

[*Describe the area and situation of the land taken, giving name of survey district, and number of block and section as in the Proclamation or declaration and the* Gazette *reference or other reference to the document taking title*.]

Table B

Nature of interest in land taken

[*State in full the nature of the interest; and if the land is leased or encumbered, or subject to any easement, give particulars of the lease or encumbrance or easement.*]

Table C

Description of land injuriously affected

[*Describe the area and situation of the land injuriously affected, giving name of survey district, and number of block and section, or other means of identification.*]

Table D

Nature of interest in land injuriously affected

[*State in full the nature of the interest; and if the land is leased or encumbered or subject to any easement, give particulars of the lease or encumbrance or easement.*]

Schedule 3 form A: amended, on 1 April 1988, by section 84(2)(a) of the Public Works Amendment Act 1988 (1988 No 43).

Form B

[*For cases where land is injuriously affected or damaged, but where no land is taken*]

Claim to compensation under the Public Works Act 1981

To [*insert either the Minister of Lands or the name of the local authority, as the case may be*]. The public work described in table A below has been or is about to be executed by your authority, and the land described in table B below, in which I have an interest as described in table C below, has been or will be injuriously affected or damaged by the work because [*state items of claim with a reference number to each, and give in each case full particulars of the nature and extent of each item*].

I claim the sum of $[*amount*] as compensation for all loss arising out of the execution of the said work, which sum is made up as follows:

$

Sum claimed for injurious affection:

Sum claimed for damage:

Sum claimed for disturbance:

[*State reference number and short heading of each item of claim previously detailed, and the amount claimed in respect of each item separately.*]

Total claim:

Dated at [*place*, *date*].

Claimant: [*full name*]

Address for service:

Signature:

Table A

Description of public work

[*State description and location of public work.*]

Table B

Description of land injuriously affected

[*Describe the area and situation of the land injuriously affected, giving name of survey district, and number of block and section, or other means of identification.*]

Table C

Nature of interest in land injuriously affected

[*State in full the nature of the interest; and if the land is leased or encumbered or subject to any easement, give particulars of the lease or encumbrance or easement.*]

Schedule 3 form B: amended, on 1 April 1988, by section 84(2)(b) of the Public Works Amendment Act 1988 (1988 No 43).

Schedule 4
Notice requiring claim to be heard by Land Valuation Tribunal

s 84

Public Works Act 1981

To the Registrar of the District Court at [*place*]

Whereas a claim for compensation for the amount of $[*amount*] in respect of land taken *or* (in respect of land injuriously affected or damaged) in which I have an interest, a copy of which claim is attached, was made by me on [*date*] on, and was served on, the Minister of Lands *or* [*name of local authority*] and the said Minister *or* (local authority) has refused to admit the claim *or* (has made me an offer of $[*amount*] in lieu of the claim which I do not accept):

This is to give notice that I require the claim to be heard by a Land Valuation Tribunal under the Public Works Act 1981.

Dated at [*place*, *date*].

Signature of claimant:

Schedule 4: amended, on 1 April 1988, by section 84(3) of the Public Works Amendment Act 1988 (1988 No 43).

Schedule 5
Certificate under section 107(7) of the Public Works Act 1981 for grant of land under section 105 or section 106 of that Act

s 107(7)

Name, occupation, and address of person to whom land is granted:

Nature of estate or interest granted:

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

Date from which entitled:

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

Reservations and restrictions to affect land to be granted:

I hereby certify that the above particulars are correct and that the Minister of Lands, *or* Minister of Railways, *or* other notifying authority [*describe*] has approved the granting of such land.

Chief executive of the department within the meaning of section 2 of the Survey Act 1986:

or

General Manager of Railways:

or

Principal Administrative Officer:

Schedule 5 heading: amended, on 16 December 1983, by section 4(9)(a) of the Public Works Amendment Act 1983 (1983 No 150).

Schedule 5: amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Schedule 5: amended, on 1 April 1988, by section 84(4)(a) of the Public Works Amendment Act 1988 (1988 No 43).

Schedule 5: amended, on 16 December 1983, by section 4(9)(b) of the Public Works Amendment Act 1983 (1983 No 150).

Schedule 5: amended, on 16 December 1983, by section 4(9)(c) of the Public Works Amendment Act 1983 (1983 No 150).

Schedule 6
Certificate under section 107(7) of the Public Works Act 1981 for grant of land under section 106 of that Act

[Repealed]

s 107(7)

Schedule 6: repealed, on 16 December 1983, by section 4(10) of the Public Works Amendment Act 1983 (1983 No 150).

Schedule 7
Act administered by Ministry of Works and Development

[Repealed]

s 6

Schedule 7: repealed, on 1 April 1988, by section 84(5) of the Public Works Amendment Act 1988 (1988 No 43).

Schedule 8
Enactments repealed

s 248(1)

Finance Act (No 2) 1930 (1930 No 40) (Reprinted 1975, Vol 3, p 2472)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1933 (1933 No 41) (Reprinted 1975, Vol 3, p 2472)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1936 (1936 No 36) (Reprinted 1975, Vol 3, p 2490)
Amendment(s) incorporated in the Act(s).

Finance Act 1937 (1937 No 17) (Reprinted 1975, Vol 2, p 2493)
Amendment(s) incorporated in the Act(s).

Finance Act 1938 (1938 No 13) (Reprinted 1975, Vol 3, p 2493)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1939 (1939 No 38) (Reprinted 1975, Vol 3, p 2497)
Amendment(s) incorporated in the Act(s).

Finance Act (No 3) 1944 (1944 No 31) (Reprinted 1975, Vol 3, p 2504)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1945 (1945 No 45) (Reprinted 1975, Vol 3, p 2517)
Amendment(s) incorporated in the Act(s).

Finance Act 1946 (1946 No 16) (Reprinted 1975, Vol 3, p 2519)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1946 (1946 No 41) (Reprinted 1975, Vol 3, p 2520)
Amendment(s) incorporated in the Act(s).

Finance Act 1949 (1949 No 39) (Reprinted 1975, Vol 3, p 2560)
Amendment(s) incorporated in the Act(s).

Finance Act 1950 (1950 No 93) (Reprinted 1975, Vol 3, p 2562)
Amendment(s) incorporated in the Act(s).

Finance Act 1951 (1951 No 78) (Reprinted 1975, Vol 3, p 2564)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1952 (1952 No 81) (Reprinted 1975, Vol 3, p 2576)
Amendment(s) incorporated in the Act(s).

Finance Act 1953 (1953 No 9) (Reprinted 1975, Vol 3, p 2576)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1953 (1953 No 115) (Reprinted 1975, Vol 3, p 2578)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1955 (1955 No 103) (Reprinted 1975, Vol 3, p 2584)
Amendment(s) incorporated in the Act(s).

Finance Act 1957 (1957 No 106) (Reprinted 1975, Vol 3, p 2588)
Amendment(s) incorporated in the Act(s).

Finance Act 1958 (1958 No 38) (Reprinted 1975, Vol 3, p 2590)
Amendment(s) incorporated in the Act(s).

Finance Act 1959 (1959 No 96) (Reprinted 1975, Vol 3, p 2591)
Amendment(s) incorporated in the Act(s).

Finance Act (No 2) 1964 (1964 No 121) (Reprinted 1975, Vol 3, p 2607)
Amendment(s) incorporated in the Act(s).

Finance Act 1965 (1965 No 126) (Reprinted 1975, Vol 3, p 2609)
Amendment(s) incorporated in the Act(s).

Finance Act 1971 (1971 No 55) (Reprinted 1975, Vol 3, p 2613)
Amendment(s) incorporated in the Act(s).

Harbours Act 1950 (1950 No 34) (RS Vol 2, p 551)
Amendment(s) incorporated in the Act(s).

Impounding Act 1955 (1955 No 108) (Reprinted 1957, Vol 6, p 335)
Amendment(s) incorporated in the Act(s).

Land Valuation Proceedings Amendment Act 1968 (1968 No 42) (Reprinted 1968, Vol 2, p 1619)
Amendment(s) incorporated in the Act(s).

Land Valuation Proceedings Amendment Act 1977 (1977 No 15)
Amendment(s) incorporated in the Act(s).

Licensing Amendment Act (No 2) 1953 (1953 No 90) (RS Vol 3, p 275)
Amendment(s) incorporated in the Act(s).

Local Government Amendment Act (No 3) 1977 (1977 No 122)
Amendment(s) incorporated in the Act(s).

Local Government Amendment Act 1978 (1978 No 43)
Amendment(s) incorporated in the Act(s).

Local Government Amendment Act 1979 (1979 No 59)
Amendment(s) incorporated in the Act(s).

Maori Purposes Act 1974 (1974 No 144) (Reprinted 1975, Vol 3, p 2620)
Amendment(s) incorporated in the Act(s).

Mining Act 1971 (1971 No 25)
Amendment(s) incorporated in the Act(s).

Ministry of Works Act 1943 (1943 No 3) (Reprinted 1975, Vol 3, p 2502)

Public Finance Act 1977 (1977 No 65)
Amendment(s) incorporated in the Act(s).

Public Works Act 1928 (1928 No 21) (Reprinted 1975, Vol 3, p 2283)

Public Works Amendment Act 1935 (1935 No 27) (Reprinted 1975, Vol 3, p 2480)

Public Works Amendment Act 1947 (1947 No 46) (Reprinted 1975, Vol 3, p 2521)

Public Works Amendment Act 1948 (1948 No 39) (Reprinted 1975, Vol 3, p 2429)

Public Works Amendment Act 1952 (1952 No 58) (Reprinted 1975, Vol 3, p 2566)

Public Works Amendment Act 1953 (1953 No 23) (Reprinted 1975, Vol 3, p 2577)

Public Works Amendment Act 1954 (1954 No 85) (Reprinted 1975, Vol 3, p 2578)

Public Works Amendment Act 1955 (1955 No 59) (Reprinted 1975, Vol 3, p 2583)

Public Works Amendment Act 1956 (1956 No 39) (Reprinted 1975, Vol 3, p 2586)

Public Works Amendment Act 1958 (1958 No 28) (Reprinted 1975, Vol 3, p 2589)

Public Works Amendment Act 1960 (1960 No 105) (Reprinted 1975, Vol 3, p 2592)

Public Works Amendment Act 1961 (1961 No 32) (Reprinted 1975, Vol 3, p 2600)

Public Works Amendment Act 1962 (1962 No 41) (Reprinted 1975, Vol 3, p 2601)

Public Works Amendment Act 1963 (1963 No 42) (Reprinted 1975, Vol 3, p 2601)

Public Works Amendment Act 1964 (1964 No 107) (Reprinted 1975, Vol 3, p 2607)

Public Works Amendment Act 1965 (1965 No 26) (Reprinted 1975, Vol 3, p 2608)

Public Works Amendment Act 1967 (1967 No 31) (Reprinted 1975, Vol 3, p 2610)

Public Works Amendment Act 1970 (1970 No 145) (Reprinted 1975, Vol 3, p 2611)

Public Works Amendment Act 1971 (1971 No 124) (Reprinted 1975, Vol 3, p 2614)

Public Works Amendment Act 1972 (1972 No 96) (Reprinted 1975, Vol 3, p 2614)

Public Works Amendment Act 1973 (1973 No 44) (Reprinted 1975, Vol 3, p 2616)

Public Works Amendment Act 1974 (1974 No 16) (Reprinted 1975, Vol 3, p 2620)

Public Works Amendment Act 1975 (1975 No 138) (Reprinted 1975, Vol 3, p 2621)

Public Works Amendment Act 1976 (1976 No 165)

Public Works Amendment Act 1977 (1977 No 169)

Railways Authorisation Act 1929 (1929 No 22) (Reprinted 1975, Vol 3, p 2471)

Railways Authorisation Act 1936 (1936 No 38) (Reprinted 1975, Vol 3, p 2492)

Statutes Amendment Act 1939 (1939 No 39) (Reprinted 1975, Vol 2, p 2500)
Amendment(s) incorporated in the Act(s).

Statutes Amendment Act 1951 (1951 No 81) (Reprinted 1975, Vol 3, p 2565)
Amendment(s) incorporated in the Act(s).

Notes

1 General

This is a consolidation of the Public Works Act 1981 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56): section 51

Public Works (Critical Infrastructure) Amendment Act 2025 (2025 No 46)

Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43): section 172

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Civil Aviation Act 2023 (2023 No 10): section 483

Plant Variety Rights Act 2022 (2022 No 61): section 159

Data and Statistics Act 2022 (2022 No 39): section 107(1)

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Secondary Legislation Act 2021 (2021 No 7): section 3

Education (Name Change for NZIST) Order 2020 (LI 2020/260) clause 4(2)

Infrastructure Funding and Financing Act 2020 (2020 No 47): section 161

Urban Development Act 2020 (2020 No 42): section 300

Education and Training Act 2020 (2020 No 38): section 668

Kāinga Ora–Homes and Communities Act 2019 (2019 No 50): section 33

Land Transfer Act 2017 (2017 No 30): section 250

Statutes Repeal Act 2017 (2017 No 23): section 4(1)

Resource Legislation Amendment Act 2017 (2017 No 15): Part 3

Interest on Money Claims Act 2016 (2016 No 51): section 29

District Court Act 2016 (2016 No 49): section 261

Auctioneers Act 2013 (2013 No 148): section 27

Companies Amendment Act 2013 (2013 No 111): section 14

Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)

Patents Act 2013 (2013 No 68): section 249

Land Transport Management Amendment Act 2013 (2013 No 35): section 72

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45): section 11

Criminal Procedure Act 2011 (2011 No 81): section 413

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3): section 128

Limitation Act 2010 (2010 No 110): section 58

Land Transport Amendment Act 2009 (2009 No 17): section 35(4)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

Property Law Act 2007 (2007 No 91): section 364(1)

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Foreshore and Seabed Act 2004 (2004 No 93): section 103(1)

Building Act 2004 (2004 No 72): section 414

Local Government Act 2002 (2002 No 84): section 262

Trade Marks Act 2002 (2002 No 49): section 201

Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17): section 76

Local Government (Rating) Act 2002 (2002 No 6): section 138(1)

Telecommunications Act 2001 (2001 No 103): section 158

Public Trust Act 2001 (2001 No 100): section 170(1)

Local Electoral Act 2001 (2001 No 35): section 151

Stamp Duty Abolition Act 1999 (1999 No 61): section 7

Land Transport Act 1998 (1998 No 110): section 215(1)

Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100): section 5(1)(c)

Resource Management Amendment Act 1996 (1996 No 160): section 6(2)(a), (b)

Local Government Amendment Act (No 3) 1996 (1996 No 83): section 16(1)

Survey Amendment Act 1996 (1996 No 55): section 5

Waikato Raupatu Claims Settlement Act 1995 (1995 No 58): section 38

Transit New Zealand Amendment Act 1995 (1995 No 42): section 8(2)

Copyright Act 1994 (1994 No 143): section 236(1)

Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16): section 2

National Bank of New Zealand Limited Act 1994 (1994 No 3 (P)): section 5(1)(a)

Te Ture Whenua Maori Act 1993 (1993 No 4): section 362

Electricity Act 1992 (1992 No 122): section 173(2)

Railway Safety and Corridor Management Act 1992 (1992 No 111): section 28(1)

Building Act 1991 (1991 No 150): section 92(1)

Public Works Amendment Act 1991 (1991 No 87)

Resource Management Act 1991 (1991 No 69): section 362

New Zealand Railways Corporation Restructuring Act 1990 (1990 No 105): section 35

Irrigation Schemes Act 1990 (1990 No 52): sections 19, 20(1), 21(1)

Conservation Law Reform Act 1990 (1990 No 31): section 37

Survey Amendment Act (No 3) 1989 (1989 No 139): section 9(2)

Government Roading Powers Act 1989 (1989 No 75): section 116(1), (4)

Public Finance Act 1989 (1989 No 44): sections 83(7), 86(1)

Public Works Amendment Act 1988 (1988 No 43)

Public Works Amendment Act (No 3) 1987 (1987 No 110)

Public Works Amendment Act (No 2) 1987 (1987 No 67)

Conservation Act 1987 (1987 No 65): section 65(1)

Public Works Amendment Act 1987 (1987 No 62)

Public Works Amendment Act 1983 (1983 No 150)

Town and Country Planning Amendment Act 1983 (1983 No 149): sections 3(5), 5(2), 12(4), 38(1), (2), 40(4)

Public Works Amendment Act 1982 (1982 No 182)

New Zealand Railways Corporation Act 1981 (1981 No 119): section 120(5)

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2025