



Crown Pastoral Land Reform Act 2022

Public Act 2022 No 22
Date of assent 17 May 2022
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crown Pastoral Land Reform Act 2022.

2 Commencement

- (1) The following provisions come into force on the day after the date on which this Act receives the Royal assent:
- (a) section 9:
 - (b) section 17 and Schedule 1 (so far as they relate to clauses 1 to 3 of Schedule 1AA):
 - (c) section 17 and Schedule 2 (so far as they relate to Schedule 1AC):
 - (d) section 18 and Schedule 3.
- (2) The rest of this Act comes into force 6 months after the date on which it receives the Royal assent.

Part 1

Amendments to Crown Pastoral Land Act 1998

3 Principal Act

This Part amends the Crown Pastoral Land Act 1998.

4 Long Title repealed

Repeal the Long Title.

5 New section 1A inserted (Purpose)

After section 1, insert:

1A Purpose

The purpose of this Act is to provide for the administration of pastoral land in a way that seeks to achieve the following outcomes:

- (a) maintaining or enhancing inherent values across the Crown pastoral estate for present and future generations, while providing for ongoing pastoral farming of pastoral land:
- (b) supporting the Crown in its relationships with Māori under te Tiriti o Waitangi/the Treaty of Waitangi:
- (c) enabling the Crown to get a fair return on its ownership interest in pastoral land.

6 Section 2 amended (Interpretation)

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

chief executive means the chief executive of the department

discretionary pastoral activity means an activity by a lessee or licensee of pastoral land that requires the consent of the Commissioner under section 10

effect—

- (a) includes the following effects, regardless of the scale, intensity, duration, or frequency of the effect:
 - (i) any positive or adverse effect:
 - (ii) any temporary or permanent effect:
 - (iii) any past, present, or future effect:
 - (iv) any cumulative effect which arises over time or in combination with other effects; and
- (b) includes any potential effect of high probability; and
- (c) includes any potential effect of low probability which has a high potential impact

permitted pastoral activity means an activity by a lessee or licensee of pastoral land that does not require the consent of the Commissioner under section 10

prohibited pastoral activity means an activity by a lessee or licensee of pastoral land that must not be undertaken on pastoral land

Surveyor-General has the same meaning as in section 4 of the Cadastral Survey Act 2002

te Tiriti o Waitangi/the Treaty of Waitangi means the Treaty as defined in section 2 of the Treaty of Waitangi Act 1975

- (2) In section 2, replace the definition of **inherent value** with:

inherent value, in relation to any land,—

- (a) means a value that arises from an ecological, a landscape, a cultural, a heritage, or a scientific attribute or characteristic of a natural resource that—
- (i) is in or forms part of the land or exists by virtue of the natural character of the land; or
 - (ii) relates to a historic place on or forming part of the land; but
- (b) does not include a pastoral farming activity

- (3) In section 2, repeal the definition of **Chief Surveyor**.

7 **New section 2A inserted (Transitional, savings, and related provisions)**

After section 2, insert:

2A Transitional, savings, and related provisions

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

8 **Part 1 replaced**

Replace Part 1 with:

Part 1

Pastoral leases and occupation licences

Subpart 1—Outcomes, activities on pastoral land, and decision-making process

Outcomes

4 Outcomes for decision makers

- (1) All persons performing or exercising the Crown's functions, duties, or powers in relation to pastoral land under this Act or the Land Act 1948 must seek to achieve the following:
- (a) maintaining or enhancing inherent values across the Crown pastoral estate for present and future generations, while providing for ongoing pastoral farming of pastoral land; and
 - (b) supporting the Crown in its relationships with Māori under te Tiriti o Waitangi/the Treaty of Waitangi; and

- (c) enabling the Crown to get a fair return on its ownership interest in pastoral land.
- (2) Subsection (1)(c) applies only to functions, duties, or powers that relate to rents, easements, or commercial recreation permits in respect of pastoral land.

5 Māori interests

- (1) In order to recognise and respect the Crown's responsibility to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi, the Crown—
 - (a) must recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu, and other taonga in any case where—
 - (i) consent for a discretionary pastoral activity is sought; or
 - (ii) a commercial recreation permit over pastoral land is sought; or
 - (iii) an easement over pastoral land is sought; or
 - (iv) a stock limitation exemption or a variation or revocation of a stock limitation exemption is sought (except a grant, variation, or revocation made under section 15(4)); or
 - (v) a protective mechanism is being considered; and
 - (b) must consult the relevant iwi listed in subsection (2) in accordance with sections 22A, 22C, 100O, 100P, 100R, and 100S.
- (2) The **relevant iwi** are—
 - (a) Ngāi Tahu Whānui as represented by Te Runanga o Ngai Tahu in accordance with Te Runanga o Ngai Tahu Act 1996:
 - (b) Ngāti Apa ki te Rā Tō:
 - (c) Ngāti Kōata:
 - (d) Ngāti Kuia:
 - (e) Ngāti Rārua:
 - (f) Ngāti Tama ki Te Tau Ihu:
 - (g) Ngāti Toa Rangātira:
 - (h) Rangitāne o Wairau:
 - (i) Te Ātiawa o Te Waka-a-Māui.

Classification of activities on pastoral land

6 Classification of pastoral activities on pastoral land

- (1) Pastoral activities described in section 7 or 8 of this Act, or in section 100 of the Land Act 1948, are classified as set out in Schedule 1AB.
- (2) A lessee or licensee of pastoral land must obtain the Commissioner's consent to undertake a pastoral activity if required by section 7 or 8.

- (3) The following classifications apply to pastoral activities on pastoral land:
 - (a) permitted pastoral activities that may be undertaken on pastoral land with any necessary permission under any other enactment (*see* section 20 and Part 1 of Schedule 1AB):
 - (b) discretionary pastoral activities that may be undertaken on pastoral land only with the consent of the Commissioner under section 10 and with any necessary permission under any other enactment (*see* section 20 and Part 2 of Schedule 1AB):
 - (c) prohibited activities that must not be undertaken on pastoral land and may not be applied for or consented to (*see* Part 3 of Schedule 1AB).
- (4) Any question arising as to the class within which any pastoral activity falls must be decided by the Commissioner, whose decision is final, and sections 17 and 18 of the Land Act 1948 do not apply to that decision.
- (5) Schedule 1AB may be amended by Order in Council (*see* section 100O).

Provision relating to burning

7 Burning of vegetation

- (1) This section applies to any pastoral activity that involves burning any vegetation on the land (whether felled or not).
- (2) A lessee or licensee of pastoral land—
 - (a) may undertake the pastoral activity, or cause it to be undertaken, if the activity is classified as a permitted pastoral activity in Part 1 of Schedule 1AB:
 - (b) must not undertake the pastoral activity, or cause it to be undertaken, without the Commissioner’s consent under section 10 if the activity is classified in Part 2 of Schedule 1AB as a discretionary pastoral activity or is not classified anywhere in that schedule:
 - (c) must not undertake the pastoral activity, or cause it to be undertaken, if the activity is classified as a prohibited pastoral activity in Part 3 of Schedule 1AB.
- (3) In this section, **vegetation** does not include timber.

Provisions relating to disturbance of soil

8 Activities affecting or disturbing soil

- (1) This section applies to any pastoral activity that affects or disturbs the soil of pastoral land.
- (2) A lessee or licensee of pastoral land—

- (a) may undertake the pastoral activity, or cause it to be undertaken, if the activity is classified as a permitted pastoral activity in Part 1 of Schedule 1AB:
 - (b) must not undertake the pastoral activity, or cause it to be undertaken, without the Commissioner's consent under section 10 if the activity is classified in Part 2 of Schedule 1AB as a discretionary pastoral activity or is not classified anywhere in that schedule:
 - (c) must not undertake the pastoral activity, or cause it to be undertaken, if the activity is classified as a prohibited pastoral activity in Part 3 of Schedule 1AB.
- (3) Any ongoing maintenance authorised by a consent under section 10 may continue to be undertaken in accordance with the consent.
- (4) A consent under section 10 to undertake an activity to which this section applies may include provisions setting out the terms of any—
- (a) ongoing maintenance of the works formed by the activity:
 - (b) ongoing programme to maintain the pasture created or enhanced by the activity.
- (5) Anything done under the consent is subject to every condition, direction, and restriction that forms part of the Commissioner's consent.
- (6) For the purposes of this section (but not subsection (1)), every consent given under section 106 or 108 of the Land Act 1948 has effect according to its tenor as if it were a discretionary pastoral activity consented to under section 10.
- (7) This section does not forbid or prevent the doing of anything authorised—
- (a) by or under the Public Works Act 1981 or the Crown Minerals Act 1991; or
 - (b) under the Mining Act 1971.
- (8) Nothing in this section limits or affects the application or effect of section 100 of the Land Act 1948 (which relates to the preservation of timber).

Process for applications to undertake activities on pastoral land

9 Application process

- (1) An applicant who applies for consent to undertake a discretionary pastoral activity or for the grant of a commercial recreation permit under section 66A of the Land Act 1948 must provide sufficient information to enable the Commissioner to assess the application under sections 10 to 12 and Schedule 1ABA.
- (2) The Commissioner may decline to accept an application if the Commissioner thinks that the information provided with the application is insufficient or, alternatively, may obtain further information that the Commissioner thinks necessary to assess the application under sections 10 to 12 and Schedule 1ABA.

- (3) When assessing an application, the Commissioner may obtain any advice the Commissioner thinks necessary in order to make a decision under section 10.

Process for Commissioner's decision

10 Commissioner's decision

- (1) This section applies if the Commissioner accepts an application under section 9.
- (2) The Commissioner must, in accordance with this section and (as applicable) sections 11 and 12 and Schedule 1ABA,—
- (a) either—
- (i) decline to grant the application; or
 - (ii) grant the application wholly or in part, with or without any conditions, limitations, directions, or restrictions that the Commissioner thinks necessary, including for the purpose of reducing the adverse effects on inherent values; and
- (b) if they grant the application, specify the period within which the activity must be carried out.
- (3) Before making a decision, the Commissioner must consult the Director-General of Conservation.
- (4) In deciding whether to grant an application, the Commissioner—
- (a) must be satisfied that—
- (i) the inherent values likely to be affected by the proposed activity and the importance of those values have been identified; and
 - (ii) the level of adverse effects of the proposed activity on those inherent values (with regard to the importance of those values) has been identified, including whether the effects could be avoided, remedied, or mitigated; and
 - (iii) any reasonable alternative to the proposed activity that has lesser adverse effects on inherent values has been considered; and
- (b) must not consider offsetting, including as a way of counterbalancing adverse effects on inherent values, when determining the level of adverse effects on inherent values; and
- (c) may consider relevant Government policy decided by Cabinet, in particular policy that relates to national directions (such as national policy statements and national environmental standards); and
- (d) may consider any plan for the management of part or all of the land subject to the reviewable lease or licence; and

- (e) may consider cross-boundary effects of the activity on neighbouring persons or on any neighbouring land (whether or not the land is subject to a pastoral lease or any other form of tenure); and
 - (f) may consider New Zealand's commitment to reducing greenhouse gas emissions, where this is consistent with the outcomes stated in this Act; and
 - (g) may consider any other matter the Commissioner considers relevant to determine the application.
- (5) Nothing in this section requires the Commissioner to consent to a proposed discretionary pastoral activity in any case.
- (6) In this section and sections 11, 12, and 15, **grant**,—
- (a) in relation to an application for a discretionary pastoral activity, means to consent to the activity;
 - (b) in relation to an application for a commercial recreation permit, means to grant the permit;
 - (c) in relation to an application for an exemption from a stock limitation or the variation or revocation of an exemption, means to grant, vary, or revoke the exemption (*see* section 15).

11 Decision-making criteria: consent for discretionary pastoral activity

- (1) The Commissioner decides whether to grant an application as follows:
- (a) they may decline the application if satisfied that there is a reasonable alternative to the proposed activity that has lesser adverse effects on inherent values:
 - (b) they may grant the application if they decide that the proposed activity has no more than minor adverse effects on inherent values after actions have been taken to avoid, remedy, or mitigate the effects:
 - (c) they must decline the application if they—
 - (i) decide that the proposed activity has more than minor adverse effects on inherent values after actions have been taken to avoid, remedy, or mitigate the effects; and
 - (ii) are not satisfied under subsections (2) and (3) that the application should be granted:
 - (d) they may grant the application if they—
 - (i) decide that the proposed activity has more than minor adverse effects on inherent values after actions have been taken to avoid, remedy, or mitigate the effects; and
 - (ii) are satisfied under subsections (2) and (3) that the application should be granted.

- (2) Before granting an application for a proposed activity that has more than minor adverse effects on inherent values, the Commissioner must be satisfied that the activity is necessary to enable the lessee or licensee to exercise their rights and obligations under their lease or licence, taking into account 1 or more of the criteria set out in Schedule 1ABA.
- (3) For the purpose of deciding whether the activity is necessary to enable the lessee or licensee to exercise their rights and obligations under their lease or licence, the Commissioner may consider any economic benefits associated with undertaking that activity only to the extent that those benefits relate to the ongoing financial viability of the pastoral farming enterprise.

12 Decision-making criteria: grant of commercial recreation permit

- (1) The Commissioner decides whether to grant an application for a commercial recreation permit as follows:
 - (a) they may decline the application if satisfied that there is a reasonable alternative to the proposed activity that has lesser adverse effects on inherent values:
 - (b) they may grant the application if they decide that the proposed activity has no more than minor adverse effects on inherent values after actions have been taken to avoid, remedy, or mitigate the effects:
 - (c) they must decline the application if they—
 - (i) decide that the proposed activity has more than minor adverse effects on inherent values after actions have been taken to avoid, remedy, or mitigate the effects; and
 - (ii) are not satisfied under subsection (2) that the application should be granted:
 - (d) they may grant the application if they—
 - (i) decide that the proposed activity has more than minor adverse effects on inherent values after actions have been taken to avoid, remedy, or mitigate the effects; and
 - (ii) are satisfied under subsection (2) that the application should be granted.
- (2) Before granting an application under subsection (1)(d), the Commissioner must be satisfied that the proposed activity—
 - (a) is an existing activity that—
 - (i) previously has been allowed to be undertaken on the pastoral land under a commercial recreation permit or other consent, right, or licence granted by the Commissioner; and
 - (ii) uses existing infrastructure or buildings previously consented to by the Commissioner; or

- (b) will use existing infrastructure or buildings previously consented to by the Commissioner, even though the proposed activity is different from the activity for which that previous consent was granted; or
- (c) is necessary in order to enable the continued use of existing infrastructure or buildings previously consented to by the Commissioner.

Subpart 2—Tenure and related provisions

Pastoral leases

13 Tenure

A pastoral lease gives the holder—

- (a) the exclusive right of pasturage over the land:
- (b) a perpetual right of renewal for terms of 33 years:
- (c) no right to the soil:
- (d) no right to acquire the fee simple of any of the land.

14 Term

The term of a pastoral lease expires on the expiration of 33 years from 1 January or 1 July (whichever is the sooner) next following its commencement.

15 Stock limitations

- (1) The repeal of section 66 of the Land Act 1948 by this Act does not affect—
 - (a) the validity or effect of any stock limitation:
 - (b) the validity or effect of any power of the Commissioner contained in any pastoral lease to grant an exemption from a stock limitation:
 - (c) the validity or effect of any such exemption:
 - (d) the Commissioner’s power to vary or revoke such an exemption.
- (2) An exemption from a stock limitation—
 - (a) is (and was) personal to the person who was the holder of the lease concerned at the time the exemption was granted; and
 - (b) if not earlier revoked, expires (or expired) when that person ceases (or ceased) to be the holder of the lease.
- (3) Sections 9 to 11 apply to a decision by the Commissioner to grant, vary, or revoke an exemption from any stock limitation as if it were an application for a discretionary pastoral activity, except in the case of a lease transfer as provided for in subsection (4).
- (4) The Commissioner may, at the time that or as soon as practicable after a lease is transferred under section 89 of the Land Act 1948, grant, vary, or revoke an exemption from a stock limitation that provides for stock numbers and types equal to, or lower than, the previous holder’s exemption, after considering—

- (a) whether the lessee is capable of managing the number of stock that the previous lessee had on the lease; and
 - (b) whether the land in its current state is capable of sustaining the number and types of stock in the previous exemption; and
 - (c) other relevant matters.
- (5) Subsection (2) is for the avoidance of doubt.
- (6) Subsections (1) to (4) do not limit or affect the validity or effect of any condition subject to which a stock limitation, or an exemption from a stock limitation, may have been granted.

16 Renewal of lease after expiry

- (1) Subsection (2) applies if, by the time a pastoral lease expired,—
- (a) the Commissioner and the holder had agreed that, subject to the fixing of the amount of the rent to be paid under it, it would be renewed; but
 - (b) that amount had not yet been fixed.
- (2) The Commissioner may grant a renewal of the lease to the same extent, and in the same manner, as if it had not expired, but the renewal takes effect from its expiry.

17 Belated exchange of pastoral leases for reviewable leases

- (1) Subsection (2) applies if,—
- (a) before the commencement of this Act, any land comprised in a pastoral lease was vested in a State enterprise under the State-Owned Enterprises Act 1986; and
 - (b) before the land was vested,—
 - (i) all the land comprised in that lease had been reclassified as farm land; and
 - (ii) the former Land Settlement Board, the Department of Lands, or the Commissioner had agreed to issue a reviewable lease to the holder under section 126A of the Land Act 1948, in exchange for the pastoral lease; and
 - (iii) no reviewable lease had in fact been issued; and
 - (c) since the land was vested, the holder has (or successive holders have) been paying rent as if the land were held on reviewable lease.
- (2) The Commissioner may, under the Land Act 1948, with the consent of the State enterprise concerned, grant a reviewable lease to the holder (or the holder's successor) to the same extent, and in the same manner, as if the land had not been vested and that section 126A were still in force.
- (3) If a reviewable lease is granted under subsection (2),—

- (a) it is deemed to have been granted under section 126A of the Land Act 1948 immediately before the land comprised in it was vested in the State enterprise concerned; and
 - (b) the Land Act 1948 is deemed to have applied, and continues to apply, to it accordingly; and
 - (c) every transfer of or other dealing with or activity that affects the pastoral lease in exchange for which it has been granted, and that occurs after the agreement to grant a reviewable lease in exchange for it, is deemed to have had effect as a transfer of or other dealing with or activity that affects it.
- (4) The granting of a reviewable lease under subsection (2) is a disposition for the purposes of section 24 of the Conservation Act 1987.

Occupation licences

18 Tenure

An occupation licence gives the holder the exclusive right of pasturage over the land, but—

- (a) no right of renewal;
- (b) no right to the soil;
- (c) no right to acquire the fee simple of the land.

19 Term and expiry

- (1) The full term of an occupation licence granted under section 66AA of the Land Act 1948 commences on its commencement, and is the sum of—
- (a) the term specified in it; and
 - (b) the period commencing on its commencement and ending on the next 1 January or 1 July (whichever is the sooner).
- (2) Unless earlier forfeited or surrendered, an occupation licence expires on the expiration of its full term.

Permission under other enactments

20 Permission under other enactments still needed

- (1) This section applies if—
- (a) any other enactment provides that a person must obtain permission under that enactment before undertaking an activity that is contrary to that enactment; and
 - (b) the activity concerned is a permitted pastoral activity or discretionary pastoral activity, or is authorised by a stock limitation exemption, under this Act.

- (2) Nothing in this section prevents the Commissioner from consenting to a discretionary pastoral activity applied for under section 9 or granting a stock limitation exemption.
- (3) However, the authority conferred by this Act to undertake a permitted pastoral activity or discretionary pastoral activity, or an activity authorised by a stock limitation exemption, does not in itself allow the person to undertake the activity without the required permission under the other enactment.
- (4) In subsection (1), **permission** includes agreement, authority, consent, licence, permit, and right.

Provisions relating to boundaries and stock movement

21 Boundary disputes

Every dispute between the holders of adjacent pastoral land as to the boundary between them must be determined by the Commissioner or a person appointed by the Commissioner for the purpose.

22 Boundary adjustments

For the purpose of securing more suitable boundaries of pastoral land held under lease or licence, the Commissioner may, as from a specified day, exclude part of it from the lease or licence and include it in some other lease or licence; and in that case the Commissioner may make any adjustments in rents payable that the Commissioner thinks just and equitable.

Subpart 3—Monitoring, strategic intentions, and reporting

Monitoring

22A Chief executive to prepare monitoring framework

- (1) The chief executive must—
 - (a) prepare, regularly update, and make available to the public a framework (the **monitoring framework**) for the overall performance of the department in relation to the purpose of this Act and the exercise of the department's stewardship responsibilities (under section 52(1)(d) of the Public Service Act 2020) in relation to this Act; and
 - (b) regularly report on performance against the monitoring framework in relation to the purpose of this Act and those stewardship responsibilities.
- (2) In developing the monitoring framework, the chief executive must—
 - (a) consult relevant iwi and representatives of lessees and licensees of pastoral land; and
 - (b) publish the draft monitoring framework on the department's Internet site and invite the public to give or send their written submissions on the draft document before it is finalised.

- (3) The first monitoring framework must be prepared and made available to the public not later than 18 months after this section comes into force.

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

The Commissioner must monitor the compliance by—

- (a) holders of reviewable leases or licences of their obligations under their leases or licences, stock limitation exemptions under section 15, and any relevant decision under section 10; and
- (b) any person granted an easement (under section 60(1) of the Land Act 1948) or a commercial recreation permit (under section 66A of that Act) over pastoral land of their obligations under the easement or commercial recreation permit.

Crown's pastoral land strategic intentions document and reporting requirements

22C Strategic intentions document

- (1) The chief executive and the Commissioner must prepare a document setting out the Crown's pastoral land strategic intentions (the **strategic intentions document**).
- (2) The strategic intentions document must set out—
 - (a) how the chief executive and the Commissioner propose to perform or exercise their relevant statutory functions, duties, and powers in relation to pastoral land; and
 - (b) how Government policies and priorities will be reflected in the management of pastoral land (to the extent they are consistent with relevant legislation); and
 - (c) relevant key performance indicators to demonstrate how the performance or exercise of the functions, duties, and powers is contributing to achieving the outcomes stated in section 4.
- (3) The strategic intentions document must be updated at least once every 5 years, or sooner at the request of the Minister.
- (4) In developing the strategic intentions document, the chief executive or the Commissioner must—
 - (a) consult relevant iwi and representatives of lessees and licensees of pastoral land; and
 - (b) publish the draft strategic intentions document on the department's Internet site and invite the public to give or send their written submissions on the draft document before it is finalised.

- (5) The chief executive and the Commissioner must report annually to the Minister on progress against the strategic intentions document and the chief executive must include that report into the department's annual report.
- (6) The first strategic intentions document must be prepared and made available to the public not later than 18 months after this section comes into force.

22D Commissioner must report summary of certain decisions

- (1) The Commissioner must publish on the department's Internet site, as soon as practicable after it is made, a detailed summary of—
 - (a) every decision of the Commissioner under this Act or the Land Act 1948 that relates to the use of pastoral land (including a decision that relates to a lease, a licence, a commercial recreation permit, an easement, or an exemption from a stock limitation), other than a decision subject to a rehearing under section 17 of the Land Act 1948; and
 - (b) every decision of the Commissioner that determines an application for a rehearing under section 17 of the Land Act 1948 (including a decision not to grant a rehearing) of a decision on an application to undertake a discretionary pastoral activity, and the original decision to which the application for a rehearing relates.
- (2) The summary should set out details of—
 - (a) what the decision relates to; and
 - (b) what the decision enables or does not enable (including any conditions imposed by the decision); and
 - (c) the reasons for the decision.
- (3) The Commissioner must, as soon as practicable, publish on the department's Internet site a summary of enforcement decisions that sets out the nature of the non-compliance and the reasons for taking enforcement action.
- (4) The Commissioner may defer or dispense with publication of a matter under this section (in whole or in part) if satisfied on reasonable grounds that good reason for withholding the publication would exist under the Official Information Act 1982.
- (5) For the purposes of subsection (3), an **enforcement decision** is a decision under—
 - (a) section 100A to recover the costs of remedial action;
 - (b) section 100B to accept an enforceable undertaking;
 - (c) section 100I to issue an infringement notice;
 - (d) section 100N to enforce a breach of statutory or contractual provisions.

Subpart 4—Application of Land Act 1948

23 Application of Land Act 1948 to this Part

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

9 Part 2 repealed

Repeal Part 2.

10 Section 83 amended (Objects of Part 3)

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

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

Replace section 84(a) with:

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

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

(1) Replace section 86(5) with:

(5) The land (or various areas of it) must be designated as—

- (a) land to be retained in full Crown ownership and control—
 - (i) as a conservation area; or
 - (ii) as a reserve, to be held for a purpose specified in the proposal; or
 - (iii) for some specified Crown purpose; or
 - (iv) as Crown land without classification; or
 - (v) as a different classification of Crown land under section 51 of the Land Act 1948; or
- (b) land that may be added to an existing pastoral lease or leased under a new pastoral lease, but only if the land is already classified as pastoral land; or
- (c) land that may be added to an existing special lease or leased under a new special lease; or
- (d) land that may be disposed of in fee simple under the Land Act 1948 unencumbered or subject to any covenants or easements (or both) specified in the proposal.

(2) After section 86(7), insert:

(8) If a preliminary proposal designates any land as land that may be leased under a new pastoral lease, the lease may be on any terms that the Commissioner thinks fit, except that—

- (a) section 4 applies; and
 - (b) the rental must be set in accordance with Part 1A.
- (9) The ability to grant a new pastoral lease in accordance with this section applies despite anything to the contrary in the Land Act 1948.

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

After section 87, insert:

87A Approval of Minister needed for some designations

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

14 Section 90 amended (Certain provisions of Part 2 relating to substantive proposals to apply)

In section 90(2)(b), replace “Chief Surveyor” with “Surveyor-General”.

15 Section 99 amended (Commissioner to meet certain official costs)

In section 99, replace “a Chief Surveyor” with “the Surveyor-General”.

16 New Part 4A inserted

After Part 4, insert:

Part 4A
Miscellaneous provisions

Recovery of remedial costs

100A Costs of remedial action

- (1) The Commissioner may recover as a debt due to the Crown the actual and reasonable costs of any remedial action taken to remedy or adequately mitigate a notified breach or alleged breach by a person of—
- (a) their obligations under a reviewable instrument; or

- (b) a consent to undertake a discretionary pastoral activity, a commercial recreation permit, or a grant, variation, or revocation of an exemption from a stock limitation.
- (2) For the purposes of this section, a breach or an alleged breach is notified to a person if the Commissioner gives the person a written notice that states—
 - (a) the breach or alleged breach; and
 - (b) the remedial action or mitigation that the Commissioner requires the person to take; and
 - (c) the period within which the Commissioner requires that remedial action or mitigation to be undertaken.
 - (3) Notice of a breach or an alleged breach must not be served on a person unless the Commissioner has reasonable grounds for believing that the breach has occurred.
 - (4) For the purpose of carrying out any remedial action on any pastoral land held on lease or licence, the Commissioner or any person authorised by them in writing has, at all reasonable times, free rights of ingress, egress, and regress, in respect of that land and all the powers necessary to take the remedial action.

Enforceable undertakings

100B Commissioner may accept enforceable undertakings

- (1) The Commissioner may accept an enforceable written undertaking, in a form, or containing the information, prescribed by regulations made under this Act (if any), given by a person in connection with a matter relating to a breach or an alleged breach by the person of—
 - (a) their obligations under a reviewable instrument; or
 - (b) a consent to undertake a discretionary pastoral activity, a commercial recreation permit, or a grant, variation, or revocation of an exemption from a stock limitation.
- (2) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the breach or alleged breach to which the undertaking relates.
- (3) The person may withdraw or vary the undertaking with the consent of the Commissioner.
- (4) If the Commissioner considers that the person is in breach of an undertaking, the Commissioner may apply to the court under section 100N, and section 100N(2) to (6) applies to a breach of undertaking as if it were a breach of a reviewable instrument.

100C Commissioner must give notice of decision and reasons

The Commissioner must give a person who is seeking to make an enforceable undertaking written notice of—

- (a) their decision to accept or reject the undertaking; and
- (b) the reasons for the decision.

*Infringement offences***100D Infringement offences**

- (1) A person commits an infringement offence against this Act if the person—
 - (a) undertakes without a consent under section 7 (burning of vegetation) an activity on pastoral land that requires a consent under that section; or
 - (b) undertakes without a consent under section 8 (activities affecting or disturbing soil) an activity on pastoral land that requires a consent under either of those sections; or
 - (c) contravenes a stock limitation or an exemption from a stock limitation (*see* sections 10 and 15); or
 - (d) undertakes without a commercial recreation permit under section 66A of the Land Act 1948 an activity on pastoral land that requires a commercial recreation permit under that section; or
 - (e) undertakes without a consent under section 100 of the Land Act 1948 (preservation of timber) an activity on pastoral land that requires a consent under that section.
- (2) For the purposes of subsection (1)(a), (b), (d), and (e), it is not an infringement offence to contravene the terms of a consent or permit.

100E Proceedings for infringement offences

- (1) A person who is alleged to have committed an infringement offence against this Act or regulations made under this Act may—
 - (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or
 - (b) be served with an infringement notice under section 100I.
- (2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

100F Who may issue infringement notices

- (1) The chief executive may, by a written warrant evidencing the appointment, authorise an employee of the department (an **authorised person**) to issue infringement notices under this Act.
- (2) Production of the warrant is, in the absence of proof to the contrary, conclusive evidence of the appointment.

100G When infringement notice may be issued

An authorised person may issue an infringement notice to a person if the authorised person believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

100H Revocation of infringement notice before payment made

- (1) An authorised person may revoke an infringement notice before—
 - (a) the infringement fee is paid; or
 - (b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.
- (2) The authorised person must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.
- (3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in section 100E(1)(a) or (b) against the person to whom the notice was issued in respect of the same matter.

100I What infringement notice must contain

An infringement notice must be in the form prescribed in regulations made under section 100R and must contain the following particulars:

- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence;
- (b) the amount of the infringement fee;
- (c) the address of the place at which the infringement fee may be paid;
- (d) how the infringement fee may be paid;
- (e) the time within which the infringement fee must be paid;
- (f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957;
- (g) a statement that the person served with the notice has a right to request a hearing;
- (h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing;
- (i) any other matters prescribed in regulations made under section 100R.

100J How infringement notice may be served

- (1) An infringement notice may be served on the person who the authorised person believes is committing or has committed the infringement offence by—
 - (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
 - (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or
 - (c) leaving it for the person at the person's place of business or work with another person; or
 - (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or
 - (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.
- (2) Unless the contrary is shown,—
 - (a) an infringement notice (or a copy of it) sent by prepaid post to a person under subsection (1) is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and
 - (b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the department.

100K Reminder notices

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

100L Payment of infringement fees

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

100M Penalties for infringement offences

A person who commits an infringement offence is liable to—

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

*Breaches relating to reviewable instruments***100N Breaches of statutory or contractual provisions**

- (1) The Commissioner may apply to the District Court for the examination of anything the Commissioner alleges to be a breach of a reviewable instrument committed after the commencement of this section.
- (2) If satisfied on application under subsection (1) that the holder of a reviewable instrument has after the commencement of this Act committed a breach, the District Court may—
 - (a) order the holder—
 - (i) to take actions (specified by the court) to remedy the breach; or
 - (ii) in default of taking those actions, to pay to the Commissioner exemplary damages (not exceeding \$50,000) for the breach; or
 - (b) (without declaring the instrument forfeit) order the holder to pay to the Commissioner exemplary damages (not exceeding \$50,000) for the breach if, and only if,—
 - (i) it is impossible, impracticable, or otherwise inappropriate to remedy the breach; or
 - (ii) the breach has already been remedied; or
 - (c) declare the instrument forfeit to the Crown, and order the holder to pay to the Commissioner an amount being, as seems appropriate to the court,—
 - (i) the lower of \$50,000 and the likely costs to the Crown of remedying the breach; or
 - (ii) exemplary damages (not exceeding \$50,000) for the breach.
- (3) The District Court must not make an order under subsection (2)(c) unless satisfied that every person with an interest in the land concerned at the time the application under subsection (1) was made—
 - (a) has been given notice of the application; and
 - (b) has had an adequate opportunity to appear and be heard in relation to it.
- (4) Sections 244 to 257 of the Property Law Act 2007 are not available in respect of a forfeiture under subsection (2)(c) of this section.
- (5) Section 105 of the Land Act 1948 does not apply to a breach of a reviewable instrument committed after the commencement of this Act.
- (6) In this section, **breach**, in relation to a reviewable instrument, means an action (or a failure or refusal to act) by the holder that—
 - (a) contravenes section 100 of the Land Act 1948 or section 7, 8, or 9 of this Act, in its application to the land; or
 - (b) contravenes any provision of or covenant contained in the instrument.

*Further provisions relating to activities and regulations***1000 Power to amend Schedule 1AB**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend, replace, or delete any of the items or definitions in Schedule 1AB in accordance with this section.
- (2) The Minister may make a recommendation under subsection (1) in accordance with subsections (3) to (7).
- (3) Only activities that are described in sections 7 to 9 of this Act, or section 100 of the Land Act 1948, may be classified as permitted pastoral activities or prohibited pastoral activities.
- (4) Activities remain as discretionary pastoral activities unless they meet the criteria for permitted pastoral activities or prohibited pastoral activities.
- (5) An activity may be classified as a permitted pastoral activity only if the Minister is satisfied it meets the following criteria:
 - (a) the pastoral activity must have no more than minor effects on inherent values in all reasonably foreseeable circumstances, which include the possible effects of the activity in all possible locations across the Crown pastoral estate; and
 - (b) the activity must—
 - (i) be required for pastoral farming; or
 - (ii) contribute to the lessee or licensee meeting their obligations under section 99 of the Land Act 1948, or the maintenance or enhancement of inherent values.
- (6) An activity may be classified as a prohibited pastoral activity only if the Minister is satisfied that—
 - (a) the activity will not impact unduly on a lessee's or licensee's ability to exercise their rights and obligations under their lease or licence in any reasonably foreseeable circumstances; and
 - (b) the activity would be likely to cause significant loss of inherent values that cannot be avoided in all reasonably foreseeable circumstances.
- (7) The Minister must not recommend the making of an Order in Council under this section unless—
 - (a) the Minister has consulted the Minister of Agriculture and the Minister of Conservation; and
 - (b) the Minister is satisfied that the chief executive or the Commissioner has—
 - (i) consulted relevant iwi and representatives of lessees and licensees of pastoral land; and

- (ii) published a notice of the proposed recommendation on the department's Internet site and invited the public to give or send their written submissions on the proposed recommendation before it is finalised.
- (8) To avoid doubt, no change in the classification of a pastoral activity made by an Order in Council under this section affects the terms or conditions of any consent to undertake a discretionary pastoral activity or commercial recreation permit that has effect when the order takes effect.
- (9) An Order in Council made 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 <i>Gazette</i>	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.

100P Power to amend Schedule 1ABA

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend, replace, or revoke any provision in Schedule 1ABA in accordance with this section.
- (2) The Minister may make a recommendation under subsection (1) in accordance with subsection (3).
- (3) The Minister must not recommend the making of an Order in Council under this section unless the Minister is satisfied that the chief executive or the Commissioner has—
- consulted relevant iwi and representatives of lessees and licensees of pastoral land; and
 - published a notice of the proposed recommendation on the department's Internet site and invited the public to give or send their written submissions on the proposed recommendation before it is finalised.
- (4) An Order in Council made 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 <i>Gazette</i>	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.

100Q Chief executive to review Schedule 1AB

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

100R Regulations

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations providing for 1 or more of the following purposes:
 - (a) prescribing the information required to be provided with an application for consent to undertake a discretionary pastoral activity or for the grant of a commercial recreation permit or stock limitation exemption (for example, the description and location of the pastoral activity, the inherent values affected, and mitigation);
 - (b) prescribing matters the Commissioner must take into account in deciding the level of adverse effects of a pastoral activity or commercial recreation permit activity, or a stock limitation exemption, on inherent values;
 - (c) prescribing the form and content of farm plans that may be considered under section 10(4)(d);
 - (d) prescribing fees or charges payable for applications for consent to undertake discretionary pastoral activities or applications for the grant of a commercial recreation permit or stock limitation exemption;
 - (e) prescribing the form of, or the information that must be contained in or accompany, an enforceable undertaking under section 100B;
 - (f) prescribing infringement offences for the contravention of regulations made under this Act;
 - (g) prescribing penalties for infringement offences against this Act or regulations made under this Act, which,—
 - (i) in the case of infringement fees, must not be more than \$1,000; and
 - (ii) in the case of maximum fines, must not be more than twice the amount of the infringement fee for the offence;
 - (h) prescribing the form of infringement notices and infringement offence reminder notices;
 - (i) requiring persons to collect information and supply the information to the chief executive or the Commissioner for the purpose of this Act;
 - (j) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (2) The power to prescribe fees or charges includes the power to prescribe any of the following:

- (a) the method by which the fees or charges are to be assessed, which may (without limitation) include a general charge and actual and reasonable costs in respect of a discretionary pastoral activity;
 - (b) the persons liable to pay the fees or charges;
 - (c) when the fees or charges must be paid;
 - (d) the circumstances in which the fees or charges may be refunded, remitted, or waived (wholly or partly).
- (3) Fees and charges are a debt due to the Crown and may be recovered by the chief executive or the Commissioner (on behalf of the Crown) in any court of competent jurisdiction.
- (4) The Minister must not recommend the making of regulations under this section unless the Minister is satisfied that the chief executive or the Commissioner has—
- (a) consulted relevant iwi, representatives of lessees and licensees of pastoral land, and the Director-General of Conservation; and
 - (b) published a notice of the proposed recommendation on the department’s Internet site and invited the public to give or send their written submissions on the proposed recommendation before it is finalised.
- (5) Regulations made under this section are 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 <i>Gazette</i>	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.

100S Chief executive or Commissioner may set standards and issue directives

- (1) The Commissioner may set standards and issue directives in relation to the administration of pastoral land and its inherent values, including monitoring the state of the land.
- (2) The chief executive may set standards and issue directives in relation to the framework for determining applications for discretionary pastoral consents, commercial recreation permits, or stock limitation exemptions.
- (3) The chief executive or the Commissioner must not set a standard or issue a directive unless one of them has—
- (a) consulted relevant iwi, representatives of lessees and licensees of pastoral land, and the Director-General of Conservation; and

- (b) published the draft standard or directive on the department's Internet site and invited the public to give or send their written submissions on the draft document before it is finalised.
- (4) A standard or directive 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	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
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.

17 New Schedules 1AA, 1AB, 1ABA, and 1AC inserted

- (1) Insert the Schedule 1AA set out in Schedule 1 of this Act as the first schedule to appear after the last section of the principal Act.
- (2) After Schedule 1AA, insert the Schedules 1AB, 1ABA, and 1AC set out in Schedule 2 of this Act.

18 Consequential amendments

Amend the principal Act as set out in Schedule 3.

**Part 2
Amendments to Land Act 1948**

19 Principal Act

This Part amends the Land Act 1948.

20 Section 17 amended (Application for rehearing)

After section 17(2), insert:

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

21 Section 24 amended (Powers and duties of Commissioners)

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

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

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

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

- (3) After section 24(4), insert:
- (5) *See* section 4 of the Crown Pastoral Land Act 1998 for outcomes that persons performing or exercising functions, duties, or powers in relation to pastoral land must seek to achieve.

22 Section 60 amended (Creation of easements)

- (1) In section 60(1) and (3), replace “Board” with “Commissioner”.
- (2) After section 60(4), insert:
- (5) When determining whether to grant an easement over or under pastoral land, the Commissioner may consider—
 - (a) whether the easement is reasonably necessary for achieving the objectives of the applicant; and
 - (b) if the application satisfies paragraph (a), the extent to which the application achieves the outcomes stated in section 4 of the Crown Pastoral Land Act 1998; and
 - (c) any other matters the Commissioner considers relevant.
- (6) Before granting an easement over or under pastoral land, the Commissioner must consult the Director-General of Conservation.

23 Section 66A amended (Recreation permit)

- (1) In the heading to section 66A, replace “**Recreation**” with “**Commercial recreation**”.
- (2) In section 66A(1), (2), (2A), (3), (4), and (6), replace “Board” with “Commissioner” in each place.
- (3) In section 66A(1) to (7), replace “recreation permit” with “commercial recreation permit” in each place.
- (4) After section 66A(7), insert:
- (8) If another enactment provides that a person must obtain permission under that enactment before undertaking an activity that is contrary to that enactment,—
 - (a) the grant of a commercial recreation permit does not in itself allow the proposed activity to be carried out without the required permission under the other enactment; but
 - (b) nothing in this subsection prevents the granting of a commercial recreation permit before permission under the other enactment has been obtained.
- (9) Without limiting subsection (6), a commercial recreation permit may be granted wholly or in part, with or without any conditions, limitations, directions, or restrictions that the Commissioner thinks necessary, including for the purpose of reducing the adverse effects on inherent values.

- (10) The granting of a commercial recreation permit in respect of pastoral land is subject to sections 9, 10, and 12 of the Crown Pastoral Land Act 1998.
- (11) Before granting a commercial recreation permit in respect of pastoral land, the Commissioner must consult the Director-General of Conservation.
- (12) Nothing in this section requires the Commissioner to grant a proposed commercial recreation permit in any case.

24 Section 89 amended (Board to consent to dealings with leases or licences)

- (1) In the heading to section 89, replace “**Board**” with “**Commissioner**”.
- (2) In section 89(1), (2), (3B), (4), and (4A), replace “Board” with “Commissioner” in each place.
- (3) After section 89(2), insert:
 - (2A) Without limiting anything in subsection (2), when the Commissioner is considering whether to consent to the transfer or sublease of pastoral land, the Commissioner must consider whether requests for public access over the land have been unreasonably refused by the lessee or licensee in the past.
 - (2B) If the Commissioner considers that access has been unreasonably refused, they may make their consent to the transfer or sublease subject to the condition that the lessee or licensee, and the potential transferee or sublessee, must enter into a negotiation process with the Commissioner with the intention that access requests will not be unreasonably refused after the transfer or subleasing.
 - (2C) Any matters necessary to give full effect to the steps set out in subsections (2A) and (2B) may be prescribed in a standard or directive set or issued by the Commissioner under section 100S(1) of the Crown Pastoral Land Act 1998.

25 Section 100 amended (Preservation of timber)

In section 100, insert as subsection (2):

- (2) Sections 9 to 11 of the Crown Pastoral Land Act 1998 apply to a decision by the Commissioner to consent to any activity under this section that is for the time being classified as a discretionary pastoral activity under that Act.

Schedule 1
New Schedule 1AA inserted

s 17(1)

Schedule 1AA
Transitional, savings, and related provisions

s 2A

Part 1
Provisions relating to Crown Pastoral Land Reform Act 2022

1 Interpretation

In this Part,—

amendment Act means the Crown Pastoral Land Reform Act 2022

commencement date,—

- (a) in relation to the repeal of Part 2 (tenure review), means the day after the date on which the amendment Act receives the Royal assent;
- (b) in relation to any other purpose of the amendment Act, means the day that is 6 months after the date on which the amendment Act receives the Royal assent.

2 Pending substantive proposals

- (1) This clause applies to the following substantive proposals relating to any pastoral land:
 - (a) every substantive proposal that any holder of a reviewable instrument accepted under section 60 of this Act before the commencement date and that is still being processed by the Commissioner as at that date;
 - (b) every substantive proposal that the Commissioner put to any holder of a reviewable instrument before the commencement date, where—
 - (i) the holder has not accepted it before the commencement date; and
 - (ii) the 3-month period in section 60(2) has not expired before the commencement date.
- (2) Part 2 of this Act, as it read immediately before the commencement date, continues to apply to the substantive proposal.
- (3) The Commissioner must take appropriate action in accordance with the applicable provisions of that Part.

3 Tenure reviews discontinued if substantive proposal not put to holder

- (1) This clause applies to every—

- (a) substantive proposal, other than one to which clause 2 applies, in existence immediately before the commencement date; and
 - (b) preliminary proposal in existence immediately before the commencement date.
- (2) Every proposal to which this clause applies ceases to have any effect.
 - (3) All related reviews under this Act in existence immediately before the commencement date are discontinued and the Commissioner must not take any action to progress any of the reviews.
 - (4) Nothing in this clause limits or affects a right of judicial review that a person may have in respect of the proposal or related review.

4 Pending decisions relating to applications for consents, recreation permits, lease transfers, exemptions from stock limitation, or easements

- (1) This clause applies to every application to the Commissioner for the grant of any of the following in respect of pastoral land or unused Crown land under this Act or the Land Act 1948 that was lodged, but not finally dealt with, before the commencement date:
 - (a) consents to undertake pastoral activities:
 - (b) consents to transfer leases:
 - (c) exemptions from stock limitations or their variation or revocation:
 - (d) recreation permits under section 66A of the Land Act 1948:
 - (e) easements.
- (2) The Commissioner must deal with the application in accordance with the relevant Act as if the amendment Act had not been enacted.
- (3) Any rehearing that was applied for under section 17 of the Land Act 1948 on or after the commencement date and that relates to a decision taken by the Commissioner under this Act before that date must be determined as if the amendment Act had not been enacted.

5 Activities authorised by letter to Crown pastoral lessees in 1999

- (1) This clause applies to every lessee who commenced any activity authorised by a consent given by the Commissioner by letter in 1999 and has not completed the activity before the commencement date.
- (2) The lessee may continue and complete the activity, as if it were a permitted pastoral activity under Schedule 1AB, if they satisfy the Commissioner that they have made substantial progress (for example, investing in necessary materials) towards completing the activity based on the consent requirements that existed at the time the activity commenced.
- (3) The 1999 letters are revoked, and the consents given by the letters have effect only as provided by subclause (2).

6 Activities authorised by former section 15 or 16

- (1) This clause applies to every consent given under section 15 or 16 (as they read immediately before their repeal by the amendment Act) and in force immediately before the commencement date.
- (2) The consent continues in force according to its tenor, and section 15 or 16 is treated as remaining in force for the purpose of the consent.

7 Stock limitation exemptions

- (1) This clause applies to every stock limitation exemption in force immediately before the commencement date.
- (2) The exemption continues in force according to its tenor.

8 Existing reviews of unrenovable occupation licences

- (1) This clause applies to every review under section 86 of this Act of an unrenovable occupation licence that commenced, but was not completed, before the commencement date.
- (2) Nothing in the amendment Act affects the review and it must be dealt with as if the amendment Act had not been enacted.

9 No compensation payable

- (1) No compensation is payable by the Crown for any loss or damage, or any adverse effect on or under any lease or other right or interest, arising from the enactment or operation of the amendment Act.
- (2) If there is any inconsistency between this clause and any other enactment or rule of law, this clause prevails over that enactment or rule of law.

Schedule 2
New Schedules 1AB to 1AC inserted

s 17(2)

Schedule 1AB
Classification of pastoral activities on pastoral land

s 6

Part 1

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

- 1 Controlling invasive exotic pest plants, where—
 - (a) any associated by-kill does not exceed 200 m²/ha; and
 - (b) the by-kill cannot reasonably be avoided in the course of the control work; and
 - (c) the invasive exotic pest plants comprise no less than 90% of vegetation cover; and
 - (d) the area involved does not exceed 25 ha in any 5-year period.
- 2 Any other invasive exotic pest plant control that does not involve associated by-kill.
- 3 All earthworks, planting, gardening, tree felling, sowing of seed, or top-dressing within the existing curtilage of dwellings.
- 4 Soil disturbance as reasonably required for—
 - (a) digging in posts, anchors, piles, or supports (except for the purpose of constructing buildings):
 - (b) laying electric fence cables:
 - (c) burying dead animals, or digging offal pits or holes for domestic rubbish, as long as the activity is undertaken at least 50 m away from any surface water body:
 - (d) clearing humps or filling hollows along existing fence lines:
 - (e) digging rabbit warrens:
 - (f) digging long drops, which must be at least 50 m away from any surface water body:
 - (g) maintaining existing wild flood irrigation:
 - (h) removing tree stumps:
 - (i) controlling invasive exotic pest plants, but this does not include associated clearance of indigenous vegetation:

- (j) preparing bait lines for animal pest control:
- (k) maintaining existing stock water troughs.
- 5 Fencing within existing cultivated paddocks.
- 6 Riparian planting using indigenous species sourced from local seeds.
- 7 Clearing wind-felled trees, except where the timber is for sale or off-farm commercial use.
- 8 Laying water pipes for the purpose of conveying irrigation and domestic stock water underground within existing cultivated areas using a ripper and mounted cable layer, and providing for associated water troughs.
- 9 Laying cables, domestic water pipelines, and other infrastructure underground from the main source of supply to existing buildings, as long as the activity does not involve associated clearance of indigenous vegetation and any cables or pipelines do not traverse water bodies.
- 10 Burning slash, stumps, or dead vegetation within existing consented cultivated paddocks.
- 11 Boom spraying of exotic vegetation within existing consented cultivated paddocks.
- 12 Maintaining existing drains, water races or culverts.
- 13 Maintaining existing consented top-dressing.
- 14 Maintaining existing consented seed sowing.
- 15 Maintaining existing consented cultivation.
- 16 Maintaining existing consented roads, paths, or tracks (including laying local gravel).
- 17 Maintaining existing consented fire breaks.
- 18 Maintaining any other existing consented activity as provided for in section 8(3).
- 19 Repairing and maintaining existing fencing within its existing footprint.
- 20 Lighting fires for the purpose of cooking or camping.

Part 2

Discretionary pastoral activities (Commissioner may consent or decline)

- 1 Any activity described in section 7(1) (burning vegetation) or 8(2) (affecting or disturbing soil) of this Act or section 100 of the Land Act 1948 (preservation of timber), other than an activity that is a permitted pastoral activity or prohibited pastoral activity, remains a discretionary pastoral activity.
- 2 Pastoral activities that are discretionary pastoral activities include, but are not limited to,—

- (a) new or additional irrigation:
 - (b) burning vegetation:
 - (c) clearing indigenous vegetation:
 - (d) felling, selling, or removing any timber, tree, or bush (not including invasive exotic pest plant species where the activity is a permitted pastoral activity) if the consent of the Commissioner is required under section 100 of the Land Act 1948:
 - (e) cropping, cultivating, draining, or ploughing:
 - (f) top-dressing:
 - (g) sowing seed:
 - (h) planting vegetation (other than riparian planting):
 - (i) forming new paths, roads, or tracks:
 - (j) creating new fire breaks:
 - (k) constructing buildings and infrastructure:
 - (l) soil disturbance for the construction of buildings and infrastructure:
 - (m) new fencing (other than an activity that is a permitted pastoral activity):
 - (n) clearing drains (other than an activity that is a permitted pastoral activity):
 - (o) constructing water storage infrastructure, including dams:
 - (p) spraying a slope to remove vegetation, and replanting the slope in stock or forage crops:
 - (q) any other activity that affects, involves, or causes soil disturbance (other than an activity classified as a permitted activity or prohibited activity).
- 3 Any activity necessary to deal with any earthquake, fire, flood, landslide, or other emergency requiring immediate action that necessarily involves burning of vegetation or disturbance to the soil may be undertaken without consent if—
- (a) the lessee, licensee, or other person who undertakes the activity notifies the Commissioner as soon as practicable that the activity has been undertaken; and
 - (b) the lessee, licensee, or other person applies to the Commissioner for consent for the activity as soon as practicable after undertaking the activity.

Part 3

Prohibited pastoral activities (consent cannot be given or applied for under this Act)

- 1 Cropping, cultivating, draining or ploughing indigenous wetlands, except taking water for stock water troughs where this does not affect natural wetland water levels.

- 2 Digging a long drop within 20 m of any surface water body.
 3 Burying a dead animal within 20 m of any surface water body.

Part 4 Interpretation

In this schedule,—

by-kill means by-kill of indigenous vegetation

clearing vegetation—

- (a) means the removal, felling, mechanical or chemical topping, or modification of any vegetation; and
- (b) includes cutting, crushing, mulching, spraying with herbicide, or burning; but
- (c) does not include clearing by grazing

cropping means growing forage crops for animals or producing vegetables, fruit, grain, or similar products on a productive scale (excluding household use)

cultivated paddock—

- (a) means a paddock that is currently cultivated; but
- (b) does not include a paddock where cultivation was carried out historically but was not maintained

cultivation means the alteration or disturbance of land (or any matter constituting the land, including soil, clay, sand, and rock) for the purpose of sowing, growing, or harvesting pasture or crops

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

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

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

indigenous vegetation—

- (a) means all species of plants or lichens that are naturally occurring in any of the ecological regions of which the property forms part; but
- (b) does not include plants within a domestic garden that are planted for screening or shelter purposes

indigenous wetland means a wetland that is not—

- (a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or a former natural wetland); or
- (b) a geothermal wetland; or

- (c) any area of improved pasture of which, at the commencement date, more than 50% is exotic pasture species and that is subject to temporary rain-derived water pooling

invasive exotic pest plants includes pests listed in the National Pest Plant Accord, pests listed in relevant regional pest management plans, and any other exotic pest plants

ploughing means turning over soil in preparation for cropping or cultivation

wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

Schedule 1ABA**Criteria for considering whether activity necessary to enable lessee or licensee to exercise rights and obligations under lease or licence**

ss 11(2), 100P

1 Criteria applicable for consent to discretionary pastoral activity

- (1) To be satisfied under section 11(2), the Commissioner must take into account 1 or more of the following:
 - (a) whether the pastoral activity forms part of the periodic clearance of vegetation as part of a regular cycle to maintain existing pasture created by oversowing, top-dressing, or cultivation:
 - (b) whether the pastoral activity is required to provide reasonable access by way of tracks to areas of the land that are currently subject to a programme of oversowing or top-dressing for the grazing of livestock:
 - (c) whether the pastoral activity is required to use, maintain, or replace consented existing infrastructure or buildings:
 - (d) whether the pastoral activity contributes to the lessee or licensee meeting their obligations under any other enactments:
 - (e) whether the pastoral activity is required to address an exceptional circumstance.
- (2) In addition, the Commissioner may take into account any other relevant considerations.

Schedule 1AC**Provisions of former Part 2 referred to elsewhere in this Act**

ss 88, 89, 90, 93

40 Protective mechanisms

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

43 Commissioner to give notice of preliminary proposals

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

- (a) specifying the land, a day (no sooner than 40 working days after the publication of the last of the notices to be published), and an address; and
 - (b) describing the proposal in general terms; and
 - (c) indicating that any person or organisation may (no later than the day specified) give or send to the Commissioner at the address specified a written submission on the proposal.
- (2) The notice must not disclose any financial information.
- (3) The Commissioner must have the notice published—
- (a) in some newspaper circulating in the area where the land is situated; and
 - (b) at least once in a daily newspaper published in Christchurch; and
 - (c) at least once in a daily newspaper published in Dunedin.

44 Consultation with iwi authority

The Commissioner must—

- (a) have a copy of every notice under section 43 given to the iwi authority (within the meaning of the Resource Management Act 1991) of the area where the land concerned is situated; and
- (b) consult the authority on the proposal.

45 Information to be given to Minister of Conservation

The Commissioner must—

- (a) prepare, and give the Minister of Conservation,—
 - (i) a summary of all matters raised by an iwi authority during consultation on a preliminary proposal under section 44; and
 - (ii) a statement as to the extent to which objections to and comments on the proposal raised during the consultation have been allowed or accepted, or disallowed or not accepted; and
 - (iii) a statement as to the extent to which objections to and comments on the proposal contained in the written submissions relating to the proposal received by the Commissioner (from any person or organisation) on or before the day specified in the notice given under section 43 at the address specified in the notice have been allowed or accepted, or disallowed or not accepted; and
- (b) give the Minister of Conservation copies of all those submissions.

47 Commissioner to consider submissions

- (1) The Commissioner must not put a substantive proposal to any holder of a reviewable instrument without having considered—
- (a) all matters raised by the iwi authority concerned during consultation on the preliminary proposal concerned under section 44; and

- (b) all written submissions relating to that preliminary proposal received by the Commissioner (from any person or organisation) on or before the day specified in the notice given under section 43 at the address specified in that notice.
- (2) Nothing in subsection (1) prevents the Commissioner from considering any late or oral submission.

62 Final plan to be prepared

- (1) Once the acceptance of a substantive proposal takes effect, the Commissioner must give the Surveyor-General written notice of its acceptance, attaching a copy of the proposal.
- (2) As soon as is practicable after receiving the notice, the Surveyor-General must—
 - (a) determine whether any of the land needs to be surveyed before the proposal can be given effect to; and
 - (b) give the Commissioner written notice—
 - (i) of the land that needs to be surveyed; or
 - (ii) that none of the land needs to be surveyed.
- (3) If notified that any of the land needs to be surveyed, the Commissioner must have it surveyed, and have a plan or plans of it prepared and approved, under the Cadastral Survey Act 2002.
- (4) Once the Commissioner—
 - (a) has complied with subsection (3); or
 - (b) has been notified that none of the land needs to be surveyed,—
the Commissioner must—
 - (c) have prepared a final plan of all the land to which the proposal relates, showing the various areas to which it relates, and (in respect of each) giving—
 - (i) a legal description; and
 - (ii) its designation by the proposal; and
 - (iii) if it is designated as land to be restored to Crown ownership as a reserve, the purpose of the reserve; and
 - (d) submit 2 copies of the plan to the Surveyor-General.

63 Approval of plan

If (and only if) satisfied that—

- (a) the boundaries of the various areas shown on a plan submitted under section 62(4)(d) are, in the light of any discovered imprecisions in the boundaries shown or described in the accepted substantive proposal con-

cerned, as close as may reasonably practicably be achieved to the boundaries shown or described in the proposal; and

- (b) to the extent allowed by the position of the boundaries shown on the plan,—
 - (i) the areas they define; and
 - (ii) the designations of those areas,—
 accurately reflect the proposal,—

the Surveyor-General must sign and date on both copies of the plan a written notice approving it for the purposes of this Act, and return 1 copy to the Commissioner.

64 Commissioner to register accepted proposals and approved plans

On receiving an approved plan, the Commissioner must lodge it and a copy of the proposal to which it relates with the Registrar-General of Land, who must register them against every record of title to land to which they relate.

80 Creation of protective mechanisms

- (1) When an approved plan designating any land as land over which an easement under section 12 of the Reserves Act 1977 is to be created has been registered,—
 - (a) the Commissioner—
 - (i) is deemed for the purposes of that section to be the owner of the land; and
 - (ii) must promptly give the Minister of Conservation an easement (for a purpose specified in subsection (1) of that section) over it, on the terms and conditions specified in the substantive proposal concerned; and
 - (b) the Minister must promptly do all acts necessary to enable the acceptance of the easement.
- (2) When an approved plan designating any land as land over which an easement under section 7(2) of the Conservation Act 1987 is to be created has been registered,—
 - (a) the Commissioner—
 - (i) is deemed for the purposes of that section to be the owner of the land; and
 - (ii) must promptly agree with the Minister of Conservation that the Minister should acquire an easement for conservation purposes over it, on the terms and conditions specified in the substantive proposal concerned; and

- (b) the Minister must promptly do all acts necessary to acquire the easement.
- (3) When an approved plan designating any land as land over which an easement under sections 26 to 29 of the Walking Access Act 2008 is to be created has been registered,—
- (a) the Commissioner—
- (i) is deemed for the purposes of that section to be the owner of the land; and
- (ii) must promptly give the New Zealand Walking Access Commission (established by section 6 of that Act) an easement over it to enable it to be used for a walkway, on the terms and conditions specified in the substantive proposal concerned; and
- (b) the New Zealand Walking Access Commission must promptly do all acts necessary to enable the creation of the easement.
- (4) When an approved plan designating any land as land over which a covenant under section 22 of the Queen Elizabeth the Second National Trust Act 1977 is to be created has been registered,—
- (a) the Commissioner is deemed for the purposes of this subsection to be the owner of the land; and
- (b) the Commissioner must promptly execute an open space covenant in favour of the trust over it, on the terms and conditions specified in the substantive proposal concerned; and
- (c) the board of directors of the Trust is deemed (by virtue of having given its consent under section 40) to have agreed those terms and conditions, and must promptly do everything necessary to enable the creation of the covenant.
- (5) When an approved plan designating any land as land over which a covenant under section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987 is to be created has been registered, the Commissioner—
- (a) is deemed for the purposes of that section to be the owner of the land; and
- (b) must promptly create the covenant over the land, on the terms and conditions specified in the substantive proposal concerned.
- (6) When an approved plan designating any land as land over which a covenant under section 39 of the Heritage New Zealand Pouhere Taonga Act 2014 is to be created has been registered,—
- (a) the Commissioner is deemed for the purposes of that section to be the owner of the land; and

- (b) the Commissioner must promptly execute a heritage covenant over the land in favour of Heritage New Zealand Pouhere Taonga, on the terms and conditions specified in the substantive proposal concerned; and
- (c) the Board of Trustees of the Trust is deemed (by virtue of having given its consent under section 40) to have agreed those terms and conditions, and must promptly do everything necessary to enable the creation of the covenant.

Schedule 3

Consequential amendments to principal Act

s 18

Section 2

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

Section 88

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

Section 89

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

Section 90

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

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

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

Section 93

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

Section 95

In section 95(1), delete “Part 2 or”.

Section 96

In section 96(1), delete “Part 2 or”.

Legislative history

16 July 2020	Introduction (Bill 307–1)
22 July 2020	First reading and referral to Environment Committee
6 July 2021	Reported from Environment Committee (Bill 307–2)
9 November 2021	Second reading
10 May 2022	Committee of the whole House (Bill 307–3)
12 May 2022	Third reading
17 May 2022	Royal assent

This Act is administered by Land Information New Zealand.