

**Version
as at 28 October 2021**

Rotorua Town Lands Act 1920

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Note

Changes authorised by subpart 2 of Part 3 of the Legislation Act 2019 have been made in this consolidation. See the notes at the end of this consolidation for further details.

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An Act to confer on Crown tenants in the Town of Rotorua the right to acquire the freehold

1 Short Title

This Act may be cited as the Rotorua Town Lands Act 1920.

2 Interpretation

In this Act, if not inconsistent with the context,—

Commissioner means the Director-General of Lands

lessee means a lessee who is registered as the proprietor of an estate of leasehold, whether by assignment or otherwise, under a lease direct from the Crown

sublessee means a person who is registered as the proprietor of an estate of leasehold, whether by assignment or otherwise, under a lease direct from a lessee for a term expiring not earlier than 14 days before the expiry of the lease from the Crown

underlessee means a person, not being a lessee or sublessee, who is registered as the proprietor of an estate of leasehold, whether by assignment or otherwise, under a lease for a term expiring not earlier than 14 days before the expiry of the lease from the Crown

notice means a notice in writing signed by a lessee of his intention to purchase the fee-simple of the land comprised in his lease

original unimproved value means the value of the land without improvements as at the date of the grant of the lease from the Crown

present unimproved value means the value of the land without improvements as at the date of the notice of intention to purchase

price means the price at which the lands may be purchased, ascertained in the manner hereinafter prescribed.

Section 2 **Commissioner**: amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

3 Lessees of Crown lands in Rotorua may acquire fee-simple

- (1) The lessee of any Crown lands described in Schedule 1 or Schedule 2 may at any time during the currency of the lease purchase the fee-simple of the land comprised therein at a price ascertained and determined in the manner hereinafter provided.
- (2) The right of purchase hereby conferred shall be exercised by the lessee giving to the Commissioner notice of his intention to purchase.
- (3) The delivery of the notice to the Commissioner shall constitute a contract between the lessee and the Crown for the purchase and sale of the land.
- (4) The lessee shall in the notice notify whether he elects to purchase for cash or upon deferred payments.

4 Valuation to be made of Crown's interest in reversion

- (1) The Valuer-General shall, on application in that behalf by the Commissioner, cause a valuation to be made in accordance with the provisions of the Rating Valuations Act 1998, of the capital value of the land comprised in the lease as at the date of the notice of the lessee's intention to purchase the fee-simple, and also of any improvements effected by the lessee and of any other improvements to which the lessee is entitled.
- (2) From the capital value ascertained by such valuation there shall be deducted the value of the improvements aforesaid. The resulting sum is hereinafter referred to as the present unimproved value.

provided that the lessee shall have the same right of objection to a valuation made pursuant to subsection (1) as he would have in respect of a valuation made under the Rating Valuations Act 1998; and where, pursuant to any such objection, the appropriate Land Valuation Tribunal has determined a new value for the capital value of or improvements on the land or both, the present unimproved value shall be calculated accordingly.
- (3) For the purposes of this section the annual rent reserved by the lease shall be deemed to be 5 per centum of the original unimproved value of the land comprised in the lease, and the original unimproved value shall be determined accordingly.
- (4) In no case shall the present unimproved value be less than the original unimproved value.
- (5) An actuarial computation shall be made of the present value of the Crown's interest in the land. The rate of interest for the purpose of such computation shall be 5 per centum per annum, payable half-yearly.
- (6) The present value of the rent for the unexpired period of the term of the lease shall be ascertained by actuarial computation, and the rate of interest for such computation shall be 5 per centum per annum, payable half-yearly.

Section 4(1): amended, on 1 July 1998, by section 53 of the Rating Valuations Act 1998 (1998 No 69).

Section 4(2) proviso: inserted, on 23 December 1977, by section 2(1) of the Rotorua Town Lands Amendment Act 1977 (1977 No 174).

Section 4(2) proviso: amended, on 1 July 1998, by section 53 of the Rating Valuations Act 1998 (1998 No 69).

5 Computation of the price

The price shall be the aggregate of the following sums, namely:

- (a) the amount of the present value of the rent for the unexpired period of the term of the lease:
- (b) 12 per centum of the difference between the original unimproved value and the present unimproved value in the case of lands described in Schedule 1:
- (c) 8 per centum of the difference between the original unimproved value and the present unimproved value in the case of lands described in Schedule 2:
- (d) the present value of the Crown's reversionary interest in the land.

Section 5(d): amended, on 31 October 1922, pursuant to section 76 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1922 (1922 No 50).

6 Purchase for cash

If the lessee elects to purchase for cash, he shall, within 6 months after the date of a notice signed by the Commissioner fixing the price ascertained as aforesaid, pay the price, together with all rent accrued and accruing due under the lease up to the date of the delivery of the notice of intention to purchase, and also interest at 5 per centum per annum on the price from that date to the date of payment, and upon such payments being made in full the purchase shall be deemed to have been completed.

7 Purchase on deferred payments

If the lessee elects to purchase upon deferred payments,—

- (a) he shall, within 6 months after the date of a notice from the Commissioner as aforesaid, pay a deposit equal to 5 per centum of the price, together with all rent accrued and accruing due under the lease up to the date of the delivery of the notice of intention to purchase.
- (b) upon such payment the lease shall determine, and he shall hold the land under license to occupy, but such license shall be subject to any right, title, interest, or encumbrance existing or vested in any person other than the lessee affecting the lease at the time of such determination.
- (c) the license to occupy shall provide for the payment of the balance of 95 per centum of the price by equal annual instalments extending over a period of 19 years, with a right to the licensee to pay off at any time the

whole or any part of the price then remaining unpaid, and shall also provide for the payment by the licensee of interest half-yearly at the rate of 5 per centum per annum from the date of the delivery of the notice upon such part of the price as for the time being remains unpaid.

- (d) the first annual instalment of the price shall be payable on 1 January or 1 July, as the case may be, after the expiration of 12 months from the date of notice from the Commissioner as provided for in the last preceding section, and the succeeding instalments shall be payable on the same day in each year thereafter.
- (e) the first payment of interest shall be payable on 1 January or 1 July, as the case may be, after the expiration of 6 months from the date of the notice from the Commissioner as aforesaid, and the succeeding half-yearly payments shall be payable on each 1 January and July thereafter.
- (f) the license to occupy shall be in the prescribed form, and shall contain such provisions for the forfeiture of the right and interest of the licensee in the event of his failure to pay any instalment of the price or to make any payment of interest as may be prescribed, and the right of the licensee shall be subject accordingly to the provisions of the said license.
- (g) upon payment of the price in full and of all interest the purchase shall be deemed to be completed.

8 Cancellation of contract of purchase on default being made by purchaser

If any lessee who is entitled to acquire the fee-simple of the land comprised in his lease fails to pay the purchase-money or the prescribed deposit, as the case may be, within the time hereinbefore mentioned, the Commissioner may, in his discretion, cancel and determine the contract of purchase, and the lessee shall continue to hold the land under his lease, but in such case the lessee shall not be entitled to again give notice of intention to purchase until the expiration of 5 years from the date of the delivery of his original notice, save with the consent of the Minister of Lands, and on payment of such fee (being not less than 5 pounds) as may be prescribed.

9 Computation of price to be made by Commissioner

The computation of the price and of all other payments to be made as herein provided, whether the lessee elects to purchase for cash or on deferred payments, shall be made by the Commissioner or by some person appointed by the Commissioner in that behalf.

10 Lessee may acquire freehold of portion of land comprised in lease

The lessee may, if he so desires, acquire the freehold of part of the land comprised in the lease, and in such case the following provisions shall apply:

- (a) the lessee shall continue to hold the balance of the land comprised in the lease on the same terms and conditions as those upon which he held the

land comprised in the original lease, save that the rent payable under the lease shall be proportionately abated.

- (b) a plan of the part proposed to be acquired shall be submitted to the Commissioner for his approval, and such approval shall be given only in cases where the Commissioner is satisfied that the interest of the Crown in the balance of the land will not be injuriously affected by the severance.
- (c) the price of any land proposed to be acquired under this section shall be ascertained in the manner prescribed by sections 4 and 5, with such necessary modifications as may be prescribed in that behalf by regulations under this Act.

11 Value of lands comprised in roads and streets to be added to price

- (1) Where a road or street has been laid off on any portion of the land comprised in any lease the following provisions shall apply:
 - (a) where the lessee proposes to acquire the whole of the land comprised in his lease the price shall be ascertained in respect of the area originally included in the lease:
 - (b) where the lessee proposes to acquire part only of the land comprised in his lease there shall be added to the price as ascertained pursuant to the last preceding section such proportion of the value of the land comprised in such road or street as the Commissioner may determine.
- (2) Nothing in this section shall be so construed as to confer on the lessee any estate or interest in the property in any such road or street.

12 Cost of valuation to be paid by lessees

Every person who gives notice of his intention to acquire under this Act the fee-simple of the land comprised in his lease, or of any part of such land, shall be required to pay on demand the cost of the valuation.

13 Cost of surveys

- (1) All surveys required in connection with the purchase of any lands under the authority of this Act shall be made under the direction of the Chief Surveyor for the Land District of Auckland, whose decision as to whether or not a survey is necessary shall be final.
- (2) The cost of any such survey shall be payable on demand by the lessee.

14 Existing encumbrances continued

The fee-simple granted to any lessee under this Act shall continue to be subject to all existing rights, titles, interests, or encumbrances vested in any person other than the lessee at the time of the completion of the purchase.

15 Limitation of rights of purchaser with respect to mineral springs, etc

Nothing in this Act shall authorise the acquisition of the fee-simple of any land which is known to contain any mineral spring, hot spring, mud spring, geyser, or natural gas; and in the event of any such spring, geyser, or natural gas appearing on any of the lands to which this Act relates after the completion of the contract to purchase, and whether before or after the issue of the title in fee-simple, the Crown shall have the right at any time to resume the said lands or any portion thereof on payment of compensation. Such compensation shall be determined in the manner prescribed by the Public Works Act 1908, and shall be assessed as if the land did not contain any mineral spring, hot spring, mud spring, geyser, or natural gas.

16 Sublessee or underlessee may acquire fee-simple in certain cases

- (1) The sublessee or underlessee, as defined by section 2, of any Crown lands described in Schedule 1 or Schedule 2 may at any time during the currency of his sublease or underlease, as the case may be, purchase the fee-simple of the land comprised therein, and the foregoing provisions as to the purchase of the fee-simple by lessees shall, with the necessary modifications, apply to the purchase by any such sublessee or underlessee:

provided that notice by a sublessee or underlessee of his intention to purchase shall be accompanied by the consent in writing of the lessee, and of all other persons, if any, holding any intermediate sublease or underlease; such consent shall not be withheld arbitrarily or without sufficient cause and reason. No person giving such consent shall have any claim on the Crown, or on any officer in the service of the Crown, in respect of his interest in the land to which such consent relates.

- (2) It shall be a condition precedent to the completion of the purchase by a sublessee or underlessee, either for cash or on deferred payment, that he shall cause to be produced such evidence as the Commissioner may require of his having satisfied the claims of the lessee, and of all other persons holding any interest in the land proposed to be purchased by him.

17 Sale of undisposed lands

- (1) Subject to the provisions of section 15, any unsold Crown lands within the area described in Schedules 1 and 2 may be disposed of at auction either for cash or on deferred payment.
- (2) All the provisions of the Land Act 1908, relating to sales by auction shall apply to sales under this section; and in the case of sales on deferred payment the provisions of this Act as to the purchase of land by lessees on deferred payment shall so far as applicable apply.

18 Act not applicable to reserves

The provisions of this Act shall not apply to any reserve.

19 Restriction on alienation

The holder of a deferred-payment license under this Act shall not be entitled to assign or otherwise dispose of his interest in the land subject to the license, except by way of mortgage, or to sublet the land, unless in either case the consent of the Commissioner is first had and obtained.

20 Certain lands declared to be public streets

The lands described in Schedule 3 are hereby declared to be public streets: provided that the liability of the respective lessees of the lands whereof the said streets form part for the formation and metalling of such streets, and for the construction of kerbing, footpaths, drainage, or other works necessary to put such streets in proper order for traffic, shall not be deemed to be hereby waived, limited, or otherwise affected.

21 Regulations

- (1) The Governor-General may, by Order in Council, make such regulations as he considers necessary for carrying into effect the provisions of this Act.
- (2) Regulations 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, 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 21(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1

Town lands

ss 3, 5, 16, 17

All that area of land in the Tarawera Survey District, in the Auckland Land District, bounded generally towards the north and north-east by Lake Rotorua; towards the north-west by Utohina Stream; towards the west and south-west by the railway-line from the Utohina Stream to the railway-station reserve; and towards the south by a line through the said reserve, being the production of the centre-line of Perekika Street and the centre of the road on the south side of the Town Belt to Lake Rotorua.

Schedule 2

Suburban lands

ss 3, 5, 16, 17

All that area of land in the Horohoro and Tarawera Survey Districts, in the Auckland Land District, bounded towards the north and north-east by the land described in Schedule 1; towards the west by the Utohina Stream and the western boundary of Sections 52, 53, and 54, Rotorua Suburbs; towards the south generally by the Tihio-tonga Block and the State forest reserve to the southernmost corner of Section 4, Rotorua Suburbs (State forest reserve); thence towards the north-east by the said Section 4 to the Puarenga Stream; thence by the said stream to the crossing of the Rotorua-Maketu Road; thence by the centre-line of the said road to its junction with the area described in Schedule 1.

Schedule 3

Certain lands declared to be public streets

s 20

All those areas in the Auckland Land District being—

- (1) Elizabeth Street, Ann Street, James Street, and Pretoria Street, intersecting Sections 1, 2, 3, 4, and 12, Suburbs of Rotorua;
- (2) Pretoria Street and King Street, intersecting Sections 7 and 16, Suburbs of Rotorua;
- (3) Ruihi Street, Herewini Street, Union Street, Eason Street, and Toko Street, intersecting Sections 17, 18, 19, and 20, Suburbs of Rotorua;
- (4) Marguerita Street, Peace Street, Maida Vale Street, and Hilda Street, intersecting Section 25, Suburbs of Rotorua;
- (5) Lytton Street, Seddon Street, and Carnot Street, intersecting Section 27, Suburbs of Rotorua;
- (6) Ruihi Street, Herewini Street, Lytton Street, Devon Street, and Wylie Street, intersecting Section 30, Block I, Tarawera Survey District;
- (7) Sophia Street and Gwendoline Street, intersecting Section 31, Block I, Tarawera Survey District;
- (8) Phillips Street, Miller Street, King Street, Carlton Street, and Duncan Street, intersecting Section 33, Block I, Tarawera Survey District;
- (9) Konene Street and Rutland Street, intersecting Sections 74 and 75, Suburbs of Rotorua:

as the same are delineated and coloured red on the plan marked L and S 43985 deposited in the Head Office, Department of Lands and Survey, at Wellington.

Also all those areas in the Auckland Land District, being—

- (10) Seddon Street and James Street intersecting Section 37, Suburbs of Rotorua;
- (11) Victoria Street between Ranolf Street and Fenton Street, passing through Sections 17, 18, 19, and 20 Suburbs of Rotorua;
- (12) Strips 25 links wide on the eastern side of the Old Tauranga-Taupo Road, passing through Sections 1, 12, and 37, Suburbs of Rotorua, and lying between Pererika Street and Elizabeth Street, between Elizabeth Street and Pretoria Street, between Pretoria Street and Malfroy Street, and between Malfroy Street and the northern boundary of Section 36, Suburbs of Rotorua;
- (13) Strips 25 links wide on the western side of Old Tauranga-Taupo Road, passing through Sections 74 and 75, Suburbs of Rotorua, and lying between the northern boundary of Section 74, Suburbs of Rotorua and Konene Street, between Konene Street and Rutland Street, and between Rutland Street and Malfroy Street;

- (14) Strips 25 links wide on the eastern side of Old Tauranga-Taupo Road, passing through Section 33, Suburbs of Rotorua, and lying between Devon Street and Duncan Street, and between Duncan Street and Carlton Street, and between Carlton Street and Sophia Street;
- (15) Strips 25 links wide on the southern side of Devon Street passing through Section 33, Suburbs of Rotorua, and lying between the last described street widening and Phillips Street, between Phillips Street and Miller Street between Miller Street and King Street, and between King Street and the eastern side of Ranolf Street;
- (16) Strips 50 links wide on the northern side of Sophia Street, passing through Section 33, Suburbs of Rotorua, and lying between the 25 link widening of Old Tauranga-Taupo Road previously described and Phillips Street, between Phillips Street and Miller Street, between Miller Street and King Street, and between King Street and the eastern side of Ranolf Street;
- (17) A strip 25 links wide on the northern side of Sophia Street, passing through Section 31, Suburbs of Rotorua, and lying between the Western side of Fenton Street and the eastern boundary of Lot 6 on Deposited Plan 2494;
- (18) Strips 50 links wide on the western side of Nursery Road, passing through Section 25, Suburbs of Rotorua, and lying between the northern boundary of Section 95 aforesaid and Marguerita Street between Marguerita Street and Peace Street, and between Peace Street and Maida Vale Street:

as the same are delineated and coloured sepia on the plan numbered 27004, deposited in the office of the Chief Surveyor at Auckland.

Schedule 3 clauses (10) to (18): inserted, on 15 March 1938, by section 5 of the Reserves and other Lands Disposal Act 1937 (1937 No 39).

Consolidation notes**1 *General***

This is a consolidation of the Rotorua Town Lands Act 1920 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this consolidation*

This consolidation is not an official version of the legislation under section 78 of the Legislation Act 2019.

3 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3