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1990, No. 106

An Act to amend the Conservation Act 1987

[28 August 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Conservation Amendment Act 1990 and shall be read together with and deemed part of the Conservation Act 1987 (hereinafter referred to as the principal Act).

2. Marginal strips reserved—Section 24 of the principal Act is hereby amended by repealing subsection (9), and substituting the following subsection:

“(9) For the purposes of this section, a disposition by the Crown in relation to any land, includes—

“(a) The grant of a Crown forestry licence under the Crown Forest Assets Act 1989:

“(b) The grant or renewal of a lease or licence under the Land Act 1948:

“(c) The vesting, pursuant to the New Zealand Railways Corporation Restructuring Act 1990, of any land held by the Crown or the New Zealand Railways Corporation in a Crown transferee company within the meaning of section 2 of that Act:

“(d) The grant or renewal of a lease or licence of any land pursuant to section 12 of the New Zealand Railways Corporation Restructuring Act 1990:

“(e) The sale or other disposition of land held by the New Zealand Railways Corporation to a Crown transferee company within the meaning of section 2 of the New Zealand Railways Corporation Restructuring Act 1990 or to any other person.”

3. New sections inserted—The principal Act is hereby amended by inserting, after section 24j, the following sections:

“24k. Provisions applying in relation to land vested under New Zealand Railways Corporation Restructuring Act 1990—(1) In this section and in section 24l of this Act—

“ ‘Crown transferee company’ has the same meaning as in section 2 of the New Zealand Railways Corporation Restructuring Act 1990:

“ ‘Railway operator’ has the same meaning as in section 2 of the New Zealand Railways Corporation Restructuring Act 1990.

“(2) The provisions of section 24d of this Act shall apply in relation to a disposition of land of the kind referred to in section 24 (9) (c) of this Act with such modifications as shall be necessary and as if the reference in subsection (1) of that section to the registration of any disposition by the Crown were a reference to the registration of a Crown transferee company as the proprietor of the land in accordance with section 9 (1) (a) of the New Zealand Railways Corporation Restructuring Act 1990.

“(3) This Part of this Act (except section 24l) does not apply to—

“(a) Land within an area of 25 metres of a line drawn midway between the rails of a railway line:

“(b) Land approved by the Minister by notice in the *Gazette* as being required for the purpose of an alteration to the route of an existing railway line.

“(4) The Minister shall give a notice under subsection (3) (b) of this section in any case where he or she is satisfied that—

“(a) The land is reasonably required for the purposes of altering the route of the railway line; and

“(b) The value in terms of the purposes specified in section 24c of this Act of the land adjacent to the railway line will not be diminished any more than is reasonably necessary for the purposes of the proposed alterations to the railway line.

“(5) In giving an approval under subsection (3) (b) of this section the Minister may impose such conditions as he or she

thinks fit in connection with the construction of the proposed alterations to the railway line.

“(6) Where, in relation to land of the kind referred to in subsection (3) (b) of this section, a statement that the land is subject to this Part of this Act has, in accordance with section 24D of this Act, been recorded on the certificate of title to the land or on the proper plans and records of the land registration district affected, the District Land Registrar of the land registration district affected or the Chief Surveyor, as the case may be, shall make such alterations to any existing certificates of title for that land or to the plans and records of the land registration district, as the case may be, as shall be necessary for the purpose of recording the fact that the land is no longer subject to this Part of this Act.

“(7) Where, in relation to any land of the kind referred to in subsection (3) of this section,—

“(a) The railway line is removed permanently; or

“(b) The railway line ceases to be operated by a railway operator; or

“(c) In the case of land referred to in a notice in the *Gazette* published under subsection (3) (b) of this section, the Minister declares, by notice in the *Gazette*, that the land or any part of it is no longer required for the purposes of the alteration to the railway line—
as the case may be,—

the land shall immediately become subject to this Part of this Act and the provisions of section 24D of this Act shall apply with such modifications as shall be necessary and as if—

“(d) The reference in subsection (1) of that section to the registration of any disposition by the Crown were a reference to land becoming subject to this Part of this Act by virtue of this subsection; and

“(e) The reference in subsection (2) of that section to notification of any disposition by the Crown were a reference to notification of land becoming subject to this Part of this Act by virtue of this subsection.

“(8) Nothing in this Part of this Act limits or affects the application of sections 30 and 31 of the New Zealand Railways Corporation Act 1981 or section 31 of the New Zealand Railways Corporation Restructuring Act 1990.

“24L. **Public access rights**—Every railway operator must allow members of the public to have access on foot over land that would, but for subsection (3) of section 24k of this Act, be reserved as a marginal strip, except land that is within 5 metres

of a line drawn midway between the rails of a railway line, unless, in the opinion of the railway operator, such access would be likely to endanger the safety of persons or property.”

This Act is administered in the Department of Conservation.
