



ANALYSIS

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designations
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1993, No. 79

**An Act to amend the New Zealand Railways Corporation
Restructuring Act 1990** [23 July 1993]

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

1. Short Title and commencement—(1) This Act may be cited as the New Zealand Railways Corporation Restructuring Amendment Act 1993, and shall be read together with and deemed part of the New Zealand Railways Corporation Restructuring Act 1990 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the day on which it receives the Royal assent.

2. Repeal of provision relating to designations—Section 11 of the principal Act is hereby repealed.

3. Subdivision—The principal Act is hereby amended by inserting, after section 25, the following section:

“25A. (1) Subject to the provisions of this section, section 11 and Part X of the Resource Management Act 1991 shall not apply to any subdivision undertaken by the Corporation, transferee company, or a railway operator to give effect to a transfer or disposal of land pursuant to section 23 or section 24 or section 26 of this Act, if that transfer or disposal (of all or part of an allotment) is to an owner of adjoining land.

“(2) Every transfer or other disposition to which subsection (1) of this section applies, shall be deemed to be subject to a condition that—

“(a) The land being transferred or disposed of shall be held in one certificate of title with the owner’s adjoining land; or

“(b) Where subsection (4) of this section applies, a covenant shall be entered into between the owner of the adjoining land and the territorial authority that the land being transferred or disposed of shall not, otherwise than in accordance with a subdivision consent under the Resource Management Act 1991, be transferred, leased, or otherwise disposed of except in conjunction with the owner’s adjoining land.

“(3) The Corporation, transferee company, or the railway operator (as the case may be) shall consult with the District Land Registrar as to the practicality of a condition of a kind referred to in subsection (2) (a) of this section.

“(4) If the District Land Registrar advises the Corporation, transferee company, or railway operator (as the case may be) that a condition of a kind referred to in subsection (2) (a) of this section is not practical, then any transfer or disposal of land to which subsection (1) of this section applies shall be deemed to be subject to a condition of a kind referred to in subsection (2) (b) of this section.

“(5) Every condition of a kind referred to in subsection (2) (a) or (b) of this section shall be endorsed on the survey plan giving effect to the subdivision to which subsection (1) of this section applies, and the District Land Registrar shall not deposit that survey plan unless—

“(a) He or she is satisfied that any condition of the kind referred to in subsection (2) (a) of this section has been complied with as fully as may be possible in the office of the Registrar; or

“(b) A covenant of a kind referred to in subsection (2) (b) of this section has been lodged for registration.

“(6) Where a condition of a kind referred to in subsection (2) (a) has been complied with—

“(a) The separate parcels of land included in the certificate of title in accordance with the condition shall not be capable of being disposed of individually or being held under separate certificates of title, otherwise

than in accordance with a subdivision consent under the Resource Management Act 1991; and

“(b) On the issue of a certificate of title, the District Land Registrar shall enter on the certificate of title a memorandum that the land is subject to this subsection.

“(7) Every covenant of a kind referred to in subsection (2) (b) of this section shall be in writing, be signed by the owner of the adjoining land, have affixed to it the common seal of the territorial authority, and be deemed—

“(a) To be an instrument capable of registration under the Land Transfer Act 1952, and, when so registered, to create in favour of the territorial authority an interest in the land, in respect of which it is registered, within the meaning of section 62 of that Act; and

“(b) To run with the land and bind subsequent owners.

“(8) The territorial authority may at any time, after a survey plan giving effect to a subdivision to which subsection (1) applies has been deposited in the Land Registry Office, cancel in whole or in part—

“(a) Any condition of a kind referred to in subsection (2) (a) of this section; or

“(b) Any covenant of a kind referred to in subsection (2) (b) of this section.

“(9) Where a territorial authority cancels, in whole or in part, a condition or covenant in accordance with subsection (8) of this section, the territorial authority shall forward an authenticated copy of the resolution of the territorial authority cancelling or partially cancelling that condition or covenant to the District Land Registrar, who shall note the records accordingly.

“(10) Where—

“(a) For the purpose of complying with conditions of a kind referred to in subsection (2) of this section—

“(i) A covenant of a kind referred to in subsection (2) (b) of this section is registered in accordance with this section; or

“(ii) The land being transferred or disposed of is amalgamated in one certificate of title with adjoining land in accordance with this section; and

“(b) The adjoining land is already subject to a registered instrument under which a power to sell, a right of

renewal, or a right or obligation of purchase is lawfully conferred or imposed; and

“(c) That power, right, or obligation becomes exercisable but is not able to be exercised or fully exercised because of subsection (5) or subsection (6) of this section—
the land being transferred or disposed of shall be deemed to be and always to have been part of the adjoining land that is subject to that instrument; and all rights and obligations in respect of, and encumbrances on, that adjoining land shall be deemed also to be rights and obligations in respect of or encumbrances on, the land being transferred or disposed of; and the District Land Registrar shall enter upon all relevant certificates of title a memorandum to the effect that the land therein is subject to this subsection.

“(11) Where any instrument to which subsection (10) of this section applies is a mortgage, charge, or lien, it shall be deemed to have priority over any mortgage, charge, or lien against the land being transferred or disposed of which is registered subsequent to the issue of the certificate of title pursuant to subsections (5) and (6) of this section, or the registration of the covenant entered into pursuant to subsections (5) and (7) of this section, as the case may be; and the District Land Registrar shall enter upon all relevant certificates of title a memorandum to the effect that the land therein is subject to this subsection.

“(12) For the purposes of this section—

“‘Allotment’ has the same meaning as in section 218 of the Resource Management Act 1991:

“‘Amalgamated’ means amalgamated pursuant to a condition under subsection (3) of this section:

“‘Territorial authority’ has the same meaning as in section 2 (1) of the Local Government Act 1974.”