

LAND AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the law relating to pastoral leases, at present contained in section 66 of the Land Act 1948.

Clause 1 relates to the Short Title.

Clause 2 amends section 51 of the principal Act to create a new category of Crown land—restricted grazing land. This comprises those parts of the land at present classified as pastoral land that for any reason (for example vulnerability to erosion) are not suitable for sustained grazing.

Clause 3 substitutes for section 66 of the principal Act 5 new sections.

Section 66 changes the basis upon which the rent payable under a pastoral lease is to be calculated. The principal Act at present merely requires the rent to be a fair rent, and the practice of the Land Settlement Board has been for the rent to be calculated on the basis of the maximum numbers and classes of stock to which the holder is restricted under his lease. The rent payable under an existing lease after its renewal, and the rent payable under any new lease granted, is to be 3 percent of the rental value of the land concerned, with valuations being done every 11 years.

By virtue of the amendment effected by *clause 2*, pastoral leases will not in future be granted in respect of restricted grazing land.

Section 66AA provides, in effect, a transitional period for the holders of existing pastoral leases to transfer from the present system of rent assessment to the proposed new system.

Where, in respect of any year during the first renewal of the lease, the holder undertakes a programme of development, maintenance, or improvement, approved by the Land Settlement Board, a proportion of the rent payable will be suspended. For the first 11 years of the renewal the proportion will be one half, the next 11 years one-third, and the final 11 years one-sixth.

Amounts suspended will remain a debt to the Crown for 11 years, and may be demanded if the lease is dealt with; and any amount by which the amount suspended exceeds the amount actually spent on the development programme in the year concerned may also be demanded. But if not demanded before then, every suspended amount will be written off after 11 years.

Sections 66AB and 66AC institute a system whereby the holder of a pastoral lease may convert nine-tenths of the future rent payable under that lease into a capital sum, and pay it, together with interest, as if it were a mortgage. If he chooses to do so, he will thereafter be liable to pay only one-tenth of the rent he would otherwise have to pay.

Section 66AB empowers the holder of a pastoral lease to apply to pay a capital sum in respect of future rent. Upon receiving such an application the Land Settlement Board will have the land examined to see if any of it should be reclassified, and, if not, will arrange a valuation of the land concerned, and calculate the various amounts that would be required to be paid under that valuation. The applicant is then to be informed of those amounts. He may accept those terms, decline them, or elect to have the values from which his payments are to be derived determined by the Land Valuation Tribunal in accordance with the provisions at present contained in the principal Act relating to the renewal of renewable leases. If he declines the terms, he is not to be entitled to make further application for 5 years, except with the permission of the Board.

Section 66AC relates to the various amounts that are to be paid where future rent is capitalised. An amount of not less than 15 percent of nine-tenths of the rental value of the land concerned is to be paid immediately. Thereafter, a rent of 3 percent of one-tenth of the rental value of the land, revised at 11 year intervals, is to be paid. The remaining nine-tenths of the rental value of the land is to be paid off, at the option of the applicant, in one sum or over a period (not exceeding 30 years) fixed by the Board together with interest at a rate 2 percent less than that fixed under section 65 (3) of the principal Act in respect of farm land. That rate is at present $8\frac{1}{2}$ percent, so the rate payable will for the time being be $6\frac{1}{2}$ percent. The holder will at any time be permitted to pay all or any of the outstanding instalments of capital and interest in advance, and if he does so the term over which the remaining instalments are payable will be adjusted accordingly. Where a lease is determined, the Board may, if in all the circumstances it seems just, refund a proportion of any capital amount paid.

Section 66AD relates to pastoral occupation licences, which in future will be granted in respect of restricted grazing land only. Apart from this change, the effect of the section is the same as that of the equivalent provisions in the existing section 66.

Clause 4 is a savings provision ensuring that the rent payable under existing pastoral leases remains unaltered until their renewal.

Clause 5 relates to consequential amendments.

Clause 6 relates to a consequential repeal.

Hon. V. S. Young

LAND AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Land Act 1948

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Land Amendment Act 1979, and shall be read together with and deemed part of the Land Act 1948* (hereinafter referred to as the principal Act).

10 **2. Classification of Crown land**—(1) Section 51 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraphs:

 “(d) Pastoral land, being land that is suitable or adaptable primarily for pastoral purposes only and that is
15 suitable for sustained grazing:

 “(e) Restricted grazing land, being land that is suitable or adaptable primarily for pastoral purposes only but that is not suitable for sustained grazing.”

20 (2) All Crown land that was, immediately before the commencement of this Act, held under any pastoral occupation licence shall, until it is reclassified under section 51 (3) of the principal Act, be deemed to be classified as restricted grazing land.

*Reprinted 1972, Vol. 2, p. 1557

Amendments: 1974, No. 92; 1975, No. 82; 1977, No. 51

(3) Subject to subsection (2) of this section, all Crown land that was, immediately before the commencement of this Act, classified as pastoral land shall, until it is re-classified under section 51 (3) of the principal Act, be deemed to be classified as pastoral land. 5

3. New sections substituted—The principal Act is hereby amended by repealing section 66 (as amended by section 3 of the Land Amendment Act 1970), and substituting the following sections:

“66. **Pastoral leases**—(1) The Board may from time to time, in accordance with this section, grant leases of pastoral land. 10

“(2) A pastoral lease shall entitle the holder to the exclusive right of pasturage over the land comprised in the lease, and a perpetual right of renewal for terms of 33 years, but shall give him no right to the soil, and no right to acquire the fee simple. 15

“(3) A pastoral lease may be granted subject to such restrictions as to the numbers of stock to be carried on the land comprised in the lease as the Board determines. 20

“(4) The term of every pastoral lease shall commence— 20

“(a) Where the land concerned is held under lease or licence at the time of disposal, on the determination of that lease or licence; and

“(b) Where the land is not so held, on the date of disposal;— 25

and shall continue until the expiration of 33 years from the 1st day of January or July (whichever is the sooner) next following that determination or disposal.

“(5) The yearly rent payable under a pastoral lease granted on or after the commencement of the Land Amendment Act 1979 shall, in respect of the period between the commencement of the term of the lease and the expiration of 11 years from the 1st day of January or July (whichever is the sooner) next following that commencement, be 3 percent of the rental value of the land comprised in the lease, as determined by the Board at the time of its granting. 35

“(6) Subject to section 66AC of this Act, the yearly rent payable under—

“(a) A pastoral lease granted on or after the commencement of the Land Amendment Act 1979 for every period of 11 years after the period specified in subsection (5) of this section (including any renewal); and 40

- “(b) A pastoral lease granted before the commencement of the Land Amendment Act 1979 for every period of 11 years after the expiration of its first term—
shall be calculated in the same manner—
- 5 “(c) As for the renewal of a renewable lease; and
“(d) Subject to subsection (7) of this section, as if every reference in Part VIII of this Act to the proportion of 4½ percent were a reference to the proportion of 3 percent;—
- 10 and Part VIII of this Act, so far as it is applicable and with the necessary modifications, shall apply to the calculation of that yearly rent accordingly:
“Provided that the rental value of the land ascertained under section 131 of this Act shall not include any potential
15 value that the land may have for subdivision for building purposes or for commercial or industrial use.
“(7) Subsection (6) (d) of this section shall not apply to the calculation of the yearly rent payable in respect of the
20 renewal of a pastoral lease of any land if that land (whether or not it is the whole of the land comprised in that lease), as a result of a reclassification under section 51 (3) of this Act, is, at the time of the calculation, classified as farm land, urban land, or commercial or industrial land.
- 25 “66AA. **Suspension of rent in certain cases**—(1) Where the Board—
“(a) Is satisfied that the holder of a pastoral lease granted before the commencement of the Land Amendment Act 1979 (not being a person who has given notice to the Commissioner under paragraph (a) or paragraph (b) of section 66AB (5) of this Act)
30 intends, during any year of the first renewal of that lease, to undertake a programme of development, maintenance, or improvement, of the land comprised in that lease, or of any other land farmed, or used, in connection with the land comprised in that lease, or of both; and
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“(b) Has, before the commencement of that year, indicated to the holder of that lease that it approves of that programme,—
40 a proportion of each half-yearly rental charge payable under that lease during that year shall be suspended.

“(2) The proportion of any half-yearly rental charge suspended under subsection (1) of this section in any year shall be—

“(a) One half of that charge where that year is one of the first 11 years of the first renewal of the lease; or 5

“(b) One-third of that charge where that year is one of the next 11 years of that renewal; or

“(c) One-sixth of that charge where that year is one of the final 11 years of that renewal.

“(3) Subject to subsection (6) (a) of this section, every amount suspended under subsection (1) of this section shall continue to be a debt due to the Crown by the holder of the lease concerned. 10

“(4) Where payment of an amount has been suspended under subsection (1) of this section, the holder of the pastoral lease concerned shall not be entitled to any rebate under section 85 (1) of this Act in respect of the payment of the residue of the half-yearly rental charge concerned. 15

“(5) The Board may, as a condition of its granting its approval to any transfer of or other dealing with a pastoral lease (whether in relation to the whole of the land comprised in that lease or to any part of it), require that all or any part of any amounts payment of which has been suspended under subsection (1) of this section in respect of that lease (being amounts that have not been written off under sub- 20
section (6) (a) of this section) be paid to the Crown. 25

“(6) Where in any year the total of the sums in the opinion of the Board expended by the holder of a pastoral lease on the approved development, maintenance, or improvement of the land comprised in that lease or on the approved develop- 30
ment, maintenance, or improvement of any other land farmed, or used, in connection with the land comprised in that lease, is not less than the amount of rent suspended under subsection (1) of this section in respect of that lease during that year,— 35

“(a) If it has not earlier been required to be paid to the Crown under subsection (5) of this section, that amount shall, upon the expiration of a period of 11 years commencing on the commencement of that year, cease to be a debt due to the Crown by him, 40
and shall be written off accordingly; and

5 “(b) Any part of the amount by which that total exceeds the amount of rent suspended as aforesaid may, with consent of the Board, be credited against an amount of rent to be suspended during some other year specified by the Board at the time it gives its consent; and in that case, that part shall, for the purposes of this section, be deemed to have been expended in that year.

10 “(7) The Board may, by notice in writing, at any time during any year demand from the holder of a pastoral lease the amount by which the amount of rent suspended under subsection (1) of this section in any earlier year exceeded the total of the sums, in the opinion of the Board, expended by the holder of that lease in that earlier year on the approved
15 development, maintenance, or improvement of the land comprised in that lease or, with the prior approval of the Board, on the development, maintenance, or improvement of any other land farmed, or used, in connection with the land
20 comprised in that lease; and in that case the amount demanded shall thereupon become due and payable to the Crown by the holder of that lease, and may be recovered as if it were rent in arrear that became in arrear at the time it was demanded.

25 “(8) Where any amount has been required to be paid to the Crown under subsection (7) of this section, interest may be charged on it at such rate as the Board determines.

“66AB. Capitalisation of proportion of rent in certain cases—(1) The holder of a pastoral lease may, with the consent of every person having a registered interest in it, at any
30 time during the currency of that lease apply to the Commissioner to pay a capital sum in respect of a proportion of the future rent payable under it.

“ (2) Every such application shall be accompanied by the prescribed valuation fee.

35 “(3) As soon as possible after the receipt by the Commissioner of an application under subsection (1) of this section, the Board shall cause the land concerned to be examined in order to ascertain whether all or any part of it should be reclassified under section 51 (3) of this Act; and
40 where the Board is of the opinion that all or any part of the land should be reclassified it shall reclassify that land or part, and decline the application.

“(4) Where the Board is of the opinion that all the land to which an application under subsection (1) of this section relates should continue to be classified as pastoral land it shall, as soon as possible after the examination of that land under subsection (3) of this section has been completed,— 5

“(a) Cause to be ascertained—

“(i) The value of that land (exclusive of improvements and any potential value that it may have for subdivision for building purposes or for commercial or industrial use); and 10

“(ii) The value of the improvements that are then in existence and unexhausted on that land; and

“(iii) The value of all improvements on that land at the commencement of the pastoral lease concerned or, where that lease has been issued in substitution for any other lease or licence, or in substitution for the renewal of any other lease or licence, at the commencement of that lease or licence,— 15 20

and subsections (5) and (6) of section 122 of this Act, so far as they are applicable and with the necessary modifications, shall apply to the ascertainment of those values as if those values were values required to be ascertained under subsection (4) of that section; and 25

“(b) Cause the value (if any) of the holder’s goodwill in the lease to be calculated; and section 122 (7A) of this Act, so far as it is applicable and with the necessary modifications, shall apply to the calculation of that value as if it were being calculated for the purposes of that section; and 30

“(c) Determine an amount under section 66AC (2) (a) of this Act in respect of that land; and

“(d) Cause the rent that would initially be payable under section 66AC (2) (b) of this Act to be calculated; and 35

“(e) Determine a period over which the sum specified in section 66AC (2) (c) of this Act may be repaid, and the amount of each half-yearly payment of that sum (including interest); and 40

“(f) Give the applicant notice in writing of those values and amounts, and that rent and period.

“(5) Within one month of being given notice under subsection (4) (f) of this section, the applicant shall notify the Commissioner in writing—

5 “(a) That he accepts the values, and agrees to pay the amounts and rent, specified in that notice; or

“(b) That he elects to have the values specified in the notice determined by the Land Valuation Tribunal; or

“(c) That he withdraws his application.

10 “(6) Where an applicant notifies the Commissioner in writing that he accepts the values, and agrees to pay the amounts and rent, specified in a notice under subsection (4) (f) of this section, his pastoral lease shall be varied accordingly.

15 “(7) Where an applicant has not, within one month of receiving a notice under subsection (4) (f) of this section, given the Commissioner notice under subsection (5) of this section, he shall be deemed to have notified the Commissioner in writing that he accepts the values, and agrees to pay the
20 amounts and rent, specified in that first-mentioned notice.

“(8) Where the applicant has, within one month of being given notice under subsection (4) (f) of this section, given the Commissioner notice under subsection (5) (b) of this section, the Commissioner shall, as soon as possible thereafter,
25 file in the appropriate office of the Magistrate’s Court (as defined in section 2 of the Land Valuation Proceedings Act 1948) an application to have the values concerned determined by the Tribunal; and in that case sections 133 to 135 of this Act, so far as they are applicable and with the necessary
30 modifications, shall apply to the determination of the values specified in subsection (4) of this section as if they were being determined for the purposes of the renewal of a renewable lease, and when those values have been determined the applicant’s pastoral lease shall be varied accordingly.

35 “(9) Where an applicant withdraws an application under subsection (1) of this section, he shall not without the consent of the Commissioner make another such application within 5 years of making that application.

40 “66AG. Payments to be made where proportion of rent capitalised—(1) In this section, ‘rental value’, in relation to any land, means the difference between—

“(a) The sum of the values ascertained under sub-paragraphs (i) and (iii) of section 66AB (4) (a) of this Act; and

“(b) The value calculated under section 66AB (4) (b) of this Act—
in respect of that land.

“(2) Where the holder of a pastoral lease has given the Commissioner notice under paragraph (a) or paragraph (b) of section 66AB (5) of this Act, the following payments shall be made to the Board under that lease: 5

“(a) On or before the 1st day of January or July (whichever is the sooner) following—

“(i) The giving of that notice; or 10

“(ii) Where that notice is given under section 66AB (5) (b) of this Act, the determination of the values concerned,—

such amount (being not less than 13.5 percent of the rental value of the land comprised in the lease) as the Board determines in each case: 15

“(b) On and from the date specified in paragraph (a) of this subsection, a yearly rent of 10 percent of the yearly rent that would otherwise be payable under that lease: 20

“(c) Subject to subsection (3) of this section, a sum equal to the difference between 90 percent of the rental value of the land concerned and the amount paid under paragraph (a) of this subsection in respect of the lease, together with interest on such part of that sum as has not been paid to the Board at a rate 2 percent less than that for the time being fixed by the Minister of Finance under sections 65 (3) and 170B of this Act, with half-yearly rests. 25

“(3) The sum payable under subsection (2) (c) of this section shall, at the discretion of the holder of the lease, be paid either— 30

“(a) In one sum, on the date of the payment of the amount specified in subsection (2) (a) of this section; or

“(b) Subject to any adjustments made necessary by— 35

“(i) Any reviews of interest under section 170B of this Act; or

“(ii) Any payments made under subsection (4) of this section,—

by equal half-yearly instalments, commencing on 40 the 1st day of January or July (whichever is the sooner) next following the date of the payment

of the amount specified in subsection (2) (a) of this section, comprising partly capital sum and partly interest, computed so that that sum is repaid over such period (not exceeding 30 years) as the Board determines in each case.

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“(4) The holder of the lease shall have the right at any time to pay all or any of the half-yearly instalments of the amount payable under subsection (2) (c) of this section then remaining unpaid.

10 “(5) The payment of any half-yearly instalment of the amount payable under subsection (2) (c) of this section on a day when it is not yet due and payable shall not affect the periodical continuity of half-yearly instalments, but the amount of the capital sum and interest included in the succeeding instalments shall be computed, in accordance with subsection (3) of this section, as if the half-yearly periods corresponding to the instalments so paid had expired, and the term during which instalments would otherwise be payable shall be reduced accordingly.

15 “(6) Where any pastoral lease is determined, there may be paid to the holder such proportion of any amount paid under subsection (2) (c) of this section in respect of that lease as the Board in all the circumstances thinks just.

25 “66AD. Pastoral occupation licences—(1) The Board may from time to time, in accordance with this section, grant licences to occupy restricted grazing land.

“ (2) A pastoral occupation licence shall entitle the holder to the exclusive right of pasturage over the land comprised in that licence, but shall give him no right to the soil, no right
30 to the fee simple, and no right of renewal.

“ (3) A pastoral occupation licence may be granted subject to such restrictions as to the numbers of stock to be carried on the land comprised in it as the Board determines.

35 “ (4) The term of every pastoral occupation licence shall commence—

“(a) Where the land concerned is held under lease or licence at the time of disposal, on the determination of that lease or licence; and

40 “(b) Where the land is not so held, on the date of disposal,—

and shall continue until the expiration of such period (not exceeding 21 years) from the 1st day of January or July (whichever is the sooner) next following that determination or disposal as the Board decides.”

4. Saving—Notwithstanding section 66 of the principal Act (as substituted by section 3 of this Act), in the case of a pastoral lease granted before the commencement of this Act, the rent payable under that lease before its first renewal shall be calculated, and the basis upon which that rent is calculated shall be ascertained, as if this Act had not been passed. 5

5. Consequential amendments—(1) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following 10 definitions:

“‘Pastoral land’ means Crown land that is for the time being so classified by the Board under section 51 of this Act:

“‘Pastoral lease’ means a lease of pastoral land, granted 15 under section 66 of this Act:

“‘Pastoral occupation licence’ means a licence to occupy restricted grazing land, granted under section 66AD of this Act:

“‘Restricted grazing land’ means Crown land that is for 20 the time being so classified under section 51 of this Act.”

(2) Section 85 (1) of the principal Act is hereby consequentially amended by omitting the words “A holder”, and substituting the words “Subject to section 66AA (4) of this 25 Act, a holder”.

6. Repeal—Section 3 of the Land Amendment Act 1970 is hereby consequentially repealed.