

LAND SETTLEMENT PROMOTION AND LAND ACQUISITION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends Parts II and IIA of the Land Settlement Promotion and Land Acquisition Act 1952.

Part II relates to the control of sales and leases of farm land to prevent undue aggregation and has been extended by the Bill to include undue aggregation of shares in farming companies in certain circumstances.

Part IIA relates to the control of acquisition of certain land by persons who are not resident in New Zealand. The main amendments made by this Bill are as follows:

- (a) The provisions are to relate to all land;
- (b) The consent is to be given by the Minister and not by the Court;
- (c) Some change has been made in the class of persons to whom the Part is to apply.

Clause 1 relates to the Short Title and commencement. The Act is to come into force on 1 July 1976.

Clause 2 consolidates and amends Part II of the principal Act.

Section 23 is new and is the interpretation section. The principal definitions are in paragraph (a) and paragraph (e).

Paragraph (a) states that a person shall be deemed to have a substantial interest in a company in any case where he has 25 percent or more of the paid-up capital, or of the nominal value of the allotted shares, or of the voting power, or of the rights to dividends in the company.

Paragraph (e) defines a farming company as being a company (not being a company listed on any stock exchange in New Zealand) which has any freehold or leasehold interest in farm land in excess of 2 hectares, and also includes any other company (not being a company listed on any stock exchange in New Zealand) which has a substantial interest in any farming company.

Section 24 sets out the transactions to which Part II applies. These are the same as in the present Act, with the addition of the allotment, sale, or transfer of any shares in a farming company, and the grant of an option to acquire shares in a farming company.

Section 25 provides for cases where the consent of the Court is not required, basically because the applicant does not own any farm land or any substantial interest in a farming company. Where the applicant is a company, there is the further provision that this section only applies where no shareholder who holds a substantial interest in the company holds any farm land or any substantial interest in any other farming company.

Section 26 prohibits all sales and leases to which Part II applies unless they are entered into subject to the consent of the Court and application for the consent is made within 1 month (3 months in the case of the Chatham Islands) or, in cases where no question of aggregation arises, an appropriate declaration is made within that time to the Land Transfer Office or the Deeds Register Office or, in the case of shares, to the registered office of the company.

Section 27 authorises the District Land Registrar to require evidence of compliance with the Act before he registers the transaction. It also forbids a company to register any transfer of shares before it has evidence of compliance with the Act.

Section 28 sets out the procedure for applications for the consent of the Court.

Section 29 enables the Land Valuation Committee to grant consent in a clear case without hearing evidence.

Section 30 requires the Committee to consent to the transaction if it is satisfied that no undue aggregation will result.

Section 31 provides that the Land Valuation Court or Committee may not make an order consenting to any transaction where the purchaser or lessee is a trustee and any beneficiary under the trust is under 17 years of age or where the purchaser is a company and any shareholder holding a substantial interest in the company is under 17 years of age or a trustee for a beneficiary under that age without taking into account the criteria set out in the section. In the present Act the provision refers, in the case of a company being the purchaser, to the members of the company being fewer than 10 in number but this latter condition has been replaced by the "substantial interest" provision. The criteria are basically the same with the appropriate amendments to take into account the sale of shares and the substitution of the "substantial interest" test.

Section 32 sets out the general criteria in deciding whether undue aggregation will result and these are, subject to the inclusion of shares in a farming company, basically the same as at present. A provision that land owned by a farming company is deemed to be also owned by any shareholder who has a substantial interest in the company replaces the provision that land owned by a company with less than 10 members is deemed to be owned by those members.

Section 33 provides for the revocation of consents gained by fraud and misrepresentation.

Section 34 provides that where a transaction relates partly to land to which Part II applies and partly to Crown leasehold land, the Land Valuation Court may, with the consent of the Land Settlement Board, deal with the whole transaction, being bound, in relation to the Crown leasehold land, by the same Acts and regulations as if it were the Land Settlement Board.

Clause 3 consolidates and amends Part IIA of the principal Act.

Section 35A is the interpretation section.

The term "New Zealand resident" is new. In the case of an individual it means any New Zealand citizen, whether or not actually residing in New Zealand, and any other person who has the right to reside permanently in New Zealand and is actually residing in New Zealand. In the case of a corporate body it means a body incorporated in New Zealand.

The term "overseas corporation" is not new but has been amended. At present it means—

- (a) Any body corporate which is incorporated outside New Zealand;
- (b) Any company incorporated in New Zealand which is a subsidiary of a body corporate incorporated outside New Zealand;
- (c) Any company incorporated in New Zealand in which 25 percent or more of the voting power is held by persons who are not New Zealand citizens or who are overseas corporations.

Under this section it means any body corporate which is incorporated outside New Zealand and which does not have consent under the Overseas Investment Act 1973 to carry on business in New Zealand.

Section 35B defines the types of transactions to which Part IIA applies, i.e., the classes of purchasers or lessees and the classes of land involved.

At present the Part applies to any purchaser or lessee who is an individual who is not a New Zealand citizen (or the wife of a New Zealand citizen) and who has not resided in New Zealand for $2\frac{1}{2}$ of the last 3 years, or who is an overseas corporation.

The principal class of land involved is farm land in excess of 2 hectares.

Under the new section 35B Part IIA is to apply to purchasers or lessees who are not New Zealand residents or who are overseas corporations, and is to be extended to include all classes of land of any area.

Section 35c provides for the exemptions from Part IIA. These are the same as at present with minor amendments.

Section 35d provides that the District Land Registrar or Registrar of Deeds shall not register any dealing to give effect to any contract or agreement for the sale or transfer of any freehold or leasehold land unless the transaction is exempt or the Minister has given his consent or the Registrar is satisfied by a statutory declaration that Part IIA does not apply. A certificate to the effect that Part IIA does not apply to any transaction endorsed on the memorandum of transfer or lease and signed by the solicitor for the purchaser or lessee will also suffice. This section is unchanged in substance.

Section 35e prohibits transactions to which Part IIA applies without the consent of the Minister.

Section 35F provides for consents to be given by the Minister. Application is to be made within 1 month after the date of the transaction (or 3 months in the case of the Chatham Islands) but the Minister has power to extend the time in certain defined circumstances.

The Minister is to consider the application and may, in his absolute discretion, consent to the transaction where he considers that it is in the interest of New Zealand. Where the applicant is a mortgagee who has become the purchaser of the land at a sale conducted by the Registrar of the Supreme Court in the exercise of the mortgagee's power of sale under the mortgage, the Minister has 2 additional criteria to consider as well before he gives his consent.

At present the main differences are—

- (a) The consent is given by the Court;
- (b) The criteria to be considered are set out at great length;
- (c) Where the purchaser is a mortgagee referred to above, no consent is required if the 2 criteria mentioned above are satisfied.

Section 35G is new and authorises the Minister to delegate his powers under Part IIA to any Commissioner of Crown Lands.

Section 35H is new and empowers the Minister to apply to the Court for an order vesting land in the Crown in any case where the purchaser or lessee—

- (a) Has failed to obtain the consent of the Minister; or
- (b) Has fraudulently procured the consent of the Minister; or
- (c) Has failed to fulfil any conditions subject to which the consent of the Minister was given; or
- (d) Has been convicted of an offence in relation to that land under section 43 of the principal Act.

The Court may, in its discretion, make such an order, subject to such compensation as it thinks fit. It may also suspend the order for such period as it thinks fit, and the order shall have no effect if, before the end of that period, the purchaser or lessee divests himself of the land.

Clause 4 provides for the consequential repeals and amendments.

Hon. Mr Rata

LAND SETTLEMENT PROMOTION AND LAND ACQUISITION AMENDMENT

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CONTROL OF ACQUISITION OF LAND

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A BILL INTITULED

An Act to amend the Land Settlement Promotion and Land
Acquisition Act 1952

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 and commencement—(1) This Act may be
cited as the Land Settlement Promotion and Land Acquisi-
tion Amendment Act 1975, and shall be read together with
and deemed part of the Land Settlement Promotion and Land 10
Acquisition Act 1952* (hereinafter referred to as the princi-
pal Act).

(2) This Act shall come into force on the 1st day of July
1976.

2. New Part II substituted—The principal Act is hereby 15
amended by repealing Part II, and substituting the following
Part:

“PART II

“CONTROL OF SALES AND LEASES OF FARM LAND TO PREVENT
UNDUE AGGREGATION 20

“23. Interpretation—For the purposes of this Part of this
Act—

“(a) A person shall be deemed to have a substantial inter-
est in any company in any case where that 25
person—

“(i) Holds 25 percent or more of the paid-up
capital, or of the nominal value of the allotted
shares, or of the voting power in the company; or

“(ii) Would, by reason of his shareholding in
the company, be entitled to 25 percent or more of 30
any dividends declared by the company:

“(b) Where a nominee of any person holds any paid-up
capital, or any allotted shares, or any voting power
in a company, or is entitled to a share of profits 35
distributed by a company, that paid-up capital, or
those allotted shares, or that voting power, or that
title to profits, as the case may be, shall be deemed
to be held by that person:

*Reprinted 1969, Vol. 3, p. 2235
Amendments: 1972, No. 75

“(c) Shares in one company held by another company shall be deemed to be held by the shareholders in the last-mentioned company:

5 “(d) The term ‘nominee’, in relation to any person, includes—

“(i) Any person who may be required to exercise his voting power in relation to any company in accordance with the direction of the first-mentioned person, or who holds shares or debentures directly or indirectly on behalf of the first-mentioned person; and

10 “(ii) The spouse and child (including a stepchild and a foster-child) of that first-mentioned person, being a child under the age of 17 years, and a trustee for the spouse or for any such child;—

15 but does not include the spouse of that first-mentioned person in any case where the Land Valuation Committee is satisfied that that first-mentioned person and his or her spouse are living separate and apart by virtue of an order of Court, or of any agreement for separation, whether written or oral, or by virtue of the fact that one spouse has deserted the other:

20 “(e) The term ‘farming company’ means any company, not being a company listed on any Stock Exchange in New Zealand, which has any freehold or leasehold estate or interest in farm land, whether legal or equitable, in excess of 2 hectares; and includes any other company, not being a company listed on

25 “(f) The term ‘urban area’ means any borough, any district that is under the jurisdiction of a district council and to which the Municipal Corporations Act 1954 applies pursuant to section 143 of the Local Government Act 1974, or a community under the Local Government Act 1974.

“Consent of Court Required to Certain Transactions

40 “24. Transactions to which this Part applies—(1) Subject to the provisions of this section, this Part of this Act shall apply to every contract or agreement—

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- “(a) For the sale or transfer of any freehold estate or interest in farm land whether legal or equitable: 5
- “(b) For the leasing of any farm land for a term of not less than 3 years: 5
- “(c) For the sale or transfer of any leasehold estate or interest in farm land, whether legal or equitable, of which a period of not less than 3 years is unexpired: 5
- “(d) For the sale or transfer of a lease of Crown land (being farm land) where, by virtue of section 208 of the Land Act 1924 or the corresponding provisions of any former Land Act, the consent of the Land Settlement Board is not required to the sale or transfer: 10
- “(e) For the granting of an option to purchase or otherwise acquire any freehold or leasehold estate or interest in farm land as aforesaid or to take any lease as aforesaid: 15
- “(f) For the allotment, sale, or transfer of any shares in a farming company: 20
- “(g) For the granting of an option to purchase or otherwise acquire any shares in a farming company. 20
- “(2) Where any lease or any contract or agreement for a lease contains a provision enabling the lease or the contract or agreement for a lease to be renewed for any period or successive periods upon the expiration of the original term thereof, the period or periods for which the lease or contract or agreement may be so renewed shall, for the purposes of this Part of this Act, be deemed to be part of the original term thereof. 25 30
- “(3) Nothing in this Part of this Act shall apply with respect to—
- “(a) Any transaction entered into before the 1st day of July 1976, or the exercise of any option granted before that date.: 35
- “(b) Any contract or agreement for the transfer of any estate or interest in farm land or in shares in a farming company without any valuable consideration in money or money’s worth:
- “(c) Any contract or agreement for the transfer of any estate or interest in farm land or in shares in a farming company by way of security only or for the retransfer of property so transferred on the discharge of the security: 40

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- 5 “(d) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company to a trustee for the benefit of the wife or husband or a child or children or a grandchild or grandchildren of the vendor:
- 10 “(e) Any contract or agreement for the transfer of any estate or interest in farm land or in shares in a farming company from a trustee to a trustee on the appointment of a new trustee or the retirement of a trustee:
- 15 “(f) Any contract or agreement for the transfer by a trustee, executor, or administrator to a beneficiary of any estate or interest in farm land or in shares in a farming company to which the beneficiary is entitled under any trust, will, or intestacy:
- 20 “(g) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by a trustee, executor, or administrator to a purchaser pursuant to an option given in any trust or will:
- 25 “(h) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by or to the Crown:
- 30 “(i) Any transaction for which the consent of the Land Settlement Board is required under any Act or regulations:
- 35 “(j) Any transaction in respect of which the confirmation of the Maori Land Court is required under Part XIX or Part XXIII of the Maori Affairs Act 1953, or any transaction which is effected by an order of the Maori Land Court or of the Maori Appellate Court:
- 40 “(k) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by direction of the Maori Land Board or to that Board:
- “(l) Any transaction for which the approval, consent, or permission of the Minister of Maori Affairs or of the Maori Land Board or of both that Minister and that Board is required under any Act or regulations:

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- “(m) Any alienation of any estate or interest in land by the Maori Trustee as agent for the owner or owners under Part XXV of the Maori Affairs Act 1953:
- “(n) Any contract or agreement for the dedication of a road or street: 5
- “(o) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by the Government of a foreign State to the Government of any other foreign State: 10
- “(p) Any contract or agreement for the granting of an option where the exercise of the option would result in a transaction of a class to which this Part of this Act does not apply:
- “(q) Any contract or agreement for the sale or transfer or lease of any estate or interest in farm land or in shares in a farming company pursuant to an option to which the consent of the Court has been granted under this Act: 15
- “(r) Any contract or agreement for the sale or transfer of any estate or interest in farm land of an area of not more than 2 hectares: 20
- “(s) Any transaction of a class for the time being exempted from this Part of this Act by regulations made under this Act. 25
- “(4) For the purposes of subsection (3) of this section—
- “(a) The term ‘transfer’, in relation to farm land, includes a lease:
- “(b) The term ‘transfer’, in relation to shares in a farming company, includes an allotment. 30

“25. Consent of Court not required in certain cases—

(1) Notwithstanding anything in this Part of this Act, the consent of the Court shall not be required to any contract or agreement to which this Part of this Act applies where— 35

“(a) The purchaser or lessee enters into the transaction solely on his own behalf as the person beneficially entitled thereunder and—

“(i) Does not own, lease, hold, or occupy in fee simple or under any tenure of more than 1 year’s duration, whether severally, jointly, or in common with any other person, any farm land outside an urban area; and 40

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- 5 “(ii) Does not have a substantial interest in a farming company owning, leasing, holding, or occupying in fee simple or under any tenure of more than 1 year’s duration, whether severally, jointly, or in common with any other person, any farm land outside an urban area; and
- 10 “(b) The purchaser or lessee is a company and no shareholder who has substantial interest in the company—
- “(i) Owns, leases, holds, or occupies in fee simple or under any tenure of more than 1 year’s duration, whether severally, jointly, or in common with any other person any farm land outside an urban area; or
- 15 “(ii) Owns any other substantial interest in a farming company owning, leasing, holding, or occupying in fee simple or under any tenure of more than 1 year’s duration, whether severally, jointly, or in common with any other person any farm land outside an urban area; and
- 20 “(c) The purchaser or lessee has not after the 16th day of October 1952, being the date of the passing of this Act, transferred, granted, leased, or otherwise disposed of any estate or interest in farm land to any person as a trustee for any person or created any trust in respect of any estate or interest in farm land; and
- 25 “(d) The purchaser or lessee has not, on or after the 1st day of July 1976, transferred, granted, or otherwise disposed of any substantial interest in a farming company to any person as a trustee for any person or persons or created any trust or trusts in respect of such shares; and
- 30 “(e) The transaction is not subject to Part IIA of this Act, or a consent has been given under that Part; and
- 35 “(f) In the case of a transaction relating to land, the purchaser or lessee makes a statutory declaration as to the matters provided in paragraphs (a) to (e) of this subsection, and deposits that declaration with the District Land Registrar or the Registrar of Deeds, as the case may require, within 1
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- “(d) Land owned, leased, held, or occupied by a parent of any child under the age of 17 years shall be deemed also to be owned, leased, held, or occupied by that child:
- 5 “(e) Shares in a farming company held by a parent of any child under the age of 17 years shall be deemed also to be held by that child:
- 10 “(f) Land and shares in which any person has any estate or interest, whether legal or equitable and whether vested or contingent, under any trust or will or intestacy shall be deemed to be owned by that person:
- 15 “(g) No account shall be taken of any land owned, leased, held, or occupied by any person, or of any shares in a farming company held by any person, or the husband or wife, as the case may be, of any person where that person or, as the case may be, the husband or wife of that person has entered into a contract or agreement for the sale or transfer of the whole of his or her estate or interest in the land or, as the case may be, the shares and the Court has granted an unconditional consent to the transaction, or the purchaser thereof has filed the statutory declaration referred to in subsection
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25 (1) of this section:
- “ (h) No account shall be taken of any estate or interest in shares in a farming company held by any other company where that other company has entered into a contract or agreement for the sale of the whole of that estate or interest and the Court has granted an unconditional consent to the transaction, or the purchaser thereof has filed the statutory declaration referred to in subsection (1) of this section.
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- 35 **“26. Prohibiting transactions without consent of Court—**
(1) Where any transaction to which this Part of this Act applies is entered into, the transaction shall be deemed to be entered into in contravention of this Part of this Act, unless—

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- “(a) The transaction is entered into subject to the consent of the Court and an application for the consent of the Court to the transaction is made within 1 month after the date of the transaction or, in the case of a transaction relating to land situated in the Chatham Islands, within 3 months after the date of the transaction or in either case within such further time as may be allowed by the Court or a Land Valuation Committee; or 5
- “(b) In any case to which section 25 of this Act applies, the statutory declaration referred to in that section is deposited with the District Land Registrar or the Registrar of Deeds or with the registered office of the company within the time specified in that section. 10 15
- “(2) No person shall—
- “(a) Enter into any transaction in contravention of this Part of this Act whether as vendor, purchaser, lessor, lessee, or other party, and whether as principal or agent; or 20
- “(b) Procure or induce any other person to enter into any transaction in contravention of this Part of this Act.
- “(3) No person shall be entitled to any commission, reward, or other valuable consideration in respect of any transaction entered into in contravention of this Part of this Act. 25
- “(4) Where any transaction is entered into in contravention of this Part of this Act, or where any condition upon or subject to which the Court grants its consent to any transaction is not complied with, the transaction shall be deemed to be unlawful and shall have no effect. 30
- “(5) Where any transaction to which this Part of this Act applies is entered into subject to the consent of the Court, the transaction shall not have any effect unless the Court consents to it and the conditions upon or subject to which the consent is granted are complied with. 35
- “(6) The Court or a Land Valuation Committee shall not grant an extension of time within which to make application for the consent of the Court to a transaction, unless the Court or the Land Valuation Committee, as the case may be, is satisfied that the delay in making the application was due 40

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to mistake (whether of fact or of law) of the parties or any of them or of any other person or to circumstances beyond the control of the parties or of any of them, and that the delay has not been used for the purpose of contravening the provisions of this Act.

“27. **Registration of instruments**—(1) The District Land Registrar or the Registrar of Deeds, on receipt of the statutory declaration in the prescribed form as to the matters provided in paragraphs (a) to (e) of section 25 (1) of this Act, or on being satisfied by such evidence as he deems necessary that this Part of this Act does not apply to the transaction, shall, if the instrument or instruments relating to the transaction are otherwise in order, accept the same for registration.

“(2) Notwithstanding anything in the articles of association of a company, it shall not be lawful for a farming company to register any allotment or transfer shares in the company unless the company is satisfied that a statutory declaration in the prescribed form as to the matters provided in paragraphs (a) to (e) of section 25 (1) of this Act has been submitted to the Company or that, subject to section 29 (3) of this Act, the Committee has made an order consenting to the transaction, or that this Part of this Act does not apply to the transaction.

25 *“Applications for Consent*

“28. **Applications for consent**—Applications for the consent of the Court to any transaction entered into subject to the consent of the Court may be made in accordance with the Land Valuation Proceedings Act 1948 by or on behalf of any party to the transaction.

“Granting or Refusal of Consent

“29. **Consent without hearing in certain cases**—If in any case the Land Valuation Committee is satisfied that, having regard to the provisions of this Part of this Act, any application for the consent of the Court to any transaction should be granted, the Committee may make an order consenting to the transaction in accordance with the application without calling on the applicant or hearing evidence.

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“30. Consent after hearing—(1) If the Land Valuation Committee, upon considering an application for consent and after hearing such evidence as it thinks fit, is satisfied—

“(a) That the completion of the transaction will not cause an undue aggregation of farm land; and 5

“(b) In any case to which section 31 of this Act applies, that the transaction should be exempted from the provisions of subsection (1) of that section; and

“(c) In any case to which Part IIA of this Act applies, that a consent has been given under that Part— 10

the Committee shall make an order consenting to the transaction, either absolutely or subject to such conditions not inconsistent with the purposes of this Part of this Act, as the Committee thinks fit, but, if it is not so satisfied, it shall make an order refusing the application. 15

“(2) Where (whether before or after the commencement of this section) the Committee has made an order consenting to the transaction subject to conditions that are to be fulfilled before the completion of the transaction, the District Land Registrar or the Registrar of Deeds shall not register any instrument relating to the transaction unless he is satisfied, by statutory declaration made by a party to the transaction or by notice from the Committee or otherwise, that those conditions have been fulfilled. 20

“(3) Where the Committee has made an order consenting to the transaction subject to conditions that are to be fulfilled before the completion of the transaction, and the transaction relates to any estate or interest in shares in a farming company, it shall not be lawful for the company to allot or register any transfer of shares comprised in that transaction, unless the company is satisfied by statutory declaration made by a party to the transactions or by notice from the Committee or otherwise that those conditions have been fulfilled. 25 30

“31. Transactions by trustees or by companies having infant shareholders—(1) Notwithstanding anything in this Act, where— 35

“(a) The purchaser or lessee under any transaction is a trustee and any person beneficially entitled under the trust is under the age of 17 years at the date of the transaction; or 40

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“(b) The purchaser or lessee under any transaction is a company or a trustee for a company to be formed, and—

5 “(i) Any member of the company or intended member of the company to be formed is under the age of 17 years at the date of the transaction and holds or will hold a substantial interest in the company; or

10 “(ii) Any member of the company or intended member of the company to be formed holds or will hold a substantial interest in the company as a trustee under a trust and any beneficiary under the trust is under the age of 17 years at the date of the transaction—

15 the Court or the Committee, as the case may be, shall not make an order consenting to the transaction unless, having regard to the matters specified in subsections (2) and (3) of this section, the Court or the Committee considers that the transaction should be exempted from the provisions of
20 this subsection.

 “(2) The Court or the Committee may, at its discretion, exempt from the provisions of subsection (1) of this section any transaction to which paragraph (a) or paragraph (b) (ii) of that subsection applies, if it is satisfied that the trust has
25 been created by an instrument which sufficiently evidences the terms thereof, and—

 “(a) That the persons beneficially entitled to the land or shares under the trust (whether their interests are vested or contingent) are engaged in a farming occupation or are receiving a special education to fit them for such an occupation, and the trust instrument provides that the land or shares shall ultimately vest in those persons or in such of them as fulfil the conditions of the trust; or
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35 “(b) That where—

 “(i) The owner of the land is a parent or grandparent of the persons beneficially entitled to the land or shares under the trust (whether their interests are vested or contingent); and

40 “(ii) In any case to which the said paragraph (a) applies, the transaction would be exempt from the provisions of this Part of this Act by virtue of

the provisions of section 24 (3) (d) of this Act but for the fact that interests (whether vested or contingent) are created under the trust in favour of any child or wife or husband of the persons so beneficially entitled to the land or that interests are created under the trust contingent upon failure of any provision in favour of the persons so beneficially entitled to the land; and 5

“(iii) In any case to which the said paragraph (b) (ii) applies, the transaction would in like manner be so exempt if it were a disposition of the land to the trustee of the shares,— 10

the owner of the land is retaining or will have an interest in farm land (including an interest as a shareholder in a company formed or to be formed) sufficient for the support of the owner and his or her spouse and such of the children of the owner as are dependent on the owner in a reasonable manner and in a reasonable standard of comfort, or that neither the owner nor his or her spouse has any intention of acquiring any interest in other farm land or shares in a farming company; or 15 20

“(c) That the land is not suitable for the settlement or to facilitate the settlement of persons desirous of making a living from that land; or 25

“(d) That, having regard to the provisions of paragraphs (a), (b), and (c) of this subsection, to the terms of the trust, and to all the circumstances of the case, it is equitable that such an exemption should be granted. 30

“(3) The Court or the Committee may, at its discretion, exempt from the provisions of subsection (1) of this section any transaction to which paragraph (b) (i) of that subsection applies, if it is satisfied that— 35

“(a) The member of the company or intended member of the company to be formed is engaged in a farming occupation or is receiving a special education to fit him for such an occupation; or

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5 “(b) That where the owner of the land is a parent or guardian of that member or intended member the owner of the land is retaining or will have an interest in farm land (including an interest as a shareholder in the company or in the company to be formed) sufficient for the support of the owner and his or her spouse and such of the children of the owner as are dependent on the owner in a reasonable standard of comfort, or that neither
10 the owner nor his or her spouse has any intention of acquiring any interest in other farm land or any shares in a farming company; or

15 “(c) That the land is not suitable for the settlement or to facilitate the settlement of persons desirous of making a living from that land; or

“(d) That, having regard to the provisions of paragraphs (a), (b), and (c) of this subsection, and to all the circumstances of the case, it is equitable that such an exemption should be granted.

20 “32. **Matters to be considered in determining whether undue aggregation**—(1) In considering whether the acquisition of the land or shares affected by any application to the Administrative Division of the Supreme Court for its consent will cause undue aggregation, the Land Valuation Committee shall have regard to the following matters:

25 “(a) Whether in any case where the purchaser or lessee is an individual the farm land already owned, leased, held, or occupied in fee simple or under any tenure of more than 1 year’s duration by the purchaser
30 or lessee, and any shares in a farming company held by him in either case whether severally, jointly, or in common with any other person, sufficient to support the purchaser or lessee and his wife and such of his children as are dependent on
35 him in a reasonable manner and in a reasonable standard of comfort; and

40 “(b) Where the purchaser or lessee is a company and the principal object and business of the company is to farm land, whether the farm land actually owned, leased, held, or occupied in fee simple or under any tenure of more than 1 year’s duration by the company, and any shares in a farming company actually held by it, in either case whether

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severally, jointly, or in common with any other person, are sufficient to enable it to operate efficiently and successfully and to pay adequate dividends to its shareholders; and

“(c) Whether, having regard to the farm land already 5
owned, leased, held, or occupied in fee simple or
under any tenure of more than 1 year’s duration
by the purchaser or lessee, whether severally,
jointly, or in common with any other person, the
acquisition of additional farm land would, judged 10
by ordinary and reasonable standards, be con-
sidered excessive; and

“(d) Where shares are being acquired, whether, having
regard to the shares in farming companies held by
the purchaser, whether or not those shares com- 15
prise a substantial interest in any company and
whether those shares are held severally, jointly,
or in common with any other person, the acqui-
sition of the additional shares would, judged by
ordinary and reasonable standards, be considered 20
excessive; and

“(e) The nature of the use to which the purchaser or lessee
proposes to devote the land and his ability to
achieve that purpose; and

“(f) Whether the acquisition would be in or against the 25
public interest, and, without limiting the matters
to be taken into consideration, it is hereby de-
clared that for the purposes of this paragraph it is
in the public interest—

“(i) To ensure and preserve the diversification 30
of the ownership of farm land by individuals or,
in the case of farming companies, by diversifica-
tion of the ownership of shares in such companies:

“(ii) That underdeveloped or depreciated farm
land be acquired by persons competent and able 35
to bring the land into production for agricultural
purposes:

“(iii) That the acquisition of land or shares by
any person will result in substantially increased
production for agricultural purposes: 40

“(iv) That the intended use of the land will be
in the interests of the community generally; and

“(g) Whether a refusal of consent would result in an unavoidable and substantial hardship to the owner of the land or of the shares.

“(2) For the purposes of this section,—

5 “(a) Any estate or interest in farm land which after the 16th day of October 1952, being the date of the passing of this Act, the purchaser or lessee has transferred, granted, leased, or otherwise disposed of to any person as trustee for any person or in
10 respect of which after that date the purchaser or lessee has created any trust shall be deemed to continue to be owned by the purchaser or lessee unless the Committee or the Court has consented to the transaction and nothing in the application
15 before the Committee or the Court substantially differs from or conflicts with any statement made by the purchaser or lessee for the purpose of obtaining that consent:

20 “(b) Any shares in a farming company which on or after the 1st day of July 1976 the purchaser or lessee has transferred, or otherwise disposed of to any person as trustee for any person or in respect of which on or after that date the purchaser or lessee
25 has created any trust shall be deemed to continue to be owned by the purchaser or lessee unless the Committee or the Court has consented to the transaction and nothing in the application before the Committee or the Court substantially differs from
30 or conflicts with any statement made by the purchaser or lessee for the purpose of obtaining that consent:

35 “(c) The interest of a Maori in any Maori land where that interest has not been partitioned shall not be deemed to be land owned, leased, held, or occupied by him:

40 “(d) Farm land owned, leased, held, or occupied by a farming company shall be deemed to be owned, leased, held, or occupied in common by every person who has a substantial interest in the company; and land owned, leased, held, or occupied by any such person shall be deemed to be owned, leased, held, or occupied by the company:

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- “(e) Where any purchaser is acquiring a substantial interest in a farming company or sufficient shares which would constitute his total shareholding a substantial interest in a farming company, he shall be deemed to be acquiring the farm land owned, leased, held, or occupied by the company: 5
- “(f) Land owned, leased, held, or occupied by a husband or wife, as the case may be, of any person shall be deemed to be owned, leased, held, or occupied by that person unless the Land Valuation Committee is satisfied that that person and his or her spouse are living separate and apart by virtue of an order of any Court, or of an agreement for separation (whether written or oral), or by virtue of the fact that one spouse has deserted the other: 10
- “(g) Land owned, leased, held, or occupied by a parent of any child under the age of 17 years shall be deemed also to be owned, leased, held, or occupied by that child: 15
- “(h) Shares in a farming company held by a parent of any child under the age of 17 shall be deemed also to be held by that child: 20
- “(i) Land and shares in which any person has any estate or interest, whether legal or equitable and whether vested or contingent, under any trust or will or intestacy shall be deemed to be owned by that person: 25
- “(j) Unavoidable and substantial hardship shall not be deemed to result solely because refusal of consent to a transaction would result in the owner of the land being unable to obtain the benefit of an excessive rent, sale price, or other consideration. 30
- “(3) In considering for the purposes of this section the area of land already owned, leased, held, or occupied by any person or the shares held by him in any farming company, no account shall be taken of land or shares vested in him as a mortgagee, trustee, executor, or administrator only. 35

“33. Power to revoke consent in certain cases—(1) The Administrative Division of the Supreme Court may call upon any person to whom consent has been granted under this 40

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Part of this Act to show cause why that consent should not be revoked on the ground—

- “(a) That a false or misleading statement has been made in connection with the application for consent; or
5 “(b) That all the material facts in connection with the transaction were not submitted to the Administrative Division of the Supreme Court.

“(2) Where the Administrative Division of the Supreme Court calls upon any person to show cause under this section,
10 that person shall forthwith forward to the Court the order granting consent and shall not complete or proceed with the transaction to which the consent relates until the Court has determined whether or not the consent should be revoked.

“(3) Unless cause is shown to the Administrative Division
15 of the Supreme Court why the consent should not be revoked, the Court may by order revoke the consent, which shall thereupon, for the purposes of this Act, be deemed not to have been obtained.

“Transfers of Leases and Licences of Crown Land

20 “34. **Administrative Division of Supreme Court may consent to transactions on behalf of Land Settlement Board—**

(1) Where any transaction is, as to part of the land affected thereby, a transaction to which this Part of this Act applies and is also, as to any other part of the land affected thereby,
25 a transaction to which this Part does not apply as being a transaction for which the consent of the Land Settlement Board is required, an application for the consent of the Court to the transaction may be made under this Part of this Act, and in any such case the Administrative Division of the Supreme
30 Court may, if it thinks fit and with the consent of the Land Settlement Board, deal with the application as if this Part of this Act applied to the whole of the transaction, but as if the Court were bound by the provisions of any Act or regulations by which the Land Settlement Board would have
35 been bound in dealing with any part of the transaction.

“(2) Where the Administrative Division of the Supreme Court makes an order consenting to the whole of any such transaction it shall not be necessary to obtain the consent of the Land Settlement Board to any part of the transaction.”

3. New Part IIA substituted—The principal Act is hereby further amended by repealing Part IIA (as inserted by section 5 of the Land Settlement Promotion and Land Acquisition Amendment Act 1968), and substituting the following Part:

“PART IIA

5

“CONTROL OF ACQUISITION OF LAND

“35A. **Interpretation**—(1) For the purposes of this Part of this Act—

“‘New Zealand resident’ means—

“(a) Any person, being an individual,— 10

“(i) Who is a New Zealand citizen, whether or not that person is actually residing in New Zealand; or

“(ii) Who has been granted a permit, not being a temporary permit, to enter New Zealand, and who is actually residing in New Zealand; or 15

“(iii) Who has been exempted from the requirement to obtain a permit to enter New Zealand, and who is actually residing in New Zealand: 20

“(b) Any person, being a body corporate, which is incorporated in New Zealand:

“‘Overseas corporation’ means a body corporate which is incorporated outside New Zealand, but does not include any such body corporate which has consent to carry on business in New Zealand under the Overseas Investment Act 1973 or under regulations made under that Act. 25

“(2) For the purposes of this Part of this Act, where the purchaser or lessee in any transaction is a trustee, the provisions of this Part shall apply as if each beneficiary were a purchaser or lessee. 30

“35B. **Transactions to which this Part applies**—(1) Notwithstanding anything in this Act, and subject to the provisions of sections 35c and 35d of this Act, this Part of this Act shall apply to every contract or agreement— 35

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- “(a) For the sale or transfer of any freehold estate or interest in land, whether legal or equitable:
- “(b) For the leasing of any land for a term of not less than 3 years:
- 5 “(c) For the sale or transfer of any leasehold estate or interest in land, whether legal or equitable, of which not less than 3 years is unexpired:
- “(d) For the granting of an option to purchase or otherwise acquire any freehold or leasehold estate or interest
- 10 in land as aforesaid,—
in any case where the purchaser or lessee, or where there are 2 or more purchasers or lessees any one of the purchasers or lessees,—
- “(e) Being an individual and not being a trustee, is not a
- 15 New Zealand resident; or
- “(f) Being a body corporate and not being a trustee, is an overseas corporation; or
- “(g) Is a trustee under a trust any beneficiary of which is not a New Zealand resident or is an overseas
- 20 corporation.
- “(2) Where any lease or any contract or agreement for a lease contains a provision enabling the lease or the contract or agreement for a lease to be renewed for any period or successive periods upon the expiration of the original term
- 25 thereof, the period or periods for which the lease or contract or agreement may be so renewed shall, for the purposes of this Part of this Act, be deemed to be part of the original term thereof.
- “35c. **Transactions exempt from this Part**—Nothing in
- 30 this Part of this Act shall apply with respect to—
- “(a) Any transaction entered into before the 1st day of July 1976, or the exercise of any option granted before that date:
- “(b) Any transaction of any of the kinds specified in
- 35 paragraphs (b) to (i) and (k) to (o) of section 24 (3) of this Act:
- “(c) Any transaction which is effected by an order of the Maori Land Court or of the Maori Appellate Court, not being a transaction in respect of which the confirmation of the Maori Land Court is required under Part XIX or Part XXIII of the
- 40 Maori Affairs Act 1953:

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“(d) Any transaction of a class for the time being exempted from this Part of this Act by regulations made under this Act.

“35D. **Registration of dealings**—Notwithstanding anything in this Act or in any other Act, the District Land Registrar or the Registrar of Deeds shall not register any dealing to give effect to any contract or agreement specified in paragraphs (a) to (d) of section 35B (1) of this Act, unless— 5

“(a) The transaction is exempt from this Part of this Act under section 35C of this Act; or 10

“(b) The purchaser or lessee or, where any purchaser or lessee is a body corporate, a director or secretary or other principal officer of the body corporate, is the holder of a consent issued in the prescribed form and for the time being in force authorising the completion of the transaction; or 15

“(c) The District Land Registrar or the Registrar of Deeds, as the case may be, is satisfied by a statutory declaration in the prescribed form made by every purchaser or lessee, or, where any purchaser or lessee is a body corporate, by a director or the secretary or other principal officer, that this Part of this Act does not apply to the transaction: 20

“Provided that the District Land Registrar or Registrar of Deeds may accept as sufficient proof that this Part of this Act does not apply to the transaction a certificate to that effect endorsed on the memorandum of transfer or lease or instrument of conveyance and signed by the solicitor for the purchaser or lessee. 25

“35E. **Prohibiting transactions without consent**—(1) Where any transaction to which this Part of this Act applies is entered into, the transaction shall be deemed to be entered into subject to the consent of the Minister in the prescribed form under section 35F of this Act. 30

“(2) No person shall— 35

“(a) Enter into any transaction in contravention of this Part of this Act, whether as vendor, purchaser, lessor, lessee, or other party, and whether as principal or agent; or

“(b) Procure or induce any other person to enter into any transaction in contravention of this Part of this Act. 40

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“(3) No person shall be entitled to any commission, reward, or other valuable consideration in respect of any transaction entered into in contravention of this Part of this Act.

5 “(4) Where any transaction is entered into in contravention of this Part of this Act, or where any condition upon or subject to which the Minister consents is not complied with, the transaction shall be deemed to be unlawful and shall have no effect.

10 “(5) Where any transaction to which this Part of this Act applies is entered into subject to the consent of the Minister, the transaction shall not have any effect unless the consent is given and the conditions upon or subject to which the consent is given are complied with.

“35F. Consents to enter into contracts or agreements—

15 (1) Application for the consent of the Minister shall be made in the prescribed form to the Commissioner of Crown Lands for the district in which the land is situated within 1 month after the date of the transaction or, in the case of a transaction relating to land situated in the Chatham Islands,
20 within 3 months of the date of the transaction:

“Provided that the Minister may extend the time for the application to be made in any case where he is satisfied that the delay was due to mistake (whether of fact or of law) of the parties or any of them or of any other person or to
25 circumstances beyond the control of the parties or of any of them, and that the delay has not been used for the purpose of contravening the provisions of this Act.

30 “(2) The Minister shall consider the application and may, in his absolute discretion, if he is satisfied that the transaction is in the interest of New Zealand, consent to the transaction, but, if he is not so satisfied, he shall refuse to consent to the transaction.

35 “(3) Notwithstanding anything in subsection (2) of this section, where the purchaser is a mortgagee who has become the purchaser of the land at a sale conducted by a Registrar of the Supreme Court in the exercise of the mortgagee's power of sale under the mortgage, the Minister shall not consent to the transaction unless he is also satisfied that—

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“(a) The principal sum secured by the mortgage was advanced by the mortgagee in good faith for investment purposes or in the ordinary course of business of the mortgagee; and

“(b) The purchase price does not exceed by more than \$100 the aggregate of the amount due and owing under the mortgage, the reasonable expenses incurred by the mortgagee in connection with the sale, and any other money expended by the mortgagee up to the date of the sale on or about the land in the protection of his security.

“(4) The consent of the Minister may be given subject to such conditions, if any, as may be prescribed by regulations made under this Act, and to such other conditions as may in any case be imposed by the Minister.

“(5) Any consent of the Minister may, prior to the registration of the transaction in respect of which the consent given, be revoked by the Minister.

“35G. **Delegation of powers of Minister**—(1) The Minister may from time to time under his hand delegate to any Commissioners of Crown Lands all or any of the powers (except this present power of delegation and his powers under section 35H of this Act) exercisable by the Minister under this Act.

“(2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

“(3) Any such delegation may be made subject to such restrictions and conditions as the Minister thinks fit and may be made either generally or in relation to any particular case.

“(4) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Minister by whom it was made has ceased to hold office, and shall continue to have effect as if made by the successor in office of that Minister.

“35H. **Minister may apply for order of Court vesting land in Crown**—In any case where any estate or interest in land which was the subject-matter of any transaction to which this Part applies has become vested in the purchaser or the lessee, and the purchaser or lessee—

“(a) Has failed to obtain the consent of the Minister to the transaction; or

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- “(b) Fraudulently procured the consent of the Minister to the transaction; or
- “(c) Has failed to fulfil any condition subject to which the consent of the Minister was given; or
- 5 “(d) Has been convicted of an offence in relation to that transaction under section 43 of this Act,—
- the Minister may apply to the Court for an order vesting the estate or interest in the land in the Crown, and the Court
- 10 may, in its discretion, make such order, subject to the payment of such compensation to the purchaser or lessee as it thinks fit.
- “Provided that the Court may suspend any such order for such period as it thinks fit, and the order shall have no effect if, before the end of that period, the purchaser or lessee
- 15 divests himself of his estate or interest therein.”

4. Consequential repeals and amendments—(1) The following enactments are hereby consequentially repealed:

- (a) Sections 213B (2), 227 (1A), 227 (2A), 318 (1A), and 318 (2A) of the Maori Affairs Act 1953:
- 20 (b) Sections 3 and 4 of the Land Settlement Promotion and Land Acquisition Amendment Act 1955:
- (c) The Land Settlement Promotion and Land Acquisition Amendment Act 1959:
- (d) The Land Settlement Promotion and Land Acquisition Amendment Act 1961:
- 25 (e) The Land Settlement Promotion and Land Acquisition Amendment Act 1963:
- (f) Sections 3, 5, 6, and 7 of the Land Settlement Promotion and Land Acquisition Amendment Act 1968:
- 30 (g) The Land Settlement Promotion and Land Acquisition Amendment Act 1969:
- (h) The Land Settlement Promotion and Land Acquisition Amendment Act 1972.
- (2) Section 227 (3) of the Maori Affairs Act 1953 is hereby
- 35 by consequentially amended by omitting the words “subsections (1) and (1A)” (as substituted by section 7 (4) of the Land Settlement Promotion and Land Acquisition Amendment Act 1968), and substituting the words “subsection (1)”.