

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,  
13th October, 1871.

(Hon. Mr. Waterhouse.)

## Land Transfer Amendment.

### ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Act to be read as part of "Land Transfer Act 1870." 4. Repeal. 5. Amendments. 6. Lands contracted to be alienated in fee to be subject to Act. 7. Explanation of clause 21 of "Land Transfer Act 1870." 8. Provisional Register for land not Crown-granted. 9. No certificate of title to be issued while land on Provisional Register but memorial to be entered on receipt. 10. Receipts filed under clause 105 of "Land Transfer Act 1870" to be placed on Provisional Register. 11. As to the issue of grants of land contracted to be alienated after "The Land Transfer Act 1870" was brought into operation. 12. On receipt of grants District Land Registrar to transfer entries from Provisional Register. 13. Certificates to bear even date with registration of grants. 14. No dealing to be registered till fees paid.</p>	<p>15. Dealings affecting less than the whole area of land included in receipt not to be entered on Provisional Register unless certified as correct. 16. Governor may appoint Examiner of Titles to be Deputy to the District Land Registrar and <i>vice versa</i>. 17. District Land Registrar not to register instruments except on printed forms. 18. District Land Registrar not to register instruments insufficiently stamped. 19. Transfer. 20. Unnecessary to issue fresh certificate of title to transferee in certain cases. 21. As to interest in land outstanding when land first brought under the Act. 22. Registrar of Deeds not to register dealings with land under Act. 23. Governor may alter boundaries of districts. 24. Boundaries of Southland District. 25. Boundaries of Otago District. 26. Mortgages of Building Societies. 27. District Land Registrar not responsible for improper exercise of power of sale in mortgage. 28. Unnecessary to register Crown grants in Deeds Registry in certain cases. 29. Fees. 30. Registrar-General may make regulations. 31. Time of coming into operation.</p>
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### A BILL INTITLED

AN ACT to amend "The Land Transfer Act 1870." Title.

WHEREAS it is expedient that "The Land Transfer Act 1870" Preamble.  
should be amended in divers particulars:

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

1. The Short Title of this Act shall be "The Land Transfer Act 1870 Amendment Act 1871." Short Title.

2. In this Act the words "the Act" shall mean "The Land Transfer Act 1870." The word "dealing" shall include "trans- Interpretation.  
10 mission." The words "receipt in full" in section one hundred and five  
No. 65—2.

of the Act and the word "receipt" in this Act shall include any document signed by competent authority evidencing a contract for the absolute disposition of Waste Lands of the Crown in fee where the consideration for such disposition is not a money payment.

**3.** This Act shall be read and construed as incorporated with and as part of the Act. 5

Act to be read as part  
of "Land Transfer  
Act 1870."  
Repeal.

**4.** Sections sixteen twenty forty-eight one hundred and five one hundred and thirteen and so much of section one hundred and eleven of the Act as relates to the administration of oaths to Land Brokers save as to things done and interests vested under the said sections or any of them are hereby repealed. 10

Amendments.

**5.** The following amendments are hereby made in the several sections of the Act in this section referred to:—

Section fifty-nine after the word "continued" in the fourteenth line the words "or may leave such notice on the mortgaged or encumbered land" are hereby inserted and the section shall be read and construed as if such words had been originally inserted therein and formed part thereof. 15

Section ninety-seven the words "the district" are hereby added to this section. 20

Section ninety-nine the words "or may execute any such instrument by attorney appointed under the common seal of such corporation" are hereby added to this section.

Section one hundred and seven the words "Registrar-General of Land" are hereby added to this section. 25

Lands contracted to  
be alienated in fee to  
be subject to Act.

**6.** All Crown lands and all lands set apart as roads or for public purposes which at the time of the constitution of the Land District within which such lands may be were unalienated by the Crown and were not the subject of subsisting contract with the Crown for alienation and all lands over which at the time of the constitution of the Land District within which such lands may be the Native title was not extinguished shall if the same have been or when the same shall be contracted to be alienated from the Crown in fee or as to the lands over which the Native title was not so extinguished when a Crown grant thereof is issued shall become and remain in all respects subject to the provisions of the Act. 30 35

Explanation of clause  
21 of "Land Transfer  
Act 1870."

**7.** The words "granted or contracted to be granted by the Crown in fee" in clause twenty-one of the Act shall be taken to have meant and to mean "alienated or contracted to be alienated from the Crown in fee." 40

Provisional Register  
for land not Crown-  
granted.

**8.** Dealings with land contracted to be alienated from the Crown after the coming into operation of this Act shall until the registration of the Crown grant thereof be registered as follows:—Every receipt for the purchase money of any such lands given by the Colonial Treasurer or any Receiver of Land Revenue shall be issued in duplicate and it shall be the duty of the person issuing the same to forward one copy thereof to the District Land Registrar of the district in which the land to which the receipt relates is situate and every District Land Registrar shall bind up such receipts in a book to be called the "Provisional Register Book" and each receipt shall constitute a separate folium of such book and the District Land Registrar shall record thereon the particulars of all instruments dealings and other matters by the Act required to be registered or entered on the Register Book affecting the land included in such receipt distinct and apart and the District Land Registrar shall also record the like particulars on the duplicate receipt except where he may dispense with the production of the same which he is hereby authorized to do in cases similar to those in which he may dispense with the production of a duplicate grant or certificate or in cases where the land was contracted to be 45 50 55

alienated after the Act was brought into operation but before the coming into operation of this Act as hereinafter provided.

9. So long as land remains on the Provisional Register no certificate of title shall be issued in respect thereof but the memorial of every dealing affecting the whole or any part of such land shall be entered on each such receipt and every such entry shall be received in all Courts of Law and Equity as evidence of the particulars therein set forth and shall as against the person named in the original receipt and all persons claiming through under or in trust for him be conclusive evidence that the person named in such entry is seised or possessed of the land therein mentioned for the estate or interest therein specified and save as hereinbefore specially provided all provisions of the Act relating to dealings with or affecting land and the registration of instruments and other matters affecting land of which a grant or certificate has been registered shall so far as the circumstances of the case will admit apply to dealings with or affecting land entered on the Provisional Register Book and to the registration of instruments and other matters affecting the same save that the estate or interest of a registered proprietor of land on the Provisional Register shall be indefeasible only against the person named in the original receipt and all persons claiming through under or in trust for him.

No certificate of title to be issued while land on Provisional Register but memorial to be entered on receipt.

10. Every District Land Registrar shall place on the Provisional Register Book all receipts which have been filed by him under section one hundred and five of the Act and all dealings which have been noted on such receipts shall be deemed to have been duly registered and henceforth all dealings with land contracted to be alienated from the Crown in any district between the time of the Act being brought into operation and the time of the coming into operation of this Act shall until the Crown grant thereof be registered be registered on the Provisional Register in the same manner and with the like effect as dealings with land contracted to be alienated after the coming into operation of this Act but of which the Crown grant shall not have been registered save that the receipt originally given to the purchaser shall be surrendered for the purpose of forming the folium of the Provisional Register Book on which such dealings may be recorded.

Receipts filed under clause 105 of "Land Transfer Act 1870" to be placed on Provisional Register.

11. The grants of all land that may have been contracted to be alienated from the Crown in any district since the Act was brought into operation therein or that may hereafter be contracted to be alienated shall be issued in duplicate and it shall be the duty of the Commissioner of Crown Lands to forward such grants to the District Land Registrar of the district in which the land comprised in such grants is situate with a memorandum describing the number of the application and the number and date of the receipt originally given for the purchase money of the land comprised in each grant and also a memorandum of the fees due for the issue of such grant.

As to the issue of grants of land contracted to be alienated after "The Land Transfer Act 1870" was brought into operation.

12. The District Land Registrar on the receipt of such grants shall register the same and shall copy on both duplicates all entries which appear on the corresponding folium of the Provisional Register Book and if such entries shall show that the land comprised in any such grant or part thereof has become vested in any person other than the grantee he shall cancel such grant either wholly or in part and shall issue such certificates of title to the persons entitled to such land as he may deem necessary and shall copy on every such certificate from the Provisional Register all entries of interests affecting the land comprised in such certificate that may be outstanding at the date of the issue thereof and shall register such certificates.

On receipt of grants District Land Registrar to transfer entries from Provisional Register.

13. Every such certificate shall bear even date with the date of the registration of the Crown grant and for all purposes shall be considered to have been issued and registered immediately after the registration of the Crown grant and if any such certificate be issued

Certificates to bear even date with registration of grants.

in the name of any person who may have previously died the land comprised in it shall devolve in like manner as if the certificate had been issued immediately prior to the death of such person.

No dealing to be registered till fees paid.

14. Save such certificates as in the two last preceding clauses mentioned no dealing with any land included in any Crown grant shall be registered subsequently to the registration of such Crown grant until the fees due for the issue and registration thereof and for the Assurance Fund have been paid and no dealing with any land included in any certificate of title shall be registered subsequently to the registration of such certificate until the fees due on such certificate have been paid.

Dealings affecting less than the whole area of land included in receipt not to be entered on Provisional Register unless certified as correct.

15. No District Land Registrar shall enter on the Provisional Register any dealing affecting less than the whole area of the land included in any receipt unless he is satisfied that the land affected is part of the land included in such receipt and that the description and plan of the land in the instrument presented for registration are sufficient to accurately identify the same.

Governor may appoint Examiner of Titles to be Deputy to the District Land Registrar and vice versa.

16. The Governor may appoint the Examiner of Titles in any district to be deputy to the District Land Registrar or the District Land Registrar to be deputy to the Examiner of Titles in case of the death illness or absence of either of such officers respectively and notwithstanding anything contained in the Act such deputy may alone exercise and perform as well the powers and duties which by the Act are to be exercised and performed by such officers separately as those which are to be exercised or performed by either of them in conjunction or concurrence with the other. The Governor in any such case may in his discretion make such further provision for the due exercise and performance of such duties and powers as to him shall seem fit.

District Land Registrar not to register instruments except on printed forms.

17. No application or instrument for which forms are provided by the Schedule to the Act shall be received or registered except the same shall be written upon a printed form supplied by the Land Registry Office or by some person licensed to print and sell the same unless such application or instrument shall be executed under circumstances which in the opinion of the District Land Registrar shall reasonably excuse the omission to use such printed form.

District Land Registrar not to register instruments insufficiently stamped.

18. No District Land Registrar shall register any instrument liable to Stamp duty unless the same has been duly stamped but if any District Land Registrar shall register any such instrument unstamped or stamped insufficiently such registration and such instrument shall nevertheless be as valid and effectual as if the Stamp duty had been fully paid.

Transfer.

19. When land under the provisions of the Act or any estate or interest in such land is intended to be transferred or any right of way or other easement is intended to be created or transferred the registered proprietor may execute a memorandum of transfer in form D or H of the Schedule to the Act which memorandum shall for description of the land intended to be dealt with if the whole of the land in any such certificate be intended to be dealt with or affected refer to the grant or certificate of title of such land or if only a part of the land in any such certificate be intended to be dealt with or affected shall give such description as may be sufficient to identify the same and shall contain an accurate statement of the estate interest or easement intended to be transferred or created and a memorandum of all leases mortgages and other encumbrances to which the same may be subject and such memorandum of transfer if it purports to deal with an estate in respect to which a certificate of title is by the Act authorized to be issued or if it be indorsed on the instrument evidencing the title of the transferrer need not be used in duplicate.

Unnecessary to issue fresh certificate of title to transferee in certain cases.

20. If any memorandum of transfer purports to transfer to any person the whole of any land described in any grant or certificate of title and all the estate and interest in such land that every person mentioned

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in such grant or certificate or in any such memorial as hereinafter mentioned is seized of or entitled to under such grant certificate or memorial and if such memorandum purports to vest such land in the transferee for the same estate and interest for which it was held by the transferor then notwithstanding anything contained in the Act it shall not be necessary for the District Land Registrar to cancel such grant or certificate of title but in every such case the District Land Registrar shall enter in the Register Book and on the duplicate grant or certificate a memorial of such transfer and such memorial shall be conclusive evidence that the person named therein as transferee is seized of and entitled to the land mentioned in such grant or certificate for the estate or interest therein specified subject to any other memorials notified thereon.

**21.** All interests in land outstanding when land is first brought under the Act and which are notified on the certificate of title in accordance with section thirty-eight of the Act shall be dealt with after the issue of such certificate and the dealings therewith shall be registered as nearly as may be in the same manner as if such interests had been originally created under the provisions of the Act.

As to interest in land outstanding when land first brought under the Act.

**22.** No Registrar of Deeds shall register in the Deeds Registry against any land subject to the provisions of the Act any instrument affecting or purporting to affect the same. And if any such instrument shall be registered the registration thereof as regards such land shall be altogether void and of no effect. The word "instrument" in this section shall bear the same meaning as in "The Deeds Registration Act, 1868."

Registrar of Deeds not to register dealings with land under Act.

**23.** The Governor may from time to time as he shall think fit by Proclamation published in the *Gazette* alter the boundaries of any districts proclaimed or to be proclaimed under the Act and increase or diminish the number of such districts by the creation of new and the abolition of the existing districts.

Governor may alter boundaries of districts.

**24.** The boundaries of the Land Registrar's District of Southland shall be deemed to be and to have been on and from the twenty-eighth day of February one thousand eight hundred and seventy-one coterminous with the boundaries of the Deeds Registration District of Southland as such Deeds Registration District of Southland is defined in the First Schedule to a certain Proclamation bearing date the twenty-seventh day of February one thousand eight hundred and seventy-one published in the *New Zealand Gazette* of the second day of March one thousand eight hundred and seventy-one number fifteen.

Boundaries of Southland District.

**25.** The boundaries of the Land Registrar's District of Otago shall be deemed to be and to have been on and from the twenty-eighth day of February one thousand eight hundred and seventy-one coterminous with the boundaries of the Deeds Registration District of Otago as such Deeds Registration District of Otago is defined in the Second Schedule to the Proclamation last above referred to.

Boundaries of Otago District.

**26.** Every Society constituted or to be constituted under "The Building and Land Societies Act 1866" or any future statutory modification thereof shall forward from time to time to the District Land Registrar of every district to which its operations extend the names of the Treasurer Trustee or other officers in whom the property of the Society may by law be or become vested and also notice of the death resignation or removal of existing and the appointment of new officers also a copy of the rules of the Society. Land under the Act shall be mortgaged or encumbered to such Societies only by memorandum of mortgage or encumbrance made to such officers denoted by their official denomination and not by their own proper names and the persons in whom the property of the Society shall for the time being be vested shall be deemed to be the registered proprietors of such mortgages or encumbrances. When any instrument shall be presented

Mortgages to Building Societies.

for registration affecting the land included in any such mortgage or encumbrance and shall purport to be executed by the persons in whom the property of the Society appears to the District Land Registrar to have been vested at the time of the execution of such instrument he shall register the same and no person claiming under any such instrument shall be affected by notice direct or constructive that the property of the Society was not vested in the persons executing the same nor that such instrument was executed in contravention of the rules of the Society or the terms of the mortgage and no claim on the Assurance Fund shall arise from the fact that the property was not so vested or that such instrument was so executed as aforesaid. 5 10

District Land Registrar not responsible for improper exercise of power of sale in mortgage.

**27.** When any memorandum of transfer shall be presented for registration purporting to be in exercise of any power of sale contained or implied in any registered mortgage or encumbrance it shall not be necessary for the District Land Registrar to inquire whether such power of sale has been improperly exercised and the Assurance Fund shall in no case be liable by reason of the improper exercise of any such power of sale and the registration of any memorandum of transfer consequent upon such improper exercise. 15

Unnecessary to register Crown Grants in Deeds Registry in certain cases.

**28.** It shall not be necessary for any Registrar of Deeds to register any Crown grant that may be transmitted to him for registration under "The Deeds Registration Act 1868" in cases where application shall be made at the time of such grant being so transmitted to bring the land comprised therein under the Act unless and until such application shall be refused or withdrawn. 20 25

Fees.

**29.** It shall be lawful for the Registrar-General of Land with the sanction of the Governor in Council to make regulations from time to time stating the time of payment and the fees and sums which may be demanded by the District Land Registrars such fees not in any case to exceed the fees specified in Schedule P of the Act also to prescribe fixed fees for advertisements: Provided always that until such regulations are made the fees chargeable under the said Schedule as modified by Orders in Council under the provisions of the Act shall be the fees payable under the Act. 30

Registrar-General may make regulations.

**30.** The Registrar General may from time to time make such regulations as he may think fit for the guidance of the officers in the several Land Registration Offices but such regulations shall not be repugnant to anything contained in the Act read in conjunction with the now amending Act. 35

Time of coming into operation.

**31.** This Act shall come into operation on the first day of January one thousand eight hundred and seventy-two. 40