

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

*House of Representatives, 5 August 1991.*

**[Clause 105 of this Bill was formerly clause 105 of the Finance Bill (No. 2): 83-1]**

*Hon. Maurice McTigue*

## LAND TRANSFER AMENDMENT

### ANALYSIS

Title	1. Short Title and commencement 105. Fees
-------	--

### A BILL INTITULED

#### **An Act to amend the Land Transfer Act 1952**

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

5     **1. Short Title and commencement**—(1) This Act may be cited as the Land Transfer Amendment Act 1991, and shall be read together with and deemed part of the Land Transfer Act 1952 (hereinafter referred to as the principal Act).

      (2) This Act shall come into force on the 1st day of September 1991.

10     **105. Fees**—(1) The principal Act is hereby amended by repealing section 235 (as substituted by section 17 of the Land Transfer Amendment Act 1966), and substituting the following section:

15     “235. (1) Regulations made under this Act may prescribe fees for—

      “(a) Depositing, lodging, or filing any instrument, dealing, or document; or

20     “(b) The doing of any act that a Registrar or the Registrar-General is empowered or required to do by this Act or any other enactment.

      “(2) A Registrar may refuse to—

No. 83—2E

- “(a) Register, deposit, or accept an instrument, dealing, or document for the deposit, lodging, or filing of which a fee is prescribed; or
- “(b) Do any act for the doing of which a fee is prescribed,— unless the fee has been paid. 5
- “(3) Nothing in **subsection (1)** of this section limits or affects the generality of section 55 of this Act.
- “(4) Notwithstanding **subsection (2)** of this section and section 55 of this Act, a Registrar may—
- “(a) Dispense with the payment of all or any part of any fee payable under this Act; or 10
- “(b) Refund all or any part of any fee paid under this Act.
- “(5) Fees may be prescribed under this Act having regard to the costs and expenses incurred by the department of State for the time being responsible for the administration of the Survey Act 1986 in providing, in accordance with section 11 of that Act, survey maintenance and control for— 15
- “(a) Surveys supporting title to land under this Act; and
- “(b) The maintenance of cadastral records of such surveys.
- “(6) Nothing in **subsection (5)** of this section limits or affects the generality of **subsection (1)** of this section. 20
- “(7) Notwithstanding **subsection (1)** of this section,—
- “(a) Any fee that—
- “(i) Became payable before the 7th day of October 1966 for the first certificate of title to land brought under this Act; but 25
- “(ii) Had not been paid before the commencement of this section,— shall continue to be payable, but need not be paid until the certificate is required to be delivered by the Registrar to the person entitled to it, or to be cancelled, or until a dealing with the land (or with any estate or interest in the land) comprised in the certificate is presented for registration; and section 55 of this Act (but not the proviso to it) shall apply to the fee; and 30 35
- “(b) Notwithstanding anything in any enactment in force immediately before the 7th day of October 1966 prescribing a fee for the registration or deposit under this Act of any instrument,— 40
- “(i) Where the fee prescribed by the enactment is \$1 or less, the instrument may be registered or deposited under this Act without payment of any fee; and

“(ii) In every other case it may be registered or deposited on payment of a fee of \$2.”

(2) The principal Act is hereby consequentially amended—

- 5 (a) By omitting from sections 45, 45A (as inserted by section 2 of the Land Transfer Amendment Act 1986), 46, and 195 (1) the words “, upon payment of the prescribed fee,”; and
- (b) By omitting from section 94 (2) the words “without fee”; and
- 10 (c) By omitting from section 211 (c) the words “upon payment of the prescribed fee”; and
- (d) By omitting from section 229 (1) (as amended by section 7 of the Decimal Currency Act 1964) the words “; and for every such licence may charge and receive the fee of \$10 annually”; and
- 15 (e) By repealing section 49 (3), section 66 (6), and the proviso to section 211 (c).

(3) The Land Transfer Amendment Act 1963 is hereby consequentially amended by omitting from section 16 (2) the words “, without fee or on payment of the prescribed fee, as the Registrar thinks fit”.

20

(4) Section 17 of the Land Transfer Amendment Act 1966 is hereby consequentially repealed.

(5) For the avoidance of doubt, it is hereby declared that the prescription, demanding, payment, or receipt, before the commencement of this Act, of any fee was as valid and effectual as if subsections (1) and (2) of this section had come into force on the commencement of the principal Act.

25