

MARGINAL LANDS BILL

EXPLANATORY NOTE

THE general purpose of this Bill is to provide the means by which assistance can be provided to increase the production of lands which are not fully productive or to maintain and restore the production of lands declining in productivity.

PART I—GENERAL ADMINISTRATION

Clause 3 establishes a Marginal Lands Board, consisting of the Minister of Lands, the Director-General of Lands, the Secretary to the Treasury, the Director-General of Agriculture, the Chairman of the Soil Conservation and Rivers Control Council, and two appointed members who are to be persons experienced in the management of marginal lands.

Clause 4 authorizes the Board to appoint one or more Marginal Lands Committees in any land district for the purpose of assisting the Board in its local administration. Each Committee is to comprise an officer of the Department of Lands and Survey, an officer of the Department of Agriculture, and one other person to be selected from time to time from the Marginal Lands Panel for the district. This Panel is to be established in each district in which a Committee is appointed and is to consist of not more than five persons who are experienced in the farming or management of marginal lands (*clause 5*).

Clause 6 authorizes the Board to delegate its powers.

Clause 7 provides that all matters relating to applications for assistance are to be treated as confidential.

Clause 8 provides that a member of the Board or of any Committee is not to act if he is financially or personally interested in any application for assistance.

Clause 9 authorizes the payment of remuneration and travelling expenses to members of the Board or of any Committee or Panel who are not public servants.

Clause 10 provides for the appointment of an officer of the Department of Lands and Survey as Marginal Lands Director, who is to be the principal executive officer of the Board and will supervise the administration of the Bill.

Clause 11 enables the Board to appoint any person to report on any particular problem or any application. The purpose of this provision is to enable the Board to take advantage of the best knowledge available when it is confronted with an unusual or difficult problem.

PART II—ASSISTANCE TO OWNERS OR OCCUPIERS OF MARGINAL LANDS

Clause 12: *Subclause (1)* defines the functions of the Board as being to assist farmers to restore, increase, and maintain production on marginal lands. In the exercise of those functions the Board is authorized by *subclause (2)* to make advances to farmers for the purposes set out in that subclause.

The procedure for applying for assistance is prescribed by *clause 13* of the Bill.

Any assistance granted by the Board may be granted subject to conditions laid down by the Board (*clause 14*), and, in particular, the Board may impose conditions restricting the types of stock and the numbers of stock to be depastured on the land and the types of crops to be grown and the areas to be sown.

Under *clause 15* the Board is to take security over the land for any advances made, and may require security to be given over other land of the applicant and over his stock and chattels. *Subclause (2)* authorizes the Board to grant relief from payment of moneys due under any security if it considers it equitable to do so. *Subclause (3)* provides that, so long as any moneys are owing under any such security, the applicant is not entitled, without the consent of the Board, to dispose of the land or stock or chattels over which the security is held.

Clause 16 provides for a rehearing or review by the Board of any application for assistance or decision on any application.

Clause 17: For the purpose of facilitating the granting of assistance, the Board may enter into agreements with mortgagees of the land.

Clause 18 authorizes a trustee holding any mortgage over the land to adjust the liabilities under the mortgage if he considers it in the interests of the trust to do so.

Clause 19 confers rights of entry on land for the purposes of the Bill.

PART III—FINANCIAL PROVISIONS

This Part provides that all moneys required for the purposes of the Bill are to be paid from the Land Settlement Account out of moneys appropriated for the purpose of restoring, increasing, or maintaining production on marginal lands (*clause 20*), and that all repayments under mortgages, &c., are to be paid into that account (*clause 21*).

PART IV—MISCELLANEOUS

Clause 22 authorizes the Director-General of Land to take proceedings on behalf of the Crown to enforce any claim arising under the Bill and to defend any such claim made against the Crown.

Clause 23 prescribes the method of execution of documents on behalf of the Crown or the Board, and *clause 24* sets out the method of service of notices.

Clause 25 requires the Board to report to Parliament annually.

Clause 26 confers general authority to make regulations for the administration of the Bill.

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

*House of Representatives,
24th November, 1950*

Hon. Mr. Corbett

MARGINAL LANDS

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A BILL INTITULED

Title.	AN ACT to Make Provision for Increasing the Production of Farm Lands that are not Fully Productive.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title and commencement.	1. (1) This Act may be cited as the Marginal Lands Act, 1950.	
	(2) This Act shall come into force on the first day of April, nineteen hundred and fifty-one.	10
Interpretation.	2. In this Act, unless the context otherwise requires,—	
	“ Advance ” means any payment by way of loan out of the Land Settlement Account authorized by this Act:	
	“ Application ” means an application in writing addressed to the Board or to the Director or to the Commissioner for assistance under this Act; and “ applicant ” has a corresponding meaning:	15
	“ Assistance ” means any help given by the Board under this Act; and includes any advance made or any services rendered:	20
	“ Board ” means the Marginal Lands Board established under this Act:	
	“ Commissioner ” means the Commissioner of Crown Lands for the land district in which is situated the land affected by the subject matter; and includes his deputy:	25
	“ Committee ” means a Marginal Lands Committee established under this Act:	30
	“ Department ” means the Department of Lands and Survey:	
	“ Director-General ” means the Director-General of Lands; and includes his deputy:	
	“ Director ” means the Marginal Lands Director appointed under this Act; and includes any officer of the Department for the time being authorized to perform the functions of the Director:	35
	“ Farm ” means any area of land for the time being used for the purposes of agricultural or pastoral production; and includes the fences, buildings, pastures, trees, livestock, machinery, and other things on the land that are used in the normal course of farming operations:	40 45

“ Land Settlement Account ” means the Land Settlement Account established under section twenty-seven of the Land Act, 1948:

1948, No. 64

5 “ Marginal land ” means any land that in the opinion of the Board is used, or is capable of being used, for agricultural or pastoral production, but which, in the opinion of the Board, is not developed to its full productive capacity or is declining or tending or likely to decline in productivity or has suffered or is liable to suffer soil erosion or has suffered or is liable to suffer damage or loss of productivity from floods or similar disasters, and which, in the opinion of the Board, is worth
10 developing, maintaining, or protecting:

15 “ Marginal Lands Panel ” means a Marginal Lands Panel established under this Act:

“ Minister ” means the Minister of Lands:

20 “ Topdressing ” means the application to the land of any fertilizer within the meaning of the Fertilizers Act, 1927, or of lime.

See Reprint
of Statutes,
Vol. I, p. 101

PART I

GENERAL ADMINISTRATION

Marginal Lands Board

25 **3.** (1) For the purposes of this Act, there is hereby established a Board, to be called the Marginal Lands Board, consisting of—

Marginal Lands Board.

(a) The Minister of Lands, who shall be the Chairman of the Board:

30 (b) The Director-General of Lands, who shall be the Deputy Chairman of the Board:

(c) The Secretary to the Treasury:

(d) The Director-General of Agriculture:

35 (e) The Chairman of the Soil Conservation and Rivers Control Council:

(f) Two other persons to be appointed by the Governor-General on the recommendation of the Minister, as being persons experienced in the management of marginal lands, and to hold office during the pleasure of the Governor-General.

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(2) Meetings of the Board may be summoned by the Minister or by the Director-General on behalf of the Minister. In the absence from any meeting of both the Minister and the Director-General, the members present shall select one of their number to be Chairman for the purposes of that meeting. 5

(3) Four members of the Board shall form a quorum.

(4) In the absence from any meeting of any member, being an officer of any Department of State, he may authorize any other officer of that Department to attend the meeting in his stead. In the absence from any meeting of the Chairman of the Soil Conservation and Rivers Control Council, any person appointed by him may attend the meeting in his stead. In the absence from any meeting of a member appointed under paragraph (f) of subsection *one* of this section, any person appointed by the Minister may attend the meeting in his stead. While any person is attending any meeting under this subsection, he shall be deemed for all purposes to be a member of the Board. 10 15 20

(5) The fact that any person attends and acts as a member of the Board at any such meeting shall be conclusive proof of his authority to do so.

(6) At every meeting of the Board the Chairman of that meeting shall have a deliberative vote and, in case of an equality of votes, shall also have a casting vote. 25

(7) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(8) If any member of the Board appointed under paragraph (f) of subsection *one* of this section dies or resigns or is removed from office, the Governor-General may, on the recommendation of the Minister, appoint some qualified person to fill the vacancy. 30

(9) Subject to the provisions of this Act, the Board may regulate its own procedure. 35

Marginal Lands Committees

Marginal Lands
Committees.

4. (1) For the purpose of assisting in the administration of this Act, the Board may appoint one or more Marginal Lands Committees for any land district, and may from time to time re-constitute or abolish any such Committee. 40

(2) Every Committee shall consist of—

(a) An officer of the Department of Lands and Survey, to be appointed by the Board and to hold office during the pleasure of the Board: 45

(b) An officer of the Department of Agriculture, to be appointed by the Board and to hold office during the pleasure of the Board:

5 (c) One other person, being a member of the Marginal Lands Panel for that land district, to be selected from time to time by the Commissioner.

(3) The member of the Committee appointed under paragraph (a) of subsection *two* of this section shall be the Chairman of the Committee.

10 (4) Subject to the provisions of this Act and to any directions from time to time given by the Board, each Committee shall determine its own procedure.

Marginal Lands Panels

15 5. (1) For each land district in which it appoints a Marginal Lands Committee the Board shall appoint a Marginal Lands Panel consisting of not more than five persons who, in the opinion of the Board, are experienced in the farming or management of marginal lands and are suitable to act as members of a Marginal Lands Committee.

Marginal Lands Panels.

20 (2) The Board may from time to time appoint persons to or remove persons from the Marginal Lands Panel, but at no time shall the Panel consist of more than five persons.

25 (3) Every member for the time being of a Marginal Lands Panel shall be eligible for selection by the Commissioner as a member of the Marginal Lands Committee for the district either as to matters within its jurisdiction generally or for the purposes of any particular case or matter or any particular class of cases or matters.

General Provisions

35 6. (1) The Board may from time to time delegate any of its powers to any Committee or to any officer or officers of the Department, either as to matters within its jurisdiction generally or as to any particular application or matter or any particular class of applications or matters.

Board may delegate its powers.

40 (2) The officer or officers referred to in subsection *one* of this section may be an officer or officers referred to by name, or the officer or officers who for the time being and from time to time hold a specified position or specified positions in the Department.

(3) Subject to any general or special directions given by the Board, the Committee or officer to whom any powers have been so delegated may exercise those powers in the same manner and with the same effect as if they had been directly conferred on that Committee or officer by this Act and not by delegation. 5

(4) Every Committee or officer purporting to act under any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting within the terms of the delegation. 10

(5) Any such delegation may be at any time revoked by the Board, in whole or in part, but that revocation shall not affect in any way anything done under the delegated authority.

(6) No such delegation shall prevent the exercise by the Board itself of any of the powers conferred on it by this Act. 15

Proceedings
to be
confidential.

7. Every member of the Board or of any Committee and every person engaged or employed in connection with the work of the Board or of any Committee shall maintain and aid in maintaining the confidential nature of all matters relating to any application which come to his knowledge, and shall not communicate any such matters to any person except as may be permitted by the Board or for the purpose of carrying this Act into effect. 20 25

Members not
to act if
financially or
personally
interested.

8. A member of the Board or of any Committee shall not take part in the discussion of any application before the Board or Committee or be present at any meeting of the Board or Committee at which any application is under deliberation or discussion if he has directly or indirectly, by himself or his partner, any pecuniary or personal interest apart from an interest as a member of an incorporated company in which there are more than twenty members and of which he is neither a director nor an employee. 30 35

Remuneration
and travelling
expenses.

9. (1) Every member of the Board or of a Committee or Marginal Lands Panel, other than the Minister and persons in the service of the Government, shall be paid such remuneration by way of salary, fees, or allowances, and such travelling allowances and expenses, as may from time to time be approved by the Minister of Finance. 40

(2) All payments under this section shall be made out of moneys to be appropriated by Parliament for the purpose. 45

10. There may from time to time be appointed under the provisions of the Public Service Act, 1912, a fit person to be Marginal Lands Director, who, subject to the control of the Director-General, shall be the principal executive officer of the Board, and shall carry out such directions and perform such duties as may from time to time be given to him by the Board or the Director-General.

Appointment of Marginal Lands Director. See Reprint of Statutes, Vol. VII, p. 522

11. The Board may from time to time appoint any person or persons to examine, inquire into, and report upon any application or other matter within the functions of the Board under this Act. Every such person (not being a person in the service of the Government) shall be paid, out of moneys to be appropriated for the purpose, such remuneration and such travelling allowances and expenses as may from time to time be approved by the Minister of Finance.

Board may appoint persons to carry out inquiries.

PART II

ASSISTANCE TO OWNERS OR OCCUPIERS OF MARGINAL LANDS

20

12. (1) The functions of the Board shall be to assist farmers to restore, increase, and maintain production on marginal lands.

Functions and powers of Board.

(2) In the exercise of its functions under this Act, the Board may make advances or readvances on current account or otherwise to any applicant approved by the Board (being the owner or occupier of marginal lands) for any of the following purposes in connection with the farm owned or occupied by the applicant in respect of which the application is made, namely:—

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(a) The clearing of any scrub, bush, or timber:

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(b) The cultivation, sowing, or grassing of any land, the establishment of pastures, the improvement of existing pastures either by topdressing or otherwise, or the sowing of any crops:

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(c) The eradication of animal pests and noxious weeds or other noxious growths:

(d) The purchasing, planting, or maintaining of trees, shrubs, plants, and grasses, either for shelter or for conserving or improving the soil:

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- (e) The erection, re-erection, repair, or maintenance of fences, including the making of new or existing fences rabbit proof: 5
- (f) The construction of irrigation, drainage, reclamation, or protective works of any kind: 10
- (g) The erection, maintenance, and improvement of buildings of any description necessary for the efficient operating of the farm or of sheep dips, sheep yards, cattle yards, and pig pens: 15
- (h) The provision of roading, whether for access to a homestead or to any part of the farm: 20
- (i) The erection of electric power or telephone lines and the installation of electricity or telephone services: 25
- (j) The purchase of any equipment or the doing of any work necessary to provide an efficient water supply: 30
- (k) The purchase of fencing materials, building materials, seeds, lime, fertilizers, implements, tools, farm machinery, livestock, or other materials or chattels required for the efficient working of the farm: 35
- (l) The payment of wages to any farmer, farm labourer, or other person working on the farm and engaged in clearing, developing, restoring, or maintaining the farm: 40
- (m) The entering into any contract, and paying of moneys thereunder, for the execution of any work having as its object the clearing, developing, restoring, or maintaining of the farm: 35
- (n) The doing of any act, the carrying out of any works, and the expenditure of any money which, in the opinion of the Board, will result in the developing, restoring, or maintaining of the farm. 35
- (3) The power to make readvances under subsection *two* of this section is hereby declared to include power to readvance on current account or otherwise any money received as proceeds from the sale of livestock, chattels, or produce and credited to that account. 40

13. (1) Every application for assistance under this Act shall be made in writing and in such manner and form as the Board from time to time prescribes, and shall be forwarded to the Commissioner. Where the farm is

Applications for assistance.

5 situated in more than one land district the application shall be forwarded to the Commissioner for the land district in which the homestead is situated, but that Commissioner may, if he considers it expedient, forward it to some other Commissioner to be dealt with by him.

10 (2) The Board may from time to time prescribe, alter, or abolish any conditions for the making of an application for assistance under this Act or for the making of any advance or for the administration of this Act, either generally or in respect of any particular class

15 or classes of applications or in respect of any particular application.

(3) Any application may be accepted by the Board notwithstanding that it has not been made in the manner and form provided by the Board, and if so accepted

20 shall be deemed to have been duly made, and any advance or other provision made on any such application and every decision of the Board thereon shall not be in any way affected by reason only of the fact that the application did not conform to the procedure prescribed by the

25 Board.

14. The Board may make the granting of any assistance or the making of any advance under this Act subject to such conditions as it thinks fit, and, in particular and without limiting the generality of the foregoing

30 provisions of this section, may make any such assistance or advance conditional on the Board having the right from time to time to fix the types and maximum number of stock to be depastured on the farm and the types and maximum areas of crops to be grown thereon. Where

35 any such condition is imposed the types, numbers, and areas so prescribed shall not be varied or exceeded without the permission of the Board.

Board may grant assistance subject to conditions.

15. (1) Subject to the provisions of subsection *two* of this section, the repayment of all moneys advanced

40 under the provisions of section *twelve* of this Act shall be secured to His Majesty the King by a registrable mortgage over the interest of the applicant in the farm to which the application relates and, if the Board so requires, over the interest of the applicant in any other

Security for advances.

land, and also, if the Board so requires, by an instrument by way of security over such of the livestock, implements, and chattels of the applicant as the Board thinks fit. Every such mortgage or instrument by way of security shall be in such form, for such term, and subject to such covenants and conditions as the Board thinks fit, and at such rate of interest as may be approved by the Minister of Finance. 5

(2) The Board may, in its discretion and on being satisfied that it would be reasonable and equitable to afford relief, at any time and from time to time extend the time for payment of the whole or any part of the principal, interest, or other moneys secured by any such mortgage or instrument by way of security, or remit and discharge the whole or any part of the principal, interest, or other moneys so secured, in such manner as the Board thinks fit, either unconditionally or subject to such terms and conditions as the Board thinks fit. 10 15

(3) So long as any money remains owing to His Majesty in respect of any mortgage or instrument by way of security given under this section, the applicant shall not, without the consent of the Board, transfer, sublease, mortgage (except to the Crown or to a Department of State), or otherwise dispose of his interest in the property which is subject to the first mentioned mortgage or instrument by way of security. For the purposes of this subsection the term "mortgage" includes a variation of mortgage, unless the variation is for the benefit of the mortgagor by extending the term of the mortgage or reducing the principal or rate of interest or otherwise howsoever. 20 25 30

Review of
decisions of
Board, &c.

16. (1) Any applicant who is aggrieved by any decision of the Board or of any Committee or Commissioner may at any time thereafter apply to the Board for a rehearing of the application or a review of that decision, or the Board may of its own motion rehear any application or review any decision, whether of the Board or of any Committee or Commissioner. 35

(2) On any rehearing or review the Board may reverse, alter, modify, or confirm the decision, but no advance already made to the applicant under the previous decision shall be ordered to be repaid otherwise than in 40

accordance with the terms of that decision unless the applicant consents or unless the Board considers, on proof to its satisfaction, that the applicant was guilty of fraud or suppressed essential information or gave
5 incorrect or misleading information.

(3) The Board shall determine its own procedure on any rehearing or review under this section.

(4) Subject to the provisions of subsection *two* of this section, the decision of the Board on any application
10 under this Act or on the rehearing of any application or review of any decision shall be final.

17. For the purposes of this Act and in order to facilitate the granting of assistance to an applicant, the Board may enter into any agreement with a mortgagee
15 of the land to which the application relates or with the holder of an instrument by way of security over any stock or chattels of the applicant for an adjustment of the liabilities secured by the mortgage or instrument. Without limiting the generality of the foregoing pro-
20 visions of this section, any such agreement may provide for the purchase at an agreed price of any mortgage over the land or over other land owned by the applicant or any instrument by way of security over the stock and chattels of the applicant.

Board may enter into agreements with mortgagees.

25 18. Notwithstanding anything in the Trustee Act, 1908, or in any rule of law, it shall be lawful for a trustee who holds a mortgage over any land to which an application for assistance under this Act relates or any instrument by way of security over any stock or
30 chattels of the applicant, if requested to do so by the Board for the purpose of facilitating the granting of that assistance, and if he considers it in the interests of the trust to do so, to extend the time for payment of the whole or any part of the principal sum or interest
35 secured by the mortgage or instrument or remit any part of that principal sum or interest.

Trustees may grant remission under mortgages to facilitate assistance under this Act. See Reprint of Statutes, Vol. VIII, p. 873

19. For the purposes of this Act every member of the Board or of any Committee or any person acting under the written authority of the Board or of any Committee
40 shall, at all reasonable times, have free rights of ingress, egress, and regress in respect of any land which is or has been the subject of an application for assistance under this Act.

Rights of entry on land.

PART III

FINANCIAL PROVISIONS

Expenses to be
paid out of
Land
Settlement
Account.

20. Moneys required for the purposes of this Act shall be paid out of the Land Settlement Account from moneys appropriated by Parliament for the purpose of restoring, increasing, and maintaining production on marginal lands. 5

Repayments,
&c., to be
paid into
Land
Settlement
Account.

21. All repayments of advances, interest, all payments for livestock, chattels, and farm produce, and other moneys payable by applicants under the provisions of this Act shall be paid to the Department, and shall be paid by the Department into the Land Settlement Account. 10

PART IV

MISCELLANEOUS PROVISIONS

Director-
General to
prosecute
and defend
proceedings on
behalf of the
Crown.

22. All actions and proceedings by or on behalf of His Majesty the King in respect of any mortgages or other securities entered into in pursuance of this Act may be commenced, prosecuted, or carried on by and in the name of the Director-General on behalf of His Majesty, and the Director-General may be plaintiff or defendant, as the case may require, in any such action or proceeding. 15 20

Execution of
documents.

23. All documents which require to be executed for the purposes of this Act by or on behalf of His Majesty, or by or on behalf of the Board, may be executed by the Director-General or by the Commissioner and, if so executed, shall be as valid and effectual as if executed by or on behalf of His Majesty, or by or on behalf of the Board, as the case may be. 25

Service of
notices.

24. Any notice or instruction required to be given to or served on any person for the purposes of this Act may be given or served by causing the same to be delivered to that person, or to be left at his usual or last known place of abode or business, or at the address stated by him in any application or other document under this Act, or to be sent by registered letter addressed to him at that place of abode or business or address. 30 35

25. (1) Within sixty days after the close of each financial year, if Parliament is in session, or if not, then within sixty days after the commencement of the next ensuing session, there shall be prepared and laid
5 before Parliament a report on the operations of the Board under this Act during the financial year.

Report to
Parliament.

(2) There shall be prepared and laid before Parliament as soon as practicable after the close of each financial year a statement of the moneys
10 received into and paid out of the Land Settlement Account for the purposes of this Act during the financial year, together with a balance sheet showing the position as at the close of the year. The statement and accounts shall be duly certified by the Controller and Auditor-
15 General.

26. The Governor-General may from time to time, by
Order in Council, make such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration
20 thereof.

Regulations.