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HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 2 December 1997

MAORI RESERVED LAND AMENDMENT BILL

Proposed Amendments

Hon TAU HENARE, in Committee, to move the following amendments:

Clause 3: To omit paragraphs (a) to (ca) of subclause (1) (all the words in lines 13 to 37 on page 2 and in lines 2 and 3 on page 3), and substitute the following paragraphs:

- (a) To provide, in respect of leases to which this Act applies, for a change to more frequent rent reviews and to fair annual rents based on the unimproved value of the land to be phased in over a 4-year period commencing 3 years after the commencement of this Act:
- (b) To provide for compensation to be paid to lessors for the delay, as from the commencement of 1 January 1998, in the change to more frequent reviews and to fair annual rents based on the unimproved value of the land and for the conditions imposed by this Act on the transfer by lessors of land that is subject to leases to which this Act applies:
 - (ba) To provide that the amount of the compensation payable to each lessor is to be, in accordance with an election made by the lessor, either—
 - (i) The amount payable to the lessor under **section 14**;
 - or
 - (ii) The amount determined by the Land Valuation Tribunal in accordance with **section 14B** as payable to the lessor; and:
 - (bb) To provide for a solatium payment to those lessors who accept the amount payable by way of compensation under **section 14**, which payment is to be on the basis of one payment per lease, irrespective of the number of lessors, and is to recognise the justifiable but unquantifiable transaction costs that will be incurred by lessors as a result of the changes made to leases by this Act; and

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- (c) To provide for compensation to be paid to lessees for the change to more frequent rent reviews and to fair annual rents based on the unimproved value of the land and for the conditions imposed by this Act on the assignment of the lessees' interests in the leases; and
- (ca) To provide that the amount of the compensation payable to each lessee is to be, in accordance with an election made by the lessee, either—
 - (i) The amount payable to the lessee under **section 15**; or
 - (ii) The amount determined by the Land Valuation Tribunal in accordance with **section 15B** as payable to the lessee; and
- (cb) To provide for a solatium payment to be made to those lessees who accept the amount payable by way of compensation under **section 15**, which payment is to be on the basis of one payment per lease, irrespective of the number of lessees, and is to recognise the justifiable but unquantifiable transaction costs that will be incurred by lessees as a result of the changes made to leases by this Act; and

Clause 14: To omit *subclauses (1) and (1A)* (all the words in lines 17 to 30 on page 10), and substitute the following subclauses:

(1) The person who, at the commencement of this Act, is the lessor of a lease to which this Act applies is entitled to compensation—

(a) For the delay, as from the commencement of 1 January 1998,—

(i) In the change to a more frequent rent review; and

(ii) In the change to a fair annual rent based on the unimproved value of the land; and

(b) The conditions imposed by this Act on the transfer by the lessor of the land subject to the lease.

(1A) Where the details of a lease are added to **Schedule 3** after the commencement of this Act and that lease, by virtue of its details being so added, becomes a lease to which this Act applies, the person who, on the date on which the addition takes effect, is the lessor of that lease is entitled to compensation—

(a) For the delay, as from the commencement of 1 January 1998,—

(i) In the change to a more frequent rent review; and

(ii) In the change to a fair annual rent based on the unimproved value of the land; and

(b) The conditions imposed by this Act on the transfer by the lessor of the land subject to the lease.

To insert in line 31 on page 10, after the expression “**subsection (1)**”, the expression “**or subsection (1A)**”.

New clauses 14A and 14B: To insert, after line 4 on page 11, the following clauses:

14A. Right of lessor to elect to have compensation determined by Land Valuation Tribunal—(1) The chief executive of Te Puni Kokiri must, after the commencement of

this Act, give to each lessor to whom this Act applies a notice specifying both—

- (a) The amount of compensation payable to the lessor under **section 14**; and
 - (b) The amount of the solatium payment payable to the lessor under **section 22A**.
- (2) The notice must state that the lessor may elect either—
 - (a) To accept both of the amounts specified in the notice; or
 - (b) To have the lessor's compensation determined by the Land Valuation Tribunal in accordance with **section 14B**.
 - (3) The notice under **subsection (1)** must—
 - (a) In the case of a lease to which this Act applies on the commencement of this Act, be given to the lessor not later than 2 March 1998; and
 - (b) In any case where a lease becomes, after the commencement of this Act, a lease to which this Act applies, be given to the lessor not later than 2 months after the date on which that lease becomes a lease to which this Act applies.
 - (4) The lessor may, within 3 months after being given a notice under **subsection (1)**, elect either—
 - (a) To inform the chief executive of Te Puni Kokiri, by notice in writing signed by the lessor, that the lessor will accept both of the amounts specified in the notice given to the lessor under **subsection (1)**; or
 - (b) To file in the appropriate office of the District Court, in accordance with section 21 of the Land Valuation Proceedings Act 1948, an application to have the lessor's compensation determined by the Land Valuation Tribunal in accordance with **section 14B**.
 - (5) Where the lessor files an application under **subsection (4) (b)**, the lessor must, within 3 working days after the day on which that notice is filed, give a copy of that application to the chief executive of Te Puni Kokiri, who is to be a party to the proceedings before the Land Valuation Tribunal.
 - (6) Where the lessor files an application under **subsection (4) (b)**, the lessor is not entitled, in respect of the lease to which the application relates, to compensation under **section 14** or a solatium payment under **section 22A**.
 - (6) Where the chief executive of Te Puni Kokiri receives from the lessor a notice under **subsection (4) (a)**, the chief executive must, within 3 months after the day on which he or she receives that notice, pay to the lessor the amounts specified in the notice given to the lessor under **subsection (1)**.
 - (7) Where the lessor does not, within the period allowed by **subsection (4)**, take either of the steps permitted by that subsection, the lessor is deemed to have given to the chief executive on the last day of that period a notice under **subsection (4) (a)**.
 - (8) In this section,—

“Land Valuation Tribunal” has the meaning given to it by section 2 of the Land Valuation Proceedings Act 1948;

“Lessor” means, in relation to land under the Land Transfer Act 1952, the registered proprietor of the land.

14B. Determination of compensation by Land Valuation Tribunal—(1) Where a lessor files an application under section 14A (4) (b), the Land Valuation Tribunal has jurisdiction to determine, in accordance with this section, the amount to be paid to the lessor by the Crown as compensation—

(a) For the delay, as from the commencement of 1 January 1998,—

(i) In the change to a more frequent rent review; and

(ii) In the change to a fair annual rent based on the unimproved value of the land; and

(b) For the conditions imposed by this Act on the transfer by the lessor of the land subject to the lease.

(2) The Land Valuation Tribunal must, as soon as practicable, determine the amount of that compensation.

(3) Every application made under section 14A (4) (b) must, subject to this section, be dealt with by the Land Valuation Tribunal in accordance with the provisions of the Land Valuation Proceedings Act 1948, which is to apply with all necessary modifications.

(4) In this section,—

“Land Valuation Tribunal” has the meaning given to it by section 2 of the Land Valuation Proceedings Act 1948:

“Lessor” means, in relation to land under the Land Transfer Act 1952, the registered proprietor of the land.

Clause 15: To omit subclauses (1) and (1A) (all the words in lines 13 to 25 on page 11), and substitute the following subclauses:

(1) The person who, at the commencement of this Act, is the lessee of a lease to which this Act applies is entitled to compensation for—

(a) The change to a more frequent rent review; and

(b) The change to a fair annual rent based on the unimproved value of the land; and

(c) The conditions imposed by this Act on the assignment of the lessee’s interest in the lease.

(1A) Where the details of a lease are added to **Schedule 3** after the commencement of this Act and that lease, by virtue of its details being so added, becomes a lease to which this Act applies, the person who, on the date on which the addition takes effect, is the lessee of that lease is entitled to compensation for—

(a) The change to a more frequent rent review; and

(b) The change to a fair annual rent based on the unimproved value of the land; and

(c) The conditions imposed by this Act on the assignment of the lessee’s interest in the lease.

To insert in line 26 on page 11, after the expression “subsection (1)”, the expression “or subsection (1A)”.

New clauses 15A and 15B: To insert, after line 4 on page 12, the following clauses:

15A. Right of lessee to elect to have compensation determined by Land Valuation Tribunal—(1) The chief executive of Te Puni Kokiri must, after the commencement of

this Act, give to each lessee to whom this Act applies a notice specifying both—

- (a) The amount of compensation payable to the lessee under **section 15**; and
 - (b) The amount of the solatium payment payable to the lessee under **section 22B**.
- (2) The notice must state that the lessee may elect either—
 - (a) To accept both of the amounts specified in the notice; or
 - (b) To have the lessee's compensation determined by the Land Valuation Tribunal in accordance with **section 15B**.
 - (3) The notice under **subsection (1)** must—
 - (a) In the case of a lease to which this Act applies on the commencement of this Act, be given to the lessee not later than 2 March 1998; and
 - (b) In any case where a lease becomes, after the commencement of this Act, a lease to which this Act applies, be given to the lessee not later than 2 months after the date on which that lease becomes a lease to which this Act applies.
 - (4) The lessee may, within 3 months after being given a notice under **subsection (1)**, elect either—
 - (a) To inform the chief executive, by notice in writing signed by the lessee, that the lessee will accept both of the amounts specified in the notice; or
 - (b) To file in the appropriate office of the District Court, in accordance with section 21 of the Land Valuation Proceedings Act 1948, an application to have the lessee's compensation determined by the Land Valuation Tribunal in accordance with **section 15B**.
 - (5) Where the lessee files an application under **subsection (4) (b)**, the lessee must, within 3 working days after the day on which that notice is filed, give a copy of that application to the chief executive of Te Puni Kokiri, who is to be a party to the proceedings before the Land Valuation Tribunal.
 - (6) Where the lessee files an application under **subsection (4) (b)**, the lessee is not entitled, in respect of the lease to which the application relates, to compensation under **section 15** or a solatium payment under **section 22B**.
 - (7) Where the chief executive of Te Puni Kokiri receives from the lessee a notice under **subsection (4) (a)**, that chief executive must, within 3 months after the day on which he or she receives that notice, pay to the lessee the amounts specified in the notice given to the lessee under **subsection (1)**.
 - (8) Where the lessee does not, within the period allowed by **subsection (4)**, take either of the steps permitted by that subsection, the lessee is deemed to have given to the chief executive on the last day of that period a notice under **subsection (4) (a)**.
 - (9) In this section,—

“Land Valuation Tribunal” has the meaning given to it by section 2 of the Land Valuation Proceedings Act 1948:

“Lessee” has the meaning given to it by **section 15 (3)**.

15B. Determination of compensation by Land Valuation Tribunal—(1) Where a lessee files an application under **section 15A (4) (b)**, the Land Valuation Tribunal has

jurisdiction to determine, in accordance with this section, the amount to be paid to the lessee by the Crown as compensation for—

- (a) The change to a more frequent rent review; and
- (b) The change to a fair annual rent based on the unimproved value of the land; and
- (c) The conditions imposed by this Act on the assignment of the lessee's interest in the lease.

(2) The Land Valuation Tribunal must, as soon as practicable after the application is filed, determine the market value, as at 1 January 1998, of the lessee's interest in the lease.

(3) That market value must be determined on the basis of what that market value would have been if this Act had not been enacted.

(4) The Land Valuation Tribunal must determine, as soon as practicable after 1 January 2001, the market value, as at 1 January 2001, of the lessee's interest in the lease.

(5) The Land Valuation Tribunal may, in making determinations under this section, take account of relevant valuation evidence arising after the commencement of this Act.

(6) The amount of the compensation payable to the lessee under **subsection (1)** is the market value determined under **subsection (2)** less the market value determined under **subsection (4)**.

(7) Every application made under **section 15A (4) (b)** must, subject to this section, be dealt with by the Land Valuation Tribunal in accordance with the provisions of the Land Valuation Proceedings Act 1948, which is to apply with all necessary modifications.

(8) In this section,—

“Land Valuation Tribunal” has the meaning given to it by section 2 of the Land Valuation Proceedings Act 1948:

“Lessee” has the meaning given to it by **section 15 (3)**.

Clause 16: To omit from line 6 on page 12 the expression “**sections 14 and 15**”, and substitute the expression “**sections 14 to 15B**”.

Clause 20: To omit this clause (which appears on page 13), and substitute the following clause:

20. Interest payable on compensation—(1) Where the compensation to which a person is entitled under **section 14 or section 14B or section 15 or section 15B** is not paid to that person within the period of 3 months after the date on which that person becomes entitled to be paid that compensation and the delay, after the expiration of that period, in making payment is attributable to the Crown, the Crown must, on paying that compensation, pay it together with interest in respect of the period beginning with the expiration of that period of 3 months and ending with the date of payment.

(2) The interest paid under **subsection (1)** is to be paid at the rate prescribed by or under section 87 of the Judicature Act 1908.

(3) Notwithstanding any other Act, agreement, or rules of court, the Crown, except as provided in **subsections (1) and (2)**, is not liable to pay interest on compensation payable under this Act.

Clause 22A: To add, after line 27 on page 15, the following subclauses:

(8) In this section, the term “lessor” means, in relation to land under the Land Transfer Act 1952, the registered proprietor of the land.

(9) This section is subject to **section 14A**.

Clause 22B: To add, after line 29 on page 16, the following subclause:

(9) This section is subject to **section 15A**.

Clause 22D: To add, after line 37 on page 17, the following subclause:

(8) In this section, the term “lessor” means, in relation to land under the Land Transfer Act 1952, the registered proprietor of the land.

Schedule 1: To omit from clause 12 (a) (which appears on page 31) the words “Not less than 10 working days after”, and substitute the words “Within 10 working days after the date on which”.

Schedule 2: To omit clause 11 (which appears on page 45), and substitute the following clause:

11. The compensation payable to the lessor is—

- (a) The amount that is the result of the calculation under **clause 10**; plus
- (b) The amount that constitutes compensation for the conditions imposed by this Act on the transfer by the lessor of the land that is subject to the lease, which amount is 1% of the amount specified in **paragraph (a)**.

To omit clause 16 (which appears on page 45), and substitute the following clause:

16. The compensation payable to the lessee is—

- (a) The amount that is the result of the calculation under **clause 15**; plus
- (b) The amount that constitutes compensation for the conditions imposed by this Act on the assignment of the lessee’s interest in the lease, which amount is 1% of the amount specified in **paragraph (a)**.

Schedule 3, Part A: To omit from the first column on page 133 the number “21731.2”, and substitute the number “212731.2”.

To omit from the second column on page 134 the expression “ $\frac{1}{2}$ Share”.

To omit from the first column on page 142 the number “758055/4”, and substitute the number “758055.4”.

To omit from the first column on page 146 the number “058247/1”, and substitute the number 058247.1”.

To omit from the first column on page 151 the number “397615/1”, and substitute the number “397615.1”.

To omit from the first column on page 151 the number “722336/1”, and substitute the number “722336.1”.

EXPLANATORY NOTE

Clause 3: The proposed amendments to this clause recognise that proposed amendments to other provisions of the Bill provide that—

- (a) Lessors are to be compensated for conditions imposed by the Bill on the transfer by lessors of land that is subject to leases to which the Bill applies;
- (b) Lessors may elect to receive either the compensation payable under *clause 14* or the amount of the compensation determined by the Land Valuation Tribunal under the new *clause 14B*;
- (c) Lessors who elect to receive the compensation payable under *clause 14* are to be the only lessors to receive a solatium payment under *clause 22A*;
- (d) Lessees are to be compensated for conditions imposed by the Bill on the assignment of the lessees' interests in leases to which the Bill applies;
- (e) Lessees may elect to receive either the compensation payable under *clause 15* or the amount of the compensation determined by the Land Valuation Tribunal under the new *clause 15B*;
- (f) Lessees who elect to receive the compensation payable under *clause 15* are to be the only lessors to receive a solatium payment under *clause 22B*.

The amendments also recognise that the term "market rent" (which appears in paragraphs (a), (b), and (c)) was replaced in *clauses 14 and 15* of the Bill (as reported from the Justice and Law Reform Committee) by references to "a fair annual rent based on the unimproved value of the land".

Clause 14: The proposed new *subclauses (1) (b) and (1A) (b)* provide that the lessor is to be entitled to compensation for the conditions imposed by the Bill on the transfer by the lessor of land subject to the lease.

The proposed amendment to *subclause (2)* is consequential on the amendments made to the clause by the Justice and Law Reform Committee.

New clause 14A: This proposed new clause provides that the lessor may elect to receive by way of compensation either—

- (a) The amount of the compensation payable to the lessor under *clause 14* and the amount of the solatium payment payable to the lessor under *clause 22A*; or
- (b) The amount of the compensation determined by the Land Valuation Tribunal in accordance with *clause 14B*.

New clause 14B: This proposed new clause gives the Land Valuation Tribunal jurisdiction to determine, on the application of a lessor, the amount of the compensation payable to the lessor.

Clause 15: The proposed new *subclauses (1) (c) and (1A) (c)* provide that the lessee is to be entitled to compensation for the conditions imposed by the Bill on the assignment of the lessee's interest in the lease.

The proposed amendment to *subclause (2)* is consequential on the amendments made to the clause by the Justice and Law Reform Committee.

New clause 15A: This proposed new clause provides that the lessee may elect to receive by way of compensation either—

- (a) The amount of the compensation payable to the lessee under *clause 15* and the amount of the solatium payment payable to the lessee under *clause 22B*; or
- (b) The amount of the compensation determined by the Land Valuation Tribunal in accordance with *clause 15B*.

New clause 15B: This new clause gives the Land Valuation Tribunal jurisdiction to determine, on the application of a lessee, the amount of the compensation payable to the lessee. That compensation will be determined on the basis of 2 valuations.

The first will determine the market value, as at 1 January 1998, of the lessee's interest in the lease. That market value must be determined on the basis of what that market value would have been at that date if this Bill had not been enacted.

The second will determine, as soon as practicable after 1 January 2001, the market value, as at 1 January 2001, of the lessee's interest in the lease. That second valuation must, of necessity, take into account any reduction in the value of the lessee's interest that results from the enactment of the Bill.

The amount of the compensation payable to the lessee is the first market value less the second market value.

Clause 16: The proposed amendments are consequential on the inclusion in the Bill of the new *clauses 14A, 14B, 15A, and 15B*.

Clause 20: The proposed new clause 20 has been amended to take account of the different times at which compensation may be paid as a result of the inclusion in the Bill of the new *clauses 14A, 14B, 15A, and 15B*.

Clause 22A: The proposed new *subclause (8)* provides that in this clause the term "lessor" means, in relation to land under the Land Transfer Act 1952, the registered proprietor of the land.

The proposed new *subclause (9)* makes this clause subject to *clause 14A*.

Clause 22B: The proposed new *subclause (9)* makes this clause subject to *clause 15A*.

Clause 22D: The proposed new *subclause (8)* provides that in this clause the term “lessor” means, in relation to land under the Land Transfer Act 1952, the registered proprietor of the land.

Schedule 1: The proposed amendment corrects an error in a period of time specified in *clause 12 (a)* of the schedule.

Schedule 2: The proposed new *clause 11 (b)* increases the amount of compensation payable to the lessor. The clause provides that, as compensation for the conditions imposed by the Bill on the transfer by the lessor of the land that is subject to the lease, an amount equal to 1% of the amount of compensation otherwise payable to the lessor is to be paid to the lessor.

The proposed new *clause 16 (b)* increases the amount of compensation payable to the lessee. The clause provides that, as compensation for the conditions imposed by the Bill on the assignment of the lessee’s interest in the lease, an amount equal to 1% of the amount of compensation otherwise payable to the lessee is to be paid to the lessee.

Schedule 3: The proposed amendments correct minor errors in *Part A* of the Schedule.