

**Reprint
as at 12 November 2018**

Land Transfer Amendment Act 1963

Public Act 1963 No 61
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Land Transfer Amendment Act 1963: repealed, on 12 November 2018, pursuant to section 248(1) of the Land Transfer Act 2017 (2017 No 30).

Contents

	Page
Title	2
1 Short Title	2
Part 1	
Prescriptive title to land	
2 Interpretation	2
3 Application for certificate of title based on possession	3
4 Person with registered interest under disability	3
5 Examination of application by Registrar and Examiner of Titles	4
6 Registrar to refuse application if evidence insufficient	4
7 Notice of application	5
8 Person claiming interest in land may lodge caveat	6
9 Caveat by registered proprietor of fee simple or estate for life, etc	6
10 Caveat by person claiming as beneficial or equitable owner of fee simple or estate for life, etc	7
11 Caveat by person entitled to other estate or interest	8

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this eprint. See the notes at the end of this eprint for further details.

This Act is administered by the Ministry of Justice.

12	Caveat by person claiming beneficial or equitable estate less than fee simple	8
13	Notice of refusal of application to be given to applicant	9
14	Definition of land for which certificate of title may be issued	10
15	Issue of certificate of title to applicant	11
16	Title to intervening land where fence, etc, not on boundary	12
17	Application in respect of land of dissolved company or other corporate body	13
18	Cancellation of certificate of title	14
19	No action against the Crown or Registrar-General of Land except in certain cases	14
20	Notices	14
21	This Part not to apply in certain cases	14
Part 2		
Miscellaneous amendments of principal Act		
24	Contents of memorial	15
25	Bringing down encumbrances on registration of new lease	15
Schedule		
		15

An Act to amend the Land Transfer Act 1952

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

1 Short Title

This Act may be cited as the Land Transfer Amendment Act 1963, and shall be read together with and deemed part of the Land Transfer Act 1952 (hereinafter referred to as the principal Act).

Part 1

Prescriptive title to land

2 Interpretation

In this Part of this Act, unless the context otherwise requires,—

Application means an application for a certificate of title made under section 3 of this Act; and **applicant** has a corresponding meaning

local authority means a local authority within the meaning of the Local Government Act 2002

Local authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). See sections 273 to 314 of that Act as to the savings and transitional provisions.

3 Application for certificate of title based on possession

(1) Where—

- (a) Any person has been in possession of any land which is subject to the principal Act, being land for which a certificate of title has been issued or a Crown grant has been registered under that Act, for a continuous period of not less than 20 years, and continues in possession of the land; and
- (b) That possession was such that he would have been entitled to apply for a title to the land on the ground of possession if the land had not been subject to the principal Act,—

he may, in accordance with the provisions of this Part of this Act, apply to the Registrar in the prescribed form for the issue to him of a certificate of title for an estate in fee simple in the land.

- (2) For the purposes of this Part of this Act, possession of any land by any person through or under whom the applicant claims shall be deemed to be possession by the applicant.
- (3) For the purposes of this Part of this Act, possession of any land by 1 or more joint tenants or tenants in common at any time (whether after or before the commencement of the Land Transfer Amendment Act 1995)—
 - (a) Shall not of itself be (or be deemed to have been) possession of the land by the other tenant or tenants; and
 - (b) Shall be (or be deemed to have been) capable of being adverse possession as against the other tenant or tenants.

Subsection (1) was amended, as from 17 May 2005, by section 18 Land Transfer Amendment Act 2005 (2005 No 58) by substituting the words “the prescribed form” for the words “Form U in the Second Schedule to the principal Act”.

Subsection (3) was inserted, as from 30 March 1995, by section 2(1) Land Transfer Amendment Act 1995 (1995 No 11).

4 Person with registered interest under disability

- (1) Where the registered proprietor of, or any person shown by the register to be entitled to the benefit of, any estate or interest in any land is under any disability at the expiration of the period of 20 years after the date on which the possession of the land by any other person commenced, the last-mentioned person, or any person claiming through or under him, shall not be entitled to make an application in respect of that land or any part thereof until that registered proprietor or person shown by the register to be entitled as aforesaid has ceased to be under a disability or has died, whichever event first occurs:

Provided that nothing in this subsection shall apply in any case where at the date of any application under this Part of this Act the applicant has been in possession of the land for a period of not less than 30 years.

- (2) For the purposes of this section, a person shall be deemed to be under a disability while he is an infant or of unsound mind.
- (3) For the purposes of subsection (2) of this section, but without prejudice to the generality thereof, a person shall be conclusively presumed to be of unsound mind while he is an inmate (otherwise than as a voluntary inpatient) in a hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992.

In subsection (3) the words “a hospital within the meaning of the Mental Health Act 1969” were substituted, as from 1 April 1970, for the words “an institution within the meaning of the Mental Health Act 1911” pursuant to section 129(5) Mental Health Act 1969 (1969 No 16).

The reference to the Mental Health (Compulsory Assessment and Treatment) Act 1992 in subsection (3) was substituted, as from 1 November 1992, for a reference to the Mental Health Act 1969 pursuant to section 137(1) Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46).

5 Examination of application by Registrar and Examiner of Titles

- (1) *[Repealed]*
- (2) The Registrar may, if the Registrar thinks fit, dispense with any of the information required to be supplied in the prescribed form of application, if the Registrar is satisfied that that information cannot reasonably be ascertained and supplied by the applicant.
- (3) The Registrar may by notice to the applicant require the applicant to furnish him with any additional information or documents relating to his application within a reasonable time specified in the notice.

Subsection (1) was repealed, and subsection (2) was substituted, as from 1 February 1999, by section 43(2) Land Transfer (Automation) Amendment Act 1998 (1998 No 123).

6 Registrar to refuse application if evidence insufficient

Where—

- (a) The Registrar is not satisfied on the evidence produced with any application or supplied pursuant to a requisition under subsection (3) of section 5 of this Act that the applicant has been in possession of the land in the manner and for the period specified in section 3 of this Act or where the Registrar is satisfied on that evidence that the applicant has been in possession of only part of the land; or
- (b) The applicant fails to comply with any requisition of the Registrar under subsection (3) of section 5 of this Act within the time specified in the notice given to the applicant under that subsection, or within such extended time as the Registrar, in his discretion, may allow,—

the Registrar shall refuse the application, either wholly or, as the case may be, as to the part thereof in respect of which he and the Examiner are not satisfied as aforesaid.

Paragraph (a) was amended, as from 1 February 1999, by section 43(2) Land Transfer (Automation) Amendment Act 1998 (1998 No 123) by substituting the word “is” and the words “the Registrar is” for the words “and the Examiner are” and the words “they are” respectively.

7 Notice of application

- (1) Where the Registrar is satisfied that the applicant has been in possession of the land or of any part thereof in the manner and for the period prescribed in section 3 of this Act, the Registrar shall cause notice of the application in such form as he thinks fit—
 - (a) To be published at least twice on dates specified or approved by the Registrar in such one or more newspapers as he thinks fit, including at least one newspaper circulating in the locality in which the land is situated; and
 - (b) To be given to any person who is shown by the register to have or who in the Registrar’s opinion has or may have any estate or interest or any claim to any estate or interest in the land or any part thereof, and the notice shall advise that person that any such estate or interest will lapse in respect of any land in the application for which a certificate of title may be issued under this Part of this Act unless a caveat is lodged as hereinafter provided; and
 - (c) To be published in such other way (if any) or to be given to such other person (if any) as he thinks expedient in the circumstances.
- (2) Where an application has been refused as to part of the land to which it relates, the notice required by this section shall be given only in respect of the remaining part of the land.
- (3) The notice shall fix a date, within the limits prescribed, after which the Registrar may, unless on or before that date a caveat has been lodged as hereinafter provided against the land concerned, proceed with the application.
- (4) The Registrar may, at any time before the granting of the application, extend for such period as he thinks fit the time fixed by any notice given pursuant to this section.
- (5) For every notice given to any person pursuant to this section the Registrar may charge the same fee as is prescribed for a notice relating to any caveat.

Subsection (1) was amended, as from 1 February 1999, by section 43(2) Land Transfer (Automation) Amendment Act 1998 (1998 No 123) by substituting the word “is” for the words “and the Examiner are”.

Subsection (3) was amended, as from 1 June 2002, by section 65(4) Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11), by substituting the words “within the limits prescribed” for the words “being not less than one month nor more than 12 months from the date of the first publication of the notice under paragraph (a) of subsection (1) of this section”.

8 Person claiming interest in land may lodge caveat

- (1) Any person claiming any estate or interest, whether legal or equitable or beneficial, in the land or any part of the land to which any application relates may, before the expiration of the time fixed or extended pursuant to section 7 of this Act, lodge a caveat in the prescribed form suitably altered to refer to and forbid the granting of the application in respect of that land or part thereof, as the case may be.
- (2) Nothing in section 143 or section 144 of the principal Act shall apply to any caveat lodged pursuant to subsection (1) of this section, but, except to the extent that they are inconsistent with the provisions of sections 9 to 12 of this Act, sections 136(2) and (3), 137(4), 142, 146, and 148 of the principal Act shall, with any necessary modifications, apply to such a caveat.
- (3) Any caveat under this section may be withdrawn by the caveator or by his attorney or agent under a written authority, and either as to the whole or any part of the land to which it relates.

Subsection (1) was amended, as from 17 May 2005, by section 18 Land Transfer Amendment Act 2005 (2005 No 58) by substituting the words “the prescribed form” for the words “Form M in the Second Schedule to the principal Act”.

Subsection (2) was amended, as from 17 May 2005, by section 18 Land Transfer Amendment Act 2005 (2005 No 58) by substituting the expression “136(2) and (3), 137(4)” for the expression “138, 139”.

9 Caveat by registered proprietor of fee simple or estate for life, etc

- (1) Where the Registrar is satisfied that the person executing a caveat lodged pursuant to section 8 of this Act is the registered proprietor of an estate in fee simple or an estate for life or in remainder, contingent or otherwise, or an estate by way of executory limitation that has not lapsed in the land to which the application relates or in any part of that land, the Registrar shall refuse the application in respect of the land to which the caveat relates.
- (2) Where a caveat lodged pursuant to section 8 of this Act is executed by any person purporting to be the agent of the caveator thereunder, and the caveator is the registered proprietor of any of the estates referred to in subsection (1) of this section, then, unless the Registrar is satisfied by evidence produced to him at the time of the lodging of the caveat that the person executing it has been duly authorised to do so, the Registrar shall give notice to him requiring him to satisfy the Registrar, before a date fixed in the notice, by confirmation of the registered proprietor or otherwise, that he has been duly authorised as aforesaid.
- (3) If the Registrar is not so satisfied within the time fixed in the notice given under subsection (2) of this section, or within such extended time as the Registrar, in his discretion, may allow, the caveat shall be deemed to have lapsed at the expiration of that time or extended time, and the Registrar shall mark it as having lapsed under this subsection.

- (4) Where the Registrar is satisfied that the person executing any caveat to which subsection (2) of this section applies has been duly authorised to do so, he shall refuse the application in respect of the land to which the caveat relates.

10 Caveat by person claiming as beneficial or equitable owner of fee simple or estate for life, etc

- (1) Where—
- (a) The caveator under a caveat lodged pursuant to section 8 of this Act claims to be the beneficial or equitable owner of an estate in fee simple or an estate for life or in remainder, contingent or otherwise, or an estate by way of executory limitation that has not lapsed in the land to which the application relates or in any part of that land; and
- (b) The application has not been refused as to the whole of the land or as to that part pursuant to any other provision of this Part of this Act,—

the Registrar shall, unless he is of the opinion that the estate or interest claimed is sufficiently evidenced by the register, give notice to the caveator requiring him, within a time fixed in the notice, being not less than the prescribed period, to either—

- (c) Establish that claim in law and cause himself to be registered as the proprietor of the estate or interest claimed; or
- (d) Satisfy the Registrar that the claim to that estate or interest is valid but is of such a nature that it is not capable of being converted into a registered estate or interest.
- (2) If, within the time fixed by any notice given under subsection (1) of this section, or within such extended time as the Registrar, in his discretion, may allow, the caveator neither causes himself to be registered as the proprietor of the estate or interest claimed nor satisfies the Registrar as aforesaid, the caveat shall be deemed to have lapsed, and the Registrar shall mark it as having lapsed under this subsection.

- (3) If—
- (a) The Registrar is of the opinion that the estate or interest claimed is sufficiently evidenced by the register; or
- (b) Within the time fixed or extended as aforesaid, the caveator causes himself to be registered as the proprietor of the estate or interest claimed in the land or in part thereof, or satisfies the Registrar as aforesaid,—

the Registrar shall refuse the application in respect of the land or of that part, as the case may be.

Subsection (1) was amended, as from 1 June 2002, by section 65(4) Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11), by substituting the words “the prescribed period” for the words “3 months after the giving of the notice”.

11 Caveat by person entitled to other estate or interest

- (1) Where the Registrar is satisfied that the caveator under a caveat lodged pursuant to section 8 of this Act is the registered proprietor of, or a person shown by the register to be entitled to the benefit of, any estate or interest in the land to which the application relates or in any part thereof (not being an estate in fee simple nor an estate for life or in remainder, contingent or otherwise, nor an estate by way of executory limitation), and the application has not been refused as to the whole of the land or as to that part pursuant to any other provision of this Part of this Act—
- (a) The Registrar shall notify the applicant that he will proceed with the application if the applicant agrees in writing to accept a certificate of title subject, to the same extent as the existing title, to that estate or interest and to every estate or interest (not being any estate in fee simple or other estate excepted as aforesaid) through or under which the caveator derives his title; and
- (b) The Registrar shall take no further action in respect of the application until the applicant so agrees or until the estate or interest of the caveator is discharged, surrendered, or otherwise extinguished; and
- (c) If the applicant so agrees, the caveat shall be deemed to have lapsed and the Registrar shall mark it as having lapsed under this subsection; and any certificate of title issued to the applicant shall be made subject to every such estate or interest as aforesaid.
- (2) Where any land in respect of which an application has been lodged is subject to a registered mortgage, the applicant shall be deemed to be the registered proprietor of the land for the purposes of section 112 of the principal Act and to be the owner of the land and the mortgagor for the purposes of subpart 5 of Part 3 of the Property Law Act 2007.
- (3) Where under this section the applicant agrees to take title subject to any mortgage and a certificate of title is issued to him under section 15 of this Act subject to that mortgage, the provisions of section 96 of the principal Act and of subpart 8 of Part 3 of the Property Law Act 2007 shall not, in relation to that mortgage, apply with respect to any transfer of the land, whether by the applicant or by any person deriving title through or under him.

Section 11(2): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 11(3): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

12 Caveat by person claiming beneficial or equitable estate less than fee simple

- (1) Where—
- (a) The caveator under a caveat lodged pursuant to section 8 of this Act claims to be the beneficial or equitable owner of any estate or interest in

the land to which the application relates or in any part of that land, not being an estate in fee simple nor an estate for life or in remainder, contingent or otherwise, nor an estate by way of executory limitation; and

- (b) The application has not been refused as to the whole of the land or as to that part pursuant to any other provision of this Part of this Act,—

the Registrar shall, unless he is of the opinion that the estate or interest claimed is sufficiently evidenced by the register, give notice to the caveator requiring him, within a time fixed in the notice, being not less than the prescribed period, to either—

- (c) Establish that claim in law and cause himself to be registered as the proprietor of the estate or interest claimed; or
(d) Satisfy the Registrar that the claim to that estate or interest is valid but is of such a nature that it is not capable of being converted into a registered estate or interest.

- (2) If, within the time fixed by any notice given under subsection (1) of this section, or within such extended time as the Registrar, in his discretion, may allow, the caveator neither causes himself to be registered as the proprietor of the estate or interest claimed nor satisfies the Registrar as aforesaid, the caveat shall be deemed to have lapsed, and the Registrar shall mark it as having lapsed under this subsection.

- (3) If, within the time fixed or extended as aforesaid, the caveator causes himself to be registered as the proprietor of the estate or interest claimed, the provisions of section 11 of this Act, as far as they are applicable and with any necessary modifications, shall apply as if the caveator had been the registered proprietor of that estate or interest at the date of the lodging of the caveat.

- (4) If—

- (a) The Registrar is of the opinion that the estate or interest claimed is sufficiently evidenced by the register; or
(b) Within the time fixed by any notice given under subsection (1) of this section, or within such extended time as the Registrar, in his discretion, may allow, the caveator satisfies the Registrar as aforesaid,—

the provisions of section 11 of this Act, as far as they are applicable and with any necessary modifications, shall apply as if the registered proprietor of, or, as the case may be, the person shown by the register to be entitled to the benefit of, the estate or interest claimed were the caveator.

Subsection (1) was amended, as from 1 June 2002, by section 65(4) Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11), by substituting the words “the prescribed period” for the words “3 months after the giving of the notice”.

13 Notice of refusal of application to be given to applicant

Where pursuant to any provision of this Part of this Act the Registrar refuses any application as to the whole or any part of the land to which it relates, the

Registrar shall give notice of the refusal to the applicant, unless notice has previously been given to the applicant of the refusal of the application as to the land or as to that part, as the case may be, under any other provision of this Part of this Act.

14 Definition of land for which certificate of title may be issued

(1) In this section—

Title boundary, in relation to any land, means the boundaries of the land as shown on the certificate of title or Crown grant relative to that land, or on the latest plan of survey approved by the Chief Surveyor of the land district in which the land is situated and held in his office or in the office of the Registrar, as the case may be

Occupation boundary, in relation to any land, means any fence, wall, hedge, building, ditch or other artificial means, or any natural feature of the land, by which the land actually occupied by the applicant is limited or defined.

(2) Where the Registrar is satisfied that all notices required by this Part of this Act to be advertised or given have been advertised or given and that all times required by this Part of this Act to expire have expired, and that—

(a) No caveat has been lodged pursuant to section 8 of this Act against the granting of the application; or

(b) Every caveat so lodged has lapsed or been withdrawn as to all the land to which the application relates or as to any part of that land; or

(c) All caveats so lodged that have neither lapsed nor been withdrawn as aforesaid affect part only of the land to which the application relates,—

the Registrar shall give notice to the applicant requiring him to either—

(d) Supply a certificate by a licensed cadastral surveyor that the occupation boundaries, or such of the occupation boundaries as exist, of the land remaining subject to the application, or, as the case may be, of such part of that land as is not affected by or has ceased to be affected by any caveat lodged as aforesaid, coincide with the title boundaries of the land or of that part, as the case may be; or

(e) Deposit under subsections (1) and (5) of section 167 of the principal Act a plan of survey of so much of that land or of the part thereof as aforesaid as is contained within the boundaries specified in subsection (3) of this section.

(3) The boundaries on any such plan of survey shall be drawn as follows:

(a) Where the title boundary of the land or any part of that title boundary is the common boundary between that land or any part thereof and land owned by the Crown or by any local authority or held for any public purpose, the plan shall to that extent be drawn in terms of that title boundary or of that part thereof:

- (b) Where the occupation boundary of the land or any part of that occupation boundary is outside the title boundary of that land or any part thereof, the plan shall to that extent be drawn in terms of the title boundary or of that part thereof:
 - (c) Where the occupation boundary of the land or any part of that occupation boundary, while purporting to be on the title boundary of the land, is on the inside of that title boundary or the corresponding part thereof, and the land adjoining that title boundary or part thereof on the other side is not owned by the Crown or a local authority and is not held for a public purpose, the plan shall to that extent be drawn in terms of the occupation boundary:
 - (d) Where the occupation boundary of the land or any part of that occupation boundary does not purport to be on any title boundary of the land or any part thereof, the plan shall to that extent be drawn in terms of the occupation boundary:
 - (e) In any case to which the foregoing provisions of this subsection do not apply, and to the extent to which they do not apply, the plan shall be drawn in terms of the title boundaries of the land or in terms of any new survey boundaries necessary for the definition of the land or to complete that definition, as the case may require.
- (4) For the purpose of approving any plan required to be deposited pursuant to this section, the applicant shall be deemed to be the owner of the land.

Subsection (2)(d) was amended, as from 1 June 2002, by section 68(1) Cadastral Survey Act 2002 (2002 No 12), by substituting the words “licensed cadastral surveyor” for the words “registered surveyor”.

15 Issue of certificate of title to applicant

- (1) Where—
- (a) The applicant has supplied the Registrar with the certificate or deposited the plan required by section 14 of this Act; and
 - (b) The Registrar is satisfied that the applicant would, if the land had not been subject to the principal Act, have been entitled on the grounds of possession to the issue to him of a certificate of title under that Act on application made under section 19 thereof; and
 - (c) If no sufficient reason to the contrary otherwise appears;—
- then, notwithstanding anything in any other Act, the Registrar shall issue to the applicant a certificate of title in Form 2 in Schedule 1 to the principal Act for an estate in fee simple in the land remaining subject to the application or, as the case may be, the land in the plan, freed of all registered encumbrances, liens, and interests previously affecting the land, except those to which the title is to be subject pursuant to an agreement by the applicant under subsection (1) of section 11 of this Act.

- (2) Where any land in respect of which the application was lodged is comprised in a certificate of title that is limited as to parcels, any certificate of title issued under this section may, if the Registrar thinks fit, be similarly limited as to parcels.

Subsection (1)(b) was amended, as from 1 February 1999, by section 43(2) Land Transfer (Automation) Amendment Act 1998 (1998 No 123) by substituting the word “is” for the words “and the Examiner are”.

16 Title to intervening land where fence, etc, not on boundary

- (1) In this section the terms **title boundary** and **occupation boundary** have the same meanings as in section 14 of this Act.

- (2) Where—

- (a) A plan of survey prepared by a licensed cadastral surveyor and deposited pursuant to section 14 of this Act discloses that any occupation boundary is within the title boundary and the plan is made in accordance with the occupation boundary; and
- (b) For that reason the certificate of title issued to the applicant under that section does not include the land between the occupation boundary and the title boundary (in this section referred to as the intervening land); and
- (c) The Registrar is satisfied, from the particulars shown on the plan of survey or otherwise, that—
- (i) The fence, wall, hedge, building, ditch, or other artificial means of marking the occupation boundary was intended to coincide with or to represent the title boundary; or
- (ii) Where the occupation boundary is a natural feature of the land, that feature is in close proximity to the title boundary; and
- (d) The Registrar is satisfied that the intervening land or any part thereof is occupied together with other land adjoining the title boundary by the registered proprietor of the fee simple estate in that other land or by some person authorised by him,—

the Registrar may notify the registered proprietor of that other land that he may apply to have the intervening land, or, as the case may be, so much thereof as is occupied by him or by any person authorised by him as aforesaid, amalgamated with that other land; and, notwithstanding anything in any other Act, if that registered proprietor so applies, the Registrar may issue to him a certificate of title accordingly (in this section referred to as the amalgamated certificate of title).

- (3) Any intervening land that is amalgamated with other land pursuant to subsection (2) of this section shall cease to be subject to any registered encumbrances, liens, interests, and burdens previously affecting that intervening land, and shall cease to have the benefit of any rights, privileges, benefits, or easements previously attached thereto, but shall become subject to the same encumbran-

ces, liens, interests, and burdens and shall have attached thereto the same rights, privileges, benefits, and easements as the land with which it has been amalgamated.

- (4) Where the Registrar issues an amalgamated certificate of title under this section, any disposition of, or any application for a separate certificate of title for, any part of the land in that certificate of title shall be deemed to be a subdivision of the land for the purposes of the Resource Management Act 1991. The Registrar shall make an entry on every such amalgamated certificate of title that it is subject to the provisions of this subsection.

Subsection (2) was amended, as from 10 December 1991, by section 2(3) Land Transfer Amendment Act 1991 (1991 No 118) by omitting the words “, without fee or on payment of the prescribed fee as the Registrar thinks fit”.

Subsection (2)(a) was amended, as from 1 June 2002, by section 68(1) Cadastral Survey Act 2002 (2002 No 12), by substituting the words “licensed cadastral surveyor” for the words “registered surveyor”.

Subsection (4) was amended, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84), by substituting the words “Resource Management Act 1991” for the words “Local Government Act 1974”. See sections 273 to 314 of that Act as to the savings and transitional provisions.

17 Application in respect of land of dissolved company or other corporate body

Where any application relates to land the registered proprietor of the fee simple of which is a company or other corporate body that has been dissolved and the property of which has vested in the Crown as *bona vacantia*,—

- (a) The Registrar shall not proceed with the application until—
- (i) Where there is provision in any Act authorising the Crown to disclaim the land, the land has been disclaimed by the Crown in manner provided by that Act and the applicant has satisfied the Registrar that no proceedings have been commenced in any Court by any person under that Act to become the registered proprietor of the land; or
 - (ii) Where there is no such provision in any Act, the application is consented to in writing by the Secretary to the Treasury; and
- (b) Where in any case to which subparagraph (i) of paragraph (a) of this section applies the Registrar is aware that any person intends to commence such proceedings, he shall serve notice on that person that an application has been lodged under this Part of this Act and that he will proceed with the application unless the proceedings are commenced within a time specified in the notice and are duly proceeded with; and
- (c) Where any such proceedings have been commenced, the Registrar shall not proceed further with the application unless and until the proceedings have failed or been discontinued; and
- (d) If such proceedings have not been commenced within the time fixed in the notice given under paragraph (b) of this section, or within such fur-

ther time as the Registrar, in his discretion, may allow, and duly proceeded with, the Registrar shall proceed with the application.

18 Cancellation of certificate of title

- (1) Where the Registrar issues a certificate of title to any applicant under the provisions of section 15 of this Act, he shall cancel any other certificate of title for that land or, as the case may be, shall partially cancel any other certificate of title so far as it relates to that land. The memorial of cancellation shall state that the cancellation was made under the authority of this section.
- (2) Upon the cancellation of any certificate of title as aforesaid, the estate or interest evidenced thereby and the estate or interest evidenced by any instrument, entry, or memorial shown thereon which has not been required to be brought forward on to the new certificate of title pursuant to subsection (1) of section 11 of this Act shall cease and determine in respect of the land as to which the certificate has been so cancelled.

19 No action against the Crown or Registrar-General of Land except in certain cases

Notwithstanding anything in section 172 of the principal Act, no action shall lie against the Crown or the Registrar-General of Land by the registered proprietor of any land or of any estate or interest in any land by reason of the cancellation, in whole or in part, of any certificate of title to that land or any part thereof and the issue of a new certificate of title therefor under this Part of this Act, except where the registered proprietor—

- (a) Is deprived of that land, estate, or interest or any part thereof by fraud on the part of any applicant or by the error, omission, or misfeasance of the Registrar or of any of his officers or clerks in dealing with any application; and
- (b) Is by the principal Act barred from bringing an action for possession or other action for recovery of the land, estate, or interest.

20 Notices

The provisions of sections 239 to 240D of the principal Act apply in relation to notices under this Act.

Section 20 was substituted, as from 17 May 2005, by section 18 Land Transfer Amendment Act 2005 (2005 No 58).

21 This Part not to apply in certain cases

No application shall be made under section 3 of this Act—

- (a) With respect to any land owned by the Crown, except as provided in section 17 of this Act:
- (b) With respect to any Maori land within the meaning of Te Ture Whenua Maori Act 1993:

- (c) With respect to any land the registered proprietor of the fee simple of which is a local authority:
- (d) With respect to any land held in trust for any public purpose, being a trust noted or deemed to be noted on the register pursuant to section 129 of the principal Act:
- (e) With respect to any land occupied together with any adjoining land by the owner of that adjoining land or by any other person by virtue of the fact that any fence, wall, hedge, building, ditch, or other artificial means of marking the boundary purporting to be on the common boundary between that land and the adjoining land is not on that common boundary:
- (f) With respect to any land occupied together with any adjoining land by the owner of that adjoining land or by any other person by virtue of a change of course of any river, creek, or stream, or by virtue of the isolation of that land from any other land in the same ownership by any river, creek, or stream or by any other natural feature of the land or of adjoining land or by any road.

22

Part 2

Miscellaneous amendments of principal Act

23

24 Contents of memorial

- (1) *This subsection amended s 39(1) of the principal Act.*
- (2) Every memorial entered in the register before the passing of this Act which would have been valid if this section had been in force when the memorial was entered is hereby declared to have been validly entered, and the instrument to which it relates is hereby declared to have been duly registered.

25 Bringing down encumbrances on registration of new lease

- (1) *This subsection substituted a new section for s 117 of the principal Act.*
- (2) Section 4 of the Land Transfer Amendment Act 1959 is hereby repealed.

26

27

Schedule

Eprint notes**1 *General***

This is an eprint of the Land Transfer Amendment Act 1963 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this eprint*

This eprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this eprint*

Land Transfer Act 2017 (2017 No 30): section 248(1)

Property Law Act 2007 (2007 No 91): section 364(1)