

**Reprint
as at 12 November 2018**

Land Transfer Amendment Act 2005

Public Act 2005 No 58
Date of assent 16 May 2005

Land Transfer Amendment Act 2005: repealed, on 12 November 2018, pursuant to section 248(1) of the Land Transfer Act 2017 (2017 No 30).

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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 and Land Information New Zealand.

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	Amendments to related Acts	

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Land Transfer Amendment Act 2005.
- (2) In this Act, the Land Transfer Act 1952 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 By whom applications may be made

Section 20(3) of the principal Act is amended by omitting the words “section 161 of”, and substituting the words “regulations made under”.

4 Instruments not effectual until entry in register

Section 41 of the principal Act is amended by adding the following subsection:

- (6) In the absence of any provision to the contrary in the instrument, a reference in the instrument to the unique identifier of a computer register must be taken to be a reference to the entire estate or interest for which the computer register was created.

5 Presentation of instruments for registration

Section 47 is amended by omitting from subsection (1), and also from subsection (2), the word “transfer” wherever it appears, and substituting in each case the word “registry”.

6 Transfers and creation of easements, etc, by registered proprietor

- (1) Section 90(1)(b) of the principal Act is amended by inserting, after the word “creation”, the words “or surrender”.
- (2) Section 90(2)(a) of the principal Act is amended by omitting the words “or created”, and substituting the words “, created, or surrendered”.
- (3) Section 90(3)(b) of the principal Act is amended by inserting, after the word “created”, the words “or surrendered”.

7 General provisions relating to easements

- (1) Section 90E(1) of the principal Act is amended by omitting the words “created or varied under any of sections 90A, 90B, or 90C”, and substituting the words “created under any of sections 90, 90A, or 90B, or varied under section 90C,”.
- (2) Section 90E(2) of the principal Act is amended by omitting the expression “section 90A or section 90B”, and substituting the words “any of sections 90, 90A, or 90B”.
- (3) Section 90E(3) of the principal Act is amended—
 - (a) by omitting from paragraph (a) the words “the creation or variation of an easement under any of sections 90A, 90B, or 90C”, and substituting the words “the creation of an easement under any of sections 90, 90A, or 90B, or the variation of an easement under section 90C,”;
 - (b) by omitting from paragraph (c) the expression “section 90A or section 90B”, and substituting the words “any of sections 90, 90A, or 90B”.
- (4) Section 90E(5) of the principal Act is amended by inserting, after the word “Sections”, the expression “90,”.

8 Creating and noting land covenants

Section 90F of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- (1) Any covenant that may be contained in an instrument to which section 126A of the Property Law Act 1952 applies—
 - (a) may also be created in the same way as an easement may be created under section 90A or section 90B; but
 - (b) subject to section 126A of the Property Law Act 1952, has effect only as a deed inter partes.

9 Variation of mortgage terms

Section 102(1) is amended by renumbering paragraph (e) as paragraph (d).

10 Caveat against bringing land under Act

Section 136(1) of the principal Act is amended by inserting, after the words “a caveat”, the words “in the prescribed form”.

11 Caveat against dealings with land under Act

Section 137(1) of the principal Act is amended by inserting, after the words “a caveat”, the words “in the prescribed form”.

12 Effect of caveat against bringing land under Act

Section 140 of the principal Act is amended by omitting the words “in Form M”, and substituting the words “under section 136”.

13 Effect of caveat against dealings

Section 141(1) of the principal Act is amended by omitting the words “in form N”, and substituting the words “under section 137”.

14 Lapse of caveat against bringing land under Act

Section 144 of the principal Act is amended by omitting the words “in Form M”, and substituting the words “under section 136”.

15 New section 145 substituted

The principal Act is amended by repealing section 145, and substituting the following section:

145 Lapse of caveat against dealings

- (1) Every caveat under section 137, upon the expiration of the first prescribed period after notice is given to the caveator that an application has been made for the registration of any instrument affecting the land, estate, or interest protected by the caveat, is deemed to have lapsed as to that land, estate, or interest, or so much of it as is referred to in the notice, unless—
 - (a) notice is, within the first prescribed period, given to the Registrar that an application for an order to the contrary has been made to the High Court; and
 - (b) such an order is made and served on the Registrar within the second prescribed period.
- (2) The provisions of subsection (1) do not apply in the case of a caveat lodged by the Registrar in the exercise of any of the powers conferred on the Registrar by this Act.
- (3) In this section, first prescribed period and second prescribed period are periods prescribed for the purposes of this section by regulations made under this Act.

16 Caveats in respect of applications under this Part

Section 205(5) of the principal Act is amended by omitting the expression “138(1), 139”, and substituting the expression “136(2) and (3)”.

17 Repeal

Schedule 2 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 is amended by repealing so much as relates to section 139 of the principal Act.

18 Amendments to related Acts

The Acts specified in the Schedule are amended in the manner indicated in that schedule.

Schedule Amendments to related Acts

s 18

Land Transfer Amendment Act 1963 (1963 No 61)

Omit from section 3(1) the words “Form U in the Second Schedule to the principal Act” and substitute the words “the prescribed form”.

Omit from section 8(1) the words “Form M in the Second Schedule to the principal Act” and substitute the words “the prescribed form”.

Omit from section 8(2) the expression “138, 139” and substitute the expression “136(2) and (3), 137(4)”.

Repeal section 20 and substitute:

20 Notices

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

Land Transfer (Hawke’s Bay) Act 1931 (1931 No 27)

Omit from section 11(4) the words “Form N in the Second Schedule to” and substitute the words “the form required by section 137 of”.

Omit from section 14(1) the words “Form N in the Second Schedule to” and substitute the words “the form required by section 137 of”.

Omit from section 17(2), and also from section 17(4), the words “the Land Registry Office in Napier” and substitute in each case the words “any land registry office”.

Repeal section 24.

Eprint notes**1 *General***

This is an eprint of the Land Transfer Amendment Act 2005 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)