

House of Representatives

Supplementary Order Paper

Thursday, 1 December 2016

Land Transfer Bill

Proposed amendments (replacement for SOP No 249)

Hon Louise Upston, in Committee, to move the following amendments:

Clause 2

In *clause 2(3)*, replace “12” (page 11, line 7) with “18”.

Clause 56

Replace *clause 56(1)* (page 38, lines 8 to 11) with:

- (1) This section and **sections 57 to 57B** apply to a person (**person A**) who,—
 - (a) has been deprived of an estate or interest in land by the registration under a void or voidable instrument of another person (**person B**) as the owner of the estate or interest in the land; or
 - (b) being the owner of an estate or interest in land, suffers loss or damage by the registration under a void or voidable instrument of another person (**person B**) as the owner of an estate or interest in the land.

Clause 63

In *clause 63(2)*, after “exceeds the” (page 43, line 20), insert “prescribed”.

Clause 92

In *clause 92(6)(b)(i)*, replace “agreement” (page 55, line 36) with “instrument”.

Clause 97

In *clause 97(2)(a)*, after “by a” (page 59, line 16), insert “sealed”.

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Clause 169

In *clause 169(1)(b)*, replace “*bona vacantia*” (page 91, line 8) with “ownerless property”.

Clause 186

After *clause 186(1)(b)* (page 98, after line 37), insert:

- (c) any territorial authority or statutory body to which notice was given under **section 185(1)(c)**.

Clause 189

After *clause 189(2)* (page 99, after line 28), insert:

- (2A) In the case of any access strip, if the Registrar is satisfied that a caveat is lodged by a territorial authority or statutory body, the Registrar must refuse the application to the extent that the whole or part of the access strip is a road, service, land, or access way that the territorial authority or statutory body has jurisdiction over.

Clause 208

Replace *clause 208(1)* (page 107, lines 3 to 5) with:

- (1) For the purposes of this section, **memorandum** means a memorandum containing any prescribed information and containing provisions to be incorporated by reference in instruments of a class specified in the memorandum.

Clause 224

In *clause 224(1)(a)*, replace “**section 211**” (page 113, line 29) with “**section 223**”.

Clause 226

After *clause 226(1)(2a)* (page 114, after line 36), insert:

- (2b) prescribing, or authorising the Registrar to approve, any matter related to the format or medium, or both, required to be used for supplying any information prescribed under **paragraph (2a)**:

Clause 227(4)(a)

In *clause 227(4)(a)*, replace “at the rate prescribed for the time being under section 87 of the Judicature Act 1908” (page 119, lines 15 and 16) with “in accordance with Schedule 2 of the Interest on Money Claims Act 2016”.

Clause 234

After *clause 234(1)(c)* (page 122, after line 18), insert:

- (ca) requirements to be satisfied where another enactment provides for the registration or notation of any instrument or thing under this Act:

New clause 244A

After clause 244 (page 128, after line 6), insert:

244A Amendments to Building Act 2004

- (1) In this section, the **principal Act** means the Building Act 2004.
- (2) If section 24 of the Building (Earthquake-prone Buildings) Amendment Act 2016 is not in force on the date on which this section comes into force, that section is amended by—
 - (a) in new section 133AL(5)(b) of the principal Act, replacing “Land Transfer Act 1952” with “Land Transfer Act **2016**”; and
 - (b) in new section 133AL(5)(c) of the principal Act, replacing “section 137 of the Land Transfer Act 1952” with “**section 137** of the Land Transfer Act **2016**”.
- (3) If section 24 of the Building (Earthquake-prone Buildings) Amendment Act 2016 is in force on the date that this section comes into force,—
 - (a) section 133AL(5)(b) of the principal Act is amended by replacing “Land Transfer Act 1952” with “Land Transfer Act **2016**”; and
 - (b) section 133AL(5)(c) of the principal Act is amended by replacing “section 137 of the Land Transfer Act 1952” with “**section 137** of the Land Transfer Act **2016**”.

Schedule 1

In *Schedule 1*, after *clause 4(3)* (page 131, after line 2), insert:

- (4) For the purpose of any reference in any other enactment to a record of title or qualified record of title, the estates and land to which this clause applies must be treated as if a qualified record of title had been issued for them.

In *Schedule 1*, replace *clause 12* (page 133, lines 21 to 23) with:

12 Application of Interpretation Act 1999

Except as provided in **clauses 1 to 11** or in regulations made under **section 226A**, nothing in this schedule limits the Interpretation Act 1999.

Schedule 2

In *Schedule 2*, after the item relating to the Cadastral Survey Act 2002 (page 138, after line 11), insert:

Canterbury Property Boundaries and Related Matters Act 2016 (2016 No 40)

Replace section 9(3) with:

- (3) Subsection (1) does not prevent a boundary conflict from being resolved, and a boundary conflict between the boundaries that define land for the purposes of registration under the Land Transfer Act **2016** is to be treated as an error or unlawful alteration to the register for the purposes of—
 - (a) **section 21** of that Act, which gives the Registrar-General of Land a power to alter the register; and
 - (b) **sections 58 and 59** of that Act, which give a person who sustains certain losses a right to claim compensation from the Crown.
- (4) For the purpose of **subsection (3)**, **boundaries that define land for the purposes of registration under the Land Transfer Act 2016** means the boundaries shown on a plan deposited under **section 223** of that Act or otherwise incorporated in the register kept under that Act.

In *Schedule 2*, after the item relating to the Christchurch City Council (Lancaster Park) Land Vesting Act 2008 (page 140, after line 2), insert:

Christian Churches New Zealand Property Trust Board Empowering Act 2016 (2016 No 1(P))

In section 3, definition of **property**, paragraph (b)(iii), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In *Schedule 2*, replace the item relating to the District Courts Act 1947 (page 151, lines 8 to 18), with:

District Court Act 2016 (2016 No 49)

In section 188(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**” in each place.

In *Schedule 2*, repeal the item relating to the Judicature Act 1908 (page 173, line 36 to page 174, line 3).

In *Schedule 2*, after the item relating to Part 1 of Schedule 2 of the Privacy Act 1993 (page 191, after line 31), insert:

In Schedule 2, Part 1, repeal the item relating to the Land Transfer Regulations 2002.

In *Schedule 2*, item relating to the Reserve Bank of New Zealand Act 1989, replace the items relating to section 135 of that Act (page 204, lines 11 to 14) with:

In section 135(1), replace “District Land Registrar” with “the Registrar-General of Land”.

In section 135(2), replace “District Land Registrar” with “the Registrar-General of Land”.

In *Schedule 2*, after the item relating to the Roman Catholic Bishops Empowering Act 1997 (page 211, after line 7), insert:

Senior Courts Act 2016 (2016 No 48)

Replace section 20(1)(e) with:

- (e) a proceeding in which relief is claimed solely under any of **sections 141, 142, 145, 176, 177, and 179** of the Land Transfer Act **2016** (which relate to caveats):

In Schedule 3, Part 1, repeal the item relating to the Land Transfer Act 1952.

In Schedule 4, Part 2, repeal the item relating to the Land Transfer Regulations 2002.

In *Schedule 2*, replace the item relating to section 11(1) of the State Insurance Act 1990 (page 212, lines 19 and 20) with:

In section 11(1), replace “No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be” with “The Registrar-General of Land, the Registrar of Deeds, and any other person charged with the keeping of any books or registers are not”.

In *Schedule 2*, after the item relating to the Tax Administration Act 1994 (page 213, after line 35), insert:

Te Ture Whenua Maori Act 1993 (1993 No 4)

In section 4, repeal the definition of District Land Registrar.

In section 47(4), replace “District Land Registrar” with “Registrar-General of Land”.

In section 47(5), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 82(6), replace “appropriate District Land Registrar if the title to the land is under the Land Transfer Act 1952, or to the appropriate Registrar of Deeds” with “Registrar-General of Land if the title to the land is under the Land Transfer Act **2016**, or to the Registrar of Deeds”.

In section 82(6), replace “District Land Registrar in whose office the mining privilege is recorded” with “Registrar-General of Land”.

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

In section 82(7), replace “folium of the register book and against any relevant instrument of title” with “record of title, or in the Deeds Register Office”.

Replace section 83(7) with:

(7) Any lease or licence so granted in respect of land subject to the Land Transfer Act **2016** may be registered under that Act.

In section 88(2), replace “a District Land Registrar” with “the Registrar-General of Land”.

In section 88(2), replace “that Registrar” with “the Registrar-General of Land”.

In section 95(3)(m), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 112(3), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 123(1), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 123(2), replace “District Land Registrar” with “Registrar-General of Land” in each place.

Repeal section 123(3).

In section 123(4), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 123(5), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 123(6), replace “Land Transfer Act 1952, no separate certificate of title” with “Land Transfer Act **2016**, no separate record of title”.

In section 123(6A), replace “certificate of title” with “record of title”.

In section 123(7), replace “District Land Registrar” with “Registrar-General of Land”.

Replace section 124 with:

124 Special provisions where insufficient survey plan

(1) If any order to which this Part applies is presented for registration under the Land Transfer Act **2016**, the Registrar-General of Land must, if the order is not supported by a plan that defines the land affected by the order and that is sufficient for the purposes of the registration of that order under that Act, register the order by issuing a qualified record of title for the land.

(2) If any order to which this Part applies is registered in accordance with **subsection (1)**, any person in whom the beneficial ownership

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

of land or any interest in land is vested by that order may, in accordance with **section 223** of the Land Transfer Act **2016**, deposit a plan in relation to the land or interest in land to which the order relates, which plan must define the pieces of land affected.

In section 125, replace “District Land Registrar” with “Registrar-General of Land”.

In section 125, replace “that Registrar” with “the Registrar-General of Land”.

In section 125, replace “the Registrar” with “the Registrar-General of Land”.

In section 126, replace “District Land Registrar” with “Registrar-General of Land”.

In section 128(1), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 131(2), replace “District Land Registrar for the Land District in which any land is situated” with “Registrar-General of Land”.

Replace section 133(2) with:

- (2) Without limiting the classes of person who may apply to the court for the exercise of its jurisdiction, the Registrar-General of Land may apply to the court for the exercise of its jurisdiction under this section in respect of any land that is beneficially owned by more than 10 Māori.

In section 136(c), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 137(1)(b), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 139(1), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 139(2), replace “District Land Registrar of the district in which the land is situated” with “Registrar-General of Land”.

Repeal section 139(3).

Replace section 139(4) with:

- (4) On receipt of the order, the Registrar-General of Land must issue a qualified record of title for the land, and all the provisions of the Land Transfer Act **2016** as to qualified records of title, subject to this Act, apply accordingly.

In section 140, replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

**Proposed amendments to
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SOP No 252

Te Ture Whenua Maori Act 1993 (1993 No 4)—continued

In section 156(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 157(4), replace “certificate of title” with “record of title”.

In section 157(5), replace “District Land Registrar” with “Registrar-General of Land”.

Repeal section 200(2).

In section 200(3), replace “District Land Registrar” with “Registrar-General of Land”.

In section 219(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 220(3), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

Replace section 220(5) with:

- (5) The Registrar-General of Land must—
- (a) adjust the register as necessary to give effect to any vesting order or order of revocation made by the court under this section; and
 - (b) note in the register that the land is vested in the persons named as trustees or that the trust on which the land was vested in the persons named as trustees has been revoked.

In section 220A(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 220A(5), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 227(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 227(3), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**” in each place.

In section 227(3), replace “District Land Registrar” with “Registrar-General of Land”.

In section 227(4), replace “District Land Registrar” with “Registrar-General of Land”.

Repeal section 227(5).

In section 250(7), replace “District Land Registrar” with “Registrar-General of Land”.

In section 250(7), replace “certificate of title” with “record of title”.

In section 256(4C), replace “District Land Registrar” with “Registrar-General of Land”.

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

In section 256(4C), replace “certificate of title” with “record of title” in each place.

In section 271(4), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 295(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 298(5), replace “or provisionally registered under the Land Transfer Act 1952” with “under the Land Transfer Act **2016**”.

In section 298(6), replace “District Land Registrar” with “Registrar-General of Land”.

Replace section 299(1) with:

- (1) When a partition order affects land that is subject to the Land Transfer Act **2016**, the following provisions apply in respect of the registration of the order under that Act:
 - (a) the Registrar of the court must forward the order to the Registrar-General of Land:
 - (b) if, when the order is received by the Registrar-General of Land, there is an unqualified record of title to the land so partitioned, the order must be registered against the title in accordance with that Act:
 - (c) if, when the order is received by the Registrar-General of Land, the title to the land partitioned is in a qualified record of title, the Registrar-General of Land may either register the order against that qualified record of title in accordance with that Act or as a separate qualified record of title; in which latter case—
 - (i) the partition order is, as provided in **section 17** of the Land Transfer Act **2016**, duly registered; and
 - (ii) the original qualified record of title relating to the land partitioned must then be cancelled so far as it relates to the parcel or any parcel included in the partition order; and
 - (iii) all entries and memorials affecting the record of title to any such parcel must be transferred to the qualified record of title:
 - (d) if, when the order is received by the Registrar-General of Land, the title to the land partitioned has not been registered, the partition order must be registered as a qualified record of title:

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

- (e) the provisions of the Land Transfer Act **2016** as to qualified records of title, subject to this Act and as far as they are applicable, apply to registration as a qualified record of title under this section:
- (f) the Registrar-General of Land may continue under this section to record in a record of title that the title is qualified, so long as the number of owners exceeds 10.

In section 299(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 306(1), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 307(4), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 307(6), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 308(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 308(4), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 323(4), replace “District Land Registrar” with “Registrar-General of Land” in each place.

In section 324(5), replace “District Land Registrar” with “Registrar-General of Land” in each place.

In section 324(5), replace “certificate of title” with “record of title”.

In section 325(4), replace “District Land Registrar” with “Registrar-General of Land”.

In section 325(4), replace “certificate of title or register” with “record of title”.

In section 326(2), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 326(2), replace “District Land Registrar” with “Registrar-General of Land”.

In section 326C(1)(f), replace “certificate of title free of any limitations as to title or parcels within the meaning of Part 12 of the Land Transfer Act 1952” with “record of title that is not qualified under **section 17** of the Land Transfer Act **2016**”.

In section 326D(1), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

In section 333(4), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 343(3), replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 347, replace “Land Transfer Act 1952” with “Land Transfer Act **2016**”.

In section 347, replace “District Land Registrar” with “Registrar-General of Land” in each place.

In *Schedule 2*, replace the item relating to section 12(1) of the Tourist Hotel Corporation of New Zealand Act 1989 (page 214, lines 4 and 5) with:

In section 12(1), replace “No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be” with “The Registrar-General of Land, the Registrar of Deeds, and any other person charged with the keeping of any books or registers are not”.

Explanatory note

This Supplementary Order Paper amends the Land Transfer Bill. It replaces SOP No 249 to add an amendment to *clause 56*.

The amendment to *clause 2(3)* extends by 6 months (to 18 months) the “backstop” date for commencement of the Bill. After that period of time the Bill will come into force if it is not earlier brought into force by Order in Council.

The amendment to *clause 56* clarifies the intent of the provision by separating out the 2 relevant scenarios in *clause 56(1)*.

The amendments to *clauses 63 and 92* correct drafting errors.

The amendment to *clause 97* has the effect that when a lessor applies to the Registrar-General of Land to have an order of the court for the re-entry of leased land recorded, the lessor must provide a sealed copy of the order of the court.

The amendment to *clause 169* simplifies the wording of that provision.

The amendment to *clause 186* provides that a territorial authority or statutory body to which notice is given of an application for title to an access strip may lodge a caveat against the application. The amendment to *clause 189* provides for the effect of the caveat.

Clause 189 is amended to provide that where a caveat is lodged under *clause 186* by a territorial authority or statutory body, the Registrar must refuse the application (for title to the access strip) to the extent that the whole or part of the access strip is a road, service, land, or access way that the territorial authority or statutory body has jurisdiction over.

**Proposed amendments to
Land Transfer Bill**

SOP No 252

Clause 208 is amended to re-insert a reference to the memorandum under that clause containing any prescribed information. The reference to prescribed information was omitted in error.

The amendment to *clause 224* corrects a cross-reference.

The amendment to *clause 226* provides that regulations may authorise the Registrar-General of Land to prescribe a format or medium in which prescribed information must be provided.

The amendment to *clause 227* amends the regulation-making power in relation to fees and charges—in particular, the provision that allows regulations to provide that interest is payable on unpaid fees. It substitutes a reference to the Interest on Money Claims Act 2016 (under which the relevant interest rate would be determined) for the existing reference to the rate prescribed under section 87 of the Judicature Act 1908 (which is to be repealed).

The amendment to *clause 234* provides that the Registrar-General of Land may set standards or issue directives about requirements to be satisfied where another enactment provides for the registration or notation of any instrument or thing under the Bill.

New clause 244A consequentially amends the Building Act 2004.

The amendment to *clause 4 of Schedule 1* clarifies the treatment of references to qualified records of title in other enactments (as they will be after amendment by *Schedule 2*).

The revised *clause 12 of Schedule 1* clarifies that the Interpretation Act 1999 is limited only as provided in *clauses 1 to 11 of Schedule 1* or in transitional regulations made under *clause 226A*.

The amendments to *Schedule 2*—

- update references in Te Ture Whenua Maori Act 1993 to provisions of the Land Transfer Act 1952:
- update references in other enactments to provisions of the Land Transfer Act 1952 or regulations made under that Act:
- correct minor grammatical errors, and omit amendments that are now no longer necessary.

Departmental disclosure statement

Land Information New Zealand considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.