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Crown Grants Act 1908

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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 Land Information New Zealand.

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An Act to consolidate certain enactments of the Parliament of New Zealand relating to grants of land by the Crown

Title: amended, on 1 January 1987, by section 29(2) of the Constitution Act 1986 (1986 No 114).

1 Short Title, etc

- (1) The Short Title of this Act is the Crown Grants Act 1908.
- (2) This Act is a consolidation of the enactments mentioned in Schedule 1, and with respect to those enactments the following provisions shall apply:
 - (a) all Crown grants, certificates, orders, notifications, registers, records, instruments, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated:
 - (b) all matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2 Interpretation

In this Act, unless the context otherwise requires,—

Chief Surveyor means the Chief Surveyor of a land district constituted under the Land Act 1948, appointed under section 9 of the Survey Act 1986; and, in relation to any lands, or any subject matter affecting any lands, means the Chief Surveyor of the land district in which the lands are situated

Director-General means the Director-General within the meaning of section 2 of the Survey Act 1986

Minister means the Minister of the Crown for the time being responsible for the administration of this Act.

Compare: 1883 No 31 s 2

Section 2: substituted, on 1 February 1990, by section 6 of the Survey Amendment Act (No 3) 1989 (1989 No 139).

Section 2 **Director-General**: substituted, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Issue of grants

3 Director-General's certificate

No Crown grant of any land shall be issued unless and until a Director-General has given a certificate in the prescribed form to the effect that such land has been disposed of in conformity with some law (to be specified in such certificate) for the time being in force for the disposal of Crown lands, and that all money then due in respect of such land has been received by him in cash, except where otherwise by law provided.

Compare: 1883 No 31 s 3

Section 3: amended, on 1 April 1987, by section 81(1) of the Survey Act 1986 (1986 No 123).

4 Duties of Chief Surveyor

The Chief Surveyor shall superintend the preparation, custody, and delivery of Crown grants, leases, licences, and other instruments of disposition relative to Crown lands, except where otherwise by law provided, and subject to such provisions as are made by law relating thereto, and subject also to instructions from the Governor-General, conveyed through the Minister or other officer authorised in that behalf.

Compare: 1883 No 31 s 4

Section 4: amended, on 1 April 1987, by section 81(1) of the Survey Act 1986 (1986 No 123).

5 Corrections in grants

All corrections required in Crown grants before the execution thereof, or in any copies of the same, shall be made in the office in which such grants or copies are required by law to be prepared.

Compare: 1883 No 31 s 5

6 Surveyor's name to appear on plan

The name of the surveyor from whose survey the plan on any grant has been made shall in every case be attached to the plan, as well as the name of the Chief Surveyor of the district wherein the land granted is situate; but the omission of any such name shall not affect the validity of the grant.

Compare: 1883 No 31 s 6

7 Negligence of surveyor

Where a correction of the plan on a grant is required under this Act, the expense of a new survey, if requisite, and of the correction of the grant, shall be paid by the surveyor or draughtsman by whose mistake or negligence the error requiring correction was made, and the amount of such expenses may be sued

for by the Chief Surveyor in his own name, and recovered by him as a debt in any Court of competent jurisdiction.

Compare: 1883 No 31 s 7

Section 7: amended, on 1 April 1987, by section 81(1) of the Survey Act 1986 (1986 No 123).

8 Governor-General's signature

- (1) The Governor-General, in all Crown grants of land made by him in the name and on behalf of Her Majesty, may cause his signature to be subscribed thereto by means of a stamp, or facsimile of his sign manual.
- (2) Grants so signed shall be of the same effect, force, and validity to all intents and purposes as if they bore the actual autograph or sign manual of the Governor-General.
- (3) All such grants shall be countersigned by the Minister or other person duly appointed by the Governor-General in that behalf.

Compare: 1883 No 31 s 8

In subsection (1) the reference to "Her Majesty" has been updated from a reference to "His Majesty"

9 Date of grant

Every Crown grant shall be dated as of the day whereon it is signed by the Governor-General, and such date shall be deemed to be the day of the issue thereof.

Compare: 1883 No 31 s 9

Section 9: amended, on 27 October 1965, by section 2 of the Crown Grants Amendment Act 1965 (1965 No 78).

Duplicate grants

10 Where grant lost or destroyed

- (1) Where a Crown grant has been lost, or destroyed by fire or other inevitable accident, the Governor-General, on evidence to his satisfaction by statutory declaration of the loss or destruction of such grant, may authorise the issue of a duplicate or transcript, certified under the hand of the Minister, of the original grant so lost or destroyed, and may cause the Seal of New Zealand to be attached to such duplicate or transcript.
- (2) Every such duplicate or transcript shall have the same effect to all intents and purposes as the original grant in lieu whereof it is issued.
- (3) If such grant be so lost or destroyed before the expiration of 3 months after notice of its being ready for delivery has been published in the district wherein the land comprised in the grant is situate, no fees shall be payable upon the delivery of the duplicate or transcript to the person entitled to receive the same; but otherwise the fees payable on the original grant, and the same amount on the duplicate or transcript, shall be paid before such delivery.

Compare: 1883 No 31 s 10

Section 10(1): amended, on 28 February 1977, by section 8 of the Seal of New Zealand Act 1977 (1977 No 1).

Correction or cancellation of grants

11 Where grant to wrong person, land may be reconveyed or grant cancelled

- (1) Where the name of any person not entitled to the land comprised in any Crown grant is inserted by mistake in any grant of such land instead of the name of the person really entitled thereto, or where the name of any person entitled to be included in the grant as a grantee has been omitted, a reconveyance of such land to Her Majesty shall be endorsed on the grant, and executed by the person to whom the land has by mistake been granted.
- (2) If such reconveyance cannot be obtained, the Governor-General, on a statutory declaration being made by the Chief Surveyor, setting forth the existence and causes of the mistake, the reasons why the reconveyance is not obtainable, the name of the person entitled to the grant, and the nature of his title, may cancel the erroneous grant and issue a new grant of the same land to the person entitled thereto.

Compare: 1883 No 31 s 12

Section 11(2): amended, on 1 April 1987, by section 81(1) of the Survey Act 1986 (1986 No 12).

In subsection (1) the reference to “Her Majesty” has been updated from a reference to “His Majesty”.

12 Erroneous grant may be cancelled and new grant issued

- (1) Where it appears to the satisfaction of the Governor-General that there is an error in any name inserted in a Crown grant as the name of the intended grantee, the Governor-General may cancel such grant, and may issue a new grant of the land comprised in the cancelled grant in the correct name of the intended grantee.
- (2) Prior to the cancellation of such grant a statutory declaration shall be made by the Chief Surveyor to the effect that the name in the grant to be cancelled is erroneous, and that the correct name of the person to whom such grant was intended to be and should be issued is as stated in the declaration.
- (3) In the case of grants issued under any order of a Maori Land Court, or under any law heretofore in force providing for the issue of such grants, the declaration aforesaid may be made by the Minister, the Chief Surveyor, or any Judge of such Court or other officer upon whose award or decision the grantee became entitled to the grant in which such error occurs.

Compare: 1883 No 31 s 11

Section 12(2): amended, on 1 April 1987, by section 81(1) of the Survey Act 1986 (1986 No 12).

Section 12(3): amended, on 1 April 1987, by section 81(1) of the Survey Act 1986 (1986 No 12).

Section 12(3): amended, on 27 November 1947, by section 9(2)(a) of the Maori Purposes Act 1947 (1947 No 59).

13 Error in description of land

Where it appears to the satisfaction of the Governor-General that any error has been made in the description of the land intended to be conveyed by any Crown grant, the Governor-General may cause a correct description of the said land to be endorsed on the grant, or inserted in the margin thereof, without any subject-matter beyond what is absolutely requisite for the correction of such error and such correct description shall be signed by the Governor-General.

Compare: 1883 No 31 s 13

14 Evidence of error

In every case under the 3 last preceding sections the Chief Surveyor, or other officer employed in the administration of Crown lands and the preparation of Crown grants, shall furnish such further or other evidence as the Governor-General requires of the error, and of the requisite correction thereof.

Compare: 1883 No 31 s 14

Section 14: amended, on 1 April 1987, by section 81(1) of the Survey Act 1986 (1986 No 12).

15 Amended grant to be effectual

Every grant on or in which any such amended description is endorsed or entered and signed as aforesaid, and every deed and instrument in writing containing the erroneous description founded on and executed subsequently to the date of the said grant, shall have the same force and effect as though a correct description, instead of an erroneous description, had been entered in such grant, deed, or instrument before the issuing or execution thereof respectively.

Compare: 1883 No 31 s 15

16 New grant may be issued in certain cases

The Governor-General, in special cases on the recommendation of the Minister, or in cases of grants wherein any important errors occur and have been proved to the satisfaction of the Governor-General, by statutory declaration or otherwise, to exist, whatever the nature of the errors may be, in lieu of causing any erroneous Crown grant to be corrected as aforesaid, may cause the same to be cancelled, and in lieu thereof may issue a new grant of the land comprised in the original grant.

Compare: 1883 No 31 s 16

Effect of cancellation

17 Mode and effect of cancellation

- (1) For the purpose of cancelling any grant a statement that the same is cancelled shall be written on the face of the copy thereof filed in the register of grants in the Minister's office, which statement shall be signed by the Governor-General and countersigned by the Minister, and sealed with the Minister's official seal.

- (2) Such cancellation shall annul and make void the cancelled grant as effectually as if the same were repealed under section 19.
- (3) Before cancellation of the register copy of any grant the grant itself shall be delivered to the Minister, and after such cancellation the same shall be destroyed.

Compare: 1883 No 31 ss 17, 18, 19

18 Certain cancelled grants declared void *ab initio*

- (1) Every grant purporting to have been cancelled prior to 8 October 1866 (being the date of the passing of the Crown Grants Act 1866) under the authority of any Governor of New Zealand, and every grant, whether formally cancelled or not, of any land of which a new grant has been duly issued prior to that date by any such Governor, and recorded in the proper office for the record of the same, shall be deemed to be and to have been absolutely void *ab initio* to all intents and purposes.
- (2) No grant issued in lieu of any such previous grant shall be void, or voidable, or liable to be set aside in any Court or by any process of law, on the ground of the prior issue or existence of the previous grant.

Compare: 1883 No 31 s 20

Repeal of grants

19 Mode of repeal

Grants from the Crown under the Seal of New Zealand may be repealed by any process in the High Court that may be authorised by its rules in substitution for proceedings by writ of *scire facias*.

Compare: 1883 No 31 s 21

Section 19: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Antevesting of the legal estate

20 Deeds of transfer to be valid

- (1) All deeds executed by grantees of lands comprised in grants from the Crown, their heirs, executors, administrators, and assigns, after the dates at which they became entitled respectively to Crown grants of the said lands, but before the dates of the Crown grants by which the same were granted, shall, for the purpose of completing the titles of parties to such deeds, but for no other purpose, be deemed to have the same force and effect as though the said grants had been respectively executed immediately upon the grantees named therein becoming entitled to receive the same respectively.
- (2) This section applies to deeds heretofore or hereafter executed.

Compare: 1883 No 31 s 22

21 Date when grantee becomes entitled to grant

- (1) The dates whereon grantees shall be deemed respectively to become entitled to receive Crown grants of their lands shall be,—
 - (a) in the case of grantees of land purchased from the Crown under any Land Act or regulations for the time being in force where payment of the purchase money alone entitles the grantee to a grant, then the date of payment of such purchase money or of the last instalment thereof:
 - (b) in the case of grantees of land the title to which is acquired by residence or occupation for a specified term, or by making improvements to a certain extent and of a certain value upon the land occupied, or by the fulfilment of any other conditions, whether in addition to or without the payment of purchase money, then the date on which (the purchase money, if any, having been paid) the prescribed term of residence or occupation is completed and the prescribed conditions fulfilled:
 - (c) in the case of grantees of land the title to which has been determined by the Maori Land Court, or any other authority lawfully empowered to direct the issue of a Crown grant of Maori land, then the date of the certificate or order issued by that Court or authority in respect of that land:
 - (d) in any case where any specified block or section of land has been sold before being surveyed under the Act or land regulations affecting the same, and, after the sale thereof, has been found to contain a greater number of acres than it was supposed to contain at the time of the sale, and the acreage in excess has been paid for in accordance with the said Act or regulations, then the date, with respect to the whole of such block or section, of the original purchase of the portion thereof:
 - (e) in the case where a fresh grant has been issued in lieu of any grant cancelled as aforesaid, then the date whereon the legal estate in the land granted vested in the grantee, or was intended to vest in him, under the cancelled grant:
 - (f) in any case not included in this section, but within the provisions of section 23 of the Crown Grants Act 1883, then the date provided for by that section.
- (2) In any case where under any Act or regulations heretofore in force a date is prescribed upon which a grantee became entitled to receive a Crown grant of land, but the grant has not issued before the coming into operation of this Act, then the same shall be issued in accordance with such Act or regulations.

Compare: 1883 No 31 s 23

Section 21(1)(c): amended, on 27 November 1947, by section 9(2)(a) of the Maori Purposes Act 1947 (11 GEO VI 1947 No 59).

Section 21(1)(c): amended, on 27 November 1947, by section 2(2) of the Maori Purposes Act 1947 (11 GEO VI 1947 No 59)

22 Date to be certified

- (1) Where the title to any land comprised in a Crown grant is acquired by payment of purchase money, the Receiver shall certify under his hand the date whereon the whole sum, or the last instalment thereof, is paid.
- (2) Where the title to any such land is acquired by the performance or fulfilment of any other conditions, the Chief Surveyor shall certify under his hand the date of the performance or fulfilment of those conditions.
- (3) Any certificate required under the foregoing provisions shall be forwarded by or through the Chief Surveyor to the Minister before the execution of the grant.

Compare: 1883 No 31 ss 24, 25

Section 22(2): amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

Section 22(3): amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

23 Entry of date in *habendum* of grant

- (1) In all the foregoing cases the Chief Surveyor or other officer charged with the preparation of Crown grants may insert in the *habendum* of any grant of land with respect to which it is desired to antevest the legal estate as aforesaid, the date in each case as ascertained and certified with respect to the class of cases to which such grant may belong, and the date so inserted shall, for the purposes of section 21, be deemed to be the date whereon the grantee became entitled to a Crown grant of the lands comprised therein.
- (2) Where a grantee becomes entitled at different times to grants of 2 or more blocks or sections of land, and all such blocks or sections are comprised in one and the same grant, the dates whereon he acquired title to the said blocks or sections respectively may be inserted in the *habendum* of the grant, together with references to the said blocks or sections respectively; and every such insertion shall have the same force and effect to all intents and purposes, as regards the particular block or section to which it refers, as the insertion of one date would have had as regards the whole of the land had the grantee acquired title to the whole of the land at the same date.

Compare: 1883 No 31 ss 26, 27

Section 23(1): amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

24 Endorsement of date on grant previously executed

The Minister may endorse on any grant the date whereon the grantee became entitled to receive the same, although the grant has already been executed; and such endorsement shall have the same effect as the insertion of the date in the *habendum* of the grant in manner aforesaid.

Compare: 1883 No 31 s 28

25 Entry or endorsement to be evidence of date

For the purposes of this Act the insertion in the *habendum* of a grant, or the endorsement on a grant, shall in all cases be conclusive evidence of the day or

days on which the grantee named in the grant became entitled to receive a grant of the lands comprised therein.

Compare: 1883 No 31 s 29

26 Mistake in date may be corrected by Minister

Where the Chief Surveyor makes a statutory declaration to the effect that an erroneous date has been inserted or endorsed in or upon any Crown grant as the date for the antevestment of the legal estate in the land comprised therein, the Minister may, by endorsement on the grant, specify the correct date which, under the provisions of this Act, should, for the purpose of such antevestment, have been inserted therein or endorsed thereon.

Compare: 1883 No 31 s 30

Section 26: amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

27 Authority of Chief Surveyor to correct wrong date

- (1) Where a statutory declaration is made as aforesaid that a wrong date has been inserted in or endorsed on any grant deposited in the office of any Registrar of Deeds, the Chief Surveyor may, on the written instruction of the Minister, make such correction as aforesaid by endorsing the same on the grant so deposited.
- (2) The Chief Surveyor shall forward without delay to the Minister a copy of the said endorsement, certified under the hand of the Registrar of Deeds, and the Minister shall thereupon cause the same to be attached to the record copy of the grant in his office, and the same shall thenceforth be deemed to be an integral part of that copy.

Compare: 1883 No 31 s 31

Section 27: amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

28 Effect of corrections

Every endorsement made under the 2 last preceding sections shall be as effectual, for the purpose of antevestment, as if the date therein named had been originally inserted in or endorsed on the Crown grant in accordance with the provisions of this Act.

Compare: 1883 No 31 s 32

Registration and delivery of grants

29 Registration and delivery of grants

In every case where a Crown grant has been executed the following provisions shall apply:

- (a) the Chief Surveyor shall forward the grant to the Registrar of Deeds for the registration district in which the land is situate, and shall notify in the *Gazette* the fact that it has been so forwarded and is there ready for delivery to the person entitled on payment of fees and on registration:

- (b) on full payment of all custody and registration fees payable in respect of the grant, the Registrar of Deeds shall register it and deliver it to the person entitled:
- (c) where the land is situate in more districts than one, the Chief Surveyor shall forward it to the Registrar for such one of the districts as he thinks fit. Such Registrar, after payment to him of all fees as aforesaid, shall register the grant in his own books and then forward it to the Registrar of the other district, who shall register it and return it to the first-mentioned Registrar for delivery to the person entitled.

Compare: 1883 No 31 s 33

Section 29(a): amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

Section 29(c): amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

30 Grant may be deposited in certain cases

Where a dispute arises as to the person to whom any Crown grant of land ought to be delivered, the officer for the time being having the custody thereof, upon payment by any person of all the fees payable in respect thereof, and for the registration and deposit thereof, may cause the same to be registered in the proper registration office, and afterwards may deposit the same for safe custody and reference under the Deeds Registration Act 1908; and such officer, and every other person, shall be thereby indemnified against all actions, claims, and demands in respect of the grant.

Compare: 1883 No 31 s 34

31 Transfer or transmission of grantee's interest prior to execution of grant

- (1) Any grants of land which have been or may be made in favour of the persons who first became legally entitled to receive such grants respectively, although such persons have or shall have died or transferred their interest prior to the execution of such grants, shall and shall be deemed to have been and to be of the same force and validity as though they had been or were executed during the lifetime or before the transfer of the interest of the person so originally entitled.
- (2) Nothing in this section shall operate upon or affect the preparation and issue of Crown grants of land to derivative purchasers claiming under contracts with the New Zealand Company.

Compare: 1883 No 31 s 39

32 Delivery of grant to successor in title of grantee

- (1) In any case under the last preceding section, and in any case where the land comprised in any Crown grant has been transferred before the delivery of the grant, the Chief Surveyor or other person charged with the delivery of Crown grants may, at his discretion, transmit the grant to the Registrar-General of Land, who shall ascertain the person to whom the grant should be delivered as

representative of the grantee, and shall deliver the same to such person accordingly.

- (2) The Registrar-General of Land shall not be liable to any action or other proceeding for or in respect of the delivery of any such grant, if such delivery be made in the *bona fide* exercise or supposed exercise of his duty under this Act.
- (3) No record of title under the Land Transfer Act 2017 shall be issued in lieu of any such grant until all the fees on the grant have been paid.

Compare: 1883 No 31 s 40

Section 32(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 32(1): amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

The Land Transfer Act 1952 has been substituted for the repealed Land Transfer Act 1908.

Section 32(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 32(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

33 Entries by Registrar where grant cancelled

- (1) Where a grant has been cancelled under section 11 by reason of the name of any person not entitled to the land having been inserted therein by mistake, every entry in the books of a Registrar of Deeds relating to such land shall be cancelled by writing opposite thereto, or across the face thereof, a memorandum in the words “Cancelled by authority of the Crown Grants Act 1908”.
- (2) Such memorandum shall be signed by the Registrar; and such entry shall be thereby cancelled, and shall thereafter be of no force or effect.

Compare: 1883 No 31 s 35

34 Entries may be amended where new grant issued

Where a grant has been cancelled under section 12 by reason of any error in the name of the grantee, the Registrar may, at his discretion, in lieu of cancelling the entries in his books relating to the land comprised in the grant, correct the name of the grantee, wherever it occurs in such entries, in accordance with the name in the new grant issued in lieu of the cancelled grant; and every entry so corrected shall be of the same force and effect as if it had been originally made in such corrected form.

Compare: 1883 No 31 s 36

Effect of grants

35 Seaward boundary of land granted

Where in any grant the ocean, sea, or any sound, bay, or creek, or any part thereof affected by the ebb or flow of the tide, is described as forming the whole or part of the boundary of the land granted, such boundary or part

thereof shall be deemed and taken to be the line of high-water mark at ordinary tides.

Compare: 1883 No 31 s 41

36 Reservation of land for roads

- (1) Whenever roads or rights of roads have been or hereafter may be reserved in any Crown grants, but any such road, or the particular part or portion of the land comprised in the grant over which the road is or may be taken, is not specifically described in the body of the grant and laid down from survey in the plan drawn in the margin thereof, or endorsed thereon, or attached thereto, such Crown grant, if otherwise duly and legally executed, shall be and be deemed to have been as valid and effectual to all intents and purposes as if the said road, or part of the land over which the road is to be taken, had been specifically described and laid down as aforesaid on the grant before the execution thereof, any law or practice to the contrary notwithstanding.
- (2) All such reservations heretofore or hereafter made shall be valid and effectual to all intents and purposes; but (unless otherwise provided by law) the right of taking a road through any land granted shall be exercised only within 5 years from the issue of the grant.
- (3) Where an allowance is made in land, or any part of the purchase money is remitted, on account of any such reservation, the area taken for the road shall in no case exceed the acreage of land allowed, or the acreage corresponding to the amount of purchase money remitted as aforesaid.
- (4) Where any such road is taken and laid down in manner aforesaid on the land comprised in any grant by any person lawfully authorised in that behalf, the land conveyed by the grant shall be deemed, from the date of the laying down of the road, to be all the land therein described to be granted, with the exception of the portion thereof taken for the road, which portion shall be deemed to be vested in the Crown.

Compare: 1883 No 31 ss 42, 43, 44

36A Reservation of land for railways and other public works

Whenever in any Crown grant there has been or hereafter may be reserved rights at any time to take part of the land comprised therein for railways or other public works of any kind, the provisions of section 36 shall apply as if references in that section to roads were references to railways or those other public works, as the case may be:

provided that, where before the commencement of this section any land was taken for railways or other public works after the period of 5 years from the issue of the grant, no compensation shall be claimed by or paid to the owner of the land.

Section 36A: inserted, by section 2 of the Crown Grants Amendment Act 1955 (1955 No 69).

36B Removal of lapsed reservations from title

Where any reservation in any Crown grant to take part of the land for roads or railways or other public works of any kind lapses through effluxion of time, the Registrar-General of Land may enter a memorial in the register that the reservation has lapsed.

Section 36B: inserted, by section 3 of the Crown Grants Amendment Act 1955 (1955 No 69).

Section 36B: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

37 Roadway to include railway

Where, by express words in any grant, or by implication from the exercise of any power given by an Act of the Parliament of New Zealand, the right to take a road through the land granted is reserved to the Crown, that right shall be deemed to include the right to make a railway over and upon the reserved roadway.

Compare: 1883 No 31 s 45

Section 37: amended, on 1 January 1987, by section 29(2) of the Constitution Act 1986 (1986 No 114).

Evidence of grants

38 Copies of grants as evidence

Every copy of a Crown grant kept as of record, purporting to be a copy of any grant from the Crown of any land situate in New Zealand, and every copy certified under the hand of the Minister to be a true and faithful transcript of any such copy kept as of record, shall be admitted in evidence for all purposes for which the original grant might have been so admitted:

provided that no copy purporting to be certified as aforesaid shall be admitted in evidence without proof of the Minister's signature appearing on the certificate, but his appointment as Minister need not be proved.

Compare: 1883 No 31 ss 37, 38

Fees on grants

39 Grant fee and acreage fee

There shall be paid to the Director-General, or other officer appointed to receive the same, a fee of \$2 upon every Crown grant of lands not exceeding in extent 50 hectares, and upon every Crown grant of land exceeding that area an additional fee of 1 cent for every hectare in excess of 50 hectares.

Compare: 1883 No 31 s 46

Section 39: amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

Section 39: amended, by section 2 of the Crown Grants Amendment Act 1972 (1972 No 52).

40 Fees to be prepaid

- (1) The fees payable upon any Crown grant under this Act shall be paid by the purchaser of any lands, over and above the price of the land, at the time when he pays the purchase money or the last instalment thereof.
- (2) If, on the issue of any Crown grant, it appears that a larger sum has been paid by way of fees than ought to have been paid, the excess shall be returned to the purchaser.

Compare: 1883 No 31 s 47

41 Custody fees

- (1) There shall be paid to the Director-General upon all grants not delivered but remaining in the charge or custody of a Chief Surveyor or other officer charged with the delivery of the same, a custody fee of 2.5 cents for every month during which they have so remained or so remain—
 - (a) subsequent to the month of December 1866 in the case of grants issued prior to the passing of the Crown Grants Act 1866; and
 - (b) in the case of all other grants, after the expiration of 3 months from the date of a public notice by the Commissioner or other authorised officer that such grants are ready for delivery.

- (1A) The maximum sum payable under subsection (1) in respect of custody fees on any 1 grant shall not exceed \$2.

- (2) *[Repealed]*

Compare: 1883 No 31 ss 48, 49, 52; 1903 No 27 s 2

Section 41(1): amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

Section 41(1) proviso: repealed, by section 12(2) of the Finance Act 1938 (1938 No 13).

Section 41(2): repealed, by section 12(2) of the Finance Act 1938 (1938 No 13).

Section 41(1A): inserted, by section 2(1) of the Crown Grants Amendment Act 1979 (1979 No 82).

42 Certain grants exempt from custody fee

No grants issued or to be issued under any order of the Maori Land Court, or any other authority lawfully empowered to direct the issue of a Crown grant of Maori land, shall be subject to the fees payable for the custody of Crown grants.

Compare: 1883 No 31 s 50

Section 42: amended, by section 9(2)(a) of the Maori Purposes Act 1947 (1947 No 59).

Section 42: amended, by section 2(2) of the Maori Purposes Act 1947 (1947 No 59).

43 Fee for certified copy

There shall be paid upon every certified copy of the record copy of a Crown grant in the office of the Minister a fee of \$1.

Compare: 1883 No 31 s 51

Recovery of fees and expenses

44 Outstanding fees under prior Acts

All unpaid fees, expenses, and other charges payable or required to be paid under any Act or enactment heretofore in force relating to Crown grants shall be deemed to be payable under this Act, and may be recovered accordingly.

Compare: 1883 No 31 s 52

45 Liability for and recovery of fees

(1) The following persons are jointly and severally liable to pay the fees due in respect of any Crown grant, as well as the fees payable on the registration thereof under the Deeds Registration Act 1908:

- (a) the grantees named therein; and
- (b) all persons in whom any legal estate of inheritance in the whole or any part of the land comprised therein is vested, whether as beneficial owners, or as trustees, or as mortgagees.

(2) A certificate signed by the Registrar of Deeds stating that, upon inspection of the Crown grant and of the books in his office, it appears that any such legal estate as aforesaid in all the land comprised in the grant appears to be vested in any persons, shall, for the purposes of this Act, be conclusive proof that such persons are jointly and severally liable to pay the said fees.

(3) Such certificate may be in the form numbered (1) in Schedule 2, and it shall be admitted in evidence without proof of the signature or official position of the officer whose signature it purports to bear.

(4) *[Repealed]*

(5) *[Repealed]*

Compare: 1883 No 31 ss 53-56

Section 45(4): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 45(5): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

46 Recovery of fees, etc, in case of Maori land grants

The power of recovering expenses given to the Chief Surveyor by section 7, and all powers of recovering fees given by this Act to the Director-General, are hereby, in so far as regards any Crown grant issued under an order of the Maori Land Court or any other authority lawfully empowered to direct the issue of a Crown grant of Maori land, conferred on the Surveyor-General, who may, by himself or by any person duly authorised by him in that behalf, at any time exercise the same.

Compare: 1883 No 31 s 57

Section 46: amended, by section 81(1) of the Survey Act 1986 (1986 No 12).

Section 46: amended, by section 9(2)(a) of the Maori Purposes Act 1947 (1947 No 59).

Section 46: amended, by section 2(2) of the Maori Purposes Act 1947 (1947 No 59).

47 Trustee or mortgagee paying fees may charge the same

- (1) Every trustee or mortgagee who pays on any Crown grant any fees payable by him under section 45 shall be entitled to charge the same as part of the necessary expenses of fulfilling his trust, or to add the same to the mortgage debt, as the case may be.
- (2) Every person who pays any fees in respect of a Crown grant shall have a lien thereon for the fees so paid.

Compare: 1883 No 31 s 58

Schedule 1
Enactments consolidated

s 1(2)

Crown Grants Act 1883 (1883 No 31)

Crown Grants Act Amendment Act 1903 (1903 No 27)

Schedule 2

s 45(3)

Form 1

Certificate of registrar of deeds

I HEREBY certify that, on inspection of the Crown grant of [*state the numbers of the sections or blocks of land and the land district, as appearing in the grant*], dated the day of 19 , and the books in the office of the Registrar of Deeds at , it appears that a legal estate of inheritance in the whole of the lands comprised in the said grant is vested in [*state names and descriptions of persons in whom such legal estate appears to be vested*].

Dated this day of 19 .

E F,

[Deputy] Registrar of Deeds for the Registration District of .

Form 2

Complaint

[*Repealed*]

s 45(5)

Schedule 2 form 2: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Eprint notes

1 *General*

This is an eprint of the Crown Grants Act 1908 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 250

Criminal Procedure Act 2011 (2011 No 81): section 413