

Land Transfer (Compulsory Registration of Titles) Act 1924

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Contents

	Page
Title	2
1 Short Title.	2
2 Interpretation.	2
3 All private European land to be brought under principal Act.	2
4 Application to bring land under principal Act deemed to be made.	3
5 Applications to be dealt with as under principal Act.	3
6 Special provisions as to applications under this Act.	3
7 Registrar may require surrender of instruments affecting title.	3
8 Registrar may issue Ordinary or limited certificate of title.	4
9 Definition and form of limited certificate	4
10 Notices of issue of certificate of title to be given.	4
11 Registrar's minutes of defects found in titles.	4
12 Registrar's minutes may be searched.	5
13 Limited certificate of title may be made ordinary.	5
14 Ordinary certificate of title not to issue till title good.	6
15 Memorials on limited certificate of title to be evidence.	6
16 Application of principal Act to limited certificate of title.	6
17 Persons claiming title adverse to that of proprietor under a limited certificate of title may make application.	7
18 No right of action by registered proprietor of limited certificate of title against Registrar-General for interests excepted from guarantee.	7
19 No person deemed to be deprived of any interest excepted from guarantee.	7

20	Memorial of title endorsed on limited certificate to be limited.	7
21	After twelve years, interests excepted from guarantee to be extinguished.	8
22	As to caveats in respect of applications under this Act.	8
23	As to trustees without power to sell.	9
24	Restrictions on issue of ordinary certificate of title	9
25	Protection of Registrar-General.	10
26	Registration of deeds affecting land subject to this Act.	10
27	Fees.	10
	Schedule	12

An Act to provide for bringing under the Land Transfer Act, 1915, all Land heretofore alienated from the Crown for an Estate in Fee-simple and not already subject to that Act.

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.

- (1.) This Act may be cited as the Land Transfer (Compulsory Registration of Titles) Act, 1924, and shall be read together with and deemed part of the Land Transfer Act, 1915 (hereinafter referred to as the principal Act).

Commencement.

- (2.) This Act shall come into operation on the first day of April, nineteen hundred and twenty-five.

2 Interpretation.

In this Act, if not inconsistent with the context,—

“Application under this Act” means an application deemed to have been made as provided in section four of this Act:

“Applicant” means the person deemed by section four of this Act to be the applicant:

“Ordinary certificate of title” means a certificate of title in the Form B in the Second Schedule to the principal Act:

“The Registrar’s minutes” means the minutes of the Registrar referred to in section eleven of this Act.

3 All private European land to be brought under principal Act.

- (1.) The Registrar shall proceed with all convenient speed, but subject to the provisions of section nineteen of the principal Act with regard to land for which no Crown grant has been issued, to bring under the principal Act all land heretofore alienated from the Crown for an estate in fee-simple and not already

subject to that Act, so that all such land shall be brought under the principal Act within five years after the coming into operation of this Act, or as soon thereafter as may be.

- (2.) This section shall not apply to land over which the Native title has not been extinguished.

4 Application to bring land under principal Act deemed to be made.

As soon as the Examiner shall proceed, for the purposes of this Act, to examine the title to any land to which this Act applies, or the Registrar shall proceed to bring any such land under the provisions of the principal Act, application to bring that land under the principal Act shall be deemed to have been made by a person competent to make such application under the principal Act.

5 Applications to be dealt with as under principal Act.

Except as hereinafter provided, the Examiner of Titles and the Registrar shall deal with all such applications in accordance with the provisions of the principal Act in respect of applications, and shall do all such acts in relation thereto as they, or either of them, ought to do in respect of applications under that Act.

6 Special provisions as to applications under this Act.

- (1.) In respect of any application under this Act it shall not be necessary—
- (a.) That the applicant or any other person surrender the instruments of title, or furnish the schedule or abstract, or make the declaration, or append the plan respectively referred to in section twenty-one of the principal Act:
 - (b.) That any persons interested be parties to the application, or that notice of the application be advertised in the *Gazette* or in any newspaper:
 - (c.) That the Registrar post or forward any notice required by the principal Act:
 - (d.) For the Registrar to wait the expiration of any time before issuing a certificate of title in respect of an application under this Act, but he may delay the issue of any such certificate of title for such cause as he thinks sufficient.
- (2.) An application under this Act shall not be capable of being withdrawn by the applicant.
- (3.) The applicant shall not be entitled to direct the issue to any other person of a certificate of title to be issued upon an application under this Act.

7 Registrar may require surrender of instruments affecting title.

- (1.) The Registrar may at any time require every person having possession or control of any instruments constituting or in any manner affecting the title to the land the subject of an application to surrender the same to the Registrar.

- (2.) Every person who refuses or neglects to surrender any [such instrument within a reasonable time after being duly required to do so commits an offence against this Act, and is liable to a penalty of five pounds for every day during which such refusal or neglect is continued.
- (3.) The Registrar shall not deliver any certificate of title under the provisions of this Act to the[[person entitled to such certificate until all instruments constituting or in any manner affecting the previous title of the applicant, and being in the possession or under the control of the applicant, have been surrendered to the Registrar.

8 Registrar may issue Ordinary or limited certificate of title.

- (1.) The Registrar shall issue a certificate of title for the land the subject of such application, in accordance with the provisions of the principal Act as amended by this Act, in the name of the proprietor appearing to be entitled thereto.
- (2.) If in respect of any land it appears to [the Registrar and Examiner that the Registrar ought to have issued an ordinary certificate of title if application to bring that land under the provisions of the principal Act had been made by a person competent to make the same, and if the Registrar is satisfied that the applicant is in possession of the land, and that the position and boundaries of the land are sufficiently defined by the instruments of title or by any deposited plan or plans, the certificate of title shall be an ordinary certificate of title.
- (3.) Save as provided in the last preceding subsection, the certificate of title to be issued under this Act shall be a limited certificate of title as hereinafter defined.

9 Definition and form of limited certificate

- (1.) A limited certificate of title may be a certificate of title limited either as to description of parcels or as to title, or limited both as to description of parcels and as to title.
- (2.) A limited certificate of title shall be in the Form B in the Second Schedule to the principal Act, with the addition, after the words "Certificate of Title under Land Transfer Act," of the words "(Limited as to parcels)," or "(Limited as to title)," or "(Limited as to parcels and title)," as the case may require.

10 Notices of issue of certificate of title to be given.

Notice of the issue of a certificate of title under the provisions of this Act shall be sent by the Registrar through the post by registered letter to every person having any estate or interest evidenced by such certificate of title or by any memorial endorsed thereon.

11 Registrar's minutes of defects found in titles.

- (1.) Before issuing a limited certificate of title the Registrar shall file with his records a minute signed by him clearly setting forth the acts or matters that ought to be done or proved, and the requisitions that ought to be complied

with, in order to justify him in issuing an ordinary certificate of title. Such requisitions shall, if necessary, [include a requisition for the surrender of the instruments of title referred to in section twenty-one of the principal Act, and may include a requisition for the deposit of a plan of a survey of the land.

Copy of minutes to be sent to proprietor.

- (2.) He shall thereupon send by registered letter a copy of the Registrar's minutes through the post to the proprietor of every estate or interest in the land as evidenced by the Deeds Register or the instruments of title.

Minutes may be revised.

- (3.) The Registrar may from time to time revise and amend the Registrar's minutes so as to indicate which of the acts or matters or requisitions therein referred to have been done or proved or complied with, and may alter or add to such minutes, but not so as to prejudice the limited title of, or throw any onus upon, a purchaser or mortgagee, *bona fide* for valuable consideration, from the registered proprietor of the land, or of any estate or interest in the land, comprised in a limited certificate of title. All such revisions and additions shall be authenticated by the signature of the Registrar.

12 Registrar's minutes may be searched.

The Registrar's minutes shall not form part of the Register for the purposes of section forty-two of the principal Act, nor shall any person other than the registered proprietor, or a person authorized in writing in that behalf by the registered proprietor, be entitled to be informed of the contents or of the nature of such minutes except pursuant to an order of the Supreme Court or of a Judge thereof.

13 Limited certificate of title may be made ordinary.

- (1.) Upon the doing of such acts or the proof of such matters, and on compliance with such requisition or requisitions, as are set forth in the Registrar's minutes, to the satisfaction of the Registrar, he shall, at his discretion, either cancel the limited certificate of title and issue, upon payment of the prescribed fee, an ordinary certificate of title, or constitute the limited certificate of title an ordinary certificate of title by the endorsement thereon of a memorial to the effect that such certificate of title has ceased to be a certificate of title limited as to parcels, or limited as to title, or limited as to parcels and title, as the case may be, and such certificate of title shall thereupon take effect in all respects as an ordinary certificate of title.
- (2.) If at any time it appears to the Registrar that by reason of lapse of time or for any other reason any act or proof or compliance set forth in the Registrar's minutes has become unnecessary he may issue an ordinary certificate of title in lieu of a limited certificate of title, or may constitute a limited certificate of title an ordinary certificate of title in the manner provided in the last preceding subsection.

14 Ordinary certificate of title not to issue till title good.

Except as otherwise provided in this Act, so long as a certificate of title continues to be limited, no new certificate of title other than a limited certificate of title shall be issued in substitution therefor, or for any part of the land comprised therein, unless in the latter case the matters in respect of which it is limited do not affect the part of the land for which such new certificate of title is issued.

15 Memorials on limited certificate of title to be evidence.

Every entry on a limited certificate of title, if purporting to be duly made and signed, shall be received in all Courts of law and equity as evidence of the particulars therein set forth, and shall, as against the person named in the original limited certificate of title for any land, and all persons claiming through, under, or in trust for him, be conclusive evidence that the person named in such entry is seised or possessed of the estate or interest of which he is expressed to be the registered proprietor.

16 Application of principal Act to limited certificate of title.

- (1.) Except as otherwise provided in this Act, all the provisions of the principal Act shall, so far as the circumstances of the case will admit, apply with respect to the land comprised in a limited certificate of title, and to the registration of instruments and other matters affecting the same, save that the title of the proprietor of an estate or interest in any land comprised in a limited certificate of title shall be indefeasible only against the person named in the original limited certificate of title for such land, and all persons claiming through, under, or in trust for him:

Provided that a limited certificate of title, and the memorials entered thereon of outstanding interests in the land comprised therein, shall be evidence or conclusive evidence, as the case may be, of the matters referred to in section sixty-eight of the principal Act, subject only to—

- (a.) The doing of the acts, and proof of the matters, and compliance with the requisitions set forth in the Registrar's minutes.
 - (b.) The title to the land, or to any estate or interest in the land, of any person, the existence of which title, or the probable or possible existence of which, is set forth or indicated in the Registrar's minutes:
 - (c.) The title of any person to or in any existing lease or agreement for a lease for a term not exceeding seven years from the date thereof:
 - (d.) The title (if any) of any person adversely in actual occupation of, and rightfully entitled to, any such land or any part thereof.
- (2.) Sections fifty-eight, fifty-nine, sixty-one, sixty-eight, seventy-two, one hundred and ninety-seven, and one hundred and ninety-eight of the principal Act shall,

in their application to a limited certificate of title, be deemed to be modified accordingly.

- (3.) Notwithstanding the provisions of section sixty of the principal Act, the issue of a limited certificate of title for any land shall not stop the running of time under the Statutes of Limitations in favour of any person in adverse possession of such land at the time of the issue of such certificate, or in favour of any person claiming through or under him.

17 Persons claiming title adverse to that of proprietor under a limited certificate of title may make application.

So long as any land continues to be comprised in a limited certificate of title any person claiming to be seised or possessed of an estate of freehold in such land or any part thereof—

- (a.) By virtue of possession adverse to the title of the proprietor in whose name such certificate of title was issued; or
(b.) Under any title the existence of which, or the probable or possible existence of which, is set forth in the Registrar's minutes—

may make an application under the provisions of the principal Act as if this Act had not been passed and the limited certificate of title had not been issued. The Examiner and Registrar shall deal with such application in the manner provided in the principal Act, and if they are satisfied as to the grounds of the applicant's claim the Registrar shall in due course issue an ordinary certificate of title to the applicant, and shall call in and cancel or correct the limited certificate of title, as the case may require, under the powers conferred upon him by the principal Act for the correction of errors.

18 No right of action by registered proprietor of limited certificate of title against Registrar-General for interests excepted from guarantee.

No action shall lie against the Registrar-General by the registered proprietor of any land, or of any estate or interest in land, comprised in any certificate of title limited as to title by reason of the title or the priority of title of any person mentioned in paragraph (b), (c), or (d) of subsection one or in subsection three of section sixteen hereof.

19 No person deemed to be deprived of any interest excepted from guarantee.

Where by the Registrar's minutes the existence, or the probable or possible existence, of a title to any estate or interest in land is indicated, no dealing with that estate or interest shall be capable of being registered until the estate or interest, if capable of registration, is registered.

20 Memorial of title endorsed on limited certificate to be limited.

The registered title to any estate or interest less than freehold evidenced by a limited certificate of title or by a memorial endorsed thereon shall be deemed

to be limited to the same extent as that certificate so long as the certificate continues to be a limited certificate of title, and it shall not be necessary for the Registrar to place any notice of such limitation upon the instrument creating or evidencing such estate or interest.

21 After twelve years, interests excepted from guarantee to be extinguished.

- (1.) After the expiration of twelve years from the date of the first certificate of title limited as to title for any land—
 - (a.) Any claim, estate, or interest upon or in any such land existing before such date and not evidenced by the certificate of title of such land or by a memorial endorsed thereon, including the claim of any caveator in the Form No. 1 in the Schedule to this Act, shall, except the estate or interest of a person in actual possession of and rightfully entitled to land, and the estate or interest or claim of a person in adverse possession of land, and except as provided in section fifty-eight of the principal Act, be barred and extinguished:
 - (b.) No action for the recovery of damages from the Assurance Fund shall lie in respect of any claim, estate, or interest referred to in the last preceding paragraph:
 - (c.) No person who is deprived of any such land, or of any estate or interest in any such land, through the bringing of the same under the principal Act by virtue of this Act shall be entitled to bring an action against the Registrar-General as nominal defendant for recovery of damages:
 - (d.) Such certificate of title, or any certificate of title issued in substitution therefor or for any part of the land comprised therein, shall be deemed to be no longer limited as to title, and the Registrar may, unless such certificate of title is limited also as to parcels, issue an ordinary certificate of title for such land, or may constitute such limited certificate of title an ordinary certificate of title, and it shall thereupon take effect in all respects as an ordinary certificate of title.
- (2.) The foregoing provisions of this section shall not operate so as to extend any period after the expiration of which any such claim or action would have been barred, or any such estate or interest would have been extinguished, by virtue of any other Act or law.

22 As to caveats in respect of applications under this Act.

- (1.) A caveat in the Form K in the Second Schedule to the principal Act shall not be capable of being lodged in respect of an application under this Act, but any person entitled to lodge a caveat in the said form in the case of an application under the principal Act may register under the Deeds Registration Act, 1908, a caveat in the Form No. 1 in the Schedule to this Act at any time prior to the issue of a certificate of title in respect of the land to which the application under this Act relates.

- (2.) When the Registrar proceeds with an application in respect of any land against which a caveat in the said Form No. 1 has been registered as aforesaid he shall include in the Registrar's minutes a minute in respect of the claim of the caveator.
- (3.) Any occupier of land the subject of an application under the provisions of this Act, and any adjoining occupier or proprietor, may, so long as any such land is comprised in a certificate of title limited as to parcels, lodge a caveat in the Form No. 2 in the Schedule to this Act at any time after the issue of such certificate of title.
- (4.) The provisions of sections one hundred and forty-eight, one hundred and fifty-two, one hundred and fifty-four, one hundred and fifty-five, one hundred and fifty-six, and one hundred and fifty-seven, and of subsection one of section one hundred and forty-seven of the principal Act shall, with the necessary modifications, apply to caveats in the Form No. 1 in the Schedule to this Act:
Provided that a caveat in the said Form No. 1 shall not prevent the registration of any dealing with the land comprised in any certificate of title limited as to title.
- (5.) Notice of the issue of a certificate of title under the provisions of this Act shall be sent by the Registrar by registered letter through the post to the caveator of every caveat in the Form No. 1 in the Schedule to this Act registered against the land comprised in such certificate of title.
- (6.) Subject to the provisions of this Act, the provisions of the principal Act in respect of caveats in the Form K in the Second Schedule to the principal Act shall, with the necessary modifications, apply to caveats in the Form No. 2 in the Schedule to this Act.

23 As to trustees without power to sell.

When a certificate of title is issued under the provisions of this Act to trustees (other than trustees of public reserves) who have no express power to sell the land comprised in such certificate of title, it shall be the duty of the Registrar to register upon such certificate of title a memorial referring to this section, and to enter a Registrar's caveat for the protection of the interests of persons beneficially interested under the trust.

24 Restrictions on issue of ordinary certificate of title

- (1.) The Registrar shall not be bound on an application in that behalf to issue an ordinary certificate of title, or to issue an ordinary certificate of title in lieu of a certificate of title limited as to parcels, or to constitute a certificate of title limited as to parcels an ordinary certificate of title—
 - (a.) Unless and until he is satisfied by the deposit of a survey plan, together with such other evidence as he may deem necessary, or by some other means, that no part of the land to which the application relates is held in occupation adverse to the title of the proprietor appearing by the Deeds

Register and the instruments of title, or by the certificate of title limited as to parcels, as the case may be, to be entitled thereto:

- (b.) Until he has given to the persons appearing to him to be occupiers or proprietors of adjoining land such notices as he deems necessary of his intention to issue or constitute such an ordinary certificate of title, and until the expiration of the time limited in any such notice.
- (2.) The Registrar shall give such notices in any case in which it appears to him that the land, or part of the land, in respect of which an ordinary certificate of title is proposed to be issued or constituted is included in the title of an adjoining occupier or proprietor as evidenced by the Deeds Register or by a certificate of title limited as to parcels of the land of an adjoining occupier or proprietor.
- (3.) The Registrar may from time to time, upon such evidence as he deems sufficient, amend the description of parcels in, or the plan upon, a certificate of title limited as to parcels, but not so as to exclude from such description any land of which the proprietor is in possession and to which he is rightfully entitled for the estate or interest evidenced by such certificate of title.

25 Protection of Registrar-General.

No action for the recovery of damages shall lie against the Registrar-General by the registered proprietor of land comprised in any certificate of title limited as to parcels, or by any other person, by reason of any error or omission in the description of the parcels of land comprised in such certificate of title.

26 Registration of deeds affecting land subject to this Act.

Any deed affecting any land brought under the principal Act in pursuance of the provisions of this Act which might have been registered under the provisions of the Deeds Registration Act, 1908, if this Act had not been passed may, if such deed bears date prior to, or within six months after, the date of the first certificate of title for such land, be registered under the principal Act notwithstanding that it is not an instrument in one of the forms prescribed by the principal Act.

27 Fees.

- (1.) Save as otherwise provided in this section, no fee and no contribution to the Assurance Fund shall be payable in respect of the bringing of land under the principal Act, whether by virtue of the provisions of the principal Act or of this Act.
- (2.) The fee prescribed by regulations under the principal Act for advertising notices of applications under the provisions of that Act shall continue to be payable.
- (3.) The fee for the first certificate of title issued for any land upon an application under the provisions of the principal Act or of this Act shall be the sum of one pound five shillings. Such fee shall not be required to be paid until such

certificate of title is required to be delivered by the Registrar to the person entitled thereto, or to be cancelled, or until a dealing with the land or with any estate or interest in the land comprised in such certificate of title is presented for registration. The provisions of section fifty of the principal Act, excepting the proviso thereto, shall apply to such fee.

Schedule

Form No. 1

CAVEAT GIVING NOTICE OF ESTATE OR INTEREST

To the District Land Registrar of the District of TAKE NOTICE that I [*Name of caveator*], of [*Occupation and address*], claiming estate or interest [*Here state the nature of the estate or interest claimed and the ground on which such claim is founded*] in [*Here describe land by reference to plan to be endorsed hereon*], hereby give notice of such claim.

And I appoint [*Here state address within the registration district*] as the place at which notices relating hereto may be served.

Dated this day of , 19 .

Signed by the above-named A. B., as caveator, in the presence of—C. D. [*Occupation and address.*]

A. B.

Form No. 2

CAVEAT FORBIDDING THE ISSUE OF AN ORDINARY CERTIFICATE
OF TITLE, OR THE CONSTITUTION OF A CERTIFICATE OF TITLE
LIMITED AS TO PARCELS AS AN ORDINARY CERTIFICATE OF TITLE

To the District Land Registrar of the District of TAKE NOTICE that I [*Name of caveator*], of [*Occupation and address*], claiming estate or interest [*Here state the nature of the estate or interest claimed and the ground on which such claim is founded*] in [*Here describe land by reference to plan to be endorsed hereon*], hereby forbid the issue of an ordinary certificate of title for the said land [or the constitution of certificate of title limited as to parcels, Volume , folio , as an ordinary certificate of title] until this caveat is withdrawn by me, or by order of the Supreme Court or some Judge thereof, or until the same has lapsed under the provisions in that behalf contained in the Land Transfer Acts.

And I appoint [*Here state an address within the registration district*] as the place at which notices relating hereto may be served.

Dated this day of , 19 .

Signed by the above-named A. B., as caveator, in the presence of—C. D. [*Occupation and address.*]

A. B.