

ACTS AMENDMENT (RESERVES AND RESERVE BOARDS) BILL 2003

EXPLANATORY MEMORANDUM

This Bill provides for amendments to two Acts:

- The *Land Administration Act 1997* (LAA)
- The *Parks and Reserves Act 1895* (PRA).

The first part of the Bill deals with preliminary matters.

The second part of the Bill seeks to apply the provisions of the LAA to reserves created under special Acts, such as the various Reserves Acts enacted over the years and dealing with amendments to Class A reserves. Legal advice has been given that in some cases, such reserves could not be considered to be reserves created under the provisions of the *Land Act 1933* or the *Land Act 1898*. They could not therefore be dealt with under the LAA's provisions.

The LAA provides for minor amendments to Class A reserves by Ministerial order (section 42(3)), with more substantial amendments requiring tabling of proposals before both Houses of Parliament (sections 42(4) and 43). Section 45 of the LAA requires a more rigorous treatment in relation to amendments to reserves which are subject to the provisions of the *Conservation and Land Management Act 1984*.

Unless reserves created under special Acts other than the LAA or the previous Land Acts are subjected to the provisions of the LAA, then the only way in which such reserves can be modified is by special Acts. It is also not possible to apply the provisions of the PRA to such reserves for management purposes. The PRA applies only to reserves created under the LAA or its predecessor Land Acts.

The third and major part of the Bill has to do with the PRA. These amendments will provide for dissolution of boards of management created under the Act, and transfer of their responsibilities to a relevant Minister.

Set out below is an explanation of the contents of the Bill, on a clause by clause basis.

Part 1 – Preliminary

Clause 1: This clause sets out the short title and citation.

Clause 2: This clause sets out the commencement provisions.

The Act is to come into effect on the day on which it receives Royal Assent.

Part 2 – LAA

Clause 3: The amendments are to the LAA.

Clause 4: A new section 51A is introduced which will enable particular reserves to be prescribed by regulation, as being regarded as land reserved subject to the

provisions of section 41 of the LAA. If a reserve so prescribed is a Class A reserve, for example, the Act or instrument by which that land was originally reserved is deemed to be an order made under section 41.

Provisions for making regulations in this manner ensures that unforeseen consequences are avoided, which may otherwise occur through a sweeping statutory statement such as “all land reserved under an Act other the LAA or *Land Acts 1933 or 1898* is deemed a reserve created under section 41 of the LAA”. There may be instances where land has been reserved under a particular Act, where it would be inappropriate to apply the LAA provisions.

This proposed section will enable reserves to be dealt with as problems are detected.

Part 3 – PRA

- Clause 5: The amendments within Part 3 are to the PRA.
- Clause 6: The long title of the PRA is amended to more correctly state that the Act relates to control and management of land reserved to the Crown, rather than to management of parks and reserves vested in the Crown. Reserves are not vested in the Crown, for the purposes of the PRA. The PRA provides for the appointment of boards to manage land reserved under the LAA (section 3(1)). Management orders may also be issued under section 46 of the LAA in favour of such boards of management (section 3(6)). The new title better reflects these facts.
- Clause 7: The definition of “authorised person” in section 2 of the PRA is amended by removing reference to a “park reserve committed to” a Board, and replacing the phrase with words which reflect the management arrangements of section 3(1) of the PRA. By this section, land is placed under the control of a Board.
- The definition of “Board” is amended to delete reference to the archaic expression “Parks and Reserves”.
- Similarly, the definition of “parks and reserves” is deleted. This definition is unnecessary. Section 3(1) of the PRA already provides for management of land reserved under Part 4 of the LAA.
- Clause 8(1): Section 3(5) is amended by substituting “land” for “a reserve” in line 5, and “land under the control of” for “reserve under” in line 6. Section 3(1) refers to “land” rather than “reserves”.
- Clause 8(2): New subsections 3(7) and (8) are introduced, to provide specific powers for dissolution of a Board, and consequent revocation of appointments of members of such Boards.
- Clause 9: Section 4 is amended in similar fashion to clause 8(1) amendments to section 3(5).

- Clause 10: This clause will make a series of minor amendments to section 5(1) and 5(1a)(b) which are similar to those commented on, in relation to clause 8(1).
- Clause 11: This clause will make amendments to section 7A(1) and (2) which are similar to those commented on, in relation to clause 8(1).
- Clause 12: This clause will make amendments to section 8(1) which are similar to those commented on, in relation to clause 8(1).
- Clause 13: Section 9 is amended in a manner similar to amendments commented on, in relation to clause 8(1).
- Clause 14: Section 10, dealing with trespass of cattle, is repealed. Section 463 of the *Local Government (Miscellaneous Provisions) Act 1960* provides more recent powers in relation to cattle trespass.
- Clause 15: Section 12A is amended in a manner similar to amendments commented on, in relation to clause 8(1).
- Clause 16: This clause introduces three new sections, which are commented on in turn, below.

New Section 15:

This new section will require that provisions are made for continuing employment of employees of Boards, without prejudice to superannuation and existing rights, prior to such Boards being dissolved. The section is largely modelled on the *Dairy Industry and Herd Improvement Legislation Repeal Bill 2000* (clauses 3(e) and (f)); and on the understanding that regulations can be made under section 94(1) of the *Public Sector Management Act 1994*.

New Section 16:

Regulations may be made to facilitate dissolution of Boards. A non-exclusive list of matters are specified, in relation to which regulations may be made, and includes arrangements for disposition of Board property, continuation of rights, agreements and legal proceedings, and submission of a final report. Provision for regulations affords a greater degree of flexibility in dealing with unforeseen requirements arising in relation to particular dissolutions.

New Section 17:

State tax would not be payable in relation to anything associated with the dissolution of a Board.