

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Scope of Act. 3. "Native Land Court Act, 1880," to apply. 4. Applications for division, and how the same is to be effected. 5. Surrender of grant may be made by any writing in certain cases. 6. Cancellation of record. | <ol style="list-style-type: none"> 7. Persons may be ordered to produce grant, &c. Grants or instruments not produced may be declared null and void. 8. Non-production of instruments of title not to bar proceedings. 9. Grant to be issued on order of Court. 10. Similar procedure under different tenures. 11. Tribe or hapu may apply for subdivision. 12. Individuals may apply similarly for subdivision. 13. Court may authorize surveyor to enter upon lands. |
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1882, No. 28.

AN ACT to provide for Division of Native Land.

Title.

[13th September, 1882.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

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| <ol style="list-style-type: none"> 1. The Short Title of this Act is "The Native Land Division Act, 1882." 2. This Act shall apply to all lands title to which is derived through the Native Land Court, and to all lands title to which is derived through "The Poverty Bay Grants Act, 1869," or any Act amending the same or making further provisions in reference thereto, and shall not apply to any Native reserve. 3. In carrying this Act into execution the Court may proceed in manner prescribed by "The Native Land Court Act, 1880," with reference to Native land, and may exercise all the powers therein contained. <p>This Act shall be read subject to the interpretations contained in the said Act.</p> <ol style="list-style-type: none"> 4. If any Native grantee shall be desirous that division shall be made of the land included in his grant, or of any part thereof, he may apply to the Court to make such division; and the Court may proceed thereupon, and may order a defined portion of the land to be granted to the applicant; or, if it shall appear to the Court that a majority in number desires that a division of the whole should be made, the Court may order such division as it shall deem just, and may order grants to be issued accordingly. <ol style="list-style-type: none"> (1.) The Court may order in any such grant any conditions, restrictions, or limitations, even in cases where the original grant was not subject | <p>Short Title.</p> <p>Scope of Act.</p> <p>"Native Land Court Act, 1880," to apply.</p> <p>Applications for division, and how the same is to be effected.</p> |
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to any such, or in extension or enlargement thereof if any such there were; and may order such new grants or any of them without any conditions, restrictions, or limitations, although the original grant may have been subject to such.

- (2.) The order of the Court dividing land as aforesaid shall have indorsed thereon or annexed thereto a plan of the divided land, and such order, when sealed with the seal of the Court, and signed by the Chief Judge, or presiding Judge, shall vest such land according to the terms of the order in such person and for such estate, and subject to such restrictions, if any, as shall be expressed therein.
- (3.) If the land comprised in the original grant is subject to any lease, the Court may apportion the rent to be paid to the grantees under the new grants respectively, and each of the new grants shall contain a proviso referring to the lease, stating that it is subject to the amount stated therein of the rent and to the terms of the deed of lease specifying it; and the order of the Court shall have the same effect as if the lessees had attorned tenants for the respective amounts of such apportioned rent.
- (4.) From the date of such new grants of land subject to a lease, the grantees shall be deemed to have executed a lease of the land therein described to the original lessee, according to the terms of the original deed, for the rent mentioned in the new grants respectively; and the other part of the original block of land shall be absolutely discharged from so much of the original rent; and each set of new grantees shall not be prejudiced or affected by the acts or defaults of any other set of new grantees.
- (5.) In the case of land subject to a mortgage, no division shall be made without the consent of the mortgagee.
- (6.) If the mortgagee shall agree to a division, the Court may charge each divided portion with a specific portion of the mortgage debt.
- (7.) If the mortgagee does not agree to a division, a specific part of the mortgaged land may be set apart and sold under direction of the Court for the satisfaction of the mortgage, and the remaining portion of the land may be divided; and the Court may make order for giving effect to this provision and for directing the application of the proceeds of sale as it may deem just.

Surrender of grant may be made by any writing in certain cases.

5. The surrender of a grant may be legally and effectually made by any writing which shall, in the judgment of the Court, sufficiently show the intention of the surrenderers, if signed by the persons named in the grant, and the representatives of any of them who may have died, or a majority in number of such grantees and representatives.

The effect of such surrender shall be the same as if the grant had been absolutely repealed by *scire facias*.

Cancellation of record.

6. On the receipt by the Minister of Lands, or other proper officer, of the original grant and surrender, as before mentioned, he shall cancel the record thereof, authenticating such cancelling with his signature, and stating the reason thereof.

Persons may be ordered to produce grant, &c.

7. To every notice to be given of the sitting of the Court for the hearing of any application for the division of any land there shall be appended an order requiring all persons, having in their possession any original grant or other instrument of title relating to the land comprised in any such application, to produce such grant and instrument in Court at such sitting.

Every such order shall be a sufficient notice to all parties concerned to produce any grant or instrument of title required to be produced.

If at the time and place so appointed, any such grant or other instrument of title be not produced, the Court may by its order adjudge and determine such grant or other instrument of title to be null and void.

Grants or instruments not produced may be declared null and void.

The effect of such adjudication in respect of a grant declared to be null and void shall be the same as if the grant had been absolutely repealed by *scire facias*.

An abstract of every order of Court made under this section shall be forwarded by the Court to the Minister of Lands, who shall indorse the same on the record of the original grant to which such order relates.

8. No proceeding in relation to division of any land shall be stayed by reason only of the non-production of any original grant or instrument of title relating to such land.

Non-production of instruments of title not to bar proceedings.

9. On the production to the proper officer of an order of Court, made as aforesaid on a division of a block of land, the persons named therein shall be entitled to have issued to them a grant in accordance therewith.

Grant to be issued on order of Court.

10. Land held by Natives under the Land Transfer Acts may, *mutatis mutandis*, be similarly dealt with, and new certificates of title under the said Acts may be similarly issued.

Similar procedure under different tenures.

Lands held by Natives under memorial of ownership or certificate of title under "The Native Land Court Act, 1880," may, *mutatis mutandis*, be similarly dealt with: Provided that the new instruments of title shall be Crown grants, or certificates under the Land Transfer Acts.

Land held by Natives under the seventeenth section of "The Native Lands Act, 1867," may be similarly dealt with, *mutatis mutandis*; but in these cases all the persons registered as owners, or their representatives as aforesaid if dead, shall be treated as owners in the division, though an application shall be sufficient if made by a majority of those named in the body of the certificate, or their representatives as aforesaid.

11. In the case of a grant to a tribe or hapu by name, or to any persons or hapu on behalf of a tribe or hapu, not less than one-half of the grantees of the land, if they are named, or their representatives, and, if the grantees are not named, any persons claiming to belong to the tribe, not less than five in number, may make application to the Court for division of the land granted.

Tribe or hapu may apply for subdivision.

Thereupon the land may, *mutatis mutandis*, be dealt with in like manner as land granted to persons absolutely; and the delivery into Court of the grant shall be deemed to be a surrender, and the Minister of Lands, on receiving from the Court notice of the surrender, shall cause the record of the grant to be cancelled.

12. Any person who before the passing of this Act has acquired an undivided share in any land granted to Natives, or any estate or interest therein, may apply to have his estate or interest defined; and thereupon the Court may order a defined portion of the block to be granted to him proportionate to the value of the estate or interest acquired.

Individuals may apply similarly for subdivision.

Proceedings may be taken for perfecting his title thereto in manner before set forth for dividing land granted to Natives, *mutatis mutandis*.

If the estate acquired is a leasehold the Court may define a portion of the block to which the lease shall thereafter solely apply, and shall indorse a description and plan of such portion on the lease. The indorsement shall be signed by a Judge and sealed with the seal of the Court, and the lease shall then cease to have any application to any portion of the block other than that contained in the description and plan.

Court may authorize surveyor to enter upon lands.

13. The Court may, by order, give authority to any surveyor or valuer to enter upon any land under adjudication by way of division; and any person impeding any such surveyor or valuer in the execution of his duty shall be deemed guilty of a contempt of Court, and may be punished accordingly: Provided always that the lessee, if any, shall be entitled to compensation for any injury he may sustain in consequence of such survey; and the amount of such compensation shall be awarded by the Judge of the Court, and may be deducted from the rent coming due from such lessee in such manner as such Judge shall prescribe.

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