

## New Zealand



### ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Provisions of Native Land Act, 1931, to apply to this Act.</p> <p style="text-align: center;">PART I.<br/>AMENDMENT OF LAWS.</p> <p>3. Adoptions by Natives married in accordance with Native custom.</p> <p>4. Exchange of Crown land for Native-owned land. Repeal.</p> <p>5. Section 488 of Native Land Act, 1931 (as to cancellation of road-lines), amended.</p> <p style="text-align: center;">PART II.<br/>MISCELLANEOUS POWERS.</p> <p style="text-align: center;"><i>Tokerau District.</i></p> <p>6. Revesting Whakarapa Native School site in Natives.</p> | <p style="text-align: center;"><i>Waikato-Maniapoto District.</i></p> <p>7. Revesting school reserve in Kaimakau Native Township in Natives.</p> <p>8. Crown title to old Te Akau School Reserve validated.</p> <p style="text-align: center;"><i>Tairāwhiti District.</i></p> <p>9. Authorizing the reinvestigation of the Mangahauini Block.</p> <p style="text-align: center;"><i>General.</i></p> <p>10. Providing for cost of erection and maintenance of Maori hostel at Hamilton.</p> <p>11. Chief Judge may refer petitions in Schedule to Court for report.</p> <p style="text-align: center;">Schedule.</p> |
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1940, No. 25

**AN ACT** to amend the Laws relating to Natives and Native Land, to adjust certain Claims and Disputes in relation to Native Land, to confer Jurisdiction upon the Native Land Court and the Native Appellate Court, and for other Purposes.

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

Short Title.

1. This Act may be cited as the Native Purposes Act, 1940.

Provisions of Native Land Act, 1931, to apply to this Act.

See Reprint of Statutes, Vol. VI, p. 103

2. Words and expressions used in this Act shall, unless the contrary intention appears, have the same meaning as in the Native Land Act, 1931 (hereinafter referred to as the principal Act), and the provisions of the principal Act, so far as applicable, shall extend and apply to the cases provided for by this Act in as full and ample a manner as if this Act had been incorporated with and formed part of the principal Act.

## PART I.

### AMENDMENT OF LAWS.

Adoptions by Natives married in accordance with Native custom.

3. (1) For the purposes of Part IX of the principal Act and of Part IX of the Native Land Act, 1909, every marriage of Natives in accordance with Native custom shall be deemed to be and to have been a valid marriage so long as it subsists or subsisted.

(2) Every order of adoption made before the passing of this Act, whether under Part IX of the principal Act or under Part IX of the Native Land Act, 1909, which by virtue of this section would have been valid and lawful if this section had been in force when it was made shall be deemed to have been as validly and lawfully made as if this section had then been in force.

Exchange of Crown land for Native-owned land.

4. (1) Subject to the provisions of this section, an exchange of Crown land for Native land or for land owned by Natives may be effected by the Court by means of an order of exchange made as nearly as may be in accordance with the provisions as to exchange contained in Part VII of the principal Act, and all those provisions shall, so far as they are applicable and with the necessary modifications, extend and apply accordingly:

Provided that the Court may, if it thinks fit, make any such order of exchange without being satisfied as to all or any of the matters specified in section one hundred and fifty-eight of the principal Act:

Provided also that if Crown land is exchanged for land owned by Natives, other than Native land, the Crown land shall not, when vested in the Natives, become Native freehold land unless the Court expressly so orders.

(2) Every order under this section purporting to vest any Crown land in any person for an estate in fee-simple shall on the making thereof have the effect of vesting the land in that person for a legal estate in fee-simple in the same manner as if the land had then been granted to that person by the Crown, and the land shall be deemed to have been so granted accordingly. Upon being satisfied that the land is sufficiently defined, the District Land Registrar may issue a certificate of title therefor without any warrant other than the order of the Court.

(3) Any Crown land may be exchanged under this section, notwithstanding that the Crown land is reserved or set apart for any purpose under any Act, or that any limitation or restriction upon its being dealt with is imposed under any Act, and any Crown land so exchanged may be vested by the order of the Court in any Native freed from any such reservation, setting apart, limitation, or restriction as aforesaid.

(4) The jurisdiction of the Court under this section shall not be exercised except upon an application by the Native Minister with the consent of the Minister who is for the time being charged with the administration of the Crown land to be exchanged or with the administration of the Act to which the Crown land is subject, or, if there is no such Minister, with the consent of the Minister of Lands.

(5) Section four hundred and sixty-two of the principal Act is hereby repealed. Repeal.

5. Section four hundred and eighty-eight of the principal Act is hereby amended by repealing subsection two and substituting the following subsections:—

“(2) The Court, if it thinks it necessary or expedient so to do, may, subject to such terms and conditions as it thinks fit, by order vest the whole or any part of the land affected by any order so cancelled in such person or persons as may be found by it to be entitled thereto and, if more than one, in the relative shares or interests defined by the Court; or the

Section 488 of Native Land Act, 1931 (as to cancellation of road-lines), amended.

Court may, instead of making an order vesting the land as aforesaid, amend any existing instrument of title to land so as to include therein the whole or any part of the land affected by the order so cancelled, and the land so included shall thereupon vest accordingly as if it had been originally included in that instrument of title.

“(3) Any order made by the Court under this section shall upon production be registered by the District Land Registrar or the Registrar of Deeds, as the case may be, and the District Land Registrar is hereby authorized to make such amendments in any instrument of title and to issue such new certificates of title as may be necessary to give effect to any order under this section.”

## PART II.

### MISCELLANEOUS POWERS.

#### *Tokerau District.*

Revesting  
Whakarapa  
Native School  
site in Natives.

6. Whereas the land hereinafter described was vested in the Crown for the purpose of a site for a Native school and is no longer required for that purpose: Be it therefore enacted as follows:—

(1) The land situate at Whakarapa in the Whangape Survey District containing six acres and twenty-two perches, more or less, known by the name of Te Kura and numbered 5301, and being all the land comprised in certificate of title, Volume 51, folio 273, Auckland Registry, shall, as from the commencement of this Act, cease to be vested in the Crown for the purpose of a site for a Native school and shall thereafter be and be deemed to be Native freehold land within the meaning of the principal Act.

(2) The Court is hereby authorized to inquire and determine in whom the said land ought to become vested, and to make an order or orders—

(a) Vesting the said land or any part thereof in such person or persons as may be found by the Court to be entitled thereto for an estate of freehold in fee-simple, and, if more than one, as tenants in common in the relative shares or interests defined by the Court:

(b) Setting apart the said land or any part thereof for some purpose for the benefit of Natives, and vesting the land so set apart in one or more persons in trust to hold and administer it for the purpose aforesaid, and the District Land Registrar is hereby authorized in any such case to issue, without the payment of any fee, a certificate of title in favour of that person or those persons.

(3) The Court may ascertain the ownership of the said land as if the title had not previously been investigated, and shall not be bound or restricted by any former order of the Court made in respect of that land.

(4) The Court may make an order granting to His Majesty the King the right to use and occupy that portion of the said land upon which a post-office is situated for such period and upon such terms and conditions as the Court thinks fit, and may make, from time to time, a further order or further orders varying the said order or cancelling the same, and upon cancellation thereof the rights of His Majesty thereunder shall immediately cease and determine.

(5) The provisions of the Public Reserves, Domains, and National Parks Act, 1928, shall not apply to the said land.

See Reprint  
of Statutes,  
Vol. VI, p. 1134

*Waikato-Maniapoto District.*

7. Whereas the land hereinafter described is vested in the Education Board of the District of Auckland (hereinafter referred to as the said Board) in trust as a school reserve and is no longer required for that purpose: Be it therefore enacted as follows:—

Revesting  
school reserve  
in Kaimakau  
Native  
Township  
in Natives.

(1) Upon the application of the Native Minister, the Court may make one or more orders vesting the said land, or any part or parts thereof, in such person or persons as may be found by the Court to be entitled thereto for a legal estate in fee-simple, and, if more than one, as tenants in common in the relative shares or interests defined by the Court.

(2) Upon the making of an order under this section, the said land, or such part thereof as shall be comprised in the order, shall cease to be vested in the said Board and shall be and be deemed to be

Native freehold land freed and discharged from the trust and any statutory provisions, limitations, or restrictions theretofore affecting that land.

(3) The Court may ascertain the ownership of the said land as if the title had not been previously investigated and shall not be bound or restricted by any former order of the Court made in respect of the said land.

(4) The District Land Registrar is hereby authorized to make all such alterations and amendments in the Register, and to issue such new certificates of title as may be found necessary to give effect to any order made by the Court under this section.

(5) The land to which this section relates is all that parcel of land containing one acre two roods and three perches, more or less, known as Section 122, Kaimakau Native Township, and being all the land comprised in certificate of title, Volume 133, folio 25, Auckland Registry.

Crown title to old Te Akau School Reserve validated.

8. Whereas a parcel of land (hereinafter in this section referred to as the said land) containing eight acres three roods and one perch, more or less, called or known as Section 6A, Block IX, Whaingaroa Survey District, and being originally a part of the block of Native land called or known as Te Akau Block, was sold by the Crown on the assumption that it was Crown land available for disposal: And whereas the said land has never become Crown land but is still Native land: And whereas, for the purpose of giving effect to the intended disposition of the said land by the Crown, it is desirable that the rights of the Native owners of the said land should be extinguished and that they should be awarded compensation in respect thereof: Be it therefore enacted as follows:—

(1) The said land shall be deemed to have become Crown land on the first day of November, nineteen hundred and thirty-eight, free from all the right, title, estate, and interest of the former Native owners thereof or their successors, and shall be deemed to have become on that date subject to the provisions of the Land Act, 1924.

(2) The former Native owners of the said land or their successors shall be entitled to compensation therefor in the same manner as if it had been taken

See Reprint of Statutes, Vol. IV, p. 622

under the Public Works Act, 1928, for a public work, and, within six months after the commencement of this Act, the Minister of Lands shall cause application to be made to the Court to ascertain what amount of compensation ought to be paid to the former Native owners of the said land or their successors, and who are the persons entitled to such compensation. In hearing and determining such application, the Court may exercise all the powers conferred upon it by Part IV of the Public Works Act, 1928; and the Court may order that any compensation found to be payable shall be paid on behalf of the persons entitled thereto to the Waikato-Maniapoto District Maori Land Board, or may direct that such compensation shall be paid to the persons so entitled, or may, with or without the consent of any of the persons entitled, order that the same shall be paid to such fund or expended or applied for such purpose or in connection with such project as to the Court seems proper, and the same shall be paid or expended or applied accordingly.

(3) The amount of any compensation awarded by the Court under this section shall, without further appropriation than this section, be paid out of the Land for Settlements Account.

*Tairāwhiti District.*

9. To give effect to recommendations of the Native Affairs Committee of the House of Representatives upon petitions numbered 310 of 1936 and 75 of 1938 concerning the ownership of the Mangahauini Block: Be it enacted as follows:—

See Reprint  
of Statutes,  
Vol. VII, p. 622

Authorizing the  
reinvestigation  
of the  
Mangahauini  
Block.

(1) The Court is hereby authorized and empowered, upon application in writing made to the Court by any person claiming to be interested, within six months after the commencement of this Act, to rehear the application to the Court to have the title to the Mangahauini Block, situated in the Tairāwhiti Native Land Court District, investigated, and upon which orders were made on the ninth day of May, eighteen hundred and ninety-eight, declaring certain Natives to be the owners of the said land and of the various divisions thereof.

(2) The Court dealing with such rehearing (hereinafter referred to as the rehearing Court) shall consist

of not less than three Judges, of whom the Chief Judge may be one, to be appointed by the Chief Judge for that purpose as occasion arises.

(3) On any such rehearing, the rehearing Court may either affirm, vary, or annul any former determination by the Court or by the Appellate Court or any part thereof and may exercise any jurisdiction which it might have exercised on the original hearing. The decision of the Court shall be in accordance with the opinion of the majority of the Judges present.

(4) Any order made under this section shall be final, and no appeal therefrom shall lie to the Appellate Court.

(5) Any amendment made by the rehearing Court shall be deemed to take effect as from the date of the order amended.

(6) The rehearing Court shall not be bound or estopped by any former decision of the Appellate Court or of any former finding, judgment, or order of the Court.

(7) All orders heretofore made not in conflict with any order of the rehearing Court, including any order of incorporation, shall be deemed to have been validly made and shall continue in full force and effect and enure for the benefit of the owners beneficially entitled as determined by the rehearing Court. The rehearing Court may make all consequential amendments that may be required by reason of any order made under the provisions of this section.

(8) No amendment or decision of the rehearing Court made under this section shall affect the validity or status of the Tuatini Native Township except so far as it is necessary to amend or readjust the names and interests of the persons beneficially entitled thereto, and the land included in the said township shall remain subject to the provisions of the Native Townships Act, 1910.

#### *General.*

10. The Native Trustee is hereby authorized and directed, on the requisition of the Native Minister, to disburse from the Auckland and Onehunga Native Hostelries Account Fund a sum not exceeding two hundred and fifty pounds in respect of the furnishing

Providing for cost of erection and maintenance of Maori hostel at Hamilton.

and fitting of a Maori hostel at Hamilton, and such further sum or sums, not amounting in the whole to more than fifty pounds in any year, as may from time to time be required for the maintenance and upkeep of the said hostel.

11. (1) The Chief Judge is hereby authorized to refer to the Native Land Court, or to a Judge thereof, for inquiry and report, the claims and allegations made by the petitioners in the petitions mentioned in the Schedule hereto.

Chief Judge  
may refer  
petitions in  
Schedule to  
Court for  
report.

(2) The Chief Judge may, upon such inquiry and report, make to the Native Minister such recommendation in any case as appears to him just and equitable.

(3) Except with the leave of the Court, it shall not be lawful for any person to alienate or otherwise deal with any land the subject of a petition mentioned in the Schedule hereto until the report and recommendation under this section have been considered by the Native Affairs Committee of the House of Representatives.

(4) The report and recommendation under this section shall be laid before Parliament on as early a date as possible, and shall stand referred to the Native Affairs Committee of the House of Representatives.

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## SCHEDULE.

Schedule.

PETITIONS TO BE REFERRED TO THE NATIVE LAND COURT, OR A JUDGE THEREOF.

1. Petition No. 25 of 1938, of Rangirere te Maenae, praying for an inquiry into the dealings with respect to the Awakino, Taumatamaire, and other blocks.

2. Petition No. 29 of 1938, of Wiremu Tume and others, of Waitara, praying for a redistribution of titles to property known as Ngatimaru Landless Natives Block.

3. Petition No. 27 of 1939, of Rauna Hape and others, praying for an inquiry into the ownership of the Rakaukaka Block.

4. Petition No. 110 of 1937, of Kihi Patara and others, with reference to the Tawapata South numbers 3 and 4 Blocks.

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