

New Zealand.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p style="text-align: center;">NATIVE TRUSTS.</p> <p>2. <i>Cestuis qui trustent</i> may become certificated owners. Applications under this section. Notice to be given to Natives affected.</p> <p style="text-align: center;">NATIVE EQUITABLE OWNERS.</p> <p>3. Effect of order under "Native Equitable Owners Act, 1886," sections 2 to 5.</p> | <p>4. When land subject to a lease.</p> <p>5. Effect of order.</p> <p>6. Court may exercise jurisdiction in South Island and Stewart Island. Original intention.</p> <p>7. Land may be held in trust for religious, educational, and other purposes.</p> |
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1893, No. 22.

AN ACT to define and give effect to certain Native Trusts and Claims. Title.
[19th September, 1893.]

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

1. The Short Title of this Act is "The Native Trusts and Claims Definition and Registration Act, 1893." Short Title.

NATIVE TRUSTS.

2. To enable *cestuis qui trustent* to become the certificated owners of the lands to which they are entitled, the provisions of sections two to five of "The Native Equitable Owners Act, 1886" (herein referred to as "the said Act"), shall apply to the lands in the Bay of Plenty District more particularly referred to in "The Whakatane Grants Validation Act, 1878;" and which have been granted to persons who were selected to be trustees thereof for themselves and others, but who have been placed by such grants in the position of absolute owners of such lands. Cestuis qui trustent may become certificated owners.

Notwithstanding anything contained in section eighteen of "The Native Land Court Acts Amendment Act, 1889," any application for the purposes of this section may be made under section two of the said Act to the Native Land Court (herein referred to as "the Court") before the expiration of three years from the date of the commencement of this Act, but not afterwards. Applications under this section.

Notice of the passing and of the effect of this Act shall immediately be given to the Natives affected in such manner as the Governor in Council shall determine. Notice to be given to Natives affected.

NATIVE EQUITABLE OWNERS.

Effect of order under
"Native Equitable
Owners Act, 1886,"
sections 2 to 5.

3. Any order heretofore made or that may hereafter be made in pursuance of proceedings already commenced under sections two to five, both inclusive, of the said Act, declaring the persons beneficially entitled to any land subject to the said last-mentioned Act shall be deemed to have the effect of vesting such land in the persons so declared to be entitled for an estate of freehold in fee-simple, as tenants in common, as from the date of the making of such order, anything in "The Native Lands Act, 1865," or any other Act to the contrary notwithstanding. And such persons, and the successors of such of them as may be dead, shall, on the production of such order to the District Land Registrar of the proper district, be entitled to be registered as proprietors and to have issued to them a certificate of title under "The Land Transfer Act, 1885," in respect of the said land, antevesting to the date of the order of the Court.

Where the title to the land the subject of such order is a Crown grant, such grant shall, upon the issue of a certificate as aforesaid, be deemed to be null and void as from the date of the making of such order.

When land subject
to a lease.

4. Where land subject to the said Act is also subject to a lease for an unexpired term of years, any order made or certificate issued as aforesaid shall not prejudice the terms of the lease; but the lessee, after notice of such order or certificate, shall pay any rent to accrue due under his lease to the Natives for the time being registered as the owners of the land comprised in such lease in the proportions in which they appear in the certificate of title to be interested therein; and in case the relative interests shall not be specified, and in so far as the certificate shall not provide to the contrary, the Natives mentioned in the certificate shall be deemed entitled to receive their rent in equal shares.

Effect of order.

5. Any division, partition, or succession order heretofore made by the Court, under voluntary arrangement or otherwise, in respect of the Oruanui Block, at Taupo, or the Opanake Block, at Kaipara, which *inter alia* the Chief Judge of the Court is satisfied rectifies any defect or omission in the title to the land the subject thereof, or has the effect of carrying out the objects and intentions of the said Act, or any voluntary arrangement, shall be valid and effectual, and entitled to registration; and any former Crown grant or certificate of title for such land may be cancelled or amended in accordance with any such order, and a fresh Crown grant or certificate of title, if necessary, issued in lieu thereof: Provided that no estate or interest lawfully acquired in any such land prior to the making of any such order shall be prejudicially affected by any such registration, cancellation, or amendment.

Court may exercise
jurisdiction in South
Island and Stewart
Island.

6. The Court, for the purpose of ascertaining and determining the ownership of any Native reserve in the South Island or Stewart Island, shall have the same jurisdiction over any such reserve as may be submitted to such jurisdiction by Order in Council, which the Governor is hereby authorised to issue from time to time for the purpose, as it has with respect to any land owned by Natives under their custom or usage.

But the Court, in determining the title or interests to any of such reserves, shall give effect to the original intention for which the said lands were respectively set apart. Original intention.

7. At the close of the proceedings upon an investigation of title to Native land, or during proceedings upon partition, the Court may, if a majority in number of the Native owners signify their assent thereto in writing, order that a part of such land or Native land be set apart and vested in one or more persons, who shall hold the same upon trust for such religious, educational, or other purposes of general or public utility as shall be specified in such order. The land the subject of such order shall be and remain incapable of alienation in any way whatsoever without the consent of a Judge; such consent shall not be given unless a Judge is satisfied that the land is no longer needed for the purposes for which it was originally set apart as aforesaid. The Court may, on the death of any of the persons so appointed, make other appointments in substitution thereof, and may, for good cause shown, remove any person in whom the land may be vested by virtue of any order, and appoint some other person as a substitute for the person so removed, and the parcel of land shall thereupon vest in the person or persons so appointed without any conveyance, and shall be held by him or them subject to the trusts expressed in the original order. Land may be held in trust for religious, educational, and other purposes.