

New Zealand.



ANALYSIS

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1921-22, No. 55.

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| Title. | AN ACT to facilitate the Settlement of the Lands in the Urewera District.
<i>[11th February, 1922.]</i> |
| Preamble. | WHEREAS the Native lands within the district referred to in the First Schedule to this Act have for a number of years been under special administration, and it is now desirable to apply the ordinary law thereto: And whereas during such administration the Crown, pursuant to powers in that behalf, has purported to deal with certain portions of the said lands, and arrangements have been entered into between representatives of the Crown and of the Natives interested in such lands for the consolidation and location of interests in such lands and in certain lands outside such district, and it is desirable that such arrangements should be carried into effect: |
| Short Title. | BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— |
| Confirming dealings. | <ol style="list-style-type: none"> 1. This Act may be cited as the Urewera Lands Act, 1921-22. 2. All purchases of land purporting to have been made by the Crown within the district mentioned in the First Schedule hereto shall, subject as hereinafter mentioned, be deemed to have been valid and effective, and the general committee and the individual Natives concerned shall be deemed to have been duly authorized to execute all transfers and other instruments for the purposes of completing any such purchase. Any transaction so entered into in good faith shall be sufficient authority for making orders in favour of the Crown as hereinafter mentioned. |

3. Upon any such order being made the land to which the order relates shall, subject to the terms of the order, absolutely vest in His Majesty the King free from all right, title, estate, or interests (whether customary or otherwise) of the Natives interested in such land, and such land may thereupon be proclaimed to be Crown land in the same manner and with the same effect as if it had been Native freehold land acquired by the Crown under the authority of the Native Land Act, 1909, and its amendments. Vesting in Crown.

4. (1.) For the purpose of carrying into effect the scheme of consolidation referred to in parliamentary paper G.-7, 1921 (hereinafter called the said scheme), with regard to the lands within the district comprised in the First Schedule hereto and such other lands as may be affected, the Governor-General shall appoint two Commissioners, to be known as the Urewera Consolidation Commissioners (hereinafter called the Commissioners). Commissioners appointed.

(2.) If for any reason either of the said Commissioners shall be unable or unwilling or shall neglect to act, the Native Minister may appoint a deputy, being an officer in the service of the Crown, to act in the place of such Commissioner; and, while the appointment remains unrevoked, the deputy so appointed shall have and may exercise all the powers and functions of the Commissioner whose deputy he is.

(3.) The fact of a person appointed as aforesaid acting as a deputy shall be conclusive proof of his authority so to act, and no appointment of such deputy shall be questioned on the ground that the occasion for making the same may not have arisen or had ceased, or that the Commissioner whose deputy he is may be deceased, nor shall the authority or act of any Commissioner be questioned in any proceedings on the ground that a deputy of that Commissioner was in office at the time when that authority was exercised or that act was done.

(4.) If any difference shall arise between the Commissioners the matter in dispute may be referred to the Chief Judge of the Native Land Court, whose ruling shall be binding on the Commissioners.

(5.) It shall not be necessary for the Commissioners while acting under this Act to hold formal sittings or act judicially in any matter.

5. (1.) The Commissioners shall with all convenient speed proceed to inquire as to what interests in the said lands are alleged to have been sold to the Crown, and shall for that purpose have power to inquire into any objections to such sales that do not arise from any alleged defect in the title or power to sell. The Commissioners shall allot to the Crown portions of the lands in accordance with the said scheme, including in such allotment land to the value of twenty thousand pounds given by the Natives for roading purposes and a further area of land to represent the probable cost of surveys of Native portions, and shall make one or more orders defining the Crown's interest and allotting to His Majesty the King the area to which it is found the Crown is entitled, whether it represents the block or blocks referred to in the instruments of alienation or not. Crown awards.

(2.) Subject to the foregoing provisions of this section, the Commissioners shall be the sole judges of the location and boundaries of the portions so awarded to the Crown, but shall, in fixing any boundary, consult so far as practicable the wishes and convenience of the Natives.

(3.) The Commissioners may include in any such order such portion of the Waikaremoana Block mentioned in paragraph 12 of the said scheme as they deem fit in accordance with the scheme, although no instrument of alienation to the Crown may have been executed by the Natives affected or interested.

Crown exchanges.

6. Where the land to be awarded to the Crown is land not situate within the district set out in the First Schedule the Commissioners shall make an order vesting such land in His Majesty the King by way of exchange, and thereupon the land shall vest and all proceedings shall be taken as if it were an order for exchange in favour of the Crown made by the Court under the Native Land Act, 1909.

Native awards.

7. (1.) After providing for the portion of land to be allotted to the Crown, the Commissioners shall make and issue orders, as near as may be in accordance with the said scheme, with respect to the balance of the land in the district described in the First Schedule hereto and affected by the scheme, and shall allot to persons to be named in such orders the portions to which they are entitled after making adjustments for the area taken for roads and surveys.

(2.) The allotment may be of any land within the district mentioned in the First Schedule, notwithstanding that it may not be the portion originally intended to be awarded to such persons or not.

(3.) The Commissioners shall fix the boundaries of the land contained in each such order, and may give to the respective blocks such names as they think fit irrespective of the original names of such blocks.

(4.) The Commissioners are authorized to ascertain, so far as possible, if any of the persons whose names appear on the lists attached to the said scheme are deceased, and in such cases to substitute, when practicable, the names of living successors in the shares to which they would be entitled. The fact that the name of any person that is deceased remains in any order shall not invalidate it, but the interest of such deceased person shall enure for the benefit of such persons as would be entitled to succeed on the intestacy of such person if he had died immediately after the order takes effect.

Operation of orders.

8. (1.) Any order made as aforesaid shall be drawn up in duplicate and dated as of the day of the making thereof.

(2.) The order as so drawn up shall have endorsed thereon or annexed thereto a plan sufficient for the purposes of the Land Transfer Act, 1915, and shall be authenticated by the signature of at least one Commissioner, and countersigned by the Chief Judge of the Native Land Court, and sealed with the seal of that Court.

(3.) The order as so drawn up and perfected shall relate back to the day of the date thereof, and be deemed, subject to subsection four hereof, to have taken effect in all respects according to the tenor thereof as from the commencement of that day, and the validity and operation of all intermediate orders, instruments, proceedings, and transactions shall be determined accordingly.

(4.) Until the order is drawn up and perfected, the date of which shall be noted after the Chief Judge's countersignature, no Native beneficially interested thereunder shall be capable of making any alienation (except by will) of his beneficial interest, except to the Crown.

(5.) Any order made as aforesaid shall have the effect of vesting the land comprised in it in the persons named therein for an estate of

fee-simple in possession, and, if there are more than one, as tenants in common. A duplicate of such order or a copy thereof certified by the Chief Judge may be forwarded to the District Land Registrar, who shall embody the order in the provisional register. No warrant other than this Act shall be necessary for the issue of a certificate of title, but the District Land Registrar may, at his discretion, retain the title on the provisional register so long as the number of owners named in such title exceeds ten.

(6.) All land comprised in any order as aforesaid, other than an order made in favour of the Crown, shall be deemed to be Native freehold land within the meaning of the Native Land Act, 1909.

(7.) All orders made under the authority of this Act shall be forwarded to the Registrar of the Native Land Court of the district wherein the land affected is situated, by whom they shall be recorded, and when perfected such orders shall be deemed to be and be treated as orders of the Native Land Court made in its ordinary jurisdiction, and shall take effect accordingly.

9. (1.) If the Commissioners in the course of any proceedings or inquiry deem it necessary or expedient for the purpose of consolidating interests as referred to in the said scheme to deal with Crown lands situate outside the district referred to in the First Schedule, they shall certify to the Minister of Lands that in their opinion the Natives mentioned in such certificate are entitled or ought to have vested in them the Crown lands or portions of or interests in Crown lands therein named, and the Governor-General may, by Warrant under his hand, direct the District Land Registrar to issue a certificate of title in lieu of grant to the persons named in such Warrant for any such land accordingly. No assurance or other fees shall be payable in respect of the issue of such title. All lands so granted shall be deemed to be Native freehold land, and a memorial to that effect shall be endorsed on any certificate of title issued in accordance with such Warrant.

Exchanging Crown land.

(2.) The Minister of Lands is hereby authorized, out of any fund available for the purchase or acquisition of Native land, to acquire on behalf of the Crown from Europeans or others any land that may be necessary to give effect to the said scheme, which land may be treated as if it were land already owned by the Crown, and may, subject to the foregoing provisions of this section, be awarded by the Commissioners to Natives, and titles therefor issued accordingly.

10. (1.) If the Commissioners find that any sum of money ought in equity to be paid to any person in connection with the consolidation or exchanges required to carry out the said scheme, the Commissioners, under the hand of at least one of them, shall certify to the Minister of Lands the respective sum and the person to whom it is to be paid. The Minister of Finance may from time to time, without further appropriation than this Act, pay all such moneys as are so certified out of any funds that may be available under any Act for the purchase or acquisition of Native lands.

Payment in cash or debentures.

(2.) If instead of payment in cash the Commissioners think that the amount of any payment required for the purposes of the said scheme should be paid in debentures they shall certify accordingly, and shall in such certificate specify the amount of the debentures required and the names of the proposed beneficial owners thereof.

The Minister of Finance may thereupon issue debentures accordingly to the Native Trustee, who shall hold the same on behalf of the beneficiaries so certified to be entitled thereto.

(3.) Any money payable under this section and the money or investment represented by the debentures issued as aforesaid shall, until payment or maturity, be deemed to be a trust fund within the meaning of section four hundred and twenty-four of the Native Land Act, 1909, as if the money or investment was in the hands of the Native Trustee, and all the provisions of that section shall apply accordingly.

Outside lands affected.

11. (1.) If the Commissioners in carrying out the said scheme think it necessary or expedient to deal with or affect lands owned by Natives, whether such lands are situate within or outside the district referred to in the First Schedule, they may make and issue orders by way of exchange vesting the interests of the owners referred to either in the Crown or in any other persons. The provisions of section eight hereof, as to making and perfecting of orders, shall apply thereto, except that a plan shall not be necessary; and, when perfected, such order shall take effect and may be registered as if it were an order of exchange made by the Court under the Native Land Act, 1909.

(2.) If, instead of going through the formality of making an exchange order, the Commissioners think the title affected might be more conveniently dealt with by way of amendment, they may certify to the Chief Judge what amendment in their opinion is necessary, and the Chief Judge, on being satisfied that the amendment is one that may properly be made, is hereby authorized to make such amendment. The provisions of section twenty-seven of the Native Land Act, 1909 (as to the effect and recording of such amendment), shall apply to any amendment so made.

Appointment of trustee for person under disability.

12. If any person found by the Commissioners to be entitled to any land, money, or debentures is a person under disability, the Commissioners may make an order appointing a trustee or trustees for such person, and any order so made shall be countersigned by a Judge of the Native Land Court, and shall have the same effect as an order of the Court under Part X of the Native Land Act, 1909, and may be dealt with and registered accordingly.

Scheme may be modified.

13. While [observing generally the terms of the said scheme, the Commissioners may make such alterations in the details thereof as may, in their opinion, be necessary for giving effect to the general purpose and intent of the scheme.

Amendment after orders made.

14. Where by reason of any mistake of law or of fact, or of any error or omission, the Commissioners by their order have in effect done or left undone anything which they did not actually intend to do or leave undone, or would not, but for such mistake, error, or omission, have done or left undone, the Chief Judge of the Native Land Court may at any time (whether the title is in the District Land Registry or not) make such order in the matter for the purpose of remedying the same or the effect thereof as the nature of the case may require, and may, when he deems it necessary, vary or annul the actual or intended decision of the Commissioners, but no such amendment shall prejudicially affect the rights of any person claiming *bona fide* under any lawful alienation.

15. Subject to the powers of amendment set forth in the last preceding section, all orders made by the Commissioners shall be final and conclusive, and there shall be no appeal therefrom. Orders to be final.

16. The land within the district described in the First Schedule shall, so far as it is not awarded to the Crown, be deemed to be excepted from the term "rateable property" as defined by the Rating Act, 1908, unless and until a notice is signed by the Native Minister and published in the *Gazette* that the land named therein shall cease to be so excepted. Such notification shall not be made with respect to any area of land until the expiry of at least twelve months after the order relating thereto shall have been countersigned by the Chief Judge. Rates deferred.

17. The Crown shall, on the requisition of any Commissioner or of a Judge of the Native Land Court, undertake all surveys required for the completion of any order under this Act. Any requisition heretofore made in anticipation of this Act coming into force shall be deemed to have been made under this Act. Any plan prepared may be approved by a Commissioner or Judge, and the provisions of Part XXI of the Native Land Act, 1909, shall apply in all other respects as if the requisition for survey had been made under that Act. Crown to survey.

18. The Governor-General, if he deems it expedient, may by Order in Council appoint the Native Land Court to exercise the duties or powers conferred on the said Commissioners, and thereupon any Judge of the Native Land Court may exercise all the powers, functions, and authorities of both Commissioners conferred on them by this Act, with power to adopt any act, matter, or decision of the Commissioners as if it were his own, and to make and complete any order accordingly. Transfer of powers to Court.

19. (1.) Any order purporting to be made under the provision or authority of the Urewera District Native Reserve Act, 1896, may be countersigned by the Chief Judge, and may thereupon be recorded and shall take effect as an order on investigation of title or a freehold order under the Native Land Acts, as the case may require, and may be dealt with and registered accordingly. Operation of past orders.

(2.) Any partition, succession, or exchange orders under the said Act, so far as they are not superseded by orders under this Act, shall be deemed to be valid and within the jurisdiction of the Native Land Court, notwithstanding any defect in the original order, or the exercise of the Court's jurisdiction, or that any portion of the land included in them may not have been investigated under the Urewera District Native Reserve Act, 1896, or its amendments, and any such order shall have effect and may be dealt with and registered accordingly.

(3.) Any land within the said district not affected by orders under this Act, or by any order as in this section mentioned, may be dealt with as customary land within the ordinary jurisdiction of the Native Land Court.

(4.) The Chief Judge may, on the application of any of the parties interested, exercise with respect to any orders purporting to have been made under the said Urewera District Native Reserve Act, 1896, the same powers of amendment as are conferred on him by section fourteen hereof with respect to orders made by the Commissioners, but there shall be no appeal against the Chief Judge's exercise or refusal to exercise such powers.

20. The Acts or portions of Acts referred to in the Second Schedule hereto are hereby repealed. Repeals.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

ALL that area in the Auckland and Hawke's Bay Land Districts, containing by admeasurement 656,000 acres, more or less: bounded towards the north by the Confiscation Boundary-line; towards the east generally by the Waimana and Tahora No. 2 Blocks; towards the south-east by the Waipaoa Block, the Waikaremoana Lake, by forest reserve, educational reserve, Block V, Waiau Survey District, and Section No. 1, Block VIII, Mangahopai Survey District; towards the south-west by the Waiau River to the northernmost corner of Maungataniwha Block, thence by a right line to the trig. station on Maungataniwha, and thence by Heruiwi No. 4 Block; and towards the west generally by Whirinaki, Kuhawaea No. 1, Waiohau Nos. 1B, 1A, and 2, and Tuararangaia Blocks to the Confiscation Boundary-line at Tapapa-Kiekie.

SECOND SCHEDULE.

- 1896, No. 27.—The Urewera District Native Reserve Act, 1896.
 1900, No. 66.—The Urewera District Native Reserve Act Amendment Act, 1900.
 1907, No. 76.—The Maori Land Claims Adjustment and Laws Amendment Act, 1907: Section 7.
 1908, No. 253.—The Maori Land Laws Amendment Act, 1908: Sections 21 and 22.
 1909, No. 24.—The Urewera District Native Reserve Amendment Act, 1909.
 1910, No. 31 (Local).—The Urewera District Native Reserve Amendment Act, 1910.
 1911, No. 35.—The Native Land Claims Adjustment Act, 1911.
 1913, No. 58.—The Native Land Amendment Act, 1913: The words "The Urewera District Native Reserve Act, 1896," in section 117.
 1916, No. 12.—The Native Land Amendment and Native Land Claims Adjustment Act, 1916: Section 4.