



New Zealand Settlements Act 1863

- Citation:** 27 V. No 8
- Date of Assent:** 3 December, 1863
- Commencement:** 3 March, 1864 [by the Commencement Acts Act (1862, No 41) commencement is to be 3 months from date of assent, 1862, No 41 was repealed by 1863, No 21]
- Repeal:** Repealed 29 October, 1878 by 1878, No 28
- Amendments:** 1864, No 4: See separate record.
To limit the duration of this Act until 3 December, 1865 and to allow the Governor to overrule the Compensation Court in certain cases and award or increase compensation.
1865, No 66: See separate record.
Continues power to proclaim districts until 3 December, 1867.
s11 amends s7
s14 repeals and replaces ss14 - 15
s16 repeals and replaces ss17 - 18
s18 repeals and replaces s19.
1866, No 31: See separate record.
General amendment and validation of all proceedings under the New Zealand Settlements Acts.
- Type of Legislation:** Public
- Subject:** Confiscated Lands
Govt Admin Specific to Maori/Maori Land
Military Settlement
Status of Land
- Relevant Sections:** *Preamble:* relates purpose of legislation to the insurrections in the North Island, the combinations to take up arms, and the need to establish law and order throughout the Colony.
s2: Where Governor in Council is satisfied that any Tribe or a considerable number of a Tribe has been engaged in "rebellion" it shall be lawful to proclaim the Tribe's land a "District" under this Act.
s3: Sites for settlements for colonisation may be set apart in such District.
s4: Land taken or reserved for settlements shall be deemed Crown land free from all title, interest or claim of any person as soon as the land is declared by Governor in Council to be required for the purposes of this Act.

Relevant Sections and Commentary continued next page



s5: Compensation shall be granted to all persons with an interest in the land unless they have,

- (1) been engaged in making war against the Crown,
- (2) aided or assisted those making war,
- (3) advised or persuaded any other person to make war,
- (4) committed any outrage against persons or property,
- (5) refused to deliver up their arms when called upon to do so by Proclamation in the *Gazette*.

s6: Any who have engaged in s5 offences and who do not come in and submit to trial according to law shall not be entitled to compensation.

s7: Applications for compensation must be made within 6 months (or 18 months if not living in New Zealand).

s8: Compensation Courts established.

s9: Governor in Council to appoint Judges.

s10: Judges to take oath.

s11: Judge's jurisdiction over district specified.

s12: Judge to have power to compel witnesses and make rules.

s13: Judges to hear claims for compensation, although the claimant may require that the amount of compensation is determined by 2 arbitrators.

s14: Judge shall grant certificate to all claimants entitled to compensation specifying amount.

s15: Certificate to entitle payment from Colonial Treasury.

s16: Towns to be laid out on land under this Act for military settlers.

s17: Governor in Council may cause remaining land to be laid out in townships.

s18: Remainder of land to be sold.

s19: Proceeds from sale of such lands shall go to repayment of expenses of suppressing the present insurrection, including the payment of compensation under this Act.

s20: Powers of the Governor to form settlements may apply to land obtained by purchase or cession outside of the declared districts.

Commentary: This is the principal Act under which the Raupatu/Confiscations policy was put into effect (despite the innocent looking Short Title!). As part of the Government's plan for ending the war the Governor is given the power to confiscate lands for the purpose of establishing settlements in the "rebel" districts with a view to long-term

Commentary and Cross Reference continued over page



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pacification. Land was confiscated by declaring a district so that all land within it automatically became Crown land free of Maori claims. Land was selected with suitability for settlement in mind which meant that land was confiscated not only from Maori who had fought against the Crown, but also from those who had fought for the Crown or were neutrals. This Act allows Maori who had not fought against the Crown to seek monetary compensation for their confiscated land through the Compensation Court. Amending legislation later permitted a grant of land instead of money as compensation. Nearly $3\frac{1}{4}$ million acres were initially confiscated under the Proclamations below. For records of the Compensation Courts see the Raupatu Document Bank (RDB) and the Sim Royal Commission 1928, which gives figures for the amount of land confiscated, returned, or paid for, and contains numerous petitions regarding particular blocks. As a matter of interest, this Act is drawn almost word for word from a 1799 Irish Act and a 1833 Imperial Act dealing with insurrection and confiscation of land in Ireland.

Proclamations of Districts under New Zealand Settlements Act 1863

Military Settlements [Waikato], Putamahoe Reserve, Pukekohe Block, Pokeno Block, Tuakau Block, Waiuku Block North, Waiuku Block South, Tuimata Block

Gazette 1865, 1 - 2 [RDB 11 pp.3985 - 86]

East Wairoa Block, West Wairoa Block

Gazette 1865, 15 [RDB 11 p.3990]

Middle Taranaki

Gazette 1865, 15 - 16 [RDB 11 p.3990 - 91]

Waitara South

Gazette 1865, 16 [RDB 11 p.3991]

Oakura

Gazette 1865, 17

Central Waikato

Gazette 1865, 169 [RDB 11 p.4019]

Onewhero Block, Wangape Block, Rangiriri Block, Mangawhare Block

Gazette 1865, 169 - 170 [RDB 11 p.4019 - 20]

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Mangare Block [Mangere], Pukaki Block, Ihumatau Block [Ihumatao],
Keri Keri or Pukekiwiriki Block
Gazette 1865, 171 - 172 [RDB 11 p.4021 - 22]

Tauranga District
Gazette 1865, 187 [RDB 11 p.4026]

Central Waikato
Gazette 1865, 265 [RDB 11 p.4038]

Ngatiawa & Ngatiruanui, Ngatiawa Coast & Ngatiruanui Coast
Gazette 1865, 266 - 67 [RDB 11 p.4038 - 39]

Bay of Plenty District
Gazette 1866, 17 [RDB 11 p.4068]

Bay of Plenty [correction]
Gazette 1866, 347-48 [RDB 11 p.4117 - 18]

- Cross Reference:** BPP NZ15: 1868 - 69 [307] 126 (Map)
NZPD (1861 - 1863) 782 - 790, 824 - 825, 869 - 874
NZPD (1864 - 1866) 263 - 264
AJHR (1864) E - 2 (*New Zealand Settlements Act*),
E - 2a, E - 2c (*Papers relating to Confiscation of Native Land*)
AJHR (1865) D - 13
(*Land Taken Under the New Zealand Settlements Act*)
AJHR (1866) A - 13
(*Compensation Court at New Plymouth*)
AJHR (1867) A - 18
(*Reserves for Friendly Natives*)
AJHR (1870) C - 7
(*Cost of Administration of Confiscated and Ceded Lands*)
AJHR (1879) Sess I A - 8, A - 8a (*Confiscation of Rebels Land*),
C - 4 (*Lands Purchased and Leased From Natives in North Island*)
AJHR (1884) G - 4
(*Native Claims to Land etc Poverty Bay*)
AJHR (1891) Sess II G - 1a p.7
(*Mackay's Unfinished Report Relating to Native Land Laws*)

Cross Reference continued over page



AJHR (1900) G - 3

(Landless Natives in the Waikato)

AJHR (1904) G - 1

(Report of the Royal Commission on Te Akau Block)

AJHR (1928) G - 7

(Sim Commission)

Fenton F *Important Judgments Delivered in the Compensation Court and Native Land Court 1866 - 1879* (Auckland, 1879)

Orange C *The Treaty of Waitangi*

(Allen & Unwin, Wellington, 1987) 166 - 169, 170

Riseborough H *Days Of Darkness*

(Allen & Unwin, Wellington, 1989) 12 - 30

Stokes E *Te Raupatu o Tauranga Moana: The Confiscation of Tauranga Lands* (A report prepared for the Waitangi Tribunal)

(University of Waikato, Hamilton, 1990)

Barry K *CONCERNING the Treaty of Waitangi Act 1975 AND the*

Taranaki Claims (Wai 143) (Waitangi Tribunal Research Report) 24 - 25

Reported Court Cases:

Rangimoeke v. Strachan (1895): 14 N.Z.L.R. 477

Teira Te Paea v. Roera Tareha (1896): 15 N.Z.L.R. 91

In re Muir's Lease (1901): 20 N.Z.L.R. 185

In re Putataka No. 1C (1903): 22 N.Z.L.R. 866

In re Te Akau Block, Manu Paekau v. Mair (1907) (ss.2, 4): 27 N.Z.L.R. 1

Hihina v. Kells (1879): O.B. & F. (S.C.) 156

Marsh v. Taranaki Education Board (1917): [1918] G.L.R. 122.