



Native Lands Act 1866

1866

Citation: 30 V. No 28
Date of Assent: 8 October, 1866
Commencement: 1 December, 1866

Repeal: Repealed 10 October, 1867 by 1867, No 43: except continuance of the Act if necessary to support of any matter done under it and to complete any investigation pending under it.

Amendments: –

Type of Legislation: Public

Subject: Maori Land Court: Structures & Jurisdiction
Reserved Land
Alienation of Maori Land
Survey Issues

Relevant Sections:

s3: “Native Reserves” shall include,

- (1) all lands vested in the Governor under the New Zealand Native Reserves Act 1856,
- (2) all lands reserved by Natives as specified in deed of sale to the Crown,
- (3) all lands reserved for the benefit of Natives on sale of land,
- (4) all lands set apart for the benefit of Natives by Land Claims Commissioner,
- (5) all lands reserved for Natives by the New Zealand Company.

s4: NLCt to record on CT that land has been reserved and by what means.

s5: Land in reserves to be inalienable by sale or mortgage and may not be leased for more than 21 years, except with assent of the Governor in Council.

s6: Governor in Council may agree to alienation of reserve lands.

s7: Lease of reserve must include yearly rent except with assent of Governor in Council.

s8: Governor in Council may direct how money arising from sale or lease of reserves shall be applied.

s9: CT to be transmitted to Colonial Secretary.

s10: Governor may issue Crown Grants at once.

s11: Duty on NLCt to append a report to every CT as to whether or not it is proper to restrict alienability.

Relevant Sections and Commentary continued over page



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s12: Alienation restrictions to be indorsed on CT by Governor.

s13: *s75* Native Lands Act 1865 not to apply to conveyances made to the Superintendent of any Province which are valid when copy transmitted to Colonial Secretary.

s14: Charge not exceeding 6 pence per acre on issue of certificate or grant for examining and recording surveys.

s15: Money received as duties charged with payment of Judges' salaries.

s16: Duties payable on first sale to be paid within 6 months or penalty of three times duty payable.

s17: Fees payable to valuers.

s18: Governor may proclaim districts within which the Act or any provision thereof may be suspended.

s19: Signature of Governor by stamp.

s20: Agreements referred to in *s83* Native Lands Act 1865 may be completed before 31 December, 1868.

Commentary: This Act was a reaction to concern over Maori selling land that had been reserved to them, usually to pay off debts. By placing restrictions on alienability the Court was supposed to ensure that Maori would not be able to dispose of all their lands. According to Richmond (1867 Debate) this Act took power concerning restrictions on alienation away from the Court and left it to the discretion of the Governor in Council.

Sections 13 and 18 were inserted to enable Whitaker, Superintendent of Auckland, to conclude purchases of lands containing oil springs, before the land went to the Native Land Court. Section 18 meant that the NLCt could be stopped from sitting in the East Coast so that the Government could proceed with arranging cessions of land for confiscations.

In the Reports on the Working of the Native Lands Act (AJHR (1867) A - 10, p.5) Fenton said that this Act should be repealed as it was unpopular with Maori. Rogan reported (A - 10a) that the Act had not been translated, and "the Native Assessors are called upon to assist in adjudicating under an Act written in a foreign language, which is and must be prejudicial to the satisfactory business of the Court until this is rectified."

Cross Reference continued next page



Cross Reference: NZPD vol 1(1867) 31 - 33, 264 - 282

AJHR (1867) A - 10, A - 10a p.4 (*Report by Mr Rogan on the workings of the Native Lands Act 1865 in the District of Kaipara*)

O'Malley V Report for the Crown Forestry Rental Trust on the East Coast Confiscation Legislation and its Implementation
(Crown Forestry Rental Trust, 1994) 72 - 73, 83 - 84

Reported Court Cases:

Attorney – General v. Ruiha Mono Te Aika (1909): (ss.3, 5) 28 N.Z.L.R. 1100, 12 G.L.R. 542

Attorney – General v. Tipae (1887): (s.11) 6 N.Z.L.R. 157.