



## Native Land Court Act 1880

- Citation:** 44 V. No 38  
**Date of Assent:** 30 August, 1880  
**Commencement:** 1 October, 1880
- Repeal:** Repealed 1 October, 1886 by 1886, No 24  
**Amendments:** 1881, No 18: See separate record.  
 1882, No 27: See separate record.  
 s2 repeals s14  
 s2 amends ss26, 35 and 46.  
 1883, No 20: See separate record.  
 s3 repeals s63  
 s17 amends ss16, 17, 18 and 22.
- Type of Legislation:** Public  
**Subject:** Maori Land Court: Structures & Jurisdiction  
 Survey Issues
- Relevant Sections:** s3: "Native" includes "half-castes and their descendants by Natives." "Native land" means land owned by Natives under their customs or usages.
- Creation and Constitution of the Court*
- s4: Creation of Court.  
 s5: Court to consist of Chief Judge and other Judges and Assessors.  
 s6: Governor to appoint Judges etc. and officers of the Court.  
 s7: Salaries.  
 s8: Travelling allowances.  
 s9: Every Judge to have powers of Court.  
 s10: Seal.  
 s11: One or more Assessor shall sit at every Court and the concurrence of at least one Assessor shall be necessary for the validity of the proceedings.  
 s12: Registers of titles to be kept.  
 s13: Lawful for Judges to make rules regulating the sittings of the NLCT and the Court fees etc.  
 s14: All administrative business to be carried out by the Chief Judge.  
 s15: Powers of the NLCT for summoning witnesses, punishing persons for non attendance etc.
- Jurisdiction and Practice of the Court*
- s16: Any three Natives claiming to be owners of Native land may make an application to the NLCT to have the title investigated.

*Relevant Sections continued next page*



*s17:* Application to contain description of the land, names of the tribes or Natives involved, statement that boundaries are clearly marked and statement that a plan has been deposited in the NLCT.

*s18:* NLCT shall sit at such times and places as the Chief Judge shall fix.

*s19:* Notices of sittings to the Commissioner of Crown Lands.

*s20:* After application received, notice to be given in manner best calculated by Chief Judge to give proper publicity.

*s21:* Notice of time and place of hearing to be given.

*s22:* At first sitting the NLCT shall be satisfied that the boundaries of the land have been marked out and survey rules complied with.

*s23:* Then Court shall ascertain the title of the applicant and other Natives to the land whether they appear in Court or not.

*s24:* Court may decide the title of any applicant or dismiss the case.

*s25:* All names of those determined by the Court to be entitled to be placed on the register as owners and CT to issue.

*s26:* Certificate of Title to be issued when a plan has been deposited in the Court.

*s27:* Where no plan has been deposited, NLCT may order a survey to be made.

*ss28 - 31:* Plan to be open to inspection for objections. If Court agrees with objection, then boundaries may be adjusted. If no objection then settled plan to be a record of the Court.

*s33:* As soon as time for rehearing (*s47*) has expired Court shall issue a Certificate of Title.

*s34:* Court may make divisions as it thinks fit and the names of the owners of each division shall be registered separately and Certificates issued accordingly.

*s35:* Certificate of Title to be dated from day the Court ordered its issue and signed by the Judge and Assessor under the seal of the Court.

*s36:* NLCT to enquire into the possibility of restricting alienability on the land or on any part of it. Any restrictions to be recorded on the CT before issue.

*s37:* NLCT to ascertain the age of a minor and record it on the CT.

*s38:* Governor may stop proceedings.

#### *Surveys*

*s39:* Surveys to be made by surveyors employed by the Surveyor-General.

*Relevant Sections continued over page*



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*s40:* At the request of Native claimants the Governor may cause surveys to be made out of money appropriated for that purpose by the General Assembly. Proviso that if request is made by less than 2 Natives then costs must be prepaid. Expenses of surveys to be repaid by the Native owners. If not repaid a portion of the land may be sold by public auction under the Court's direction.

*s41:* All such sales to be executed in the name of the Chief Judge and land sold to be fee-simple.

*s42:* If Native claimant to land shall have had the land surveyed at own cost and on investigation it is found that others are entitled, the Court may order proportionate cost of survey to be paid to the claimant by other entitled Natives. No Certificate of Title to issue to these Natives until the amount is paid.

*Division of Native Land*

*s43:* Any Native with an interest in the Certificate of Title may apply to the Court for the land to be divided.

*s44:* NLCT may allot defined portion and grant a Certificate of Title for the same.

*Succession to Native Land*

*ss45 - 46:* Succession to be ascertained according to Native custom or usage and Certificate to issue accordingly.

*Rehearing*

*s47:* Aggrieved Natives may apply for a rehearing within three months after decision given. If rehearing ordered by the Chief Judge, it shall take place before two Judges and one or two Assessors. Rehearing decision to be final and conclusive.

*s48:* Order of Certificate on rehearing to be dated on any day (not earlier than original hearing) as the Court thinks fit.

*Costs*

*s49:* Costs may be awarded.

*s50:* Payment may be recovered.

*s51:* Costs may be awarded to or against the Crown as in other cases.

*s52:* Colonial Treasurer may sue for or pay costs.

*s54:* Order for payment of costs may be rescinded or altered at the discretion of the Court.

*s55:* NLCT may order any Native to deposit a sum as security for any costs which may be awarded.

*Relevant Sections and Commentary continued next page*



*Miscellaneous*

*s56:* NLCt may give effect to voluntary arrangements between Natives.

*s57:* Court may make orders and extend time.

*s58:* Court may use evidence given in former cases.

*s59:* Court may amend all errors in any proceedings whether such amendments are applied for or not. Amendments may be made with or without costs as the Judge thinks fit.

*s60:* Governor may grant and revoke licenses to interpreters.

*s61:* Governor or Judge may suspend any interpreter.

*s62:* Penalty for acting as an interpreter without a license.

*s63:* Counsel or agent may appear in Court with the assent of the Judge.

*s64:* Judge may order closing of public houses during sittings.

*ss65 - 69:* Questions of fact or of Maori custom or usage relating to Native land that may arise in the Supreme Court may be referred to NLCt.

*s70:* Repeals so much of Native Land Act 1873 as is repugnant to this Act. A Certificate of Title issued under this Act shall have the same force and effect, and may be dealt with, as a Memorial of ownership under the Native Land Act 1873.

**Commentary:** This Act was part of a scheme of legislation initiated by the Government in 1880 to simplify the Native land laws by breaking them down into separate Acts. The Native Land Court Act deals mainly with questions of ascertaining title to land. Alienation of lands was to be dealt with by the Native Lands Sales Bill but this Bill was not passed. All the Maori Members in the House of Representatives supported the Bill for simplifying Native land laws although they did call for more Maori involvement and control in the Court. Taiaroa, in the Legislative Council complained that the Bill was not explained fully to Maori and that it opposed the Treaty of Waitangi. Changes made include giving the Court (rather than the Governor) power to make final recommendations with the aim of making the Court more independent of the Government. Applications for rehearings are now to be considered by the Chief Judge rather than the Governor, and the 1892 Debates suggest that this resulted in far fewer rehearing applications being approved until the passing of the Native Land Court Act 1886. The only power the Governor retains is

*Commentary and Cross Reference continued over page*



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the power to suspend the Court in cases of need. Section 63, which permits lawyers and agents to appear in the Court, was the subject of much complaint and was repealed in 1883. The title document issued by the Court ceases to be a Memorial of ownership and the term Certificate of Title is restored.

In the Debates of 1882 Tomoana protested that this Act had increased the fees that had to be paid.

**Cross Reference:** NZPD vol 35 (1880) 51 - 52

NZPD vol 36 (1880) 1 - 11

NZPD vol 37 (1880) 48 - 59, 518 - 519

NZPD vol 41 (1882) 525

NZPD vol 78 (1892) 509

### Reported Court Cases:

*Sutton v. Sheehan* (1884): N.Z.L.R. 3, C.A. 46

*Douglas v. Sutton* (1884): N.Z.L.R. 2, C.A. 309

*In re Tahanui Block No. 2* (1901): 20 N.Z.L.R. 76

*Taonui Hikaka v. McDonald* (1889) (ss.11, 18, 25, 34, 35): 7 N.Z.L.R. 642

*Winiata Te Wharo v. Davy* (1893) (ss. 11, 47): 12 N.Z.L.R. 502

*In re Mangaohane Block* (1891) (ss.17, 22, 25, 27): 9 N.Z.L.R. 731

*In re Te Waha-O-te-Marangai Block* (1896) (ss.27 - 32): 15 N.Z.L.R. 171

*Hobson v. Sheehan* (1884) (s.70): N.Z.L.R. 3, S.C. 230

*In re Whakakoro No. 2 Block* (1899) (s.70): 18 N.Z.L.R. 697.