



Native Land Acts Amendment Act 1882

- Citation:** 46 V. No 27
- Date of Assent:** 13 September, 1882
- Commencement:** Date of Assent
- Repeal:** Repealed 1 October, 1886 by 1886, No 24
- Amendments:** –
- Type of Legislation:** Public
- Subject:** Maori Land Court: Structures & Jurisdiction
Survey Issues
Validation
- Relevant Sections:**
- s2:** Amendments to Native Land Court Act 1880,
 - repeals s14 (administrative business of Court),
 - amends s26, Certificate of Title to issue after time for application for a rehearing has expired,
 - amends s35, signature of Assessor no longer required on Certificate of Title,
 - amends s46, CT issued to successor to have same effect as that held by the deceased owner over land that has not been sold.
 - s3:** Amends s2 Native Lands Frauds Prevention Act 1881 (definition of Native land) by repealing the words “except their customs or usages”.
 - s4:** Amends s3 Native Succession Act 1881 (succession to hereditaments), by changing “shall assume that marriages according to the customs and usages of the Natives are valid, and shall then be guided by the law of New Zealand” to “shall decide according to the law of New Zealand as nearly as it can be reconciled with Native custom”.
 - s5:** Native Land Court districts and local registries to be established. If a block covers more than one district the application may be heard in either district as decided by the Chief Judge.
 - s6:** On payment to Public Trustee of the money protected by a survey lien, the lien shall be absolutely discharged.
 - s7:** Whereas claims have been heard under the Native Lands Act 1873 in which provisions of the Act were not technically complied with, any person interested originally or derivatively in the land may apply for the Court to remedy any mistake or error in proceedings.
 - s8:** Validates division of lands held by Natives as joint tenants under Crown Grant. Any order made for division without opposition shall

Relevant Sections, Commentary and Cross Reference continued next page



be deemed effectual, and in any case where opposition was made at the hearing application may now be made within 6 months for a rehearing under s7 and a new order in accordance with the justice of the case.

Commentary: This Act provides for Native Land Court Districts and local registries to be established. Section 6 relates to liens that have been placed on the land for survey charges if the surveyor cannot now be traced. The outstanding charge can be paid to the Public Trustee to clear title to the land. The repeal of the provision requiring the Assessor to sign Certificates is to cover cases where, at the time the Certificate is signed by the Judge, the Assessor is elsewhere in the country. Mackay claims that the use of the words "any person" in section 7 indicates that its purpose was to deal with cases where Pakeha had purchased interests in a block without the consent of all owners or when subdivisions had been made without the consent of all owners. Mackay concludes that "If this view is correct, it tends again to show, despite of anything to the contrary in the Act of 1873, that purchases of shares less than the whole of those comprised in a Memorial of ownership were made and orders of partition of such interests were granted by the Court."

Cross Reference: NZPD vol 43 (1882) 502 - 503

AJHR (1891) Sess II G - 1a p.15

(Mackay's Unfinished Report Relating to Native Land Laws)

Mackay J *Our Dealings with Maori Lands; or, Comments on European Dealings for the Purchase and Lease of Native Land and Legislation thereon* (Kidd & Wildman, Auckland, 1887) 11 - 12

Reported Court Cases:

Pahoro v. Cuff (1890) (s.4): 8 N.Z.L.R. 751

In re Makauri Block (1883) (s.8): N.Z.L.R. 2, S.C. 259

Goldsmith v. N.Z. Native Land Settlement Co. (1885) (s.8): N.Z.L.R. 4, S.C. 295.