



## Native Reserves Act 1882

1882

- Citation:** 46 V. No 52  
**Date of Assent:** 15 September, 1882  
**Commencement:** Date of Assent
- Repeal:** Repealed 1 January, 1956 by 1955, No 38  
**Amendments:** 1883, No 23: See separate record.  
1895, No 58: See separate record.  
1896, No 27: See separate record.  
1896, No 41: See separate record.  
s11 amends s3(3).  
1952, No 70: s5 repeals s12.
- Type of Legislation:** Public  
**Subject:** Reserved Land  
Public/Native/Maori Trustee  
Maori Land Court: Structures & Jurisdiction  
Confiscated Lands
- Relevant Sections:** s2: "Native" includes half-castes and descendants by Natives, "Owner" means Native owner.  
s3: Definition of Native Reserves,  
(1) lands reserved by Natives on cession of lands to the Crown,  
(2) lands reserved for the benefit of Natives upon the sale by them to the Crown of any lands,  
(3) lands subject to the provisions of the New Zealand Native Reserves Act 1856,  
(4) lands comprised in blocks guaranteed to Natives by Colonel McCleverty or by any New Zealand Company Commissioner,  
(5) lands reserved for the benefit of Natives by the New Zealand Land Company or the New Zealand Company,  
(6) lands vested in the Public Trustee under this Act.  
In addition land between Turakina and Whangaehu Rivers in the Whanganui [Wanganui] district, which had been reserved "as a gathering place for the men of Ngatiapa" shall be deemed to have remained Native land and subject to NLCt jurisdiction.  
s4: Certain reserves to be subject to this Act. (See schedule).  
s5: Act not to be in operation in West Coast confiscated territory described in Schedule.  
s6: NLCt to have the same jurisdiction over Native reserves as it has over land owned by Natives under their customs or usages.

*Relevant Sections continued over page*



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s8: Native reserves vested in the Public Trustee.

s14: Where Native reserve has been made for the benefit of any Natives, "benefit" means "physical, social, moral or pecuniary [monetary] benefit" and includes medical assistance.

s15: Public Trustee shall have power to lease portions of the reserves in his control.

s16: On application of Public Trustee, Court may determine who are beneficially interested in Native reserve land.

s19: No land subject to this Act until Native title extinguished and assent of Natives to bring land under provisions of this Act has been ascertained.

s20: If Native title has not been extinguished the Public Trustee, with the consent of the owners, may apply to the NLCT and it shall,

- (1) determine the owners of the land, their proportionate share, and their consent for the land to become a Native reserve,
- (2) order a register of owners to be drawn up, issue Certificate of Title and vest the land in the Public Trustee,
- (3) if all the owners agree, declare trusts of purposes for the land to be used,
- (4) order that land vested in Public Trustee shall be dealt with subject only to the trusts,
- (6) publish orders in the *Gazette* and *Kahiti*.

s21: Owners of unextinguished Native title land may apply to NLCT to have land transferred to Public Trustee in trust for particular purposes.

s22: Where a Native reserve is subject to any restriction or limitation, the owners or the Public Trustee may apply to the NLCT to have the restrictions removed. NLCT to be satisfied that there is a final reservation amply sufficient for the future wants and maintenance of the tribe or hapu.

s25: Judgments subject to rehearing under the provisions of the Native Land Act.

s26: Notices of sittings of the Court to be given to the Public Trustee.

s27: Native Reserves Commissioner appointed.

s29: Duty of Commissioner to apply to NLCT and show why any land,

*Relevant Sections, Commentary and Cross Reference continued next page*



- (1) should not be adjudicated on as being surplus lands over which Native title is already extinguished,
- (2) should be inalienable except to the Crown and reserved for public purposes,
- (3) should be subject to alienation restrictions so that Natives retain sufficient land for their maintenance.

*s30:* Commissioner may apply for NLCT to define individual owners of reserves set apart for Natives on sales of land to the Crown.

*s32:* Act not to apply to land granted under the Poverty Bay Grants Act 1869 and Amendment Act 1871.

*Schedule:* Description of confiscated territory in Taranaki.

**Commentary:** This Act gives the Public Trustee extensive power over Maori reserves. The Trustee is to be assisted by a Commissioner, but no provision is made for Maori input into the use of their own lands. All the Maori members protested against this Bill; Tomoana said that Maori should have a voice, Te Wheoro said that all Maori reserves should be inalienable, Taiaroa said that he would never allow his lands to come under Public Trustee control (see Taiaroa Land Act 1883), and Tawhai said that each Maori should be given his own land and hold it under his own authority. In addition there were petitions from Maori against the passing of the Bill. The definition of reserves is extended from previous Acts, and includes the New Zealand Company reserves but not reserves in the confiscated territory in Taranaki. The Native Land Court is given the power to ascertain title and remove restrictions on alienability providing there is still sufficient land for the support of the owners. Sections 19 & 20 which provide for extinguishing title and placing reserves under the Act were intended to apply in the King Country where the Government hoped to succeed in convincing the chiefs to make their land into reserves if they would not sell. The Public Trustee provides an annual report of the finances of the all the reserves under his control in AJHR G - 3 or G - 4 from 1883 - 1919.

**Cross Reference:** NZPD vol 41 (1882) 306 - 315, 518 - 529  
NZPD vol 42 (1882) 650 - 662  
NZPD vol 43 (1882) 503 - 512  
NZPD vol 55 (1886) 90

*Cross Reference continued over page*



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AJHR (1882) I - 2 pp.12, 16, 20, 26  
(*Native Affairs Committee*)

AJHR (1883) G - 7, G - 7a (*Native Reserves*),  
I - 2 p.19 (*Native Affairs Committee*)

AJHR (1885) G - 5  
(*Native Reserves*)

AJHR (1886) G - 4  
(*Native Reserves at Arahura, Greymouth, Nelson and Motueka*),  
G - 7 (*Position of Native Reserves*)

AJHR (1888) G - 3  
(*Native Reserves Accounts*)

Butterworth G & Butterworth S *The Maori Trustee*  
(*Maori Trustee, Wellington, 1991*) 18 - 26

Reported Court Cases:

*Te Pohe Mokoare v. Davy* (1896): 14 N.Z.L.R. 532

*Jordan v. Stanford* (1898): 2 G.L.R. 105

*Attorney-General v. Ruiha Mono Te Aika* (1909) (ss.3, 22): 28 N.Z.L.R.  
1100, 12 G.L.R. 542

*Public Trustee v. Registrar-General of Land* (1899) (ss.4, 6, 8, 18, 28, 29):  
17 N.Z.L.R. 577, 1 G.L.R. 235

*In re Mawhera Block* (1920) (s.8): [1920] N.Z.L.R. 894, [1921] G.L.R. 164

*In re Native Land Court Act, 1894 and Native Land Laws Amendment Act,*  
1895 (1908) (ss.22, 23): 28 N.Z.L.R. 646, 11 G.L.R. 263.