



Native Land Laws Amendment Act 1883

- Citation:** 47 V. No 20
Date of Assent: 8 September, 1883
Commencement: Date of Assent
- Repeal:** Repealed 9 August, 1886 (ss7 - 13) & 1 October, 1886 (remainder of Act) by 1886, No 24
- Amendments:** –
- Type of Legislation:** Public
- Subject:** Maori Land Court: Structures & Jurisdiction
Alienation of Maori Land
- Relevant Sections:**
- s2: "Native" includes half-castes and descendants by Natives.
 - s3: Repeals s63 Native Land Court Act 1880, (lawyers in Court).
 - s4: No person to appear in the NLCt by lawyer, agent etc although NLCt may give special permission in cases of incapacity.
 - s5: In case of subdivision the Court may reserve any questions of legal effect to be heard with lawyers or agents appearing.
 - s6: NLCt may adjourn the hearing of any case from time to time and from place to place.
 - s7: No person to negotiate for the purchase, transfer, lease etc of any Native land until forty days after the title has been ascertained. Title deemed to have been ascertained when time for application for rehearing has elapsed or when rehearing judgment has been given. Ascertained titles to be notified in the Gazette.
 - s8: Any person who accepts any conveyance or lease of Native land or is a party to any negotiations prior to the forty days commits a criminal offence with a maximum fine of £500, and every such conveyance shall be void. Native land in this section does not include land over which Certificates of Title or Memorials of ownership have been issued prior to this Act.
 - s9: Trust Commissioner (under Native Lands Frauds Prevention Act 1881) to ascertain if any negotiations have taken place.
 - s10: If Commissioner decides that a transaction is invalid, then the deed cannot be registered.
 - s11: All conveyances, leases etc which are already registered shall remain valid although any person may remain liable to any penalty.
 - s12: ss7 - 11 of this Act incorporated into Native Land Frauds Prevention Act 1881.

Relevant Sections and Commentary continued over page



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s13: Act not to apply to the Crown.

s14: Amends Maori Real Estate Management Act 1867 by providing that money payable will be paid to the Public Trustee, who shall not pay out the money without written authority of NLCT Judge.

s15: Repeals **s10** Maori Real Estate Management Act Amendment Act 1877 which had provided that that Act would only apply to purchases made by the Crown.

s16: Restrictions on alienability of Native land may not be removed until notice has been given in both the *Gazette* and the *Kahiti* for a period of 60 days.

s17: Amends Native Land Court Act 1880,

- amends **s16** so that any Native may apply to the Court, rather than requiring 3 or more applicants,
- repeals 3rd and 4th paragraphs of **s17** so that marked boundaries and a plan do not have to be included in an application and any applications made under the Act shall be deemed to have been valid,
- amends **s18** by empowering Chief Judge to postpone sittings,
- amends **s22**, to make it consistent with amendment to **s17**.

Commentary: The main aim of this Act was to impose penalties for attempting to purchase Maori land before the title for the land has been established through the Native Land Court. By arranging to purchase land from a supposed owner, the purchaser forced the case to the Native Land Court, and by financing the claim to ownership of the Maori with whom he was dealing that claimant would be more likely to succeed in the Court. Prior dealing contracts were legally unenforceable, but the practice must have been widespread, and the Government argued that the imposition of penalties would halt it. The Debates of 1884 indicate however that these penalties were not enforced, and **s13** allowed the Crown to continue carrying on negotiations before title had been ascertained. The Act also excludes lawyers and agents from the Court as these people had been frequently accused of dragging out cases, exploiting their Maori clients, and also acting for land purchasers. Note however that **s5** makes special provision for lawyers to appear in cases of subdivision, meaning that an exemption will be made in the interest of alienation. The Act was based on recommendations made by Chief Judge Fenton. The Maori members supported lawyers' exclusion, but protested that **s13** meant that the

Commentary and Cross Reference continued next page



Crown could still use lawyers etc. During the Debates Tawhai read out the Treaty of Waitangi and claimed that land dealings had been breaking both the law and the Treaty.

- Cross Reference:** NZPD vol 45 (1883) 456 - 480, 509 - 536
NZPD vol 46 (1883) 112 - 132, 382 - 405
NZPD vol 50 (1884) 437
AJHR (1883) G - 5 (*Native Land Court*),
I - 2 pp.11, 20 (*Native Affairs Committee*)
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) 13.