



Native Land Administration Act 1886

- Citation:** 50 V. No 23
- Date of Assent:** 9 August, 1886
- Commencement:** 1 January, 1887
- Repeal:** Repealed 30 August, 1888 by 1888, No 36
(but a renewal of lease on the faith of s27 shall be effectual)
- Amendments:** –
- Type of Legislation:** Public
- Subject:** Alienation of Maori Land
Survey Issues
Maori Land Court: Structures & Jurisdiction
Public Works
Leased Land
- Relevant Sections:**
- s2:** Does not apply to land administered by Public Trustee under Native Reserves Act 1882, Native reserves under the West Coast Settlement (North Island) Act 1880, land subject to Thermal Districts Act 1881 nor to customarily held land. Only ss32 and 33 to apply to land still under a lease term and the Railways Construction and Land Act 1881 is not to be affected by this Act.
- s3:** Definition of land – land owned by Natives except land purchased by a Native from the Crown or a European.
- ss4 - 6:** Governor may appoint Commissioners and define districts.
- s7:** Owners of a block of land may elect a Committee of 7 owners.
- ss8 - 13:** Procedure for nominations and election of Committee.
- s14:** On application of two thirds of the owners the Committee may be dissolved.
- s16:** Owners objecting to land being brought under the Act may give notice to Commissioner, within 30 days. Owners not giving notice in writing deemed to have assented.
- s17:** An assent to a sale or lease shall not be revoked.
- s18:** If there are objecting owners, Commissioner shall supply names to NLCT and the Court shall proceed with a partition of the land.
- s19:** Committee may direct Commissioner as to how land is to be disposed of, whether by sale or by lease.
- s20:** Committee may sell to the Crown after a meeting of owners. Owners may sell to the Crown without the appointment of a Committee.

Relevant Sections continued next page



- s21: Owners of land not subject to alienation restrictions may sell their interest to other Natives in the same grant.
- s22: Acts of the Committee shall continue to be binding after the termination of the Committee.
- s23: Minors cannot sign nomination papers, and in questions of the majority of owners minors shall not be counted as owners. Nothing done under this Act shall be invalidated if a minor has been treated as an an adult owner, but there are penalties for knowingly witnessing the signature of a minor.
- s24: Persons having made incomplete purchases/leases have three months to notify Commissioner and Chief Judge and, if the Court is satisfied the purchase is in good faith, a Judge will send a certificate to that effect to the Commissioner.
- s25: Any interests in land previously sold or leased may be partitioned out, or purchasers may notify the Commissioner that they wish to complete the purchase and they will then have till 1 July, 1887 to purchase more shares. If, after that time, all outstanding shares are not purchased the purchasers' interests may be partitioned out. Similar provisions for lessees.
- s26: Notice of ss24 and 25 to be published in the *Gazette* and *Kahiti*.
- s27: Occupier of leased land may obtain renewal of lease for up to 14 years.
- s28: Commissioner empowered to lay off roads and reserves and to make surveys. Maximum costs to be agreed to by the Committee.
- s29: Land to be sold by Commissioner under Land Act 1885.
- s31: Implied powers of Commissioner as vendor or lessor.
- s32: Every deed not under this Act affecting title to land shall be illegal.
- s33: An offence for any private person to contract to buy any Native land whether or not title may have been determined by the NL Ct. Maximum penalty of 12 months prison or £500 fine; minimum penalty of 3 months prison or £20 fine, and land forfeited to the Crown.
- ss34 - 36: Money received to be paid by Commissioner into special account.
- s37: Purchase-moneys and rent to be paid by Commissioner to owners so soon as convenient, after deduction of 5%, and survey and roading costs. Costs may be paid by transferring land to the Crown.

Relevant Sections and Commentary continued over page



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s38: Payments to owners in accordance with agreed statement of relative interests by the owners or, if they cannot agree, by a NLCt Judge. Money for minors or those under disability to be held by the Commissioner until a trustee is appointed.

s39: If the Commissioner is unable to distribute the money it shall be invested in Government Securities.

s40: If the majority of the owners agree the money may be invested for their benefit.

s42: Commissioner to report to Parliament annually.

s43: Governor to make rules.

s44: Governor may advance money to the Commissioner.

s45: Salaries.

s46: Native Lands Frauds Prevention Act 1881 not to apply.

s47: Repeals Native Land Alienation Restriction Act 1884.

s48: Commissioner may not himself engage in negotiations for purchase or lease. Maximum penalty 12 months prison or £1000 fine; minimum penalty 3 months prison or £100 fine.

Commentary: The long title to this Act is – “*An Act to control dealings with land owned by Natives*”. All the owners of a block of land, once they have been ascertained by the Native Land Court, can elect a Committee of owners, which informs a specially appointed Commissioner how the land should be dealt with, whether by lease or sale. By allowing the owners to form Committees it was hoped to prevent further fragmentation of title and thereby to make it easier to obtain land for settlers. Those owners that object to the land being dealt with in this way have one month to apply for their interest to be partitioned out. Many Members of Parliament protested the forming of Committees on the grounds that they would be open to abuse. This is a change in the usual argument against granting Maori control over their land, in that previously it was claimed that Maori were too inexperienced to be granted such control, but at this time the charge is that they will be too astute and will find ways to work the system for their benefit! The Act prohibits private dealings with Maori and allows three different alienation procedures; owners can sell to the Government without electing a Committee, the Committee can sell to the Government, or if Maori do not want to sell to the Government they can direct the Government appointed Commissioner as an agent to sell to private purchasers in the same way as the Crown sells land.

Commentary continued next page



This too was a contentious provision and revived old arguments about Crown pre-emption, and Maori MPs were divided on the issue. Pere supported this provision and said that the Bill should be called "An Act to prevent Satan dealing with Native lands". The Bill was originally presented to the House in 1885 as the Native Land Disposition Bill although it was substantially amended (as specified in 1886 Debates). The Report of the Native Affairs Committee on the Native Land Disposition Bill provides both Maori and Pakeha opinion on past and prospective land purchase systems and shows the desire among Maori for control over their own lands. In their evidence to the Committee both Wahanui and Hikawera tried to persuade MPs that the Committees of owners must act on the wishes of the owners and that Maori would not see these Committees as a distinct body with ultimate control. It should be noted that the "majority" of owners necessary for decisions means the majority in number not in interest in the land. The Act was largely a failure as the powers of the Commissioner, to whom the money was to be paid to distribute after the deduction of costs, and provisions for roading and surveying made many Maori distrustful of the intentions of the Act and it did not satisfy demands for Maori control. Taipua tried to have the Act repealed as regards his district in 1887 because of objections to the Commissioner and survey and road charges. Pere and Pratt [Parata], while pointing out its faults thought that it was probably still a better system than reverting to the old one would be. Sections 24 and 25 are designed to meet the wishes of private land purchasers still trying to complete purchases. Ballance explained "that the purchase of shares in land that has passed the Land Court is not illegal: that is to say, the only way a European can obtain a title to such land would be by purchasing from the Natives share by share. That process was not illegal, but it did not give a valid title till the last share was purchased". Purchasers (and lessees) are given 1 year to purchase more shares. This time limit was to cause problems later and was extended in 1888 because of complaints that not enough time was allowed.

Cross Reference continued over page



- Cross Reference:** NZPD vol 54 (1886) 327 - 331, 434 - 464
 NZPD vol 55 (1886) 279 - 312, 465 - 468
 NZPD vol 56 (1886) 356 - 362
 NZPD vol 57 (1887) 210 - 220
 AJHR (1885) I - 2b
(Native Affairs Committee – Report on Native Land Disposition Bill)
 AJHR (1886) G - 2
(Native Meeting at Hastings)
 AJHR (1887) Sess II G - 8 (*Reports by Commissioners under...*),
 I - 3 p.9 (*Native Affairs Committee*)
 AJHR (1888) G - 5 p.7
(Report from officers in Native Districts)
 AJHR (1891) Sess II G - 1 p.XIV (*Rees Commission*), G - 1a p.16
(Mackay's Unfinished Report Relating to Native Land Laws)
 Ward A A *Show of Justice* (AUP, Canberra, 1974) 296 - 298
 Orange C *The Treaty of Waitangi*
 (Allen & Unwin, Wellington, 1987) 220, 221
 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) 17 - 23
 Reported Court Cases:
Seymour v. MacDonald (1887) (s.24): N.Z.L.R. 5, C.A. 167
Fougere v. Hood (1887) (ss.24, 32): N.Z.L.R. 5, S.C. 347
Poaka v. Ward & Smith (1889) (ss.24, 25): 8 N.Z.L.R. 338
Rangipupu v. Love (1899) (ss.32, 33): 18 N.Z.L.R. 838, 1 G.L.R. 102.