



## Native Lands Frauds Prevention Act 1881 Amendment Act 1888

- Citation:** 52 V. No 38
- Date of Assent:** 30 August, 1888
- Commencement:** Date of Assent
- Repeal:** Repealed 23 October, 1894 by 1894, No 43
- Amendments:** 1889, No 31: See separate record.  
s2 amends s3(b)  
s3 amends s5  
s7 amends s4.
- Type of Legislation:** Public
- Subject:** Alienation of Maori Land
- Relevant Sections:**
- s2: Definitions of land, "Native land" and "land" in 1881 Act and "land" in this Act means land held by Natives under any title except land held customarily, "Native Land" in this Act means land held by Natives under their customs and usages.
- s3: Deeds signed by Natives shall have no effect unless,
- (a) the deed includes a statement in Maori of its effect which is signed by a licensed interpreter,
  - (b) the statement is explained to each Native before signing,
  - (c) signatures of Natives are witnessed by at least two witnesses, one of whom is to be a Judge, solicitor etc.
  - (d) the deed includes a plan of the land before it is signed by any Native. However, a deed executed by a half-caste who is certified to have knowledge of the English language can be signed in the same way as a European.
- s4: Repeals ss6 and 15 Native Lands Frauds Prevention Act 1881. Duties of the Trust Commissioners require them to be satisfied that the alienation is not invalid, that payment has been made, that the Natives have sufficient land left for their occupation and support and that the formalities of signing required by this Act have been complied with. After holding an open Court to investigate cases, Commissioners to indorse any document which satisfies these requirements.
- Prohibited Dealings With Native Land*
- s5: Dealings with Native land prohibited unless ownership has been or, within 40 days is, owned by not more than 20 Natives under a Native Land Court Act or a Land Transfer Act title.
- s6: Chief Judge to notify in *Gazette* when any land is ascertained to be owned by not more than 20 Natives, and when the 40 day period expires.

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



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*s7:* Penalty not exceeding £500 for entering into any prohibited dealings with Native lands and every such transaction illegal and void. Prosecutions only by persons authorised by Governor.

*s8:* Nothing in this Act shall affect or apply to the Crown.

*s9:* Repeals *ss18* and *19* Native Lands Frauds Prevention Act 1881 (requiring Order in Council).

*s10:* Addition to *s8* Native Lands Frauds Prevention Act 1881, Commissioner to have ascertained that Native debtor has sufficient land for his maintenance.

**Commentary:** This Act complements the Native Land Act 1888 so that Maori may now dispose of their lands to private purchasers provided that the deed is approved by the Commissioner. The Native Lands Fraud Prevention Act 1881 is, in effect, revived having been rendered inoperative by *s45* Native Land Administration Act 1886. Note that land must now be owned by 20 or fewer Maori before it can be sold. This would seem to be in response to the problems for purchasers in having to get the signatures of large numbers of owners. This provision operates alongside *s12* Native Land Court Act 1886 Amendment Act 1888, which declares that if the NLCt finds there are more than 20 owners in a block then the land will be partitioned. Thus while this Act may seem to be applying a limitation to the land that may be alienated, *s12* Native Land Court Act 1886 Amendment Act 1888 means that *all* land in the future was supposed to have 20 or fewer owners, and therefore be alienable. Paora Tuhaere, Wiremu Pomare and Akuhata Hori Tupaea were allowed to speak in the Legislative Council and asked that all the Native Bills that year be delayed so that Maori may become familiar with them.

**Cross Reference:** NZPD vol 62 (1888) 16 - 17  
NZPD vol 63 (1888) 209 - 234  
*Gazette* (1888) vol 2 1175

AJHR (1888) G - 7  
(*Native Views on Native Land Legislation*)

Reported Court Cases:

*In re Land Transfer Act; Ex parte Dickson* (1890)  
(*ss.3, 23*): 8 N.Z.L.R. 492

*In re Mangapai Block* (1891) (*s.3*): 10 N.Z.L.R. 321

*In re Pukengahu Block* (1889) (*s.5*): 8 N.Z.L.R. 364

*In re Pirau No. 2 Block* (1891) (*ss.5, 6*): 10 N.Z.L.R. 125

*In re a Lease, Whakarare to Williams* (1894) (*s.5*): 12 N.Z.L.R. 494.