



## Native Land (Validation of Titles) Act 1893

1893

**Citation:** 57 V. No 38  
**Date of Assent:** 6 October, 1893  
**Commencement:** 1 January, 1894, except s26 (date of assent)

**Repeal:** Repealed 24 December, 1909 by 1909, No 15  
**Amendments:** 1894, No 46: See separate record.  
s7 amends s3.  
1896, No 53: See separate record.  
see ss15 - 18.  
1901, No 65: See separate record.  
see s21.

**Type of Legislation:** Public  
**Subject:** Validation  
Maori Land Court: Structures & Jurisdiction  
Alienation of Maori Land  
Survey Issues

**Relevant Sections:** *Preamble:* recites the need for a special Court to be set up which can inquire into purchases and leases of Native land and have sufficient jurisdiction for the redress of grievances.  
*s2:* "Land" defined as land owned or vested in any Natives except land held in customary manner which has not gone through the NLCT.  
*s3:* Constitution of Validation Court. Entitled, upon application of any Native or European claimant to inquire into, settle and determine all disputes, rights, titles and interests in land. To have jurisdiction in districts proclaimed by the Governor. Court to consist of a Judge and a Native Assessor.  
*s4:* Judge to have same status as a Judge of the Supreme Court.  
*s5:* Governor to appoint officers of the Court.  
*s6:* Judge empowered to call all persons interested in the land and all witnesses required.  
*s7:* Jurisdiction of Validation Court,  
(1) to hear and determine the right, title and interest of every person claiming freehold title or undivided shares in land, and to bar the title of those the Court considers to be not entitled,  
(2) to partition the land to separate out the land of persons not interested in the matter before the Court,

*Relevant Sections continued over page*



**Native Land (Validation of Titles) Act 1893** *continued*

- (3) to hear, settle and determine the right to the use and occupation, whether under purchase or lease, of lands claimed before the Court,
- (4) to hear and settle all claims for rent and other money arising out of the use and occupation of lands, or for liens (including survey liens), debts etc whether claims be upon or by a Maori,
- (5) to consider and determine all claims which in the opinion of the Court ought to form part of a settlement of the conflicting interests of parties.

**s8:** NLCt, Deeds and District Land Registrars to inform the Validation Court Judge of all title information affecting the lands under dispute and furnish original documents or certified copies.

**s9:** Judge to have all the powers of both a Supreme Court Judge and a Judge of the NLCt to deal fully and effectually with all cases for validation.

**s10:** Validation Court may validate any deed etc entered into between Europeans and Natives and Natives and Natives, otherwise unable to be enforced because it did not comply with, or was forbidden by a repealed statute, provided the claimant can show that,

- (1) the contract would have been binding in the Supreme Court if it was made between Europeans,
- (2) it was not contrary to equity and good conscience,
- (3) it was fully understood by all parties at the time and was for a sufficient price.

**s11:** Court may not validate private purchases of land entered into after *Gazette* notice of prior rights of the Crown to acquire that land.

**s12:** Court may validate such transactions commenced before notification so long as the Governor consents, the transaction was not fraudulent, and rights acquired by the Crown are not infringed.

**s13:** Every order of the Validation Court to be final (subject to appeal) and may not be hindered or interfered with by the workings of any other Court.

**s14:** Orders to be enforceable in the Supreme Court without inquiry by Frauds Prevention Acts Commissioner.

**s15:** Return of applications and orders made to be laid before Parliament.

**s16:** Orders laid before Parliament shall be deemed confirmed if no resolution is passed against them.

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



*s17:* Court may order payment of costs and fees.

*s18:* Governor may make general rules for the Court.

*s19:* Court may give effect to voluntary arrangements between parties if it is a fair and reasonable settlement.

*s20:* Stay of proceedings in all other Courts relating to transactions brought before the Validation Court.

*s21:* Appeals on matters of law to the Court of Appeal.

*s22:* Governor may make rules concerning payment of fees for appeals.

*s23:* Judge of Validation Court to have same powers for punishing contempt of court as a Supreme Court Judge.

*s24:* Validation Court may order partition to be made by NL Ct.

*s25:* Repeals Native Land (Validation of Titles) Act 1892.

*s26:* No proceedings may be taken questioning the validity of any alienation which may be the subject of an inquiry under this Act prior to it coming into operation on 1 January, 1894.

**Commentary:** This Act sets up a Validation Court separate from the Native Land Court for the investigation of claims relating to technically deficient alienations made in good faith. Carroll said the Native Land (Validation of Titles) Act 1892 was not completely workable and did not give a sufficiently wide jurisdiction. The procedure for Parliament confirming Certificates is changed – under the 1892 Act the certificates had to be confirmed by an Act of Parliament but it is now sufficient that they should be laid before the House and if no resolution is made against them then they are confirmed. The Court is given power to summon witnesses as Maori had been unwilling to attend the investigations under the 1892 Act. By 1894 the Validation Court was only working in the East Coast district and Seddon said that the necessity to appoint special Judges had prevented the Government from establishing the Validation Court elsewhere. (See Native Land (Validation of Titles) Act Amendment Act 1894).

**Cross Reference:** NZPD vol 79 (1893) 591  
NZPD vol 81 (1893) 565  
NZPD vol 82 (1893) 311 - 313  
NZPD vol 83 (1894) 395 - 396

*Cross Reference continued over page*



**Native Land (Validation of Titles) Act 1893** *continued*

AJHR (1895) I - 3 p.26  
(*Native Affairs Committee*)

*Waitangi Tribunal Report of the Waitangi Tribunal on the Orakei Claim Wai 9* (Waitangi Tribunal, Wellington, 1987) 44

Brooking T '*Busting Up*' *The Greatest Estate of All: Liberal Maori Land Policy, 1891 - 1911* NZJH, 26 (April, 1992) 78 - 98

**Reported Court Cases:**

*Barker v. Edger* (1895): 14 N.Z.L.R. 137

*Kereama Kaiaho v. Stuart* (1899) (ss.3, 10): 17 N.Z.L.R. 753, 1 G.L.R. 190

*In re Tahora Block No. 2* (1901) (ss.3, 6, 7, 9, 13, 19, 20): 20 N.Z.L.R. 643, 4 G.L.R. 125

*Rikirangi v. East Coast Commissioner* (1908) (s.7): 10 G.L.R. 469

*In re Manawatu-Kukutauaki 4B Block, Section 1* (1897) (s.10): 15 N.Z.L.R. 665.