



Native Land Laws Amendment Act 1896

1896

Citation: 60 V. No 53
Date of Assent: 17 October, 1896
Commencement: Date of Assent

Repeal: Repealed 24 December, 1909 by 1909, No 15
Amendments: 1901, No 65: See separate record.
s48 amends s10.

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

Relevant Sections: *The Court*
s3: Governor may appoint Sub-commissioners of the Court.
s4: Sub-commissioners to have the powers of a Native Land Court Judge under s14(3)(4) Native Land Court Act 1894 (exchange or succession) and s3 Maori Real Estate Management Act 1888.
s5: Powers of Sub-commissioner may be extended by Order in Council to include other powers of NLCt Judges.
s6: Assessor not necessary in succession cases.
s7: NLCt has, and deemed to have had, power to refuse to confirm a lease on the grounds that rent is inadequate. Not legal to pay more than 6 months rent in advance before confirmation.
s8: Time for giving security for costs of appeal may be extended.
s9: Court may order moneys due to minors to be paid to the Public Trustee on their behalf.
s10: On investigation of title, Court may vest portion of block in trustees (one of whom must be the Surveyor-General) for sale to pay survey costs. Any residue of purchase money to be held by the Public Trustee as directed by the Court.
s11: Court may award land as compensation for costs incurred under s14(2) Native Land Court Act 1894 (relative interests and partition).
s12: Within 14 days of giving a decision the Court may rehear any matter and affirm or vary its former decision.
s13: Chief Judge may adjourn sittings of Court.
s14: Fees in the Appellate Court to be recovered in the same way as in the Native Land Court.

Relevant Sections continued over page



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The Validation Court

s15: Chief Judge of NLCT to be Chief Judge of Validation Court.

s16: No application under Native Land (Validation of Titles) Act 1893 to be received after 31 December, 1896. Provided that Governor in Council may extend time.

s17: Before title can issue on decree of the Validation Court all fees due to the Native Land Court must be paid.

s18: Officers of Native Land Court may act as officers of Validation Court.

Amendments to the Native Land Court Act 1894

s19: s65 Native Land Court Act 1894 (survey charges to be a mortgage) to apply to surveys commenced after the passing of that Act as well as those commenced before.

s20: Person in whom land is vested under s65 Native Land Court Act 1894 shall be entitled to a Land Transfer certificate.

s21: Alienations by nominal owner of land held in trust not to defeat trust as to portions unalienated.

s22: Amends s68 Native Land Court Act 1894 (charge may be paid to Public Trustee) so that payment of the survey charge by the Crown will allow for the registration of any transfer.

s23: Amends s121 Native Land Court Act 1894, existing contracts for mortgages may be completed, "completion" of the contract is to mean "fulfilment".

s24: Amends interpretation of "surveyor" in s2 Native Land Court Act 1894, may be certified by the Board under the Land Act 1892.

s25: Provisions of s38 Native Land Court Act 1894 (errors may be corrected) extended to include proceedings in the Appellate Court.

Amendments to Native Land Laws Amendment Act 1895

s27: Amends s3 Native Land Laws Amendment Act 1895 (exemptions from pre-emption) by changing "separate holding" to "separate area" and changing the limit of 500 acres to 640 of first class land or 2000 acres of second class land.

ss28 - 29: Amend ss32 and 36 Native Land Laws Amendment Act 1895 (time to complete transactions) by changing 2 years to 2 years and 6 months.

s31: Two year time limit for application for probate under s81 Native Land Laws Amendment Act 1895 not to apply when death was before the passing of the Act.

Relevant Sections and Commentary continued next page



s32: Land Board to classify lands for purpose of the Act.

s33: Land held under NLCt order made since 31 March, 1871 entitling person to a Crown Grant deemed to be under the Land Transfer Act 1885.

s34: Land Transfer certificates issued may be vested from any prior date as directed by the Chief Judge.

Miscellaneous

s35: Amends s20 Native Land Purchases Act 1892 by changing "twenty" to "thirty" days after commencement of session for reports to be laid before Parliament.

s36: Repeals s22 Native Land Purchases Act 1892 so there is no expiry date for that Act.

s37: Minister may use money available for Native land purchase to pay survey charges. On payment, all rights of recovery to vest in the Crown.

s39: No alienation restriction shall prevent completion and validation of the title of Wellington & Manawatu Railway Co to land taken for railway construction. NLCt order to entitle company to be registered proprietor under Land Transfer Act.

Commentary: The Debates focused on section 30 concerning the Koparakore Block. Section 23 was found to be important in 1897 (Native Land Laws Amendment Act 1897). The 1894 Native Land Court Act which prohibited private land dealings gave time for lease or sale transactions to be completed but did not allow time for mortgages to be finalised. This was amended by the Native Land Laws Amendment Act 1895 which provided that the Native Land Court could issue a confirmation order for any one who had contracted a mortgage prior to 1894. However, according to Carroll in 1897, while the mortgage contract was confirmed, such confirmation did not actually compel Maori to execute the mortgage. Section 23 of this Act gives mortgages the same status as uncompleted sales or leases prior to 1894 and the use of "fulfilment" instead of completion means that the contracted mortgaged must actually be executed by the Maori debtors. Several changes are made affecting s65 Native Land Court Act 1894 which allows orders to secure the payment of survey fees. Under this Act it is made explicit that such orders entitle the holder to obtain land in payment and receive a land transfer certificate. The Crown also has the ability to obtain land by paying

Commentary and Cross Reference continued over page



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survey charges, and section 37 allows the Crown to use money set aside for land purchase for this purpose, which perhaps indicates that obtaining a survey lien was as good as purchasing the land. This Act allows for Sub-commissioners to be appointed to act as Judges for the purposes of exchange and succession.

Cross Reference: NZPD vol 96 (1896) 662 - 665, 669 - 674, 792, 866 - 867, 896
 NZPD vol 99 (1897) 550 - 577

Reported Court Cases:

Karaitiana Te Ahu v. Kerenapu Tanaite (1900) (s.7): 2 G.L.R. 397

Tatiana Wiremu Te Hika v. Public Trustee (1920) (s.7): [1921] N.Z.L.R. 313, [1921] G.L.R. 127

Puhi Maihi v. Mackay (1914) (s.12): 33 N.Z.L.R. 889, 16 G.L.R. 460

Te Whaiti v. Pharazyn (1900) (s.23): 18 N.Z.L.R. 788

Elder v. Cruickshank (1898) (s.27): 17 N.Z.L.R. 526, 1 G.L.R. 56

Sinclair Bros. v. Matenga Te Hiko (1899) (s.27): 2 G.L.R. 89

Finlayson v. Auckland District Land Registrar (1904) (s.27): 24 N.Z.L.R. 341, 7 G.L.R. 144

In re Petane No. 2 Block (1905) (s.27): 25 N.Z.L.R. 426, 8 G.L.R. 181

Barker v. Edger (1899) (s.38): 17 N.Z.L.R. 441, 1 G.L.R. 148.