



Maori Land Laws Amendment Act 1903

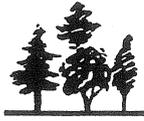
- Citation:** 3 Edw. VII, No 92
- Date of Assent:** 24 November, 1903
- Commencement:** Date of Assent
- Repeal:** Repealed 1 January, 1932 by 1931, No 32
- Amendments:** 1907, No 76: See separate record.
s21 repeals s15.
1909, No 15: See separate record.
repeals all except s33.
- Type of Legislation:** Public
- Subject:** Maori Land Court: Structures & Jurisdiction
Compulsory Acquis & Transfer of Control
Alienation of Maori Land
Maori Land Boards
Survey Issues
Public Works
Incorporations
Validation
- Relevant Sections:**
- s2:** "Council" means Maori Land Council under the Maori Lands Administration Act 1900.
- s3:** Repeals s5 Maori Lands Administration Act 1900, ss2 - 3 Maori Lands Administration Amendment Act 1901 and s7 Native and Maori Land Laws Amendment Act 1902 and replaces them with,
- (1) there to be between 4 and 7 Maori Land Districts in the North Island,
 - (2) Act shall be in operation when the definition of a district is published in the *Gazette* or *Kahiti*,
 - (3) Governor may alter district boundaries and change the name,
 - (4) where one district is absorbed by another the Governor shall declare how assets and liabilities are to be dealt with.
- s4:** Repeals and replaces s8(1) Maori Lands Administration Act 1900 and s6 of the Native and Maori Land Laws Amendment Act 1902, quorum at meetings of Council to be the President (or 1 European member) and 2 Maori members, provided that one Maori member shall be sufficient for purely formal business.
- s5:** Papatupu Committee may recommend that the shares of owners under disability be vested in trustees. Section deemed to have been in force since the passing of the Maori Lands Administration Act 1900.

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- s6:** If Papatupu Committee fails to report within 6 months the President of the Council may direct that they must do so within one month. Committee may be dissolved if they do not do so and Council may continue the investigation of ownership.
- s7:** Members of Papatupu Committee to hold office until their report has been finally dealt with by the Chief Judge. Repeals *s16(3)* Maori Lands Administration Act 1900.
- s8:** Vacancies on the Committee.
- s9:** A conveyance by way of trust under Native Land Laws Amendment Act 1897 shall be deemed a sale for the purposes of *s4* Maori Lands Administration Amendment Act 1901 (alienation only under this Act).
- s10:** (1) Nothing in Maori Lands Administration Act 1900 shall prevent the alienation of any parcel of land (up to 640 acres 1st class and 2000 acres 2nd class) owned at the commencement of the Act by not more than two owners and which had had its title ascertained as a separate area,
- (2) section 3 Native Land Laws Amendment Act 1895 (exemptions from pre-emption) to be subject to this section.
- s11:** Amends *s19* Maori Lands Administration Act 1900 and repeals *s8(6)* Maori Lands Administration Amendment Act 1901. Council may confirm the Committee's report. Appeal may be made to the Chief Judge within 2 months who may refer the matter to the Native Appellate Court.
- s12:** Council to have the powers of the NLCT when reviewing decisions of the Papatupu Committees.
- s13:** Amends *s21(1)* Maori Lands Administration Act 1900 – Council may make one papakainga for a hapu, family or group of two or more Maori.
- s14:** (1) Regardless of anything to the contrary in any other Act, or restrictions on any Crown Grant, etc., on recommendation of the Council Governor may within six months remove any restriction on the alienation of land owned by Maori,
- (2) no alienation made under this section valid unless it conforms with *s25* Maori Lands Administration Act 1900, or is confirmed by the NLCT,
- (3) papakainga shall not be alienable,
- (4) Section 24 Maori Lands Administration Act 1900 repealed.

Relevant Sections continued over page



Maori Land Laws Amendment Act 1903 *continued*

s15: Amends *s26(1)* Maori Lands Administration Act 1900, by changing limit of land that may be acquired to 2000 acres inclusive of not more than 640 acres of first class land. Amends *s26(3)* by changing "Commissioner of Crown Lands" to "Council".

s16: Nothing in Maori Lands Administration Act 1900 to bar the operation of *s117* of the Native Land Court Act 1894 (Crown pre-emption) or the validity of any orders made since the passing of the 1900 Act purporting to except land from its operation. However, no more such orders are to be made unless upon the recommendation of the Council.

s17: (1) Amends *s29(1)* Maori Lands Administration Act 1900, Council may reserve areas for the occupation and support of the Maori owners, even without a request from a majority of the owners, (2) amends *s8(11)* Maori Lands Administration Amendment Act 1901, request of majority of owners not necessary to set aside township.

s18: (1) Amends *s45* Maori Lands Administration Act 1900, section shall not bar an assignment of income from land as security for a mortgage from a Government lending Department, (2) assignment deemed to be a mortgage under *s4* Maori Lands Administration Amendment Act 1901 (alienation only to be under this Act).

s19: Amends *s47* Maori Lands Administration Act 1900 by changing the name of the Council's account.

s20: (1) Amends *s6* Maori Lands Administration Amendment Act 1901 by repealing requirement that a transfer to the Council by way of trust must have the written authority of the majority of owners. Land shall be transferred as if all of the owners had signed,

- (2) transfer of land already made shall be as effective as if all the Maori owners had signed and the following subsections shall not apply,
- (3) where there are more than 10 owners the transfer may be executed by those owners selected at a meeting of the owners,
- (4) date and place of meeting to be notified in the *Kahiti* 21 days beforehand,
- (5) selection to be made by the majority of owners in area,
- (6) names of those selected to be published in the *Kahiti*.

s21: Council members to hold office until 13 August, 1905.

Relevant Sections continued next page



s22: When land in a Native Township administered by the Council is taken for a street, road or reserve the Council may register the owner/s of the land taken as beneficially entitled to another area of land.

s23: Nothing in the Thermal-Springs Districts Act 1881, or a Crown Grant, or a Court order imposing restrictions on alienation, shall be deemed to have barred the transfer of land to the Council.

s24: Registration of deeds executed by the Council.

s25: When permitting land to be mortgaged under s4 Native Land Laws Amendment Act 1895 (exemptions from pre-emption) the Governor may confer the same power of mortgage and sale as if the land were owned by a European. This section deemed to have been in force since the passing of the Maori Lands Administration Act 1900.

s26: Copies of alienation deeds to be sent by the Registrar to the Minister for recording, except for alienations to the Crown, Government lending Departments or trustees.

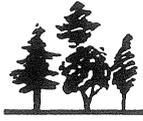
s27: Instruments to be registered within 12 months of confirmation. Confirmation to be applied for within 6 months of alienation. Court or Registrar need not bar confirmation if delay was unavoidable.

s28: Land held by Maori under perpetual lease or lease in perpetuity not to be affected by anything in the Act restricting the power of alienation nor to be included in calculation of area a Maori must possess to be able to alienate other lands.

s29: Incorporation of Farm Management Committees,

- (a) owners of a farm may be incorporated under the Native Land Court Act 1894 but the powers of the Court shall be exercised by the Council,
- (b) Committee to have full power to use the land as a farm for the owners,
- (c) conditions may be imposed at a general meeting to authorise the Committee to improve, cultivate and stock the farm, and to mortgage the stock and chattels,
- (d) Committee shall keep accounts,
- (e) Commissioner of Crown Lands, Public Trustee, or Native Lands Administration Officer shall not exercise any control over the lands or proceeds,
- (f) Governor may make regulations.

Relevant Sections continued over page



Maori Land Laws Amendment Act 1903 *continued*

s30: Sales by auction to be conducted by person appointed by the Council.

s31: Amends *s8(11)* Maori Lands Administration Amendment Act 1901, Council shall return land on expiry of lease if requested by the majority of owners.

s32: Any Court Judge or Council member with an interest in any land who adjudicates over it, or who purchases land from Natives (without Minister's consent) within one year from the award, shall be liable to imprisonment or fines and the purchase shall be null and void.

s33: Amends *s12* East Coast Native Trust Lands Act 1902.

s34: Abolition of the power of mortgagee sale for mortgage derived through a survey lien but the Court may partition off a sufficient area of the land to be vested in the mortgagee, including an area equal to the estimated cost of additional survey lines necessary to create a separate title.

s35: (1) When order in favour of survey lien mortgagee is sealed, Minister may elect to pay off mortgage and the Court shall then vest the land in the Crown,

(2) costs for this order not to exceed £10,

(3) if Minister does not indicate otherwise within one month, he will be deemed to have approved the order,

(4) instead of making an order as above the Court may, with the consent of the majority of the owners, vest the land in the Council, with the mortgage to be paid by the Minister and made a charge on the rents from the land,

(5) on mortgagee's application to the Governor in Council, mortgages existing before this Act may be excluded from *s34* and this section.

s36: Taking of Native land under the Public Works Act deemed to be an alienation.

s37: Provisions of *s5* Native Land Laws Amendment Act 1895 (declaration by purchaser) not to apply to alienation of land up to one chain wide for the purposes of a road.

s38: Minister may apply money voted by Parliament to the costs of administration of the Maori Lands Administration Act 1900.

Commentary: According to Carroll in the Debates, the Papatupu Committees are being given the power of the Native Land Court to appoint trustees

Commentary and Cross Reference continued next page



when investigating title to avoid the expense of separate proceedings in the Native Land Court. The time in which the Committee must report is reduced from 3 years to 6 months to avoid a "deadlock" if the Committee is refusing to operate under the Act, (presumably this must have been the case). Sections 11 and 12 give the Council further Native Land Court powers. Papakainga certificates can be issued under section 13 for hapu or whanau instead of individuals to save the expense of surveys while still allowing alienation to proceed even though each person's papakainga share has not been individualised. Provision is made in section 18 that, when borrowing money to improve a block, the rent from another block can be assigned to the loan. When Maori hold land on perpetual lease it shall not be considered Maori land and there are therefore no restrictions on alienation. Section 20 changes the method of authorising a transfer to the Council of land which has more than 10 owners. Instead of obtaining the written consent of the majority of owners, a general meeting is to be held which will appoint owners who may execute a transfer. Section 25 was necessary because the mortgage power under Native Land Laws Amendment Act 1899 had expired but orders had continued to be issued under it. Section 29 allowing for Farm Management Committees gives authority to Committees that had already been operating on the East Coast. Section 34 changes the way survey charges that have become mortgages are to be discharged. Previously the only way was to sell the whole block, but now a sufficient part of the land to meet the charge may be partitioned. The Crown has the option of paying the mortgage and obtaining the portion of the land, or, if the owners desire, the land may be rented by the Council to pay the charge.

Cross Reference: NZPD vol 127 (1903) 523 - 549, 1034 - 1036, 1041 - 1044

AJHR (1903) I - 3a
(*Native Affairs Committee*)

Reported Court Cases:

Elder v. Batham (1905) (s.10): 24 N.Z.L.R. 841, 7 G.L.R. 518

In re Petane No. 2 (1905) (ss.10, 16): 25 N.Z.L.R. 426, 8 G.L.R. 181

In re Bevan (1909) (s.14(1)): 29 N.Z.L.R. 714, 12 G.L.R. 328

Riddiford v. Sim (1907) (s.15(1)): 27 N.Z.L.R. 19, 10 G.L.R. 154

Meinertzhagen v. Ikaroa District Maori Land Board (1907) (s.15(1)): 27 N.Z.L.R. 141, 10 G.L.R. 82

Hardy v. Te Aka Pairama (1918) (ss.34, 35): [1918] N.Z.L.R. 65, 492, [1918] G.L.R. 117, 430.