



## Maori Land Settlement Act 1905

1905

**Citation:** 5 Edw. VII, No 44  
**Date of Assent:** 30 October, 1905  
**Commencement:** Date of Assent

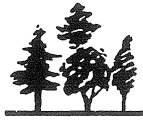
**Repeal:** Repealed 24 December, 1909 by 1909, No 15  
**Amendments:** 1906, No 62: See separate record.  
s4 amends ss 8 - 15 for the purposes of 1906, No 62.  
1907, No 9: See separate record.  
1907, No 76: See separate record.  
s13(1) amends s8  
s13(2) repeals and replaces s13(a)  
s13(3) amends s16(2)  
s13(4) amends s16(3)  
s13(5) amends s20.  
1908, No 253: See separate record.  
s10 amends s8  
s29 gives definition of land owned by Maori in s16  
s31 amends s11.

**Type of Legislation:** Public

**Subject:** Leased Land  
Alienation of Maori Land  
Maori Land Boards  
Maori Land Court: Structures & Jurisdiction  
Public Works  
Wahi Tapu & Non Tangible Resources

**Relevant Sections:** s2: Maori Land Boards constituted for each district, to consist of a President and two members, one of which shall be a Maori. Members of Parliament may not be appointed.  
s3: Existing Maori Land Councils to be replaced by Maori Land Boards. Maori Lands Administration Act 1900 to be read as if "Board" were substituted for "Council".  
s4: Councillors to continue to hold office until Boards are appointed.  
s5: Orders of Board to be signed by President and one other member.  
s6: To facilitate the issue of papakainga certificates the Native Minister shall compile a list from NLCt records showing the interests in land held by each Maori.

*Relevant Sections continued over page*



**Maori Land Settlement Act 1905** *continued*

**s7:** Native Minister may apply to the NLCT to investigate the title and ascertain owners according to Native custom of any papatupu land.

**s8:** Any Maori land in the Tokerau or Tairāwhiti Maori Land Districts, which in the opinion of the Native Minister is not required or is not suitable for occupation by the Maori owners, may be dealt with as follows,

(a) land may be vested by the Governor in the Board to be administered for the benefit of the Maori owners,

(b) title of the Board is to be recorded,

(c) Board may set aside inalienable portions for the use and occupation of the Maori owners, or for papakainga, burial-grounds, eel-pas, fishing-grounds, bird reserves, timber or fuel reserves.

(d) balance of the land may be classified as first, second, third or fourth class land,

(e) Board shall survey and subdivide the land into allotments,

(f) these allotments may be leased by the Board for any term up to 50 years,

(g) allotments may be set aside for application in first instance by Maori owners,

(h) return of lands proposed to be dealt with under this section to be laid before Parliament.

**s9:** Leases to be by public auction with a minimum rental of 5% of valuation.

**s10:** Board may borrow money on security of land vested in it towards discharging valid encumbrances and liens affecting the lands and preparing the land for settlement.

**s11:** Money may be advanced out of the Public Works Fund to pay for roading, surveys and other costs of opening up land for settlement.

**s12:** Amount advanced, with 5% interest, to be a charge on the income from the land.

**s13:** Sums received by way of income in respect of lands vested in the Board to be distributed among the owners according to their relevant interests, after administration costs, advances, and mortgage discharges have been deducted.

*Relevant Sections continued next page*



**s14:** On expiry of 50 year lease, land to revert to Maori owners if all incumbrances have been paid off.

**s15:** All restrictions created by any Act or instrument of title deemed to be removed to carry out the purposes of this Act.

**s16:** (1) All restrictions against the alienation by lease of any Maori lands shall be deemed removed. However, no lease of any interest in land owned by Maori shall be valid until indorsed with the approval of the Board.

- (2) Approval of the Board to be granted if,
  - (a) the proposed rent is adequate - not less than 5% of valuation,
  - (b) the Maori alienating has a papakainga or an income sufficient for his support,
  - (c) the proposed lease is for the benefit of the Maori lessor,
  - (d) the lease takes effect in possession.
- (3) No lease to be for a term longer than 50 years nor for areas larger than those specified in s8.
- (4) Approval of a lease by the Board to have the same effect as confirmation by the Native Land Court.
- (5) This section not to apply to land in the Middle [South] Island or Stewart Island nor to lands vested as Native reserves in the Public Trustee.

**s17:** Maori may apply to the Board to arrange the lease of any land owned by them,

- (a) application to be on required form,
- (b) if there are more than 10 owners, the application may be signed on behalf of all by those owners selected at a general meeting under s20 Maori Land Laws Amendment Act 1903,
- (c) notice of application to be published in the *Gazette* and *Kahiti*,
- (d) Board may advertise the land for lease if no objection is received within one month,
- (e) land may be leased for up to 50 years,
- (f) Board may execute lease on behalf of owners,
- (g) Board to decide conditions of lease,
- (h) rents to be paid to the Board which shall deduct administration costs before paying the owners,
- (i) costs of administration shall not exceed 5% of rent.

**s18:** Advances may be made from Land for Settlements Account to Maori to farm their land.

*Relevant Sections and Commentary continued over page*



## Maori Land Settlement Act 1905 *continued*

*s19:* Minister may make conditions for advances to ensure they are spent properly.

*s20:* Notwithstanding any law now in force, the Governor may acquire any lands owned by Maori by purchase from the Maori owners or from a majority of the owners. This section not to apply to land in Tokerau or Tairāwhiti district until 1 January, 1908.

*s21:* Sections 127 - 129 Native Land Court Act 1894 (proceeds to be distributed by Public Trustee) not to apply to purchases under *s20* by the Crown.

*s22:* (1) Before completion of any sale to the Crown, the Governor to ensure that there is sufficient land reserved for the maintenance of the Maori owners or else acquire the whole block and set aside reserve land for those with insufficient land. Reserved land shall be insufficient if the quantity is less than 25 acres first class land, 50 acres second class land or 100 acres third class land,  
(2) lands so reserved may be vested in the owners, or in trustees of Native reserves to be administered for their benefit.

*s23:* Power to borrow £200 000 for the purchase of land under this Act.

*s24:* Pending payment of the purchase money, the Native Minister may advance sums to the owners for improvement of other land owned by them. Advances to be deducted from payment or secured to the land.

*s25:* Land may not be purchased for less than Government valuation.

*s26:* Costs of administration may be appropriated by Parliament.

*s27:* Sections of any Acts which conflict with this Act are repealed or modified so as to remove the conflict but otherwise remain in force.

**Commentary:** To be read together with the Maori Lands Administration Act 1900, which had not succeeded in meeting the Government's desire that Maori would voluntarily make their "surplus" lands available for settlement. Maori Land Councils are renamed Maori Land Boards and their constitution is changed from nominated and elected members to solely nominated members. Carroll said that "the owners will not take the initiative, and the necessary remedy must be applied for their own good, and for the good of the colony". Maori "surplus" land is to be vested in the Board which must set apart inalienable reserves (formerly the job of a Papatupu Block Committee) and can then lease the land for settlement. This compulsory power in the Act

*Commentary and Cross Reference continued next page*



is only to apply to the Tokerau and Tairāwhiti Maori Land Districts as these were the only areas the Government could get support for the scheme. For the rest of the North Island, section 17 provides that the voluntary system of placing lands under the administration of the Board will continue. Section 16 represents a major change of policy in that private leases (not through the Board) will be allowed on condition that the Board approves the lease as fair and the lessors have other land for their support. For this purpose all restrictions against alienation by lease are removed. All leases under the Act are to be for a maximum of 50 years with allowance for the land to revert to the owners at expiry. However, Kaihau claimed that Maori will receive no benefit from leases because they will not get their land back for their own use and the rents will be eaten up by administration costs. There are provisions for the Government to lend money for improvements to owners who are trying to farm their own land. In regard to customary land Carroll said "Every inch of land should be brought into line and clothed with title", and the Native Minister is given power under section 7 to have such lands investigated by the Native Land Court. Initially the Bill was intended to cover alienations by leasing, but the Government later inserted sections 20 - 25 allowing the Crown to directly purchase "surplus" Maori land if the owners so wished. These sections were aimed at land in the Western Maori district whose representatives had insisted that would not agree to land being vested in the Boards. Heke says that purchases will be acceptable only if there are not large numbers of owners involved.

- Cross Reference:** NZPD vol 135 (1905) 237 - 248, 702 - 727, 771 - 783, 845 - 850, 959 - 975, 1078 - 1086, 1143
- AJHR (1907) G - 1c  
*(Native Lands Commission) G - 7 (Maori Land Settlement Act 1905)*
- AJHR (1908) G - 7  
*(Lands Purchased under...)*
- AJHR (1909) Sess II G - 3  
*(Maori Land Purchase Operations)*
- AJHR (1910) G - 3a  
*(Maori Land Purchase Operations)*

*Cross Reference continued over page*



Maori Land Settlement Act 1905 *continued*

Williams J *Politics of the New Zealand Maori*  
(AUP, Auckland, 1977 reprint ) 126 - 127, 135

Reported Court Cases:

*Aotea District Maori Land Board v. Marino* (1911): 13 G.L.R. 620

*Higgins v. Ikaroa District Maori Land Board* (1907) (ss.4, 16): 26 N.Z.L.R.  
705, 9 G.L.R. 383, 464

*Riddiford v. Sim* (1907) (ss.8, 16): 27 N.Z.L.R. 19, 10 G.L.R. 154

*Marino v. Aotea District Maori Land Board* (1911) (s.8): 14 G.L.R. 229

*Meinertzhagen v. Ikaroa District Maori Land Board* (1907) (ss.15(1), 16):  
27 N.Z.L.R. 141, 10 G.L.R. 82

*Donnelly v. Meinertzhagen* (1908) (s.16): 10 G.L.R. 320, 484

*Moanaroa Te Ope v. Douglas* (1915) (s.16): 34 N.Z.L.R. 298,  
17 G.L.R. 398.