



## Native Land Settlement Act 1907

1907

**Citation:** 7 Edw. VII, No 62  
**Date of Assent:** 25 November, 1907  
**Commencement:** Date of Assent

**Repeal:** Repealed 24 December, 1909 by 1909, No 15  
**Amendments:** 1908, No 253: See separate record.  
s16 amends s10  
s17 amends s11  
s30 amends s38.

**Type of Legislation:**

Public

**Subject:**

Maori Land Boards  
Alienation of Maori Land  
Leased Land  
Reserved Land  
Public Works  
Survey Issues  
Incorporations  
Equitable Owners

**Relevant Sections:**

s2: "Native land" means land owned under any class of title by any Maori (including owners in equity) which has had its title ascertained. It includes land held in trust by any trustee but does not include land currently owned by a Maori which at some time has been alienated from the Crown to a non-Maori.  
"Maori" includes half-castes and descendants.

s3: Act not to apply to,

(a) land in the South Island or Stewart Island,

(b) land vested in a Maori Land Board under any other Act,

(c) lands administered under the Thermal-Springs Districts Act 1881, the West Coast Settlement Reserves Act 1892, the Native Townships Act 1895, the Urewera District Native Reserve Act 1896, the Kapiti Island Public Reserve Act 1897, and the East Coast Native Trust Lands Act 1902.

### Part I

#### *Vesting of Land in Maori Land Boards*

s4: (1) When the Commission has reported that any particular land is not required for occupation by its Maori owners, the Governor shall declare by Order in Council that the land shall be subject to this Act,

*Relevant Sections continued over page*



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- (2) Order in Council to be conclusive,
- (3) Order in Council to define the boundaries in accordance with report of Commission,
- (4) Board to report to the Governor on boundaries,
- (5) Order in Council to be gazetted and laid before Parliament,
- (6) four months for reports by the Commission made before this Act to be modified in accordance with its provisions.

**s5:** All Maori land which becomes subject to the Act shall become vested in the Land Board of the district.

**s6:** The land so vested in the Board shall be held in trust for the Maori owners beneficially entitled.

**s7:** (1) Maori beneficiaries to have no right to dispose of land, or anticipated income from land, by way of sale, lease, mortgage etc. except that money received can be used (with Board's consent) as security for borrowing to improve other land.

(2) Power to leave property by will not affected.

**s8:** Land vested in the Board to remain subject to existing lease, charges etc.

**s9:** Board controlling lands subject to this Act not to exercise any powers conferred on it by the Maori Land Settlement Act 1905 or the Maori Lands Administration Act 1900.

**s10:** Governor may prohibit all private alienation of land for one year.

***Disposition of Land by Maori Land Boards***

**s11:** (1) Board shall split land into two equal portions – one for sale and one for leasing,

(2) division may be altered but proportion must remain the same.

**s12:** Land to be surveyed, subdivided and the Board may lay off roads.

**s13:** Land to be classified in accordance with Land Act 1892.

**s14:** No person to acquire an area of land exceeding 5000 acres. Calculation of this area.

**s15:** Purchaser or lessee to make declaration that land is only for his own use or benefit.

***Sales***

**s16:** Sales to be by public auction or public tender.

**s17:** Purchaser to pay 10% of purchase money on acceptance.

**s18:** On default of purchaser executing contract, Board may cancel sale.

*Relevant Sections continued next page*



*s19:* Residue of purchase money payable by instalments.

*s20:* Purchaser entitled to possession on execution of contract by Board.

*s21:* Interest on unpaid purchase money.

*s22:* Provisions of Land Acts to apply.

*s23:* Purchaser not entitled to diminish value of land prior to completing payment of purchase price.

*s24:* Default by purchaser of payment of interest.

*s25:* Purchaser entitled to a transfer after five years if purchase money paid.

*s26:* Form of sale contract.

*Leases*

*s27:* (1) Leases to be by public auction or public tender,  
(2) Board may set aside any allotment for application by landless Maori.

*s28:* Land may be leased for 50 years without right of renewal.

*s29:* (1) Lessee to be entitled to compensation for improvements,  
(2) Board may set aside money from revenue received from the land as a fund for payment of improvements,  
(3) fund to be invested.

*s30:* Form of lease to be as prescribed.

*s31:* Record of improvements.

*s32:* Land may be revested in Maori owners after fifty years from the passing of this Act if,  
(a) the beneficial owners so desire,  
(b) the land is not subject to any lease or contract,  
(c) no moneys are charged on the revenue.

*Transfers and Subleases*

*s33:* Purchaser or lessee not to assign within two years and only with consent of Board.

*s34:* Executors or administrators of deceased lessee or purchaser may assign.

*Registration of Titles*

*s35:* District Land Registrar to issue Certificate of Title to Maori Land Board for land subject to this Part of this Act.

*s36:* Land Transfer Act 1885 to apply to all dealings by the Board.

*s37:* Contract of sale may be registered against title of Board.

*Relevant Sections continued over page*



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*Miscellaneous*

*s38:* Money may be advanced from the Public Works Fund for the purpose of survey, preparing the land for settlement, or discharging any mortgage or lien. Repayment, plus 4% interest to be paid by the Board out of revenue received from the land.

*s39:* (1) No land to be offered for sale or lease until satisfactorily roaded and bridged,

(2) costs to be paid as in *s38*.

*s40:* Application of revenues derived from the land,

(a) administration costs,

(b) to pay rates and taxes,

(c) to repay advances from the Public Works fund,

(d) in payment of sinking fund for improvements compensation set under *s29*,

(e) in the discharge of any mortgage, charge, lien etc,

(f) the remainder to be distributed among the Maori owners.

*s41:* Proceeds of sale of land may be invested for the benefit of the owner.

*s42:* Moneys payable into Maori Land Board account.

*s43:* Appointment and payment of officers.

*s44:* Contracts to be under seal of Board.

*s45:* For all land under this Act, all other enactments relating to Native land shall be subject to this Act.

*s46:* Members of the Board not to be personally liable.

*s47:* Powers of the Native Land Court and a Board for partition, exchange, succession, and ascertainment of title may be exercised in respect of equitable interests in land subject to this Act, but no partition may be made without the consent of the Board.

*s48:* Provisions relating to purchaser or lessee shall also apply to executors etc.

*s49:* Negotiations already commenced may be authorised by the Governor to be completed by the Maori Land Board.

*s50:* Board may set apart a reserve which in its opinion is required in the interests of the Maori owners.

*s51:* Up to 5 acres of land may be sold as site for dairy factory, cheese factory, etc., or for religious, charitable or educational building and be exempt from the conditions imposed by this Act.

*Relevant Sections continued next page*



s53: Regardless of anything else in this Act, the Board may sell Native land to the Crown to be Crown land.

## Part II

### *Land for Occupation by Maori*

s54: (1) When the Commission has recommended that any Native land should be reserved for the use and occupation of Maori, the Governor by Order in Council shall declare that the land is subject to this part of the Act,

- (2) after an Order in Council no person may acquire any interest in the land without the consent of the Governor,
- (3) any contract in breach of this section shall be void,
- (4) contracts made before the Order in Council not invalidated.

s55: Where Commission recommends that any land shall be leased to Maori, the Board may be authorised to act as agent for the Maori owners for the purpose of leasing the land to Maori.

s56: Leases to Maori to be made without public auction or tender.

s57: Subject to s56 the Board may lease such land as provided under Part I of this Act with the following modifications,

- (a) land only to be sold or leased to Maori,
- (b) land to be offered to the Maori owners first,
- (c) lease may not be assigned or sublet to any person other than a Maori, except with the consent of the Native Minister,
- (d) Board may exempt the lessee from payment of rent for up to four years.

s58: Land may be surveyed, subdivided and classified if necessary.

s59: Rents to be applied as under s40.

s60: Maori lessee may borrow money to stock and improve the land on security of the lease or any moneys receivable by him in respect of other land vested in the Board. Board may pay mortgagee out of such money.

s61: Native Minister may apply to the Native Land Court for an order of incorporation as if the owners had applied.

## Part III

### *Miscellaneous Provisions*

s62: Subject to s40, costs of administration to be paid out of money appropriated by Parliament.

s63: Governor may remove Board for lack of due diligence.

s64: Governor may make regulations .

s65: All Orders in Council shall be gazetted.

*Commentary continued over page*



## Native Land Settlement Act 1907 *continued*

**Commentary:** This Act is in response to the Native Lands and Native Land Tenure Royal Commission (Stout-Ngata Commission) which was set up to “*make inquiry as to the areas of Native land which are unoccupied or not profitably occupied, and as to the mode in which such lands can be best utilised and settled in the interests of the Native owners and the public good*”. Apirana Ngata and Sir Robert Stout travelled the North Island meeting with owners and discussing their wants in regard to their lands. When the Bill was being passed, the Commission had only completed reports on portions of the country, but this Act states that any future recommendations that land is not required will be acted upon. Following the recommendation of the Commission, land deemed to be surplus will be vested in the Maori Land Board for lease or sale. The land is to be split equally with half to be leased and half for sale which was a compromise between the political factions in Parliament preferring sale or and those favouring leases. Ngata pointed out, however, that the Commission’s recommendations were not on a 50:50 basis because they followed the wishes of the owners as to how much of the land should be leased or sold. The reports made before the passing of this Act had recommended that only 66 000 acres should be sold and 280 000 acres leased. Section 3(6) gives power for those reports to be altered to bring them into line with the Act. Leases are limited to 50 years without renewal, as Ngata envisages that the next generation of Maori owners will be able to administer their own lands profitably. However, land cannot be re-vested in the Maori owners until compensation for improvements are paid. The Government may subsidise survey and administration charges but these charges remain the first claim on the proceeds of the land and payments to the owners come last. Part II deals with the land recommended by the Commission to be reserved for Maori. This Part was drafted by Ngata, who said: “Do not let our policy be that of simply providing, under pressure and in response to the clamour of the land-hungry, Native land for European settlement, while remaining criminally silent as to the balance undealt-with from time to time”. The Board may administer such lands and arrange for them to be leased to Maori with money to be borrowed against it for the purpose of Maori land development and incorporation. Kaihau says that the Act is against the Treaty of Waitangi as it takes the mana of the land from Maori.

*Commentary and Cross Reference continued next page*



According to a 1910 report (AJHR G - 10a) 328,187 acres had been vested in the Boards but only 4,106 acres had been finally disposed of.

**Cross Reference:** NZPD vol 142 (1907) 1032 - 1084, 1113 - 1157, 1214 - 1216

AJHR (1907) G - 1 - G - 1e  
(Native Land Commission)

AJHR (1908) G - 1 - G - 1u  
(Native Land Commission),  
G - 9 (*Dealings with Native Land*)

AJHR (1909) Sess I G - 1 - G - 1i  
(Native Land Commission)

AJHR (1910) G - 10a  
(Native Lands Vested in the Maori Land Boards)

AJHR (1911) C - 1g  
(Native Lands Purchased by the Crown since 1905),  
G - 10a (*Native Lands Vested in Maori Land Boards*)

Waitangi Tribunal *Report of the Waitangi Tribunal on the Orakei Claim Wai 9* (Waitangi Tribunal, Wellington, 1987) 155 - 157

Reported Court Cases:

*Foster v. Tokerau Maori Land Board* (1916) (ss.4 - 53): [1916] N.Z.L.R. 1006, [1916] G.L.R. 588

*In re Carr (a bankrupt)* (1913) (s.57): 16 G.L.R. 197.