

NEW ZEALAND.

ANNO VICESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. 26.

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AN ACT to amend the Law relating to the Registration of Deeds and Titles to Land. Title.

[14th December 1863.]

WHEREAS it is expedient to amend and render uniform the law relating to the Registration of Deeds and Titles to Land in New Zealand and to remove doubts affecting certain Registers of Deeds and to place the Registers of Deeds and Registers of Land throughout the Colony under the same management Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows :—

I. The Short Title of this Act shall be the “Deeds Registration Amendment Act 1863” The Short Title of the Act or Ordinance passed by the Governor and Legislative Council Session II. No. 9 intituled “An Ordinance to provide for the Registration of Deeds and Instruments affecting real Property” shall be the “Deeds Registration Ordinance” The Short Title of the Act or Ordinance passed by the Governor and Legislative Council of New Zealand Session XII. No. 2 intituled “An Ordinance to amend Short Title.

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the Land Registration Ordinance and to extend the operation of the same to the Canterbury Settlement" shall be "The Deeds Registration Amendment Ordinance."

Acts declared valid.

II. The several Acts or Ordinances specified in the Schedule hereunto annexed shall be deemed and are hereby respectively declared to have been valid *ab initio*.

Acts repealed.

III. The said last mentioned Acts or Ordinances are hereby respectively repealed.

Certain Acts extended to Auckland and Taranaki.

IV. The "Deeds Registration Ordinance" the "Deeds Registration Amendment Ordinance" and the "Registration of Deeds Amendment Act 1860" as the same are respectively altered and amended the one by the other of them and by this Act and also this Act shall extend and apply to and be in force throughout the Colony.

Appointments in Auckland and Taranaki.

V. The Registers of Deeds established in the Provinces of Auckland and Taranaki respectively under the Acts or Ordinances hereby repealed shall after the coming into operation of this Act be deemed to be established under the Acts and Ordinances in force throughout the Colony and the Registrars Deputy-Registrars Clerks and other persons appointed for the said offices respectively shall be respectively deemed to be appointed under the authority of the said last mentioned Acts and Ordinances.

Certain Registers &c. confirmed.

VI. The Registers of Deeds established within and for the Provinces of or Districts of Hawke's Bay Southland and Marlborough respectively are hereby declared to have been well and effectually established according to law and the Registrars of Deeds Clerks and other officers appointed for the Register Offices in such Provinces or Districts respectively are hereby declared to have been duly appointed according to Law.

Registration effectual under certain conditions.

VII. No Deed or Instrument relating to Land within any District registered after the establishment of such District shall be or be deemed to have been duly registered so far as relates to such Land unless and until the same shall have been registered in the Register for such District.

Each Province shall be a Registration District.

VIII. After this Act shall come into operation every Province of the Colony shall be a District for the purposes of the said Acts and Ordinances and of this Act Provided that the Governor in Council may from time to time define and alter the limits of any such District and may create new Districts.

Certain Registrations validated.

IX. Notwithstanding any alteration of any such District every Deed or Instrument duly Registered in the Register of Deeds for the original District before such alteration shall be deemed to have been duly registered.

When alterations of Districts shall take effect.

X. Every Order in Council for the alteration or for the establishment of any such District shall come into operation on and from such day as may be fixed by such Order.

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XI. Subject to alteration as hereinbefore provided the respective Registers of Deeds at present in operation within the respective Provinces of the Colony shall be the Registers of Deeds for the Districts respectively comprising the limits of such Provinces and the Registrars of Deeds Clerks and other persons attached to such offices shall be and shall be deemed to have been validly appointed in respect of such Provinces or Districts respectively.

Existing Offices and Officers confirmed.

XII. The Governor may from time to time appoint for each Register of Deeds a fit person to be Deputy Registrar of Deeds who shall have all the powers of the Principal Registrar of Deeds Provided that such Deputy Registrar shall exercise such powers only in case of the absence of the Principal Registrar Provided also that every act done by such Deputy Registrar shall be as valid as if done by such Principal Registrar And it shall not be necessary in any case to prove that any such act was done in the absence of such Principal Registrar and every act done by such Deputy Registrar shall be presumed to have been duly done And the Governor may from time to time at pleasure remove such Deputy Registrar.

Deputy Registrars.

XIII. The order in which Deeds and Instruments shall be registered in every Register of Deeds shall be the order in which the same shall be received for Registration and all such Deeds and Instruments shall be copied in books to be kept for that purpose.

Order of Registration.

XIV. Sections XXV. to XXXVII. both inclusive of the Deeds Registration Ordinance and Schedule A of the said Ordinance are hereby repealed.

Repeal of part of Registration Ordinance.

XV. Until other provision be made in that behalf by the Regulations hereinafter authorised to be made every Instrument presented for Registration shall for the purpose of more easily identifying the land to which it shall relate contain or shall have endorsed or delineated thereon or annexed thereto a Plan of the Land to which the same shall relate showing the extent boundaries and relative position thereof Provided that where there shall be no such plan delineated endorsed on or annexed as aforesaid such plan may be presented separately verified by the affidavit of some competent person and such affidavit and plan shall be registered as part of the Deed or Instrument to which it shall relate.

Conditional Orders on Registration.

XVI. Notwithstanding anything contained in the said Deeds Registration Ordinance or in any Law or Statute to the contrary it shall be lawful for the Registrar-General of Land from time to time to make Regulations for identifying and delineating lands intended to be affected by Instruments presented for Registration For numbering endorsing arranging and distinguishing the Instruments so presented For prescribing the particulars to be entered in Indexes and other Books For making preserving and arranging Maps of Land referred to in Registered Instruments For distinguishing sections and allotments on such Maps For indicating

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sub-divisions of sections and allotments and distinguishing the same For prescribing convenient references in and to Instruments presented for Registration For making arranging and preserving Indexes and other Books of reference For regulating the deposit of Instruments for safe custody the mode of collecting fees payable in respect of Instruments deposited whether for safe custody or registration the return and delivery out of such Instruments to the proper parties and generally for keeping the Registers and regulating the mode of Registration and safe custody of Deeds and the practice and procedure of the Registers of Deeds Offices and otherwise providing for the due execution of any Acts or Ordinances in force for the time being for the safe custody and Registration of Deeds All which Regulations to be so made as aforesaid shall after being approved by the Governor in Council and published in the *Government Gazette* have the force of law And it shall be the duty of the Registrar-General to lay a copy of all such Regulations before both Houses of the General Assembly at its then next Session within fourteen days from the day of the opening thereof and such Regulations may be made applicable to any one or more Districts.

Existing procedure to continue till altered.

XVII. Pending the issue of any such Regulations the practice and procedure of the several Offices for the Registration of Deeds shall be respectively continued as at the time of the passing of this Act.

Fees.

XVIII. So much of Section XLIV. of the Deeds Registration Ordinance as authorises the Judges of the Supreme Court to regulate the Fees payable under the same is hereby repealed And in lieu thereof it is enacted that the Registrar-General with the approval of the Governor in Council may from time to time regulate and alter the scale of Fees for the time being in force relating to the Registration of Deeds and may from time to time prescribe new and other Fees to be paid in respect of proceedings under any Law for the time being in force relating to the Registration of Deeds All which shall be notified in the *Government Gazette*.

What may be registered.

XIX. In addition to Instruments authorised to be registered by the Acts or Ordinances now in force every Grant Conveyance or Lease exceeding the term of seven years of Lands subject to the "Native Reserves Act 1856" and every Certificate of Native Title issued by any Court or Officer in virtue of the provisions of the "Native Lands Act 1862" may be registered in the Register of Deeds Provided that in the case of every such Instrument presented for Registration a Plan shall be delineated endorsed or annexed or verified by Affidavit in like manner as is required in the case of other Deeds or Instruments.

Registration *de facto* validated.

XX. Notwithstanding any defect or informality in the establishment constitution or definition of any Register Office or the limits of any Registration District or in the appointment of any Registrar of Deeds or other officer or in the course or

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practice of any Register office or the mode of Registration therein and notwithstanding the non-observance of or non-compliance with any provisions or conditions prescribed by the said referred to Acts or Ordinance or any of them every Grant Deed Contract Memorial or other Instrument which according to the practice and procedure for the time being in force may have been registered in the office of any Register of Deeds *de facto* in operation within any Province shall as regards land in such Province capable of being clearly identified be deemed to have been duly registered and shall have priority accordingly.

XXI. In every District in which the "Land Registry Act 1860" shall not be in operation every Crown Grant of Land bearing date after the passing of this Act shall be registered in the Register of Deeds before delivery of the same to the Grantee And it shall be the duty of every Commissioner of Crown Lands Waste Lands Board or other officer or person charged with the issue of Crown Grants to transmit the same for registration accordingly.

Registration of Crown Grants before issue.

XXII. And whereas in the "Land Registry Act 1860" Section xvii after enacting that "any person and any corporation sole or aggregate entitled absolutely for his or their own benefit to an estate in Land in fee simple at Law and in Equity free from trusts and incumbrances may apply to be registered as Proprietor under that Act was contained a proviso "that no transfer or charge of any Land granted by the Crown in any District after the commencement in such District of Registration under this Act shall be valid or effectual either at Law or in Equity unless the Grantee or his Heirs shall have been first registered under that Act as the Proprietor of such Land"

Partial Repeal of Section 17 "Land Registry Act 1860."

Be it enacted that the same proviso is hereby repealed and in lieu thereof it is enacted as follows Provided that after the commencement in any District of Registration under the said last mentioned Act so soon as a Crown Grant shall have been issued of Land within such District no transfer or charge of such land shall be valid or effectual either at Law or in Equity until the title to such Land shall have been registered under the said Act.

XXIII. It shall be the duty of every Registrar of Deeds and District Registrar of Land upon the application in writing of any person or persons having or claiming any interest in land and at the costs of such person or persons from time to time to produce all or any of the Instruments of Title relating to such Land in his custody or possession or deposited in his office for the purposes of registration at any trial or hearing in any Court of Law or Equity or other Judicature within the Colony and upon the execution of any commission for the examination of witnesses and before any Arbitrators or Umpire appointed under any Rule of Court and otherwise as occasion shall require Provided that they shall not be compellable to produce any such Instrument until all fees chargeable in respect thereof or in respect of the registration thereof or of the title to the land affected thereby

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shall have been duly paid and they shall upon the like application and costs deliver to the person or persons applying for the same copies or extracts of such Instruments and shall cause such copies or extracts to be examined and certified and all such certified copies or extracts verified by the seals of their respective Offices shall be admissible as secondary evidence.

Entries in Register of Deeds of Land placed on Register of Land.

XXIV. Every Registrar of Deeds shall from time to time cause such entries to be made in his Register Books of Certificates of Proprietorship issued under the "Land Registry Act 1860" and such other notes or entries of Acts Registration and other proceedings as the Registrar-General of Land shall from time to time by any order to be made in that behalf prescribe and shall make such changes consequent thereupon in the form and mode of Indexing Registered Instruments as such Registrar-General shall from time to time by any such Regulation as aforesaid prescribe.

Schedule.

SCHEDULE TO THE ABOVE ACT.

Name of Act.	By what Legislature Passed.
The Deeds Act 1854	Auckland Provincial Council.
The Deeds Registration Act 1856.....	Auckland Provincial Council.
The Deeds Registration Amendment Ordinance 1857	Taranaki Provincial Council.