

Native Reserves Amendment.

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A BILL INTITULED

AN ACT to amend "The Native Reserves Act, 1873." Title.

WHEREAS in the administration of Native reserves under the provisions of "The Native Reserves Act, 1873," it has been found that advantage would accrue to the Natives beneficially interested in such reserves if some alterations and modifications of the provisions of the said Act were made: Preamble.

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

1. The Short Title of this Act shall be "The Native Reserves Amendment Act, 1877," and it shall be incorporated and read with "The Native Reserves Act, 1873." Short Title.

2. In this Act the following expressions shall have the meanings hereby assigned to them respectively:— Interpretation.

15 "The said Act" shall mean "The Native Reserves Act, 1873."
"The said Acts" shall mean "The Native Reserves Act, 1873," as amended by this Act.

"Commissioner" shall mean a "Native Reserves Commissioner appointed under the said Act," and shall include the Trustees for the time being of any Native reserve.

20 3. Section four of the said Act is hereby repealed, and in lieu thereof it is enacted that— Description of Native reserves to which Act applies.

The said Acts shall apply to all Native reserves of any of the following classes; and the term "Native reserve" shall, for the purposes of the said Acts, include—

- (1.) All lands enumerated in Schedule D to the said Act as having been reserved for the benefit of aboriginal natives by the New Zealand Company, or the New Zealand Land Company, or according to the directions of any Commissioner appointed to investigate purchases made by the New Zealand Company, and all moneys that may have accrued or may hereafter accrue out of the said lands. 5
- (2.) All lands and all moneys issuing out of land which may have been or which may hereafter be reserved, set apart, or appropriated upon trusts for the benefit of aboriginal natives under the provisions of any Act at any time in force in the colony, or under any contract, promise, or engagement at any time lawfully made or entered into with any aboriginal natives. 10
- (3.) Waste lands of the Crown which have been or from time to time may be reserved for the benefit of aboriginal natives, and may become vested in any Natives Reserves Commissioner for that purpose. 15
- (4.) Native lands which, upon the sale of any lands to the Crown, have been excluded from such sale, and have been reserved for the benefit of the aboriginal natives, and which have, at any time heretofore, been brought under the operation of "The New Zealand Native Reserves Act, 1856." 20
- (5.) Lands set apart for the benefit of aboriginal natives, over which the Native title shall not have been extinguished, and which may hereafter be brought under the operation of the said Act and this Act for the purpose of administration. 25
4. Section seven of the said Act is hereby repealed, and the Board of Direction thereby provided is abolished from the day of the coming into operation of this Act. 30
5. Section nineteen of the said Act is hereby repealed, and the following substituted in lieu thereof:—
- With respect to any lands comprised in or forming part of any Native reserves within his district, of the first second or third class above enumerated, and in respect of which no trust shall have been created inconsistent with the exercise of these present powers, it shall be lawful for any Commissioner,— 35
- (1.) To sell or exchange any such lands, or any portion thereof; but no sale or exchange of any such lands shall be made without the previous assent of the Governor in Council indorsed upon the deed or instrument under which any such sale or exchange shall be effectuated. 40
- (2.) To lease any such lands, or any portion thereof, for any term not exceeding twenty-one years in possession, and not in reversion, at such rent and subject to such covenants and provisions as shall seem fair and equitable. 45
- (3.) To lease any such lands, or any portion thereof, for building purposes, for any term not exceeding sixty years, on such terms and subject to such conditions as the Governor in Council shall from time to time prescribe. 50
6. With respect to any lands comprised in or forming part of any Native reserve within his district, of the fourth or fifth class above enumerated, it shall be lawful for any Commissioner, with the consent of the Natives beneficially interested therein, to lease such lands or any portion thereof, for the term of twenty-one years, or for building purposes for the term of not exceeding sixty years, in the manner and subject as in the foregoing section is prescribed. 55
- Board of Direction abolished.
- As to reserves of the first three classes.
- Power to sell and exchange.
- Power to lease for 21 years.
- For building, 60 years.
- As to reserves of the fourth and fifth classes.
- Consent of Natives to be obtained.

7. Sections thirty-five to thirty-nine inclusive of the said Act are hereby repealed, and the following substituted in lieu thereof:—

5 The Native title over any land comprised in or forming part of any Native reserve, as the same are defined in subsection five of section *three* of this Act, shall henceforth be extinguished only by process of the Native Land Court; and also the assent of the Natives to bring any such land under the provisions of "The Native Reserves Act, 1873," as amended by this Act, shall be ascertained in future by similar process only; and in any such process the provisions of "The
10 Native Land Act, 1873," shall apply in every particular.

Native title to be extinguished only by Native Land Court.

8. In any case where any Commissioner shall find that the Native title over the land comprised in any Native reserve has not been extinguished, and that it would be advantageous for the manage-
15 ment thereof that the Native title over the same should be extinguished, it shall be lawful for such Commissioner, with the consent of the Natives beneficially interested therein, to make application to the Native Land Court for that purpose.

Commissioner may apply to extinguish Native title.

9. The Native Land Court shall hear and determine any such application, as if the same had been made by the Native owners of the
20 land, and shall ascertain in manner it shall think fit the names of all the owners of the land comprised in the application, the proportionate undivided share of each such owner therein; and the assent or dissent of the said owners to such land being dealt with in the manner proposed.

Procedure by the Court.

10. If the Court shall be satisfied with the inquiry made it shall
25 make a memorial of ownership of the land in manner provided by the forty-seventh section of "The Native Land Act, 1873," and also may make an order extinguishing the Native title and declaring that the land comprised in the application, or so much thereof as the Court shall think fit, shall be held by the Commissioner as a Native reserve
30 within the meaning of the said Acts, and subject to the provisions of such Acts.

Extinguishing Native title.

11. Upon any application as aforesaid for the extinguishment of the Native title over any land, either the Commissioner or the Native
35 owners of the land may make a suggestion to the Court of the particulars, trusts, or purposes upon or for which it may be proposed that the land shall be held for the future. And thereupon, if the Court shall be satisfied that the owners all concur in the suggestion, and that such intended trusts or purposes are likely to be beneficial to such owners, the said Court shall make an order declaring that the land
40 shall be held in future upon or for such trusts or purposes accordingly.

Bringing land under Act.

The land described in any such order shall, from the date of such order, vest in the Commissioner in whose favour the order is made and his successors in office, upon such trusts or for such purposes as
45 such Commissioner upon the said trusts only.

Trusts may be declared.

Every order that shall be made by the Court under the provisions of this and the foregoing section shall forthwith, after the expiration of the time allowed for an application for the rehearing of any case, be published in the *New Zealand Gazette* and also in the *Kahiti*.

Orders to be published in *Gazette* and *Kahiti*.

12. Sections forty-five and forty-six of the said Act are hereby repealed, and the following substituted in lieu thereof:—

55 The Native owners of any land in respect of which the Native title has not been extinguished may apply to the Native Land Court for the purpose of transferring all their estate and interest in such land to the Commissioner of the district wherein the land is situated, upon such particular trusts and purposes as they shall declare to the said
Court.

Native owners may transfer lands to Commissioner as reserves.

60 The Court shall hear and determine such application, and make such order therein as provided in the foregoing sections relative to the extinguishment of the Native title upon the application of a Commissioner.

If beneficiaries not known.

13. Wherever doubts shall arise as to the persons who may claim to be beneficially interested in any portion of the land comprised within any Native reserve, the Commissioner for the district wherein any such reserve shall be situated shall make application to the Native Land Court for the purpose of ascertaining the names of all persons who shall be judged by such Court to be beneficially interested therein. And the Court shall hear any such application and determine the same according to such evidence and in such manner as it shall think best, and shall make such order therein as to it shall seem fitting. 5

Default of beneficiaries.

14. In case there shall at any time be no person of the Native race entitled to the benefit of the proceeds accruing out of any Native reserve, the Commissioner shall hold such reserve and the proceeds thereof upon trust for the general purposes of this Act, with and subject to all the trusts, powers, and provisions herein contained. 10

Amendments in Act of 1873.

15. "The Native Reserves Act, 1873," is hereby further amended as follows:— 15

Special regulations for granting leases.

(1.) Section twenty-four. The following words shall be added to the section:—

"In addition to the power thereby granted to make 'general regulations,' it shall be lawful for the Governor in Council, in any exceptional cases, to make special regulations under which leases under the said Acts shall be made. And the Governor in Council may from time to time alter, vary, or rescind any of such general or special regulations." 20 25

(2.) Section twenty-five, subsection (a), line 3. The words "equitable rent" shall be substituted for the words "adequate rent." Subsection (e). The words "with such consent as is required by section seven" shall be omitted.

(3.) Section forty-one, line 3. After the words "or any of them generally," there shall be inserted "and the Native title over such lands shall have been extinguished"; line 4, the words "District Board of Direction" shall be omitted, and the following substituted:—"Native Reserves Commissioner of the district, acting with the consent of the Natives beneficially interested therein." 30 35

(4.) Section forty-two, line 1. After the words "where any lands," there shall be inserted "the Native title over which shall not have been extinguished"; line 7, the words "in manner provided by 'The Native Reserves Amendment Act, 1877,'" shall be substituted for the words "in manner herein provided." 40

(5.) Sections forty-eight, forty-nine, fifty-two, sixty-two, and Schedule C are hereby repealed.

Reserves of Crown or waste lands may be granted.

16. It shall be lawful for the Governor, with the advice of his Executive Council, at any time in the name and on behalf of Her Majesty, to issue a Crown grant to the Commissioner of any district established under the provisions of the said Act, and his successors of any demesne lands or waste lands of the Crown within such districts that may at any time have been or be set apart for Native purposes. 45 50

Commissioner to hold lands on trusts.

17. Every Commissioner to whom any such lands shall be granted, and his successors in office, shall hold the said lands upon and for the particular trusts and purposes upon or for which the same were respectively reserved, guaranteed, set apart, or appropriated; or upon and for such of the said trusts or purposes as at the time of his tenure of office are subsisting or capable of taking effect; and failing these, then upon and for the general purposes of the said Acts. 55

Lands excluded from operation of Act.

18. "The Native Reserves Act, 1873," and this Act shall not in any way apply to—

(1.) Lands formerly reserved for Native purposes, but now held under Crown grant, subject to restrictions. 60

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- (2.) Awards of the Native Land Court, or lands reserved in furtherance of or in augmentation of any such award.
 - (3.) Reserves made for the location of Natives, and set apart for that purpose out of any confiscated lands, as the same are defined in "The Waste Lands Administration Act, 1876."
 - (4.) Reserves made by the Governor for Native purposes under the provisions of any Native Land Act.
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