

Intestate Native Succession Act 1876

Public Act 1876 No 68
Date of assent 31 October 1876

Contents

	Page
Title	1
Preamble.	
1 Short Title.	2
2 Definition of the term “persons of the Native race.”	2
3 Provisions of Native Land Act to apply to all Native grantees.	2
4 Succession to personalty of Natives.	3
5 Certificate of Judge to entitle to administration.	3
6 Decision recorded in Court whence administration issues.	3
7 Supreme Court may refer interests of Native grantees to Native Land Court.	4
8 Procedure thereon by Native Land Court.	4

An Act to extend the Jurisdiction of the Native Land Court to cases of Intestate Native Grantees, and for other purposes in relation to the Interests of Intestate Natives.

Preamble.

WHEREAS it is expedient that provision should be made for determining the succession to lands and hereditaments not held under the provisions of the Native Land Acts, and which have been granted to persons of the Native race as hereinafter mentioned: And whereas it may be necessary in certain cases to ascertain the persons to whom, according to Maori custom or usage, the personal property of any intestate Native ought to descend:

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title.

The Short Title of this Act shall be “The Intestate Native Succession Act, 1876.”

2 Definition of the term “persons of the Native race.”

The term “persons of the Native race” shall in this Act include half-castes and their descendants by Natives.

3 Provisions of Native Land Act to apply to all Native grantees.

In case any person of the Native race has died or shall die without having made a valid disposal by will or settlement of land (not being land held under a title derived through the Native Land Court), of or to which he was seised or entitled in any of the cases hereinafter mentioned, namely,—

- (1.) Where any person was seised, either solely or with any other person or persons, for an estate in fee-simple in possession under title derived from the Crown, or of any land which has been granted to him, either solely or together with any other person or persons, by the Crown, or which shall hereafter be so granted to him;
- (2.) Or to which, at the time of his death, he was or shall be entitled at law or in equity, for any estate or interest whatsoever, and howsoever acquired or arising;
- (3.) Or under any contract engagement or promise made by or on behalf of Her Majesty or the Government of the colony, or under any order or award made by any Court of compensation or arbitration, or by any Agents of the Crown, or Commissioners appointed by the Governor or by the Governor in Council;
- (4.) Or under any certificate of title which shall have been issued, or shall hereafter be issued, under the provisions of the fourth section of “The East Coast Act, 1868,”— the Native Land Court shall have jurisdiction, and may upon the application of any person claiming to be interested in such land inquire into the matter, and ascertain, by such’ evidence as it shall think fit, who, according to the Native custom, ought to succeed to the estate and interest of such deceased person, in the same manner as if the title of the said deceased person had been obtained through the Native Land Court constituted and acting under the provisions of any Native Land Act at any time being in force in the colony.

The Court, by order under its seal, shall declare the names of the persons, defining the proportionate share of each such person, who in the judgment of the Court ought to succeed to the interest of the person deceased; and the persons named in such order, in their respective proportionate shares, shall be deemed to be and to have been from a date to be fixed by the order, as hereinafter provided, the legal representatives of the person deceased in the

same manner in every way as if they had been the absolute devisees of the deceased person under his will.

In any order made under this enactment the Court shall have full power and authority to declare at what date subsequent to the death of the original grantee the persons declared entitled to any estate or interest under such order shall be deemed to have succeeded to the person deceased.

4 Succession to personalty of Natives.

Where any person of the Native race has died intestate possessed of personal estate within New Zealand, any person or persons claiming to be interested or entitled to such personal estate may apply to a Judge of the Native Land Court for a certificate setting forth what person or persons ought, according to Native custom, or most nearly in accordance with Native custom, to succeed to such personal estate; and to whom, in his opinion, administration of the estate and effects of such deceased person could best be committed.

Determined by Native Land Court Judge.

For the purpose of giving effect to this provision, the Judge to whom any application shall be made shall have and may exercise all the powers and authorities which he would have under the fifty-seventh section of "The Native Lands Act, 1873," and may, after inquiry, grant a certificate, to be signed by him, and issued under the seal of the Court.

5 Certificate of Judge to entitle to administration.

Every such certificate shall be sufficient authority to the Court having jurisdiction to grant letters of administration in ordinary cases, to grant such letters, whether with or without a will annexed, or in any other manner, and the person or persons named in any such certificate shall, upon complying with any rules of practice for the time being in force, be entitled to a grant of letters of administration accordingly, any rule law or statute to the contrary notwithstanding.

6 Decision recorded in Court whence administration issues.

The certificate granted by the Judge under this enactment, or a duplicate thereof, shall, upon grant of letters of administration, be filed in the Court by which the same are granted.

Except as by this Act specially provided, all laws and rules relating to the grant and issue of letters of administration, and to stamp and other duties imposed upon the grant of administration of the estates of persons deceased, shall be applicable to administrations granted under this Act.

7 Supreme Court may refer interests of Native grantees to Native Land Court.

Whenever in any action in the Supreme Court, whether already commenced or hereafter to be commenced, any question of fact or of Maori custom or usage relating to any land held under Crown grant, howsoever issued, shall arise, and shall for the purposes of such action require to be ascertained and determined, the said Court, or a Judge thereof, shall have the like power and authority to refer such question of fact custom or usage for hearing and determining by the Native Land Court as the said Court or Judge has under the provisions of “The Native Rights Act, 1865,” in respect to Native land.

8 Procedure thereon by Native Land Court.

When any such reference as in the last foregoing section mentioned is made to it, the Native Land Court shall forthwith proceed to ascertain and determine the matter of the said reference, and to certify its determination thereon to the Supreme Court in the manner provided by sections one hundred and one and one hundred and two of “The Native Land Act, 1873,” in respect to similar references relating to Native land.