

# **Te Pire mō Te Ture Whenua Māori**

Pire Kāwanatanga

E ai ki te pūrongo a te Komiti Whiriwhiri Take Māori

## **Ngā takinga kōrero**

### **Tūtohutanga**

Kua tiroirohia e te Komiti Whiriwhiri Take Māori te Pire mō Te Ture Whenua Māori, ā, ko tana tūtohu kia whakaaetia me ngā menemana e whakaaturia ana.

### **Kōrero whakataki**

Ko tā tēnei pire he whakakore me te whakakapi i te ture onāiane i e pā ana ki te whenua Māori, Te Ture Whenua Māori 1993.

E whakatakoto ana tēnei pire i te aronga hou e āhe i ake ai ngā ariki whenua Māori ki te whakamahi i ō rātou ake whenua mā te whakamana i a rātou ki te tuku whakatau mō rātou anō, e tautokona hoki e tētahi ratonga whenua Māori e aro ana ki ngā ariki whenua. Me te aha, he pupuri me te whakakaha i ngā whakamarutanga onāiane mō te pupuri i te whenua Māori hei painga mō ngā whakatipuranga o muri mai (he taonga tuku iho) nā runga i tō rātou whakapapa.

Kei roto tonu i te Ture onāiane ngā whakaritenga nō ngā tau neke atu i te 100 tau, ki te Native Land Act 1909. E kapi ana i ēnei whakaritenga ngā take pēnei i te rūri me te rīhi. I tua atu i te whakatikatika i te pou tarāwaho ā-ture, ā-whakahaere hoki e pā ana ki te whenua Māori, ka whakamōhou katoa te pire me te whakahou i te āhua tuhituhi me te āhua o te ture.

### **Ngā mātāpono matua**

Ko tētahi o ngā mātāpono matua o te pire ko te tikanga Māori hei tūāpapa i roto i ngā whakatau mō te whenua Māori. E whakaae ana te komiti ki ngā tohutohu mō te whakauru mai i ngā tikanga, arā ka whakahau kē tēnā i te āhua o ngā uara me ngā mātāpono e pā ana ki te whenua Māori. E whakapono ana mātou he pai ake kia waiho ēnei mā ngā whānau, hapū, iwi hoki e whakarite. Hei taurira, i raro i te pire, mā te tikanga

Māori e whakatau nō wai ake te whenua Māori, ngā hononga tuku iho, me te whakarite i tētahi tauira whakatau wenewene.

Kei roto i te whiti 3 o te pire ngā mātāpono matua katoa ka tūāpapa i te pou tarāwaho ture hou mō te whenua Māori. Kei te tautoko mātou i ēnei mātāpono, ka mutu kāore i te whakahuahia anō i konei.

## Whakamārama

He tino whānui ngā whitiwhiti kōrero i roto i ngā mahi waihanga i tēnei pire, tae atu ki te whakaatu whānui i tētahi tauira kia pai ai te tuku tāpae kōrero mai, ā, he mea rerekē tēnei. I whakaaroarohia ngā kōrero o ngā tāpaetanga kōrero, me ngā pūrongo maha, ngā whitiwhiti kōrero, me ngā hui, ā, ko te putanga o te pire i tukuna ki te Whare i ahu mai i ngā tauira 16 i roto i te 30 marama. I whakahētia te tukanga whitiwhiti kōrero e ētahi kaitāpae kōrero i runga i tō rātou whakapono kāore i tino whai wā ki te whakaaroaro i ngā huringa e marohitia ana, ā, me ngā pānga o ēnei ki ngā ariki o ngā whenua Māori.

I ahu mai te pire i tētahi arotake ā-mātāpono tuatahi o te ture onāiane e tētahi rōpū arotake motuhake i te tau 2012. I whakatūhia te rōpū nā ngā tono i ngā tau i muri mai i te 1990 kia whakahoutia te Ture 1993. I rongo mātou i te wā o te tukanga tāpaetanga kōrero i whakahauhia te rōpū ki te arotake i te Ture, engari ko tāna tūtohu kē he ture hou tērā e hiahiatia ana. E ai ki tā te rōpū i tana pūrongo whakamutunga,

Ko te āhua o te Ture Whenua Māori, ko tōna aronga matua ko te Kōti Whenua Māori me tōna mana, kāore e tino ū pai ki tētahi pou tarāwaho hou e aro kē ki te tiaki i te whenua Māori me te whakamana i ngā ariki o ngā whenua Māori me tā rātou tuku whakatau.

Ahakoia ka mau tonu i te pire te Kōti Whenua Māori, ka whakarerekēhia te āhua o tōna mana, me te whakawhiti i ētahi o āna mahi ki te Ratonga Whenua Māori hou. I roto i te Ture 1993 ko te kōti te aronga nui, e marohi kē ana ngā whakahoutanga i tēnei pire kia whakawhitia te aronga ā-ture ki te whenua ake me ngā tika, mana hoki o ngā ariki whenua. E whakapono ana ētahi o mātou ka whakaputaina e te whānuitanga o ngā rerekētanga he rītaha ki te whakamahinga o te whenua, ā, ko te mutunga atu pea he tupe i ngā pānga o ngā ariki whenua.

## Te rahinga me te hanganga o te ture

E whakaae ana mātou ki te maha o ngā kaitāpae kōrero e kī ana rātou he nui rawa, he matatini rawa, ā, ka uaua te whai mārama. E 6 ōna Wāhanga, 12 ōna Pukapuka Āpiti.

E whai ana te pire ki te whakatakoto i te ture mō te whenua Māori, me te whakamana i ngā ariki whenua Māori, me ētahi atu e whai pānga ana ki te ture.

Kia mārama ake, kia māmā ake ai te whakamahi a ngā ariki whenua Māori i ngā whakaritenga hou, he mea waiwai tētahi wā whakaratarata. E kōrerohia ana ā muri ake, me āta whakamārama ngā whakaritenga hou ki ngā kaiwhakamahi i mua i te whakamanatanga o te ture hou.

**Ka puta i te pire e toru ngā Ture hou**

Ko te koronga kia wehea te pire ki ngā wāhanga ture e toru i mua i te whakamanatanga, e whakaata ana i ngā wāhanga matua o ngā rerekētanga.

- Ko te pou tarāwaho ture whānui mō te whenua Māori, kei roto i Ngā Wāhanga 1–9 me Ngā Pukapuka Āpiti 1–4 o te pire, ka noho ko Te Ture Whenua Māori.
- Ko ngā whakaritenga ā-whakahaere me ngā whakaritenga whakahaerenga ā-ture mō te Kōti Whenua Māori me te Kōti Pira Māori, kei Ngā Wāhanga 10–15 me Ngā Pukapuka Āpiti 5–7 o tēnei pire, ka noho ko Te Ture Kōti Whenua Māori.
- Ko ngā rerekētanga o muri mai me ētahi atu ki te ture, kei te Wāhanga 16 me Ngā Pukapuka Āpiti 8–12 o tēnei pire, ka noho Te Ture Whenua Māori (Ngā Whakakorenga me Ngā Menemana).

He aronga tika tēnei ki a mātou. Ka noho wehe ngā Ture matua e rua—e whakarite ana i te ture e pā ana ki ngā whenua Māori, me ngā whakaritenga kōti—me te ārai kia kaua ēnei e pokea e ngā rerekētanga o muri mai ki ētahi atu ture. Ki ō mātou whakaaro he tika kia noho ngā whakaritenga ā-kōti ki tētahi Ture motuhake mai i te ture e pā ana ki te whenua Māori, i te mea ka ahu mai te mana o te Kōti Whenua Māori i ētahi atu ture maha.

**Te kaupapa whakahou whānui ake**

Nō tētahi kaupapa whānui ake te pire o ngā mahi whakahou i ngā whakaritenga onāiane mō te whenua Māori. He whakatakoto mai i te kaupapa mō ngā whakaritenga hou kei te waihanga tonutia. Heoi, kāore mātou, me ngā kaitāpae kōrero, i te tino mōhio ka pēhea ake te aromātai i te mahi a te kaupapa hou, nō reira he pērā anō ō mātou whakaaro mō te whakatau i ō mātou whakaaro mō te pire.

**Te Ratonga Whenua Māori**

Ina koa, ka whakarato te pire i ngā mahinga maha ka whakahaerehia e te Ratonga Whenua Māori hou. Ka riro mā tēnei ratonga, e waihanga tonutia ana, ētahi o ngā mahi e kawea ana e te Kōti Whenua Māori. Ka whakarato tēnei whakahaere hou i ngā ratonga tino hira mā ngā ariki whenua Māori, tae atu ki te:

- tautoko i ngā ariki o ngā whenua ki te tuku whakatau, te whakatū whakaritenga whakahaere, me ngā whakaritenga tauatanga
- whakahaere i te ratonga whakatau wenewene ka whakaratohia i raro i te ture
- pupuri i ngā pūranga kōrero o ngā ariki whenua Māori, me te whakarato i ngā ratonga mōhiohio hāngai, rēhita hoki
- āwhina ki te hāpai i te whakamahitanga o ngā whenua Māori.

**Ngā mahi hāngai kia pai ake te whakamahi i ngā whenua Māori**

Kei te kimi huarahi i tēnei wā ki te turaki i ngā tauārai maha kei mua i te aroaro o ngā ariki whenua Māori, kia pai ake tā rātou whakamahi i ō rātou whenua.

Kei roto i ēnei mahi ngātahi ko te rapu rongoā mō ngā whenua mauraka me ngā rori pepa; hei whakapai ake i ngā pānga o te Public Works Act 1981 ki te whenua korehere Māori; me te whakapai haere anō i te Local Government (Rating) Act 2002 kia ōrite ai te āhua o te wāriu me te whakahau utu reiti ki te whenua korehere Māori. He maha ngā tari kāwanatanga kei roto i ēnei mahi, tae atu ki Te Puni Kōkiri, Te Tāhū o Te Ture, me Toitū te Whenua. Kua whakamōhiohia atu te komiti kāore anō kia whakatauhia he rā hei whakaoti i ēnei mahi haere ngātahi.

### **He pēhea te hāngai o te pire ki te kaupapa whānui**

Ko tētahi uauatanga i pā mai ki ā mātou mahi tiro tiro i te pire, ko ngā āhuatanga hāngai o te kaupapa whakahou e mahia haere tonutia ana, nō reira kāore anō kia wātea mai ngā mōhiohio āmiki. I whakapau wā mātou i roto i ā mātou kōrerorero mō te pire ki te uiui i ngā āpiha ka pēhea te mahi a te Ratonga Whenua Māori, āhea ka whakatūhia, he aha tōna hanganga me te āhua o te whai kaimahi, ā, he pēhea te rawaka o te whai pūtea.

I tukuna mai ngā whakamārama whaitake, ā, ka tāpirihia mai ēnā me tēnei pūrongo. Ko te ngako, i whakamāramahia mai ki a mātou:

- e whakatakoto ana te pire i ngā āhuatanga taketake o ngā mahi a te Ratonga Whenua Māori (pēnei i ngā ratonga ki ngā ariki whenua, me te āwhina ki te whakatau wenewene)
- me anga whakamua te pire i te tuatahi, kia taea ā-ture te whakatū te whaka-haere hou
- kua tīmata kē ngā mahi hoahoa taketake mō te Ratonga Whenua Māori, he nui ngā whitiwhiti kōrero mō tēnei me ngā ariki whenua puta noa i te motu mō ngā ratonga e hiahia ana rātou
- ko tētahi tohu nui ko ngā whakatau mō te mahere pakihī mō te ratonga hou hei te Paengawhāwhā 2017; e whakapono ana mātou ko ngā pūtea kua tukuna kētia mō ngā mahi hoahoa taketake e tohu ana i te pūmau o te Kāwanatanga ki te tuku pūtea ā tōna wā, ā, kei te mōhio hoki mātou kāore anō kia whakatauhia te pūtea haere tonu hei whakatinana
- nā te wā mō te pire he tino roa mai i te wā ka whakamanahia hei ture ki te rā tīmatanga whakamutunga o te 1 Whiringa-ā-nuku 2018; ka taea ngā āhuatanga tino hira o te Ratonga Whenua Māori te whakatū me te mahi hei te whakamanatanga o te Ture. E mōhio ana ētahi o mātou me rawaka te whai pūtea kia taea tika ai te whakatinana.
- ka whakaurua haerehia i muri mai i roto i te rima tau ngā whakarākeitanga ki te ratonga, otirā ērā wāhanga e pā ana ki te ao rorohiko; ko te whāinga kia pakari te tauira, kia hāngai ki ngā hiahia o ngā reanga o āpōpō
- kāore i te tino mārama i tēnei wā kei hea te ratonga e pā ana ki ngā tari onāiane, ka ahu mai rānei ana kaimahi i hea; ahakoa me whiwhi te ratonga i ngā mōhioatanga ā-whakahaere onāiane, mōhioatanga whakapapa hoki, me neke hoki te wairua whakahaere ki te rapu rongoā whātahitanga kē mō ngā ariki

whenua. Kei te mōhio mātou ka tūpono raruraru te whakatūtanga o te Ratonga Whenua Māori i te whakahounga o te hanganga o Te Tāhū o Te Ture nā te ngaro o nga mōhiotanga ā-whakahaere.

Ko te tūmanako kia tino mārama ake te “papatohu” mō te wā me ngā whakaritenga mō te ratonga. Engari, kei te mārama mātou ki te take kāore e tukuna mai kia tutuki rā anō te pou tarāwaho ā-ture i roto i te pire, ā, kia tutuki hoki i te Kāwanatanga ētahi atu whakataunga.

He maha anō ā mātou pātai he aha ngā mahi e whāia ana kia taea e ngā ariki o ngā whenua Māori te turaki ngā tauārai onāiane, ā, āhea nei ka kitea ngā rongoā. I kīia mai mātou nā ētahi whakaritenga o te pire ka māmā ake ai ki ngā ariki whenua te whakatau kaupapa mō te whakamahi i ō rātou whenua, ā, kei te haere tonu ēnei mahi “whakaahei”. Engari, i kōrerohia mai anō mātou tērā ētahi take he roa ake te wā ki te whakarite, pēnei i ngā whenua mauraka me ngā rori pepa.

### **Tā mātou whakaaroaro i te pire me ngā tāpaetanga kōrero**

Kua pānuitia, kua āta whakaaroarohia e mātou ngā tāpaetanga kōrero a ngā rōpū, hunga hoki neke atu i te 150 mō te pire, ā, i rongo mātou i ngā tāpaetanga kōrero 47 mai i a rātou i hiahia ki te tuku ā-waha mai i ō rātou whakaaro. E 15 rātou i tautoko i te pire, e 39 i whakahē, ā, e 98 kāore i tautoko, kāore i whakahē rānei i te pire. Ko te whakapono o ētahi o mātou ehara ēnei tatauranga i te tino hāngai pū ki te hōhonutanga o ngā māharahara, nā te kiato o te pire, ā, tērā pea ka whakaatu i te korenga o te tino uru mai ki ngā tukanga whitiwhiti kōrero ōkawa.

He nui anō te wā i pau ki te uiui i ngā āpiha kia mārama pai ake ai ka pēhea ake te whakatinana i ngā āhuatanga rerekē o ngā whakaritenga hou. Nā tēnei i āhua tau mātou, engari me hora anō ngā mōhiohia kia pērā anō te tau o ngā kaiwhakamahi i te ture ā muri ake.

### **He mea waiwai tētahi aratohu kaiwhakamahi**

He mea taketake ki a mātou kia whakaratohia ngā mōhiohia me te tohutohu mō te ture hou me te pou tarāwaho ā-whakahaere ki te whakaaetia te pire, kia mōhio ai, kia tau ai te iwi hei te wā ka whakamanatia ai.

He maha ngā kaitāpae kōrero i whakaputa i ō rātou anipā mō ngā whakahounga e marohitia ana. Te āhua nei ko te maha o ō rātou māharahara i ahu mai i te kore mōhio ki te āhua o te whakatinana i te kaupapa hou nei. Kāore e kore nā ngā take e pā ana ki te raruraru ā-wā kua kōrerohia ngā māharahara—arā, i te mea kei te kōkirihia te pire i roto i te Whare i te wā tonu kei te mahia tonutia ngā āhuatanga matua o te kaupapa whakahou: otirā, te waihanga me te whakatū i te Ratonga Whenua Māori.

Nā tēnei he mea nui ki ō mātou whakaaro kia roa tonu te whakauru haere mai i te pire, kia 18 marama mai i te whakaaetanga Roera me te tīmatatanga. Ki tā mātou ti-tiro, he wā tino hira tēnei ki te āta whakamōhio i te iwi mō te ture hou, ā, kia rata hoki rātou ki te whakamahi i ngā kaupapa me ngā ratonga hou.

E tūtohu ana mātou me tino whakapau kaha ki te whakarato mōhiohio i roto i te wā tika me ārahi hoki i ērā ka whai pānga ki te ture. E taunaki ana mātou kia whakaritea mai he aratohu kaiwhakamahi ki te pou tarāwaho ture me te Ratonga Whenua Māori hou, me te whakapau kaha hoki ki te whakaputa whānui i ngā mōhiohio whaitake mō te kaupapa hou. Me āta whakarite kia tukuna ngā mōhiohio kia tino mārama ai tōna āhua, tae atu ki whai hoahoa me ngā pikitia whakamārama.

### **Ngā menemana kua tūtohutia**

He maha ngā rerekētanga ki te pire e tūtohutia ana e mātou nā runga i ngā urupare ki ngā take i whakaaraha mai e ngā kaitāpae kōrero, me ā mātou ake mahi tirotiro. E whakapono ana mātou ka hāngai ake ēnei rerekētanga ki ngā mātāpono matua e tūāpapa ana i te pire, ka whakapai ake i tana whakamahitanga, me te whakakore i ngā mutunga iho tē hiahiatia.

Ko te roanga atu o ngā kōrero nei he matapaki i ngā menemana matua ka tūtohutia e mātou ki te pire i whakaurua mai. Kāore mātou i te matapaki i ngā menemana iti, menamena tukanga rānei.

## **Wāhanga 1—Ngā Whakaritenga Whakataki**

### **Whakamāramatanga**

E whakamārama ana te whiti 5 i ngā kupu rerekē e whakamahia whānuitia ana i roto i te pire. Kia mōhio mai, kāore i te whakamāramahia he aha te “tikanga Māori”. E whakaae ana mātou ki tēnei whakaaro, ina ko te whakamahitanga tika o te tikanga Māori ahakoa te āhuatanga ka noho mā ngā whakaaturanga e tohu—arā, e ai ki ngā tikanga me ngā whakahaere a te whānau, hapū, iwi ake rānei—kaua mā te ture e tohu. E marohi ana mātou i ngā menemana e whai ake ki ngā whakamāramatanga.

Ko te tikanga o ngā “ariki whai wāhi mai” e ai ki te pire i whakaurua mai ko ngā ariki o ngā whenua ka whai wāhi mai ki te whakarite whakataui. E taunaki ana mātou kia whakamāramahia anō te tikanga o te kōrero “whai wāhi mai”, kia mārama ai ehara ko te hunga i pōti mō tētahi whakaaro anake, engari ko rātou anō i whai wāhi ki te tukanga whakarite whakataui, ahakoa ka noho whakakeke mai i te pōti. Tērā pea ko te tae ātinana ki tētahi hui, i runga Skype, mā tētahi atu hangarau whitiwhiti rānei.

Ko te whakamāramatanga o te kupu “whāngai” i roto i te pire (he tangata i whāngaitia i raro i ngā tikanga whāngai a te Māori) ka noho ki te tikanga a te iwi, hapū rānei e hāngai ana. I runga anō i ā mātou matapaki ā muri ake mō te horopaki o ngā whanaungatanga whakapapa (whiti 8), ka tuwhera mai pea i tēnei te āhuatanga kumukumu. E tūtohu ana mātou kia tangohia mai te kupu iwi mai i te whakamāramatanga, ā, kia riro mā te tikanga a te hapū ake, whānau ake rānei e whakataui he aha te whāngai. Ki te rangirua, ki te rerekē rānei i waenga i ēnei e rua, ki ō mātou whakaaro ko te tikanga a te whānau te mea matua.

## Te hono ki te whenua i runga i te tikanga Māori

E tūtohu ana mātou ki te whakauru i te whiti 7A kia mārama ake ai te hiahia o te pire mō te wāhanga ko wai e hono ana ki tētahi whenua. Mai i a mātou kōrerorero me ngā kaitāpae kōrero, te āhua nei ko te whakamāori pea mō ngā wāhi e pā ana ki ngā kāwai whakaheke me ngā kaipānga māraurau (hei tauira, i ngā whiti 96 me 246) me whakaū i te whakapapa o te tangata kia hāngai ia ki tētahi tupuna i whai pānga tuku iho ki te whenua i te mua o te 1840. Ehara koinei te hiahia.

E ai ki ngā mātāpono matua o te pire, me te ārai i ngā uauatanga e pā ana ki te whai i ngā whakapapa me ngā mutunga iho tē hiahiatia mai i ngā kōhikohiko o mua (pēnei i te tohatoha whenua i Mangakino i 1925 me ngā whenua i Te Papaioea, i te 1866 me te 1867, ki te hunga nō wāhi kē o te motu), e marohi ana mātou kāore e hiahiatia kia hoki ngā aromatawai hononga ki te wā i mua o te tīmatanga o te pire.

## Ngā kāwai whakaheke e ai ki te tikanga Māori

E kī ana te whiti 8 mā te tikanga Māori e whakatau ngā here whakapapa o ngā tamari-ki whāngai (ahakoa he whāngai, i raro rānei i te Adoption Act 1955). Ka riro mā te tikanga Māori e whakatau mēnā he uri rātou nō ō rātou mātua whāngai, ō rātou mātua ake, ngā mea e rua rānei. Ina whakatau ana i te tauatanga me ngā kaiwhiwhi e pai ana, kei runga ake te tikanga Māori i ngā mea katoa e taupatupatu ana i roto i te Adoption Act. He rerekētanga tēnei mai i te Ture onāiane.

Me whai whakatau Kōti Whenua Māori rawa hei tohu i tētahi hono whāngai i raro i te tikanga Māori. Kei te mōhio mātou he tukanga māmā noa iho mēnā kāore he kaiwhakahē. Ki te whakahētia te hono, ka tukuna atu te take ki te ratonga whakatau wene-wene hou. Ki te kore te take e whakatauhia i konei, ka whakahokia atu pea ki te kōti.

He maha ngā kaitāpae i tuku tautoko mō te whakamahi i te tikanga hei whakatau i ngā hononga whānau me ngā whāngai ā-ture, e kīia ana he pai ake i ngā whāngai ā-ture ki te waiho mā te kōti kē e hanga kōrero ā-ture ki te kī he hononga ā-whānau kē te hono. Engari, he maha ngā take i whakaaraha e ngā kaitāpae kōrero e whakapono ana mātou he tika tonu kia whakatikahia tēnei wāhi.

I roto i te pire e whakaurua ana, e kī ana te whiti 8 mā te tikanga o te iwi ake, hapū ake rānei e whakatau mēnā ko te hononga whāngai he hononga whakapapa. E ai ki ngā kōrero i mua ake, ki ō mātou whakaaro he tika ake mā te tikanga o te whānau ake, hapū ake rānei tēnā i te tā te iwi mō te whakatau i te tūranga whāngai, ā, e tūtohu ana kia tangohia mai te kōrero mō te iwi mai i te whiti 8(2). Ki te tūpono kāore i te ōrite, e tūtohu ana mātou kia hira ake te tikanga a te whānau i tā te hapū.

Tuarua, ki ō mātou whakaaro ka puta pea i te whiti 8(2)(a) me tohu i ngā hononga tuku iho i ia hono o te taitara. Ko tō mātou hiahia kia kua tēnei e whakaurua, ā, me te tūtohu kia whakaurua he whiti 7A hou.

Tuatoru, e tūtohu ana mātou i tētahi menemana hei whakamārama i te whiti 8(3)(c). Ehara i te mea me whai tohu ngā hononga whānautanga katoa mō tētahi here ā-tikanga. Ka hāngai pea tēnei mēnā ka kīia te hononga whānautanga e te Adoption Act he

“hononga rerekē”. I tēnei āhuatanga anake me whai whakatau kōti hei whakatau i te hononga.

## **Wāhanga 2—Whenua Māori me te whenua tāpui**

Ko te wāhanga 2 o te pire e pā ana ki ngā whakamāramatanga me te tūranga o te whenua Māori tuku iho me te whenua Māori korehere. Kei roto anō ko ngā wāhi e pā ana ki te whenua tāpui, e kōrerohia ana hoki i roto i te Ture 1993 hei whenua rāhui.

I tua atu i ētahi menemana tukanga, ko ngā rerekētanga matua e marohitia ana i tēnei wāhanga e pā ana ki te wāhi 39, mō te rōpū whakahaere i tohua mō tētahi whenua tāpui.

### **Ngā rōpū whakahaere**

E tūtohu ana mātou mō tētahi poari whakahaere me whai wāhi kia whā ngā mema i te iti rawa, kua kia toru e ai ki te pire kei te whakaurua. E whakarite ana tēnei kia kaua e riro mā tētahi kōrama o te tokorua anake e tuku whakatau, mā te tangata kotahi anake rānei.

E tūtohu ana mātou kia whakaurua he whiti hou 39A kia whai mana ai te kōti ki te tuku whakatau e here ana i te rōpū whakahaere o tētahi whenua tāpui. He whirinakitanga tēnei mō te tūpono pā mai o ngā mahi nanakia, hēhē, whānako rānei, he rōpū whakahaere rānei kāore i te ū ki te kaupapa ake o te whenua tāpui, kei te takahi rānei i ngā whakaritenga, tikanga whakatiki rānei.

### **Wāhangaiti 3—Kawenata tiaki whenua**

E tūtohu ana mātou kia nekehia ngā wāhi e pā ana ki te kawenata tiaki whenua ki te Wāhanga 2 mai i te Wāhanga 4 o te pire e whakaurua ana, i te mea he ōrite te āhua ki te whenua tāpui. Ka noho ēnei hei whiti hou 44A ki te 44C.

## **Wāhanga 3—Ngā pānga rangatiratanga i roto te whenua Māori korehere**

### **Te tuku whakatau a ngā ariki o ngā whenua Māori korehere**

Ko ngā whiti 51 ki te 57, me te Pukapuka Āpiti 2, ka whakarārangi mai i ngā tukanga me ngā taumata whakaaetanga e herea ana ngā whakatau ki ngā ariki katoa o ngā whenua Māori korehere. Ko ngā whakatau hira rawa me noho ērā mā tētahi ōwehenga ka whakatauhia o ngā ariki whenua katoa. Ko ētahi atu whakatau, kāore e whai pānga ki te rironga o te whenua, ka taea te whakatau e tētahi ōwehenga ka whakatauhia o ngā ariki whenua ka whai wāhi ki te tuku i te whakatau. E kī ana te pire he “ariki whenua whai wāhi mai”rātou.

E whakarārangi ana te whiti 51 i ngā taumata rerekē o te whai wāhi mai e hiahiatia ana mō ngā whakatau rerekē a ngā ariki whenua whai wāhi mai. He tuku hoki i tētahi tukanga tuku whakatau tuarua ki te kore e eke ngā taumata whai wāhi mai e hiahiatia ana. (E marohi ana mātou kia huria tēnei tikanga huarahi tuarua, ā, mō muri nei ka whakamāramahia ai.)



I rongō mātou i ngā tāpaetanga kōrero rerekē mō ngā whakaritenga tuku whakatau e marohitia ana. He maha ngā kaitāpae kōrero i tautoko i te tikanga e pā ana ki ngā ariki whenua whai wāhi mai, he pai ake tēnei ki a rātou i te paearu tuakiri kei roto i te Ture onāiane. I kī rātou ka whakaritea ngā uauatanga mō te whai kōrama i ngā hui, ā, ka māmā ake ki ngā ariki whenua i te tuku whakatau mō ō rātou whenua. I kōrero ngā kaitāpae kōrero rerekē mō ngā pae o ngā taumata: i kī ētahi he teitei rawa, ā, ki ētahi atu he pāpaku rawa.

Kāore mātou i te whakatakoto whakaaro ki ngā taumata whai wāhi. Ki ō mātou whakaaro kei te pai noa ina tāpiri atu ki te tikanga huarahi tuarua (ki te taha o tā mātou menemana marohi) me ngā wāhi e āhei ana ngā ariki whenua—me ngā ariki whenua matangaro—kia whai wāhi ki ngā tuku whakatau mā te pepa whakakapi, waea, tika-nga mamati rānei. Ko te mea tika pea, ka māmā ake pea i te pire te tuku whakatau me te whakamaru hoki i ngā pānga o ngā ariki whenua matangaro.

Engari, e whakaae ana mātou ki ngā kaitāpae kōrero ko ngā whiti e pā ana ki te tuku whakatau he uaua, he whakarare, ā, nō reira me mārama ake. E marohitia ana ngā huinga e whai ake.

### **Ngā taumata whai wāhi mai mō ngā whakatau**

Mō te whakarite i te pire kia mārama ake ai te āhua, e tūtohu ana mātou kia whakangāwaritia te whiti 51 mā te neke i ētahi o ngā wāhi ki ngā whiti hou 51A me te 51B. Mō ngā take tohutoro, e tūtohu anō mātou kia whakaurua he whiti 51C e whai tūtohi ana e whakarārangi ana i ngā taumata tuku whakatau.

### **Tukanga huarahi tuarua tuku whakatau**

Ka āhei i te whiti 51(8) tētahi tukanga huarahi tuarua tuku whakatau hei whai ki te kore e eke te taumata whai wāhi mai mō tētahi whakatau. Ka āhei i tēnei tukanga huarahi tuarua kia herea he whakatau a te nuinga o ngā ariki whenua i whai wāhi ki tētahi hui e whakatakotokia ana he whakatau. E tūtohu ana mātou i tētahi menemana hei whakarite i ngā māharahara mō tēnei tukanga e taea ai e tētahi rōpū ariki whenua iti te tuku whakatau whānui e whai pānga ki ngā ariki katoa o te whenua.

E tūtohu ana mātou kia menemanahia te tukanga kia kī ka taea ia whakatau i puta nā te tukanga huarahi tuarua tuku whakatau te arotake e te Kōti Whenua Māori, hei whakarite i ū ki ngā mātāpono e tūāpapa ana i te ture. Kāore e mana te whakatau kia whakaūhia rā anō e te kōti kei te ū te whakatau ki ngā Wāhanga 1 me 9, ā, i rata anō te kōti ka āwhina te whakatau i ngā ariki whenua ki te pupuri, whakahaere, noho, whakawhanake rānei i ō rātou whenua mō te painga o ngā ariki whenua onāiane me āpōpō.

### **Ngā ariki whenua i raro i te 18 tau**

Mō ngā ariki o ngā whenua Māori korehere te whiti 52 kei raro i te 18 tau, ā, kāore anō kia tohua he kaiwhakamarumarū hei whakahaere i ō rātou pānga. E kī ana kāore e taea e te tamariki te pōti mō ngā whakatau, ā, kāore e uru mai hei ariki whenua whai wāhi mai ki te tuku whakatau.

E mōhio ana mātou i takea mai tēnei whakaritenga i te ture rawa whānui, e kī ana kāore he mana kirimana tō te tamaiti. Hei ahakoa, he tino urukati tēnei wāhi, ina kāore i te arohia ngā pānga o te tamaiti ahakoa anō pea nōna te tino wāhanga nui o te whenua. E tūtohu ana mātou kia menemanahia te whiti 52(1)(b) kia taea ai he pōti mā te tamaiti e tētahi kaiwhakahaere rawa i tohua i raro i te Protection of Personal and Property Rights Act 1988 hei whakahaere i ngā rawa a te tamaiti.

### **Ngā tarahiti whānau**

Kei te wāhangaiti 2 o te Wāhanga 3 ngā wāhi mō te whakatū, te whakahaere, me te whakamoe i ngā tarahiti whānau. He tikanga momoho aua tarahiti i raro i te Ture onāiane ki ngā whānau ki te pupuri ā-tōpū me te whakahaere i ō rātou pānga whenua. E taunaki ana mātou i ētahi menemana ki te whiti 58 kia mārāma ake me pēhea te whakatū tarahiti whānau.

E tūtohu ana mātou kia whakaurua he whiti 70A kia whakaaehia e te kōti te wete mai a tētahi kaipānga i ōna pānga mai i te tarahiti i ngā āhuatanga tino rerekē. Ko te whāinga o tēnei wāhi he āwhina i ngā āhuatanga pēnei i ngā wā ka tino hē tētahi tarahiti nā te whatinga o ngā whanaungatanga i roto i te whānau (hei tauira, nā te whakarerekere ā-whare).

E tūtohu ana mātou i ngā menemana rerekē kei te whiti 71 me te whakauru i tētahi whiti 71A ki 71C hei whakangāwari i te tukanga tuku whakatau i whakaratohia, ā, me te whakarato anō kia whakaritea anō ētahi atu rawa tarahiti e ai ki ngā pānga whaihua o te whenua.

Ka whakatakoto tā mātou whiti hou 72A i ngā kawenga o te kaiwhakahaere mātāmua me te Tumu Paeroa e ai ki ngā moni tarahiti ki te tūpono whakamoea he tarahiti whānau.

### **Kaiwhakamarumarū**

Ko te wāhangaiti 3 o te Wāhanga 3 mō te kaiwhakamarumarū, he tangata i tohua e te kōti hei whakahaere i ngā rawa a tētahi tamaiti, tētahi atu ariki whenua rānei kei te hiahia whakamarutanga. E tūtohu ana mātou i ētahi rerekētanga ki ēnei wāhi hei whakapai ake i te āhua o te whakamahi. Kei roto i ēnei rerekētanga kia menemanahia te whiti 83(1) kia mārāma ai ka whakahaua ngā utu e puta ana i te kaiwhakamarumarū.

## **Wāhanga 4—Te whakawhiti whenua Māori korehere me ētahi atu whenua**

### **Te tikanga o te kaiwhiwhi pai ake me te hinonga pai ake**

Ko te Wāhanga 4 o te pire e whakarite ana i ngā whakawhitinga o ngā whenua Māori korehere.<sup>1</sup> Ka haere tonu te aronga i raro i te Ture 1992 o te whakatepe i a rātou ka whiwhi pea, ka hiahia rānei kia whiwhi, i te whenua Māori korehere, pānga whenua rānei. Engari, ka huria ētahi kupu matua (mai i te “preferred classes of alienees” ki te “preferred recipients” (kaiwhiwhi pai ake) me te “preferred entities” (hinonga pai ake). Ka piki ake anō te aronga ki te tikanga Māori mā te here i ia kaiwhiwhi

pai ake kia whai hononga ki te whenua e ai ki te tikanga Māori. Kāore e herea tēnei hononga e te Ture 1993 mō te wāhanga ki ngā tamariki me ngā uri o ngā ariki whenua, e whakaata ana i tētahi kōhikohiko tawhito i āhei ai a tauwiwi ki te whai pānga i roto i ngā whenua Māori korehere. I ngā āhuatanga maha, e ai ki te tikanga hāngai, me whai hononga whakapapa tēnei, engari ehara tēnei i te whakaritenga i raro i te pire i te mea ka utaina he herenga ā-ture ki te tikanga.

Mai i ā mātou matapaki me ngā kaitāpae kōrero, kua kite mātou nā ngā kupu o te whiti 96(1)(a) ka pōhēhē pea ētahi me hāngai te whakapapa o tētahi kaiwhiwhi pai ake ki tētahi tupuna i whai pānga tuku iho ki te whenua i mua i te 1840. Ko te kaupapa o te whakaritenga ehara ko te whakahau i te tangata kia pērā rawa te tawhito o te tātai i tōna whakapapa.

Nō reira e tūtohu ana mātou kia whakakapahia te whiti 96(1)(c) ki tētahi whakaritenga whānui ake. Ko tā mātou e marohi ana ka whakarite ko te “kaiwhiwhi pai ake” ko ngā tamariki, mokopuna, me ētahi atu uri o tētahi tangata Māori he ariki whenua i te rā i tīmata ai te ture. E whakaponono ana mātou ka pare atu tēnei i ngā mutunga iho tē hiahia ka puta i ngā kōhikohiko tuku iho, me te noho pono tonu ki ngā mātāpono matua i takea mai ai te pire.

### **Te rīhi i tētahi pīhi whenua mō ngā take whānui**

Ko te whiti 128 he kōrero mō te rīhi i tētahi pīhi whenua Māori korehere mō tētahi kaupapa i tua atu i te kāinga noho.

#### **Ngā rīhi wā poto**

Mō ngā rīhi o te 52 tau, poto ake rānei, ki ō mātou whakaaro kaore i te hāngai te taumata whakaaetanga o ngā ariki whenua (kia 75 ōrau i te iti rawa o ngā hea o ngā ariki whenua whai wāhi mai, ahakoa te wā o te rīhi) o te pire me ngā taumata piki haere e mana ana i tēnei wā i raro i te Māori Assembled Owners Regulations 1995. E tūtohu ana mātou kia menemanahia tēnei whiti hei whakatau i ngā taumata whakaaetanga piki haere o ngā ariki whenua, e ai ki te wā o te rīhi e marohitia ana, kia pai ake tana hāngai ki ngā ture. Ko te tikanga o te rerekētanga kua kore e taea e ngā ariki whenua whai wāhi te tuku te whenua ki tētahi rīhi mō tētahi wā roa ake i te 7 tau. Me whakaae tētahi ōwehenga o ngā ariki whenua katoa i ngā wā rīhi roa ake i te 7 tau. E marohi ana mātou kia kaua he rerekētanga ki ngā ture e hāngai ana ki te noho mai he poari whakahaere.

#### **Ngā rīhi wā roa**

Kāore ō mātou marohitanga ki te whakarerekē i ngā rīhi wā roa. I tēnei whiti ka āhei he poari whakahaere ki te whakaae ki ngā rīhi wā roa (ērā he roa ake i te 52 tau te roa) me te whakatau i ngā whāititanga e ai ki ō rātou hiahia, me te wā rīhi mōrahi o te

---

<sup>1</sup> He whānui te tikanga o te kupu “Whakawhiti” mō te āhuatanga ki te whenua, pēnei i te hoko, te tuku, rīhi, mōkete, āheinga, roherohe, tētahi atu whakaritenga rohenga rānei.

99 tau. Me mātua whakamana te poari whakahaere i te tuatahi ki te whakauru ki ngā rīhi wā roa e ngā ariki whenua kua whai hea neke au i te 50 ōrau i roto i te whenua. Koinei anō te taumata i raro i te Ture onāiane, engari i raro i te pire ka taea anō e ngā ariki whenua te whakarite taumata teitei ake hei whakaae mā ngā ariki whenua.

I ngā wā kāore he rōpū whakahaere, ka hāngai anō taua taumata mō te whakaae a ngā ariki whenua me te wā rīhi 99 tau te mōrahi, engari ko ngā rīhi roa ake i te 25 tau ka whai here kia whakaū rā anō te Kōti Whenua Māori kei te ū ki ngā whakaritenga o te Wāhanga 1 ki te 9.

### **Ngā rīhi-whāiti anō me ngā rīhi-whaiaro**

Hei whakangāwari i ngā āhuatanga ki ngā ariki o ngā whenua, e tūtohu ana mātou ki te menemana i te whiti 128(9)(b) kia āhei ai ngā ariki whenua ki te whakaae ki te rīhi-whāiti anō ā muri ake i te wā tonu i whakaae ki te rīhi tuatahi. E tūtohu anō mātou kia menemanahia te whiti 128(10) kia āhei ai te whakarite i tētahi rīhi-whaiaro, rīhi-whāiti anō rānei ki tētahi rōpū kē ki te eke he taumata whakaaetanga ariki whenua e hiahiatia ana mēnā ehara te rīhi tuatahi i te rīhi-whaiaro.

### **Ngā raihana, ngā motika tango rawa rānei**

Ko te whiti 132 he kōrero mō te tuku i tētahi raihana, “motika tango rawa” rānei (he tika ki te tango i tētahi mea i te whenua o tētahi kē, pēnei i ngā rākau, hua whenua, manawa whenua rānei). Ki te kore he rōpū whakahaere, me whai whakaaetanga i ngā ariki whenua e pupuri ana neke atu i te 50 ōrau o ngā hea i roto i te whenua. E tūtohu ana mātou kia menemanahia tēnei whiti hei whakatau i ngā taumata whakaaetanga piki haere o ngā ariki whenua, e ai ki te wā o te raihana e marohitia ana, te motika tango rawa rānei. Ko te tikanga o tēnei ki te kore he rōpū whakahaere ka hāngai ngā taumata ki ngā taumata hou e tūtohutia e mātou i runga ake mō ngā rīhi.

### **Wāhangaiti 3—Kawenata tiaki whenua**

E ai ki ngā kōrero i mua ake, e tūtohu ana mātou kia nekehia ngā whiti 137 ki te 139 mai i te Wāhanga 4 ki te Wāhanga 2 o te pire (hei whiti hou 44A ki te 44C). I te mea he ōrite ngā kawenata ki ngā whenua tāpui, he tika ake te hāngai o ngā whakaritenga ki taua Wāhanga.

### **Wāhanga 5—Te mana ki te mahi e pā ana ki te whenua Māori korehere**

Kua whai whakaritenga tēnei Wāhanga e whakamana ana i ētahi tāngata i tua atu i ngā ariki whenua Māori korehere ki te mahi mō ētahi kaupapa whāiti e pā ana ki te whenua. Tērā pea he rōpū poari whakahaere ēnei, he māngai rānei. E kīia ana ngā māngai i roto i te pire he kaiwhakahaere. Kei te hāngai anō te Wāhanga 6 me Ngā Pukapuka Āpiti 1, 3, me te 4 ki te taura poari whakahaere hou.

Kei te tautoko te nuinga o ngā kaitāpae kōrero i te taura poari whakahaere hou, me tōna ngāwari mō ngā whakaaetanga poari whakahaere kia hāngai ki ngā hiahia o ngā ariki whenua. He kōwhiringa hou te rangatōpū mō ngā ariki whenua hou e hiahia ana

ki te whakatū i tō rātou rōpū mō tō rātou rōpū poari whakahaere kua i te tohu i ngā rōpū pēnei i te Tumu Paeroa, Public Trust, he kamupene kaitiaki rānei. Kei te tautokona te whakaaro kia kua ngā tarahiti onāiane me ngā kaporeihana Māori e herea ki te whakawhiti ki te taurira rangatōpū hou.

### **Te tohu i tētahi rōpū poari whakahaere**

Ko te whiti 157 he kōrero mō te tohu i tētahi poari whakahaere mō tētahi pīhi whenua Māori korehere. E tūtohu ana mātou i ētahi menemana kia āhei ai ngā ariki o ngā pīhi whenua maha te whakakotahi mai i tō rātou whenua ki raro i ngā whakaritenga poari whakahaere kotahi.

E tūtohu ana mātou kia whakaurua he whiti hou 159A kia marama ai me ū tētahi poari whakahaere ki ngā herenga o tētahi ture e hāngai ana pea ki a ia.

### **Ngā take tāke**

E tūtohu ana mātou kia whakaurua he whiti hou 173A e kapi ai ngā take tāke mō ngā kaporeihana Māori me ngā tarahiti ka whakatau kia noho hei rangatōpū. Ka whakarite ēnei wāhi kia kua he pānga tāke tē hiahiatia nā te whakawhitinga o ngā rawa me ngā taunaha ki te rangatōpū.

### **Te whakakore i tētahi rōpū whakahaere i tohua**

Ka āhei ngā ariki o tētahi pīhi whenua Māori korehere i raro i te whiti 174 ki te whakakore i tētahi rōpū whakahaere i tohua mō taua whenua mēnā e 75 ōrau o ngā ariki whenua whai wāhi mai i te hui i pōti ki te whakakore.

E ai ki te whakaurunga, ka pupū ake te pōkaikaha i tēnei wāhi me te whakaiti i te mana o te rōpū whakahaere ki te mahi tika i ana mahi, i te mea ka taea e tētahi ariki whenua kotahi te tukanga te tīmata. Kei te kite raruraru mātou mō ngā whakaritenga poari whakahaere mēnā ka taea e tētahi ariki whenua kotahi te tīmata te tukanga whakakore i tētahi whakaaetanga poari whakahaere. Nō reira e tūtohu ana mātou kia menemanahia te whiti 174 kia āta kī ai ko te tukanga tuku whakatau hei whakakore i tētahi whakaaetanga poari whakahaere me whakatakoto e ngā ariki whenua 15 i te iti rawa he pānga tōpū 5 ōrau i te iti rawa tō rātou i roto i te whenua.

### **Ka taea e te kōti te arotake ētahi whakatau whāiti a ngā ariki whenua e pā ana ki ngā rōpū whakahaere**

Ka āhei te kōti i raro i te whiti 188 ki te arotake i ngā whakatau a ngā ariki whenua ki te tohu, whakakore rānei i tētahi rōpū whakahaere. Ka taea anake tētahi whakatau te whakarere i runga i te hē o te whai i te tukanga.

E tūtohu ana mātou kia menemanahia te whiti 188(2) kia riro tētahi tono arotake i tētahi whakatau mā ngā ariki whenua 15 i te iti rawa he pānga tōpū 5 ōrau i te iti rawa tō rātou i roto i te whenua e whakatakoto.

## **Ngā kawenga o te kaiwhakahaere**

E whakarato ana te pire mā te Kōti Whenua Māori e tohu tētahi tangata hei kaiwhakahaere ki te kawea i tētahi kaupapa whāiti e pā ana ki tētahi pīhi whenua Māori korehere. E ōrite ana tēnei ki te mana o te kōti ki te tohu i tētahi māngai i raro i te Ture 1993. E tūtohu ana mātou me tāpiri te kōwae 191(2)(ba) kia whai tuhinga kōrero te kaiwhakahaere o ngā mahi i kawea mā ngā ariki o te whenua.

## **Wāhanga 6—Ngā whakahaere a ngā rōpū whakahaere**

Ko te Wāhanga 6 o te pire he whakature i ngā whakahaere a ngā rōpū whakahaere. I pai ki ngā kaitāpae kōrero te āhua e uta ai ngā whakahou i ngā kawenga nui ake, mārāma ake hoki ki ngā rōpū whakahaere me ngā kaitiaki. Ko ngā mea pēnei i ngā paearu mārārau tika ake; me ngā mahi me ngā kawenga mārāma ake e ōrite ana ki ērā o ngā tumuaki kamupene me ngā kaitiaki.

Engari, i āta kōrero anō ngā kaitāpae kōrero me tino mārāma ngā rōpū whakahaere me ngā kaitiaki ki ngā kōrero me ngā pānga o te ture hou. Ka hoki atu ki te take e kōrerohia ana e mātou i mua ake mō te tino hira o te tuku mōhiohia rawaka me ngā tohutohu mō te ture hou i mua i te whakamanatanga.

## **Ngā mana, ngā mahi me ngā kawenga**

E tūtohu ana mātou kia whakaurua he kōwae hou 202(1)(aa) kia uru he whakaritenga mārō mō ngā rōpū whakahaere ki te pupuri me te whakahaere i ngā rawa mō te painga o ngā ariki o te whenua e whakahaerehia ana. Otirā, ko te whiti-iti hou 203(aa) ka whakauru i tētahi whakaritenga mārāma mō tētahi kaitiaki, rōpū whakahaere rānei kia mahi mō tētahi kaupapa tika.

Ka taea anake e tētahi rōpū whakahaere te hoko tētahi pīhi whenua mēnā i kitea e ia he whenua whakakapi e whakapauhia ai ngā hua (whiti 104(3)). E herea ana te rōpū whakahere e te whiti 207(2) ki te hoko i te whenua, te whakapai ake hoki/rānei i te whenua whakakapi. E tūtohu ana mātou i tētahi menemana kia ngāwari ake ai. E tūtohu ana mātou kia menemanahia te whiti 207(2) kia kī mēnā kāore i taea e te poari te hoko mai te whenua whakakapi whai muri i tana whakapau kaha kia pērā, ka taea e ia te whakamahi ngā moni mai i te hokotanga ki te hoko, whakapai ake hoki/rānei i ētahi atu whenua ōrite te pai.

## **Ngā tono mōhiohia**

E tūtohu ana mātou ki te menemana i te whiti 214, ngā whiti-iti (4), (6), me te (7), kia taea e tētahi rōpū whakahaere te whakahau utu tōtika ki ngā ariki whenua mō te tuku mōhiohia. Me whakamārama te āhua o te utu, ā, ka āhei te ariki whenua te tono ki te kōti mēnā ki ōna whakaaro kāore i te tika te utu.

## **Ngā mana o te Kōti Whenua Māori e pā ana ki ngā rōpū whakahaere**

E whakarārangi ana ngā whiti 216 ki te 218 he aha ngā mea ka taea e te kōti ki te kore ia e rata ki ngā mahi, he mōrea nui pea ki ngā ariki whenua i ā rātou mahi.

Me tuku tonu tētahi ōwehenga ake o ngā ariki whenua, e ai ki te whiti 216(5), ki te kōti kia whāia e te kōti. E ai ki te whakaurunga, i raro i te whiti 216(5) me whakatakoto tētahi tonu e ngā ariki whenua 15 i te iti rawa, e ngā ariki whenua rānei e pupuri tōpū ana i te 5 % o te whenua. E tūtohu ana mātou kia menemanahia tēnei whakaritenga kia riro mā tētahi tonu a ngā ariki whenua 15 e pupuri tōpū ana i te 5% o te whenua

Ko te whiti 218 e kōrero ana mō te mahi a te kōti i muri i te tuku i tētahi whakatau i raro i te whiti 216(2), te whakatewhatewha rānei i tētahi rōpū whakahaere. (Kei roto pea i aua whakatau ko te here i ngā kaitiaki, āpiha rānei o tētahi poari whakahaere ki te tāpae i tētahi pūrongo, te tuku i ngā tuinga whāiti, te tū ki mua i te kōti ki te whakautu pātai.) Engari, ko te pire e whakaurua ana kāore i te tuku rongoā whāiti ki te kore e whāia ēnei mea. E tūtohu ana mātou ki te whakauru i tētahi whiti-iti (3) kia āhei te kōti ki te tuku i tētahi whakatau hei tīmata i te tukanga whakakore i tētahi whakaaetanga poari whakahaere; te tuku whakatau here e aukati ana i tētahi rōpū whakahaere, kaitaki, ariki whenua rānei mai i te whai i tētahi mahi e takahi ana i te whakaaetanga poari whakahaere; te whakatupe rānei i tētahi kaitiaki.

### **Wāhanga 7—Te whakahaere i ngā pānga tuku iho**

E whakarārangi ana te Wāhanga 7 ko wai kei te āhei atu ki te whenua Māori korehere, tētahi pānga korehere takitahi rānei o tētahi pīhi whenua Māori korehere ina mate ana he ariki whenua me te kore tuku wira mai. He whakatakoto mai anō hoki ka pēhea te whakahaere i ngā pānga tuku iho.

### **Ngā whakatiki e pā ana ki te ture whakamaru whānau.**

Ka mau tonu i te whiti 245 ngā whakatiki onāiane i raro i te Family Protection Act 1955 mō te hunga ka āhei ki te whiwhi i ngā pānga i te whenua Māori korehere. Ki ō mātou whakaaro kua tō kē te rā o te kaupapa mō te whiti-iti 245(5), ā, kāore i te hāngai ki ngā ture onāiane e pā ana ki te mārena i waenga i te Māori me tauīwi. E tūtohu ana mātou kia whakarerekēhia tēnei whiti-iti kia whakamanahia ai ngā mārena i waenga iwi kē i mua o te tau 1952.

### **Ko te tauatanga a ngā kaipānga māraurau ina mate korewira he ariki whenua**

Ka huria e ngā whiti 246 me 254 te āhua o te whakatau i ngā pānga ki ngā whenua Māori korehere ina mate korewira ana he ariki whenua.

E tūtohu ana mātou i tētahi menemana ki te whiti 246 e pā ana ki ngā whakaritenga tauatanga hei whakatika i tētahi hapa pokerehū ki te āhua i waihangatia ai te pire. E tūtohu ana mātou ko ngā uri katoa e heke ana i ngā tīpuna tuarua (kaua i ngā tīpuna, e ai ki te pire i whakaurua) ka noho hei kaitaua māraurau. E ai ki te whakaurunga, kāore e eke i te whiti 246(3)(e) te koronga kaupapa here, i te mea kāore e tawhiti rawa te hoki ina whiriwhiri ana i ngā kaipānga e āhei ana. E tūtohu ana mātou me menemana tēnei whiti kia āhei ai ngā reanga katoa e heke ana i ngā tīpuna tuarua hei kaitaua.

Ka whakatikatika noa te whiti hou 246A i te whiti o mua, kia mārama ai.

## Ngā tarahiti whānau i whakatūhia nā te korewira

Hei whakarite i ngā raruraru o te wehewehe o ngā tōpū whenua Māori korehere, i raro i te pire ka taka noa ki ngā tarahiti whānau ki te mate korewira he ariki whenua. He wāhanga kei reira mō ngā whānau, mema rānei o ngā whānau ki te puta mai i tētahi tarahiti ka taua takitahi. Mā te whakaaetanga tēnei, ki te kore e taea he whakaaetanga ahakoa i whai i te whakatau wenewene, mā te tono ki te Kōti Whenua Māori rānei.

E tūtohu ana mātou i ngā menemana ki te whiti 254 hei whakatakoto kia mārāma ake ngā whakaritenga e pā ana ki ngā tarahiti whānau. Hei tauira, me tohu ngā kaipānga o tētahi tarahiti whānau i ngā kaitiaki, ka riro rānei mā te kōti kē e tohu. Ka mutu, me uru ki te whakapuakitanga o te tarahiti tētahi katinga i ngā kaitiaki mō te whakawhiti i ngā pānga ki te whenua engari rawa mēnā i whakahauhia e te kōti.

E tūtohu anō mātou kia whakaurua he whiti 254A kia taea ai te whakakotahi tētahi tarahiti whānau ki tētahi atu tarahiti whānau mēnā he ōrite ngā kaipānga.

## Wāhanga 8—Ngā rēhita, te mana o te whenua, te tuku pānui, me ētahi atu wāhi

Kei roto i te Wāhanga 8 o te pire ngā wahi e pā ana ki ngā rēhita me ngā ture, me ētahi atu take. I tua atu i ēnei e whai ake, ko te nuinga o ngā menemana e marohitia ana e mātou i tēnei Wāhanga he iti noa, he mea tukanga hoki.

### Te mana o te Kōti Whenua Māori

E whakarārangi ana i te whiti 300 te mana o te kōti mō te kaupapa o ngā Wāhanga 1 ki te 9. E tūtohu ana mātou kia tuhia anō ngā kupu i te tīmatanga o tēnei whiti hei whakaata i te mana o te kōti i raro i ētahi atu Ture. E tūtohu anō mātou kia menemana-hia te whiti-iti (1)(m) e whiriwhiri ana i te mana ki te whakatau i ngā whakapae o te whatinga o te mahi a tētahi rōpū whakahaere; i tēnei wā, e kapi anake ko ngā kaitiaki.

E tūtohu ana mātou kia whakaurua he whiti-iti (1)(s) hei whakarato ki te kōti hei whakarite mēnā ka eke ko te tikanga a te whānau, hapū, iwi rānei i roto i tētahi āhuatanga ake.

### Ngā whakaritenga pekerapu

E herea ana te kōti i raro i te whiti 318 ki te tuku whakatau e whakamana ana ki te Kaiwhakarite Whaimana ngā pānga whaihua o tētahi tangata i whakapuakitia kua pekerapu ina tono ana te Kaiwhakarite Whaimana. Nō te Ture 1993 tēnei whakaritenga. E tūtohu ana kia whakahāngaitia tēnei tukanga kia kore ai te kōti e whai wāhi mai; engari, kia riro mā te Kaiwhakarite Whaimana e rēhita ngā pānga tuku. Otirā, ka taea te whakahoki atu ngā pānga o te tangata mā te tuku i muri i te tukutanga mai i te pekerapu.

### Ngā ture me ngā utu

I raro i te whiti 326 ka taea te Kāwana-Tianara, nā te Ōta Kaunihera Raupapa, te whakatau ture mō ngā kaupapa rerekē i raro i ngā Wāhanga 1 ki te 9. Kei roto i tēnei ko



ngā ture (whiti-iti(k)) e whakahau ana i ngā utu mō ngā ratonga, ētahi atu take rānei i raro i ngā Wāhanga 1 ki te 9.

Ko ngā menemana e marohitia ana e mātou i tēnei whiti he āhutatanga tino iti, he mea tukanga anō hoki. Engari, he take nui ki ngā kaitāpae kōrero te nui o ngā utu ka whakahauhia i raro i tēnei ture, otirā ngā utu e pā ana ki ngā ratonga ka tukuna e te Ratonga Whenua Māori, kei te hiahia kōrero mātou mō tēnei.

Kei te mōhio mātou kei te haere tonu ngā mahi waihanga i ngā ture, nō reira kāore i te mōhiohia ngā utu, tae atu ki ērā a te Ratonga Whenua Māori. He take tino nui ki a mātou kia taea e ngā tāngata ngā ratonga e whakaratohia ana i raro i tēnei ture, nō reira kua ngā utu e pare atu i a rātou.

Kua whakaarohia e mātou te pire i runga i te take kia kua e iti ake te āhei atu a ngā ariki whenua Māori ki ngā ratonga onāiane, ka mutu kia kua e whakaritea ngā utu hei utu i te katoa o ngā mahi. Ki tō mātou mōhio koinei te hiahia o te Kāwanatanga, ka mutu kei te waihangatia te mahere pakihi mō te Ratonga Whenua Māori i runga i tēnei.

## **Wāhanga 9—Te whakatau wenewene**

Ka whakatūhia e te pire tētahi ratonga whakatau wenewene whenua Māori hou hei āwhina i ngā tāngata me ngā rōpū ki te whakatau whakahē, raruraru hoki i waenga i a rātou anō i raro i ngā tikanga, uara, me te kawa o ngā hapū e hāngai ana ki te whenua. Ki te tūpono he wenewene whānau, ka mana ko te kawa o te whānau.

Kei roto i te tukanga hou he wāhanga takawaenga (ka āwhina tētahi kaitakawaenga i ngā rōpū ki te whakatau i ō rātou raruraru mā te whakaae tahi), he wāhanga whakataunga (ki te kore e whakaae tahi, ka whakaae pea ngā rōpū ki te tuku mā te kaitakawaenga e tuku tētahi whakatau paihere).

I tautoko ngā kaitāpae kōrero i te tukanga whakatau wenewene e marohitia ana, i kite rātou he whakamana i te hunga ka whai wāhi, ā, he pai ake i te tukanga onāiane o te heri i ngā wenewene ki te kōti. Kei te hiahia ngā kaitāpae kōrero kia riro mā te Ratonga Whenua Māori e whakahaere, ā, kia kua he utu.

E tūtohu ana mātou kia whakawhānuitia te whiti 328, e whakarārangi ana i te kaupapa o ngā whakaritenga whakatau wenewene, kia whakaurua mai ngā mātāpono matua o te pire (mai i te whiti 3), ā, ko ngā wenewene e pā ana ki te whenua Māori kia whakahaerehia i runga te āhutatanga e mau ai, e kaha ake ai rānei ngā hononga i waenga i ngā ariki whenua me ngā tāngata o tō rātou whānau, hapū hoki.

E whakamahia ana e tēnei wāhanga o te pire te kōrero, “mātauranga takawaenga”. Ko te whakamārama i te whiti 329 he tukanga tēnei hei āwhina i ngā tāngata, rōpū hoki ki te whakatau whakahē, taupatupatu hoki, ki tērā e taea ana, i raro i ngā tikanga, uara me te kawa o te hapū (whānau rānei, i ngā wenewene whānau) e pā ana ki te whenua. Kāore ngā kaitāpae kōrero i rata ki tēnei kōrero, ā, e tūtohu ana mātou kia kua tērā kōrero me te kupu “kawa” e whakamahia. Engari, e marohi ana mātou kia whakaurua te whiti-iti 328(2) hei whakamārama i te kōrero “tikanga hāngai” me “ngā uara me te kawa”.

E tūtohu ana mātou i ētahi menemana i ngā whiti 332 ki 342 hei whakapai ake me te whakamārama i ngā āhuatanga o te tukanga. I tua atu, ka whakarite ēnei rerekētanga ina whakaaroarohia ka hāngai ngā pūkenga o te kaitakawaenga ki te āhua o ngā wene-wene ake i tohua ai ia. Ka āhei anō ngā māngai ki te noho atu ina kōrerorero ana te kaitakawaenga ki ngā rōpū mōna i whai mana ki te tuku whakatau paihere. Ka herea te kaiwhakahaere mātāmua e te menemana ki te whiti 340 kia whakatuwhera tūmatanui i ngā tohutohu whānui i tukuna i raro i tērā wāhi.

### **Ngā Wāhanga 10 ki 15—Ngā wāhi e pā ana ki te Kōti Whenua Māori me te Kōti Pira Māori**

Ka haere tonu te Kōti Whenua Māori me te Kōti Pira Māori i raro i ngā Wāhanga 10 ki te 15 o te pire. E ai ki ā mātou kōrero i tā mātou kōrero whakataki, ka whakamānaha ēnei wāhanga o te pire hei wāhanga motuhake o te ture.

I whakaae te nuinga o ngā kaitāpae kōrero mō te kōti, me te kōti pira, me noho tonu hei whakahaere hira mō te whakatau i ngā take e pā ana ki te whenua Māori. I tino whakahē ētahi kaitāpae kōrero, i runga i ō rātou wheako kino i reira.

He rerekē ngā whakaaro o ngā kaitāpae mō ngā rerekētanga e marohitia ana mō te mahi me te mana o te kōti mai i ngā Wāhanga 1 ki te 9. He maha i tautoko kia huria te mahi a te kōti, mai i te whai mana ki ngā whakatau maha ki tērā he whakarite kei te ū ki ngā tukanga me ngā whakaritenga ture. Engari, i whakaputa māharahara anō ētahi mēnā he whaitake ā-utu ngā rerekētanga e marohitia ana. Ahakoa i te tautoko i te whakaaro mō tētahi ratonga whakatau wenewene hou, i kī anō rātou ko ngā raruraru o te kōti onāiane i ahu kē mai i te iti rawa o te pūtea.

I tua atu i te rerekētanga i raro, kāore ō mātou whakarerekētanga nui ki ngā Wāhanga 10 ki te 15 o te pire.

### **Te tohu i ngā Kaiwhakawā**

E whakarite ana te whiti 427 me te 428 ki te tohu i ngā Kaiwhakawā o te Kōti Whenua Māori. Kia mārama ai, e tūtohu ana mātou kia menemanahia ngā whiti 427 me 428 kia āta mārama ai ka tohua ngā Kaiwhakawā e te Kāwana-Tianara i runga i ngā tohutohu a te Minita mō ngā Whanaketanga Māori, i muri i te whitiwhiti kōrero me te Rōia Matua.

Ki ō mātou whakaaro ka whakaritea e tēnei rerekētanga ētahi māharahara ka whaka-whitia e te pire te kawenga tūtohutanga mai i te Rōia Matua. Ko tā te whiti 428 he tuku noa i te mahi mō te pānui i ngā tukanga tohu kaiwhakawā ki te Rōia Matua. E hāngai ana tēnei ki te menemana o nā tata nei ki te Ture 1993, mā te whakamana i te Judicature Modernisation Bill, ka mana hei te 1 Poutūterangi 2017.

E tūtohutia ana ngā rerekētanga e whai ana ki ngā whiti 432, 434, me 435.

## **Wāhanga 16 (Ngā whakakoretanga me ngā menemana) me Ngā Pukapuka Āpiti 1–12**

Ka whakakorehia e te Wāhanga 16 Te Ture Whenua Māori 1993; te whakakore hoki me te menemana i ētahi atu whakaturetanga whāiti; te menemana i ngā Ture e toru e pā ana ki te mana me ngā mahi a te Kōti Whenua Māori; me te menemana i ngā Ture e toru e pā ana ki ngā take reiti me te wāriu. Kāore he rerekētanga ā mātou ki tēnei Wāhanga.

### **Ngā whakariterite i a Mangatū**

Kei te mōhio mātou ko te whiti 483 me whiti 484, ka whakauru mai i tētahi wāhanga 52A hou ki te Rating Valuations Act 1998, e tuku i te mana ki ngā kaunihera ki te whakarite i te wāriu o ngā whenua Māori korehere mō ngā take reiti. Ko ēnei “whakariterite i a Mangatū”, e mōhiohia nei, i puta i tētahi whakatau a te Kōti Pīra i raro i te whakatau e mōhiohia ana ko te kēhi mō Mangatū.

### **Ngā Pukapuka Āpiti 1–12**

E whakarārangi ana Ngā Pukapuka Āpiti i ngā take rerekē, tae atu ki ngā whakaritenga, ngā take tukanga, me ngā menemana whai haere ka puta ki ētahi atu Ture. E tūtohu ana mātou i ngā rerekētanga iti e whai ake.

I te Pukapuka Āpiti 1, e tūtohu ana mātou kia whakaurua te whiti 12(4)(e) kia mārāma ai kāore te Tarahiti o Tuaropaki e taka mai ki raro i te pou tarāwaho poari whakahaere hou; engari, ka haere tonu i raro i te pou tarāwaho onāianei e ai ki te whiti 23. He tino ahurei ngā āhuatanga o te Tarahiti o Tuaropaki kāore nei i te turakina e ngā whakahoutanga.

Ko tā Ngā Pukapuka Āpiti 2, whiti 12 he whakarite i ngā hui a ngā ariki whenua. E tūtohu ana mātou kia menemanahia te whiti-iti (1)(b), i te mea ki ō mātou whakaaro e mōhio whānuitia ana te kupu “proxy” i te “nominated representative”. E tūtohu ana mātou kia ūkuia te whiti-iti (2) mō te kōrama o tētahi hui; ki a mātou kāore he take nā te mea kei ētahi atu wāhi o te pire e whakarite ana i ngā taumata whai wāhi mai mō te tuku whakatau a ngā ariki whenua.

### **Te Tirohanga a te Tokoiti**

Nā ngā Rōpū Reipa, Kākāriki, me Aotearoa Tuatahi tēnei Tirohanga a te Tokoiti i tāpae.

I te whakaurunga tuatahitanga o te Pire ki te Whare ko tō mātou whakapono kē ka whakaritea katoatia ngā raruraru e kore nei e tino whakamahia paitia ngā whenua Māori. E whakapono ana mātou kāore e tutuki i te Pire tēnei, otirā he kauneke kē i te rironga o ētahi o ngā kawenga e kawea ana e te Kōti Whenua Māori, ka tuku ki tētahi whakahaere hou kāore anō kia whakatūhia. Kāore hoki i tutuki i te Pire te whakarite i ngā tauārai e aukati ana i te whanaketanga o ngā whenua Māori e ai ki ngā kōrero i puta i ngā ariki whenua i ngā hui whitiwhiti kōrero puta noa i te motu.

I tae mai ngā tāpaetanga kōrero e whakahē ana i te Pire mai i ngā tāngata me ngā rōpū rerekē whānui kei roto i ngā mahi whakamahi, whakahaere whenua Māori mai i Ngā Tarahiti Whenua Māori (Tuaropaki), Ngā Kaporeihana Māori (Wakatū Incorporation), Ngā Tarahiti Whānau, Ngā Kaiwhakawā o Te Kōti Whenua Māori, Te Rōpū Wāhine Māori Toko i te Ora, Te Kāhui Tika Tangata, Ngāi Tahu Māori Law Centre, NZ Law Society, PSA hei kaitaunaki mō ngā kaimahi Kōti Whenua Māori, Ahorangi Richard Boast, Ngā Rōia QC a Kensington Swan me ngā tāngata i whakaputa mai ki a mātou ngā raruraru mō te Pire.

Ko ngā tāpaetanga kōrero ā-tuhi a te hunga whakahē i kī;

- Ahakoa te mahi a te Rōpū Arotake i puta ai tēnei Pire i tonoa ki te aromātai i te āhua o te whakaahei, te whakararuraru rānei o ngā ture onāiane i te ekenga o ngā tūmanako o ngā ariki whenua Māori, i whai te Rōpū ki te waihanga tūtohunga e pā ana ki “me pēhea te āhua o te ture” kua te whakaaro “he aha ngā hē o te ture onāiane, ā, me pēhea te whakatika. – Te Rōpū Wāhine Māori Toko i te Ora (kōwae 3.4, whārangi 3).
- Ko ngā whakahē mō te Kōti Whenua Māori me te Ture onāiane e kī ana nō konei te tino pūtake e kore nei e whakamahia, e whakawhanakehia ai ngā whenua Māori kāore i te tika, kei te hē rawa, ā, kāore i te tautokona e ngā rangahau tōtika. – Ngāi Tahu Māori Law Centre (kōwae 5, whārangi 1).
- Otirā ko te kaupapa kē o te Pire he whakamana i ngā ariki whenua kia nui ake tō rātou mana ki runga i ō rātou whenua me tō rātou rangatiratanga. Kua kite mātou i a mātou e arotake ana i te Pire mō te kaupapa o te tuku i ēnei tāpaetanga kōrero, me tino nui te whakapau wā me te kaha (kia maha ngā marama) me te whiwhi mākohakoha i te hunga tino matatau e mārama ai ki ngā iroirotainga o te Pire. I uaua hoki te whai mārama o ngā rōia e tino matatau ana ki te ture whenua Māori ki te Pire. – Ahorangi Richard Boast QC, Deborah Edmunds, Tai Ahu rāua ko David Jones, Kensington Swan Lawyers (kōwae 3.4, whārangi 3, kōwae 4.1, whārangi 4).
- Kāore rawa he hua o te Pire ki te Tarahiti o Tuaropiki i roto i ngā whakarato ratonga ki ngā ariki kaipānga, i roto rānei i ana kaupapa arumoni ā-motu, ā-ao hoki. Nō reira kei te whai te Tarahiti o Tuaropiki i tētahi kupu tīpoka i te Pire e āhei tonu ana te whakatau tarahiti hei whakahaere i te Tarahiti o Tuaropiki i raro i Te Ture Whenua Māori Act 1993 (Ture 1993) ānō nei kāore i whakakorehia te Ture 1993. – Tarahiti o Tuaropaki (kōwae 2, 3, whārangi 1).
- Kei te whakahē anō a Wakatū i te Pire i te mea he tino iti rawa, kāore rānei, he wāriu ka hua ki ngā kaporeihana momoho, onāiane hoki. – Kaporeihana o Wakatū (kōwae 4 – 4i, whārangi 2).
- Nā runga i te pūmau o te Kāwanatanga ki ngā tika tangata e pā ana ki te whakatinatanga o te UNDRIP (te Whakapuakanga a Te UN mō ngā Tika a ngā Iwi Taketake), me whakaata, me kōkiri hoki te Pire i ngā mātāpono. Ko te whakaaro o Te Kāhui Tika Tangata, e whakaū ana te whakatinatanga o te mātāpono UNDRIP o te whakaaetanga korehere, tōmua, mōhio hoki i te whakatau a

Te Rōpū Whakamana i te Tiriti kāore i tino tautokona te Pire e te iwi Māori. – Te Kāhui Tika Tangata (kōwae 23, 24, whārangi 8).

- He mōrea nui te aronga o te Pire ki ngā mahi whakahou tikanga ture e pā ana ki te taonga tuku iho o te whenua Māori. Ka whakaiti te Pire i ngā tika rawa Māori onāiane. Kei te takarepa ngā whakapae matua e tūāpapa ana i te Pire. Kāore ētahi wāhanga o te Pire i te hāngai ki te tikanga Māori. Ka whakaauraki te Pire i te whenua Māori me te Kōti Whenua Māori. – Ngā Kaiwhakawā o te Kōti Whenua Māori (kōwae 2).

I kitea e tētahi kaitautoko i te Pire, e Me Uru Kahikatea, i roto i tā rātou tāpaetanga kōrero e toru tekau mā whitu ngā wāhi raruraru i roto i te Pire me ngā whāruarua e ono, tae atu ki ngā tono tauatanga e marohi ana me noho ēnei ki te Kōti Whenua Māori. I kōrero anō rātou mō te mahi a te Ratonga Whenua Māori ‘kāore anō kia whakamātauahia, kia tautuhia hoki’. I kī anō rātou kāore anō kia whakaritea e te Pire ‘ngā tino aukatitanga’ mō te whakamahi i te whenua, e kīia ana e ngā āpiha he ‘whakaahei’, ā, me eke ki tēnei. E whakaae ana mātou.

Kei te māharahara mātou kāore e whakamanahia ngā ariki whenua ki tērā e hiahiatia ana nā ngā uauatanga o te Pire. E whakapono ana mātou ko te hua pokerehū kē ka puta ko te whakatupe kē i ngā ariki whenua, otirā rātou te hunga he iti noa ngā pānga me ērā e noho ana i tawhiti me ērā kāore i te mōhiotia kei hea. I takea mai te Pire i ētahi whakapae kāore nei i āta rangahauhia ka mutu kāore i te whakaritea ngā aukatitanga i whakaaturia e ngā ariki whenua i ngā hui whitiwhiti kōrero.

### **Ngā whakahounga nui ki Ngā Tikanga Ture Whenua Māori**

Koinei te arotake tuatahi matua o Te Ture Whenua 1993. Mai i te tīmatanga ko te whāinga kaupapa here matua ko te whakaraupapa mai i te whakamahinga o ngā whenua Māori kāore anō kia whakawhanakehia, te whakahāngai mai i te whakatōpūtanga o ngā pānga ariki whenua me ngā tukanga, hanganga hoki o ngā tuku whakatau ā-poari whakahaere.

Ko ngā whakahē tuatahi i whakaarahia e mātou i te pānuitanga tuatahi i aro ki te tino koretake o te tukunga i puta ai ēnei menemana, arā ko te tino kore whai tautoko whānui mō ngā huringa, ngā pānga pea ka pā ki ngā ariki whenua pānga iti e whakatupe nei pea i ō rātou pānga whenua tūpuna, te kore mārama, whai kaupapa hoki o te Ratonga Whenua Māori, te ngaro o ngā mōhiotanga ā-whakahaere mai i te Kōti Whenua Māori, te neke o te tino aro mai i te tiaki me te whakawhanake ki te pupuri me te whakamahinga.

Kei te ū tonu mātou ko te hiranga o ngā rerekētanga e marohitia ana me whakaū i ngā mātāpono o te tiaki, te hono whakapapa ki te whenua māori, te ahi-kā, me te pai ake o te āhei atu ki ngā pīhi whenua Māori mauraka, kia pai ake ngā tautoko ā-poari whakahaere mā ngā ariki whenua Māori, te whakapai ake i ngā wāhi tuku-whakahoki onāiane o te Public Works Act me te whakarite i te reiti me te wāriu i te whenua Māori hei whakapai ake i tōna kaha whakamahitanga.

Kāore anō kia tino whakaurua mai ēnei take maha hei ‘whakatikatanga’ nui i roto i te Pire. He maha ngā take nei kua tukuna ki ngā wāhanga mahi ‘whakaahei’, ā, kāore i

te rawaka ngā whakaaturanga e tohu ana i te taumata whakaarotau e taea ai te anga whakamua tika ki tera i whakaarahia ai e ngā ariki whenua puta noa i te tukanga whi-tiwhiti kōrero.

### **Te Ratonga Whenua Māori**

Ko tētahi tino take o te whakatutuki i ngā whāinga o tēnei Pire ko te waihanga o te Ratonga Whenua Māori hou, kei te wāhanga wānanga hoahoa i tēnei wā o te tukanga. Kei te mōhio mātou kei te whakaritea mai he mahere pakihī i tēnei wā mō te whakatūtanga o Ratonga Whenua Māori. Kāore i te mōhiohia te whaihua o te mahere pakihī i tēnei wā. Ki ō mātou whakaaro he mea taketake tēnei wāhanga mahi mō te whakarite i ngā whakapainga matua o te tukanga onāiane mō te tautoko i ngā ariki whenua, te whakarite i ngā take tauatanga, te waihanga hanganga poari whakahaere hou, te whakapai ake i te māiatanga o ngā mahi whakahaere me te whakatū i tētahi ratonga whakatau wenewene hou me te whai i te tikanga Māori hei uara ārahi. Engari kei te māharahara mātou nā te kore mahere pakihī i whakaūhia me ngā whakapaunga, nā te kore mahere whakatinanatanga whakawhiti, nā te kore ūnga hei kukume mai i ngā whāinga i roto i te wā tika me tētahi anga whakahaere mōrearea hei whakaiti i te tūpono pā mai o ngā take tē kitea e kore e momoho ai te whakatinanatanga.

E whakapono ana mātou me nui ake te aro ki te tautoko i te koronga mahi o te Ratonga Whenua Māori ki roto i Kōti Whenua Māori ināiane tonu. He nui ake te wāriu ka tukuna ki aua ariki whenua kāore i te whai whakaritenga ā-poari whakahaere me te whai wāhi ā-ture ki ngā wāhi whakatau wenewene.

### **Te Tauira Ariki Whenua Whai Mai me ngā taumata tuku whakatau**

Kei te māharahara mātou he uua rawa, he pōkaikaha hoki ngā wāhi e pā ana ki te Tauira Ariki Whenua Whai Wāhi Mai me ngā taumata. E rua ngā take o tēnei:

1. Mēnā kāore e ōrite ngā āhuatanga i waenga i ngā ariki whenua me ngā taumata tuku whakatau nā te whakamāramatanga o te ‘ariki whenua whai wāhi mai’
2. Mēnā ka āwhina ngā rerekētanga e marohitia ana i ngā ariki whenua noho momotu mai ana ki te whakariterite me te whai wāhi mai ki te tukanga tuku whakatau mō te poari whakahaere, te rīhi, te whakawhiti, te tuku o ō rātou whenua, mēnā ka pai ake ēnei kawenga ki ngā tōpū pānga nui ake rānei me te whakatōpū mai ki tētahi rangatōpū tēnā i tētahi tauira ā-whānau.

E whakapono ana mātou kāore i rawaka te tuku mōhiohia mai hei whakamārama i ngā utu me ngā whakatakotoranga utu ka taea e pā ana ki te Pire. E whakapono ana mātou kia kaua e noho ripa tauārai te hiranga o te utu, taumata utu rānei i te āhei mai o ngā ariki whenua. Kei te rangirua mātou mēnā kua āta whakaaroarohia te take utu e pā ana ki te tauira whakarato a te Ratonga Whenua Māori, ā, ka noho mōrea tēnei ki te whakatinanatanga. Ahakoa i whakamōhiohia mai mātou mō ngā hua o te tūāpapa raraunga hei whakapai ake i te tuari me te whakamahinga o ngā mōhiohia e te Ratonga Whenua Māori, kāore he taipitopito mō tēnei kaupapa. I kīia mai mātou ko Toitū Te Whenua kei te ārahi i ngā mahi o te tūāpapa raraunga mōhiohia, ka mutu me whai whakaūtanga tahua nui, ā, kāore anō tēnei kia whakaūhia e te Kāwanatanga.

**Whāngai, Rangatiratanga me ētahi atu Āhuatanga Tikanga Māori**

E whakaae ā-mātāpono mātou ki te kaupapa o te pupuri whenua i roto i te whānau me te hapū e whakapapa nei ki te whenua me te whakamārama i ngā tika ki te whāngai e ai ki te tikanga Māori. Engari, ki tō mātou whakapono ka taea noatia tēnei mā tētahi menemana māmā ki te Ture 1993.

He maha ngā mahi ka waihangatia hei tautoko, hei āwhina hoki i ngā whānau me ō rātou whenua. I te mea ko te kaupapa o te Pire he whakamana i te whānau me te rangatiratanga, ka taea te kī he whāiti rawa, ā, tērā pea he tuku mana ki tētahi atu 'rōpū'. Ko ētahi o ngā mahi ko te kaiwhakarite, kaitiaki, kaiwhakamarumarū, he āhuatanga ēnei kāore i te tino mārama ki ētahi Māori.

I whai taringa atu mātou ki ngā Kaporeihana Māori, Ahu Whenua me ngā Tarahiti Māori i noho rangatira ai i raro i te Ture onāiane. Kei te ū ngā mahi a aua whakahaere anō e anga whakamua ai rātou me ō rātou tūmanako i raro i ngā whakatau tarahiti onāiane, e ai rānei ki ā rātou tūtohunga tarahiti. Mā te whai kia mau tonu taua aronga, e whakaae ana mātou ka taea te rangatiratanga i raro i te Ture onāiane.

I tohe rātou mō ngā menemana ki ngā ture onāiane, kaua te whakahou katoa i ngā mātāpono o te Ture, ā, kei te whakaae mātou ki tērā whakaaro.

**Resource Management Act 1991 me te Local Government (Rating) Act 2002**

I rongo matau e whirinaki ana te whāinga o te Pire ki te tuku rangatiratanga ki "ngā ariki whenua" ki ngā Ture i runga ake. Kei te mōhio mātou kei ngā Kaunihera ā-Takiwā, ā-Rohe hoki te mana whakamahi i ngā whenua Māori mā te kaupapa here Reiti i ngā whenua Māori a ngā kaunihera takitahi. E taunaki ana mātou kia tirohia te whaihua o te Tauākī Kaupapa Here ā-Motu mō te Rēti Whenua Māori.

Kātahi ka nui ake ō mātou māharahara i te mea kei te whakahoutia e te Kāwanatanga ngā Ture e rua, ā, kāore anō kia tae mai he kōrero tohutohu mō ngā pānga tūpono o aua whakahounga ki te Pire.

**Te whakakorenga o ngā tūranga Pou Whakahaere i roto i te Kōti Whenua Māori**

I whakaarahia e ngā kaitāpae kōrero ō rātou māharahara mō te pūtea mōhio me ngā wheako o te whakapapa whenua Māori me ngā mōhiotanga whakahaere o ngā kaiwhakahaere e noho ana i te Kōti Whenua Māori. Nā te rironga o ngā tūranga mahi onā tata nei i Te Tāhū o Te Ture i rapu whakaaetanga mātou mai i ngā āpiha kāore he pānga kino o te rironga o ngā pūkenga nā te whakakorenga o ngā tūranga kaiwhakahaere i roto i te Kōti Whenua Māori puta noa i te motu, ki te Ratonga Whenua Māori e marohitia ana. I whakamanahia ā mātou tonu whakaaetanga. Ehara koinei ō mātou whakaaro. Ko tā mātou kē kia waiho ngā kaupapa turaki tūranga kia mārō te haere o ngā mahi a te Ratonga Whenua Māori.

**Te tukanga komiti**

I pōuri mātou i te kitenga kāore i tae tuihono mai ngā tāpaetanga kōrero ā-tuhi i te wā tika; kāore i tutuki he tātaritanga mō te wāhi i hiahia ngā kaitāpae kōrero ki te tū; kāore hoki i whakamahia ngā pūkenga o ngā mema Komiti kia taea ai ngā wāhi wha-

kawā tika mō te hunga i hiahia ki te tū; kāore ētahi kaitāpae kōrero i whakaritea ki te tū i tae atu, ā, ko ētahi i hiahia ki te tū kāore i whakaritea ki te tū. Kāore i mārama te whakaritenga wā mō ia kaitāpae kōrero mai i te tīmatanga, ā, i rangirua mō te kaitāpae kōrero me ngā mema o te komiti.

Nā ngā rerekētanga nui ki te Pire mai i te whakawātanga o ngā tāpaetanga kōrero, e tino taunaki ana mātou me whai wā ngā kaitāpae kōrero ki te arotake i ngā rerekētanga ki te pire. He maha ngā rerekētanga ki te putanga hou o te Pire i whakahoutia, ā, ka whai hua te komiti whiriwhiri mēnā i whai wā ngā kaitāpae kōrero ki te tuku urupare mai mō ngā pānga o aua rerekētanga e ai ki ngā māharahara i whakaarahia e rātou.

Kei te kite anō mātou kei te noho tonu te mana tango whenua Māori korehere i raro i te Public Works Act, ā, kāore tēnei i whakaritea e tēnei Pire, ahakoa i whakaarahia e ngā kaitāpae kōrero tokomaha puta noa i te tukanga whitiwhiti kōrero.

Ko te kaupapa matua tuatahi o ngā mahi whakahou whenua Māori ko te whakamaru i ngā toenga whenua Māori iti kei raro tonu i te Māori kia kore ai e ngaro, e riro atu rānei.

### **He whakarāpopoto**

Mai i ngā take e rārangi mai ana i runga e whakapono ana mātou kāore i eke te whāinga o te Pire ki tērā i tūmanakohia hei whakapai ake i te whakamahinga o ngā whenua Māori mā te waihanga i tētahi taiao whakahaere ‘ā-ariki whenua’. Engari he whakaiti kē i ngā mana o te Kōti Whenua Māori me te whakatū i te Ratonga Whenua Māori e marohitia ana. He whakahaere hou tēnei kāore anō kia whakamāramahia, kia whai pūtea, kia whakamātauhia rānei. Ko te hua kāore e ōrite ngā āhuatanga i waenga i ngā ariki whenua mā ngā taumata tuku whakatau a ngā ‘ariki whenua whai wāhi mai’ e tuwhera ana kia riro atu anō pea he whenua, ā, me te kore e whakarite i ngā raruraru e aukati ana i te whakawhanaketanga o te whenua Māori (whenua mauraka, rori pepa, ngā whenua i tangohia i raro i te Public Works Act and Ratings) i whakaarahia mai e ngā ariki whenua puta noa i te tukanga whitiwhiti kōrero. He maha ngā rerekētanga o te Pire, he kiato, he matatini rawa te whai haere. Mēnā i whai wāhi ngā kaitāpae kōrero ki te whakaputa i ō rātou whakaaro mō ēnei rerekētanga ka whaihua te komiti whiriwhiri i te mea he ‘tirohanga’ hou ēnei hei āwhina i tāna whakatau mēnā i ū te Pire ki tōna whāinga tūturu.

Nā ēnei take i whakaaroarohia e mātou, kāore i te tautokona e mātou te Pire me tā mātou tūtohu kia kua ia e anga whakamua i tēnei wā.



## Āpītitanga

### Tukanga komiti

I tukuna te Pire o Ture Whenua Māori ki te komiti i te 11 o Haratua 2016. Ko te rā kati mō ngā tāpaetanga kōrero ko te 14 o Pipiri 2016. I whiwhi, i whakaaroarohia hoki e mātou ngā tāpaetanga kōrero 154 mai i ngā rōpū me ngā tāngata. I rongō mātou i ngā whakaaturanga ā-waha a ngā kaitāpae kōrero e 47 i ngā hui i Tūranganui-a-Kiwa, Tauranga, Waitaha, me Tāmariki Makaurau, me Te Whanganui-a-Tara hoki.

I whiwhi tohutohu mātou mai i Te Puni Kōkiri me Toitū te Whenua.

### Ngā mema o te komiti

Tutehounuku Korako (Tiamana)

Te Kahurangi Chester Borrows

Mārama Davidson

Kelvin Davis

Mārama Fox

Joanne Hayes

Te Kahurangi Nanaia Māhuta

Pita Paraone



# **Te Ture Whenua Māori Bill**

Government Bill

As reported from the Māori Affairs Committee

## **Commentary**

### **Recommendation**

The Māori Affairs Committee has examined Te Ture Whenua Māori Bill and recommends that it be passed with the amendments shown.

### **Introduction**

This bill seeks to repeal and replace the current law relating to Māori land, Te Ture Whenua Māori Act 1993.

The bill proposes a new approach that aims to increase the ability of Māori land owners to use their land by empowering them to make decisions by and for themselves, supported by an owner-focussed Māori land service. At the same time, it aims to maintain, and even to strengthen, the protections that currently exist for the retention of Māori land for the benefit of future generations (a taonga tuku iho) by virtue of whakapapa.

The current Act still contains provisions that date back more than 100 years, to the Native Land Act 1909. These provisions cover issues such as surveys and leasing. In addition to reforming the legal and institutional framework relating to Māori land, the bill would completely refresh and modernise the legislation's drafting and style.

### **Core principles**

One of the bill's core principles is that tikanga Māori is central in deciding matters that involve Māori land. The committee agrees with advice that codifying tikanga would be an overly prescriptive interpretation of values and principles when applied to Māori land. We believe that these are best left for whānau, hapū, and iwi to determine. Under the bill, for example, tikanga Māori would be called on in determining the preferred recipients of Māori land, relationships of descent, and the determination for a dispute resolution model.

All of the core principles that would underpin the new legal framework for Māori land are set out in clause 3 of the bill. We endorse these principles, and will not repeat them here.

## **Background**

The bill's development has entailed extensive consultation, including the circulation of an exposure draft for submissions, which is not usually done. After taking into account the feedback from submissions, and from numerous reports, consultations, and hui, the version of the bill as introduced to the House is the result of 16 drafts over a period of some 30 months. The consultation process was criticised by some submitters who believed that not enough time had been given to consider the proposed changes, and their consequent impact on Māori land owners.

The bill originated from a first-principles review of the current law by an independent review panel in 2012. The panel was established in response to longstanding calls for reform of the 1993 Act, dating back to the late 1990s. We heard a view during the submissions process that the panel was charged with reviewing the Act, and instead recommended that new legislation was needed. As the panel stated in its final report,

The structure of Te Ture Whenua Māori Act, with a primary focus on the Māori Land Court and its jurisdiction, does not lend itself well to a new framework in which we consider the focus should very clearly be on Māori land protection and utilisation and empowerment of Māori land owners and their decision-making.

While the bill would retain the Māori Land Court, it would make some changes to its jurisdiction, and transfer some functions to a new Māori Land Service. Whereas the current 1993 Act has the court as its central focus, the reforms proposed in this bill would place the legislative focus on the land itself and the rights and authority of the owners. Some of us believe that the extent of the changes create a bias towards utilisation of land, and consequently may disenfranchise land owner interests.

## **Size and structure of the legislation**

We agree with the many submitters who have commented that the bill is large and complex, making it difficult to understand. It is in 16 Parts, with 12 Schedules.

The bill seeks to set out the law relating to Māori land, and offers the benefit of providing more certainty for the owners of Māori land, and others affected by the law.

In order for the new arrangements to be clearer and easier for Māori land owners to use, a period of familiarisation would be essential. As we discuss later, the new arrangements would need to be thoroughly explained to users before the legislation came into force.

## **The bill would become three new Acts**

It is intended that the bill would be divided into three separate pieces of legislation before enactment, reflecting the three main areas of change.

- The overall legal framework for Māori land, which is contained in Parts 1–9 and Schedules 1–4 of the bill, would become Te Ture Whenua Māori Act.
- The institutional arrangements and machinery-of-justice provisions for the Māori Land Court and the Māori Appellate Court, currently in Parts 10–15 and Schedules 5–7 of this bill, would become Te Kooti Whenua Māori Act.
- Consequential and other changes to existing legislation, in Part 16 and Schedules 8–12 of this bill, would become Te Ture Whenua Māori (Repeals and Amendments) Act.

We consider this a sensible approach. It would keep the two main Acts—dealing with the law relating to Māori land, and the court arrangements—separate and avoid cluttering them with consequential changes to other legislation. We consider that having the court-related provisions in a separate Act from the law relating to Māori land is appropriate, since the Māori Land Court also derives jurisdiction from several other statutes.

### **The wider reform programme**

The bill forms part of a wider programme of work on reforming the current arrangements for Māori land. It sets out the basis for new arrangements that are still in the process of being developed. Understandably, this has caused uncertainty for us, and for submitters, in evaluating how the new approach would work in practice, and therefore in deciding how we feel about the bill.

### **Māori Land Service**

In particular, the bill provides for a number of functions intended to be provided by a proposed new Māori Land Service. This service, which is still under development, would take over some of the functions currently carried out by the Māori Land Court. This new organisation would provide very important services for the owners of Māori land, including:

- supporting owners in their decision-making, the establishment of governance arrangements, and arrangements for succession
- administering the new dispute resolution service provided for under the bill
- maintaining the record of Māori land ownership, and providing associated information and registry services
- helping to promote the utilisation of Māori land.

### **Related work to enable better use of Māori land**

Work is also under way on trying to find solutions to several obstacles that owners of Māori land currently face, so they can make better use of their land.

These parallel lines of work include trying to solve problems with landlocked land and unformed (“paper”) roads; to improve the way the Public Works Act 1981 affects Māori freehold land; and to further improve the Local Government (Rating) Act 2002 to ensure fairness in how Māori freehold land is valued and the level of rates charged.

Several government organisations are involved in this work, including Te Puni Kōkiri, the Ministry of Justice, and Land Information New Zealand. The committee is advised that no dates have been set for the completion of these parallel lines of work.

### **How the bill fits into the wider programme**

One difficulty we have faced in examining the bill is that these associated aspects of the reform programme are still being worked on, so detailed information is not yet available. We spent time during our consideration of the bill questioning officials about how the Māori Land Service might work in practice, how soon it would be set up, what its structure and staffing might look like, and how well it would be funded.

We were provided with some useful background and explanation, which we will make available along with this report. In essence, it was explained to us that:

- the bill sets out the basic elements of what the Māori Land Service would do (such as services to land owners, and help with dispute resolution)
- the bill therefore needs to proceed first, in order to provide the legal basis on which the new organisation would be built
- basic design work for the Māori Land Service is under way, involving much consultation with owners around the country about the services they need
- a key milestone will be decisions on a business case for the new service around April 2017; we believe the funding already provided for design work gives an indication of the Government's commitment regarding future funding, but we note that ongoing funding for implementation is not yet determined
- the timing envisaged in the bill allows for an unusually long period between the time it is passed into law and the final commencement date of 1 October 2018; this would allow the most important aspects of the Māori Land Service to be up and running by the time the new Act took effect. Some of us note that adequate funding would be required to ensure optimum implementation
- enhancements to the service, particularly those involving IT components, would be phased in over a five-year period after that; the aim is to have a durable design, fit for the needs of future generations
- it is unclear at this stage where the service would sit in relation to existing agencies, or where its staff would come from; while the service would need to call on existing institutional and whakapapa knowledge, it would also require a cultural shift to focus more on finding integrated solutions for landowners. We note that current re-structuring of the Ministry of Justice poses a risk to the loss of institutional knowledge in the establishment of the Māori Land Service.

We would have liked a clearer “dashboard” of the timing and plans for the service. However, we understand why this cannot be provided until after the legal framework in the bill is finalised, and the Government makes further decisions.

We also asked many questions about what is being done to enable Māori land owners to overcome current obstacles, and how soon solutions might be found. We were told that various provisions in the bill should make it easier for owners to make decisions

about use of their land, and work is continuing on this “enabling” work. However, we were advised that some matters such as landlocked land and paper roads may need considerable time to resolve.

### **Our consideration of the bill and submissions**

We have read and considered carefully the submissions of more than 150 groups and individuals on the bill, and heard 47 submissions from those who wished to discuss their views in person with us. There were 15 submissions in support of the bill, 39 opposed, and 98 neither supported or opposed the bill. Some of us believe that these metrics may not be an accurate reflection of the depth of concern, due to the density of the bill, and potentially underpins a lack of engagement with formal processes.

We have also spent considerable time questioning officials to gain a better understanding about how various aspects of the new arrangements would work in practice. This has given us some reassurance, but more information would need to be disseminated to give future users of the legislation a similar degree of comfort.

### **A users’ guide will be essential**

We consider it vital that information and guidance be provided about the new legal and institutional framework if the bill is passed, so that people would be familiar and comfortable with it by the time it came into force.

Many submitters expressed unease to us about the proposed reforms. It seems that many of their concerns come from uncertainty about how the new approach would work in practice. This uncertainty is no doubt partly because of the timing issues we have discussed—that is, because the bill is progressing through the House while work is still being done on key aspects of the reform programme: developing and establishing the Māori Land Service, in particular.

In this respect we think it is valuable that the bill envisages an unusually long lead-in period, with 18 months allowed for between Royal assent and commencement. In our view, this period will be critical to ensure that people are well informed about the new law and feel comfortable about using the new approaches and services.

We recommend that every effort be made to provide timely information and guidance to those who would be affected by the legislation. We suggest this include a users’ guide to the legislative framework and the new Māori Land Service, and a concerted effort at publicising practical information about the new regime. Care should be taken to convey the information in a way that is easy to understand, including diagrams and infographics.

### **Recommended amendments**

We are recommending numerous changes to the bill in response to issues raised by submitters, and our own scrutiny. We believe these changes would fit better with the core principles underlying the bill, improve its workability, and avoid unintended consequences.

The rest of this commentary discusses the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

## **Part 1—Preliminary provisions**

### **Interpretation**

Clause 5 defines various terms used throughout the bill. It should be noted that the term “tikanga Māori” is not defined. We concur with this approach, as we agree that the appropriate application of tikanga Māori in any particular situation would be something to be determined on the basis of evidence—that is, by reference to the customs and practices of the relevant whānau, hapū or iwi—rather than as a question of law. We propose the following amendments to the definitions.

The bill as introduced provides that “participating owners” means the owners of land who participate in making a decision. We recommend clarifying the meaning of the term “participate”, to make it clear that it would include not only people who vote on a proposal, but also people who are involved in the decision-making process, even if they abstain from voting. This could include attending a meeting in person, or being involved by Skype or other communication technology.

The term “whāngai” (an individual adopted by Māori customary adoption) is defined in the bill by reference to the tikanga of the relevant iwi or hapū. As we discuss later in the context of descent relationships (clause 8), we consider that this raises potential for uncertainty. We recommend that the reference to iwi be dropped from the definition, and that whāngai status should be determined by the tikanga of the relevant hapū or whānau. In the event of doubt or inconsistency between the two, we consider that the tikanga of the whānau should prevail.

### **Association with land in accordance with tikanga Māori**

We recommend inserting clause 7A to make the intent of the bill clearer as to who is deemed to be associated with particular land. From our discussions with submitters, it appears that provisions relating to descent relationships and eligible beneficiaries (for example, in clauses 96 and 246) could be interpreted as requiring someone to verify a direct whakapapa descent relationship to a tupuna who held a customary interest in the land pre-1840. This was not the intention.

In line with the core principles of the bill, and to avoid complexities involved in tracing lines of descent and unintended consequences arising from historical anomalies (such as the allocation of land in Mangakino, in 1925, and land in Palmerston North, in 1866 and 1867, to people from other parts of the country), we propose that assessments of association would not need to go back further than the bill’s commencement.

### **Descent relationships determined by tikanga Māori**

Clause 8 provides that relationships of descent that involve adopted children (whether as whāngai or under the Adoption Act 1955) are to be determined by tikanga Māori. Tikanga Māori would determine whether they are regarded as descendants of their



adoptive parents, their birth parents, or both. In deciding succession and preferred recipients under the bill, tikanga Māori would override anything to the contrary in the Adoption Act. This would be a change from the current Act.

A Māori Land Court order would be required as proof that a whāngai relationship exists under the relevant tikanga Māori. We understand that this would normally be a simple process where there is no opposition. If the relationship was challenged, the matter would be referred to the new dispute resolution service. If this did not resolve the issue, it could be referred back to the court.

Several submitters expressed support for using tikanga to determine whāngai relationships and legal adoptions, considering this more appropriate in legal adoptions than the legal fiction of a court deeming the relationship to be one of descent by birth. However, submitters raised several points that we believe justify some refinements to this provision.

In the bill as introduced, clause 8 states that the tikanga of the relevant iwi or hapū would determine whether a whāngai relationship would be treated as a relationship of descent. As noted earlier, we consider that the tikanga of the relevant whānau or hapū is more appropriate than iwi for determining whāngai status, and recommend that reference to iwi be removed from clause 8(2). In the event of inconsistency, we recommend that the tikanga of the whānau should prevail over that of the hapū.

Second, we consider that clause 8(2)(a) raises the possibility that historical relationships would have to be proved at every link in the chain of title. We wish to avoid introducing such complexity, and accordingly recommend inserting new clause 7A.

Third, we recommend an amendment to clarify clause 8(3)(c). It is not the intention that all birth relationships would need to prove a tikanga-based association. This should only be a question if the birth relationship was deemed by the Adoption Act to be “a relationship of a different kind”. Only in this case should a court order be required to determine the relationship.

## **Part 2—Whenua Māori / Māori land and whenua tāpui**

Part 2 of the bill deals with the definition and status of Māori customary land and Māori freehold land. It also contains provisions relating to whenua tāpui, which are referred to in the 1993 Act as Māori reservations.

Apart from some technical amendments, the main changes we propose in this part are in relation to clause 39, which deals with the administering body appointed for a whenua tāpui.

### **Administering bodies**

We recommend that the board of an administering body should comprise at least four members, rather than three as in the bill as introduced. This would ensure that decisions could not be taken by a quorum of only two people, or potentially just one person.

We recommend inserting new clause 39A to give the court the power to make an order restraining the administering body of a whenua tāpui. This would provide protection against the possibility of recklessness, incompetence, or fraud, or of an administering body acting inconsistently with the purposes of the whenua tāpui or in breach of conditions or restrictions.

### **Subpart 3—Kawenata tiaki whenua**

We recommend that the provisions relating to kawenata tiaki whenua (a type of covenant) be moved into Part 2 from Part 4 of the bill as introduced, as they are similar in nature to whenua tāpui. They would form new clauses 44A to 44C.

## **Part 3—Ownership interests in Māori freehold land**

### **Decision-making by owners of Māori freehold land**

Clauses 51 to 57, together with Schedule 2, set out the processes and thresholds for agreement that would make decisions binding on all owners of Māori freehold land. The most important decisions would need to be made by a specified proportion of all of the owners. Other decisions, that did not involve permanent alienation of the land, could be made by a specified proportion of the owners who take part in making the decision. The bill refers to them as “participating owners”.

Clause 51 sets out various thresholds of participation required for different decisions by participating owners. It also provides for a second decision-making process if the required thresholds of participation are not met. (We are suggesting a change to this second-chance mechanism, which we explain later.)

We heard a range of submissions about the proposed decision-making arrangements. Several submitters supported the participating owners approach, preferring it to the subjective criteria in the current Act. They said it would overcome difficulties about getting a quorum at meetings and make it easier for owners to make decisions about their land. Various submitters commented on the levels of the thresholds: some suggested they were too high, and others too low.

We do not propose any changes to the participation thresholds. We think they are reasonable when combined with the second-chance mechanism (with our proposed amendment to it) and provisions that would allow owners—including absentee owners—to participate in decisions by proxy, or by phone or electronic means. On balance, we think the bill would make decision-making easier while still protecting the interests of absentee owners.

However, we agree with submitters that the clauses relating to decision-making are complex and confusing, and should be made clearer. We suggest the following changes.

### **Participation thresholds for decisions**

To make the bill easier to understand, we recommend simplifying clause 51 by moving some of the provisions to new clauses 51A and 51B. For reference purposes, we

also recommend inserting clause 51C which contains a table setting out all the decision-making thresholds.

### **Second-chance decision-making process**

Clause 51(8) allows for a second decision-making process to be commenced if the participation threshold for a decision has not been met. This second-chance process would allow a binding decision to be made by a majority of the owners who participate in a meeting where a decision is proposed. We suggest an amendment to address concerns that this process could allow a small group of engaged owners to make far-reaching decisions affecting all owners of the land.

We recommend amending the process to specify that any decision made using the second decision-making process would be subject to review by the Māori Land Court, to ensure that it met the principles underpinning the legislation. The decision would not take effect unless the court confirmed not only that the decision complied with Parts 1 to 9 but also that the court was satisfied that the decision would help the owners to retain, control, occupy, or develop their land for the benefit of present and future owners.

### **Owners under 18 years of age**

Clause 52 deals with owners of Māori freehold land who are less than 18 years old and who do not have a kaiwhakamarumarū appointed to manage their interests. It specifies that a minor in this situation could not vote on decisions and would not be counted as a participating owner in decision-making.

We recognise that this provision is based on general property law, which holds that a minor does not have contractual ability. Nevertheless, we consider that the provision is unduly restrictive, as it could allow the interests of a minor to be ignored even if they held a significant majority of the land. We recommend amending clause 52(1)(b) so that it would also allow voting on behalf of the minor by a property manager who had been appointed under the Protection of Personal and Property Rights Act 1988 to manage any of the minor's property.

### **Whānau trusts**

Subpart 2 of Part 3 contains provisions about the establishment, operation, and termination of whānau trusts. Such trusts have been a successful tool under the current Act for whānau to collectively hold and manage their land interests.

We recommend some amendments in clause 58 to make it clearer how whānau trusts could be established.

We recommend inserting clause 70A so that the court could allow a beneficiary to withdraw their interest from the trust in exceptional circumstances. This provision is intended to assist in situations such as a trust becoming dysfunctional because relationships within the whānau have irretrievably broken down (for example, as a result of domestic violence).

We recommend various amendments in clause 71 and the insertion of a new clauses 71A to 71C to simplify the decision-making process provided for, and to provide for other trust property to be dealt with in proportion to other beneficial interests in the land.

Our recommended new clause 72A would set out responsibilities of the chief executive and Māori Trustee in respect of trust money in the event that a whānau trust was terminated.

### **Kaiwhakamarumarū**

Subpart 3 of Part 3 deals with kaiwhakamarumarū, a person appointed by the court to manage the property of a minor or other owner needing protection. We recommend some changes in these provisions to improve the way they would operate. These changes include recommending that clause 83(1) be amended to clarify that charges by kaiwhakamarumarū would be properly incurred.

## **Part 4—Dispositions of Māori freehold land and other land**

### **Meaning of preferred recipient and preferred entity**

Part 4 of the bill deals with dispositions of Māori freehold land.<sup>2</sup> It would continue the approach under the 1993 Act of limiting those who may acquire, or have preference to acquire, Māori freehold land or land interests. However, it would change some key terminology (from “preferred classes of alienees” to “preferred recipients” and “preferred entities”). It would also increase the emphasis on tikanga Māori by requiring every preferred recipient to have an association with the land in accordance with tikanga Māori. The 1993 Act does not require this association in the case of the children and descendants of owners, which perpetuates a historical anomaly that enabled non-Māori to acquire ownership interests in Māori freehold land. In many cases, depending on the applicable tikanga, this would entail a whakapapa connection, but this is not a requirement under the bill because that would impose a legal constraint on tikanga.

From our discussions with submitters, we have noted that the wording of clause 96(1)(a) could be interpreted as requiring a preferred recipient to have a direct whakapapa descent relationship to a tupuna who held a customary interest in the land pre-1840. It was not the intention of the provision to require people to verify their descent back that far.

We therefore recommend replacing clause 96(1)(c) with a more general provision. Our proposal would ensure that a “preferred recipient” would encompass the children, grandchildren, and other descendants of any Māori who is an owner of the land on the legislation’s commencement date. We believe this would avoid unintended conse-

---

<sup>2</sup> “Disposition” is a defined term that covers a range of possible land dealings, such as a sale, gift, lease, mortgage, easement, partition, or other boundary adjustment.

quences arising from historical anomalies, while remaining true to the core principles on which the bill is based.

### **Lease of a parcel of land for general purposes**

Clause 128 deals with the leasing of a parcel of Māori freehold land for a purpose other than residential housing.

#### **Short-term leases**

For leases of 52 years or less, we consider that there is a misalignment between the bill's proposed threshold for owner agreement (at least 75 percent of participating owners' shares, regardless of the term of the lease) and the graduated threshold levels that currently apply under the Māori Assembled Owners Regulations 1995. We recommend amending this clause to specify graduated owner-agreement thresholds, depending on the term of the proposed lease, to better align it with the regulations. This change would mean that participating owners could not commit the land to a lease for a term longer than 7 years. Terms longer than 7 years would require the agreement of a proportion of all owners. We propose no changes to the rules that would apply where there is a governance body.

#### **Long-term leases**

We do not propose any changes regarding long-term leases. This clause would allow a governance body to agree to long-term leases (those with terms over 52 years) and decide any restrictions on their terms, within an overall maximum lease period of 99 years. The governance body would first need to have been authorised to enter into long-term leases by owners holding over 50 percent of the shares in the land. This is the same threshold as under the current Act, but the bill also offers owners the possibility of setting a higher threshold for owner agreement.

Where there is no governance body, the same threshold for owner agreement and 99-year maximum lease term would apply, but any lease for a term longer than 25 years would be conditional on confirmation by the Māori Land Court that it complies with the requirements of Parts 1 to 9.

#### **Sub-leases and self-leases**

To simplify matters for owners, we recommend amending clause 128(9)(b) to allow owners to agree to future sub-leasing at the same time as they agree to an original lease. We also recommend amending clause 128(10) to allow for a self-lease to be assigned or sub-let to a third party if there is the level of owner agreement that would have been required had the original lease not been a self-lease.

### **Licenses or *profits à prendre***

Clause 132 deals with the granting of a licence or "*profit à prendre*" (a right to take something from another's land, such as trees, crops, or minerals). In the absence of a governance body, it would require the agreement of owners holding more than a 50 percent share in the land. We recommend amending this clause to specify graduated

owner-agreement thresholds, depending on the term of the proposed licence or *profit à prendre*. This would mean that when there is no governance body the thresholds are aligned with the new thresholds we recommend above for leases.

### **Kawenata tiaki whenua**

As noted earlier, we recommend that clauses 137 to 139 be moved from Part 4 into Part 2 of the bill (as new clauses 44A to 44C). As kawenata (covenants) are similar in nature to whenua tāpui, the provisions more logically fit within that Part.

### **Part 5—Authority to act in relation to Māori freehold land**

This Part contains provisions that would authorise certain persons other than the owners of Māori freehold land to act for certain purposes in relation to the land. These may be governance bodies or agents. Agents are referred to in the bill as kai-whakahaere. Part 6 and Schedules 1, 3, and 4 are also relevant to the new governance model.

Submitters generally support the new governance model, and the flexibility it offers for governance agreements to be tailored to suit owners' needs. Rangatōpū would be a new option for owners wanting to establish their own entity to be their governance body instead of appointing entities such as the Māori Trustee, Public Trust, or a trustee company. There is support for the proposal that existing trusts and Māori incorporations would not be required to transition into the new rangatōpū model.

### **Appointing a governance body**

Clause 157 deals with the appointment of a governance body for a parcel of Māori freehold land. We recommend some amendments to allow for owners of several parcels of land to combine their land under one governance arrangement.

We recommend inserting new clause 159A to make it clear that a governance body would also need to comply with any obligations imposed under other law that might apply to it.

### **Tax matters**

We recommend inserting new clause 173A covering tax matters for Māori incorporations and trusts that choose to become rangatōpū. These provisions would ensure that there were no unintended tax consequences as a result of the transfer of assets and liabilities to the rangatōpū.

### **Revoking the appointment of a governance body**

Clause 174 would allow the owners of a parcel of Māori freehold land to revoke the appointment of a governance body for that land if 75 percent of the participating owners at a meeting voted to do so.

As introduced, this provision could create uncertainty and undermine the ability of a governance body to operate effectively, because the process could be triggered by a single owner. We see potential for disruption to governance arrangements if a single

owner were able to trigger the process for revoking a governance agreement. We therefore recommend amending clause 174 to specify that a decision-making process to revoke a governance agreement would need to be proposed by at least 15 owners who collectively hold at least 5 percent of the beneficial interest in the land.

### **Court may review certain decisions of owners relating to governance bodies**

Clause 188 would allow the court to review decisions of owners to appoint or revoke the appointment of a governance body. A decision could only be set aside on grounds of procedural irregularity.

We recommend amending clause 188(2) so that an application to review such a decision would need to be proposed by at least 15 owners who collectively hold at least 5 percent of the beneficial interest in the land.

### **Responsibilities of kaiwhakahaere**

The bill provides for the Māori Land Court to appoint a person as a kaiwhakahaere to carry out a specific purpose relating to a parcel of Māori freehold land. This is similar to the court's jurisdiction to appoint an agent under the 1993 Act. We recommend adding paragraph 191(2)(ba) to require the kaiwhakahaere to keep a written record of actions taken on the owners' behalf.

## **Part 6—Operation of governance bodies**

Part 6 of the bill would regulate the operation of governance bodies. Submitters welcomed the way the reforms would place greater and clearer responsibilities on governance bodies and kaitiaki. This would include stricter eligibility criteria; and clearer duties and responsibilities that would be more like those of company directors and trustees.

Submitters stressed, however, that governance bodies and kaitiaki would need to have a clear understanding of the content and implications of the new legislation. This brings us back to the point we have made earlier about the vital importance of providing adequate information and guidance about the new law before it came into force.

### **Powers, duties, and responsibilities**

We recommend inserting new paragraph 202(1)(aa) to include an express requirement for governance bodies to hold and manage an asset base for the benefit of the owners of the land being managed. Similarly, new subclause 203(aa) would insert an express requirement for a kaitiaki of a governance body to act for a proper purpose.

A governance body could sell a parcel of land only if it had first found replacement land that it would use the proceeds on (clause 104(3)). Clause 207(2) would require the governance body to go through with acquiring and/or improving the replacement land. We propose an amendment to allow a little more flexibility. We recommend amending clause 207(2) so that, if the board had failed to acquire the intended re-

placement land after making all reasonable efforts to do so, it could use the proceeds from the sale to acquire and/or improve other land of a similar quality.

### **Requests for information**

We recommend amending clause 214, subclauses (4), (6), and (7), to allow a governance body to charge owners a reasonable fee for providing information. It would need to explain the charge, and an owner would be able to apply to the court if they considered the charge unreasonable.

### **Powers of Māori Land Court in relation to governance bodies**

Clauses 216 to 218 set out what the court could do if it was satisfied that a governance body is, or might be, acting in a way that could create a serious risk for the owners.

A certain proportion of owners, set out in clause 216(5), would need to make an application for the court to act. As introduced, clause 216(5) would require an application to be made either by 15 owners or by owners who collectively hold 5 percent of the land. We recommend amending this provision so that it would require an application to be made by 15 owners who collectively hold 5 percent of the land.

Clause 218 deals with what the court may do after making an order under clause 216(2) or investigating a governance body. (Such orders may include requiring kaitiaki or officers of a governance body to file a report, provide certain documents, or appear before the court to answer questions.) However, the bill as introduced does not provide for any specific remedies if these things are not done. We recommend inserting subclause (3) to allow the court to make an order to start the process of cancelling a governance agreement; to make a restraining order to prevent a governance body, kaitiaki, or owner from engaging in conduct that would contravene the governance agreement; or to disqualify a kaitiaki.

### **Part 7—Administration of estates**

Part 7 sets out provisions about who is entitled to Māori freehold land or an individual freehold interest in a parcel of Māori freehold land when the owner dies without leaving a will. It also sets out how the estate is to be administered.

### **Restrictions relating to family protection legislation**

Clause 245 would continue existing restrictions under the Family Protection Act 1955 regarding who can receive interests in Māori freehold land. We consider that the basis for subclause 245(5) is out of date and inconsistent with modern law regarding marriages between Māori and non-Māori. We recommend that this subclause be changed so that pre-1952 customary marriages of mixed race are recognised.

### **Succession by eligible beneficiaries when owner dies intestate**

Clauses 246 to 254 would change the way interests in Māori freehold land are inherited when an owner dies without leaving a will.



We propose an amendment in clause 246 regarding succession arrangements to correct an unintended oversight in the way the bill was formulated. We propose that all generations descended from great grandparents (rather than simply grandparents, as stated in the bill as introduced) would be eligible successors. As introduced, clause 246(3)(e) would not achieve the policy intention, as it does not go back far enough when determining eligible beneficiaries. We recommend amending this clause so that all generations descended from great grandparents would be eligible successors.

New clause 246A would simply restructure the previous clause, for clarity.

### **Whānau trusts established on intestacy**

To address problems of fragmentation of Māori freehold land holdings, the bill would make whānau trusts the default outcome if an owner dies without leaving a will. There is provision for families or family members to opt out of a trust and succeed individually. This would either be by agreement or, if agreement could not be reached even after dispute resolution, by applying to the Māori Land Court.

We recommend some amendments in clause 254 to set out the provisions relating to whānau trusts more clearly. For example, the beneficiaries of a whānau trust would need to appoint trustees, or the court would do so for them. Also, the declaration of trust would need to include a prohibition on the trustees disposing of the interest in the land unless the court had authorised them to do so.

We also recommend inserting clause 254A to allow a whānau trust to be combined with an existing whānau trust if they shared the same group of beneficiaries.

## **Part 8—Registers, jurisdiction about land, giving of notices, and other provisions**

Part 8 of the bill contains provisions about registers and regulations, and various other matters. Apart from the following, the amendments we propose in this Part are mostly minor and technical.

### **Jurisdiction of the Māori Land Court**

Clause 300 sets out the court's jurisdiction for the purposes of Parts 1 to 9. We recommend rewording the beginning of this clause to reflect the fact that the court also exercises jurisdiction under several other Acts. We also recommend amending subclause (1)(m) conferring jurisdiction to determine allegations of a breach of duty by a governance body; as introduced, this covers kaitiaki only.

We recommend inserting subclause (1)(s) to provide for the court to determine whether the tikanga of the whānau, hapū, or iwi would prevail in any particular situation.

### **Bankruptcy arrangements**

Clause 318 would require the court to make an order vesting in the Official Assignee any beneficial interest of a person who is declared bankrupt whenever the Official Assignee applies for it. This carries over a provision of the 1993 Act. We recommend

streamlining this process so that the court need not be involved; instead, the Official Assignee could register the interest by transmission. Similarly, a person could get the interest back by transmission after being discharged from bankruptcy.

### **Regulations and fees**

Clause 326 would provide for the Governor-General, by Order in Council, to make regulations for a variety of purposes under Parts 1 to 9. This would include (subclause (k)) regulations prescribing charges or fees for services or other matters under Parts 1 to 9.

The amendments we propose in this clause are purely of a minor and technical nature. However, as the level of fees to be charged under this legislation was an important issue for submitters, particularly regarding charges for services to be offered by the Māori Land Service, we wish to offer some comment.

We note that work is still under way on developing the regulations, so the fees to be charged, including by the Māori Land Service, are not yet known. We consider it very important that people can readily access the services provided for under this legislation, so the level of fees must not be prohibitive.

We have considered the bill on the basis that Māori land owners' ability to access services would be no less than it currently is, and that fees would not be set on a full cost-recovery basis. We understand that this is the Government's intention, and that the business case for the Māori Land Service is being developed on this basis.

### **Part 9—Dispute resolution**

The bill would establish a new Māori land dispute resolution service to help people and groups to resolve, between themselves, disagreements and conflicts in accordance with the tikanga, values, and kawa (protocols) of the hapū associated with the relevant land. In the case of a whānau dispute, the kawa of the whānau would apply.

The new process would entail a mix of mediation (where a kaitakawaenga would help the parties to resolve their issues by agreement) and arbitration (where, if they cannot reach agreement, the parties could agree to give the kaitakawaenga the ability to make a binding decision).

Submitters supported the proposed dispute resolution process, seeing it as empowering for those involved, and preferable to the current process of taking disputes through the court. Submitters want the process to be administered through the proposed Māori Land Service, and to be free of charge.

We recommend expanding clause 328, which sets out the purpose of the dispute-resolution provisions, to incorporate the bill's core principle (from clause 3) that disputes involving Māori land should be managed in a manner that maintains or enhances the relationships among the owners and the members of their whānau and hapū.

This Part of the bill uses the term “mātauranga takawaenga”. It is defined in clause 329 to mean a process to assist people and groups to resolve disagreements and conflicts in a manner that accords, as far as possible, with the tikanga, values, and kawa

of the hapū (or whānau, in the case of whānau disputes) that is associated with the relevant land. Submitters were not comfortable with the use of this term, and we recommend that it, and the term “kawa”, not be used. Instead, we propose the insertion of subclause 328(2) to describe the terms “relevant tikanga” and “values and protocols”.

We recommend some amendments in clauses 332 to 342 to improve and clarify aspects of the process. Among other things, these changes would ensure that proper consideration is given to matching the skills of kaitakawaenga to the nature of the particular disputes they are appointed to. They would also entitle representatives to be present when kaitakawaenga who have been given the ability to make a binding decision are discussing matters with parties. The amendment to clause 340 would require the chief executive to make publicly available any general instructions issued under that provision.

### **Parts 10 to 15—Provisions relating to Māori Land Court and Māori Appellate Court**

Parts 10 to 15 of the bill would continue the Māori Land Court and Māori Appellate Court. As we have noted in our introduction, these parts of the bill would be enacted as a separate piece of legislation.

Most submitters agreed that the court, along with the appellate court, should remain a key institution for determining matters relating to Māori land. A few submitters opposed the court entirely, based on their negative experiences with it.

Submitters had mixed views on proposed changes to the role and jurisdiction of the court arising from Parts 1 to 9. Several expressed support for a change in the court’s role, from having final discretion over a range of decisions to one of ensuring that due process and legal requirements are complied with. However, some questioned whether the proposed changes would be a cost-effective approach. While supporting the idea of a new dispute-resolution service, they suggested that current problems with the court were largely a matter of inadequate resourcing.

Other than the change discussed below, we do not propose major amendments to Parts 10 to 15 of the bill.

### **Appointment of Judges**

Clauses 427 and 428 deal with the appointment of Judges of the Māori Land Court. For clarity, we recommend amendments to clauses 427 and 428 to make it explicit that a Judge would be appointed by the Governor-General on the advice of the Minister for Māori Development, after consultation with the Attorney-General.

We consider that this change would address some concerns that the bill would transfer responsibility for recommending appointments away from the Minister to the Attorney-General. Clause 428 would merely give the Attorney-General responsibility for publishing the processes for judicial appointments. This is in line with a recent

amendment to the 1993 Act, through the enactment of the Judicature Modernisation Bill, which will come into force on 1 March 2017.

Consequential changes are recommended in clauses 432, 434, and 435.

## **Part 16 (Repeals and amendments) and Schedules 1–12**

Part 16 would repeal Te Ture Whenua Māori Act 1993; revoke and consequentially amend certain other enactments; amend three Acts in relation to the jurisdiction and functions of the Māori Land Court; and amend three Acts in relation to rating and valuation matters. We do not propose any major changes to this Part.

### **Mangatu adjustments**

We note that clause 483, together with clause 484, would insert a new section 52A in the Rating Valuations Act 1998, giving local authorities the power to adjust the value of Māori freehold land for rating purposes. These “Mangatu adjustments”, as they are known, result from a decision by the Court of Appeal in the judgment known as the Mangatu case.

### **Schedules 1–12**

The Schedules to the bill set out various matters including transitional provisions, procedural and process matters, and consequential amendments to other Acts. We recommend the following relatively minor changes.

In Schedule 1, we recommend inserting clause 12(4)(e) to make it clear that the Tuaropaki Trust would not become subject to the new governance body framework; instead, it would continue under the existing framework as provided in clause 23. The Tuaropaki Trust has unique features that the reforms are not intended to displace.

In Schedule 2, clause 12 deals with meetings of owners. We recommend amending subclause (1)(b) as we consider that the term “proxy” is more widely understood than “nominated representative”. We recommend deleting subclause (2) dealing with the quorum for a meeting; we consider it unnecessary given other provisions in the bill setting participation thresholds for decision-making by owners.

### **Minority View**

This Minority View is submitted by the Labour, Green, and New Zealand First Parties.

When the bill was first introduced into the House we were led to believe that it would address the vexed problem of the under-utilisation of Māori land. We believe that the bill does not do this and in fact advances the removal of some responsibilities presently held by the Māori Land Court, to a new bureaucracy yet to be established. The bill also fails to address real impediments to Māori land development as raised by land-owners at consultation hui around the country.

The receipt of submissions from a very broad range of people and entities involved in Māori land use and administration opposed to the bill including Māori Land Trusts

(Tuaropaki), Māori Incorporations (Wakatū Incorporation), Whānau Trusts, Judges of the Māori Land Court, Māori Women's Welfare League, Human Rights Commission, Ngāi Tahu Māori Law Centre, NZ Law Society, PSA representing Māori Land Court staff, Professor Richard Boast QC Kensington Swan Lawyers, and individuals gave us cause for disquiet about the bill.

Extracts from written submissions who opposed the bill stated;

- Despite the Review Panel that gave rise to this bill being tasked with assessing the extent to which the regulatory environment is enabling or inhibiting the achievement of Māori land owner aspirations, the Panel chose to develop recommendations based on “*what should the law look like*” rather than “*what is wrong with the current law and how should it be fixed.*” – Māori Women's Welfare League (paragraph 3.4, page 3).
- The criticism towards the function of the Māori Land Court and the current Act as being primarily responsible for the lack of utilisation and development of Māori land is entirely incorrect, unreasonable, and not supported by sufficient research. – Ngāi Tahu Māori Law Centre (paragraph 5, page 1).
- The bill in short is supposed to empower land owners to take more control of their land and enable the exercise of rangatiratanga. It has been our experience in reviewing the bill for the purpose of making these submissions that to fully understand the workings of the bill will require a huge investment of time and effort (of many months) and a great deal of expert knowledge. Even lawyers who specialise in the field of Māori land law find the bill something of a challenge to understand. – Prof Richard Boast QC, Deborah Edmunds, Tai Ahu and David Jones, Kensington Swan Lawyers (paragraph 3.4, page 3 and paragraph 4.1, page 4).
- The bill provides no material benefit for the Tuaropaki Trust in either the delivery of services to beneficial owners or the development of its national and international commercial interests. The Tuaropaki Trust therefore seeks a specific exclusion clause in the bill allowing the Tuaropaki Trust to continue to be governed by its trust order under Te Ture Whenua Māori Act 1993 (1993 Act) as if the 1993 Act has not been repealed. – Tuaropaki Trust (paragraphs 2 and 3, page 1).
- Wakatū is also opposed to the bill because it adds limited to no value to existing and successful Māori incorporations. – Wakatū Incorporation (paragraphs 4 to 4i, page 2).
- Given the Government's human rights commitments as regards the implementation of UNDRIP (UN Declaration on the Rights of Indigenous People), the bill should both reflect and advance its principles. In the Commission's view, the application of the UNDRIP principle of free, prior, and informed consent reinforces the (Waitangi) Tribunal's finding that the bill presently does not have a sufficient mandate amongst Māori. – NZ Human Rights Commission (paragraphs 23 and 24, page 8).

- The bill is a high-risk approach to critical law reform affecting the taonga tuku iho that is Māori land. The bill will undermine existing Māori property rights. Key assumptions underpinning the bill are flawed. Aspects of the bill do not align with tikanga Māori. The bill mainstreams Māori Land and the Māori Land Court. – Judges of the Māori Land Court (page 2).

A supporter of the bill, the Federation of Māori Authorities, in their submission identified 37 problematic provisions in the bill and six gaps including succession applications suggesting that these should remain with the Māori Land Court. They also commented on the ‘untested and as yet undefined’ role of the Māori Land Service. They further commented that the bill did not address the ‘real impediments’ for land utilisation, commonly referred to by officials as the ‘enablers’ and that it should. We agree.

We are concerned that the complexities of the bill will not empower landowners as intended. We believe that these complexities will have the unintended effect of disenfranchising landowners, particularly those holding small shares and those living away from home or whose whereabouts is not known. The bill is prefaced on a range of assumptions taken without any evidence based research and fails to address impediments as identified by landowners at the consultation meetings.

### **Major Māori Land Tenure reform**

This is the first significant review of the Te Ture Whenua Māori Act 1993. From the outset the policy objective has been to prioritise the utilisation of undeveloped Māori land, streamlining the consolidation of owner interests and governance decision-making processes and structures.

The initial objections raised by us at the first reading highlighted the incredibly poor process in bringing these amendments which include the lack of broad based support for the changes, the potential impact on small land owners that could disenfranchise their interest in whenua tūpuna (ancestral land), the lack of clarity and purpose of the Māori Land Service, the loss of institutional knowledge from the Māori Land Court, the shift in emphasis from protection, and development towards retention and utilisation.

We maintain that the significance of the proposed changes should uphold the principles of protection, whakapapa connection to Māori land, ahi-kaa, improved access to land-locked parcels of Māori land, improved governance support for Māori owners, improving current offer-back provisions of the Public Works Act, and addressing the rating and valuation of Māori land to improve its utilisation potential.

To a significant extent several of these issues have not been included as critical ‘fixes’ in the bill. Several of these matters have been deferred to ‘enabler’ workstreams and there has been insufficient evidence to demonstrate the level of priority to achieve the level of progress that landowners have highlighted throughout the consultation process.

### **Māori Land Service**

Integral to achieving the objectives of this bill will be the creation of the new Māori Land Service which is currently in the wānanga design phase of the process. We are aware that a business case is being prepared for the establishment of the Māori Land Service. At this stage the case for its viability is unknown. We consider this work-stream as fundamental to addressing the core improvements to the existing process of supporting landowners, addressing matters of succession, creating new governance structures, improving the efficiency of administrative functions, and establishing a new disputes resolution service and drawing on tikanga Māori as a guiding set of values. However, we are concerned that the lack of a confirmed and budgeted business case, a transitional implementation plan, targets to achieve objectives in a timely manner, and a risk-management profile to mitigate against any unforeseen matters to aid confidence that a successful implementation can be achieved.

We believe greater emphasis should be given to support the operative intention of the proposed Māori Land Service within the Māori Land Court immediately. This would deliver greater value to those landowners who do not currently have governance arrangements and judicial involvement in the dispute resolution provisions.

### **Participating Owners' Models and decision-making thresholds**

We are concerned that provisions relating to the Participating Owners' Model and decision-making thresholds are complex and confusing. The issue here is two-fold:

1. whether the definition of 'participating owner' and decision-making thresholds creates an imbalance between owners
2. whether the proposed changes will assist non-engaged landowners to organise and participate in decision-making regarding the governance, leasing, disposition, gifting of their lands, or whether these responsibilities preference larger groupings of interests and the consolidation of a corporate rather than a whānau-based model.

We believe that insufficient information has been provided to clarify the costs and potential fee setting associated with the bill. We believe that the importance of cost or fee thresholds should not prohibit access to landowners. We are uncertain that the issue of costs associated with the Māori Land Service delivery model has been fully considered and this is an implementation risk. While we were informed of the benefit of a data platform to improve the sharing and utilisation of information by the Māori Land Service, there was no detail on this project. We were informed that the proposed information data platform is currently led by Land Information New Zealand and will require a significant budget commitment and is yet to be confirmed by the Government.

### **Whāngai, Rangatiratanga, and other Tikanga Māori concepts**

We agree in principle with the approach of retaining land within whānau and hapū who whakapapa to the whenua and the clarification of rights to whāngai in accord-

ance with tikanga. However, we believe that this can be achieved by a simple amendment to the 1993 Act.

There are a number of roles created to support and assist whānau with their whenua. Given that the bill is about empowering whānau and rangatiratanga it could be argued that some of these roles may be too parochial in that arguably it delegates authority to another ‘body’. These roles include that of kaiwhakarite, kaitiaki, kaiwhakamarumarū, concepts not necessarily common to some Māori.

We heard from a number of Māori Incorporations, Ahu Whenua, and Māori Trusts who have been successful under the current Act. These same organisations are functioning in a manner that allows them to proceed with their aspirations under existing trust orders or in accordance with their trust deeds. By seeking to retain that approach, we recognise that rangatiratanga can be achieved under the current Act.

They argued for amendments to the existing legislation rather than wholesale reform to the principles of the Act and we agree with that approach.

### **Resource Management Act 1991 and the Local Government (Rating) Act 2002**

We heard the objective of the bill to accord rangatiratanga to “owners” is significantly reliant on the above Acts. We note territorial and regional councils control the use of Māori land with ratings policy of Māori land the responsibility of individual councils. We would suggest exploring the viability of a National Policy Statement for the Rating of Māori Land.

Our concerns are further heightened by the fact that the Government is currently reforming both Acts and we have received no advice on the possible implication of those reforms on the bill.

### **Disestablishment of managerial positions within the Māori Land Court**

Submitters raised the concerns of the wealth of knowledge and experience of Māori whenua whakapapa and administration that currently resides with managers within the Māori Land Court. Due to the recent job losses announced by the Ministry of Justice we sought assurances from officials that the pending losses of capability with the disestablishment of these managerial roles within the Māori Land Court, across the country, would not adversely impact on the proposed Māori Land Service. We were given those assurances. We do not share that view. Our preference would be to defer any job losses until the proposed Māori Land Service is fully operationalised.

### **Committee process**

We note with regret that some written submissions were not available online in a timely manner; an analysis of where submitters wished to appear was not completed; nor the expertise of committee members utilised to ensure hearing venues for those who wished to appear were appropriate; some submitters did not appear who were down to appear and some who wished to appear were not down to appear. Timing for each submitter was not clearly spelt out from the outset causing some confusion for both submitters and the committee members.



Given the substantive changes to the bill since the hearing of submissions, we feel strongly that submitters should be given an opportunity to review the changes to the bill. The latest updated version of the bill has gone through numerous changes and the select committee would have benefitted from the submitters' feedback as to the implications of those changes against the concerns they raised.

We further note that the ability for Māori freehold land to be confiscated under the Public Works Act remains and is not addressed in this bill, despite it being raised by many submitters throughout the consultation process.

The number one priority of any Māori land reform should be to protect the small amount of land that remains in Māori ownership from further loss and alienation.

### **Summary**

From the reasons outlined above we believe the bill falls short of its intended objective to improve Māori land utilisation by creating an 'owner led' operating environment. Instead it reduces the powers of the Māori Land Court and moves to establish the proposed Māori Land Service. A new entity that has not been defined, budgeted for, or tested. It creates an unequal balance between owners through the 'participating owners' decision making thresholds' that can potentially lead to further alienation and has failed to address Māori land development impediments (landlocked land, paper roads, land taken under the Public Works Act, and ratings) as raised by owners throughout the consultation process. The bill has gone through numerous changes, is dense, and complex to follow. Seeking views from submitters on these changes would have provided a useful set of 'fresh' eyes for the select committee in determining whether the bill meets its original objective.

For these considered reasons we cannot support the bill and recommend it not proceed at this time.

## **Appendix**

### **Committee process**

Te Ture Whenua Māori Bill was referred to the committee on 11 May 2016. The closing date for submissions was 14 July 2016. We received and considered 152 submissions from interested groups and individuals. We heard oral evidence from 47 submitters at hearings in Gisborne, Tauranga, Canterbury, and Auckland, as well as in Wellington.

We received advice from Te Puni Kōkiri and Land Information New Zealand.

### **Committee membership**

Tutehounuku Korako (Chairperson)

Hon Chester Borrows

Marama Davidson

Kelvin Davis

Marama Fox

Joanne Hayes

Hon Nanaia Mahuta

Pita Paraone

**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Hon Te Ururoa Flavell*

## **Te Ture Whenua Māori Bill**

Government Bill

### **Contents**

	Page
1 Title	22
2 Commencement	22
<b>Part 1</b>	
<b>Preliminary provisions</b>	
3 Aronga me ngā mātāpono o tēnei Ture/Purpose and principles of Act	23
4 Achieving purpose and recognising principles of Act	24
5 Interpretation	24
6 Meaning of individual freehold interest	31
7 Meaning of owner	31
<u>7A</u> <u>Association with land in accordance with tikanga Māori</u>	<u>32</u>
8 Descent relationships determined by tikanga Māori	32
9 Evidence of applicable tikanga Māori	33
10 Transitional, savings, and related provisions	33
11 Act binds the Crown	33
<b>Part 2</b>	
<b>Whenua Māori/Māori land <del>and</del>, whenua tāpui, and kawenata tiaki whenua</b>	
Subpart 1—Whenua Māori/Māori land	
<i>Māori customary land</i>	
12 Definition of Māori customary land	33
13 Māori customary land cannot be disposed of	33
14 Court may determine whether land is Māori customary land	34
15 Court may determine class of collective owners of Māori customary land	34

**Te Ture Whenua Māori Bill**

---

16	Court may change status of Māori customary land to Māori freehold land	35
17	Kaiwhakahaere appointed for Māori customary land	36
18	Trespass or injury to Māori customary land	37
19	Provisions for jurisdiction about Māori customary land do not apply to common marine and coastal area	37
	<i>Māori freehold land</i>	
20	Definition of Māori freehold land	37
21	Māori freehold land may be disposed of in certain ways	37
22	Court may determine whether land is Māori freehold land	37
	<i>Land becomes Māori freehold land</i>	
23	How land becomes Māori freehold land	38
24	Land becomes Māori freehold land by vesting order on change of ownership	39
25	Private land other than Māori land may be declared Māori freehold land	40
	<i>Land ceases to be Māori freehold land</i>	
26	How land ceases to be Māori freehold land	41
27	Land may cease to be Māori freehold land by declaration	41
	<i>High Court jurisdiction over status of land</i>	
28	High Court jurisdiction over status of land	42
	Subpart 2—Whenua tāpui	
29	Preliminary provision	42
30	Application for court order declaring private land reserved as whenua tāpui	43
31	Court order declaring private land reserved as whenua tāpui	43
32	Court must be satisfied of matters for whenua tāpui on private land	45
33	Minister declares Crown land or other specified land reserved as whenua tāpui	45
34	Minister must apply for court recommendation for new whenua tāpui on Crown land or other specified land	48
35	Application for court order of declaration for existing whenua tāpui	49
36	Court order of declaration for existing whenua tāpui	49
37	Court must seek and consider submissions for some orders	51
38	Effect of declarations about whenua tāpui	52
39	Administering bodies	53
<u>39A</u>	<u>Court order to restrain administering body</u>	<u>54</u>
40	Lease of whenua tāpui for general purposes	54
41	Lease of papakāinga housing site for residential housing with rent payable	55
42	Lease of papakāinga housing site for residential housing rent-free	56

**Te Ture Whenua Māori Bill**

---

43	Variation of lease of whenua tāpui	57
44	Reservation and disposition of whenua tāpui	57
	<u>Subpart 3—Kawenata tiaki whenua</u>	
<u>44A</u>	<u>Kawenata tiaki whenua over parcel</u>	<u>58</u>
<u>44B</u>	<u>Cancellation or variation of kawenata tiaki whenua</u>	<u>59</u>
<u>44C</u>	<u>Effect and notation of kawenata tiaki whenua</u>	<u>59</u>
	<b>Part 3</b>	
	<b>Ownership interests in Māori freehold land</b>	
	Subpart 1—Ownership and decision making	
	<i>Introductory provisions</i>	
45	Example of multiple owners of parcel of Māori freehold land	60
46	Presumption of tenancy in common and equal sharing where multiple owners	60
47	Rights of owners	60
	<i>Collective ownership</i>	
48	Conversion to collective ownership of Māori freehold land	61
49	Effect of conversion to collective ownership	61
50	Collective owner has no separate interest	62
	<i>How owners of Māori freehold land make decisions</i>	
51	Decisions by specified majority of owners of Māori freehold land	62
<u>51A</u>	<u>Participation thresholds</u>	<u>64</u>
<u>51B</u>	<u>Second decision-making process</u>	<u>65</u>
<u>51C</u>	<u>Summary of specified majorities of owners who must agree to decisions about Māori freehold land</u>	<u>66</u>
52	Minor cannot vote on decisions and is not counted as participating owner	68
53	Voting for individual freehold interest owned by joint tenants	69
54	Agreement by owners with >50% or ≥75% share in land	69
55	Agreement by owners with >50% or ≥75% of participating owners' total share in land	69
56	Agreement by >50% of participating owners (casting votes of equal weight)	70
57	Effect of decisions	70
	Subpart 2—Whānau trusts	
	<i>Establishment of whānau trust</i>	
58	Owner of Māori freehold land may establish whānau trust	70
59	Whānau trust ( <del>operational</del> <u>to operate</u> while owner or owners living)	71
60	Whānau trust ( <del>operational on</del> <u>to operate</u> after death of owner)	72

**Te Ture Whenua Māori Bill**

---

*Operation of whānau trust*

61	Effect of establishing whānau trust	72
62	Trustees of whānau trusts	72
63	Powers and responsibilities of trustees of whānau trusts	72
64	Whānau trusts to be entered in Māori land register	73
65	Recording of beneficiaries' details on Māori land register	74
66	Entitlements of beneficiaries of whānau trusts	74
67	Whānau trusts not subject to rule against perpetuities	75

*Jurisdiction of court and enforcement of obligations of trustees*

68	Court may determine matters relating to whānau trust and amend declaration of trust	75
69	Court may validate actions of trustees	76
70	Court may enforce obligations of whānau trust	76
<u>70A</u>	<u>Court may allow withdrawal of beneficial interests from whānau trust in exceptional circumstances</u>	<u>76</u>

*Termination of whānau trust*

71	<del>Termination</del> <u>Application to court for termination of whānau trust by court order</u>	77
<u>71A</u>	<u>Court order for termination of whānau trust</u>	<u>78</u>
<u>71B</u>	<u>Vesting of beneficial interests in land after termination of whānau trust</u>	<u>78</u>
<u>71C</u>	<u>Vesting of other trust property after termination of whānau trust</u>	<u>79</u>
72	Responsibilities of trustees if whānau trust terminated	80
<u>72A</u>	<u>Responsibilities of chief executive and Māori Trustee in respect of trust money if whānau trust terminated</u>	<u>80</u>

Subpart 3—Kaiwhakamarumarū for owners needing protection

*Appointment of kaiwhakamarumarū for owners needing protection*

73	Appointment of kaiwhakamarumarū for owners needing protection	81
74	Meaning of owner needing protection	81
75	Who may be appointed as kaiwhakamarumarū	82
76	Functions and duties of kaiwhakamarumarū	82
77	Consequences of appointing kaiwhakamarumarū	83

*Procedure for appointing kaiwhakamarumarū*

78	Who may apply for order appointing kaiwhakamarumarū	83
79	Court may appoint lawyer to represent person if application for order appointing kaiwhakamarumarū made in relation to person's property	84
80	Matters to which court must have regard when deciding whether to appoint kaiwhakamarumarū	85
81	Content of order appointing kaiwhakamarumarū	85



**Te Ture Whenua Māori Bill**

---

	<i>Operational matters in respect of kaiwhakamarumarū appointment</i>	
82	Protection of kaiwhakamarumarū from liability	86
83	Expenses incurred by kaiwhakamarumarū and remuneration	86
84	Application of other enactments to kaiwhakamarumarū appointment	87
	<i>Changes to kaiwhakamarumarū appointment and termination of appointment</i>	
85	Circumstances in which court may appoint, replace, remove, or disqualify kaiwhakamarumarū	87
86	Termination of kaiwhakamarumarū appointment	88
	<i>Reporting requirements and review of kaiwhakamarumarū appointments</i>	
87	Kaiwhakamarumarū must report to Registrar	89
88	Frequency of reporting by kaiwhakamarumarū	89
89	Contents of kaiwhakamarumarū report	89
90	Actions resulting from report by kaiwhakamarumarū	90
91	Inspection of kaiwhakamarumarū reports	90
92	Review by court of appointment of kaiwhakamarumarū	90
	<i>Registration of order appointing kaiwhakamarumarū</i>	
93	Recording of order appointing kaiwhakamarumarū	91
94	Orders appointing kaiwhakamarumarū may be registered	91
95	Changes to be made to registers after kaiwhakamarumarū appointment terminated	91
	<b>Part 4</b>	
	<b>Dispositions of Māori freehold land and other land</b>	
96	Meaning of preferred recipient and preferred entity	92
97	Disposition of land made by owner or governance body	93
98	Overview of governance body's agreement to disposition	93
	<i>Sale, gift, exchange, etc, of parcel of Māori freehold land</i>	
99	Sale of parcel	94
100	Sale of parcel in ordinary cases	94
101	Preferential tender process for sale of parcel	95
102	Exchange of parcel	96
103	Order declaring that land ceases to be Māori freehold land on sale or exchange by governance body	98
104	Other requirements before governance body offers to sell parcel or exchanges parcel	98
105	Gift of parcel	99
106	Transfer of parcel for settlement on trustees	99
107	Agreement to certain dispositions of parcels under enactments	99
108	No sale, gift, exchange, or transfer of part of parcel	100

**Te Ture Whenua Māori Bill**

---

<i>Boundary adjustment of parcel of Māori freehold land</i>		
109	Boundary adjustment of parcel	100
110	Actions required for boundary adjustment	100
111	Effect of boundary adjustment	101
<i>Partition of parcel of Māori freehold land</i>		
112	Partition of parcel	102
113	Actions required for partition (other than by mortgagee)	102
114	Allocation scheme for new parcels on partition (other than by mortgagee)	104
115	Actions required for partition by mortgagee	104
116	Effect of partition	105
<i>Amalgamation of parcels of Māori freehold land or other land</i>		
117	Amalgamation of parcels	105
118	Actions required for amalgamation	106
119	Allocation scheme for new parcel on amalgamation	107
120	Effect of amalgamation	108
<i>Aggregation of parcels of Māori freehold land or other land</i>		
121	Aggregation of ownership of parcels	108
122	Actions required for aggregation of ownership	109
123	Allocation scheme for parcels on aggregation of ownership	109
124	Effect of aggregation of ownership	110
<i>Cancellation of aggregation of parcels of Māori freehold land</i>		
125	Cancellation of aggregation of ownership of parcels	110
126	Allocation scheme for parcels on cancellation of aggregation of ownership	111
127	Effect of cancellation of aggregation	111
<i>Grant of lesser interest over parcel of Māori freehold land</i>		
128	Lease of parcel for general purposes	112
129	Lease of parcel for residential housing with rent payable	114
130	Lease of parcel for residential housing rent-free	114
131	Gift of rent-free lease for residential housing	115
132	Licence or <i>profit à prendre</i> over parcel	116
133	Mortgage or charge over parcel	117
134	Variation of lease, licence, <i>profit à prendre</i> , mortgage, or charge	118
135	Easement over parcel	118
136	Cancellation or variation of easement	119
<del>137</del>	<del>Kawenata tiaki whenua over parcel</del>	<del>120</del>
<del>138</del>	<del>Cancellation or variation of kawenata tiaki whenua</del>	<del>121</del>
<del>139</del>	<del>Effect and notation of kawenata tiaki whenua</del>	<del>121</del>

**Te Ture Whenua Māori Bill**

---

*Sale, gift, exchange, and mortgage of individual freehold interest  
in Māori freehold land*

140	Disposition of individual freehold interest	122
141	Exchange of individual freehold interest	122

*General provisions about dispositions*

142	Dispositions made by instruments	123
143	Dispositions of Māori freehold land have effect when recorded or registered	123
144	Recording dispositions on Māori land register	123
145	Registering dispositions under Land Transfer Act 1952	124
146	Disposition must comply with certain other enactments	124
147	Evidence and orders about compliance with enactments before instruments recorded	125
148	Orders about compliance with enactments after instruments recorded	125
149	Orders of confirmation for dispositions	125
150	Determinations about dispositions by court	126
151	Certain matters registrable despite caveat	126
152	Application of Part 3 of Property Law Act 2007 to mortgage of Māori freehold land	127

*Gift by will of entitlements arising from ownership*

153	Gift by will of entitlements arising from ownership	128
-----	---	-----

**Part 5**

**Authority to act in relation to Māori freehold land**

Subpart 1—Governance bodies

154	Overview of provisions relating to governance bodies	129
155	Function and purpose of governance bodies	130
156	Rights of owners of Māori freehold land managed under governance agreement	131

*Appointing a governance body for Māori freehold land*

157	Who may appoint a governance body	131
158	Who may be appointed as governance body	132
159	Process for appointing governance body	133
<u>159A</u>	<u>Governance bodies continue to be subject to other law</u>	<u>133</u>

*Certain governance bodies may become rangatōpū*

160	Governance bodies that are Māori incorporations or trusts may become rangatōpū	134
-----	--	-----

*Certain governance bodies may amalgamate*

161	Certain governance bodies may amalgamate	134
-----	--	-----

**Te Ture Whenua Māori Bill**

---

<i>Registering governance agreements</i>		
162	Application to register governance agreement	134
163	Registration of governance agreement	135
164	Process for dealing with simultaneous applications	136
165	Grounds for rejecting application for registration of governance agreement	136
166	When registration of rangatōpū creates separate legal personality	137
167	Certificates are conclusive evidence of registration	138
168	Registered governance agreement has legal effect	138
<i>Establishment of asset base</i>		
169	Asset base vests in governance body on registration of governance agreement	138
170	Registrar-General to record change of ownership of land	139
171	Status of contracts and other instruments	139
172	Status of existing securities	140
173	Matters not affected by vesting under section 169	140
<u>173A</u>	<u>Tax matters for Māori incorporations and trusts that become rangatōpū</u>	<u>141</u>
<i>Revoking governance body appointments</i>		
174	Owners of Māori freehold land may revoke governance body's appointment for that land	142
<i>Cancelling governance agreements</i>		
175	Ways to start cancellation of governance agreement	142
176	Cancellation of governance agreement when governance body replaced	143
177	Cancellation of governance agreements when governance bodies amalgamate	144
178	Cancellation of governance agreement in other circumstances	144
179	Liability of kaitiaki for compensation for void transaction or dealing	145
180	Cancelling governance certificates	145
181	Revesting of Māori freehold land vests on cancellation of governance certificate	145
182	Liability of kaitiaki to continue	146
<i>Cancelling rangatōpū registration</i>		
183	Cancelling rangatōpū registration	146
<i>Kaitiaki requirements for certain governance bodies</i>		
184	Kaitiaki: quorum and eligibility	146
185	Kaitiaki: vacancies in office, suspension from office, validity of acts	148

**Te Ture Whenua Māori Bill**

---

*Jurisdiction of court*

186	Court may investigate kaitiaki appointments for certain governance bodies	148
187	Court may appoint kaitiaki for certain governance bodies	149
188	Court may review certain decisions of owners relating to governance bodies	150

Subpart 2—Kaiwhakahaere

189	Court may appoint kaiwhakahaere	150
190	Purposes for which kaiwhakahaere may be appointed	151
191	Responsibilities of kaiwhakahaere	152
192	Powers of kaiwhakahaere	153
193	Process for appointing kaiwhakahaere	153
194	Requirements if meeting of owners required	154
195	Order of appointment	154
196	Court may require kaiwhakahaere to report to court	155
197	Court may require kaiwhakahaere to report to owners	155
198	Court may make order relating to costs of kaiwhakahaere	155
199	Termination of appointment of kaiwhakahaere	156
200	Responsibilities of kaiwhakahaere if appointment terminated	157
201	Immunity from civil liability	157

**Part 6**

**Operation of governance bodies**

*Powers, duties, and responsibilities*

202	Powers, duties, and responsibilities of governance bodies	157
203	Duties and responsibilities of kaitiaki	158
204	Immunity of kaitiaki from personal liability	158
205	Immunity of owners from personal liability	158

*Changes to holdings of Māori freehold land*

206	Requirements if governance body decides to hold land as Māori freehold land	159
207	Requirements if governance body sells or exchanges parcel of Māori freehold land	159
208	Requirements in cases of partition, amalgamation, or boundary adjustment of Māori freehold land managed under governance agreement	160
209	Requirements for allocation scheme	161
210	Requirements for land management plan	161

*Order relating to acquisition of Māori freehold land*

211	Order declaring land to be Māori freehold land and confirming allocation scheme	162
-----	---	-----

**Te Ture Whenua Māori Bill**

---

<i>Application of revenues</i>		
212	Application of revenues	163
213	Unpaid distributions	163
<i>Access to information held by governance bodies</i>		
214	Requests for information	164
215	Reasons for withholding information	165
<i>Powers of Māori Land Court in relation to governance bodies</i>		
216	Court may make orders or investigate governance bodies	166
217	Matters relating to investigation of governance bodies	167
218	What court may do after making order or investigating governance body	168
219	Court may make restraining order	169
220	Court may disqualify kaitiaki	169
<i>Distribution schemes</i>		
221	Obligation to prepare full distribution scheme	169
222	Requirements for full distribution scheme	170
223	Expenses of kaiwhakahaere	171
224	Application of certain provisions of Companies Act 1993 to full distribution scheme	171
225	Obligation to prepare partial distribution scheme	172
226	Requirements for partial distribution scheme	172
227	Process once court confirms distribution scheme	174
<i>Obligations of Māori Trustee in respect of unpaid distributions</i>		
228	Transfer of unpaid distributions from outgoing governance body to Māori Trustee	174
229	Māori Trustee must transfer unpaid distributions to successor governance body	175
<i>Certain governance bodies must maintain interests register</i>		
230	Governance bodies must maintain interests register	175
231	Kaitiaki must make annual declaration for purpose of interests register	176
<i>Rule against perpetuities does not apply</i>		
232	Governance bodies not subject to rule against perpetuities	176
<i>Shares in Māori incorporations</i>		
233	Māori incorporations may continue to maintain share register	177
234	Chief executive must notify Māori incorporation of matters affecting share register	177
235	Māori incorporations may adjust shareholding	177
236	Relationship between share register and Māori land register	178

**Te Ture Whenua Māori Bill**

---

237	Sections 233 to 236 cease to apply if Māori incorporation becomes rangatōpū	178
-----	---	-----

**Part 7  
Administration of estates**

*Introductory provisions*

238	General law on estates subject to this Part	178
239	Restrictions on gifting Māori freehold land by will	179
240	Invalid disposition by will must be treated as intestacy	179
241	Land status at time of death of owner determinative	179
242	Change in land status between death of owner and vesting	179

*Māori land not available for payment of debts of estate*

243	Māori land not available for payment of debts of estate	180
-----	---	-----

*Restrictions relating to testamentary promises and family protection legislation*

244	Restrictions relating to testamentary promises legislation	181
245	Restrictions relating to family protection legislation	181

*Distribution of interests when owner dies intestate*

246	Eligible beneficiaries <del>may succeed to</del> interests when owner dies intestate	182
-----	--	-----

<u>246A</u>	<u>Succession by eligible beneficiaries when owner dies intestate</u>	<u>183</u>
-------------	---	------------

247	Succession <del>on intestacy</del> where more than 1 eligible beneficiary <u>when owner dies intestate</u>	183
-----	--	-----

248	Family arrangement instead of whānau trust	184
-----	--	-----

249	Application <del>for</del> <u>to give effect to</u> succession when owner dies intestate	184
-----	--	-----

250	Processing of application <del>for</del> <u>to give effect to</u> succession when owner dies intestate	185
-----	--	-----

251	Determination of application <del>for</del> <u>to give effect to</u> succession where objection or competing application received	186
-----	---	-----

252	Effect of succession	186
-----	----------------------	-----

253	Succession interests subject to certain rights of surviving spouse or partner	187
-----	---	-----

254	Matters relating to whānau trust established on intestacy	187
-----	---	-----

<u>254A</u>	<u>Trustees must update declaration of combined whānau trust</u>	<u>188</u>
-------------	--	------------

*Vesting of rent-free lease for residential housing where grantee dies intestate*

255	Vesting of rent-free lease for residential housing where grantee dies intestate	188
-----	---	-----

256	Application for vesting of rent-free lease for residential housing	189
-----	--	-----

257	Procedure after chief executive receives application for vesting of rent-free lease for residential housing	190
-----	---	-----

**Te Ture Whenua Māori Bill**

258	Matters for court to take into account when determining competing applications for vesting of rent-free lease for residential housing	191
	<i>Vesting of land or interests gifted by will</i>	
259	Vesting of land or interest gifted by will where grant of administration	191
260	Vesting of land or interest gifted by will where grant of administration but no effective administration	192
261	Vesting of land or interest gifted by will where no grant of administration	192
262	Family arrangements made by beneficiaries of testamentary gift	193
	<i>Additional vesting</i>	
263	Chief executive may vest beneficial interest in administrator	194
	<i>Recording of rights of surviving spouses and partners</i>	
264	Recording of certain rights of surviving spouses and partners	195
265	Removal of records of certain rights of surviving spouses and partners	195
	<i>Special provision by court relating to income for whāngai descendants and adopted children</i>	
266	Court may make special provision relating to income for whāngai descendants and adopted children	196
	<i>Succession register</i>	
267	Chief executive to keep succession register	197
	<b>Part 8</b> <b>Registers, jurisdiction about land, giving of notices, and other provisions</b>	
	<i>Provision of documents to chief executive and Registrar-General</i>	
268	Instruments or notices issued under Parts 1 to 9 must be provided to chief executive	197
269	Chief Registrar of Māori Land Court to provide certain documents	197
	<i>Māori land register</i>	
270	Māori land register	198
271	Purpose of Māori land register	198
272	Contents of Māori land register	199
273	Access to Māori land register	200
274	Chief executive may withhold <del>personal information</del> <u>for person's safety</u>	200
275	Application to chief executive to withhold <del>personal information</del> <u>for person's safety</u>	202
276	Exceptions to withholding <del>personal information</del> <u>for person's safety</u>	202



**Te Ture Whenua Māori Bill**

---

277	Historical and other information in Māori land register to be retained	203
278	Powers to alter Māori land register	203
279	Electronic workspace facilities	204
280	Effect of certification of electronic instrument	205
281	Evidentiary presumptions relating to Māori land register	205
282	Court order to replace lost or destroyed instrument	205
283	Chief executive may replace or reconstitute records	206
284	Copying and imaging of paper instruments for purposes of Māori land register or other statutory purpose	207
	<i>Land title registration</i>	
285	Māori freehold land status to be recorded on computer freehold register	207
286	Computer freehold register for land that is not Māori freehold land	207
287	Computer freehold register only for entire freehold estate in Māori freehold land	208
288	Change to name of parcel	208
289	Orders, instruments, and notices must be registered	209
290	Registration under Land Transfer Act 1952	209
291	Notation upon registration of certain dispositions	210
292	Registration of land in name of trust or tupuna	210
	<i>Vesting of land</i>	
293	Vesting of land by or under enactment	211
294	Māori land remains affected by existing interests after vesting	212
	<i>Māori freehold land does not vest in the Crown if it has no owner</i>	
295	Parcel of Māori freehold land does not vest in the Crown if it has no owner	212
296	Individual freehold interest in Māori freehold land does not vest in the Crown if it has no owner	213
	<i>Disposition or vesting of land to which roadway provides access</i>	
297	Disposition or vesting of land to which roadway provides access	213
	<i>Road stopping and vesting of stopped roads</i>	
298	Unused road may be stopped and vested	213
299	Vesting of stopped road	214
	<i>Jurisdiction of court in certain land matters</i>	
300	Jurisdiction of court for purposes of Parts 1 to 9	216
301	Rights and interests preserved	217
302	Power of court to grant relief in relation to Māori freehold land	218
303	Court may determine claims to ownership, etc, of Māori freehold land	218

**Te Ture Whenua Māori Bill**

---

304	Court may declare ownership of Māori freehold land if ownership not accurately recorded	218
305	Jurisdiction in respect of certain trusts	219
306	Jurisdiction in proceeding for recovery of land	219
307	Power of court to grant specific performance of leases of Māori freehold land	220
308	Jurisdiction of court under Fencing Act 1978	220
309	Powers of court under Contracts (Privity) Act 1982 and Contractual Remedies Act 1979	221
	<i>Special powers of Chief Judge</i>	
310	Chief Judge may correct mistakes and omissions	221
311	Applications for exercise of special powers	222
312	Powers of Chief Judge to deal with applications under section 311	222
313	Administrative and consequential matters	223
314	Effect of amendment or cancellation on payments made or trust money	223
	<i>Exercise of powers by Deputy Chief Judge</i>	
315	Deputy Chief Judge may exercise special powers of Chief Judge	224
	<i>Enforcement of judgment for debt or bankruptcy in relation to Māori land</i>	
316	Māori customary land not available for enforcing judgment against debtor	224
317	Māori freehold land not available for enforcing judgment against debtor	224
318	Māori freehold land available in bankruptcy	224
	<i>Application of certain laws to Māori land</i>	
319	Reasonable access to landlocked Māori land	225
320	No court order for division of Māori land among co-owners	226
321	Exclusion of interests in Māori land founded on adverse possession	226
	<i>Giving of notices</i>	
322	Giving of notices	226
323	Notices to owners of Māori customary land	227
324	Notices to owners of Māori freehold land	227
325	Time for responding to notices	228
	<i>Regulations</i>	
326	Regulations	228
327	Regulations relating to governance agreements	231
	<b>Part 9</b>	
	<b>Dispute resolution</b>	
328	Purpose	231

**Te Ture Whenua Māori Bill**

---

329	Interpretation	232
330	Chief executive to provide dispute resolution services	232
331	How dispute resolution process initiated	232
332	When dispute resolution process must begin	233
333	Role of kaitakawaenga	234
334	Conduct of dispute resolution process	234
335	Parties may confer powers of recommendation or decision on kaitakawaenga	235
336	Successful dispute resolution outcome	236
337	Unsuccessful dispute resolution outcome	236
338	Status of dispute resolution services	237
339	Independence of kaitakawaenga	237
340	Chief executive may issue general instructions	237
341	Judge may refer dispute for dispute resolution	237
342	Parties to refer disputes for dispute resolution before court may proceed	238

**Part 10**

**Preliminary provisions**

343	Interpretation	240
344	Transitional, savings, and related provisions	241
345	Act binds the Crown	241

**Part 11**

**Māori Land Court**

*Continuation and administration of court*

346	Māori Land Court continued	242
347	Administration of court	242
348	Court districts	242
349	Seal of court	243

*Jurisdiction of court under Maori Fisheries Act 2004*

350	Interpretation	243
351	Advisory jurisdiction of court	244
352	Jurisdiction of court to make determinations	244
353	Procedural provisions in Schedule 6 apply	244

*Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004*

354	Interpretation	244
355	Advisory jurisdiction of court	244
356	Jurisdiction of court to make determinations	245
357	Procedural provisions in Schedule 7 apply	245

*Special jurisdiction*

358	Governor-General may confer special jurisdiction	245
-----	--	-----

**Te Ture Whenua Māori Bill**

---

359	Orders for payment of money held in trust	245
360	Additional members for purposes of court's special jurisdiction	246
	<i>Reference of matters to court for inquiry</i>	
361	Reference to court for inquiry	246
362	Additional members for purposes of inquiry	246
363	Additional members in relation to matter of tikanga Māori	247
	<i>Other provisions relating to additional members</i>	
364	Application	247
365	Oath to be taken by additional member	247
366	Fees and allowances	247
367	Quorum and decisions	248
368	Questions undecided referred to Māori Appellate Court	248
	<i>Jurisdiction and powers</i>	
369	Exercise of jurisdiction generally	249
370	Powers of court may be exercised by any Judge	249
371	Powers of Registrars	249
372	Power of Judge to refer matter to Registrar	249
373	Power to remove proceedings to another court	250
374	Power to award interest on debt or damages	250
375	Equitable relief	250
	<i>Decisions, orders, and rehearings</i>	
376	Decisions and orders to be pronounced in open court, and minute recorded	251
377	Formal requirements and commencement of orders	251
378	Rehearings	251
	<i>Judges and officers of court appointed under Te Ture Whenua Maori Act 1993</i>	
379	Judges and officers of court appointed under the Te Ture Whenua Maori Act 1993	252

**Part 12**

**Māori Appellate Court**

*Continuation and administration of court*

380	Māori Appellate Court continued	252
381	Constitution of court	252
382	Officers of Māori Land Court to be officers of Māori Appellate Court	253
383	Seal	253
	<i>Jurisdiction</i>	
384	Appeals from Māori Land Court	253

**Te Ture Whenua Māori Bill**

---

*Rights of appeal*

385	Who can bring appeal against final decision or order of Māori Land Court	253
386	Appeals against provisional determinations of Māori Land Court	254

*Cases stated*

387	Māori Land Court may state case for Māori Appellate Court	254
388	High Court may state case for Māori Appellate Court	254
389	Additional members with knowledge and experience in tikanga Māori	255
390	Quorum and decision of court	255

*Further appeals*

391	Further appeal to Court of Appeal from Māori Appellate Court	256
392	Direct appeal to Supreme Court from Māori Appellate Court in exceptional circumstances	256

*Procedural provisions and decisions*

393	Commencement of orders	256
394	Successive appeals about same matter	257
395	Appeals to be by way of rehearing	257
396	Powers of court on appeal	257
397	Decision of majority to be decision of court	258

**Part 13**

**Provisions applying to both courts**

398	Application and interpretation	258
-----	--------------------------------	-----

*Procedural provisions*

399	Conduct of proceedings generally	258
400	Judicial conferences and directions	259
401	Parties and witnesses may use Māori language	260
402	Evidence in proceedings	260
403	Representation of parties, etc	260
404	Court may correct defects or errors in proceedings	261
405	Case may be stated for High Court	261
406	Court must give notice before making order on own initiative	261

*Injunctions*

407	Jurisdiction to issue injunctions	261
408	High Court may enforce injunctions	262

*General provisions about orders*

409	Orders may be made subject to conditions	263
410	Orders not invalid for want of form, etc	263
411	Orders nominally in favour of deceased persons	264
412	Persons bound by orders affecting land	264

## Te Ture Whenua Māori Bill

413	Orders affecting Māori land conclusive after 10 years	264
414	Costs orders	264
415	Security for costs	265
416	Taxation of costs	266

### *Enforcement of judgments and charging orders*

417	Enforcement of judgments and orders relating to money, land, or chattels	266
418	Charging orders	267
419	Appointment of receiver to enforce charges, etc	268
420	Functions and powers of receiver	268
421	Discharge of receiver	269
422	Court may order repayment out of money held by trustee, etc	269

### *Amendment of orders, warrants, and records*

423	Amendment of orders, warrants, etc	269
424	Amendment or cancellation of orders not to affect acquired rights	270

### *Judicial settlement conferences*

425	Judge may convene judicial settlement conference	270
-----	--	-----

### *Contempt of court*

426	Contempt of court	271
-----	-------------------	-----

## **Part 14**

### **Appointment of Judges and related provisions**

427	Appointment of Judges	272
428	Attorney-General to publish information concerning appointment process	273
429	Judge not to undertake other employment or hold other office	273
430	Protocol relating to activities of Judges	273
431	Judges act on full-time basis but may be authorised to act part-time	273
432	Chief Judge and deputy	274
433	Delegation to Deputy Chief Judge	274
434	Appointment of temporary Judges	275
435	Former Judges	276
436	Certificate by Chief Judge and 1 other Judge prerequisite	276
437	Tenure of office	276
438	Judges to have immunities of High Court Judges	276
439	Salaries and allowances of Judges	277

## **Part 15**

### **Rules, regulations, judgments, restricting right to commence proceedings, etc**

#### *Rules*

440	Rules Committee continued	277
441	Fees and travelling allowances	278

**Te Ture Whenua Māori Bill**

---

442	Principal function of Rules Committee	278
443	Rules of court	279
	<i>Fees</i>	
444	Regulations	280
	<i>Court practice</i>	
445	Practice notes	281
	<i>Aid Fund</i>	
446	Māori Land Court Special Aid Fund	281
447	Court may create charges over property	282
	<i>Information regarding, and publication of, judgments</i>	
448	Information regarding reserved judgments	283
	<i>Recusal</i>	
449	Recusal guidelines	283
	<i>Restriction on commencing or continuing proceedings</i>	
450	Judge may make order restricting commencement or continuation of proceeding	283
451	Grounds for making section 450 order	283
452	Terms of section 450 order	284
453	Procedure and appeals relating to section 450 orders	284
454	References to Judge in sections 450 to 453	284
	<b>Part 16</b>	
	<b>Repeals and amendments</b>	
455	Overview	285
	Subpart 1—Repeal, revocations, and consequential amendments	
456	Repeal	285
457	Revocations	285
458	Consequential amendments to other enactments	285
	Subpart 2—Amendments that relate to jurisdiction and functions of Māori Land Court	
	<i>Amendments to Local Government Act 1974</i>	
459	Principal Act	285
460	Section 446 amended (Council may cover in watercourse so as to make it a public drain)	286
	<i>Amendments to Government Roading Powers Act 1989</i>	
461	Principal Act	287
462	Section 2 amended (Interpretation)	287
463	Section 48 amended (Powers of Minister over roads under Minister’s control)	287

**Te Ture Whenua Māori Bill**

464	Section 50 amended (Owner or occupier of land not to cause damage to bridge by removal of stone, etc)	288
465	Section 55 amended (Removal of trees, hedges, etc, that obscure visibility or interfere with public work)	289
466	Section 61 amended (Powers and duties of Agency in relation to State highways)	289
467	Section 74 amended (Land may be temporarily occupied)	290
468	Section 76 amended (Access to land cut off from road or separated by motorway)	292
	<i>Amendments to Land Valuation Proceedings Act 1948</i>	
469	Principal Act	292
470	New section 19A inserted (Alternate Land Valuation Tribunals for matters under specified enactments)	292
	19A Alternate Land Valuation Tribunals for matters under specified enactments	292
	Subpart 3—Amendments for transitional provisions that relate to rating and valuation matters	
	<i>Amendments to Rating Valuations Act 1998</i>	
471	Amendments to Rating Valuations Act 1998	293
472	New section 2A inserted (Transitional, savings, and related provisions)	293
	2A Transitional, savings, and related provisions	293
473	Sections 53 and 54 and cross-heading repealed	293
474	Schedules 1 and 2 replaced	293
	<i>Amendments to Local Government (Rating) Act 2002</i>	
475	Amendments to Local Government (Rating) Act 2002	293
476	New section 5A inserted (Transitional, savings, and related provisions)	293
	5A Transitional, savings, and related provisions	294
477	New Schedule 1AA inserted	294
	<i>Amendments to Local Government Act 2002</i>	
478	Amendments to Local Government Act 2002	294
479	Schedule 1AA amended	294
	Subpart 4—Amendments that relate to rating and valuation matters	
	<i>Amendments to Rating Valuations Act 1998</i>	
480	Amendments to Rating Valuations Act 1998	294
481	Section 2 amended (Interpretation)	294
482	Section 5 amended (Valuer-General may make rules setting requirements in relation to valuations and district valuation rolls)	295
483	New section 22 inserted (Whenua Māori adjusted values for rating unit of Māori freehold land)	295



**Te Ture Whenua Māori Bill**

	22	Whenua Māori adjusted values for rating unit of Māori freehold land	295
484		New section 52A inserted (Regulations about whenua Māori adjusted values for Māori freehold land)	296
	52A	Regulations about whenua Māori adjusted values for Māori freehold land	296
<i>Amendments to Local Government (Rating) Act 2002</i>			
485		Amendments to Local Government (Rating) Act 2002	298
486		Section 5 amended (Interpretation)	298
487		Section 27 amended (Rating information database)	298
488		Cross-heading above section 114 replaced	299
<i>Remission, postponement, exemption, and write-off of rates</i>			
489		New section 117AA inserted (Write-off of rates)	299
	117AA	Write-off of rates	299
490		Schedule 1 amended	299
491		Schedule 3 amended	300
<i>Amendments to Local Government Act 2002</i>			
492		Amendments to Local Government Act 2002	300
493		Section 102 amended (Funding and financial policies)	300
494		New section 110A inserted (Policy on non-rateability of unused Māori freehold land and on write-off of earlier rates)	300
	110A	Policy on non-rateability of unused Māori freehold land and on write-off of earlier rates	300
495		New Schedule 11A inserted	301
		<b>Schedule 1</b>	<b>302</b>
		<b>Transitional, savings, and related provisions</b>	
		<b>Schedule 2</b>	<b>325</b>
		<b>Default decision-making process for decisions requiring agreement of owners of Māori freehold land</b>	
		<b>Schedule 3</b>	<b>332</b>
		<b>Governance bodies: appointment and other processes and registration requirements</b>	
		<b>Schedule 4</b>	<b>342</b>
		<b>Governance agreements</b>	
		<b>Schedule 5</b>	<b>349</b>
		<b>Transitional, savings, and related provisions</b>	
		<b>Schedule 6</b>	<b>351</b>
		<b>Procedural provisions relating to Maori Fisheries Act 2004</b>	

<b>Schedule 7</b>	358
<b>Procedural provisions relating to Maori Commercial Aquaculture Claims Settlement Act 2004</b>	
<b>Schedule 8</b>	365
<b>Consequential amendments to other enactments</b>	
<b>Schedule 9</b>	402
<b>Schedules 1 and 2 replaced</b>	
<b>Schedule 10</b>	403
<b>New Schedule 1AA inserted</b>	
<b>Schedule 11</b>	405
<b>New Part 2 of Schedule 1AA inserted</b>	
<b>Schedule 12</b>	406
<b>New Schedule 11A inserted</b>	

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is Te Ture Whenua Māori Act **2016**.

**2 Commencement**

- (1) This Act comes into force on a date or dates set by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates and for different purposes. 5
- (2) Any part of the Act that is not already in force on **1 October 2018** comes into force then.
- (3) **Subsections (1) and (2)** apply with the following exceptions: 10
- (a) **subpart 3 of Part 16** comes into force on the day after the date of Royal assent:
- (b) **subpart 4 of Part 16** comes into force on the first 1 July that falls—
- (i) at least 9 months after the date of Royal assent; and
- (ii) after the date on which **Parts 1 to 9** come into force. 15
- (4) In this section, **provision** includes any item or part of an item in any of the schedules.

## Part 1

### Preliminary provisions

#### 3 Aronga me ngā mātāpono o tēnei Ture/Purpose and principles of Act

*Māori version*

- (1) Ko tā tēnei Ture he whakaū i te noho pūmau o te whai tonu a te Māori i te mana me te tino rangatiratanga i kawea inamata, ā, e kawea tonu nei mō ō rātou whenua, ā rātou rawa me ā rātou taonga, e ai ki te tikanga Māori, e ai anō ki ngā kupu taurangi i tukua ki te Māori i Te Tiriti o Waitangi, e tiakina ai te mana o te hunga whai pānga ki te whenua Māori, kia noho pūmau ō rātou whenua ki a rātou, kia whakahaeretia, kia nohoia, kia whakaturia ō rātou whenua hei taonga tuku iho, e whai painga ai ngā reanga o nāianeī, me ērā e piki ake ana, tae atu ki ō rātou whānau me ō rātou hapū. 5 10
- (2) Ko ngā mātāpono o te Ture, koia ēnei—
- (a) mā te whakapapa rawa e noho taonga tuku iho tonu ai te whenua Māori:
- (b) ko te tikanga Māori kei te tūāpapa o ngā take e pā ana ki te whenua Māori: 15
- (c) ko Te Tiriti o Waitangi kei te tūāpapa o te whakatinanatanga o ngā ture e pā ana ki te whenua Māori:
- (d) kei te hunga whai pānga ki te whenua Māori te tikanga mō te whakama-hinga o ō rātou whenua: 20
- (e) kei te hunga whai pānga ki te whenua Māori te mana ki te whai huarahi kē hei whakatupu i te whenua hei painga mō ngā reanga whai pānga o nāianeī me ērā e piki ake ana, ō rātou whānau me ō rātou hapū:
- (f) me whakahaere ngā tautohetohe mō te whenua Māori i runga i te whai kia mau tonu, kia pai ake rānei te whanaungatanga i waenga i te hunga whai pānga, tae atu ki ō rātou whānau me ō rātou hapū. 25

*English version*

- (3) The purpose of **Parts 1 to 9** is to recognise and provide for the mana and tino rangatiratanga that since time immemorial Māori have exercised and continue to exercise over their lands, resources, and taonga in accordance with tikanga Māori and, consistent with the guarantees given to Māori in Te Tiriti o Waitangi, to protect the right of owners of Māori land to retain, control, occupy, and develop their land as a taonga tuku iho for the benefit of present and future generations of owners, their whānau, and their hapū. 30
- (4) The principles of **Parts 1 to 9** are that— 35
- (a) Māori land endures as a taonga tuku iho by virtue of whakapapa:
- (b) tikanga Māori is central to matters involving Māori land:
- (c) Te Tiriti o Waitangi is central to the application of laws affecting Māori land:

- (d) owners of Māori land have the right to decide how their land is used:
- (e) owners of Māori land have the right to take advantage of opportunities to develop their land for the benefit of present and future generations of owners, their whānau, and their hapū:
- (f) disputes involving Māori land should be managed in a manner that maintains or enhances the relationships between among the owners and the members of their whānau and hapū. 5

*Māori version prevails*

- (5) The English version explains the purpose and principles of **Parts 1 to 9** in English, but the Māori version prevails and is not affected by the explanation. 10

#### 4 Achieving purpose and recognising principles of Act

- (1) A person who exercises a power or performs a function or duty under **Parts 1 to 9** must do so, as far as possible, to achieve the purpose of **Parts 1 to 9**.
- (2) In seeking to achieve that purpose, the person must recognise the principles of **Parts 1 to 9**. 15
- (3) This section applies, for example, to—
  - (a) the court in considering or making any determination or decision under **Parts 1 to 9**, such as a decision—
    - (i) to change the status of Māori customary land to Māori freehold land under **section 16**; or 20
    - (ii) to make an order declaring that a parcel of land ceases to be Māori freehold land under **section 27**; or
    - (iii) to make an order granting reasonable access to landlocked land under **section 319**; and
  - (b) any chief executive who exercises a power or performs a function or duty under **Parts 1 to 9**. 25

#### 5 Interpretation

In **Parts 1 to 9**, unless the context otherwise requires,—

**administration** has the meaning given in section 2(1) of the Administration Act 1969 30

**administrator** has the meaning given in section 2(1) of the Administration Act 1969

**adoption order** has the meaning given by section 2 of the Adoption Act 1955

**applicable survey standards** means the standards or requirements for the conduct of cadastral surveys— 35

- (a) ~~set under section 49~~ Part 5 of the Cadastral Survey Act 2002; or
- (b) ~~set by or~~ under any former enactment that applied when the survey was done

**asset base** means the Māori freehold land and other assets and liabilities managed by a governance body under a governance agreement

**association with land in accordance with tikanga Māori** is a term whose meaning is affected by **section 7A**

**charge**— 5

- (a) means a right or interest in relation to an estate or interest in land that secures the payment of money to a person who is owed money; and
- (b) includes a charge imposed by a charging order

**chief executive**, in relation to any provision of **Parts 1 to 9**, means the chief executive of the department that, with the authority of the Prime Minister, is responsible for the administration of that provision 10

**class of collective owners** means ~~the defined class of owners who hold a parcel of Māori freehold land in collective ownership in accordance with~~ **section 48**—

- (a) for a parcel of Māori customary land, the defined class of owners who hold the parcel in accordance with tikanga Māori: 15
- (b) for a parcel of Māori freehold land, the defined class of owners who hold the parcel in collective ownership in accordance with **section 48**

**computer register and computer freehold register**—

- (a) have the meanings given by section 4 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002; and 20
- (b) include a certificate of title issued under the Land Transfer Act 1952

**court** means the Māori Land Court

**Crown** has the meaning given in section 2(1) of the Public Finance Act 1989 and, to avoid doubt, includes the chief executive of a department referred to in that definition 25

**Crown land**—

- (a) means land that has not been alienated from the Crown in fee simple or that is vested in the Crown or held in fee simple by the Crown; but
- (b) does not include Māori land 30

**custodian trustee**, in relation to a trust, means a trustee—

- (a) in whom the trust property is vested; and
- (b) who is not responsible for the administration of the trust

**department** has the meaning given in section 2(1) of the Public Finance Act 1989 35

**dispose of** means to make a disposition

**disposition**—

- (a) means any transaction affecting the legal or equitable ownership of an estate or interest in land, including—
- (i) any sale, gift, exchange, transfer, transmission, assignment, settlement, appointment, or creation of a trust in relation to an estate or interest in land: 5
- (ii) any other dealing in relation to an estate or interest in land; and
- (b) means the grant or creation, at law or in equity, of—
- (i) any lease, easement, *profit à prendre*, mortgage, charge, licence, or power over an estate or interest in land; or
- (ii) any other estate or interest in land; and 10
- (c) means a boundary adjustment, a partition, a subdivision, or an amalgamation of parcels of land or an aggregation, or a cancellation of an aggregation, of ownership of parcels of land; and
- (d) includes a disposition by a living individual, by any other person, or by will; and 15
- (e) includes an agreement to make a disposition, such as an agreement to the acquisition of land under the Public Works Act 1981; but
- (f) does not include any vesting of an estate or interest in land, or any creation of a trust upon vesting, by or under an Act (except for a vesting that is part of a disposition described by **paragraph (c)**) 20
- electronic instrument** means an instrument in electronic form
- electronic workspace facility** has the meaning given in **section 279(7)** (which relates to electronic facilities approved by the chief executive for use in the preparation of certain electronic instruments to be provided under **Parts 1 to 9**) 25
- eligible beneficiary**, in **Part 7**, means a person described in **section 246(2) and (3)**
- existing statutory body** has the meaning given by **section 158(3)**
- freehold estate**—
- (a) means an estate held in fee simple or for life; but 30
- (b) does not include a leasehold estate, such as a lease for life
- governance agreement** means an agreement that complies with **Schedule 4** under which a governance body manages an asset base on behalf of the owners of the Māori freehold land that is within the asset base
- governance body** means a body referred in **section 158(1)** that is party to a registered governance agreement 35
- governance certificate** means a governance certificate (*see* **section 167**) that is issued or certified by the chief executive in accordance with the requirements that are prescribed by regulations made under **Parts 1 to 9**

**immediate family**, in relation to a person,—

- (a) means members of the person’s whānau who—
  - (i) are in a close relationship with the person; or
  - (ii) have, in accordance with tikanga Māori, responsibility for, or an interest in, the person’s welfare and best interests; and 5
- (b) to avoid doubt, includes the following individuals:
  - (i) the person’s spouse, civil union partner, or de facto partner:
  - (ii) the person’s child, stepchild, or grandchild:
  - (iii) the person’s brother, sister, half-sister, half-brother, stepsister, or stepbrother: 10
  - (iv) a parent, step-parent, or grandparent of the person:
  - (v) an aunt, uncle, nephew, niece, or first cousin of the person

**individual freehold interest** has the meaning given by **section 6 instrument**—

- (a) means a document in paper or electronic form; and 15
- (b) includes an order of the court and an order made by a Judge

**intestate** includes a person who leaves a will but dies intestate as to some beneficial interest in his or her real or personal property

**Judge**—

- (a) means a Judge of the Māori Land Court; and 20
- (b) includes the Chief Judge and the Deputy Chief Judge of that court

**kaitiaki**, in relation to a governance body or proposed governance body, means—

- (a) if the body is Public Trust, or a Māori Trust Board (as defined in section 2(1) of the Māori Trust Boards Act 1955), a member of the board of the body: 25
- (b) if the body is the Māori Trustee, the Māori Trustee:
- (c) if the body is a Māori incorporation, a member of the committee of management:
- (d) if the body is 1 or more trustees of a trust, a trustee (other than an advisory trustee, an associate trustee, or a custodian trustee): 30
- (e) in any other case, a person occupying a position in the body that is comparable with that of a director of a company

**kaiwhakahaere** means a person appointed by the court under **section 189** to represent ~~the owners of 1 or more parcels of Māori freehold Māori land~~ for a specified administrative purpose, either by— 35

- (a) appointment under **section 189** in relation to Māori freehold land; or

- (b) appointment under **section 17** in relation to Māori customary land
- kaiwhakamarumarū** means a person appointed by the court under **section 73** to manage the property of an owner needing protection
- kawenata tiaki whenua** means a covenant over land created under **section 437 44A** to preserve and protect places of cultural or historical interest or special significance according to tikanga Māori 5
- land** includes—
- (a) estates and interests in land:
- (b) buildings and other ~~fixtures attached to the~~ permanent structures on land:
- (e) ~~all things growing on land~~: 10
- (d) land covered with water:
- (e) plants, trees, and timber on or under land
- Māori** means an individual of the Māori race of New Zealand, and includes a descendant of such an individual
- Māori customary land** has the meaning given by **section 12** 15
- Māori freehold land**—
- (a) has the meaning given by **section 20**; and
- (b) in **Part 7**, includes—
- (i) vested land within the meaning of section 2(1) of the Maori Vested Lands Administration Act 1954; and 20
- (ii) reserved land within the meaning of section 2(1) of the Maori Reserved Land Act 1955
- Māori land** means Māori customary land and Māori freehold land
- Māori land register** means the register of matters relating to Māori land kept by the chief executive under **section 270**, and includes records for— 25
- (a) parcels of Māori freehold land and the nature of the beneficial interests held in the land; and
- (b) governance agreements; and
- (c) rangatōpū; and
- (d) succession; and 30
- (e) other bodies appointed to manage land on behalf of owners
- Māori reserve** means—
- (a) any land vested in the Māori Trustee as, or for the purposes of, a Māori reserve; and
- (b) any land that is subject to the Maori Reserved Land Act 1955 35
- Māori Trustee** has the meaning given by section 2(3) of the Māori Trustee Act 1953



**Minister** means the Minister who, with the authority of the Prime Minister, is responsible for the administration of **Parts 1 to 9**

**owner**—

- (a) has the meaning given by **section 7**; but
- (b) in **Part 7**, means a person entitled to a beneficial interest 5

**owner needing protection** has the meaning given by **section 74**

**paper instrument** means an instrument in paper form

**parcel**, in relation to any Māori freehold land,—

- (a) means the freehold estate in a discrete area of land that—
  - (i) is defined as a parcel in compliance with the applicable survey standards; or 10
  - (ii) is identified in a court order, Crown grant, or other instrument issued under an Act for the purpose of defining a parcel and specifying the freehold ownership of the parcel:
- (b) may include, for example, a single area with 1 continuous boundary or multiple areas that are physically separate as a result of prior partitions or other actions 15

**participate**, in relation to a proposal for decision by the owners of Māori freehold land, means that an owner—

- (a) attends a meeting at which the proposal is considered,— 20
  - (i) whether in person, via a proxy or other representative, or via any communication technology; and
  - (ii) whether or not the owner votes; or
- (b) does not attend such a meeting but casts a vote on the proposal

**participating owners** means the owners of Māori freehold land who participate in making a proposal for decision by the owners of the land 25

**practitioner** means a lawyer or conveyancing practitioner as those terms are defined in section 6 of the Lawyers and Conveyancers Act 2006

**preferred recipient** has the meaning given by **section 96**

**private land**— 30

- (a) means land held in fee simple by a person other than the Crown; and
- (b) includes Māori land

**proxy or other representative** means a person appointed as a proxy or other representative of another person in accordance with—

- (a) the governance agreement for the land, if there is an agreement that provides for the appointment of proxies or other representatives; or 35
- (b) in any other case, regulations made under **Parts 1 to 9**

- Public Trust** has the meaning given by section 4 of the Public Trust Act 2001
- rangatōpū** means a governance body registered in the Māori land register as a rangatōpū
- rangatōpū certificate** means a rangatōpū certificate (*see section 167*) that is issued or certified by the chief executive in accordance with the requirements that are prescribed by regulations made under **Parts 1 to 9** 5
- Registrar** means any Registrar of the Māori Land Court
- Registrar-General** means the Registrar-General of Land appointed under section 4(1) of the Land Transfer Act 1952
- representative entity** has the meaning given by **section 158(3)** 10
- requirements of Parts 1 to 9** includes the requirements of any regulations made under **Parts 1 to 9**
- road** has the meaning given by section 315(1) of the Local Government Act 1974
- State highway** has the meaning given by section 5(1) of the Land Transport Management Act 2003 15
- statutory declaration** means a declaration made in accordance with the Oaths and Declarations Act 1957
- Surveyor-General** means the Surveyor-General appointed under section 5(1) of the Cadastral Survey Act 2002 20
- trustee company** has the meaning given by section 2 of the Trustee Companies Act 1967
- unpaid distribution** has the meaning given in **section 213(1)(a)**
- unpaid distribution details**, in relation to an unpaid distribution, means the details listed in **section 213(1)(b)** 25
- wāhi tapu** means a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense
- wāhi tūpuna** means a place important to Māori for its ancestral significance and associated cultural and traditional values
- welfare guardian** has the meaning given by section 2 of the Protection of Personal and Property Rights Act 1988 30
- whānau trust** means a trust established in accordance with **section 58**
- ~~**whāngai**, in relation to a member of an iwi or a hapū, means an individual adopted by the member by Māori customary adoption in accordance with the tikanga of the iwi or hapū~~ 35
- whāngai** means someone adopted by Māori customary adoption in accordance with the tikanga of the respective whānau or hapū
- whenua tāpui** means land reserved as a whenua tāpui by a declaration under **subpart 2 of Part 2**.

## 6 Meaning of individual freehold interest

- (1) In **Parts 1 to 9**, an **individual freehold interest** in a parcel of Māori freehold land means each of 2 or more beneficial interests (or shares) in the freehold estate in the parcel of land that are able to be dealt with separately from each other. 5
- (2) To avoid doubt,—
- (a) joint tenants who own an individual freehold interest do not have separate individual freehold interests as between themselves; and
- (b) a member of a class of collective owners that holds the freehold estate in a parcel of land does not have an individual freehold interest in the land. 10

### Example

There are 4 equal shares in the freehold estate in a parcel of Māori freehold land. The first 3 shares are held by 1 owner each and the fourth share is held by 2 owners as joint tenants. As between the 4 shares, the owners hold the shares as tenants in common. So there are 4 individual freehold interests in the land, 1 for each share (including the 1 share held by the joint tenants). 15

## 7 Meaning of owner

- (1) This section defines **owner** in relation to private land.
- (2) The owner of a parcel of Māori customary land means the members of the class of persons who hold the parcel of land in accordance with tikanga Māori. 20
- (3) The owner of a parcel of Māori freehold land means—
- (a) the sole owner of the beneficial interest in the freehold estate in the parcel; or
- (b) each of the multiple owners (including each member of a class of collective owners) of the beneficial interest in the freehold estate in the parcel. 25
- (4) The owner of one of the individual freehold interests in a parcel of Māori freehold land means the individual or the joint tenants who own the interest.
- (5) The owner of a parcel of private land that is not Māori land means the legal owner of the freehold estate in the parcel. 30
- (6) To avoid doubt, if the trustees of a whānau trust or other trust (other than a governance body) hold a parcel of private land other than Māori customary land, or an individual freehold interest in such a parcel, the trustees are the owners of the parcel or interest.
- (7) To avoid doubt, if a kaiwhakamarumarū is managing a parcel of private land other than Māori customary land, or an individual freehold interest in such a parcel, the kaiwhakamarumarū must be treated as the owner of the parcel or interest (in accordance with **section 77**). 35

**7A Association with land in accordance with tikanga Māori**

- (1) The following persons must be treated as being associated with the relevant land in accordance with tikanga Māori for the purposes of **Parts 1 to 9**:
- (a) a Māori person who, at the commencement of this section, is an owner or a former owner of Māori freehold land: 5
  - (b) a Māori person who, at the commencement of this section, is a beneficiary or former beneficiary of a trust whose trustees are or were owners of Māori freehold land:
  - (c) a successor to SILNA land, as those terms are defined by section 446 of the Ngāi Tahu Claims Settlement Act 1998: 10
  - (d) a child, grandchild, or other descendant of such an owner, beneficiary, or successor, as long as the descendant's association with the land has not been lost in accordance with tikanga Māori.
- (2) To avoid doubt, the effect of this section is that assessments of association with land do not need to go back earlier than the commencement of this section. 15

**8 Descent relationships determined by tikanga Māori**

- (1) This section applies to a provision of **Parts 1 to 9** that ~~refers to a term that involves depends on there being a~~ relationships of descent between people, such as a ~~reference provision that refers to—~~
- (a) a child, grandchild, brother, sister, parent, grandparent, whānau, or descendant; or 20
  - (b) an association with land in accordance with tikanga Māori.
- (2) ~~The tikanga of the relevant iwi or hapū determines whether—~~
- (a) ~~a whāngai relationship at any link in the chain of descent is to be treated as a relationship of descent for the purposes of the provision:~~ 25
  - (b) ~~a relationship by birth, or a relationship by adoption order, that is deemed by the Adoption Act 1955 to be a relationship of a different kind is to be treated as a relationship of descent for the purposes of the provision, despite anything in that Act.~~
- (2) For any child who is a whāngai or the subject of an adoption order, the tikanga of the respective whānau or hapū determines whether there is a relationship of descent between the child and 1 or both of the following types of parent for the purposes of that provision: 30
- (a) the child's new parents after the child became a whāngai or the subject of an adoption order: 35
  - (b) the child's parents before the child became a whāngai or the subject of an adoption order.
- (3) An order made by the court on any of the following matters is proof of the matter for the purposes of **Parts 1 to 9**:

- (a) whether a ~~whāngai relationship exists~~ child is a whāngai;
- (b) whether a ~~whāngai child's relationship with the parents described in 1 or both of **subsections (2)(a) and (b)**~~ is to be treated as a relationship of descent.
- (e) whether a ~~relationship by birth, or by adoption order, is to be treated as a relationship of descent~~. 5
- (4) This section prevails over the Adoption Act 1955.
- 9 Evidence of applicable tikanga Māori**
- In any proceedings under **Parts 1 to 9**, any question as to the tikanga Māori that applies in a particular situation must be determined on the basis of evidence. 10
- 10 Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.
- 11 Act binds the Crown** 15
- Parts 1 to 9** binds the Crown.

## Part 2

### **Whenua Māori/Māori land ~~and~~, whenua tāpui, and kawenata tiaki whenua**

#### Subpart 1—Whenua Māori/Māori land 20

##### *Māori customary land*

- 12 Definition of Māori customary land**
- In **Parts 1 to 9**, **Māori customary land**—
- (a) means land held by Māori in accordance with tikanga Māori; and
- (b) includes land that,— 25
- (i) before the commencement of **Parts 1 to 9**, the court determined to be Māori customary land; and
- (ii) immediately before the commencement of **Parts 1 to 9**, has not become or been determined to be land of another status; but
- (c) does not include Māori freehold land. 30
- 13 Māori customary land cannot be disposed of**
- (1) An estate or interest in Māori customary land cannot be—
- (a) disposed of; or

- (b) vested or acquired under an Act or in any other way.
- (2) However, this section does not prevent—
- (a) any change in the class of collective owners who, in accordance with tikanga Māori, hold a parcel of Māori customary land, as long as the change is made in accordance with tikanga Māori: 5
- (b) the reservation of Māori customary land as a whenua tāpui, the cancellation of the reservation, any vesting related to the reservation or cancellation, or the grant of any lease under **subpart 2**:
- (c) the change in status of Māori customary land to Māori freehold land under **section 16**: 10
- (d) the creation, cancellation, or variation of an easement over Māori customary land under **section 135 or 136**:
- (e) the grant of reasonable access to landlocked Māori customary land by an order made under section 328 of the Property Law Act 2007 (as applied by **section 319** of **Parts 1 to 9**). 15
- 14 Court may determine whether land is Māori customary land**
- (1) The court may determine whether any land is Māori customary land.
- (2) The court may make the determination—
- (a) on its own initiative in any proceedings; or
- (b) on application by— 20
- (i) any person with an interest in the matter; or
- (ii) the Registrar-General; or
- (iii) the Minister.
- (3) After making its determination, the court must make an order that—
- (a) specifies the parcel or parcels comprising the land or, if the land is not in defined parcels, describes the land so that it can be identified; and 25
- (b) declares that the land is, or is not, Māori customary land.
- (4) If the court's order declares that the land is not Māori customary land, it may also declare that the land is or is not Crown land or other private land.
- 15 Court may determine class of collective owners of Māori customary land** 30
- (1) The court may determine the class of collective owners who, in accordance with tikanga Māori, hold a parcel of Māori customary land.
- (2) The court may make the determination—
- (a) on its own initiative in any proceedings; or
- (b) on application by— 35
- (i) any individual Māori or group or class of Māori who claim an interest in the land; or

- (ii) the Minister.
- (3) The class of collective owners must include all descendants of the members of the class.
- (4) After determining the class of collective owners, the court must decide under **section 16** whether to change the status of the land to Māori freehold land. 5
- (5) If the court decides to change the status, it must make an order under **section 16**.
- (6) If the court decides not to change the status, it must make an order that—
- (a) specifies the parcel or parcels comprising the land or, if the land is not in defined parcels, describes the land so that it can be identified; and 10
- (b) defines the class of collective owners of the land; and
- (c) appoints a kaiwhakahaere for the land in accordance with **section 17**, if there is not one already.
- (7) The court has exclusive jurisdiction to determine the class of collective owners of Māori customary land. 15
- (8) To avoid doubt,—
- (a) the court must not determine that the land is held by owners in defined shares; and
- (b) if a determination has already been made under this section and the land remains Māori customary land, another determination may be made if ownership has been transferred in accordance with tikanga Māori; and 20
- (c) a determination under this section merely recognises, and does not change, the existing ownership.
- 16 Court may change status of Māori customary land to Māori freehold land**
- (1) This section applies if— 25
- (a) the court is required to make a decision under this section after determining a class of collective owners of Māori customary land under **section 15**; or
- (b) the kaiwhakahaere appointed for Māori customary land under **section 17** at any time applies for an order under this section. 30
- (2) The court must decide whether to change the status of the land to Māori freehold land.
- (3) The court must not decide to change the status unless it is satisfied that—
- (a) the chief executive, at the court’s direction, notified and held a meeting of the owners of the land in accordance with **Schedule 2** to consider the proposed change of status (and that schedule applies to the proposal with any necessary modifications); and 35

- (b) the change of status is agreed to by more than 50% of the owners of the land who attended the meeting; and
- (c) the land comprises a parcel or parcels defined in compliance with the applicable survey standards.
- (4) If the court decides to change the status, the court must make an order changing the status of the land to Māori freehold land. 5
- (5) The order must—
- (a) specify the parcel or parcels comprising the land; and
- (b) define the class of collective owners of the land as determined under **section 15**. 10
- (6) If an order is made changing the status of land to Māori freehold land, the land becomes subject to the Land Transfer Act 1952 on registration of the order under that Act.
- 17 Kaiwhakahaere appointed for Māori customary land**
- (1) This section applies if the court is required to make an order under **section 15** appointing a kaiwhakahaere for Māori customary land. 15
- (2) The order may appoint the kaiwhakahaere to do 1 or more of the things referred to in **section 190(2)(a), (d), (e), (f)(i), (g), (i), and (j)** in relation to the land.
- (3) The kaiwhakahaere appointed by the order may also do the following in relation to the land: 20
- (a) receive and respond to notices on behalf of the owners;
- (b) apply to the court for an order under **section 16** (court may change status of Māori customary land to Māori freehold land);
- (c) bring proceedings under **section 18** (trespass or injury to Māori customary land): 25
- (d) apply to the court for an order under **section 31** (court order declaring private land reserved as whenua tāpui);
- (e) apply under section 327(1) of the Property Law Act for the grant of reasonable access to landlocked land (*see section 319*). 30
- (4) **Sections 189(3), 191, 192, and 195 to 201** apply to the appointment, with any necessary modifications, as if—
- (a) the appointment were made under **section 189**; and
- (b) **section 199(1)** also provided that the appointment of a kaiwhakahaere ceases if an order is made changing the status of the land to Māori freehold land. 35



**18 Trespass or injury to Māori customary land**

- (1) This section applies to proceedings in the Māori Land Court or any other court—
- (a) to recover possession of Māori customary land from any person; or
  - (b) to prevent, or recover damages for, trespass or injury to the land by any person. 5
- (2) The proceedings may be brought only by—
- (a) a member of the class of collective owners who hold the land in accordance with tikanga Māori, if the court has determined that class; or
  - (b) in any case, the following ~~persons~~person on behalf of the owners of the land: 10
    - (i) a kaiwhakahaere appointed for the land; or
    - (ii) the Māori Trustee, if there is no kaiwhakahaere appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act. 15

**19 Provisions for jurisdiction about Māori customary land do not apply to common marine and coastal area**

**Sections 14 to 18** do not apply to land in the common marine and coastal area (as defined by section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011). 20

*Māori freehold land***20 Definition of Māori freehold land**

In **Parts 1 to 9**, **Māori freehold land** means land that—

- (a) has become Māori freehold land in accordance with **Parts 1 to 9** or any other enactment, whether before or after the commencement of **Parts 1 to 9**; and 25
- (b) has not ceased to be Māori freehold land.

**21 Māori freehold land may be disposed of in certain ways**

An estate or interest in Māori freehold land may be disposed of in the same way as private land that is not Māori land unless the disposition is prohibited or restricted by **Parts 1 to 9** or another enactment. 30

**22 Court may determine whether land is Māori freehold land**

- (1) The court may determine whether any land is Māori freehold land.
- (2) The court may make the determination—
  - (a) on its own initiative in any proceedings; or 35
  - (b) on application by—

- (i) any person with an interest in the matter; or
  - (ii) the Registrar-General.
- (3) After making its determination, the court must issue a declaration that—
- (a) specifies the parcel or parcels comprising the land; and
  - (b) declares that the land is, or is not, Māori freehold land. 5
- (4) If the court declares that the land is not Māori freehold land, it may also declare that the land is or is not Crown land or other private land.

*Land becomes Māori freehold land*

**23 How land becomes Māori freehold land**

- (1) Land becomes Māori freehold land only in the following ways: 10
- (a) the court makes an order under **section 16** to change the status of Māori customary land to Māori freehold land:
  - (b) the court makes a vesting order under **section 24** in respect of land other than Māori freehold land:
  - (c) the court makes an order under **section 25** declaring private land to be Māori freehold land: 15
  - (d) an exchange of land is made and land becomes Māori freehold land under **section 102**:
  - (e) a boundary adjustment is made and land that is not Māori freehold land changes status under **section 111(5)** by becoming part of a parcel of Māori freehold land: 20
  - (f) land that is amalgamated, or whose ownership is aggregated, becomes Māori freehold land under **section 120 or 124**:
  - (g) the court makes an order under **section 211** and, if the order requires a change of ownership, the relevant governance body becomes the owner of the land: 25
  - (h) another Act expressly provides that the land becomes Māori freehold land.
- (2) To avoid doubt,—
- (a) the court may determine and declare under **section 22** that land is Māori freehold land; and 30
  - (b) land may already have been Māori freehold land at the commencement of **Parts 1 to 9**; and
  - (c) the chief executive has no power under **Parts 1 to 9** to determine and declare that land is Māori freehold land. 35

- 24 Land becomes Māori freehold land by vesting order on change of ownership**
- (1) The court may, on application, make a vesting order under this section in respect of land other than Māori freehold land.
- (2) An application may be made by— 5
- (a) the beneficial owners of land who want the land to vest in any individual Māori or group or class of Māori; or
  - (b) the registered proprietor of land that was acquired for any individual Māori or group or class of Māori; or
  - (c) any of the following persons for private land that was acquired by the Crown, a local authority, or a public body for a public work or other public purpose, but is no longer required for that purpose: 10
    - (i) the Minister of the Crown under whose control the land is held or administered:
    - (ii) the chief executive ~~of the department responsible for the administration of~~ under the Cadastral Survey Act 2002: 15
    - (iii) the local authority or public body that holds or administers the land; or
  - (d) the Minister for Māori Development for any Crown land set aside or reserved for the use or benefit of Māori; or 20
  - (e) any Minister of the Crown, or the registered proprietor of the land, for any Crown land not covered by another paragraph of this subsection.
- (3) An application may do 1 or more of the following:
- (a) propose the 1 or more persons in whom the land is to be vested:
  - (b) specify a price to be paid for the land and any terms and conditions of payment: 25
  - (c) propose any other conditions to be imposed by the order.
- (4) A vesting order—
- (a) must specify the parcel or parcels comprising the land; and
  - (b) must vest the land in freehold— 30
    - (i) in the 1 or more persons, and in the relative shares, determined by the court; or
    - (ii) in the class of collective owners determined by the court, which must include all descendants of the members of the class; and
  - (c) must vest the land so that, after the vesting, the land— 35
    - (i) is released from any lease, licence, mortgage, easement, or other interest from which the grantee has consented to release it; but

- (ii) remains affected by any other such interest that affected it immediately before the vesting; and
- (d) may impose any conditions that the court thinks fit.
- (5) If an order is made, the land described in the order becomes Māori freehold land. 5
- (6) This section applies despite any other enactment that applies to the land, such as sections 40 to 42 of the Public Works Act 1981.
- 25 Private land other than Māori land may be declared Māori freehold land**
- (1) The court may, on application, make an order declaring any private land other than Māori land to be Māori freehold land. 10
- (2) The application may be made by 1 or more owners of the land.
- (3) The court must make the order only if it is satisfied ~~of the following: that—~~
- (a) the land is not managed under a governance agreement; and
- (b) for land that is held by the trustees of a whānau trust or other trust,—
- (i) the beneficiaries of the trust are 1 or more Māori, or a group or class of Māori, who are associated in accordance with tikanga Māori with the area in which the land is located; and 15
- (ii) the application is agreed to by the trustees and does not breach the terms of the trust; and
- (c) for other land,— 20
- (i) the land is beneficially owned by 1 or more Māori, or a group or class of Māori, who are associated in accordance with tikanga Māori with the area in which the land is located; and
- (ii) the application is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight). 25
- (4) **Sections 51 to 57** apply to the making of the decision that requires agreement under **subsection (3)(c)(ii)** as if the land were Māori freehold land.
- (5) The order must—
- (a) specify the parcel or parcels comprising the land; and
- (b) specify the existing owners of the land and relative shares (if any) of the owners. 30
- (6) *See—*
- (a) **section 48** for how the owners of the Māori freehold land may convert it to collective ownership:
- (b) **section 206** for how land that is managed under a governance agreement may become Māori freehold land. 35

*Land ceases to be Māori freehold land***26 How land ceases to be Māori freehold land**

- (1) Land ceases to be Māori freehold land only in the following ways:
- (a) the court makes an order under **section 27** declaring that the land ceases to be Māori freehold land: 5
  - (b) an exchange of land is made and Māori freehold land becomes land of another status under **section 102(10)**:
  - (c) a boundary adjustment is made and Māori freehold land changes status under **section 111(5)** by becoming part of a parcel of land that is not Māori freehold land: 10
  - (d) the land changes ownership after the court makes an order under **section 103** declaring that the land ceases to be Māori freehold land on that change of ownership:
  - (e) another Act expressly provides that the land ceases to be Māori freehold land. 15
- (2) This section does not affect the court's power to determine and declare under **section 22** that land is not Māori freehold land.
- (3) To avoid doubt,—
- (a) land does not cease to be Māori freehold land merely because it no longer has Māori owners; and 20
  - (b) the chief executive has no power under **Parts 1 to 9** to determine and declare that land is not Māori freehold land.

**27 Land may cease to be Māori freehold land by declaration**

- (1) The court may, on application, make an order declaring that a parcel of land ceases to be Māori freehold land. 25
- (2) The application may be made by 1 or more owners of the land.
- (3) The court must not make an order unless it is satisfied that—
- (a) the land is not held by a class of collective owners; and
  - (b) the land is not managed under a governance agreement; and
  - (c) no part of the land is reserved as a whenua tāpui; and 30
  - (d) no part of the land is subject to a kawenata tiaki whenua; and
  - (e) the land does not contain any wāhi tapu or wāhi tūpuna; and
  - (f) the application is agreed to by owners who together hold a 75% or more share in the land; and
  - (g) the purpose of **Parts 1 to 9** can be achieved more effectively if the land does not have the status of Māori freehold land. 35
- (4) An order must specify the parcel or parcels comprising the land.

- (5) If an order is made, the parcel of land that ceases to be Māori freehold land remains private land, but is not Māori land.
- (6) *See section 103* for how land that is managed under a governance agreement may cease to be Māori freehold land on the change of ownership from a sale or an exchange. 5

*High Court jurisdiction over status of land*

**28 High Court jurisdiction over status of land**

- (1) The Māori Land Court’s jurisdiction under this or any other Act does not affect the High Court’s jurisdiction to determine anything relating to the status of land. 10
- (2) A determination of the High Court prevails over any conflicting declaration or determination of the Māori Land Court.

Subpart 2—Whenua tāpui

**29 Preliminary provision**

- (1) In **sections 31 and 33**, the **certain purposes** for which whenua tāpui may be reserved are— 15
- (a) a papakāinga housing site:
  - (b) a marae:
  - (c) a meeting place:
  - (d) a recreation or sports ground: 20
  - (e) a bathing place:
  - (f) a church site:
  - (g) a building site:
  - (h) an urupā:
  - (i) a landing place: 25
  - (j) a fishing ground:
  - (k) a spring, well, catchment area, or other source of water supply:
  - (l) a timber reserve:
  - (m) a place of cultural or historical interest:
  - (n) a place of scenic interest: 30
  - (o) a place of special significance according to tikanga Māori:
  - (p) a wāhi tapu or wāhi tūpuna:
  - (q) any other particular purpose stated in the declaration.
- (2) In this subpart, despite references to a whenua tāpui being held and managed by an administering body, a whenua tāpui over Māori customary land is con- 35

trolled and managed by the administering body, but as if the administering body held the land on trust.

- 30 Application for court order declaring private land reserved as whenua tāpui**
- (1) A person may apply to the court for an order under **section 31** declaring a new whenua tāpui or the addition of land to an existing whenua tāpui. 5
- (2) The application may be made by—
- (a) a kaiwhakahaere appointed for the land, for a declaration relating to Māori customary land; or
- (b) 1 or more owners of the land, for a declaration relating to Māori freehold land or other private land. 10
- (3) For the declaration of a new whenua tāpui, the application must specify—
- (a) the name of the administering body to be appointed for the whenua tāpui; and
- (b) the names of the persons who are to be the members of the administering body. 15
- (4) For the declaration of a new whenua tāpui for the purpose of a marae, if the persons who affiliate with the marae in accordance with tikanga Māori have appointed a marae committee, the persons specified as members of the administering body must be the members of the marae committee. 20
- (5) For the declaration of a new whenua tāpui for the purpose of a marae or an urupā, other than a declaration relating to Māori customary land, the application may specify that the beneficial ownership of the land is to vest in the beneficiaries of the whenua tāpui.
- 31 Court order declaring private land reserved as whenua tāpui** 25
- (1) The court may, on application, make an order declaring that—
- (a) any private land is reserved as a **new whenua tāpui**; or
- (b) any additional private land is reserved and included in an **existing whenua tāpui** declared over private land.
- (2) The order must be made in accordance with this section, **section 32**, and (for the declaration of a new whenua tāpui) **section 37**. 30
- (3) The declaration must not apply to—
- (a) land that is managed under a governance agreement (*see* ~~**section 137**~~ **44A** for how a kawenata tiaki whenua may be created over such land for certain purposes); or 35
- (b) land that is subject to a mortgage or other charge; or
- (c) land that is subject to a lease or licence that is inconsistent with the purpose for which the land is to be reserved.

- (4) The declaration of a new whenua tāpui must reserve the land—
- (a) for the 1 or more certain purposes specified in the declaration; and
  - (b) for the common use and benefit of 1 of the following classes of beneficiaries:
    - (i) the owners of the land: 5
    - (ii) Māori who belong to a class of persons specified in the declaration:
    - (iii) the people of New Zealand; and
  - (c) ~~to be so that it is held and managed—~~
    - (i) by the administering body appointed in the declaration and comprising the members specified in the declaration, which must match the administering body and members specified in the application; and 10
    - (ii) subject to any conditions or restrictions that the court, at its discretion, specifies in the declaration. 15
- (5) The declaration of additional land for an existing whenua tāpui must reserve the land—
- (a) for the same purposes, and for the common use and benefit of the same class of beneficiaries, as for the existing whenua tāpui; and
  - (b) ~~to be so that it is held and managed by the same administering body, and~~ 20  
subject to the same conditions or restrictions (if any), as for the existing whenua tāpui.
- (6) The declaration of a new whenua tāpui for the purpose of a marae or an urupā must reserve the land for the common use and benefit of Māori who belong to a class of persons specified in the declaration. 25
- (7) The declaration must also declare that the land vests in the beneficiaries of the whenua tāpui, but only if—
- (a) the declaration is about a new whenua tāpui to be reserved for the purpose of a marae or an urupā, and the application specified that beneficial ownership of the whenua tāpui is to vest in the beneficiaries; or 30
  - (b) the declaration is about additional land, other than Māori customary land, for an existing whenua tāpui that is reserved for the purpose of a marae or an urupā, and the beneficial ownership of the whenua tāpui is vested in the beneficiaries.
- (8) The chief executive must give notice in the *Gazette* of the reservation of land 35  
for the common use and benefit of the people of New Zealand, on being provided under **section 269** with a sealed copy of the order declaring the reservation (whether as a new whenua tāpui or as additional land for an existing whenua tāpui).



**32 Court must be satisfied of matters for whenua tāpui on private land**

- (1) The court must comply with this section before making an order under **section 31** declaring a new whenua tāpui or the addition of land to an existing whenua tāpui.
- (2) The court must be satisfied that the application complies with **section 30**. 5
- (3) The court must be satisfied that,—
- (a) for a declaration relating to Māori customary land,—
    - (i) the chief executive, at the court’s direction, notified and held a meeting of the owners of the land in accordance with **Schedule 2** to consider the application (and that schedule applies to the application with any necessary modifications); and 10
    - (ii) the application is agreed to by 75% or more of the owners of the land who attended the meeting; or
  - (b) for a declaration relating to Māori freehold land for the purposes of a marae or an urupā, where the beneficial ownership of the land is to vest in the beneficiaries, the application is agreed to by owners who together hold a 75% or more share in the land; or 15
  - (c) for a declaration relating to Māori freehold land in any other case, the application is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); or 20
  - (d) for a declaration relating to other private land, the application is agreed to by the owners of the land.
- (4) If the land to be reserved is only part of a parcel and is not Māori customary land, the court must be satisfied that—
- (a) the land to be reserved is defined on a survey plan made in compliance with the applicable survey standards; or 25
  - (b) the declaration is supported by a certificate from the Surveyor-General that the land to be reserved is adequately described or defined for the nature of the whenua tāpui and in relation to existing surveys made in compliance with the applicable survey standards. 30
- (5) For the reservation of land for the common use and benefit of the people of New Zealand (whether as a new whenua tāpui or as additional land for an existing whenua tāpui), the court must be satisfied that—
- (a) the relevant territorial authority consents to the reservation; and
  - (b) the land does not contain a wāhi tapu or wāhi tūpuna. 35

**33 Minister declares Crown land or other specified land reserved as whenua tāpui**

- (1) The Minister responsible for Crown land or other specified land may, in accordance with this section and **section 34**, make a declaration that—

- (a) any Crown land or other specified land is reserved as a **new whenua tāpui**; or
- (b) any additional Crown land or other specified land is reserved and included in an **existing whenua tāpui** declared over Crown land or other specified land. 5
- (2) The declaration must not apply to—
- (a) land that is subject to a mortgage or other charge; or
- (b) land that is subject to a lease or licence that is inconsistent with the purpose for which the land is to be reserved; or
- (c) Crown forest land unless the reservation will not cause the Crown to breach any Crown forestry licence that affects the land. 10
- (3) The declaration of a new whenua tāpui over Crown land must reserve the land—
- (a) for the 1 or more certain purposes specified in the declaration; and
- (b) for the common use and benefit of Māori who belong to a class of persons specified in the declaration; and 15
- (c) ~~to be so that it is~~ held and managed—
- (i) by the administering body appointed in the declaration and comprising the members specified in the declaration; and
- (ii) subject to any conditions or restrictions that the Minister, at his or her discretion, specifies in the declaration. 20
- (4) The declaration of a new whenua tāpui over other specified land must reserve the land—
- (a) for the purposes of—
- (i) a place of cultural or historical interest; or 25
- (ii) a place of special significance according to tikanga Māori; or
- (iii) a wāhi tapu or wāhi tūpuna; and
- (b) for the common use and benefit of Māori who belong to a class of persons specified in the declaration; and
- (c) ~~to be so that it is~~ held and managed— 30
- (i) by the administering body appointed in the declaration and comprising the members specified in the declaration; and
- (ii) subject to any conditions or restrictions that the Minister, at his or her discretion, specifies in the declaration.
- (5) The declaration of additional Crown land or other specified land for an existing whenua tāpui must reserve the land— 35
- (a) for the same purposes, and for the common use and benefit of the same class of beneficiaries, as for the existing whenua tāpui; and

- (b) ~~to be so that it is held~~ and managed by the same administering body, and subject to the same conditions or restrictions (if any), as for the existing whenua tāpui.
- (6) The declaration must also declare that the land vests in the beneficiaries of the whenua tāpui, but only if— 5
- (a) the declaration is about a new whenua tāpui to be reserved for the purpose of a marae or an urupā; or
- (b) the declaration is about additional land for an existing whenua tāpui that is reserved for the purpose of a marae or an urupā, and the beneficial ownership of the whenua tāpui is vested in the beneficiaries. 10
- (7) Before making a declaration in relation to other specified land, the Minister must be satisfied that the land is as described in **subsection (4)(a)(i) to (iii)** (whichever applies).
- (8) The Minister need not make a declaration after obtaining the court’s recommendation under **section 34**, but if the Minister does make a declaration, the declaration must comply with the court’s recommendation of— 15
- (a) the name and membership of the administering body to be appointed for the whenua tāpui; and
- (b) an appropriate class of Māori persons for whose common use and benefit the whenua tāpui should be reserved. 20
- (9) A declaration under this section must be made by *Gazette* notice.
- (10) The *Gazette* notice is not a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.
- (11) In this section and **sections 34 to 36**, **other specified land** means— 25
- (a) Crown forest land (as defined by section 2(1) of the Crown Forest Assets Act 1989):
- (b) land or an interest in land that is subject to resumption under section 27B of the State-Owned Enterprises Act 1986 and is held by a State enterprise (as defined by section 2 of that Act): 30
- (c) land or an interest in land that is subject to resumption under section 212 of the Education Act 1989 and is held by an institution (as defined by section 159 of that Act):
- (d) land or an interest in land that is subject to resumption under section 39 of the New Zealand Railways Corporation Restructuring Act 1990 and is held by a Crown transferee company (as defined by section 2 of that Act). 35

- 34 Minister must apply for court recommendation for new whenua tāpui on Crown land or other specified land**
- (1) The Minister must comply with this section before declaring a new whenua tāpui under **section 33**.
- (2) If the land to be reserved is only part of a parcel, the Minister must be satisfied that— 5
- (a) the land to be reserved is defined on a survey plan made in compliance with the applicable survey standards; or
- (b) the declaration is supported by a certificate from the Surveyor-General that the land to be reserved is adequately described or defined for the nature of the whenua tāpui and in relation to existing surveys made in compliance with the applicable survey standards. 10
- (3) The Minister—
- (a) must apply to the court for a recommendation of the name and membership of the administering body to be appointed for the new whenua tāpui; and 15
- (b) may also apply to the court for a recommendation of an appropriate class of Māori persons for whose common use and benefit the new whenua tāpui should be reserved.
- (4) The application may, but need not, specify— 20
- (a) a proposed name for the administering body to be appointed for the whenua tāpui:
- (b) the names of persons proposed to be members of the administering body.
- (5) The court must, on application by the Minister, make a recommendation for each matter for which recommendation was sought (and the name of the administering body and the members may differ from any proposals in the application). 25
- (6) For the declaration of a new whenua tāpui over Crown land for the purpose of a marae, if the persons who affiliate with the marae in accordance with tikanga Māori have appointed a marae committee, the persons recommended as members of the administering body must be the members of the marae committee. 30
- (7) If the Minister applies for a recommendation under **subsection (3)(b)**, the court must do the following before making the recommendation:
- (a) obtain evidence of people’s ancestral or cultural connections with the land, and give all those who claim such connections an opportunity to be heard, in order to determine an appropriate class of Māori persons for whose common use and benefit the whenua tāpui should be reserved; and 35
- (b) having determined the appropriate class, give its members an opportunity to be heard on the name and membership of the administering body. 40

- 35 Application for court order of declaration for existing whenua tāpui**
- (1) A person may apply to the court for an order under **section 36** that makes a declaration in relation to any existing whenua tāpui over any land.
- (2) The application may be made—
- (a) by the administering body of the whenua tāpui; or 5
  - (b) by the following:
    - (i) a kaiwhakahaere appointed for the land, for a declaration relating to Māori customary land; or
    - (ii) 1 or more owners of the land, for a declaration relating to Māori freehold land or other private land; or 10
  - (c) for a declaration under **section 36(1)(d) or (e)**,—
    - (i) by a person referred to in **paragraph (a) or (b)**; or
    - (ii) by a beneficiary of the whenua tāpui; or
    - (iii) by the Minister responsible for the land, if the whenua tāpui is over Crown land or other specified land. 15
- (3) For a declaration under **section 36(1)(b)** that a whenua tāpui is reserved for the purpose of a marae or an urupā, other than a declaration relating to Māori customary land, the application may specify that the beneficial ownership of the land is to vest in the beneficiaries of the whenua tāpui.
- (4) For a declaration about the membership of an administering body, the application must specify— 20
- (a) the name of the person who is to become a member; or
  - (b) the name of the person who is to cease to be a member; or
  - (c) the name of the person who is to replace a member and the name of the member who is to be replaced. 25
- 36 Court order of declaration for existing whenua tāpui**
- (1) The court may, on application, make an order declaring the following in relation to any existing whenua tāpui over any land:
- (a) the reservation as whenua tāpui is cancelled for some or all of the land; or 30
  - (b) the whenua tāpui is reserved for a different purpose; or
  - (c) the whenua tāpui is reserved for the common use or benefit of a different class of beneficiaries; or
  - (d) a person becomes, ceases to be, or replaces a member of the administering body appointed for the whenua tāpui; or 35
  - (e) the conditions or restrictions imposed on how the administering body holds and manages the whenua tāpui are changed.

- (2) A declaration under **subsection (1)(b)** must also declare that the land vests in the beneficiaries of the whenua tāpui if the declaration is about a whenua tāpui to be reserved for the purpose of a marae or an urupā and the beneficial ownership of the whenua tāpui is to vest in the beneficiaries.
- (3) The order must be made in accordance with this section and (for a declaration under **subsection (1)(e)** **section 37**. 5
- (4) The court must not make an order of declaration under this section unless it is satisfied of the following: ~~that—~~
- (a) the application complies with **section 35**; ~~and~~
- (b) the declaration would have been permitted by the provision under which the whenua tāpui was first declared; ~~and~~ 10
- (c) for a declaration relating to Māori customary land,—
- (i) the chief executive, at the court’s direction, notified and held a meeting of the owners of the land in accordance with **Schedule 2** to consider the application (and that schedule applies to the application with any necessary modifications); and 15
- (ii) the application is agreed to by 75% or more of the owners of the land who attended the meeting; ~~and~~
- (d) for a declaration relating to Māori freehold land to be reserved for the purposes of a marae or an urupā, where the beneficial ownership of the land is to vest in the beneficiaries, the application is agreed to by owners who together hold a 75% or more share in the land; ~~and~~ 20
- (e) for a declaration relating to Māori freehold land in any other case, the application is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); ~~and~~ 25
- (f) for a declaration relating to other private land, or to Crown land or other specified land, that is currently reserved for the owners of the land or Māori who belong to a class of persons,—
- (i) the administering body notified and held a meeting of the beneficiaries of the whenua tāpui in accordance with **Schedule 2** to consider the application (and that schedule applies to the application with any necessary modifications); and 30
- (ii) at least 10 beneficiaries attended the meeting; and
- (iii) the application is agreed to by more than 50% of the beneficiaries who attended the meeting; ~~and~~ 35
- (g) for a declaration relating to other private land that is currently reserved for the common use and benefit of the people of New Zealand, the application is agreed to by the owners of the land; ~~and~~
- (h) for a declaration relating to Crown land or other specified land that is currently reserved for the common use and benefit of the people of New 40

- Zealand, the application is agreed to by the Minister responsible for the land.
- (5) In addition, for a declaration relating to private land other than Māori land, or Crown land or other specified land, to be reserved for the purposes of a marae or an urupā, where the beneficial ownership of the land is to vest in the beneficiaries, the court must not make an order of declaration unless it is satisfied that,— 5
- (a) for private land, the application is agreed to by the owners of the land; or
- (b) for Crown land or other specified land, the application is agreed to by the Minister responsible for the land. 10
- (6) In addition, if the existing whenua tāpui is subject to a lease and the declaration is under **subsection (1)(a), (b), or (e)**, the court must not make an order of declaration unless it is satisfied that,—
- (a) for a lease granted under **section 40**, the declaration does not affect the lease: 15
- (b) for a lease granted under **section 41 or 42** and a declaration under **subsection (1)(a) or (b)**, there are no occupied residences under the lease:
- (c) for a lease granted under **section 41 or 42** and a declaration under **subsection (1)(e)**, the declaration does not affect the lease. 20
- (7) The chief executive or the administering body must notify and hold a meeting for the purposes of **subsection (4)** if an application is made under this section.
- (8) If the court makes an order of declaration about the membership of an administering body, the order must appoint or remove members in accordance with the application. 25
- (9) The chief executive must give notice in the *Gazette* of an existing whenua tāpui becoming reserved for the common use and benefit of the people of New Zealand, on being provided under **section 269** with a sealed copy of the order declaring the change of beneficiaries. 30
- 37 Court must seek and consider submissions for some orders**
- (1) The court must comply with this section before—
- (a) making an order under **section 31** declaring a new whenua tāpui; or
- (b) making an order under **section 36** declaring that the conditions or restrictions imposed on how the administering body holds and manages an existing whenua tāpui are changed. 35
- (2) The court must give notice of the order it proposes to make—
- (a) directly to the applicants; and

- (b) directly to any other person whose address for notices is provided in the application; and
  - (c) for a declaration about an existing whenua tāpui, directly to the administering body of the existing whenua tāpui; and
  - (d) in the pānui of the court or any publication that replaces it. 5
- (3) The notice must—
- (a) provide details of the application; and
  - (b) set out the court’s proposed order; and
  - (c) invite submissions on the proposed order; and
  - (d) specify the deadline by which submissions must be received. 10
- (4) The court must consider any submissions received by the deadline specified in the notice before finalising and making its order.

### 38 Effect of declarations about whenua tāpui

- (1) A declaration about a whenua tāpui by a court order takes effect when the order takes effect. 15
- (2) A declaration about a whenua tāpui by the Minister takes effect on the date on which the *Gazette* notice is published or any later date specified in the *Gazette* notice.

#### *Reservation of land*

- (3) When land is reserved as a whenua tāpui,— 20
- (a) the legal ownership of the land vests in the administering body appointed in the declaration unless the land is Māori customary land; and
  - (b) the administering body holds the land in trust for the purposes for which it is reserved, for the common use and benefit of the beneficiaries, and subject to any conditions or restrictions specified in the declaration; and 25
  - (c) a beneficiary may enter and use the land subject to—
    - (i) the purposes for which the land is reserved; and
    - (ii) any lease, licence, or easement over the land; and
    - (iii) any reasonable conditions or restrictions imposed by the administering body; and 30
  - (d) the land remains affected by any lease, licence, or easement that affected it immediately before the reservation; and
  - (e) to avoid doubt, the land remains affected by any status or statutory regime (for example, as Crown forest land ~~or land subject to resumption by the Crown~~) that affected it immediately before the reservation and that is not overridden by **section 44**. 35
- (4) When land is reserved as a whenua tāpui for the purposes of a marae or an urupā, and the beneficial ownership of the land is declared to vest in the benefi-



ciaries of the whenua tāpui, the beneficial ownership of the land vests in those beneficiaries (who become the class of collective owners of the land, despite anything in **section 48**).

- (5) When land is reserved as a whenua tāpui in any other case, the beneficial ownership of the land— 5
- (a) is unaffected and is distinct from the interests of the beneficiaries of the whenua tāpui; and
- (b) may continue to change by succession or otherwise.
- Cancellation of reservation of land*
- (6) When the reservation of land as whenua tāpui is cancelled, the legal ownership of the land vests in the beneficial owners of the land unless the land is Māori customary land. 10
- 39 Administering bodies**
- (1) The administering body appointed for a whenua tāpui is a body corporate.
- (2) An administering body must have a board of at least ~~3~~4 members, each of whom— 15
- (a) is ordinarily resident in New Zealand (within the meaning of section 207D(3) of the Companies Act 1993); and
- (b) is eligible to be a kaitiaki of a governance body under **section 184(3)**.
- (3) A person appointed to the board remains a member until he or she dies, resigns, or is removed or replaced. 20
- (4) The function of an administering body is to hold and manage the whenua tāpui for the purposes for which it is reserved, for the common use and benefit of the beneficiaries, and subject to any conditions or restrictions imposed on the administering body. 25
- (5) An administering body may do anything authorised by **Parts 1 to 9**, or anything else that a natural person may do, for the purpose of performing its function.
- (6) A person appointed as a member of an administering body is protected from civil liability, however it may arise, for any act that the person does or omits to do in fulfilment or intended fulfilment of the purpose for which the person is appointed, unless— 30
- (a) the terms of the person’s appointment provide otherwise; or
- (b) the act or omission is done in bad faith or without reasonable care.
- (7) The rule against perpetuities and the provisions of the Perpetuities Act 1964 do not prescribe or restrict the period during which an administering body may hold or deal with property (including income derived from property). 35

**39A Court order to restrain administering body**

- (1) The court may, on application, make an order restraining the administering body, or a member of the administering body, of a whenua tāpui from doing anything—
- (a) inconsistently with the purposes for which the whenua tāpui is reserved; 5  
or
- (b) in breach of the conditions or restrictions imposed on how the administering body holds and manages the whenua tāpui.
- (2) The application may be made by 1 or more—
- (a) owners of the land; or 10
- (b) beneficiaries of the whenua tāpui; or
- (c) members of the administering body.
- (3) The court must not make the order unless it is satisfied that the administering body or member—
- (a) is or may be doing anything as described by **subsection (1)**; or 15
- (b) is acting recklessly, incompetently, or fraudulently.

**40 Lease of whenua tāpui for general purposes**

- (1) The administering body of a whenua tāpui may grant a lease to any person over all or part of the land for the purpose of carrying out any activity, trade, business, or occupation (other than residential housing), but only in accordance with this section. 20
- (2) The lease must include the following terms and conditions:
- (a) the lease is granted for a term of 14 years or less:
- (b) the land or building subject to the lease must be used solely for the purpose for which the lease is granted: 25
- (c) if the land or building is not used solely for that purpose, the grantor may terminate the lease in accordance with the process (if any) specified in the lease or, if there is no such process, in any reasonable way:
- (d) on termination under **paragraph (c)**, the land and all improvements on the land revert to the grantor, and no compensation is payable to the grantee. 30
- (3) The lease may include any other terms and conditions that the administering body thinks fit.
- (3A) The lease must be agreed to by the administering body unless it is granted under a right of renewal included in another lease. 35
- (4) The grant of the lease must be conditional on the court, on application by the administering body, making an order of confirmation that the grant—
- (a) complies with the requirements of **Parts 1 to 9**; and

- (b) is consistent with the purposes for which the whenua tāpui is reserved; and
- (c) is consistent with any conditions or restrictions imposed on how the administering body holds and manages the whenua tāpui.
- (5) The lessee’s interest under the lease may, unless the terms and conditions of the lease provide otherwise,— 5
- (a) be assigned; or
- (b) be subleased, but only in accordance with the provision in this subpart that restricts a lease of the sublease’s type, except that the administering body or owners may have agreed to the headlease on the basis that it is also agreement to any sublease. 10
- (6) This section applies despite **section 13** (for Māori customary land) and instead of **section 128** (for Māori freehold land).
- (7) In this section and **sections 41 to 43**,— 15
- residential housing** means—
- (a) the occupation of existing premises as a place of residence; or
- (b) the building of premises on, or transporting of premises onto, land and the occupation of the premises as a place of residence
- term** includes—
- (a) any further terms that may be granted under rights of renewal included in the lease; and 20
- (b) for a lease granted under a right of renewal, the terms of any leases from which the right of renewal derives.
- 41 Lease of papakāinga housing site for residential housing with rent payable**
- (1) The administering body of the following whenua tāpui may grant a lease over all or part of the land for the purpose of residential housing and with rent payable, but only in accordance with this section: 25
- (a) a whenua tāpui reserved for the purposes of a papakāinga housing site; or
- (b) a whenua tāpui reserved for the purposes of a marae; or 30
- (c) a whenua tāpui reserved for the purposes of a building site that is subject to use of the buildings for residential housing.
- (2) The term of the lease must be 99 years or less, or the lease must be a periodic tenancy (as defined by section 2(1) of the Residential Tenancies Act 1986).
- (2A) The lease must be agreed to by the administering body. 35
- (3) The lease need not be agreed to by the owners of the land unless required by a condition or restriction imposed on how the administering body holds and manages the land.

- (4) ~~Agreement~~ However, agreement is not required for a lease granted under a right of renewal included in another lease.
- (5) The lessee's interest under the lease may be—
- (a) assigned; or
  - (b) subleased, but only in accordance with the provision in this subpart that restricts a lease of the sublease's type, except that the administering body or owners may have agreed to the headlease on the basis that it is also agreement to any sublease. 5
- (6) This section applies despite **section 13** (for Māori customary land) and instead of **section 129** (for Māori freehold land). 10
- 42 Lease of papakāinga housing site for residential housing rent-free**
- (1) The administering body of the following whenua tāpui may grant a lease over all or part of the land for the purpose of residential housing and rent-free, but only in accordance with this section:
- (a) a whenua tāpui reserved for the purposes of a papakāinga housing site; or 15
  - (b) a whenua tāpui reserved for the purposes of a building site that is subject to use of the buildings for residential housing.
- (2) The term of the lease must be—
- (a) 99 years or less; or 20
  - (b) for the life of the person to whom it is granted.
- (2A) The lease must be agreed to by the administering body.
- (3) The lease need not be agreed to by the owners of the land unless required by a condition or restriction imposed on how the administering body holds and manages the land. 25
- (4) ~~Agreement~~ However, agreement is not required for a lease granted under a right of renewal included in another lease.
- (5) The person to whom the lease is granted must be a beneficiary of the whenua tāpui.
- (6) The lease may include a provision that allows any of the following people to occupy the premises on the leased land in addition to the grantee as long as any maximum number of occupants that is specified in the lease is complied with: 30
- (a) any member of the grantee's immediate family; and
  - (b) the principal caregiver of the grantee or of a member of the grantee's immediate family. 35
- (7) The lease may be granted with conditions, which may include the requirement to pay any charges (but not rent) that relate to the property.

- (8) The lease is enforceable even though no rent is payable under it, despite any other enactment or rule of law.
- (9) The grantee's interest under the lease cannot be subleased, and the unexpired term of the lease (if any) may be disposed of only in accordance with **section 131 or 255**. 5
- (10) The lease ends if the unexpired term of the lease is not disposed of under **section 131 or 255** once the grantee, or a recipient under either of those provisions, dies.
- (11) This section applies despite **section 13** (for Māori customary land) and instead of **section 130** (for Māori freehold land). 10
- 43 Variation of lease of whenua tāpui**
- (1) **Subsection (2)** applies if a lease over all or part of the land reserved as a whenua tāpui—
- (a) is to be varied to apply to additional or different land reserved as a whenua tāpui; or 15
- (b) is to be varied as to its term.
- (2) The variation of the lease must comply with the provision in this subpart that restricts the granting of the lease itself, as if the variation were the grant of such a lease (and not a renewal).
- (3) **Subsection (4)** applies if— 20
- (a) a lease over all or part of the land reserved as a whenua tāpui is to be varied so that the lease is for a different purpose; and
- (b) the lease was originally granted under a provision of **sections 40 to 42** that is different from the provision (the **other provision**) that applies to leases granted for that different purpose. 25
- (4) The variation must comply with the other provision as if the variation were the grant of a lease for that different purpose (and not a renewal).
- 44 Reservation and disposition of whenua tāpui**
- Reservation*
- (1) The provisions of this subpart override any other provision of **Parts 1 to 9** or another enactment about the disposition or administration of land. 30
- Disposition*
- (2) Land reserved as whenua tāpui must not be disposed of, or vested or acquired under an Act or in any other way, but this section does not prevent—
- (a) the cancellation of the reservation of land as a whenua tāpui, or any vesting related to the reservation or cancellation of the reservation of land as a whenua tāpui, under this subpart; or 35

- (b) the grant of an easement over the land or for the benefit of the land, or the variation or cancellation of such an easement; or
  - (c) the grant of a lease over the land under **sections 40 to 42**, or the assignment or vesting of the unexpired term of such a lease under **section 131 or 255**; or 5
  - (d) a disposition of an individual freehold interest in the land separately from the other individual freehold interests in the land.
- (3) The grant of a lease over land reserved as a whenua tāpui is not a subdivision of land for the purposes of section 11 or Part 10 of the Resource Management Act 1991. 10

### Subpart 3—Kawenata tiaki whenua

#### **44A Kawenata tiaki whenua over parcel**

- (1) A kawenata tiaki whenua may be created over all or part of a parcel of Māori freehold land, or other land, managed under a governance agreement (the affected area), but only in accordance with this section. 15
- (2) The kawenata tiaki whenua must be created by an instrument that is agreed to by the governance body that manages the land.
- (3) The kawenata tiaki whenua must state that its purpose is to ensure that the affected area is managed so as to preserve and protect—
  - (a) a place of cultural or historical interest; or 20
  - (b) a place of special significance according to tikanga Māori.
- (4) The kawenata tiaki whenua must state that it lasts forever or for a specified term.
- (5) The kawenata tiaki whenua may include any conditions on the use of the affected area that— 25
  - (a) further the purpose of the kawenata tiaki whenua; or
  - (b) enable the governance body to manage the affected area alongside activities on land adjacent to the affected area, but only if the conditions are not inconsistent with the purpose of the kawenata tiaki whenua.
- (6) If the affected area is only part of a parcel,— 30
  - (a) the affected area must be defined on a survey plan made in compliance with the applicable survey standards; or
  - (b) the kawenata tiaki whenua must be supported by a certificate from the Surveyor-General that the affected area is adequately described or defined for the nature of the kawenata tiaki whenua and in relation to existing surveys made in compliance with the applicable survey standards. 35

**44B Cancellation or variation of kawenata tiaki whenua**

- (1) A kawenata tiaki whenua over all or part of a parcel of land may be cancelled or varied, but only in accordance with this section.
- (2) The kawenata tiaki whenua may be cancelled or varied by an instrument that is agreed to by the governance body that manages the land. 5
- (3) If the land is no longer managed by a governance body, the kawenata tiaki whenua may be cancelled or varied by an order of the court that may be made—
- (a) on application by an owner of the land, or on the court’s own initiative in determining an application under **section 227** for an order cancelling a governance agreement; and 10
- (b) only if the cancellation or variation is agreed to by owners who together hold more than 50% of the participating owners’ total share in the parcel.

**44C Effect and notation of kawenata tiaki whenua** 15

- (1) A kawenata tiaki whenua created under **section 44A**—
- (a) is a covenant that runs with and binds the land comprising the affected area; and
- (b) is an interest in land for the purposes of the Land Transfer Act 1952.
- (2) The governance body that manages the land must lodge with the Registrar-General the instrument that creates, cancels, or varies a kawenata tiaki whenua. 20
- (3) On receiving the instrument, the Registrar-General must,—
- (a) for the creation or variation of a kawenata tiaki whenua, record a notation of the kawenata tiaki whenua or variation on the computer freehold register for the land; or 25
- (b) for the cancellation of a kawenata tiaki whenua, remove any notation of the kawenata tiaki whenua from the computer freehold register for the land.
- (4) To avoid doubt, if the land subject to a kawenata tiaki whenua is no longer managed by a governance body, the Registrar-General must register in accordance with **section 289** an order that cancels or varies the kawenata tiaki whenua (after the Chief Registrar provides the order to the chief executive under **section 269**). 30

## Part 3 Ownership interests in Māori freehold land

### Subpart 1—Ownership and decision making

#### *Introductory provisions*

- 45 Example of multiple owners of parcel of Māori freehold land** 5
- (1) This section describes an example of ownership of a parcel of Māori freehold land where there are multiple owners who are tenants in common.
- (2) The owners together hold the beneficial interest in the freehold estate in the parcel. Each owner holds an individual freehold interest.
- (3) If a governance body is appointed to manage the land, the governance body becomes the legal owner of the parcel, but the owners retain the beneficial interest (or ownership). 10
- 46 Presumption of tenancy in common and equal sharing where multiple owners**
- (1) If there are multiple owners, other than a class of collective owners, of the beneficial interest in the freehold estate in a parcel of Māori freehold land, the following presumption applies: 15
- (a) the owners hold beneficial interests in the land as tenants in common; and
- (b) each owner's beneficial interest is an equal share of the land. 20
- (2) However, the presumption does not apply if there is proof in the Māori land register or elsewhere that it does not apply.
- 47 Rights of owners**
- (1) Every owner of Māori freehold land is entitled—
- (a) to engage in decisions relating to the land: 25
- (b) to be informed about the land, including its use and management:
- (c) to be heard in any proceedings relating to the land:
- (d) to be recognised and acknowledged as an owner of the land.
- (2) However, the rights are subject to any provisions of **Parts 1 to 9** that provide otherwise. For example,— 30
- (a) if the land is managed by a governance body,—
- (i) the entitlement to engage in decisions relating to the land is subject to the provisions of the governance agreement; and
- (ii) the right to receive grants or distributions is subject to any discretion of the governing body specified in the governance agreement and the entitlement of any other person to receive the grants or 35



distributions, whether in accordance with a provision of **Parts 1 to 9** or any other rule of law; and

- (b) if **Parts 1 to 9** or the rules of the court authorise the court to conduct proceedings without holding a formal sitting or without hearing an owner or any other person in open court, the owner or person is not entitled to be heard in that manner. 5
- (3) **Subsection (1)** does not limit or affect other rights that owners may have at law or in accordance with tikanga Māori.

### *Collective ownership*

#### **48 Conversion to collective ownership of Māori freehold land** 10

- (1) A parcel of Māori freehold land that is owned by tenants in common or joint tenants may be converted to collective ownership, but only in accordance with this section.
- (2) A decision to convert the ownership of the land must be agreed to, by owners who together hold a 75% or more share in the land. 15
- (a) ~~for a parcel owned by tenants in common, by owners who together hold a 75% or more share in the land; or~~
- (b) ~~for a parcel owned by joint tenants, by all of the owners.~~
- (3) The decision must define the class of collective owners in 1 of the following ways: 20
- (a) as the named persons who, immediately before conversion, were the living owners of the land or were entitled to succeed to any deceased owner's interest in the land, and the descendants of the named persons:
- (b) as named persons who are associated with the land in accordance with tikanga Māori, and their descendants, as long as the class also includes every person described in **paragraph (a)**: 25
- (c) as the descendants of 1 or more named tūpuna, as long as the class also includes every person described in **paragraph (a)**.
- (4) The decision may include 1 or more other requirements as to the terms of the collective ownership. 30
- (5) The decision has no effect unless the court, on application by an owner of the land, makes an order of confirmation that the conversion complies with the requirements of **Parts 1 to 9**.

#### **49 Effect of conversion to collective ownership**

- (1) This section applies if a parcel of Māori freehold land is converted to collective ownership under **section 48**. 35
- (2) The beneficial ownership of the parcel is vested in the defined class of collective owners.

- (3) If any beneficial interests in the parcel were held under a whānau trust and the trust has no other trust property, the trust is terminated on the date on which the beneficial ownership is vested in the class of collective owners.

**50 Collective owner has no separate interest**

- (1) A collective owner of a parcel of Māori freehold land has no interest in the land that is able to be dealt with separately from the interests of the other collective owners. 5
- (2) This section applies whether the person became, or was determined to be, a collective owner of the parcel—
- (a) by conversion to collective ownership under **sections 48 and 49**; or 10
- (b) by an order of the court (for example, under **section 16 or 24**); or
- (c) in accordance with an allocation scheme for a partition or an amalgamation.

*How owners of Māori freehold land make decisions*

**51 Decisions by specified majority of owners of Māori freehold land** 15

- (1) This subpart applies to a decision relating to a parcel of Māori freehold land if **Parts 1 to 9** or a governance agreement requires that the decision be agreed to—
- (a) by owners who together hold a specified majority share in the land (for example, more than a 50% share); or 20
- (b) by owners who together hold a specified majority of the participating owners' total share in the land (for example, more than 50% of that total share); or
- (c) by a specified majority of the participating owners of the land (casting votes of equal weight). 25

*Decision-making process*

- (2) If the parcel is managed under a governance agreement, the decision must be made using the decision-making process required by the agreement.
- (3) If the parcel is not managed under a governance agreement,—
- (aa) the decision must be made using the decision-making process set out in **Schedule 2**, unless **paragraph (a) or (b)** applies: 30
- (a) where the whole parcel is owned by 1 person or by joint tenants and **paragraph (b)** does not apply, the decision may be made by whatever process the owners choose; ~~and~~;
- (b) where the whole parcel is owned by the trustees of a whānau trust or other trust or by an incorporated body, and the terms of the trust or the constitutional documents of the body include a decision-making process, the decision must be made using that process; ~~and~~. 35

- (e) ~~in any other case, the decision must be made using the decision-making process set out in **Schedule 2**.~~

*Participation thresholds*

- (4) ~~The participation thresholds that must be satisfied for participating owners of a parcel of land to validly agree to a decision under **Parts 1 to 9** or a governance agreement—~~ 5
- (a) ~~are the thresholds specified in **subsections (6) and (7)**; and~~
- (b) ~~are subject to the exception specified in **subsection (8)**.~~
- (5) ~~However, if the parcel is managed under a governance agreement that provides for other participation thresholds or exceptions, those other thresholds or exceptions apply instead.~~ 10
- (6) ~~If a decision is about a parcel owned by tenants in common, and—~~
- (a) ~~there are 10 or fewer owners, all of the owners must participate;~~
- (b) ~~there are more than 10 but not more than 100 owners, there must be participation by at least 10 owners whose individual freehold interests total a 25% or more share in the parcel;~~ 15
- (c) ~~there are more than 100 but not more than 500 owners, there must be participation by at least 20 owners whose individual freehold interests total a 25% or more share in the parcel;~~
- (d) ~~there are more than 500 owners, there must be participation by at least 50 owners whose individual freehold interests total a 10% or more share in the parcel.~~ 20
- (7) ~~If a decision is about a parcel owned by a class of collective owners,—~~
- (a) ~~at least 20 owners must participate; but~~
- (b) ~~all the owners must participate if the class is known to have fewer than 20 members.~~ 25
- (8) ~~However, if the participation threshold for a decision is not satisfied,—~~
- (a) ~~a second decision-making process for the decision may be commenced within 20 working days after the day on which the level of owner participation in the first decision-making process was calculated (which may be the day on which voting on the proposal closes or the day on which owners consider the proposal, if the proposal does not proceed to a vote because the required quorum of owners is not present); and~~ 30
- (b) ~~there is no participation threshold for the second decision-making process, as long as—~~ 35
- (i) ~~the applicable decision-making process is followed as if the decision were a new decision; and~~
- (ii) ~~the second decision-making process is notified to owners in a way that clearly explains that the resulting decision will be valid if it is~~

agreed to by the required majority of the participating owners, irrespective of how many owners participate in making the decision; and

- (e) ~~if the applicable decision-making process includes a separate quorum requirement, a failure to satisfy the quorum requirement does not invalidate the decision.~~ 5

*Specified majority requirements*

- (9) A requirement for agreement by owners of a parcel of Māori freehold land (whether all of the owners or only the participating owners) is satisfied as follows: 10

(aa) where the whole parcel is not owned by 1 person or by joint tenants, by satisfying the requirements of whichever of **sections 54 to 56** applies:

(a) where the whole parcel is owned by 1 person, by that person making the decision; ~~and;~~

(b) where the whole parcel is owned by joint tenants, by all of the joint tenants agreeing to the decision; ~~and.~~ 15

(e) ~~in any other case,—~~

(i) ~~by satisfying the requirements of whichever of **sections 54 to 56** applies; or~~

(ii) ~~if **sections 54 to 56** do not apply because the requirement specifies a percentage majority other than 50% or 75%, by satisfying the requirements of whichever of **sections 54 to 56** applies as if their references to 50% were references to that other percentage.~~ 20

- (10) See the following provisions for the specified majorities of owners who must agree to certain decisions about Māori freehold land: 25

(a) **clause 13 of Schedule 4**: sets out the minimum specified majorities required under a governance agreement (for land that is managed by a governance body):

(b) **section 51C**: summarises the specified majorities required by **Parts 1 to 9** (often for land that is not managed by a governance body). 30

**51A Participation thresholds**

- (1) The participation thresholds that must be satisfied for participating owners of a parcel of land to validly agree to a decision under **Parts 1 to 9** or a governance agreement—

(a) are the thresholds specified in this section; but 35

(b) are subject to the exception specified in **section 51B** (for a second decision-making process).

- (2) However, if the parcel is managed under a governance agreement that provides for different participation thresholds or exceptions, those thresholds or exceptions apply instead.
- (3) If a decision is about a parcel owned by tenants in common, and—
- (a) there are 10 or fewer owners, all of the owners must participate: 5
  - (b) there are more than 10 but not more than 100 owners, there must be participation by at least 10 owners whose individual freehold interests total a 25% or more share in the parcel:
  - (c) there are more than 100 but not more than 500 owners, there must be participation by at least 20 owners whose individual freehold interests total a 25% or more share in the parcel: 10
  - (d) there are more than 500 owners, there must be participation by at least 50 owners whose individual freehold interests total a 10% or more share in the parcel.
- (4) If a decision is about a parcel owned by a class of collective owners,— 15
- (a) at least 20 owners must participate; but
  - (b) all the owners must participate if the class is known to have fewer than 20 members.

### **51B Second decision-making process**

- (1) If the participation threshold for a decision is not satisfied under **section 51A**, a second decision-making process for the decision may be carried out in accordance with this section (as long as a governance agreement does not exclude this exception). 20
- (2) The second decision-making process must start within 20 working days after the day on which the level of owner participation in the first decision-making process was calculated (for example, the day on which voting on the proposal closed). 25
- (3) There is no participation threshold for the second decision-making process, as long as—
- (a) the applicable decision-making process is followed as if the decision were a new decision; and 30
  - (b) the second decision-making process is notified to owners in a way that clearly explains its effect (that is, that the resulting decision will be valid if it is agreed to by the required majority of the participating owners, regardless of how many owners participate, and it is confirmed by court order). 35
- (4) If the applicable decision-making process includes a separate quorum requirement, a failure to satisfy the quorum requirement does not invalidate the decision.

- (5) The decision is valid only if the court, on application, makes an order of confirmation that—
- (a) the decision complies with the requirements of **Parts 1 to 9**; and
- (b) the court is satisfied that the decision will assist the owners to retain, control, occupy, or develop their land for the benefit of present and future owners.

5

**51C Summary of specified majorities of owners who must agree to decisions about Māori freehold land**

- (1) The table in this section summarises the specified majorities of owners who must agree to decisions about Māori freehold land under certain provisions of this Act.
- (2) A provision prevails if it conflicts with the table.
- (3) Many of the specified majorities that are about dispositions apply only if the land is not managed under a governance agreement. But if land is managed under a governance agreement, that agreement may itself require the governance body to obtain the agreement of a specified majority of owners (see **clause 13 of Schedule 4**).
- (4) Here is the table:

10

15

<u>Matter for decision by owners</u>	<u>Required level of owner agreement</u>	<u>Provision</u>
<i><b>Status as Māori freehold land</b></i>		
<u>Order declaring that land ceases to be Māori freehold land</u>	<u>Owners with ≥75% share in land</u>	<b>Section 27(3)(f)</b>
<i><b>Whenua tāpui and kawenata tiaki whenua</b></i>		
<u>Order declaring whenua tāpui for purposes of marae or urupā, with beneficial ownership vesting in beneficiaries</u>	<u>Owners with ≥75% share in land</u>	<b>Section 32(3)(b) or 36(4)(d)</b>
<u>Order declaring whenua tāpui, or declaring certain matters for whenua tāpui, in any other case</u>	<u>&gt;50% of participating owners (casting votes of equal weight)</u>	<b>Section 32(3)(c) or 36(4)(e)</b>
<u>Order cancelling or varying kawenata tiaki whenua</u>	<u>Owners with &gt;50% of participating owners' total share in land</u>	<b>Section 44B(3)(b)</b>
<i><b>Collective ownership</b></i>		
<u>Conversion to collective ownership</u>	<u>Owners with ≥75% share in land</u>	<b>Section 48(2)</b>
<i><b>Disposition—sale, exchange, gift, etc</b></i>		
<u>Offer of land for sale</u>	<u>Owners with ≥75% share in land</u>	<b>Section 100(4)(a)</b>
<u>Exchange of land</u>	<u>Owners with &gt;50% share in land</u>	<b>Section 102(6)</b>
<u>Gift of land</u>	<u>Owners with ≥75% share in land</u>	<b>Section 105(3)</b>

<u>Certain dispositions of land under enactments</u>	<u>Owners with ≥75% share in land</u>	<b>Section 107(3)(b)</b>
<b><i>Disposition—boundary adjustment, partition, amalgamation, aggregation</i></b>		
<u>Boundary adjustment that changes area of land by ≥2%</u>	<u>Owners with &gt;50% share in land</u>	<b>Section 110(4)(a)(ii)</b>
<u>Boundary adjustment that changes area of land by &lt;2%</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 110(4)(a)(iii)</b>
<u>Partition of land (not by mortgagee)</u>	<u>Owners with &gt;50% share in land</u>	<b>Section 113(4)(b)</b>
<u>Amalgamation of land</u>	<u>Owners with &gt;50% of participating owners' total share in land</u>	<b>Section 118(4)(b)</b>
<u>Aggregation of ownership of land</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 122(3)(b)</b>
<u>Cancellation of aggregation of ownership of land</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 125(3)(b)</b>
<b><i>Disposition—lesser interests</i></b>		
<u>Lease of land for general purposes for ≤7 years</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 128(3A)(a)</b>
<u>Lease of land for general purposes for &lt;25 years but &gt;7 years</u>	<u>Owners with ≥25% share in land</u>	<b>Section 128(3A)(b)</b>
<u>Lease of land for general purposes for &gt;25 years</u>	<u>Owners with &gt;50% share in land</u>	<b>Section 128(3A)(c)</b>
<u>Lease of land for residential housing rent-free</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 130(3)(b)</b>
<u>Licence or <i>profit à prendre</i> over land for ≤7 years</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 132(3A)(a)</b>
<u>Licence or <i>profit à prendre</i> over land for &lt;25 years but &gt;7 years</u>	<u>Owners with ≥25% share in land</u>	<b>Section 132(3A)(b)</b>
<u>Licence or <i>profit à prendre</i> over land for &gt;25 years</u>	<u>Owners with &gt;50% share in land</u>	<b>Section 132(3A)(c)</b>
<u>Mortgage or charge over land</u>	<u>Owners with ≥75% share in land</u>	<b>Section 133(2)(b)</b>
<u>Easement over land or for benefit of land</u>	<u>Owners with &gt;50% share in land</u>	<b>Section 135(2)(b)</b>
<u>Cancellation or variation of easement over land or for benefit of land</u>	<u>Owners with &gt;50% share in land</u>	<b>Section 136(2)(b)</b>
<b><i>Kaiwhakahaere</i></b>		
<u>Appointment of kaiwhakahaere for land for agreed purpose</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 190(2)(l)</b>
<b><i>Governance body</i></b>		

<u>Approval of governance agreement for land</u>	<u>Owners with &gt;50% of participating owners' total share in land</u>	<b>Clause 6(3), 10(5), 15(5), or 19(5) of Schedule 3</b>
<b><i>Register matters</i></b>		
<u>Change to name of land</u>	<u>&gt;50% of participating owners (casting votes of equal weight)</u>	<b>Section 288(6)(a)(ii)</b>
<u>Registration of whenua tapui in name of tupuna</u>	<u>Owners with ≥75% of participating owners' total share in land</u>	<b>Section 292(5)(b)</b>
<b><i>Road or roadway</i></b>		
<u>Order vesting stopped road in owners of adjoining land</u>	<u>&gt;50% of participating owners (casting votes of equal weight)</u>	<b>Section 299(5)(b)</b>
<u>Order varying roadway's alignment over land</u>	<u>&gt;50% of participating owners (casting votes of equal weight)</u>	<b>Clause 37(5)(c)(ii) of Schedule 1</b>
<u>Order cancelling instrument of title and vesting roadway in owners of adjoining land</u>	<u>&gt;50% of participating owners (casting votes of equal weight)</u>	<b>Clause 38(3)(b) of Schedule 1</b>

## 52 Minor cannot vote on decisions and is not counted as participating owner

- (1) This section applies to an owner of Māori freehold land ~~who if—~~
- (a) ~~the owner is under 18 years of age; and~~
  - (b) ~~does not have a kaiwhakamarumarū appointed to manage his or her beneficial interest in the land.~~ 5
  - (b) the owner's beneficial interest in the land is not managed by a kaiwhakamarumarū and is not subject to a property order under the Protection of Personal and Property Rights Act 1988.
- (2) The owner—
- (a) may participate in a meeting of owners about any decision relating to the land; but 10
  - (b) cannot vote on the decision.
- (3) The owner is not a participating owner in relation to the decision, and the owner's share is not counted in the participating owners' total share in the land (*see*, for example, **section 51(1)(b) and (c)**). 15
- (4) To avoid doubt, the owner's share is still counted in any calculation about a specified majority share in the land (*see*, for example, **section 51(1)(a)**). 15

### Example

A parcel of Māori freehold land has 10 owners who are tenants in common with equal shares, but this section applies to 2 of the owners. Only the other 8 owners can vote on any decision relating to the land. If 6 of those 8 owners vote in favour of a decision, the decision— 20

- is agreed to by owners who together hold a 60% share in the land; and
- is agreed to by owners who together hold a 75% share of the participating owners' total share in the land; and 25



- is agreed to by 75% of the participating owners.

### **53 Voting for individual freehold interest owned by joint tenants**

- (1) This section applies for the purposes of voting under **sections 54 to 56** in relation to any land with individual freehold interests.
- (2) If an individual freehold interest is owned by joint tenants, the joint tenants are treated as if they were the 1 owner of the interest. 5
- (3) The vote is counted for that interest if made by only 1 joint tenant or if the same vote is made by 2 or more joint tenants but is not counted if the joint tenants make conflicting votes.
- (4) *See Part 9* for how a dispute between joint tenants may be referred to dispute resolution. 10

### **54 Agreement by owners with >50% or ≥75% share in land**

- (1) A requirement for agreement by owners who together hold more than a 50% share in the land is satisfied if the decision is agreed to by owners whose individual freehold interests total more than a 50% share in the land. 15
- (2) A requirement for agreement by owners who together hold a 75% or more share in the land is satisfied if the decision is agreed to by owners whose individual freehold interests total a 75% or more share in the land.
- (3) A requirement for the agreement of any majority of all of the owners of land cannot be satisfied for land owned by a class of collective owners. 20
- (4) This section also applies to a requirement that specifies a percentage majority other than 50% or 75%—**subsection (2)** applies as if the references to 75% were to that other percentage.

### **55 Agreement by owners with >50% or ≥75% of participating owners' total share in land**

- (1) A requirement for agreement by owners who together hold more than 50% of the participating owners' total share in the land is satisfied if the decision is agreed to as follows: 25
  - (a) for land owned by tenants in common, by owners whose individual freehold interests total more than a 50% share of all the participating owners' total share in the land: 30
  - (b) for land owned by a class of collective owners, by more than 50% of the participating owners (casting votes of equal weight).
- (2) A requirement for agreement by owners who together hold 75% or more of the participating owners' total share in the land is satisfied if the decision is agreed to as follows: 35

- (a) for land owned by tenants in common, by owners whose individual freehold interests total a 75% or more share of all the participating owners' total share in the land:
- (b) for land owned by a class of collective owners, by 75% or more of the participating owners (casting votes of equal weight). 5
- (3) This section also applies to a requirement that specifies a percentage majority other than 50% or 75%—**subsection (2)** applies as if the references to 75% were to that other percentage.
- 56 Agreement by >50% of participating owners (casting votes of equal weight)** 10
- (1) A requirement for agreement by more than 50% of the participating owners of the land (casting votes of equal weight) is satisfied if the decision is agreed to by more than 50% of the participating owners.
- (2) In a vote to which this section applies, if the parcel or an individual freehold interest is held by the trustees of a whānau trust or other trust (other than a governance body), each of the beneficiaries of the trust is treated as an owner of the parcel or interest in place of the trustees for the purposes of voting. 15
- (3) This section applies regardless of how the land is owned (whether by tenants in common or a class of collective owners).
- (4) This section also applies to a requirement that specifies a percentage majority other than 50%—**subsection (1)** applies as if the references to 50% were to that other percentage. 20
- 57 Effect of decisions**
- A decision made in accordance with this subpart binds all of the owners of the land to which the decision relates, whether or not all of the owners participated in ~~making the~~ the proposal for decision. 25

## Subpart 2—Whānau trusts

### *Establishment of whānau trust*

- 58 Owner of Māori freehold land may establish whānau trust** 30
- (1) A whānau trust may be established only in accordance with this section.
- (2) The purpose of a whānau trust is to hold and manage beneficial interests in Māori freehold land and other property for the benefit of the trust's beneficiaries.
- (3) The trust must be established under—
- (a) **section 59** (~~whānau trust operational while owner or owners living~~) (which provides for a whānau trust to operate while an owner is or owners are living); or 35

- (b) ~~section 60~~ (whānau trust operational on death of owner) (which provides for a whānau trust to operate after the death of an owner); or
- (c) **section 247** (which provides for a whānau trust to be established on intestacy); or
- (d) **section 248(2)** (which provides that a family arrangement on intestacy may provide for certain interests to be vested in the trustees of a whānau trust); or 5
- (e) **section 254A** (which provides for certain interests to be vested in the trustees of an existing whānau trust on intestacy); or
- (f) **section 262(3)** (which provides that a family arrangement made by the beneficiaries of a testamentary gift may provide for certain interests to be vested in a whānau trust). 10

#### 59 Whānau trust (~~operational to operate while owner or owners living~~)

- (1) The sole owner of, or the owner of an individual freehold interest in, a parcel of Māori freehold land may declare that his or her beneficial interest in the land is to be held by the trustees of a whānau trust for the benefit of the owner and— 15
  - (a) the owner’s descendants (including those yet to be born); or
  - (b) 1 or more preferred recipients and the descendants of those preferred recipients (including those yet to be born); or 20
  - (c) a combination of persons described in **paragraphs (a) and (b)**.
- (2) Alternatively, the sole owners of, or the owners of individual freehold interests in, a parcel or parcels of Māori freehold land who are members of the same whānau may declare their beneficial ~~interest~~ interests to be held by the trustees of a whānau trust for the benefit of the owners and— 25
  - (a) the owners’ descendants (including those yet to be born); or
  - (b) 1 or more preferred recipients and the descendants of those preferred recipients (including those yet to be born); or
  - (c) a combination of persons described in **paragraphs (a) and (b)**.
- (3) Whānau trust property may include the following: 30
  - (a) the beneficial interest in 1 or more parcels of Māori freehold land:
  - (b) the beneficial interest in 1 or more individual freehold interests in a parcel or parcels of Māori freehold land:
  - (c) the beneficial interest in individual freehold interests in parcels of Māori freehold land of more than 1 owner if the owners are siblings: 35
  - (d) other property, including other land.
- (4) The declaration of the whānau trust must comply with requirements prescribed in regulations made under **Parts 1 to 9**.

**60 Whānau trust (~~operational on to operate after death of owner~~)**

- (1) The sole owner of, or the owner of an individual freehold interest in, a parcel of Māori freehold land may declare by will that, after the owner's death, his or her beneficial interest in the land is to be held by the trustees of a whānau trust for the benefit of all or any of the beneficiaries described in **section 59(1)(a) to (c)**. 5
- (2) Whānau trust property may include any of the property described in **section 59(3)(a), (b), and (d)**.
- (3) The declaration of the whānau trust must comply with requirements prescribed in regulations made under **Parts 1 to 9**. 10

*Operation of whānau trust***61 Effect of establishing whānau trust**

- (1) A whānau trust ~~is established~~ takes effect on the date that the trust is entered in the Māori land register.
- (2) Trust property vests in the trustees,— 15
- (a) in the case of a vesting order, on the date of the court order; or
- (b) in all other cases, on the date that the trust is entered in the Māori land register.
- (3) The trustees must deal with trust property in accordance with any conditions or restrictions set out in the declaration of trust (for example, if a declaration of trust prohibits the sale of an interest, the trustees must vote, in any decision-making process of the owners of the land, against ~~the~~ a resolution to sell the land). 20
- (4) If the trustees hold an interest in Māori freehold land that is managed under a governance agreement, any amount payable by the governance body to the owners of the land by way of distribution under **section 212(1)(a)** must be paid to the trustees. 25
- (5) **Subsection (3)** does not prevent a governance body from paying an amount by way of a grant under **section 212(1)(b)** directly to 1 or more beneficiaries of a whānau trust. 30

**62 Trustees of whānau trusts**

- (1) Any ~~legal person~~ person (whether an individual or a legal entity) may be appointed as a trustee of a whānau trust.
- (2) However, if an individual is appointed, he or she must be eligible to be a kaitiaki of a governance body under **section 184(3)**. 35

**63 Powers and responsibilities of trustees of whānau trusts**

- (1) The trustees of a whānau trust must—

- (a) administer the trust property—
- (i) in a manner that furthers the purpose of the trust (as specified in **section 58(2)**); and
  - (ii) in accordance with the declaration of trust; and
- (b) keep beneficiaries informed about the affairs of the trust and any matters affecting the trust property; and 5
- (c) comply with any other function or duty under any enactment or rule of law that applies to a trustee.
- (1A) The trustees must not dispose of an interest in Māori freehold land unless the declaration of trust expressly authorises them to do so. 10
- (2) Provided they act in accordance with **subsection (1)**, the trustees may,—
- (a) at any time after the trust is established, acquire other property to be held for the purposes of the trust; and
  - (b) invest any amount they receive by way of distribution or other income and are not bound to distribute any of the amounts to beneficiaries. 15
- (3) In **subsection (2)(a)**, **acquire** includes purchase or acquire by way of gift.
- 64 Whānau trusts to be entered in Māori land register**
- ~~(1) The trustees of a whānau trust must apply to the chief executive to have the trust entered in the Māori land register promptly after—~~
- ~~(a) the declaration of trust is made, for a trust established under **section 59**; or~~ 20
  - ~~(b) administration of the owner's estate has been granted, for a trust established under **section 60**.~~
- (1) The initial trustees of a whānau trust must apply to the chief executive to have the trust entered in the Māori land register promptly after— 25
- (a) administration of the owner's estate has been granted, for a trust established under **section 60**; or
  - (b) the initial trustees agree to be appointed, in all other cases.
- (2) An application must include—
- (a) a copy of the declaration of the whānau trust (and, for a trust established under **section 60**, a copy of the person's death certificate and any instrument granting administration of the estate); and 30
  - (b) a statutory declaration from each trustee confirming that he or she satisfies the eligibility requirements in **section 62** and has agreed to be appointed as a trustee; and 35
  - (c) the address and contact details of each trustee.
- (3) The chief executive must enter the name of the whānau trust in the Māori land register if he or she is satisfied that—

- (a) the declaration of the trust satisfies the requirements in **section 58**; and
- (b) each trustee satisfies the eligibility requirements in **section 62**.
- (4) If the chief executive is not satisfied of the matters set out in **subsection (3)**, the chief executive must give the trustees an opportunity to provide further particulars in support of the application before making a decision ~~to refuse~~ not to enter the trust in the register. 5
- (5) The chief executive must enter the name of the whānau trust in the Māori land register, without first needing to be satisfied of the matters in **subsection (3)**, if—
- (a) the chief executive amends the register under **Part 7** to vest interests in Māori freehold land in the trustees of the trust; or 10
- (b) the chief executive receives a court order made under **Part 7** vesting interests in Māori freehold land in the trustees of the trust.
- 65 Recording of beneficiaries' details on Māori land register**
- (1) The beneficiary of a whānau trust, or a trustee of the trust on behalf of the beneficiary, may apply to the chief executive to have the beneficiary's details recorded in the Māori land register in relation to— 15
- (a) the entry for the whānau trust; and
- (b) the entry for the parcel of Māori land that the trustees own or in which they hold an individual freehold interest (as trust property). 20
- (2) The chief executive must record the beneficiary's details, if the chief executive is satisfied that the person is a beneficiary of the trust.
- 66 Entitlements of beneficiaries of whānau trusts**
- (1) A beneficiary of a whānau trust has the following entitlements in respect of Māori freehold land or an individual freehold interest held by the trustees as trust property: 25
- (a) to attend and speak at meetings of owners, as if the beneficiary were an owner of the land; and
- (b) to vote as if the beneficiary were a participating owner, if a decision of the owners of the land is required and the vote is one based on a simple majority of participating owners where votes have equal weight; and 30
- (c) to receive grants made from income of the trust.
- (2) A beneficiary is entitled to receive grants under **subsection (1)(c)**—
- (a) as if the beneficiary were an owner of the individual interest; and
- (b) without those grants first being paid to the trustees; and 35
- (c) in addition to any entitlement of the beneficiary to receive grants that are made to the trustees as owners of the individual freehold interest.

**67 Whānau trusts not subject to rule against perpetuities**

The rule against perpetuities and the provisions of the Perpetuities Act 1964 do not prescribe or restrict the period during which—

- (a) a whānau trust may exist in law; or
- (b) a trustee of a whānau trust may hold or deal with property (including income derived from property). 5

*Jurisdiction of court and enforcement of obligations of trustees***68 Court may determine matters relating to whānau trust and amend declaration of trust**

- (1) The court may inquire into and determine the following: 10
  - (a) whether a declaration of a whānau trust complies with **Parts 1 to 9**;
  - (b) whether a whānau trust has been, or may be, established in accordance with **Parts 1 to 9**;
  - (c) whether a person is, or is eligible to be, a beneficiary of a whānau trust;
  - (d) whether a person is, or is eligible to be, a trustee: 15
  - (e) whether any property is, or is capable of being, whānau trust property;
  - (f) any question or dispute in relation to the administration of a whānau trust;
  - (g) any question or dispute in relation to the appointment, replacement, or removal of trustees. 20
- (2) The court may, on application by a trustee or a beneficiary, ~~amend the terms of the declaration of a whānau trust.~~ of a whānau trust, do either or both of the following:
  - (a) appoint a trustee of a whānau trust:
  - (b) amend the declaration of a whānau trust. 25
- (3) The amendments that ~~may be made by the court~~ the court may make to the declaration of a whānau trust include—
  - (a) correcting errors or omissions; and
  - (b) adding, removing, or varying any conditions or restrictions relating to the disposal of, or other dealings with, the trust property that is an interest in Māori freehold land. 30
- (4) The court also has and may exercise, in relation to whānau trusts, all the same powers and authorities as the High Court has and may exercise under the Trustee Act 1956 in respect of trusts generally.
- (5) The court— 35
  - (a) must exercise the powers and authorities described in **subsection (4)** consistently with **Parts 1 to 9**; and

- (b) must not make a determination, amend ~~the terms of the~~ a declaration of a whānau trust, or exercise powers and authorities under this section unless it is satisfied that it will assist the administration of the trust to do so.
- (6) **Subsection (4)** does not limit or affect the jurisdiction of the High Court. 5
- 69 Court may validate actions of trustees**
- (1) The court may, on application, validate an action of the trustees of a whānau trust if there is doubt as to whether the action was lawful or the trust was established in accordance with **Parts 1 to 9**.
- (2) An application may be made by— 10
- (a) the chief executive; or
- (b) a trustee; or
- (c) a beneficiary of the trust.
- (3) The court may not validate an action taken in bad faith.
- 70 Court may enforce obligations of whānau trust** 15
- (1) The court may require a trustee of a whānau trust to—
- (a) file a written report in the court and appear before the court for questioning on the report; or
- (b) appear before the court for questioning on any matter relating to the administration of the trust or the performance of his or her duties as trustee. 20
- (2) The court may enforce the obligations of a trustee of a whānau trust under either or both of the following:
- (a) ~~the terms of the trust~~ declaration of trust;
- (b) the trustee's fiduciary duties to the beneficiaries of the trust.
- (3) The court may act under this section at any time— 25
- (a) on application to the court; or
- (b) on the court's own motion.
- 70A Court may allow withdrawal of beneficial interests from whānau trust in exceptional circumstances**
- (1) The court may, on application by a beneficiary of a whānau trust, make an order allowing the withdrawal of any or all of his or her beneficial interests from the trust. 30
- (2) The court may make the order it is satisfied that—
- (a) exceptional circumstances exist; and
- (b) withdrawal of the beneficial interests will not prevent the trust from fulfilling the purpose for which it was established (as specified in **section 58(2)**) in respect of the other beneficiaries. 35



- (3) Before making the order, the court must determine each beneficial interest to be withdrawn.
- (4) When making the order, the court must, after it is satisfied that all outstanding liabilities in respect of a beneficial interest to be withdrawn have been satisfied, vest the beneficial interest in the beneficiary. 5

*Termination of whānau trust*

**71 ~~Termination~~ Application to court for termination of whānau trust by court order**

- (1) An application may be made to the court for an order terminating a whānau trust. 10
- (2) The application may be made by—
- (a) the owner who established the trust (if still living); or
  - (b) the trustees, or a majority of the trustees, of the trust; or
  - (c) at least 5 beneficiaries of the trust.
- (3) The court may make the order if it is satisfied that— 15
- (a) ~~the following circumstances apply:~~
    - (i) ~~the trust is not fulfilling the purpose for which it was established (as specified in **section 58(2)**); and~~
    - (ii) ~~75% or more of the beneficiaries who participate in making a decision as to whether the trust should be terminated agree that it should be terminated; and~~ 20
    - (iii) ~~in the court's opinion, termination will not unduly prejudice a beneficiary of the trust; or~~
  - (a) the trust is not fulfilling the purpose for which it was established (as specified in **section 58(2)**) and the court is satisfied that termination will not unduly prejudice a beneficiary of the trust; or 25
  - (ab) continuation of the trust would be detrimental to the interests of the beneficiaries; or
  - (ac) the majority of adult beneficiaries agree that it should be terminated and the court is satisfied that termination will not unduly prejudice a beneficiary of the trust; or 30
  - (b) there are no surviving beneficiaries of the trust; or
  - (c) the trust no longer holds an interest in Māori freehold land or other trust property; or
  - (d) the following circumstances apply: 35
    - (i) the trust no longer holds an interest in Māori freehold land but has other trust property; and

- (ii) ~~25% or more of the beneficiaries who participate in making a decision as to whether the trust should be terminated~~ adult beneficiaries agree that it should be terminated.
- (4) ~~When making the order, the court must, after it is satisfied that all outstanding liabilities have been satisfied, vest the beneficial interests in land and other trust property as follows:~~ 5
- (a) ~~if the original owner of the beneficial interest is alive,—~~
- (i) ~~in the original owner; or~~
- (ii) ~~with the agreement of the original owner, in accordance with **paragraph (b)**, as if the owner were dead:~~ 10
- (b) ~~if the original owner of the beneficial interest is dead, to the beneficiaries of the trust who are associated with the land for which the beneficial interests are to be vested in accordance with tikanga Māori—~~
- (i) ~~in equal shares; or~~
- (ii) ~~as specified in any agreement made between the beneficiaries, but only if the court is satisfied that 75% or more of the beneficiaries who participate in making a decision about the terms of the agreement agree to its terms:~~ 15
- (e) ~~if both the original owner and all the beneficiaries of the beneficial interest are dead, to the persons who qualify as eligible beneficiaries under **section 246** as if the owner had died intestate:~~ 20
- (d) ~~if there are no surviving beneficiaries associated with the land in accordance with tikanga Māori, to the persons who qualify as eligible beneficiaries under **section 246** as if the owner had died intestate.~~

**71A Court order for termination of whānau trust** 25

When making an order terminating a whānau trust, the court must, after it is satisfied that all outstanding liabilities have been satisfied, vest—

- (a) the beneficial interests in land in accordance with **section 71B**; and
- (b) other trust property in accordance with **section 71C**.

**71B Vesting of beneficial interests in land after termination of whānau trust** 30

- (1) When making an order terminating a whānau trust, the court must vest beneficial interests in land in the persons who are described in the first of the following paragraphs that applies (and to avoid doubt, if there are also persons who are described in a subsequent paragraph, those persons are not eligible to have the land vested in them): 35

- (a) if the person who owned the beneficial interest before it was held by the trust (the **original owner** in this section) is alive,—
- (i) in the original owner; or

- (ii) with the agreement of the original owner, in accordance with **paragraph (c)**, as if the owner were dead:
- (b) if the original owner made a will that gifts the beneficial interest if a whānau trust fails or is terminated, in accordance with that gift (provided that the gift is otherwise in accordance with **Parts 1 to 9**): 5
- (c) if the original owner did not make a will that gifts the beneficial interest if a whānau trust fails or is terminated—
- (i) as specified in any agreement made between the beneficiaries of the trust, but only if the court is satisfied about the matters specified in **subclause (4)**; or 10
- (ii) if an agreement is not made between the beneficiaries or the court is not satisfied about the matters specified in **subclause (4)**, in equal shares among the beneficiaries who are associated with the land to which the beneficial interest relates in accordance with tikanga Māori: 15
- (d) if all the beneficiaries of the whānau trust who are associated with the land are dead, to the persons who qualify as eligible beneficiaries under **section 246** as if the owner had died intestate:
- (e) if there are no surviving eligible beneficiaries, to the persons who qualify under **section 246A(3)** as if the owner had died intestate. 20
- (2) Beneficial interests cannot vest under an agreement entered into under **sub-section (1)(c)(i)** unless the court is satisfied that the majority of the adult beneficiaries of the whānau trust agree to its terms and, in doing so,—
- (a) all beneficiaries of the trust have received independent legal advice about the effect of the agreement (but each beneficiary does not need to have received separate legal advice); or 25
- (b) understand the terms of the agreement and the agreement is fair in the circumstances.

### **71C Vesting of other trust property after termination of whānau trust**

- (1) When making an order terminating a whānau trust, the court must vest trust property, other than beneficial interests in land, in the persons who are described in the first of the following paragraphs that applies (and to avoid doubt, if there are also persons who are described in a subsequent paragraph, those persons are not eligible to have the land vested in them): 30
- (a) if the original owner of particular trust property is alive,— 35
- (i) in the original owner; or
- (ii) with the agreement of the original owner, in accordance with **paragraph (c)**, as if the owner were dead:
- (b) if the original owner of particular trust property made a will that gifts the property if a whānau trust fails or is terminated, in accordance with that 40

- gift (provided that the gift is otherwise in accordance with **Parts 1 to 9**):
- (c) if the original owner did not make a will that gifts the property if a whānau trust fails or is terminated,—
- (i) as specified in any agreement made between the beneficiaries of the trust, but only if the court is satisfied about the matters specified in **subclause (4)** that the majority of the adult beneficiaries agree to its terms; or 5
- (ii) if an agreement is not made between the beneficiaries or the court is not satisfied about the matters in **subclause (4)**, in proportion to the beneficial interests that vest in each beneficiary under **subsection (2)(c)**; 10
- (d) if all the beneficiaries of the whānau trust are dead, to the persons in whom beneficial interests are vested under **subsection (2)(d)**, in proportion to the beneficial interests that are vested in them; 15
- (e) if there are no persons entitled to the beneficial interests under **subsection (2)(d)** to the persons who qualify under **section 246A(3)**, as if the owner had died intestate, in proportion to the beneficial interests that are vested in them.
- (2) Trust property cannot vest under an agreement entered into under **subsection (1)(c)(i)** unless the court is satisfied that the majority of the adult beneficiaries of the whānau trust agree to its terms and, in doing so,— 20
- (a) all beneficiaries of the trust have received independent legal advice about the effect of the agreement (but each beneficiary does not need to have received separate legal advice); or 25
- (b) understand the terms of the agreement and the agreement is fair in the circumstances.
- 72 Responsibilities of trustees if whānau trust terminated**
- (1) Promptly after a whānau trust is terminated, the trustees must deliver to the chief executive all money, books of account, and records held in their capacity as trustees of the terminated trust. 30
- (2) This section applies whether the trust is terminated under **section 49 or 71**.
- 72A Responsibilities of chief executive and Māori Trustee in respect of trust money if whānau trust terminated**
- (1) This section applies when money has been transferred to the chief executive by the trustees after termination of a whānau trust. 35
- (2) The chief executive must transfer any money to which a beneficiary is entitled to the beneficiary.

- (3) However, if a beneficiary cannot be contacted despite reasonable efforts having been made, the money must be transferred to the Māori Trustee.
- (4) The Māori Trustee must—
- (a) credit the money to the Common Fund (within the meaning of the Māori Trustee Act 1953); and 5
- (b) hold the money on trust for those beneficiaries (or for their successors in title); and
- (c) ensure that any distributable income derived from the money and payable under section 26(2) of the Māori Trustee Act 1953, is added to the money. 10
- (5) If the Māori Trustee is holding an amount relating to money to which a beneficiary is entitled, the beneficiary is entitled to claim that amount (which may differ from the original money held because of any adjustments made under the Māori Trustee Act 1953).

### Subpart 3—Kaiwhakamarumarū for owners needing protection 15

#### *Appointment of kaiwhakamarumarū for owners needing protection*

#### **73 Appointment of kaiwhakamarumarū for owners needing protection**

- (1) The court may, on application, make an order appointing a kaiwhakamarumarū to act as manager of any of the following property of a person who is an owner needing protection: 20
- (a) a beneficial interest in Māori freehold land;
- (b) an interest in private land (other than a beneficial interest in Māori land);
- (c) personal property, but only if the person also owns property described in **paragraph (a) or (b)**, or both.
- (2) However, the court must not make an order in respect of— 25
- (a) any property of the person that is subject to a property order under the Protection of Personal and Property Rights Act 1988;
- (b) an interest in private land described in **subsection (1)(b)** unless the person is Māori.

#### **74 Meaning of owner needing protection 30**

- (1) In **Parts 1 to 9**, an **owner needing protection** means an individual who—
- (a) is less than 18 years of age; or
- (b) in the opinion of the Māori Land Court or another court, lacks wholly or partly the competence to manage his or her own affairs in relation to his or her interests in Māori freehold land. 35
- (2) For the purposes of **paragraph (b) of subsection (1)**,—

- (a) an individual is to be presumed, until the contrary is proved, to be competent to manage his or her own affairs in relation to his or her interests in Māori freehold land; and
- (b) the Māori Land Court or other court has jurisdiction under that **paragraph** whether the individual is domiciled or ordinarily resident in New Zealand or elsewhere. 5

### 75 Who may be appointed as kaiwhakamarumarū

- (1) The court may appoint any ~~legal person of the following~~ as a kaiwhakamarumarū:
  - (a) an individual: 10
  - (b) the Māori Trustee, Public Trust, or a trustee company within the meaning of the Trustee Companies Act 1967.
- (2) However, if an individual is appointed, he or she—
  - (a) must be eligible to be a kaitiaki of a governance body under **section 184(3)**; and 15
  - (b) must not have been disqualified from being appointed, ~~or from continuing in an appointment~~, as a kaiwhakamarumarū under **section 85(2)**; and
  - (c) must not have been disqualified from being appointed, or continuing in an appointment, as a kaitiaki under **section 220**. 20

### 76 Functions and duties of kaiwhakamarumarū

- (1) A kaiwhakamarumarū has the functions and powers set out in the order appointing the kaiwhakamarumarū.
- (2) A kaiwhakamarumarū may apply to the court for directions relating to the performance or exercise of the functions and powers. 25
- (2A) A kaiwhakamarumarū must manage the property concerned in accordance with the order and any directions of the court.
- (3) ~~A~~ Subject to **subsection (2A)**, a kaiwhakamarumarū must—
  - (a) ~~manage the property concerned in accordance with the order~~; and
  - (b) as far as practicable, promote and protect the best interests of the owner; and 30
  - (c) as far as practicable, seek at all times to encourage the owner to develop and exercise the owner's competence to manage his or her own affairs in relation to his or her property; and
  - (d) as far as practicable, consult the owner, and keep the owner informed, about the property being managed under the order; and 35
  - (da) if a welfare guardian has been appointed for the owner, as far as practicable, consult the welfare guardian on a regular basis to ensure that the

interests of the owner are not prejudiced through any breakdown in communication between the kaiwhakamarumarū and the welfare guardian; and

- (e) as far as practicable, consult any other person that, in the opinion of the kaiwhakamarumarū, is interested in the welfare of the owner and competent to advise the kaiwhakamarumarū in relation to the management of the owner's property. 5

### 77 Consequences of appointing kaiwhakamarumarū

- (1) Land and other property (including any income derived from the property) of an owner needing protection does not vest in a kaiwhakamarumarū appointed to manage the property. 10
- (2) However, the kaiwhakamarumarū is entitled to deal with the property in any manner necessary to ~~carry out the terms of the order appointing the kaiwhakamarumarū~~ comply with section 76 and, for that purpose,—
- (a) the kaiwhakamarumarū must be treated as the owner of the beneficial interest in the land that is subject to the order; and 15
- (b) every decision or action of the kaiwhakamarumarū has the same effect as if it were made or done by the owner and the owner had full capacity to make the decision or take the action; and
- (c) no person dealing with the kaiwhakamarumarū is required to seek or gain the consent of the owner or any other person in relation to the dealing; and 20
- (d) no dealing is affected by the owner or any other person not consenting to the dealing.
- (3) While the order remains in force, the owner is not capable of exercising any powers he or she may have in respect of the property to which the order relates, other than by will and then only if the ~~person~~ owner has testamentary capacity. 25

#### *Procedure for appointing kaiwhakamarumarū*

### 78 Who may apply for order appointing kaiwhakamarumarū

- Any of the following people may apply to the court for an order appointing a kaiwhakamarumarū: 30
- (a) a person who is an owner needing protection:
- (b) immediate family of an owner needing protection:
- (c) the holder of a power of attorney granted by an owner needing protection: 35
- (d) a person employed by the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989 as a social worker:

- (e) a doctor (being a health practitioner who is registered with the Medical Council of New Zealand as a practitioner of the profession of medicine):
- (f) the Māori Trustee, the Public Trust, or a trustee company within the meaning of the Trustee Companies Act 1967:
- (g) a representative of a group that is providing services and facilities for the welfare of an owner needing protection (other than for commercial gain): 5
- (h) if the application is made in respect of an owner needing protection who is a patient or a resident in a place that provides hospital care, rest home care, or residential disability care as those terms are defined in section 4(1) of the Health and Disability Services (Safety) Act 2001, the principal manager of that place: 10
- (i) if a welfare guardian has been appointed for an owner needing protection under the Protection of Personal and Property Rights Act 1988, that welfare guardian: 15
- (j) any other person, with leave of the court.

**79 Court may appoint lawyer to represent person if application for order appointing kaiwhakamarumarū made in relation to person’s property**

- (1) The court may appoint a lawyer to represent the person whose property is the subject of an application for an order appointing a kaiwhakamarumarū. 20
- (2) A lawyer appointed by the court must—
  - (a) contact the person and, as far as is practicable,—
    - (i) explain the nature and purpose of the application to the court; and
    - (ii) ascertain and give effect to the person’s wishes in respect of the application; and 25
  - (b) evaluate solutions for the problem that formed the basis of the application, taking into account the need to find a solution that—
    - (i) makes the least restrictive intervention possible in the management of the affairs of the person, having regard to the degree of the person’s lack of competence; and 30
    - (ii) encourages the person to develop and exercise his or her competence in managing his or her own affairs in relation to his or her property to the greatest extent possible.
- (3) A lawyer appointed under this section may, in any proceedings relating to the application, call any person as a witness and cross-examine witnesses called by any party, including the court. 35
- (4) A lawyer appointed under this section is entitled to be paid a fee and reimbursed for expenses incurred for providing his or her services from the Māori Land Court Special Aid Fund established under **section 446**.



- 80 Matters to which court must have regard when deciding whether to appoint kaiwhakamarumarū**
- (1) In deciding whether to make an order appointing a kaiwhakamarumarū in relation to an owner needing protection who is not a minor, the court must have regard to ~~the extent to which—~~ 5
- (a) ~~appointing a kaiwhakamarumarū would best protect and promote the interests of the person; and~~
- (b) the extent to which the person is subject, or is likely to be subject, to undue influence in managing his or her property; and
- (c) whether appointing a kaiwhakamarumarū would best protect and promote the interests of the person. 10
- (2) The fact that the manner in which the person is managing or intending to manage his or her property is not how a person of ordinary prudence would manage the property given the same circumstances is not in itself sufficient reason to appoint a kaiwhakamarumarū in relation to the person’s property. 15
- 81 Content of order appointing kaiwhakamarumarū**
- (1) The order appointing a kaiwhakamarumarū must—
- (a) name the person who is the owner needing protection; and
- (b) state the person’s birth date, if he or she is a minor; and
- (c) name the kaiwhakamarumarū appointed (whether or not the appointee is a person proposed in the application); and 20
- (d) state the contact details of the kaiwhakamarumarū; and
- (e) state the date on which the appointment takes effect; and
- (f) state the date on which the appointment ceases (taking into account **section 86**); and 25
- (g) specify the property that the kaiwhakamarumarū is to manage (by reference to the Māori land register for any Māori land); and
- (h) specify any conditions or restrictions on the powers of the kaiwhakamarumarū to manage the property; and
- (i) specify any other matters that the court thinks are necessary for the appointment to operate effectively. 30
- (2) When specifying matters under **subsection (1)(h) or (i)**, the primary objective of the court must be to make the least restrictive intervention possible in the management of the affairs of the person in respect of whom the application is made in relation to his or her property, having regard to the degree of the person’s lack of competence. 35

*Operational matters in respect of kaiwhakamarumarū appointment***82 Protection of kaiwhakamarumarū from liability**

- (1) ~~No action lies against a kaiwhakamarumarū in respect of anything done or omitted to be done by the kaiwhakamarumarū in the exercise of the powers conferred on the kaiwhakamarumarū by the order or under **Parts 1 to 9**, unless it is shown that the kaiwhakamarumarū acted in bad faith or without reasonable care.~~ 5
- (2) ~~A kaiwhakamarumarū is protected from civil liability, however it may arise, for any act that the kaiwhakamarumarū does or omits to do in fulfilment or intended fulfilment of the purpose for which the kaiwhakamarumarū is appointed, unless—~~ 10
- ~~(a) the terms of the order appointing the kaiwhakamarumarū provide otherwise; or~~
- ~~(b) the act or omission is done in bad faith or without reasonable care.~~
- (1) A person appointed as a kaiwhakamarumarū is protected from civil liability, however it may arise, for any act that the person does or omits to do in performing or exercising the functions and powers of his or her appointment. 15
- (2) However, **subsection (1)** does not apply in respect of an act or omission if—
- (a) the order appointing the person states that the person is not protected from civil liability for the act or omission; or 20
- (b) if the act or omission is done in bad faith or without reasonable care.
- (3) ~~Despite **subsection (2) subsections (1) and (2)**, a kaiwhakamarumarū is personally liable for any contract or arrangement entered into with, or liability incurred to, any person if the kaiwhakamarumarū does not, before entering into the contract or arrangement or incurring the liability, disclose to that person that the kaiwhakamarumarū is acting in that capacity.~~ 25

**83 Expenses incurred by kaiwhakamarumarū and remuneration**

- (1) ~~The reasonable expenses properly incurred by a kaiwhakamarumarū in performing or exercising the functions and powers of the office appointment are charged against and payable from the property that the kaiwhakamarumarū is appointed to manage.~~ 30
- (2) ~~However, any amount payable must not be charged against any an interest in Māori freehold land, although the income from the land may be used to satisfy the debt.~~
- (3) ~~A kaiwhakamarumarū is not otherwise entitled to be remunerated unless the court directs that he or she should be remunerated either—~~ 35
- ~~(a) in the order appointing the kaiwhakamarumarū; or~~
- ~~(b) in a subsequent order or direction.~~

- 84 Application of other enactments to kaiwhakamarumarū appointment**
- (1) If Public Trust is appointed as a kaiwhakamarumarū, the Public Trust Act 2001 applies,—
- (a) so far as applicable, and with any necessary modifications, to the management of the property to which the order appointing the kaiwhakamarumarū relates; but 5
- (b) subject to the order and **Parts 1 to 9**.
- (2) If the Māori Trustee is appointed as a kaiwhakamarumarū, the Māori Trustee Act 1953 applies,—
- (a) so far as applicable, and with any necessary modifications, to the management of the property to which the order appointing the kaiwhakamarumarū relates; but 10
- (b) subject to the order and **Parts 1 to 9**.
- (3) If a trustee company is appointed as a kaiwhakamarumarū, the Trustee Companies Act 1967 applies,— 15
- (a) so far as applicable, and with any necessary modifications, to the management of the property to which the order appointing the kaiwhakamarumarū relates; but
- (b) subject to the order and **Parts 1 to 9**.
- Changes to kaiwhakamarumarū appointment and termination of appointment* 20
- 85 Circumstances in which court may appoint, replace, remove, or disqualify kaiwhakamarumarū**
- (1) The court may amend an order appointing a kaiwhakamarumarū or revoke and replace an order for the purpose of—
- (a) appointing 1 or more additional kaiwhakamarumarū, if the court is satisfied it is in the interests of the owner needing protection concerned to do so: 25
- (b) replacing a kaiwhakamarumarū, if the court is satisfied a vacancy exists.
- (2) The court may make an order disqualifying a person from being appointed as a kaiwhakamarumarū or terminating a kaiwhakamarumarū appointment if the court is satisfied that— 30
- (a) the person was appointed, ~~or continued in an appointment,~~ as a kaiwhakamarumarū while not eligible under **section 75** to hold that position or, while appointed as a kaiwhakamarumarū, the person ceased to be eligible under that section to hold that position; or 35
- (b) the person has, in relation to an appointment and whether convicted or not,—

- (i) persistently failed to comply with a duty arising under any enactment, rule of law, rules of court, or court order (to the extent that the duty relates to the role of the kaiwhakamarumarū under **Parts 1 to 9**); or
  - (ii) been guilty of fraud in relation to property he or she is managing in respect of the appointment or ~~in~~of a breach of a duty owed to the owner of the property; or 5
  - (iii) acted in a reckless or incompetent manner in the performance of the person's duties under the appointment~~;~~or
  - (c) the person has been prohibited or disqualified from an appointment described in **subsection (4)(c) to (e)**. 10
- (3) The court may make an order—
- (a) on the application of a person described in **section 78**; or
  - (b) on the court's own motion.
- (4) In **subclause (2)(b)**, **appointment** means— 15
- (a) the kaiwhakamarumarū appointment before the court; or
  - (b) any other kaiwhakamarumarū appointment; or
  - (c) an appointment as a property manager or welfare guardian under the Protection of Personal and Property Rights Act 1988; or
  - (d) an appointment as an attorney under an enduring power of attorney; or 20
  - (e) an appointment as a trustee of a trust.

### **86 Termination of kaiwhakamarumarū appointment**

- (1) A person ceases to hold office as a kaiwhakamarumarū on the date specified in the order of appointment, unless the rest of this section provides otherwise.
- (2) A kaiwhakamarumarū appointment terminates— 25
- (a) if the owner dies; or
  - (b) if the kaiwhakamarumarū is appointed to manage the property of a person under 18 years of age, and the person turns 18 years of age (unless the appointment was made on the grounds that the person lacked competence to manage his or her affairs, in which case it does not terminate); 30  
or
  - (c) if—
    - (i) the kaiwhakamarumarū dies; or
    - (ii) the kaiwhakamarumarū is adjudged bankrupt; or
    - (iii) the kaiwhakamarumarū becomes subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or 35

- (iv) the property, or any part of the property, of the kaiwhakamarumarū is the subject of a personal order or a property order made under the Protection of Personal and Property Rights Act 1988; or
- (v) the property, or any part of the property, of the kaiwhakamarumarū is the subject of an order made under **section 73** (appointment of kaiwhakamarumarū for owners needing protection); or 5
- (vi) the kaiwhakamarumarū becomes otherwise incapable of acting; or
- (d) by court order under **section 85 or 92**.
- (3) Promptly after a person's appointment as a kaiwhakamarumarū is terminated, the person must deliver to the chief executive all money, books of account, and records held by the person in the person's capacity as a kaiwhakamarumarū. 10

*Reporting requirements and review of kaiwhakamarumarū appointments*

**87 Kaiwhakamarumarū must report to Registrar**

A kaiwhakamarumarū must report to the Registrar, in accordance with **sections 88 to 90**, on the performance and exercise of the functions and powers of the kaiwhakamarumarū. 15

**88 Frequency of reporting by kaiwhakamarumarū**

- (1) A kaiwhakamarumarū must provide the Registrar with a report—
  - (a) for the 12-month period starting on the day on which the appointment takes effect; and 20
  - (b) for each subsequent 12-month period that the term of appointment continues (or portion of the period if the appointment terminates before the 12-month anniversary date).
- (2) Each report must be filed within 90 days after the last day of the reporting period. 25
- (3) However, a kaiwhakamarumarū must file reports at more frequent intervals if required to do so by the order appointing the kaiwhakamarumarū or any other court order.

**89 Contents of kaiwhakamarumarū report**

A report made by a kaiwhakamarumarū must contain the following information for the reporting period to which the report relates: 30

- (a) details of transactions affecting the land or other property managed by the kaiwhakamarumarū;
- (b) details of income derived from the land or other property;
- (c) details of payments to or on behalf of the owner: 35
- (d) details of payments to or on behalf of the spouse, civil union partner, de facto partner, or child of the owner:

- (e) details of disbursements made:
  - (f) details of expenses incurred by the kaiwhakamarumarū that are charged against and payable from the property that the kaiwhakamarumarū is appointed to manage:
  - (g) details of remuneration received by the kaiwhakamarumarū. 5
- 90 Actions resulting from report by kaiwhakamarumarū**
- (1) If the Registrar considers that a report by a kaiwhakamarumarū deserves inquiry, the Registrar must refer it to the court and the court may initiate a review under **section 92**.
  - (2) If a kaiwhakamarumarū fails to provide a report (whether by the due date or at all), the Registrar must inform the court and the court may do either or both of the following: 10
    - (a) make an order directing the kaiwhakamarumarū to remedy the default within the time specified in the order:
    - (b) initiate a review under **section 92**. 15
- 91 Inspection of kaiwhakamarumarū reports**
- (1) Any person may, by leave of the Registrar or the court, inspect or make a copy of the whole or part of a report provided under **section 87**.
  - (2) The Registrar or court may grant leave subject to the removal or concealment of part of the report. 20
- 92 Review by court of appointment of kaiwhakamarumarū**
- (1) The court must periodically review each order appointing a kaiwhakamarumarū to satisfy itself that the appointment is still necessary and, if so, whether any changes to the order should be made.
  - (2) The court may also, at any other time, review an order appointing a kaiwhakamarumarū if— 25
    - (a) the kaiwhakamarumarū requests the court to do so because—
      - (i) a change in circumstances means that the order is no longer necessary or needs to be varied; or
      - (ii) the kaiwhakamarumarū requires directions from the court in relation to the appointment; or 30
    - (b) a report of the kaiwhakamarumarū has been referred to the court by the Registrar; or
    - (c) the kaiwhakamarumarū has failed to provide a report to the Registrar and the court has decided to initiate a review. 35
  - (3) For the purposes of **subsection (1)**, a kaiwhakamarumarū must apply to the court for a review of the kaiwhakamarumarū appointment at 5-yearly intervals or at shorter intervals if specified by the court—

- (a) in the order of appointment; or
- (b) at any later time.
- (4) When conducting a review, the court may require a kaiwhakamarumarū to—
  - (a) provide explanations to the court; and
  - (b) produce relevant documents, including accounts. 5
- (5) Having conducted a review, the court may make an order—
  - (a) issuing directions to the kaiwhakamarumarū; or
  - (b) varying the terms of the original appointment order in any manner it thinks fit; or
  - (c) terminating the appointment. 10

*Registration of order appointing kaiwhakamarumarū*

**93 Recording of order appointing kaiwhakamarumarū**

- (1) The Chief Registrar of the Māori Land Court must send the chief executive a sealed copy of each order of the court appointing a kaiwhakamarumarū, as required by **section 269**. 15
- (2) Promptly after receiving a copy of an order, the chief executive must add a notation to the relevant entries in the Māori land register stating that an order has been made appointing a kaiwhakamarumarū and the name and contact details of the kaiwhakamarumarū appointed.

**94 Orders appointing kaiwhakamarumarū may be registered** 20

- (1) An order appointing a kaiwhakamarumarū may be registered under the Deeds Registration Act 1908 as an instrument affecting the title to any land in which the person to whom the order relates has any estate or interest, whether legal or equitable.
- (2) An order appointing a kaiwhakamarumarū is an instrument purporting to affect land under the Land Transfer Act 1952, and a memorial of the instrument may be entered on the computer register of land in respect of which the person to whom the order relates is the registered proprietor of any estate or interest. 25

**95 Changes to be made to registers after kaiwhakamarumarū appointment terminated** 30

- (1) If a kaiwhakamarumarū appointment has terminated, the chief executive must add a notation to that effect to the relevant entries in the Māori land register.
- (2) The notation must be added promptly after the chief executive is satisfied that the appointment has terminated.
- (3) The chief executive must also promptly notify the Registrar-General of the termination if the order is registered as an instrument or if a memorial of the instrument has been entered in respect of it under **section 94**. 35

## Part 4

### Dispositions of Māori freehold land and other land

#### 96 Meaning of preferred recipient and preferred entity

- (1) In **Parts 1 to 9**, **preferred recipient**, in relation to Māori freehold land,—
- (a) means any 1 or more of the following persons who are associated with the land in accordance with tikanga Māori:
    - (i) children, grandchildren, and other descendants of an owner of the land: 5
    - (ii) grandparents, parents, uncles, aunts, siblings, nieces, nephews, and first cousins of an owner of the land: 10
    - (iii) any owners of the land:
    - (iv) ~~former owners of the land:~~
    - (v) any former owners of the land, and descendants of any former owners of the land, including the land when it formed any part of a former parcel; and 15
  - (b) includes the trustees of a whānau trust or other trust (other than a governance body) that holds the land for a person to whom **paragraph (a)** applies, but only in his or her capacity as trustee; ~~and~~
  - (e) ~~includes any 1 or more of the children, grandchildren, and other descendants of an owner of the land whose interest is derived by succession from the following person:~~ 20
    - (i) ~~for SILNA land, an original beneficiary of the land (as those terms are defined by section 446 of the Ngāi Tahu Claims Settlement Act 1998):~~
    - (ii) ~~for land that formed part of the land described as “Pouakani (Wairarapa Maoris) Block” in a proclamation dated 14 April 1916, a person in whom the land was vested by the proclamation:~~ 25
    - (iii) ~~for land subject to a scheme of consolidation made under section 6 of the Native Land Amendment and Native Land Claims Adjustment Act 1923, section 161 of the Maori Land Act 1931, or Part 18 of the Maori Affairs Act 1953, a person who became an owner of the land under the scheme of consolidation.~~ 30
- (2) In this Part, **preferred entity**, in relation to Māori freehold land (the **land for disposition**), means—
- (a) a governance body, other than an existing statutory body or a representative entity, that manages under a governance agreement other Māori freehold land that has 1 or more owners who are preferred recipients of the land for disposition: 35
  - (b) a representative entity for the land for disposition.



- (3) *See* **Part 9** for how a dispute about whether a person is a preferred recipient, or whether an entity is a preferred entity, may be referred to dispute resolution.

### 97 Disposition of land made by owner or governance body

- (1) A disposition of all or part of a parcel of Māori freehold land may be made only by— 5
- (a) the owners of the land, unless a governance body is appointed to manage the land; or
  - (b) the governance body.
- (2) A disposition of an individual freehold interest in Māori freehold land (separately from the other individual freehold interests in the land) may be made only by the owner of the interest. 10
- (3) However, this section does not prevent—
- (a) a kaiwhakahaere from disposing of land on behalf of the owners if permitted under his or her appointment; or
  - (b) the administrator or executor of a deceased person’s estate from disposing of land or an individual freehold interest in accordance with the person’s will; or 15
  - (c) a mortgagee from selling land under a power expressed or implied in a mortgage.
- (4) See section 189 for how to appoint a kaiwhakahaere to carry out the decision of the owners of land that is not managed under a governance agreement. 20

### 98 Overview of governance body’s agreement to disposition

- (1) This section is an overview of what a governance body must do to agree to a disposition of Māori freehold land (under a provision of this Part that requires the governance body’s agreement). 25
- (2) The governance body must agree to the disposition in accordance with the governance agreement.
- (3) A governance agreement, depending on the type of disposition,—
- (a) generally requires the governance body to obtain the agreement of a certain majority of the owners of the land (*see* **Part 3 of Schedule 4**): 30
  - (b) may apply the default decision-making process in **Schedule 2**, which—
    - (i) first requires a notice of proposal about the disposition; and
    - (ii) may impose additional requirements for certain dispositions (for example, a notice of proposal to sell the land must include an independent valuation and the minimum sale price and other terms of sale); and 35
    - (iii) provides for a meeting of owners to vote on the proposal.

*Sale, gift, exchange, etc, of parcel of Māori freehold land***99 Sale of parcel**

- (1) A parcel of Māori freehold land may be sold, but only in accordance with—
- (a) **section 100**; or
  - (b) **section 103** (where a governance body has no reasonable prospect of obtaining the required level of owner agreement); or 5
  - (c) a power expressed or implied in a mortgage; or
  - (d) a right to buy the land in a lease executed before 8 November 1974 (being the date of commencement of Part 7 of the Maori Affairs Amendment Act 1974). 10
- (2) However, a parcel cannot be sold—
- (a) if it is owned by a class of collective owners; or
  - (b) if it is owned by the trustees of a whānau trust or other trust (other than a governance body); or
  - (c) under a power given by will unless the will-maker is the sole owner of the parcel. 15
- (3) To avoid doubt, a parcel of Māori freehold land (or the part of Māori freehold land comprising the buildings and other fixtures attached to the land, and everything growing on the land) does not change status merely because it is sold, including under a power in a mortgage. 20

**100 Sale of parcel in ordinary cases**

- (1) This section specifies the only way in which a parcel of Māori freehold land may ordinarily be sold (without obtaining an order under **section 103** or relying on a mortgagee's power of sale or a right to buy in certain historical leases).
- (2) The sale must be— 25
- (a) to a preferred recipient in relation to the land, under an agreement negotiated with the recipient; or
  - (b) to a preferred recipient or preferred entity in relation to the land, under an agreement formed on acceptance of a qualifying tender under a **preferential tender process** for the land run in accordance with **section 101**; or 30
  - (c) to any other person, under an agreement—
    - (i) that is made by tender or auction after a preferential tender process for the land ends without a qualifying tender; and
    - (ii) that is on terms at least as favourable to the seller as the terms required for a qualifying tender under that preferential tender process. 35
- (3) If the land is managed under a governance agreement,—

- (a) the decision to offer the land for sale must be agreed to by the governance body, but only after the body complies with **section 104**; and
- (b) the governance body must negotiate the terms of the sale or, for a preferential tender process, set a minimum sale price and all other terms of the sale. 5
- (3A) For a governance body’s decision to offer land for sale, see **clause 13 of Schedule 4**, which requires the agreement of owners who together hold a 75% or more share in the land (unless the governance agreement requires a greater level of agreement).
- (4) If the land is not managed under a governance agreement,— 10
- (a) the decision to offer the land for sale must be agreed to by owners who together hold a 75% or more share in the land; and
- (b) the owners’ decision may set a minimum sale price or any other terms of the sale; and
- (c) the following must negotiate all other terms of the sale or, for a preferential tender process, set all other terms of the sale (including a minimum sale price if not set by the owners’ decision): 15
- (i) a kaiwhakahaere appointed to negotiate or set the terms; or
- (ii) 1 or more of the owners, if all of the owners agree in writing to their negotiating or setting the terms. 20
- (5) The sale must—
- (a) be conditional on the court making an order of confirmation that it complies with the requirements of **Parts 1 to 9**; and
- (b) otherwise be agreed to unconditionally within 9 months after the decision is made to offer the land for sale. 25
- (6) To avoid doubt, if a decision is made to offer land for sale and a preferential tender process ends without a qualifying tender, the land may be sold to any other person under **subsection (2)(c)** within the 9-month period referred to in **subsection (5)(b)** without requiring a new decision to offer the land for sale.
- 101 Preferential tender process for sale of parcel** 30
- (1) A preferential tender process referred to in **section 100** must satisfy **subsections (2) to (6)**.
- (2) The seller must give a written notice that—
- (a) describes the land for sale and its boundaries; and
- (b) requests tenders to buy the land only from the preferred recipients and preferred entities in relation to the land. 35
- (3) The notice must be—
- (a) sent to every preferred recipient whose address for notices is known to the seller; and

- (b) published electronically and (if necessary) in any other way so that preferred recipients are reasonably likely to learn of the request for tenders.
- (4) The notice must specify a deadline for receiving tenders that is at least 20 working days after the end of the day on which the notice is last published in print. 5
- (5) The notice must specify the following as the terms of sale:
- (a) all the terms of sale set in accordance with **section 100**, but the notice need not disclose the minimum sale price set for the land; and
- (b) that the agreement for sale is conditional only on the court making an order of confirmation that the sale complies with the requirements of **Parts 1 to 9**; and 10
- (c) that a tender cannot be withdrawn within 5 working days after the deadline for receiving tenders.
- (6) However, any of the terms of sale may instead be specified in a document located at a place or on an Internet site described in the notice. 15
- (7) A **qualifying tender** is received if—
- (a) the seller receives by the deadline a written tender from a preferred recipient to buy the land—
- (i) for at least the minimum sale price set for the land; and
- (ii) otherwise on the specified terms of sale or on terms more favourable to the seller; or 20
- (b) the seller does not receive a qualifying tender from a preferred recipient in accordance with **paragraph (a)** but instead receives by the deadline a written tender from a preferred entity to buy the land on the terms required by **paragraph (a)(i) and (ii)**. 25

## 102 Exchange of parcel

- (1) A parcel of Māori freehold land may be exchanged for something else, but only in accordance with—
- (a) this section; or
- (b) **section 103** (where there is no reasonable prospect of obtaining the required level of owner agreement). 30
- (2) However, a parcel cannot be exchanged if it is owned by—
- (a) a class of collective owners; or
- (b) the trustees of a whānau trust or other trust (other than a governance body). 35
- (3) The land to be exchanged (**land A**) must be—
- (a) a parcel of Māori freehold land; or

- (b) 2 or more parcels of Māori freehold land with the same beneficial ownership and the same status as land subject to, or not subject to, Part 2 of the Maori Affairs Restructuring Act 1989.
- (4) Land A must be exchanged for a parcel of either of the following types of land, or 2 or more parcels of the same type and with the same beneficial ownership and the same status as land subject to, or not subject to, Part 2 of the Maori Affairs Restructuring Act 1989 (**land B**): 5
- (a) private land other than Māori customary land; or
- (b) Crown land that is subject to Part 2 of the Maori Affairs Restructuring Act 1989. 10
- (5) If a parcel of land A, or a parcel of land B that is Māori freehold land, is managed under a governance agreement, the exchange must be agreed to by the governance body that manages the parcel, but only after the body complies with **section 104**.
- (5A) For a governance body's decision to exchange land, see **clause 13 of Schedule 4**, which requires the agreement of owners who together hold more than a 50% share in the land (unless the governance agreement requires a greater level of agreement). 15
- (6) If a parcel of land A, or a parcel of land B that is Māori freehold land, is not managed under a governance agreement, the exchange must be agreed to by owners who together hold more than a 50% share in the parcel. 20
- (7) If a parcel of land B is not Māori freehold land, the exchange must be agreed to as follows:
- (a) for private land, by the owners of the parcel:
- (b) for Crown land, by the Minister responsible for the parcel or the registered proprietor of the parcel. 25
- (8) The beneficial ownership of land must be exchanged intact. That is, the beneficial ownership of land on each side of the exchange must, after the exchange, match the beneficial ownership, before the exchange, of the land on the other side. 30
- (9) The exchange must be conditional on the court making an order of confirmation that the exchange complies with the requirements of **Parts 1 to 9**.
- (10) If land is exchanged under this section, the land on each side of the exchange becomes land of the status that was held by the land on the other side of the exchange, whether that status is as land of 1 or both of the following types: 35
- (a) Māori freehold land:
- (b) land subject to Part 2 of the Maori Affairs Restructuring Act 1989.

- 103 Order declaring that land ceases to be Māori freehold land on sale or exchange by governance body**
- (1) This section applies if a governance body—
- (a) wants to sell or exchange a parcel of Māori freehold land; and
  - (b) is satisfied that there is no reasonable prospect of obtaining the required level of owner agreement. 5
- (2) The governance body may apply to the court for an order declaring that the parcel of land will cease to be Māori freehold land on the change of ownership from the sale or exchange (as the case may be).
- (3) The court must not make an order under this section unless it is satisfied that— 10
- (a) the governance body has complied with **section 104** in relation to the sale or exchange; and
  - (b) the purpose of **Parts 1 to 9** can be achieved more effectively if the order is made; and
  - (c) the sale or exchange is not prohibited by the governance agreement. 15
- (4) The order must specify the parcel comprising the land.
- (5) If an order is made, the governance body may sell or exchange the parcel of land without complying with **section 100 or 102** (as the case may be).
- 104 Other requirements before governance body offers to sell parcel or exchanges parcel** 20
- (1) This section imposes requirements on a governance body that manages a parcel of Māori freehold land before the governance body—
- (a) agrees to offer to sell the parcel under **section 100**; or
  - (b) agrees to exchange the parcel under **section 102**; or
  - (c) offers to sell the parcel, or exchanges the parcel, under **section 103.** 25
- (2) The governance body must have a land management plan that complies with **section 210** and that—
- (a) authorises the particular offer to sell the parcel under **section 100**; or
  - (b) authorises the particular exchange of the parcel under **section 102**; or
  - (c) is not inconsistent with the offer to sell the parcel, or the exchange of the parcel, under **section 103.** 30
- (3) The governance body must have—
- (a) identified the **replacement land**, meaning—
    - (i) the new land that it will acquire, or acquire and improve, with the net proceeds from the sale or as a result of the exchange; or 35
    - (ii) for a sale, the existing land that it will improve with the net proceeds from the sale (*see section 207*); and

- (b) prepared an allocation scheme for the interests in the replacement land (*see* **section 209**); and
- (c) obtained a court order under **section 211** changing the status of the replacement land to Māori freehold land (if necessary) and confirming the allocation scheme.

5

### 105 Gift of parcel

- (1) A parcel of Māori freehold land may be gifted, but only in accordance with this section.
- (2) A parcel cannot be gifted if—
  - (a) if it is owned by a class of collective owners; or 10
  - (b) if it is owned by the trustees of a whānau trust or other trust (other than a governance body); or
  - (c) if it is managed under a governance agreement; or
  - (d) by will unless the person making the gift is the sole owner of the parcel.
- (3) The gift must be agreed to by owners who together hold a 75% or more share in the land. 15
- (4) The recipient of the gift must be a preferred recipient or preferred entity in relation to the land.
- (5) The gift must be conditional on the court making an order of confirmation that the gift complies with the requirements of **Parts 1 to 9**, unless the gift is by will. 20

### 106 Transfer of parcel for settlement on trustees

- (1) A governance body that manages a parcel of Māori freehold land must not settle the land on the trustees of a trust (by transfer to the trustees).
- (2) This section does not prevent a governance body from appointing a custodian trustee. 25

### 107 Agreement to certain dispositions of parcels under enactments

- (1) This section applies to a disposition in relation to all or part of a parcel of Māori freehold land that—
  - (a) may be made or agreed to under an enactment other than **Parts 1 to 9**, but is not required by that enactment to be made or agreed to; and 30
  - (b) is not restricted by another provision in this Part.
- (2) The disposition may be made or agreed to, but only in accordance with this section.
- (3) The disposition must be agreed to— 35
  - (a) by the governance body, if the land is managed under a governance agreement; or

- (b) by owners who together hold a 75% or more share in the land, in any other case.
- (3A) For a governance body’s decision about the disposition, see **clause 13 of Schedule 4**, which requires the agreement of owners who together hold a 75% or more share in the land (unless the governance agreement requires a greater level of agreement). 5
- (4) The disposition must be conditional on the court making an order of confirmation that it complies with the requirements of **Parts 1 to 9**.
- 108 No sale, gift, exchange, or transfer of part of parcel**
- (1) Part of a parcel of Māori freehold land must not be sold, gifted, exchanged, or transferred separately from the rest of the parcel. 10
- (2) This section does not prevent a boundary adjustment under **section 109** or a partition under **section 113 or 115**.
- Boundary adjustment of parcel of Māori freehold land*
- 109 Boundary adjustment of parcel** 15
- (1) A boundary adjustment may be made to a parcel of Māori freehold land, but only if—
- (a) the boundary adjustment is made with an adjoining parcel of land that is not Māori customary land; and
- (b) the actions required by **section 110** are completed. 20
- (2) To avoid doubt, this section does not affect the application of the common law rules of accretion or erosion to any movable boundary of a parcel of Māori freehold land.
- 110 Actions required for boundary adjustment**
- (1) This section sets out the actions that must be completed for a boundary adjustment to a parcel of Māori freehold land. 25
- (2) A survey plan must be prepared that defines the new parcels—
- (a) in compliance with the applicable survey standards; and
- (b) so that no new parcel becomes landlocked land (as defined by **section 319**). 30
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of each new parcel so that it matches the beneficial ownership, before the boundary adjustment, of the existing parcel from which the new parcel primarily derives.
- (4) The boundary adjustment, including the survey plan and allocation scheme, must be agreed to as follows: 35
- (a) in respect of the parcel of Māori freehold land,—



- (i) if the parcel is managed under a governance agreement, by the governance body; or
- (ii) if the parcel is not managed under a governance agreement, and the adjustment changes the area of the parcel by 2% or more, by owners who together hold more than a 50% share in the parcel; or 5
- (iii) if the parcel is not managed under a governance agreement, and the adjustment changes the area of the parcel by less than 2%, by owners who together hold 75% or more of the participating owners' total share in the parcel; and
- (b) in respect of the adjoining parcel of land,— 10
- (i) for Māori freehold land, in accordance with **paragraph (a)**;
- (ii) for other private land, by the owners of the land;
- (iii) for Crown land, by the Minister responsible for the land or the registered proprietor of the land.
- (4A) For a governance body's decision about the boundary adjustment, see clause 13 of Schedule 4, which provides that a boundary adjustment that changes the area of a parcel by 2% or more requires the agreement of owners who together hold more than a 50% share in the land (unless the governance agreement requires a greater level of agreement). 15
- (5) The boundary adjustment, including the survey plan and allocation scheme, must also be agreed to by— 20
- (a) the grantor of each easement or other interest that benefits an existing parcel; and
- (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens an existing parcel. 25
- (6) The boundary adjustment must be conditional on the court making an order of confirmation that the boundary adjustment, including the survey plan and allocation scheme, complies with the requirements of **Parts 1 to 9**.
- (7) If the boundary adjustment includes land that is not Māori land, that land must be treated as Māori land for the purposes of section 11(2) of the Resource Management Act 1991 (so that section 11(1) of that Act does not apply). 30
- (8) If any lease, licence, mortgage, easement, or other interest that affects an existing parcel is to be varied because of the boundary adjustment (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the boundary adjustment. 35
- 111 Effect of boundary adjustment**
- (1) This section applies if a boundary adjustment is made to a parcel of Māori freehold land.

- (2) The land is held as the new parcels defined by the survey plan for the boundary adjustment.
- (3) The beneficial ownership of the new parcels is vested in accordance with the allocation scheme for the boundary adjustment.
- (4) If an existing parcel is managed under a governance agreement immediately before the boundary adjustment,— 5
- (a) the new parcel that primarily derives from the existing parcel is instead managed under the governance agreement; and
- (b) the governance body must comply with **section 208**.
- (5) Each new parcel becomes land of the status that was held by the parcel from which it primarily derives, whether that status relates to 1 or both of the following: 10
- (a) Māori freehold land:
- (b) land subject to Part 2 of the Maori Affairs Restructuring Act 1989.
- (6) If, immediately before an existing parcel has its boundary adjusted, any lease, licence, mortgage, easement, or other interest affects— 15
- (a) all or part of the parcel, the interest continues to apply to the same land in the new parcels; or
- (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the new parcels. 20
- (7) However, **subsection (6)** does not prevent the variation of an interest immediately upon the boundary being adjusted.

*Partition of parcel of Māori freehold land*

- 112 Partition of parcel** 25
- (1) An existing parcel of Māori freehold land may be partitioned into 2 or more new parcels, but only if—
- (a) the actions required by **section 113** are completed; or
- (b) for a mortgagee entitled to sell the existing parcel under a mortgage or other charge, the actions required by **section 115** are completed. 30
- (2) A parcel of Māori freehold land cannot be partitioned or subdivided in any other way, but its boundary may be adjusted under **section 109**.
- 113 Actions required for partition (other than by mortgagee)**
- (1) This section sets out the actions that must be completed in order to partition an existing parcel (other than by a mortgagee). 35
- (2) A survey plan must be prepared that defines the new parcels—
- (a) in compliance with the applicable survey standards; and

- (b) so that no new parcel becomes landlocked land (as defined by **section 319**).
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of the new parcels in accordance with **section 114**.
- (4) The partition, including the survey plan and allocation scheme, must be agreed to as follows: 5
- (a) for land managed under a governance agreement, by the governance body:
- (b) for other land, by owners who together hold more than a 50% share in the parcel. 10
- (4A) For a governance body’s decision to partition land, see **clause 13 of Schedule 4**, which requires the agreement of owners who together hold more than a 50% share in the land (unless the governance agreement requires a greater level of agreement).
- (5) The partition, including the survey plan and allocation scheme, must also be agreed to by— 15
- (a) the grantor of each easement or other interest that benefits the existing parcel; and
- (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens the existing parcel. 20
- (6) If the existing parcel is managed under a governance agreement, the governance body must have a land management plan that complies with **section 210** and that authorises the particular partition.
- (7) The partition must be conditional on the court making an order of confirmation that— 25
- (a) the partition, including the survey plan and allocation scheme, complies with the requirements of **Parts 1 to 9**; and
- (b) the court is satisfied that the partition will assist the owners to retain, control, occupy, or develop their land for the benefit of present and future owners; and 30
- (c) the court is satisfied that the allocation scheme is fair and equitable to all owners.
- (8) If any lease, licence, mortgage, easement, or other interest that affects the existing parcel is to be varied because of the partition (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the partition. 35

**114 Allocation scheme for new parcels on partition (other than by mortgagee)**

- (1) This section sets out the requirements for an allocation scheme for a partition (other than by a mortgagee).
- (2) If the existing parcel is owned by a class of collective owners, the allocation scheme must provide for the new parcels to be owned by that class of collective owners. 5
- (3) Otherwise, the allocation scheme must provide for each new parcel to be owned in 1 of the following ways:
  - (a) by a sole owner:
  - (b) by joint tenants: 10
  - (c) by tenants in common.
- (4) The allocation scheme must allocate ownership of the new parcels so that, as nearly as practicable, the value of owners' interests in the land overall does not change on partition.
- (5) However, 1 or more owners of land not held by a class of collective owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners' interests. 15

**115 Actions required for partition by mortgagee**

- (1) This section sets out the actions that must be completed for a mortgagee to partition an existing parcel. 20
- (2) A survey plan must be prepared that defines the new parcels—
  - (a) in compliance with the applicable survey standards; and
  - (b) so that no new parcel becomes landlocked land (as defined by **section 319**).
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of each new parcel so that it matches the beneficial ownership, before the partition, of the existing parcel. 25
- (4) The partition, including the survey plan and allocation scheme, must be agreed to by—
  - (a) the grantor of each easement or other interest that benefits the existing parcel; and 30
  - (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens the existing parcel.
- (5) The partition must be conditional on the court making an order of confirmation that— 35
  - (a) the partition, including the survey plan and allocation scheme, complies with the requirements of **Parts 1 to 9**; and

- (b) the court is satisfied that the partition will assist the owners to retain the most land that is consistent with the circumstances leading to the mortgagee's entitlement to sell the existing parcel.
- (6) If any lease, licence, mortgage, easement, or other interest that affects the existing parcel is to be varied because of the partition (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the partition. 5
- 116 Effect of partition**
- (1) This section applies if land is partitioned. 10
- (2) The partitioned land is held as the separate new parcels defined by the survey plan for the partition.
- (3) The beneficial ownership of the new parcels is vested in accordance with the allocation scheme for the partition.
- (4) If the existing parcel is managed under a governance agreement immediately before the partition,— 15
- (a) the new parcels are instead managed under the governance agreement; and
- (b) the governance body must comply with **section 208**.
- (5) If, immediately before the existing parcel is partitioned, any lease, licence, mortgage, easement, or other interest affects— 20
- (a) all or part of the parcel, the interest continues to apply to the same land in the new parcels; or
- (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the new parcels. 25
- (6) However, **subsection (5)** does not prevent the variation of an interest immediately upon partition.

*Amalgamation of parcels of Māori freehold land or other land*

- 117 Amalgamation of parcels** 30
- (1) Two or more existing parcels of land may be amalgamated into 1 new parcel, but only if—
- (a) the existing parcels comply with this section; and
- (b) the actions required by **section 118** are completed.
- (2) The existing parcels— 35
- (a) must be 1 or more existing parcels of Māori freehold land; and

- (b) may include 1 or more existing parcels of other private land that resulted from a partition under section 296 of Te Ture Whenua Maori Act 1993 or section 440 of the Maori Affairs Act 1953.
- (3) Each existing parcel must adjoin another of the existing parcels.
- (4) All of the existing parcels— 5
  - (a) must be owned by 1 or more classes of collective owners or must not be owned by any class of collective owners; and
  - (b) must be managed under the same governance agreement or must not be managed under any governance agreement.
- (5) See the following provisions for how the owners of Māori freehold land may change the ownership or governance of the land to qualify for amalgamation: 10
  - (a) **section 48**, for converting land to collective ownership:
  - (b) **section 159**, for appointing a governance body to manage additional land:
  - (c) **section 174**, for revoking a governance body’s appointment to manage land. 15

#### **118 Actions required for amalgamation**

- (1) This section sets out the actions that must be completed in order to amalgamate existing parcels.
- (2) A survey plan must be prepared that defines the new parcel in compliance with the applicable survey standards. 20
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of the new parcel in accordance with **section 119**.
- (4) The amalgamation, including the survey plan and allocation scheme, must be agreed to in respect of each existing parcel as follows: 25
  - (a) for Māori freehold land managed under a governance agreement, by the governance body:
  - (b) for other Māori freehold land, by owners who together hold more than 50% of the participating owners’ total share in the parcel:
  - (c) for other private land, by the owners of the parcel. 30
- (4A) For a governance body’s decision to amalgamate a parcel, see **clause 13 of Schedule 4**, which requires the agreement of owners who together hold more than 50% of the participating owners’ total share in the land (unless the governance agreement requires a greater level of agreement).
- (5) The amalgamation, including the survey plan and allocation scheme, must also be agreed to by— 35
  - (a) the grantor of each easement or other interest that benefits an existing parcel; and

- (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens an existing parcel.
- (6) If the existing parcels are managed under a governance agreement, the governance body must have a land management plan that complies with **section 210** and that authorises the particular amalgamation. 5
- (7) The amalgamation must be conditional on the court making an order of confirmation that—
- (a) the amalgamation, including the survey plan and allocation scheme, complies with the requirements of **Parts 1 to 9**; and
- (b) the court is satisfied that the allocation scheme is fair and equitable to all owners. 10
- (8) If any lease, licence, mortgage, easement, or other interest that affects an existing parcel is to be varied because of the amalgamation (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the amalgamation. 15

#### **119 Allocation scheme for new parcel on amalgamation**

- (1) This section sets out the requirements for an allocation scheme for an amalgamation.
- Class of collective owners* 20
- (2) If all existing parcels are owned by a single class of collective owners, the allocation scheme must provide for the new parcel to be owned by that class of collective owners, and the rest of this section does not apply.
- (3) If all existing parcels are owned by a class of collective owners, but there are 2 or more different classes, the allocation scheme must provide for the new parcel to be owned by a class of collective owners defined as the combination of each of those different classes, and the rest of this section does not apply. 25
- No class of collective owners*
- (4) If no existing parcel is owned by a class of collective owners, the allocation scheme must provide for the new parcel to be owned in 1 of the following ways: 30
- (a) by a sole owner:
- (b) by joint tenants:
- (c) by tenants in common.
- (5) The allocation scheme must allocate ownership of the new parcel so that, as nearly as practicable, the value of owners' interests in the land overall does not change on amalgamation. 35
- (6) However, 1 or more owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners' interests.

**120 Effect of amalgamation**

- (1) This section applies if land is amalgamated.
- (2) The amalgamated land is held as the single new parcel defined by the survey plan for the amalgamation.
- (3) The beneficial ownership of the new parcel is vested in accordance with the allocation scheme for the amalgamation. 5
- (4) If the existing parcels are managed under a governance agreement immediately before the amalgamation,—
  - (a) the new parcel is instead managed under the governance agreement; and
  - (b) the governance body must comply with **section 208**. 10
- (5) Any land that is amalgamated becomes Māori freehold land if it is not already.
- (6) If, immediately before a parcel is amalgamated, any lease, licence, mortgage, easement, or other interest affects—
  - (a) all or part of the parcel, the interest continues to apply to the same land in the new parcel; or 15
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the new parcel.
- (7) However, **subsection (6)** does not prevent the variation of an interest immediately upon amalgamation. 20

*Aggregation of parcels of Māori freehold land or other land***121 Aggregation of ownership of parcels**

- (1) The beneficial ownership of 2 or more parcels of land may be aggregated so that each parcel becomes owned by the aggregate of the owners of all the parcels, but only if— 25
  - (a) the parcels comply with this section; and
  - (b) the actions required by **section 122** are completed.
- (2) The land whose ownership is to be aggregated—
  - (a) must be 1 or more parcels of Māori freehold land; and
  - (b) may include 1 or more parcels of other private land that resulted from a partition under section 296 of Te Ture Whenua Maori Act 1993 or section 440 of the Maori Affairs Act 1953. 30
- (3) All of the parcels—
  - (a) must be owned by 1 or more classes of collective owners or must not be owned by any class of collective owners; and 35
  - (b) must be managed under the same governance agreement or must not be managed under any governance agreement.



- (4) See **section 48** for how the owners of Māori freehold land may convert it to collective ownership to qualify for aggregation of ownership.

## 122 Actions required for aggregation of ownership

- (1) This section sets out the actions that must be completed in order to aggregate ownership of parcels. 5
- (2) An allocation scheme must be prepared that allocates the beneficial ownership of the parcels in accordance with **section 123**.
- (3) The aggregation, including the allocation scheme, must be agreed to in respect of each parcel as follows: 10
- (a) for Māori freehold land managed under a governance agreement, by the governance body:
  - (b) for other Māori freehold land, by owners who together hold 75% or more of the participating owners' total share in the parcel:
  - (c) for other private land, by the owners of the parcel.
- (3A) For a governance body's decision to aggregate ownership of a parcel, see clause 13 of Schedule 4, which requires the agreement of owners who together hold 75% or more of the participating owners' total share in the land (unless the governance agreement requires a greater level of agreement). 15
- (4) The aggregation must be conditional on the court making an order of confirmation that— 20
- (a) the aggregation, including the allocation scheme, complies with the requirements of **Parts 1 to 9**; and
  - (b) the court is satisfied that the allocation scheme is fair and equitable to all owners.

## 123 Allocation scheme for parcels on aggregation of ownership 25

- (1) This section sets out the requirements for an allocation scheme for an aggregation of ownership.

### *Class of collective owners*

- (2) If all parcels are owned by 1 or more classes of collective owners, the allocation scheme must provide for the parcels to be owned by a class of collective owners defined as the combination of each of those classes, and the rest of this section does not apply. 30

### *No class of collective owners*

- (3) If no parcel is owned by a class of collective owners, the allocation scheme must provide for each parcel to be owned in 1 of the following ways: 35
- (a) by joint tenants, but only if each parcel whose ownership is to be aggregated is held by joint tenants:
  - (b) by tenants in common.

- (4) The allocation scheme must allocate ownership of the parcels so that—
- (a) ownership of all of the parcels is the same; and
  - (b) as nearly as practicable, the value of owners' interests in the land overall does not change on aggregation of ownership.
- (5) However, 1 or more owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners' interests. 5

#### **124 Effect of aggregation of ownership**

- (1) This section applies if the beneficial ownership of land is aggregated.
- (2) The beneficial ownership of the parcels is vested in accordance with the allocation scheme for the aggregation. 10
- (3) Any land whose ownership is aggregated becomes Māori freehold land if it is not already.
- (4) If, immediately before a parcel's ownership is aggregated, any lease, licence, mortgage, easement, or other interest affects—
- (a) all or part of the parcel, the interest continues to apply to the same land after aggregation; or 15
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the parcels after aggregation.
- (5) Land cannot cease to be Māori freehold land while its ownership is aggregated with other land. 20
- (6) *See section 140(3)*, which provides that, where the ownership of parcels is aggregated, an individual freehold interest in a parcel may be disposed of only together with individual freehold interests that comprise equal shares of the other parcels. 25

#### *Cancellation of aggregation of parcels of Māori freehold land*

#### **125 Cancellation of aggregation of ownership of parcels**

- (1) The aggregation of the beneficial ownership of 2 or more parcels of Māori freehold land may be cancelled so that each parcel becomes separately owned, but only if the actions required by this section are completed. 30
- (2) An allocation scheme must be prepared that allocates the beneficial ownership of the parcels in accordance with **section 126**.
- (3) The cancellation, including the allocation scheme, must be agreed to in respect of each parcel by—
- (a) the governance body, if the parcel is managed under a governance agreement; or 35
  - (b) owners who together hold 75% or more of the participating owners' total share in the parcel, in any other case.

- (3A) For a governance body’s decision to cancel the aggregation of ownership of a parcel, see **clause 13 of Schedule 4**, which requires the agreement of owners who together hold 75% or more of the participating owners’ total share in the land (unless the governance agreement requires a greater level of agreement). 5
- (4) The cancellation must be conditional on the court making an order of confirmation that—
- (a) the cancellation, including the allocation scheme, complies with the requirements of **Parts 1 to 9**; and
- (b) the court is satisfied that the allocation scheme is fair and equitable to all owners. 10
- 126 Allocation scheme for parcels on cancellation of aggregation of ownership**
- (1) This section sets out the requirements for an allocation scheme for the cancellation of an aggregation of ownership. 15
- Class of collective owners*
- (2) If the parcels are owned by a class of collective owners, the allocation scheme must provide for each parcel to be owned by the class of collective owners who owned it immediately before the aggregation, and the rest of this section does not apply.
- No class of collective owners* 20
- (3) If the parcels are not owned by a class of collective owners, the allocation scheme must provide for each parcel to be owned in 1 of the following ways:
- (a) by a sole owner:
- (b) by joint tenants:
- (c) by tenants in common. 25
- (4) The allocation scheme must allocate ownership of the parcels so that—
- (a) each parcel becomes owned by those who owned it immediately before the aggregation (or by their successors in title); but
- (b) as nearly as practicable, the value of owners’ interests in the land overall does not change on cancellation. 30
- (5) However, 1 or more owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners’ interests.
- 127 Effect of cancellation of aggregation**
- (1) This section applies if the aggregation of beneficial ownership of land is cancelled. 35
- (2) The beneficial ownership of the parcels is vested in accordance with the allocation scheme for the cancellation.

- (3) If, immediately before the aggregation of a parcel's ownership is cancelled, any lease, licence, mortgage, easement, or other interest affects—
- (a) all or part of the parcel, the interest continues to apply to the same land after cancellation; or
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the parcels after cancellation. 5

*Grant of lesser interest over parcel of Māori freehold land*

**128 Lease of parcel for general purposes**

- (1) A lease may be granted over all or part of a parcel of Māori freehold land for a purpose other than residential housing, but only in accordance with this section. 10
- (2) The term of the lease must be 99 years or less.
- Requirement for agreement (unless lease is renewal)*
- ~~(3) The lease must be agreed to in accordance with **subsections (5) to (7)**.~~ 15
- (3) If the land is managed under a governance agreement, the lease must be agreed to by the governance body. See **clause 13 of Schedule 4**, which provides that a lease of more than 52 years requires the agreement of owners who together hold more than a 50% share in the land (unless the governance agreement requires a greater level of agreement). 20
- (3A) If the land is not managed under a governance agreement, a lease for the term specified must be agreed to as follows:
- (a) for a term of 7 years or less, by owners who together hold 75% or more of the participating owners' total share in the land; or
  - (b) for a term of 25 years or less, but more than 7 years, by owners who together hold a 25% or more share in the land; or 25
  - (c) for a term of more than 25 years, by owners who together hold more than a 50% share in the land.
- (4) However, agreement is not required for a lease granted under a right of renewal included in another lease. 30
- ~~(5) If the lease is granted for a term of 52 years or less and is not a self-lease, the lease must be agreed to by—~~
- ~~(a) the governance body, if the land is managed under a governance agreement; or~~
  - ~~(b) owners who together hold 75% or more of the participating owners' total share in the land, in any other case.~~ 35
- ~~(6) If the lease is granted for a term of more than 52 years and is not a self-lease, the lease must be agreed to by—~~

- (a) ~~the governance body, if the land is managed under a governance agreement; or~~
- (b) ~~owners who together hold more than a 50% share in the land, in any other case.~~
- (7) ~~If the lease is a self-lease, the lease must be agreed to by the governance body.~~ 5
- Other provisions*
- (7) The land to be leased must be defined on a survey plan made in compliance with the applicable survey standards.
- (8) If the land is not managed under a governance agreement and the lease is granted for a term of more than ~~52~~25 years, the grant of the lease must be conditional on the court making an order of confirmation that the grant complies with the requirements of **Parts 1 to 9**. 10
- (9) The lessee's interest under the lease may, unless the terms and conditions of the lease provide otherwise,—
- (a) be assigned; or 15
- (b) be subleased, but only in accordance with the provision in this Part that restricts a lease of the sublease's type, except that the governance body or owners may have agreed to the headlease on the basis that it is also agreement to any sublease.
- (10) ~~However, the lessee's interest under a self-lease cannot be assigned or subleased to anyone other than—~~ 20
- (a) ~~the governance body that manages the land; or~~
- (b) ~~an entity controlled by the governance body; or~~
- (c) ~~an assignee on sale under a power in a mortgage of the lessee's interest; or~~ 25
- (d) ~~any person for the purpose of residential housing.~~
- (10) However, if land managed under a governance agreement is leased to the governance body or an entity controlled by the governance body, the lessee's interest under the lease may be subleased to 1 of the following without complying with the provision in this Part that restricts a lease of the sublease's type: 30
- (a) the governance body; or
- (b) an entity controlled by the governance body; or
- (c) an assignee on sale under a power in a mortgage of the lessee's interest; or
- (d) any person for the purpose of residential housing. 35
- (11) In this section and **sections 129 and 130**,—
- entity controlled by the governance body** means an entity for which the governance body has—

- (a) direct or indirect control of 50% or more of the votes at any meeting of the members or controlling body; or
- (b) the direct or indirect right to appoint 50% or more of the trustees, directors, or managers (however described)

**residential housing** means— 5

- (a) the occupation of existing premises as a place of residence; or
- (b) the building of premises on, or transporting of premises onto, land and the occupation of the premises as a place of residence

~~**self-lease** means a lease of land managed under a governance agreement that is granted to the governance body or an entity controlled by the governance body~~ 10

**term** includes—

- (a) any further terms that may be granted under rights of renewal included in the lease; and
- (b) for a lease granted under a right of renewal, the terms of any leases from which the right of renewal derives. 15

### 129 Lease of parcel for residential housing with rent payable

- (1) A lease may be granted over all or part of a parcel of Māori freehold land for the purpose of residential housing and with rent payable, but only in accordance with this section.
- (2) The term of the lease must be 99 years or less, or the lease must be a periodic tenancy (as defined by section 2(1) of the Residential Tenancies Act 1986). 20
- (3) The lease cannot be granted unless the land is managed under a governance agreement, and the lease must be agreed to by the governance body.
- (4) However, agreement is not required for a lease granted under a right of renewal included in another lease. 25
- (5) The lessee's interest under the lease may be—
  - (a) assigned; or
  - (b) subleased, but only in accordance with the provision in this Part that restricts a lease of the sublease's type, except that the governance body may have agreed to the headlease on the basis that it is also agreement to any sublease. 30

### 130 Lease of parcel for residential housing rent-free

- (1) A lease may be granted over all or part of a parcel of Māori freehold land for the purpose of residential housing and rent-free, but only in accordance with this section. 35
- (2) The term of the lease must be—
  - (a) 99 years or less; or
  - (b) for the life of the person to whom it is granted.

- (3) The lease must be agreed to by—
- (a) the governance body, if the land is managed under a governance agreement; or
  - (b) owners who together hold 75% or more of the participating owners' total share in the land, in any other case. 5
- (4) However, agreement is not required for a lease granted under a right of renewal included in another lease.
- (5) The person to whom the lease is granted must be—
- (a) an owner of the land; or
  - (b) a beneficiary of a whānau trust that has an interest in the land. 10
- (6) The lease may include a provision that allows any of the following people to occupy the premises on the leased land in addition to the grantee as long as any maximum number of occupants that is specified in the lease is complied with:
- (a) any member of the grantee's immediate family; and
  - (b) the principal caregiver of the grantee or of a member of the grantee's immediate family. 15
- (7) The lease may be granted with conditions, which may include the requirement to pay any charges (but not rent) that relate to the property.
- (8) The lease is enforceable even though no rent is payable under it, despite any other enactment or rule of law. 20
- (9) The grantee's interest under the lease cannot be subleased, and the unexpired term of the lease (if any) may be disposed of only in accordance with **section 131 or 255**.
- (10) The lease ends if the unexpired term of the lease is not disposed of under **section 131 or 255** once the grantee, or a recipient under either of those provisions, dies. 25

### **131 Gift of rent-free lease for residential housing**

- (1) The grantee of a rent-free lease for residential housing under **section 42 or 130** may assign the unexpired term of the lease to another person, but only in accordance with this section. 30
- (2) The lease must be gifted to the following (the **recipient**):
- (a) a child or grandchild of the grantee; or
  - (b) a parent of the grantee; or
  - (c) the grantee's spouse, civil union partner, or de facto partner; or
  - (d) for a lease granted under **section 42**, a beneficiary of the whenua tāpui; or 35
  - (e) for a lease granted under **section 130**, an owner of the land or a beneficiary of a whānau trust that has an interest in the land.

- (3) Any provision of the lease referred to in **section 42(6) or 130(6)** (about additional occupants) applies to the recipient as the grantee of the lease.
- (4) Alternatively, the terms of the gift may vary the lease to delete that provision or to insert a new or replacement provision of that type.
- (5) Despite any provision of the lease, the recipient's principal caregiver is entitled to occupy the premises on the leased land in addition to the recipient, if the grantee gifts the lease by will to a recipient ~~who—~~ 5
- (a) who is a child or grandchild of the grantee; and
  - (b) who is less than 18 years of age or requires full-time care; and
  - (c) ~~occupied the premises as for whom the premises were his or her primary~~ principal place of residence when the grantee died. 10
- (6) If **subsection (5)** applies and the recipient's principal caregiver is also the principal caregiver for persons not entitled to occupy the premises, those persons are entitled to occupy the premises as long as any maximum number of occupants that is specified in the lease is complied with. 15
- (7) If a recipient has a principal caregiver, a kaiwhakamarumarū, or a welfare guardian, that person may administer the lease on the recipient's behalf.
- (8) The recipient of a lease under this section or **section 255**, as the grantee of the lease, may assign the unexpired term of the lease in accordance with this section, but only to a child or grandchild of the original grantee of the lease. 20

### 132 Licence or *profit à prendre* over parcel

- (1) A licence or *profit à prendre* may be granted over all or part of a parcel of Māori freehold land, but only in accordance with this section.
- (2) The term of the licence or *profit à prendre* must be— 25
- (a) 52 years or less; or
  - (b) in the case of a forestry right under the Forestry Rights Registration Act 1983, 99 years or less.
- (3) ~~The licence or *profit à prendre* must be agreed to by—~~ 30
- (a) ~~the governance body, if the land is managed under a governance agreement; or~~
  - (b) ~~owners who together hold more than a 50% share in the land, in any other case.~~
- (3) If the land is managed under a governance agreement, the licence or *profit à prendre* must be agreed to by the governance body.
- (3A) If the land is not managed under a governance agreement, a licence or *profit à prendre* for the term specified must be agreed to as follows: 35
- (a) for a term of 7 years or less, by owners who together hold 75% or more of the participating owners' total share in the land; or



- (b) for a term of 25 years or less, but more than 7 years, by owners who together hold a 25% or more share in the land; or
- (c) for a term of more than 25 years, by owners who together hold more than a 50% share in the land.
- (4) However, agreement is not required for a licence or *profit à prendre* granted under a right of renewal included in another licence or *profit à prendre*. 5
- (5) This section does not restrict a subgrant (for example, a sublicence) under a licence or *profit à prendre* over Māori freehold land.
- (6) In this section, **term** includes—
- (a) any further terms that may be granted under rights of renewal included in the licence or *profit à prendre*; and 10
- (b) for a licence or *profit à prendre* granted under a right of renewal, the terms of any licences or *profits à prendre* from which the right of renewal derives.
- 133 Mortgage or charge over parcel** 15
- (1) A mortgage or other charge may be granted over all or part of a parcel of Māori freehold land, but only in accordance with this section.
- (2) The mortgage or other charge must be agreed to by—
- (a) the governance body, if the land is managed under a governance agreement; or 20
- (b) owners who together hold a 75% or more share in the land, in any other case.
- (3) The part of the land comprising the buildings and other fixtures attached to the land, and everything growing on the land,—
- (a) may be charged separately from the rest of the land; and 25
- (b) despite any other enactment or rule of law, may be transferred separately from the rest of the land under a power expressed or implied by the charge.
- (4) This section does not restrict—
- (a) the grant of a mortgage or other charge over a lesser estate or interest (for example, a leasehold estate); or 30
- (b) the creation of a statutory land charge under another Act; or
- (c) the creation of a security interest as defined by section 17 of the Personal Property Securities Act 1999.
- (5) To avoid doubt, a transfer described by **subsection (3)(b)** is not— 35
- (a) a partition of land for the purposes of **Parts 1 to 9**; or
- (b) a subdivision of land for the purposes of Part 10 of the Resource Management Act 1991.

**134 Variation of lease, licence, *profit à prendre*, mortgage, or charge**

- (1) **Subsection (2)** applies if—
- (a) a lease, licence, *profit à prendre*, mortgage, or charge is to be varied to apply to additional or different Māori freehold land; or
  - (b) a lease, licence, or *profit à prendre* over Māori freehold land is to be varied as to its term (including any further terms that may be granted under rights of renewal). 5
- (2) The variation of the interest must comply with the provision in this Part that restricts the granting of the interest itself, as if the variation were the grant of such an interest (and not a renewal). 10
- (3) **Subsection (4)** applies if—
- (a) a lease over Māori freehold land is to be varied so that the lease is for a different purpose; and
  - (b) the lease was originally granted under a provision of **sections 128 to 130** that is different from the provision (the **other provision**) that applies to leases granted for that different purpose. 15
- (4) The variation must comply with the other provision as if the variation were the grant of a lease for that different purpose (and not a renewal).

**135 Easement over parcel**

- (1) The following easements may be granted over all or part of a parcel of land, but only in accordance with this section: 20
- (a) an easement over Māori land for the benefit of any land or in gross for the benefit of any person:
  - (b) an easement over land other than Māori land for the benefit of Māori land. 25
- (2) The easement must be agreed to as follows in respect of the land over which it runs and any land that it benefits:
- (a) for Māori freehold land managed under a governance agreement, by the governance body:
  - (b) for other Māori freehold land, by owners who together hold more than a 50% share in the land: 30
  - (c) for Māori customary land with a kaiwhakahaere appointed for that purpose, by the kaiwhakahaere:
  - (d) for other Māori customary land, by the Māori Trustee:
  - (e) for other private land, by the owners of the land: 35
  - (f) for Crown land, by the Minister responsible for the land or the registered proprietor of the land.

- (3) An easement that runs over, or that benefits, land reserved as a whenua tāpui must also be agreed to by the administering body of the whenua tāpui.
- (4) An easement for a right of way that connects with a State highway or any other road must also be agreed to by—
- (a) the New Zealand Transport Agency and the relevant territorial authority, for connection with a State highway; or
  - (b) the relevant territorial authority, for connection with any other road.
- (4A) The land over which the easement runs must be defined on a survey plan made in compliance with the applicable survey standards.
- (5) Section 348 of the Local Government Act 1974 does not apply to an easement for a right of way created under this section for the benefit of Māori land.
- (6) The easement must be conditional on the court making an order of confirmation that the easement complies with the requirements of **Parts 1 to 9**.
- (7) This section does not apply to—
- (a) an easement required by an order made by virtue of **section 319**; or
  - (b) an easement that may be granted under section 65 of the Maori Affairs Restructuring Act 1989.

### 136 Cancellation or variation of easement

- (1) The following easements over all or part of a parcel of land may be cancelled or varied, but only in accordance with this section:
- (a) an easement over Māori land for the benefit of any land or in gross for the benefit of any person:
  - (b) an easement over land other than Māori land for the benefit of Māori land:
  - (c) any other easement that would have satisfied **paragraph (a) or (b)** when it was created but that no longer does so because of changes in the status of land.
- (2) Cancellation or variation of the easement must be agreed to as follows in respect of the land over which it runs and any land that it benefits:
- (a) for Māori freehold land managed under a governance agreement, by the governance body:
  - (b) for other Māori freehold land, by owners who together hold more than a 50% share in the land:
  - (c) for Māori customary land with a kaiwhakahaere appointed for that purpose, by the kaiwhakahaere:
  - (d) for other Māori customary land, by the Māori Trustee:
  - (e) for other private land, by the owners of the land:

- (f) for Crown land, by the Minister responsible for the land or the registered proprietor of the land.
- (3) Cancellation or variation of an easement that runs over, or that benefits, land reserved as a whenua tāpui must also be agreed to by the administering body of the whenua tāpui. 5
- (3A) For a variation, the land over which the easement runs must be defined on a survey plan made in compliance with the applicable survey standards.
- (4) An easement for a right of way must not be cancelled or varied if it would cause the land that benefits from the easement to become landlocked land (as defined by **section 319**). 10
- (5) The cancellation or variation must be conditional on the court making an order of confirmation that the cancellation or variation complies with the requirements of **Parts 1 to 9**.
- 137 Kawenata tiaki whenua over parcel**
- (1) ~~A kawenata tiaki whenua may be created over all or part of a parcel of Māori freehold land, or other land, managed under a governance agreement (the **affected area**), but only in accordance with this section.~~ 15
- (2) ~~The kawenata tiaki whenua must be created by an instrument that is agreed to by the governance body that manages the land.~~
- (3) ~~The kawenata tiaki whenua must state that its purpose is to ensure that the affected area is managed so as to preserve and protect —~~ 20
- ~~(a) a place of cultural or historical interest; or~~
- ~~(b) a place of special significance according to tikanga Māori.~~
- (4) ~~The kawenata tiaki whenua must state that it lasts forever or for a specified term.~~ 25
- (5) ~~The kawenata tiaki whenua may include any conditions on the use of the affected area that —~~
- ~~(a) further the purpose of the kawenata tiaki whenua; or~~
- ~~(b) enable the governance body to manage the affected area alongside activities on land adjacent to the affected area, but only if the conditions are not inconsistent with the purpose of the kawenata tiaki whenua.~~ 30
- (6) ~~If the affected area is only part of a parcel, —~~
- ~~(a) the affected area must be defined on a survey plan made in compliance with the applicable survey standards; or~~
- ~~(b) the kawenata tiaki whenua must be supported by a certificate from the Surveyor-General that the affected area is adequately described or defined for the nature of the kawenata tiaki whenua and in relation to existing surveys made in compliance with the applicable survey standards.~~ 35

- 138 Cancellation or variation of kawenata tiaki whenua**
- (1) A kawenata tiaki whenua over all or part of a parcel of land may be cancelled or varied, but only in accordance with this section.
- (2) The kawenata tiaki whenua may be cancelled or varied by an instrument that is agreed to by the governance body that manages the land. 5
- (3) If the land is no longer managed by a governance body, the kawenata tiaki whenua may be cancelled or varied by an order of the court that may be made—
- (a) on application by an owner of the land, or on the court's own initiative in determining an application under **section 227** for an order cancelling a governance agreement; and 10
- (b) only if the cancellation or variation is agreed to by owners who together hold more than 50% of the participating owners' total share in the parcel.
- 139 Effect and notation of kawenata tiaki whenua** 15
- (1) A kawenata tiaki whenua created under **section 137**—
- (a) is a covenant that runs with and binds the land comprising the affected area; and
- (b) is an interest in land for the purposes of the Land Transfer Act 1952.
- (2) The governance body that manages the land must lodge with the Registrar-General the instrument that creates, cancels, or varies a kawenata tiaki whenua. 20
- (3) On receiving the instrument, the Registrar-General must,—
- (a) for the creation or variation of a kawenata tiaki whenua, record a notation of the kawenata tiaki whenua or variation on the computer freehold register for the land; or 25
- (b) for the cancellation of a kawenata tiaki whenua, remove any notation of the kawenata tiaki whenua from the computer freehold register for the land.
- (4) To avoid doubt, if the land subject to a kawenata tiaki whenua is no longer managed by a governance body, the Registrar-General must register in accordance with **section 289** an order that cancels or varies the kawenata tiaki whenua (after the Chief Registrar provides the order to the chief executive under **section 269**). 30

*Sale, gift, exchange, and mortgage of individual freehold interest in Māori freehold land*

**140 Disposition of individual freehold interest**

- (1) An individual freehold interest in any Māori freehold land may be disposed of separately from the other individual freehold interests in the land, but only if permitted by and in accordance with this section. 5
- (2) The individual freehold interest may be—
- (a) sold to the following, but cannot be sold under a power given by will:
- (i) a preferred recipient in relation to the land; or
- (ii) a governance body, ~~other than an existing statutory body or a representative entity~~, that manages the land under a governance agreement, other than an existing statutory body or a representative entity: 10
- (b) gifted to—
- (i) a preferred recipient in relation to the land; or 15
- (ii) a governance body, ~~other than an existing statutory body or a representative entity~~, that manages the land under a governance agreement, other than an existing statutory body or a representative entity:
- (c) exchanged for something else, but only in accordance with **section 141**: 20
- (d) mortgaged or charged.
- (3) If the beneficial ownership of 2 or more parcels of land is aggregated, an individual freehold interest in a parcel may be disposed of under **subsection (2)** only together with individual freehold interests that comprise equal shares of the other parcels. 25
- (4) To avoid doubt, the sales or gifts to which this section applies include—
- (a) a sale or gift by the owner of the individual freehold interest:
- (b) a sale under a power expressed or implied in a mortgage:
- (c) a gift by will or a sale under a power given by will. 30

**141 Exchange of individual freehold interest**

- (1) An individual freehold interest (**interest A**) in any Māori freehold land (**land A**) may be exchanged by its owner for something else, but only in accordance with this section.
- (2) Interest A must be exchanged for an individual freehold interest (**interest B**) in any private land other than Māori customary land (**land B**). 35
- (3) The owner of interest B must be a preferred recipient in relation to land A.

- (4) If land B is Māori freehold land, the owner of interest A must be a preferred recipient in relation to land B.
- (5) The exchange must be agreed to by the owner of each interest.
- (6) To avoid doubt, if interests are exchanged under this section, land A and land B do not become land of a different status.

5

*General provisions about dispositions*

**142 Dispositions made by instruments**

- (1) The instrument required by the Land Transfer Act 1952 and its regulations must be used in order for a disposition to be registered under that Act.
- (2) The instrument required by regulations made under **Parts 1 to 9** must be used in order for a disposition to be recorded in the Māori land register.

10

**143 Dispositions of Māori freehold land have effect when recorded or registered**

- (1) A disposition of Māori freehold land does not have effect until it is recorded in the Māori land register, whether the disposition is of all or part of a parcel or of an individual freehold interest.
- (2) However, a disposition that may be registered under the Land Transfer Act 1952—
  - (a) does not have effect for the purposes of legal title until it is registered under that Act; but
  - (b) may have earlier effect for the purposes of equitable title once it is recorded in the Māori land register.

15

20

**144 Recording dispositions on Māori land register**

- (1) This section provides for the recording in the Māori land register of an instrument executed by the parties to make a disposition of Māori freehold land, whether the disposition is of all or part of a parcel or of an individual freehold interest.
- (2) The chief executive may record the instrument in the Māori land register only if—
  - (a) the instrument complies with the requirements prescribed by regulations; and
  - (b) for a disposition that requires an order of confirmation that it complies with the requirements of **Parts 1 to 9** (and of any other matter), the order of confirmation has been made and sealed.
- (3) Even if the requirements of **subsection (2)** are satisfied, if the chief executive considers that there is doubt about whether the disposition complies with the requirements of any enactment (including **Parts 1 to 9**, if there is no order of confirmation for the disposition), then the chief executive—

25

30

35

- (a) need not record the instrument in the Māori land register; and
- (b) may instead record the instrument only after obtaining under **section 147**—
  - (i) satisfactory evidence that the disposition complies; or
  - (ii) an order that the disposition complies; but
- (c) must not finally refuse to record the instrument unless he or she obtains an order that the disposition does not comply.

5

#### **145 Registering dispositions under Land Transfer Act 1952**

- (1) This section provides for registration under the Land Transfer Act 1952 of an instrument executed by the parties to make a disposition of Māori freehold land, whether the disposition is of all or part of a parcel or of an individual freehold interest. 10
- (2) The Registrar-General may register the instrument only if the instrument has been recorded in the Māori land register or is recorded in the Māori land register at the same time. 15
- (3) If the instrument has been recorded in the Māori land register, the Registrar-General may treat the instrument as ~~an instrument that complies~~ complying with the requirements prescribed by regulations for an instrument to be recorded in the Māori land register.
- (4) To avoid doubt, the registration of any instrument is subject to the provisions of the Land Transfer Act 1952 (for example, section 43 of that Act, which applies if a lodged instrument is not in order for registration, and section 164 of that Act, which requires the correctness of an instrument to be certified). 20

#### **146 Disposition must comply with certain other enactments**

- (1) Any requirements in the following enactments that apply to a disposition restricted by **Parts 1 to 9** must be satisfied in addition to the requirements in **Parts 1 to 9**: 25
  - (a) Part 2 of the Maori Affairs Restructuring Act 1989:
  - (b) Maori Reserved Land Act 1955.
- (2) This section does not exclude any other enactment from also applying to a disposition (for example, the Property Law Act 2007 or the Land Transfer Act 1952). 30

---

#### **Example**

A parcel of Māori freehold land is subject to Part 2 of the Maori Affairs Restructuring Act 1989. A sale of the land must comply with section 19(5) of that Act (which requires the chief executive's consent to an alienation) in addition to the requirements of **section 100 of Parts 1 to 9**. 35

---



**147 Evidence and orders about compliance with enactments before instruments recorded**

- (1) The chief executive may request evidence or apply for an order under this section for the purposes of **section 144(3)**.
- (2) The chief executive may request from the parties to a disposition evidence that the disposition complies with the requirements of 1 or more enactments specified by the chief executive. 5
- (3) The court may, on application by the chief executive, make an order as to whether a disposition complies with the requirements of 1 or more enactments specified in the application. 10
- (4) The chief executive must not make an application without first requesting evidence of compliance from the parties and including in the application any evidence about compliance provided by the parties.

**148 Orders about compliance with enactments after instruments recorded**

- (1) The court may, on application, make an order as to whether a disposition whose instrument has been recorded in the Māori land register complied with the requirements of 1 or more enactments specified in the application. 15
- (2) The application may be made by any person ~~who considers that the disposition did not comply with the requirements of the enactments~~ with an interest in the matter. 20
- (3) The application may be made within 3 months after the day on which the instrument was recorded.
- (4) If the court makes an order that the disposition did not comply,—
  - (a) the court may also do anything under **section 310(1) to (4)** as if it applied to the court (not only to the Chief Judge) and to any mistake or omission about compliance; and 25
  - (b) **sections 313(4) and (5) and 314** apply with any necessary modifications.
- (5) To avoid doubt, if the court made an order of confirmation or other order for the disposition, the person may at any time apply for an order to be made under **section 310** (which relates to erroneous court orders). 30

**149 Orders of confirmation for dispositions**

- (1) The court may, on application, make an order of confirmation that a disposition that involves Māori freehold land complies with the requirements of **Parts 1 to 9**. 35
- (2) The order may also confirm or include any other matter provided for by another provision of **Parts 1 to 9** or prescribed by regulations.

- (3) An application may be made by a party to any disposition that involves Māori freehold land (whether or not the disposition requires an order of confirmation under **Parts 1 to 9**).
- (4) If any land changes status when the disposition takes effect, the order of confirmation must state this. 5
- (5) The court may make the order of confirmation conditional on the satisfaction of any specified conditions (*see* **section 409**), such as a condition agreed by the parties to the disposition that one party pays compensation to another party.
- (6) If any land affected by the disposition is subject to a charge imposed by an order of the court, the court's order of confirmation may vary the charge in any manner it thinks fair and equitable to the owners. 10
- (7) If regulations made under **section 326(f)** apply any requirement for certification under another enactment, and an order confirms or includes any such matter as required by the regulations, those requirements for certification under the other enactment must be treated as being satisfied. 15

#### **150 Determinations about dispositions by court**

- (1) The court may make an order determining any question or dispute about whether a disposition is a disposition of a type to which a particular section of this Part applies.
- (2) The court may make the order— 20
- (a) on its own initiative in any proceedings; or
  - (b) on application by a party to the disposition.

#### **151 Certain matters registrable despite caveat**

- (1) This section applies if—
- (a) a parcel of Māori freehold land is subject to a caveat against dealings under the Land Transfer Act 1952; and 25
  - (b) the caveat was lodged to protect a person's individual freehold interest in the land, including an equitable interest in the individual freehold interest; and
  - (c) the person is not a registered proprietor of the fee simple estate in the land. 30
- (2) The caveat does not prevent the Registrar-General from registering—
- (a) any disposition of the parcel that is made in compliance with the requirements of **Parts 1 to 9** and any other enactment; or
  - (b) any disposition of an individual freehold interest other than the person's individual freehold interest; or 35
  - (c) a governance body as the registered proprietor of the land; or

- (d) the beneficial owners of the land as the registered proprietors of the land if it stops being managed under a governance agreement; or
- (e) a tupuna as the registered proprietor of the land under **section 292**; or
- (f) a vesting of any of the land that is done by **Parts 1 to 9**; or
- (g) any order made by the Māori Land Court, the Māori Appellate Court, the Chief Judge acting under **section 310**, or a Registrar. 5

**152 Application of Part 3 of Property Law Act 2007 to mortgage of Māori freehold land**

- (1) The provisions of Part 3 of the Property Law Act 2007 (the **PLA**) apply to a mortgage of Māori freehold land as modified by this section and with any other necessary modifications. 10
- (2) An application under the following provisions of the PLA must be made to, and dealt with by, the Māori Land Court:
  - (a) section 107 (relating to an order directing the sale of mortgaged property): 15
  - (b) section 137(1)(c) (relating to an order for possession of land or goods):
  - (c) section 170 (relating to an order consenting to a mortgagee's withdrawal from possession):
  - (d) section 171 (relating to an order directing a mortgagee's withdrawal from possession): 20
  - (e) section 180 (relating to an order conferring a power of sale that treats mines or minerals separately from land).
- (3) The Māori Land Court, but no other court, may discharge the mortgage under sections 109(1), 110, and 111 of the PLA.
- (4) The Māori Trustee, instead of Public Trust, may discharge the mortgage under sections 109(1) and 112 of the PLA. 25
- (5) Sections 125 and 126 of the PLA do not apply to the mortgage.
- (6) The power of a mortgagee in possession to enter into a lease under section 142 of the PLA, and any lease entered into, are subject to **section 128** of **Parts 1 to 9**. 30
- (7) A mortgagee or other person required to prepare a report under section 162 or 163 of the PLA must, under section 165 of the PLA, also send a copy of the report to the following within 5 working days after preparing it:
  - (a) the chief executive; and
  - (b) a Registrar of the Māori Land Court. 35
- (8) If the Registrar of the High Court executes a transfer instrument under section 196(3) of the PLA, he or she must provide a copy of it to the chief executive.

- (9) Section 205 of the PLA also applies to a governance body to whom mortgaged land is transferred, assigned, or transmitted and limits liability to the extent of the assets held by the body that are available for meeting the obligations under the mortgage.
- (10) Mortgaged land cannot be subdivided under the implied power in clause 14 of Part 1 of Schedule 2 of the PLA unless the land is partitioned in accordance with **Parts 1 to 9**. 5

*Gift by will of entitlements arising from ownership*

**153 Gift by will of entitlements arising from ownership**

- (1) This section applies to the disposition by will of a parcel of Māori freehold land or an individual freehold interest in Māori freehold land. 10
- (2) The owner may make the disposition subject to a gift to the owner's spouse, civil union partner, or de facto partner of the right to receive any income or discretionary grants from the land or interest—
- (a) for a specified period; or 15
- (b) for the life of the spouse or partner.
- (3) The right—
- (a) entitles the surviving spouse, civil union partner, or de facto partner to receive the income or discretionary grants to the exclusion of all others who have recorded interests; and 20
- (b) continues until—
- (i) the end of the specified period or the death of the spouse or partner; or
- (ii) the spouse or partner relinquishes the right in writing; and
- (c) does not commence if the spouse or partner declines the gift, in writing, before receiving any income or discretionary grants. 25
- (4) The person who receives the disposition of the land or interest—
- (a) is the owner of the land or interest; and
- (b) is entitled to receive the income or discretionary grants when the spouse's or partner's right ends. 30
- (5) The spouse or partner cannot dispose of the right.
- (6) The gift of the right does not confer on the spouse or partner an ownership interest in the land.

## Part 5 Authority to act in relation to Māori freehold land

### Subpart 1—Governance bodies

#### 154 Overview of provisions relating to governance bodies

- (1) This **subpart**— 5
- (a) provides for owners of Māori freehold land to appoint a governance body to manage the land on their behalf under a governance agreement; and
- (b) includes provisions relating to the registration of governance agreements, the transfer of assets and liabilities to governance bodies when they are appointed, quorum and eligibility requirements for kaitiaki of certain governance bodies, and how governance agreements are cancelled. 10
- (2) A governance body, whether it is a body corporate, the trustees of a trust, or a statutory office holder, is managed by its kaitiaki, being the persons who occupy a position in the body that is comparable with that of a director of a company. 15
- (3) The types of governance body that may be appointed are set out in **section 158**. The key difference between the types of governance body is the extent to which owners or the court have a role to play in the appointment of kaitiaki, as follows: 20
- (a) if the governance body is a rangatōpū, kaitiaki appointments must be approved by the owners (*see clauses 5, 9, 14, and 18 of Schedule 3*):
- (b) if the governance body is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust,— 25
- (i) the owners will have direct involvement in the process for appointing a kaitiaki in the event of a vacancy (*see clause 5 of Schedule 4*); and
- (ii) kaitiaki appointments may be reviewed by the court (*see sections 186 and 187*): 30
- (c) if the governance body is a representative entity, kaitiaki appointments are not controlled solely by the owners of the Māori freehold land managed under the governance agreement, and the court has no power to review kaitiaki appointments under **Parts 1 to 9** (this is because a representative entity represents the entire hapū or iwi that is associated with that land, and it will have functions and responsibilities in respect of the hapū or iwi that are independent of any governance agreement it may enter into): 35

- (d) if the governance body is an existing statutory body, neither the owners of the land nor the court are involved in kaitiaki appointments (this is because an existing statutory body will have statutory functions and responsibilities that are independent of any governance agreement it may enter into). 5
- (4) In all cases, the owners of the land have a degree of control over the terms on which the governance body will manage their Māori freehold land and other assets, as follows:
- (a) the owners approve the governance agreement when a governance body is first appointed and if it changes form or amalgamates (*see clauses 6, 10, 15, and 19 of Schedule 3*); and 10
- (b) the governance agreement may specify a process for amending the agreement; if no process is specified, the default process described in **clause 11 of Schedule 4** applies, which requires, for certain substantive amendments, the approval of the owners who together hold 75% or more of the participating owners' total share in the land. 15
- (5) Other provisions relating to governance bodies are located in **Parts 1 to 9** as follows:
- (a) in **clauses 2 to 18 of Schedule 1**, transitional provisions for Māori incorporations and certain ahu whenua trusts and whenua tōpū trusts, which continue to exist and are governance bodies under **Parts 1 to 9**: 20
- (b) in **Schedule 3**, provisions relating to appointment and other processes for governance bodies, and registration requirements for governance agreements:
- (c) in **Schedule 4**, form and content requirements for governance agreements: 25
- (d) in **Part 6**, provisions relating to the operation of governance bodies, including powers, duties, and responsibilities of governance bodies and kaitiaki, restrictions on a governance body changing its holdings of Māori freehold land, and provisions regulating how assets are distributed if a governance agreement is to be cancelled or if some owners decide to remove their land from the management of a governance body. 30
- (6) This section is only a guide to the general scheme and effect of the provisions of **Parts 1 to 9** that relate to governance bodies.
- 155 Function and purpose of governance bodies** 35
- (1) A governance body—
- (a) manages, under each governance agreement that it enters into, an asset base that—
- (i) comprises or includes the Māori freehold land that the body is authorised to manage on behalf of its owners; and 40

- (ii) may include other assets and liabilities that vest in the body under **section 169** on the registration of the agreement or are acquired by the body in its operations under the agreement; and
  - (b) holds the asset base on trust for the owners of the Māori freehold land that is within the asset base, in proportion to the owners' relative interests in that land; and 5
  - (c) has the powers, duties, and responsibilities that are set out in **section 202**.
- (2) A governance body acting in accordance with its powers and its governance agreement and in compliance with **Parts 1 to 9** or any other Act is not acting in breach of trust. 10

### 156 Rights of owners of Māori freehold land managed under governance agreement

- (1) A governance body is the legal owner of the asset base that it manages under a governance agreement. 15
- (2) An owner of Māori freehold land managed under a governance agreement—
- (a) retains beneficial ownership, but not legal ownership, of the land while it is managed under the agreement; and
  - (b) may regain legal ownership of the land only if the governance agreement is cancelled (*see section 175*); and 20
  - (c) is entitled to receive all or part of his or her relative share of the remainder of the asset base only—
    - (i) by way of distribution of profits made by the governance body in accordance with the governance agreement; or
    - (ii) in accordance with a distribution scheme confirmed by the court under **section 221 or 225**. 25
- (3) This section does not prevent an owner of Māori freehold land managed under a governance agreement from receiving a grant or scholarship a benefit or payment in the nature of an award, a subsidy, a grant, or a scholarship provided by the governance body. 30

#### *Appointing a governance body for Māori freehold land*

### 157 Who may appoint a governance body

- (1) ~~A governance body may be appointed by the owners of any parcel of Māori freehold land except—~~
- (a) ~~land that is held by a sole owner or by joint tenants; and~~ 35
  - (b) ~~land that has been reserved as whenua tāpui.~~
- (1) The owners of 1 or more parcels of Māori freehold land may appoint a governance body for those parcels (whether or not the parcels have the same owners).

- (2) However, a governance body may not be appointed for a parcel that—
- (a) has been reserved as a whenua tāpui; or
  - (b) is held by joint tenants; or
  - (c) is held by a sole owner, unless the body is also appointed for at least 1 other parcel of Māori freehold land. 5

### **Examples**

#### *Example 1*

2 parcels of Māori freehold land are owned by 10 people as tenants in common. They all have shares in both parcels. The owners may appoint a governance body for both parcels of land. They may also appoint a governance body for just 1 of the parcels. 10

#### *Example 2*

2 parcels of Māori freehold land are each solely owned by 2 different people. The 2 owners may appoint a governance body for both parcels of land. However, neither of them may appoint a governance body just for his or her own separate parcel. 15

## **158 Who may be appointed as governance body**

- (1) Any of the following may be appointed as a governance body for Māori freehold land:
- (a) a Māori incorporation, if the incorporation is an existing governance body under **clause 2** of **Schedule 1**: 20
  - (b) the trustees of an ahu whenua trust or a whenua tōpū trust, if the trustees are an existing governance body under **clause 12** of **Schedule 1**:
  - (c) a new rangatōpū, being a rangatōpū established by the owners of the Māori freehold land that the rangatōpū is to manage, which may be any of the following: 25
    - (i) an existing entity that is registered as a body corporate under any enactment (in which case the rangatōpū must be established in the form of a body corporate):
    - (ii) the trustees of a private trust that is already established under an existing trust deed (in which case the rangatōpū may be established in the form of a private trust or a body corporate): 30
    - (iii) a new entity (in which case the rangatōpū may be established in the form of a private trust or a body corporate):
  - (d) an existing rangatōpū, being a rangatōpū that is already managing other Māori freehold land under a registered governance agreement: 35
  - (e) an existing statutory body:
  - (f) a representative entity.
- (2) However, a governance body that is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust—



- (a) must not be a party to more than 1 registered governance agreement; but
- (b) may, if the governance body is already managing Māori freehold land under a registered governance agreement, be appointed to manage additional Māori freehold land under a new governance agreement that is approved by the owners of all the Māori freehold land that the governance body is to manage (*see clauses 8 to 11 of Schedule 3*). 5
- (3) In this section,—
- existing statutory body** means any of the following as established by or under an Act:
- (a) a Māori Trust Board (as defined in section 2(1) of the Maori Trust Boards Act 1955): 10
- (b) the Māori Trustee:
- (c) Public Trust:
- (d) a trustee company
- representative entity**, in relation to a parcel of Māori freehold land, means an entity that— 15
- (a) represents a hapū or an iwi associated with the land in accordance with tikanga Māori; and
- (b) is recognised by the owners of the land as having authority to represent the hapū or iwi. 20
- 159 Process for appointing governance body**
- (1) The process for appointing a governance body is set out in **Part 1 of Schedule 3**.
- (2) The appointment of the governance body and, if applicable, the establishment of a rangatōpū take effect when the governance agreement is registered under **section 163**. 25
- 159A Governance bodies continue to be subject to other law**
- (1) In addition to complying with **Parts 1 to 9**,—
- (a) a governance body that is registered or incorporated under, or established by or under, another enactment must comply with that other enactment; and 30
- (b) a governance body that is comprised of the trustees of an ahu whenua trust, a whenua tōpū trust, or a private trust must comply with any rule of law or equity that applies to them as trustees.
- (2) However, **subsection (1)(a) or (b)** applies only to the extent that the other enactment or rule of law or equity is not inconsistent with **Parts 1 to 9**. 35

*Certain governance bodies may become rangatōpū***160 Governance bodies that are Māori incorporations or trusts may become rangatōpū**

- (1) The following governance bodies may become a rangatōpū:
  - (a) a Māori incorporation: 5
  - (b) the trustees of an ahu whenua trust or a whenua tōpū trust.
- (2) The process for becoming a rangatōpū is set out in **Part 2 of Schedule 3**.
- (3) The establishment of the rangatōpū takes effect when the replacement governance agreement is registered under **section 163**.
- (4) See **section 173A** for tax matters relating to a governance body that becomes a rangatōpū under this section. 10

*Certain governance bodies may amalgamate***161 Certain governance bodies may amalgamate**

- (1) Any 2 or more governance bodies of any of the following kinds may amalgamate to form a rangatōpū: 15
  - (a) rangatōpū:
  - (b) Māori incorporations:
  - (c) the trustees of ahu whenua trusts.
- (2) The process for amalgamating governance bodies is set out in **Part 3 of Schedule 3**. 20
- (3) The amalgamation of governance bodies and the establishment of the amalgamated governance body as a rangatōpū take effect when the amalgamated governance agreement is registered under **section 163**.

*Registering governance agreements***162 Application to register governance agreement** 25

- (1) To finalise its appointment as a governance body for Māori freehold land, a governance body or proposed governance body must apply to the chief executive to register a governance agreement for the land.
- (2) A governance body that is a party to a registered governance agreement—
  - (a) may at any time ~~update~~ amend the agreement and apply to the chief executive to register the updated version in place of the registered governance agreement; and 30
  - (b) must apply to the chief executive to register an updated agreement in place of the registered agreement if there is a change in the Māori freehold land managed by the body under the agreement, including a change 35

to boundaries or legal description (*see* **sections 206 to 208 and 225 to 227**).

- (3) An application to register a governance agreement must satisfy the requirements of **Part 4 of Schedule 3**.

**163 Registration of governance agreement** 5

- (1) This section applies if the chief executive—
- (a) receives an application to register a governance agreement (whether it is a new agreement or an updated or replacement agreement); and
  - (b) does not reject the application under **section 165**.
- (2) The chief executive must, within the time frame specified in **subsection (3)**,—
- (a) register the governance agreement by issuing a governance certificate; and
  - (b) if the application is made by the kaitiaki of a proposed rangatōpū (being a rangatōpū that is not yet registered as a rangatōpū),—
    - (i) register the rangatōpū by issuing a rangatōpū certificate; and
    - (ii) if the rangatōpū is an amalgamation of 2 or more governance bodies (*see* **section 161**), cancel the governance certificates and rangatōpū certificates (if applicable) of the amalgamating governance bodies; and
  - (c) make any necessary changes to the Māori land register; and
  - (d) if any land will vest in the governance body under **section 169**, send to the Registrar-General—
    - (i) a copy of the governance certificate; and
    - (ii) details of the land; and
    - (iii) details of any governance certificates cancelled under **paragraph (b)(ii)**.
- (3) The chief executive must act under this section as soon as practicable, but not later than 1 month, after whichever of the following occurs last:
- (a) receipt of the application to register the governance agreement: 30
  - (b) if the governance agreement gives effect to a decision that may be reviewed under **section 188**,—
    - (i) the expiry of the period specified in **section 188(3)**, if no application for review is made during that period; or
    - (ii) if an application is made under that section to review the decision, the conclusion of the review: 35
  - (c) if **section 164** applies (because there are simultaneous applications to register different governance agreements that relate to the same parcel of

Māori freehold land), the conclusion of the simultaneous applications process set out in that section.

#### **164 Process for dealing with simultaneous applications**

- (1) This section applies if the chief executive receives simultaneous applications to register a governance agreement for a parcel of Māori freehold land. 5
- (2) The chief executive must, within 1 month after receiving the last of the simultaneous applications,—
- (a) arrange a meeting of the owners of the land in accordance with the process set out in **clause 11(3) and (4) of Schedule 2**, which applies as if the proposal to be considered were the question of which of the simultaneous applications should prevail; and 10
- (b) at the meeting,—
- (i) advise the owners that the chief executive has received simultaneous applications to register a governance-body agreement for the land; and 15
- (ii) invite each applicant to address the meeting and to present information in support of their application; and
- (iii) conduct a vote, in accordance with **clause 13(1) and (2) of Schedule 2**, on the question of which application should prevail.
- (3) If the vote satisfies the participation thresholds set out in **section 51(4)51A(1)**, the preferred application is the one that receives votes that represent the greatest share of the parcel of Māori freehold land. 20
- (4) The chief executive must—
- (a) notify the results of the vote in accordance with **clause 14 of Schedule 2**; and 25
- (b) reject, under **section 165**, each simultaneous application that is not the preferred application.
- (5) An application to register a governance agreement for a parcel of Māori freehold land (**agreement A**) is **simultaneous** with an application to register another governance agreement for the same parcel of Māori freehold land (**agreement B**) if— 30
- (a) the application to register agreement A is received before agreement B is registered; and
- (b) neither application is rejected under **section 165**.

#### **165 Grounds for rejecting application for registration of governance agreement** 35

- (1) The chief executive must reject an application to register a governance agreement if—

- (a) the proposed governance body is not eligible to be a governance body (*see* **section 158**); or
- (b) the application—
- (i) does not satisfy the requirements of **Part 4 of Schedule 3**; or
  - (ii) is a simultaneous application, within the meaning of **section 164**, that is not the preferred application under that section; or
- (c) the Māori freehold land to be managed under the agreement—
- (i) is held by a sole owner or by joint tenants; or
  - (ii) is reserved as a whenua tāpui; or
  - (iii) is already managed under a registered governance agreement (and the proposed agreement is not an updated or replacement agreement); or
- (d) in the case of an application made by a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust, the registration of the agreement would result in the governance body being party to more than 1 registered governance agreement; or
- (e) in the case of an application made by a proposed rangatōpū,—
- (i) there is already a rangatōpū registered under the name proposed in the application; or
  - (ii) the chief executive considers that the proposed name would cause confusion with a similarly named rangatōpū, Māori incorporation, ahu whenua trust, whenua tōpū trust, company, or other entity; or
  - (iii) the chief executive considers that the use of the proposed name would contravene an enactment; or
  - (iv) the chief executive considers that the proposed name is offensive; or
  - (v) the rangatōpū, if it were registered, would not comply with **section 184** (which sets out requirements for kaitiaki of certain governance bodies).
- (2) If **subsection (1)** applies, the chief executive must promptly give the applicant written notice of the rejection and the reason for it.
- (3) If the chief executive rejects an application, the applicant may reapply at any time.
- 166 When registration of rangatōpū creates separate legal personality**
- (1) This section applies if—
- (a) the chief executive issues a rangatōpū certificate; and
  - (b) the certificate specifies that the rangatōpū is a body corporate; and

- (c) before the certificate is issued, the rangatōpū is not already a body corporate registered or incorporated under another enactment.
- (2) On the issue of the certificate, the rangatōpū named in the certificate—
  - (a) becomes a body corporate, with perpetual succession, under the name specified in the certificate; and 5
  - (b) may do anything that a natural person of full age and capacity may do, except as provided for in **Parts 1 to 9** or any other enactment.

### **167 Certificates are conclusive evidence of registration**

- (1) A governance certificate is conclusive evidence that the governance agreement referred to in the certificate is registered under **Parts 1 to 9**. 10
- (2) A rangatōpū certificate is conclusive evidence that the rangatōpū named in the certificate is a registered rangatōpū under **Parts 1 to 9**.

### **168 Registered governance agreement has legal effect**

- (1) A registered governance agreement has effect according to its terms.
- (2) However, a provision of a governance agreement has no effect if it is inconsistent with **Parts 1 to 9** or any other enactment. 15

### *Establishment of asset base*

### **169 Asset base vests in governance body on registration of governance agreement**

- (1) This section applies to Māori freehold land, other land, and other assets and liabilities that— 20
  - (a) are intended to vest in a governance body on the registration of a governance agreement; and
  - (b) are identified for that purpose in an application made under **section 162**. 25
- (2) On the registration of the governance agreement,—
  - (a) the fee simple estate in the Māori freehold land and the other land vests in the body; and
  - (b) the other assets and liabilities vest in the body.
- (3) The vesting applies only to the extent that the land, assets, and liabilities are, immediately before the agreement is registered, held by— 30
  - (a) the owners of the Māori freehold land to be managed under the agreement; or
  - (b) if the governance body is a rangatōpū formed by an amalgamation of other governance bodies (*see section 161*), one of the amalgamating governance bodies; or 35

- (c) if the governance body is directly replacing another governance body (see **section 161 or 176**), the governance body that is being replaced.
- (4) To avoid doubt, anything that is referred to in **subsection (1)**, and that is not, immediately before the governance agreement is registered, held by the owners of the land, an amalgamating governance body, or a governance body being replaced,— 5
- (a) does not vest in a governance body under this section; and
- (b) will become part of the asset base managed under the governance agreement only if it is transferred to the governance body in some other way after the governance agreement is registered. 10
- (5) The vesting takes effect—
- (a) without any further authority than this section; and
- (b) without any conveyance, transfer, or other instrument of assurance; and
- (c) together with all rights and remedies (if any) that the owners or former governance body had in respect of the land or assets immediately before the vesting; but 15
- (d) subject to or together with any lease, licence, mortgage, easement, or other interest that affected the land or assets immediately before the vesting.
- (6) The vesting of Māori freehold land in a governance body under this section does not affect the beneficial interests in the freehold estate in the land. 20

#### **170 Registrar-General to record change of ownership of land**

The Registrar-General must, as soon as practicable after receiving from the chief executive under **section 163(2)(d)** details of land that vests in a governance body under **section 169**,— 25

- (a) register the governance body as the proprietor of the fee simple estate in the land; and
- (b) record any entry on the computer freehold register and do anything else necessary to give effect to the vesting of the land in the governance body. 30

#### **171 Status of contracts and other instruments**

- (1) This section applies to a contract, agreement, conveyance, deed, lease, licence, undertaking, notice, or other instrument that—
- (a) relates to an asset or a liability that vests in a governance body under **section 169**; and 35
- (b) is entered into by, made with, given to or by, or addressed to a person who holds an interest in the asset or liability referred to in **paragraph (a)**; and

- (c) is in effect immediately before the vesting.
- (2) The instrument is binding on, and enforceable by, against, or in favour of, the governance body as if the instrument had been entered into by, made with, given to or by, or addressed to or by the governance body and not the person referred to in **subsection (1)(b)**. 5
- 172 Status of existing securities**
- (1) This section applies to a security that a person holds as security for a debt or other liability to the person that is incurred before the debt or liability vests in a governance body under **section 169**.
- (2) The security— 10
- (a) is available to the governance body as security for the discharge of the debt or liability; and
- (b) if the security extends to future or prospective debts or liabilities, is available as security for the discharge of debts or liabilities to the governance body incurred on or after the vesting. 15
- 173 Matters not affected by vesting under section 169**
- (1) This section sets out matters not affected by the vesting of assets and liabilities in a governance body under **section 169**.
- (2) The vesting does not, of itself,—
- (a) place a governance body or any other person or body in breach of a contract or confidence, or make the body or person guilty of a civil wrong; or 20
- (b) give rise to a right for any person to terminate or cancel any contract or arrangement, to accelerate the performance of an obligation, to impose a penalty, or to increase a charge; or 25
- (c) place a governance body or any other person or body in breach of an enactment, a rule of law, or a contract that prohibits, restricts, or regulates the assignment or transfer of an asset or a liability or the disclosure of information; or
- (d) release a surety, wholly or in part, from an obligation; or 30
- (e) invalidate or discharge a contract.
- (3) Except as required by **section 170**, the vesting does not, of itself, require a person who is responsible for keeping books or registers to change the name of a person to the name of a governance body in the books or registers or in a document. 35
- (4) A document, matter, or thing that would have been admissible in evidence for or against a person who held an interest in the assets or liabilities before the vesting is, on and after the vesting, admissible in evidence for or against the governance body.



- (5) In **subsection (4)**, **document** has the meaning given by section 4(1) of the Evidence Act 2006.

**173A Tax matters for Māori incorporations and trusts that become rangatōpū**

- (1) This section applies, for the purpose of the Inland Revenue Acts, if—
- (a) a rangatōpū is established to replace a Māori incorporation or the trustees of an ahu whenua or whenua tōpū trust (the **original governance body**) under **section 160**; and 5
- (b) the assets and liabilities of the original governance body vest in the rangatōpū under **section 169**.
- (2) If this section applies,— 10
- (a) the rangatōpū is deemed to be the same person as the original governance body; and
- (b) everything done by the original governance body before the assets and liabilities vest in the rangatōpū and the voting interests and market value interests become those of the rangatōpū is deemed to have been done by the rangatōpū on the date on which it was done by the original governance body; and 15
- (c) income derived or expenditure incurred by the original governance body before the assets and liabilities vest in the rangatōpū does not become income derived or expenditure incurred by the rangatōpū just because the assets and liabilities are vested in the rangatōpū. 20
- (3) The establishment of the rangatōpū and the vesting of assets and liabilities in the rangatōpū does not interrupt any voting interests and market value interests—
- (a) of any subsidiaries beneficially owned by the original governance body; or 25
- (b) of the rangatōpū in relation to its use of tax losses of the original governance body.
- (4) In this section,—
- (a) **Inland Revenue Acts** has the meaning given to it by section 3(1) of the Tax Administration Act 1994; and 30
- (b) terms used that are not defined in this Act but are defined in the Inland Revenue Acts have the meanings given to them by those Acts.

*Revoking governance body appointments***174 Owners of Māori freehold land may revoke governance body's appointment for that land**

- (1) The owners of a parcel of Māori freehold land that is managed under a governance agreement may revoke the governance body's appointment in respect of that ~~land~~ parcel. 5
- (2) ~~A decision to revoke an appointment requires the agreement of the owners who together hold 75% or more of the participating owners' total share in the land.~~
- (2) A decision to revoke an appointment must—
- (a) be proposed by— 10
- (i) at least 15 owners of the parcel of land who together hold at least 5% of the beneficial interest in the freehold estate in the parcel; or
- (ii) if the parcel has more than 10 but not more than 14 owners, at least 11 owners who together hold at least 5% of the beneficial interest in the freehold estate in the parcel; or 15
- (iii) if the parcel has 10 or fewer owners, all of the owners; and
- (b) be agreed to by owners of the parcel who together hold 75% or more of the participating owners' total share in the parcel.
- (3) If the revocation relates to all of the Māori freehold land managed under the agreement, the revocation starts the process of cancelling the governance agreement (*see section 175*). 20
- (4) If the revocation relates to only some of the parcels of Māori freehold land managed under the agreement, the governance body must prepare a partial distribution scheme (*see sections 225 to 227*).

*Cancelling governance agreements* 25**175 Ways to start cancellation of governance agreement**

- (1) Any of the following events starts the process of cancelling a governance agreement:
- (a) the owners of all of the Māori freehold land managed under the agreement decide, in accordance with **section 174**, to revoke the body's appointment in respect of the land (whether or not another governance body is to be appointed for the land): 30
- (b) the governance body decides to cancel the agreement:
- (c) the governance body decides to amalgamate with 1 or more other governance bodies to form a rangatōpū (if this is permitted by **section 161**): 35
- (d) the court makes an order under **subsection (2)**:

- (e) the governance body that is a party to the agreement,—
- (i) in the case of an existing statutory body, is disestablished by or under an Act; or
- (ii) in the case of a representative entity, is wound up:
- (f) in the case of a rangatōpū that is a body corporate whose status as a body corporate derives from registration or incorporation under another enactment, rather than under **section 166**, the body ceases to be registered or incorporated as a body corporate under that other enactment. 5
- (2) The court may make an order to start the process of cancelling a governance agreement if the court is satisfied, in respect of the governance body that is party to the agreement, that— 10
- (a) the body is insolvent; or
- (b) the body has failed to comply with a statutory duty or obligation; or
- (c) the continuing appointment of the body will materially prejudice the owners of the Māori freehold land managed under the agreement. 15
- (3) At the same time as making an order under **subsection (2)**, the court may appoint a kaiwhakahaere under **section 189** to oversee the governance body's preparation and implementation of a full distribution scheme under **section 221**.
- (4) The Registrar must send a copy of any order made under **subsection (2)** to the governance body and the chief executive. 20
- (5) In this section, **insolvent** means that the governance body is unable to pay its debts as they become due.

## 176 Cancellation of governance agreement when governance body replaced

- (1) This section applies if— 25
- (a) the process of cancelling a governance agreement is started as described in **section 175(1)(a)** (revocation of governance body's appointment); and
- (b) the asset base managed under the agreement (the **first agreement**) is to be transferred directly to another governance body or proposed governance body and managed under another governance agreement (the **second agreement**). 30
- (2) The outgoing governance body must provide to the incoming governance body—
- (a) sufficient details about the asset base managed under the first agreement to— 35
- (i) enable the incoming governance body to comply with **clause 22 of Schedule 3** (which sets out the general requirements for an application to register a governance agreement); and

- (ii) ensure that the asset base will vest in the incoming governance body when the second agreement is registered (*see* **section 169**); and
    - (b) for each unpaid distribution held by the outgoing governance body, the unpaid distribution details. 5
  - (3) When the second agreement is registered,—
    - (a) the first agreement is cancelled; and
    - (b) if the outgoing governance body is a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust, the chief executive must apply to the court for an order winding up the incorporation or trust. 10
- 177 Cancellation of governance agreements when governance bodies amalgamate**
- (1) This section applies if the process of cancelling a governance agreement is started as described in **section 175(1)(c)** (amalgamation of governance bodies).
  - (2) The governance agreement of each amalgamating governance body is cancelled immediately after the amalgamated governance agreement is registered in its place. 15
- 178 Cancellation of governance agreement in other circumstances**
- (1) This section applies if—
    - (a) the process of cancelling a governance agreement is started as described in **section 175**; and 20
    - (b) **sections 176 and 177** do not apply.
  - (2) The agreement is cancelled when the court issues an order under **section 227(3)** cancelling the agreement (on being satisfied that a full distribution scheme has been implemented). 25
  - (3) Until the agreement is cancelled, any transaction or dealing by or on behalf of the governance body that incurs an obligation, a debt, or a liability in relation to the asset base is void unless the transaction or dealing was entered into—
    - (a) on the governance body’s behalf by the kaiwhakahaere appointed under **section 189** to oversee the preparation and implementation of the distribution scheme; or 30
    - (b) by the governance body with the prior written consent of the kaiwhakahaere appointed to oversee the preparation and implementation of the distribution scheme; or
    - (c) under an order of the court. 35
  - (4) **Subsection (3)** does not apply to a payment made by a registered bank if—
    - (a) the payment is made out of an account kept by the governance body with the bank; and

- (b) the payment is made in good faith and in the ordinary course of the bank's banking business; and
- (c) the payment is made before either of the following occurs:
- (i) the bank has reason to believe that the process of cancelling the governance agreement has started: 5
  - (ii) the bank is notified by the kaiwhakahaere, in writing, that the process of cancelling the governance agreement has started.
- (5) The court may validate a transaction or dealing that is void under **subsection (3)**.
- 179 Liability of kaitiaki for compensation for void transaction or dealing** 10
- (1) This section applies if a court is satisfied that a kaitiaki—
- (a) purported, on behalf of a governance body, to enter into a transaction or dealing that is void under **section 178(3)**; or
  - (b) was in any other way knowingly concerned in, or party to, the void transaction or dealing, whether— 15
    - (i) by act or omission; or
    - (ii) directly or indirectly.
- (2) The court may order the kaitiaki to compensate any person, including the governance body, that has suffered loss as a result of the act or omission. 20
- Compare: 1993 No 105 s 239AA
- 180 Cancelling governance certificates**
- As soon as practicable after a governance agreement is cancelled, the chief executive must—
- (a) cancel the governance certificate; and
  - (b) make any necessary changes to the Māori land register; and 25
  - (c) send to the Registrar-General a copy of the order and notification in writing that the governance certificate is cancelled.
- 181 Revesting of Māori freehold land vests on cancellation of governance certificate**
- (1) If the Māori freehold land managed under a cancelled governance agreement is to be transferred directly to another governance body and managed under another governance agreement (*see* **section 176**),— 30
- (a) on the registration of the other governance agreement, the Māori freehold land, and any other land and other assets and liabilities that are to transfer to the other governance body, will vest in that other governance body under **section 169**; and 35

- (b) the Registrar-General must comply with **section 170** (which requires the Registrar-General to register the change of ownership of land).
- (2) If **subsection (1)** does not apply,—
- (a) on the cancellation of the governance certificate, the Māori freehold land managed under the cancelled governance agreement vests in the beneficial owners of the land (the remainder of the asset base will have already been distributed under **section 227** in the course of implementing a full distribution scheme); and 5
- (b) as soon as practicable after being notified under this section that the governance certificate is cancelled, the Registrar-General must— 10
- (i) register the beneficial owners of the Māori freehold land managed under the cancelled agreement as the proprietors of the fee simple estate in the land; and
- (ii) record any entry on the computer freehold register and do anything else necessary to give effect to the vesting of land that is within the governance body’s asset base in the owners. 15
- (3) **Sections 171 to 173** apply, with any necessary modifications, to the vesting of assets and liabilities in the owners of Māori freehold land under **subsection (2)(a)**.

## 182 Liability of kaitiaki to continue 20

The cancellation of a governance certificate does not affect the liability of any kaitiaki of the body or any other person in respect of any act or omission that took place before the certificate was cancelled, and that liability continues and may be enforced as if the certificate had not been cancelled.

Compare: 1993 No 105 s 326 25

### *Cancelling rangatōpū registration*

## 183 Cancelling rangatōpū registration

The chief executive must cancel a rangatōpū certificate if the chief executive is satisfied that the rangatōpū—

- (a) has been wound up; or 30
- (b) is no longer party to a registered governance agreement; or
- (c) has amalgamated with 1 or more other governance bodies to form a new rangatōpū (*see section 161*).

### *Kaitiaki requirements for certain governance bodies*

## 184 Kaitiaki: quorum and eligibility 35

- (1) This section applies to a governance body only if it is—
- (a) a rangatōpū; or

- (b) a Māori incorporation; or
- (c) the trustees of an ahu whenua trust or a whenua tōpū trust, unless the trustee is an existing statutory body.
- (2) The governance body must at all times have—
- (a) at least 3 kaitiaki who are eligible under this section to hold that position; and 5
- (b) a majority of kaitiaki who are ordinarily resident in New Zealand (within the meaning of section 207D(3) of the Companies Act 1993).
- (3) A person is eligible to be a kaitiaki if—
- (a) the person is a natural person who is of or over the age of 18 years; and 10
- (b) none of the disqualifications in **subsection (4)** apply to the person.
- (4) A person is disqualified from being a kaitiaki if any of the following applies:
- Criminal history*
- (a) the person has been convicted within the last 5 years of an offence relating to fraud or dishonesty (whether convicted in New Zealand or overseas): 15
- (b) the person is currently subject to a sentence (within the meaning of section 4(2) of the Sentencing Act 2002) for an offence referred to in **paragraph (a)**: 20
- Personal insolvency*
- (c) the person—
- (i) is an undischarged bankrupt; or
- (ii) has made a proposal to creditors for the payment or satisfaction of debts under section 326 of the Insolvency Act 2006, and those debts remain outstanding; or 25
- (iii) is subject to a summary instalment order made under subpart 3 of Part 5 of the Insolvency Act 2006; or
- (iv) is a debtor who is participating in the no asset procedure under subpart 4 of Part 5 of the Insolvency Act 2006:
- Professional incompetence* 30
- (d) the person is disqualified by an order of the court made under **section 220(1)(b)**:
- (e) the High Court has, within the last 5 years, substituted a new trustee for the person under section 51(2)(a) of the Trustee Act 1956 after holding that the person has misconducted himself or herself in the administration 35 of a trust:

- (f) the person is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under section 382, 383, or 385 of the Companies Act 1993:

*Personal incapacity*

- (g) the person is subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992: 5
- (h) the property, or any part of the property, of the person is the subject of a personal order or a property order made under the Protection of Personal and Property Rights Act 1988: 10
- (i) the property of the person is the subject of an order made under **section 73** (appointment of kaiwhakamarumaruru for owners needing protection).

**185 Kaitiaki: vacancies in office, suspension from office, validity of acts**

- (1) This section applies to a governance body that is any of the following: 15
- (a) a rangatōpū:
- (b) a Māori incorporation:
- (c) the trustees of an ahu whenua trust or a whenua tōpū trust, unless the trustee is an existing statutory body.
- (2) If a kaitiaki of the governance body is or becomes disqualified from being a kaitiaki, he or she ceases to hold that office, unless **subsection (3)** applies. 20
- (3) If a kaitiaki is or becomes disqualified because a property order is made in respect of any part of his or her property (*see section 184(4)(h) and (i)*),—
- (a) the kaitiaki does not cease to hold office as a kaitiaki of the governance body by virtue only of the making of the order; but
- (b) the kaitiaki is suspended from office while the order remains in force. 25
- (4) A kaitiaki who is suspended from office under **subsection (3)**—
- (a) is deemed to have been granted leave of absence; and
- (b) is not capable of acting as a kaitiaki of the governance body during the period of suspension.
- (5) The acts of a person as a kaitiaki, and the acts of a governance body of which the person is a kaitiaki, are valid even if— 30
- (a) the person's appointment was defective; or
- (b) the person is not qualified for appointment.

*Jurisdiction of court*

**186 Court may investigate kaitiaki appointments for certain governance bodies** 35

- (1) This section applies to a governance body that is any of the following:



- (a) a rangatōpū:
  - (b) a Māori incorporation:
  - (c) the trustees of an ahu whenua trust or a whenua tōpū trust, unless the trustee is an existing statutory body.
- (2) The court may investigate the validity of a person’s appointment as kaitiaki of the governance body with regard to the appointment process and the person’s eligibility for appointment. 5
- (3) The court’s jurisdiction under this section may be exercised on the application of—
- (a) at least 15 of the owners of the Māori freehold land that is managed under the governance agreement; or 10
  - (b) the owners who collectively hold at least 5% of the beneficial interest in the freehold estate in the Māori freehold land that is managed under the governance agreement; or
  - (c) the governance body. 15
- (4) After investigating the validity of an appointment, the court may,—
- (a) if the court is satisfied that the appointment is invalid, declare the appointment to be invalid and direct the governance body to commence a new appointment process; or
  - (b) if **paragraph (a)** does not apply, declare the appointment to be valid. 20
- (5) If the validity of an appointment is investigated under this section, the appointment is presumed to be valid until it has been declared otherwise.

### **187 Court may appoint kaitiaki for certain governance bodies**

- (1) This section applies to a governance body that is any of the following:
- (a) a rangatōpū: 25
  - (b) a Māori incorporation:
  - (c) the trustees of an ahu whenua trust or a whenua tōpū trust, unless the trustee is an existing statutory body.
- (2) If the governance body has fewer than 3 kaitiaki, either of the following may apply to the court to appoint as kaitiaki 1 or more persons who are eligible under **section 184(3)** to hold that position: 30
- (a) an owner of Māori freehold land managed by the governance body:
  - (b) a creditor of the governance body.
- (3) The court may appoint kaitiaki only if the court is satisfied that it is not practicable for kaitiaki to be appointed in accordance with the governance agreement. 35
- (4) The court may make an appointment subject to any terms and conditions that the court thinks fit.

- 188 Court may review certain decisions of owners relating to governance bodies**
- (1) The owners of a parcel of Māori freehold land may, in accordance with **subsections (2) and (3)**, apply to the court for a review of ~~any~~ either of the following decisions: 5
- (a) a decision made for the purpose of appointing a governance body for the land (being a decision to approve a governance agreement or appoint kaitiaki or a decision referred to in **clause 3 or 13 of Schedule 3**):
- (b) a decision to revoke the appointment of a governance body for the land.
- (2) An application under this section must be made by— 10
- (a) ~~at least 1 owner of the land, if it has no more than 10 owners; or~~
- (b) ~~at least 5 owners of the land, if it has more than 10 owners.~~
- (a) at least 15 owners of the parcel of land who together hold at least 5% of the beneficial interest in the freehold estate in the parcel; or
- (b) if the parcel has more than 10 but not more than 14 owners, at least 11 owners who together hold at least 5% of the beneficial interest in the freehold estate in the parcel; or 15
- (c) if the parcel has 10 or fewer owners, all of the owners.
- (3) The application must be made within 20 working days after the date on which the decision is made. 20
- (4) The court must confirm the decision unless **subsection (5)** applies.
- (5) The court must set aside the decision if the court is satisfied that—
- (a) the decision was not made in accordance with **Parts 1 to 9** or the governance agreement (as applicable); or
- (b) in the case of the appointment of a kaitiaki, the person appointed is not eligible under **section 184(3)** to hold that position. 25
- (6) If the court sets aside a decision, the court—
- (a) may direct that the decision-making process be recommenced; and
- (b) may make any other directions that the court considers necessary to ensure that the requirements of **Parts 1 to 9** or a governance agreement are satisfied. 30

### Subpart 2—Kaiwhakahaere

- 189 Court may appoint kaiwhakahaere**
- (1) The court may appoint, in relation to a parcel of Māori freehold land, 1 or more eligible persons as kaiwhakahaere. 35
- (2) **Section 190** specifies the purposes for which a kaiwhakahaere may be appointed.

- (3) **Section 193** prescribes the process that the court must follow to appoint a kaiwhakahaere.
- (4) A person is **eligible** to be appointed as a kaiwhakahaere if—
- (a) the person is—
    - (i) the Māori Trustee; or 5
    - (ii) a person who is eligible to be a kaitiaki of a governance body under **section 184(3)**; or
    - (iii) the trustee or trustees of a trust, if each trustee would be eligible to be a kaitiaki of a governance body under **section 184(3)**; or
    - (iv) a body corporate, if each director of the body, or occupying a position in the body that is comparable with that of a director of a company, would be eligible to be a kaitiaki of a governance body under **section 184(3)**; and 10
  - (b) the court considers that the person is qualified for appointment having regard to the requirements of the particular appointment. 15
- (5) The appointment of a kaiwhakahaere in relation to a parcel of Māori freehold land does not affect the legal or beneficial ownership of the land.

#### **190 Purposes for which kaiwhakahaere may be appointed**

- (1) In relation to Māori freehold land that is managed under a governance agreement, a kaiwhakahaere may be appointed only to oversee the governance body's preparation and implementation of a full distribution scheme under **section 221**. 20
- (2) In relation to Māori freehold land that is not managed under a governance agreement, a kaiwhakahaere may be appointed to be the agent of the owners of the land for 1 or more of the following purposes: 25
- (a) to carry out a decision of the owners of the land:
  - (b) to set or negotiate the terms of a sale of the land under **section 100(4)(c)**:
  - (c) to receive and respond to notices on behalf of the owners of the land:
  - (d) to protest, appeal, or make representations against any actual or proposed entry on the land, undertaking of works on the land, or acquisition of the land: 30
  - (e) to negotiate the terms of an agreement with a network utility operator (as defined in section 166 of the Resource Management Act 1991) to enter on the land: 35
  - (f) to negotiate the terms of an agreement with the Crown or a local authority—
    - (i) for the Crown or local authority to enter on the land or undertake works on the land; or

- (ii) for the settlement of compensation for land taken for a public work:
  - (g) to commence, defend, resist, or take part in proceedings relating to the land:
  - (h) if the land is leased, to act on behalf of the owners of the land— 5
    - (i) to execute renewals of the lease:
    - (ii) if required, to appoint an arbitrator, an umpire, or a valuer:
    - (iii) to accept a surrender of the lease:
    - (iv) to consent to an assignment, a subletting, or a mortgage, or any other dealing with the lease: 10
    - (v) to enforce the covenants of the lease and to exercise the rights and remedies that the owners would be entitled to exercise under the lease:
  - (i) to negotiate the grant, variation, or cancellation of an easement over, or for the benefit of, the land under **section 135 or 136**: 15
  - (j) to engage lawyers, valuers, engineers, or other professional or technical advisers to assist in carrying out any other purpose for which the kaiwhakahaere is appointed:
  - (k) to borrow any money necessary to fulfil the purpose for which the kaiwhakahaere is appointed and to give security, for repayment of that borrowing, over the land or over any proceeds arising from disposal of the land: 20
  - (l) to carry out any other purpose agreed to by owners who together hold 75% or more of the participating owners' total share in the land.
- 191 Responsibilities of kaiwhakahaere** 25
- (1) A kaiwhakahaere must endeavour to fulfil the purpose for which the kaiwhakahaere is appointed, while protecting the interests of the owners of the Māori freehold land to which the purpose relates.
  - (2) A kaiwhakahaere appointed for a purpose specified in **section 190(2)** must— 30
    - (a) consult with the owners about actions the kaiwhakahaere proposes to take on the owners' behalf; and
    - (b) keep the owners informed about actions the kaiwhakahaere has taken on the owners' behalf; and
    - (ba) keep a written record of actions the kaiwhakahaere has taken on the owners' behalf; and 35
    - (c) comply with any directions of the owners given under **section 197(4)(a)**, to the extent that the directions are consistent with the obligations of the kaiwhakahaere under **Parts 1 to 9** and the order of appointment.

**192 Powers of kaiwhakahaere**

- (1) A kaiwhakahaere has all of the powers necessary to fulfil the purpose for which the kaiwhakahaere is appointed, subject to any conditions imposed by the court in the order of appointment.
- (2) If a kaiwhakahaere is appointed for a purpose specified in **section 190(2)**, the execution of a document by the kaiwhakahaere has the same effect as if the document had been lawfully executed by all of the owners of the Māori freehold land to which the purpose relates, unless the execution of the document is unrelated to the purpose for which the kaiwhakahaere is appointed. 5
- (3) A kaiwhakahaere may seek directions from the court in relation to the purpose for which the kaiwhakahaere is appointed. 10

**193 Process for appointing kaiwhakahaere**

- (1) The court may appoint a kaiwhakahaere on its own initiative or on the application of an interested person.
- (2) Before appointing a kaiwhakahaere for a purpose specified in **section 190(2)**, the court must,— 15
- (a) unless **subsection (3) (4)** applies, direct the chief executive to arrange in accordance with **section 194** a meeting of the owners of the Māori freehold land to which the purpose relates; and
  - (b) if a meeting of owners is held under **section 194**, consider the chief executive's report under that section; and 20
  - (c) be satisfied that the appointment is necessary or desirable in the interests of the owners; and
  - (d) select a person (the **proposed appointee**) who is eligible for the appointment under **section 189(4)**; and 25
  - (e) consult the proposed appointee on the terms of the appointment; and
  - (f) be satisfied that—
    - (i) the appointment of the proposed appointee would be broadly acceptable to the owners (if the proposed appointment has been considered at a meeting of the owners); and 30
    - (ii) the proposed appointee consents to the appointment.
- (3) If the court decides to proceed with appointing a kaiwhakahaere, the court must—
- (a) appoint the proposed appointee by making an order under **section 195**; and 35
  - (b) send a copy of the order to the chief executive so that the chief executive can make any necessary changes to the Māori land register.
- (4) The court is not required to direct the chief executive to arrange a meeting of the owners under **subsection (2)(a)** if the court is satisfied that—

- (a) the proposal to appoint a kaiwhakahaere has already been sufficiently considered by a meeting of the owners; or
- (b) the matter requiring the appointment of a kaiwhakahaere is sufficiently urgent to justify appointing a kaiwhakahaere without a meeting of owners being held; or 5
- (c) in relation to the matter requiring the appointment of a kaiwhakahaere,—
  - (i) the matter is not significant enough to warrant arranging a meeting of owners; and
  - (ii) the matter will not result in a disposition of the land or any part of or interest in the land; and 10
  - (iii) the kaiwhakahaere can adequately protect the interests of the owners.

#### **194 Requirements if meeting of owners required**

The chief executive must do the following as soon as practicable after he or she is directed to arrange a meeting of the owners of Māori freehold land under **section 193(2)(a)**: 15

- (a) arrange a meeting of the owners in accordance with the process set out in **clause 11(3) and (4) of Schedule 2**; and
- (b) at the meeting,— 20
  - (i) advise the owners that the court is considering appointing a kaiwhakahaere; and
  - (ii) inform the owners of the purpose for which the kaiwhakahaere may be appointed; and
  - (iii) obtain the owners' views on the proposal to appoint a kaiwhakahaere; and 25
  - (iv) obtain the owners' views on a suitable person to appoint as the kaiwhakahaere; and
- (c) after the meeting, promptly report the owners' views to the court.

#### **195 Order of appointment** 30

A court order appointing a kaiwhakahaere—

- (a) must specify the purpose for which the kaiwhakahaere is appointed; and
- (b) must specify any conditions of the appointment, including any restriction on the power of the kaiwhakahaere to negotiate and enter into agreements on behalf of owners; and 35
- (c) may include 1 or more directions under **section 196 or 197** (requiring the kaiwhakahaere to report to the court or to the owners); and

- (d) may specify that the kaiwhakahaere is to receive a payment for services, in which case the order must also specify the amount of the payment, or how the amount will be calculated, and how and when the payment will be made; and
- (e) may specify which (if any) information in the order is commercially sensitive. 5

#### 196 Court may require kaiwhakahaere to report to court

- (1) On appointing, or at any time after appointing, a kaiwhakahaere, the court may direct the kaiwhakahaere to report to the court on—
  - (a) the purpose for which the kaiwhakahaere is appointed; and 10
  - (b) the progress the kaiwhakahaere has made towards fulfilling that purpose; and
  - (c) any matter that is relevant to the matters referred to in **paragraphs (a) and (b)**.
- (2) The court may make a direction under this section on its own initiative or on the application of an interested person. 15

#### 197 Court may require kaiwhakahaere to report to owners

- (1) On appointing, or at any time after appointing, a kaiwhakahaere for a purpose specified in **section 190(2)**, the court may—
  - (a) direct the chief executive to arrange a meeting of the owners in accordance with **clause 11(3) and (4) of Schedule 2**; and 20
  - (b) direct the kaiwhakahaere to report to the owners, at the meeting, on any matter referred to in **section 196(1)**.
- (2) The court may make a direction under this section on its own initiative or on the application of an interested person. 25
- (3) The chief executive must arrange a meeting of owners as soon as practicable after being directed to do so under this section.
- (4) At the meeting, the owners may do either or both of the following:
  - (a) direct the kaiwhakahaere on how to proceed in respect of the purpose for which the kaiwhakahaere is appointed, including how to exercise the powers of the kaiwhakahaere (subject to any restrictions under **Parts 1 to 9** or conditions imposed by the court in the order of appointment); 30
  - (b) decide to apply to the court under **section 193** to appoint a replacement kaiwhakahaere, or 1 or more additional kaiwhakahaere.

#### 198 Court may make order relating to costs of kaiwhakahaere 35

- The court may make an order in relation to the costs of a kaiwhakahaere—
- (a) as if the costs were incurred in proceedings of the court; and

- (b) applying, with any necessary modifications, the provisions of **Part 11**.

**199 Termination of appointment of kaiwhakahaere**

- (1) A person appointed as a kaiwhakahaere ceases to hold that appointment—
- (a) in accordance with an order made by the court under **subsection (2)** terminating the appointment; or 5
  - (b) when the purpose for which the kaiwhakahaere is appointed has been fulfilled; or
  - (c) if the person is a natural person, when the person dies or becomes incapable of acting; or
  - (d) if the appointment is held by 1 or more trustees of a trust, when the trust is wound up; or 10
  - (e) if the person is a body corporate registered or incorporated under an Act, when the body corporate ceases to be registered or incorporated under that Act; or
  - (f) if the person is established by or under an Act, when the person is disestablished by or under an Act; or 15
  - (g) if the person is appointed for a purpose specified in **section 190(2)**, when the owners of the land appoint a governance body for the land.
- (2) The court may make an order terminating the appointment of a person as a kaiwhakahaere in the following circumstances: 20
- (a) the court is satisfied that the person has breached the person's obligations under **Parts 1 to 9** or the order of appointment; or
  - (b) the court receives written notice from the person that the person wishes to terminate the appointment; or
  - (c) if the person was appointed for a purpose specified in **section 190(2)**,— 25
    - (i) the court appoints a replacement kaiwhakahaere under **section 193** (whether or not the application follows a meeting of the owners that is arranged under **section 197**); or
    - (ii) the court is satisfied that the owners of the land intend to appoint a governance body for the land that can fulfil the purpose for which the person is appointed. 30
- (3) As soon as practicable after a person becomes aware that the person's appointment as a kaiwhakahaere is or will be terminated under any of **paragraphs (c) to (g) of subsection (1)**, the person (or the person's personal representative, if the person has died or is incapable of acting) must give the chief executive written notice of that fact so that the notice can be recorded in the Māori land register. 35



- (4) A court order under **subsection (2)** and a written notice under **subsection (3)** must state—
- (a) the date on which the termination takes effect; and
  - (b) the reason for terminating the appointment.
- 200 Responsibilities of kaiwhakahaere if appointment terminated** 5
- As soon as practicable after a person’s appointment as a kaiwhakahaere is terminated, the person (or the person’s personal representative, if the person has died or is incapable of acting) must deliver to the court anything held by the person in the person’s capacity as kaiwhakahaere.
- 201 Immunity from civil liability** 10
- (1) A person appointed as a kaiwhakahaere is protected from civil liability, however it may arise, for any act that the person does or omits to do in fulfilment or intended fulfilment of the purpose for which the person is appointed.
  - (2) However, **subsection (1)** does not apply in respect of an act or omission if—
    - (a) the order appointing the person states that the person is not protected from civil liability for the act or omission; or 15
    - (b) the act or omission is done in bad faith or without reasonable care.
  - (3) If a kaiwhakahaere is appointed for a purpose specified in **section 190(2)**, and the Māori freehold land is leased, the kaiwhakahaere is not responsible to the lessee for any default of the owners to perform or observe a covenant in the lease, unless— 20
    - (a) the order appointing the person provides otherwise; or
    - (b) the default of the owners is the result of an act or omission of the kaiwhakahaere that is done in bad faith or without reasonable care.

## Part 6 25

### Operation of governance bodies

#### *Powers, duties, and responsibilities*

- 202 Powers, duties, and responsibilities of governance bodies**
- (1) A governance body must—
    - (aa) hold and manage an asset base for the benefit of the owners of the Māori freehold land managed under the governance agreement; and 30
    - (a) manage ~~an~~ the asset base in accordance with the objects of the body as stated in the governance agreement; and
    - (b) operate in a manner that is consistent with the governance agreement; and 35

- (c) operate in a manner that does not, and is not likely to, create a substantial risk of serious loss to—
  - (i) ~~the owners of the Māori freehold land managed under the agreement;~~ or
  - (ii) the creditors of the governance body; and 5
- (d) be satisfied, before incurring an obligation or a liability, that there is a reasonable prospect of the governance body being able to meet the obligation or liability when required to do so; and
- (e) endeavour to keep the owners informed about the asset base and activities relating to the asset base; and 10
- (f) promptly notify the chief executive of any change in the body's registered office or principal place of business, or its address for service.
- (2) For the purpose of performing its role, a governance body has—
  - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and 15
  - (b) for the purpose of **paragraph (a)**, full rights, powers, and privileges.

### 203 Duties and responsibilities of kaitiaki

A kaitiaki of a governance body must, in his or her role as a kaitiaki,—

- (a) act honestly and in good faith; and
- (ab) act for a proper purpose; and 20
- (b) act, and ensure that the governance body acts, in accordance with the governance agreement and the requirements of **Parts 1 to 9**; and
- (c) exercise the degree of care and diligence that a reasonable person with the same responsibilities would exercise in the circumstances.

### 204 Immunity of kaitiaki from personal liability 25

A kaitiaki of a governance body is not, by reason only of being a kaitiaki, personally liable for—

- (a) any obligation of the governance body; or
- (b) any act done or not done by the governance body in good faith in the performance or intended performance of the duties and responsibilities of the governance body. 30

### 205 Immunity of owners from personal liability

An owner of Māori freehold land managed under a governance agreement is not, by reason only of being an owner of that land, personally liable for—

- (a) any debts or liabilities of the governance body; or 35
- (b) any claims made on the governance body; or
- (c) any deficiency in the asset base of the governance body.

*Changes to holdings of Māori freehold land*

- 206 Requirements if governance body decides to hold land as Māori freehold land**
- (1) This section applies if a governance body decides to hold as Māori freehold land— 5
- (a) 1 or more parcels of land acquired or to be acquired by the body, by way of purchase or gift, in the course of the body’s operations under a governance agreement (whether or not the land is Māori freehold land before the acquisition); or
- (b) 1 or more parcels of land, other than Māori freehold land, that is already held by the body under a governance agreement. 10
- (2) As soon as practicable after making the decision, the governance body must—
- (a) prepare an allocation scheme for the interests in the land that complies with **section 209**; and
- (b) apply for a court order under **section 211**— 15
- (i) declaring that the land is Māori freehold land or will become Māori freehold land on the change of ownership, unless the land already has that status; and
- (ii) confirming the allocation scheme.
- (3) The governance body must ~~update~~ amend the governance agreement, and send ~~it the updated agreement~~ to the chief executive for registration under **section 163**, within 1 month after the later of— 20
- (a) the date on which the court order is made under **section 211**; and
- (b) the date on which the body acquires the land.
- (4) To avoid doubt, this section does not apply to an acquisition of land— 25
- (a) if the acquisition is by way of exchange (that situation is dealt with by **section 207**); or
- (b) if, before the acquisition, the land is Māori freehold land, the governance body is a rangatōpū, and the owners authorise the rangatōpū to manage the land on their behalf (that situation is dealt with by **section 159 and clauses 10 to and 11 of Schedule 3**). 30
- 207 Requirements if governance body sells or exchanges parcel of Māori freehold land**
- (1) A governance body may dispose of a parcel of Māori freehold land by way of sale or exchange only in accordance with **Part 4**. 35
- (2) ~~If a governance body sells a parcel of Māori freehold land, the body must,—~~

- (a) ~~as soon as practicable after the sale, use the net proceeds from the sale to acquire, improve, or acquire and improve the replacement land identified in the allocation scheme required under **section 104(3)(b)**; and~~
- (b) ~~until it complies with **paragraph (a)**, hold the net proceeds from the sale in a separate bank account for the benefit of the owners of the land; and~~ 5
- (c) ~~within 1 month after the sale, update the governance agreement and send it to the chief executive for registration under **section 163**.~~
- (2) If a governance body sells a parcel of Māori freehold land, the body must,—
- (a) as soon as practicable after the sale,— 10
- (i) use the net proceeds from the sale to acquire, improve, or acquire and improve the replacement land identified in the allocation scheme required under **section 104(3)(b)**; or
- (ii) if the body is unable to comply with **subparagraph (i)** after making all reasonable efforts to do so, use the net proceeds to acquire, improve, or acquire and improve other land that the body considers is of a similar quality to the replacement land; and 15
- (b) until the body complies with **paragraph (a)**, do 1 or both of the following:
- (i) hold the net proceeds in a separate bank account for the benefit of the owners of the land; 20
- (ii) invest the net proceeds in 1 or more fixed term deposit products of 1 or more registered banks (as defined by section 2(1) of the Reserve Bank of New Zealand Act 1989) for the benefit of the owners of the land; and 25
- (c) within 1 month after the sale, amend the governance agreement and send the updated agreement to the chief executive for registration under **section 163**.
- (3) If a governance body exchanges a parcel of Māori freehold land, the body must, within 1 month after the exchange, ~~update~~ amend the governance agreement and send ~~the updated agreement~~ it to the chief executive for registration under **section 163**. 30

**208 Requirements in cases of partition, amalgamation, or boundary adjustment of Māori freehold land managed under governance agreement**

- (1) This section applies if a partition, an amalgamation, or a boundary adjustment changes the boundaries or the legal description of a parcel of Māori freehold land managed under a governance agreement. 35
- (2) The governance body must, within 1 month after the partition, amalgamation, or boundary adjustment, ~~update~~ amend the governance agreement and send ~~the updated agreement~~ it to the chief executive for registration under **section 163**. 40

**209 Requirements for allocation scheme**

- (1) This section sets out the requirements for an allocation scheme required under **section 104(3)(b) or 206(2)(a)**.
- (2) An allocation scheme for interests in Māori freehold land that is held, or to be held, by a governance body must— 5
- (a) identify the parcel of land; and
  - (b) provide for the parcel to be owned by the owners of the existing Māori freehold land in the asset base; and
  - (c) allocate or adjust the ownership of the parcel—
    - (i) in accordance, as nearly as practicable, with the relative value of the owners' shares in the land referred to in **paragraph (b)** and the nature of that ownership (for example, joint tenants, tenants in common, or a class of collective owners); or 10
    - (ii) in accordance with an agreement or arrangement between those owners; or 15
    - (iii) in a way that is fair and equitable to all the owners.
- (3) If the land is replacement land (within the meaning of **section 104(3)(a)**), the allocation scheme must also specify how any surplus proceeds from the disposition will be used or distributed.

**210 Requirements for land management plan** 20

- (1) This section applies if—
- (a) a governance agreement requires a governance body to have in place a land management plan; or
  - (b) a governance body wishes to dispose of a parcel of Māori freehold land by way of sale or exchange (in which case **section 207** also applies); or 25
  - (c) a governance body wishes to partition or amalgamate a parcel of Māori freehold land (in which case **section 208** also applies).
- (2) ~~The governance body must have in place a land management plan that complies with **subsection (3)** and that is approved by owners who together hold 75% or more of the participating owners' total share in the Māori freehold land managed under the agreement.~~ 30
- (3) ~~A land management plan must~~The governance body must have in place a land management plan that—
- (a) ~~identify~~identifies the Māori freehold land that is managed under the governance agreement; and 35
  - (b) ~~set out~~sets out any proposed changes that affect the Māori freehold land that is managed under the governance agreement (including proposed acquisitions, dispositions, improvements, or other changes); and

- (c) ~~explain~~explains how the proposed changes will enhance the governance body's ability to achieve the objects of the body as stated in the governance agreement; and
  - (d) ~~set out~~sets out the financial implications of the proposed changes; and
  - (e) ~~set out~~sets out how the governance body will achieve the proposed changes; and 5
  - (f) ~~set out~~sets out the risks of adopting, as well as the risks of not adopting, the land management plan; and
  - (g) in respect of a proposed disposition of a parcel of Māori freehold land, ~~set out~~sets out— 10
    - (i) why the disposition is necessary for the governance body to effectively manage the asset base in accordance with the governance agreement; and
    - (ii) how the governance body will manage the process of acquiring or improving replacement land (within the meaning of **section 104(3)(a)**) with the proceeds from the disposition. 15
- (3A) See **clause 13 of Schedule 4**, which provides that a land management plan requires the agreement of owners who together hold 75% or more of the participating owners' total share in the Māori freehold land managed under the governance agreement (unless the governance agreement requires a greater level of agreement). 20

*Order relating to acquisition of Māori freehold land*

- 211 Order declaring land to be Māori freehold land and confirming allocation scheme**
- (1) A governance body may, as necessary for the purpose of **section 104(3)(c) or 206(2)(b)**, apply to the court for an order— 25
    - (a) confirming an allocation scheme for the beneficial interests in the freehold estate in a parcel of land held, or to be held, by the body as Māori freehold land; and
    - (b) if the land referred to in **paragraph (a)** is already held by the governance body and is not already Māori freehold land, declaring that the land is Māori freehold land; and 30
    - (c) if the land referred to in **paragraph (a)** is to be acquired by the governance body and is not already Māori freehold land, declaring that the land will become Māori freehold land on the change of ownership. 35
  - (2) The court must make the order if it is satisfied that—
    - (a) the allocation scheme meets the requirements of **section 209**; and
    - (b) the governance body has made the application in accordance with the requirements of **Parts 1 to 9**.

- (3) An order made under this section must include a description of the land and its boundaries.
- (4) If an order is made under this section confirming an allocation scheme for a parcel of land, the ownership of the parcel is vested in accordance with the allocation scheme. 5

### *Application of revenues*

#### **212 Application of revenues**

- (1) ~~A governance body may apply revenues derived from its asset base—~~
- (a) ~~to pay an amount by way of distribution to the owners of the Māori freehold land in the asset base, where this is consistent with the body's responsibilities in respect of the asset base (see **section 202**); or~~ 10
- (b) ~~for any other purpose that is consistent with the body's responsibilities in respect of the asset base.~~
- (1) A governance body may apply revenues derived from its asset base to pay expenses properly incurred by the body in managing the asset base. 15
- (1A) Subject to making adequate provision for those expenses, a governance body may apply the revenues for any purpose that is consistent with the body's duties and responsibilities under **section 202**, including—
- (a) the payment of distributions to the owners of the Māori freehold land in the asset base, if that is consistent with those duties and responsibilities; 20
- and
- (b) the provision of benefits or payments in the nature of awards, subsidies, grants, or scholarships, if that is consistent with those duties and responsibilities.
- (2) If a governance body decides to pay owners a distribution, the body must keep a record of— 25
- (a) the name of each owner entitled to receive the distribution; and
- (b) the amount to be distributed to each owner; and
- (c) the date on which the distribution will be made (the **distribution date**).

#### **213 Unpaid distributions** 30

- (1) For the purpose of **Parts 1 to 9**,—
- (a) an **unpaid distribution** is a distribution that a governance body has not paid to the person entitled to receive it (for example, because the body is unable to contact the person); and
- (b) the details of an unpaid distribution (the **unpaid distribution details**) are— 35
- (i) the name of the owner entitled to receive the distribution; and

- (ii) the amount of the distribution; and
  - (iii) the distribution date; and
  - (iv) sufficient details to identify the Māori freehold land that was owned by the person referred to in **paragraph (a)**, and managed by the governance body, on the distribution date. 5
- (2) A governance body—
- (a) need not keep unpaid distributions in a separate bank account; and
  - (b) may apply unpaid distributions for any purpose that is consistent with the governance agreement; and
  - (c) may use any net gains derived from the application of unpaid distributions for any purpose that is consistent with the governance agreement. 10
- (3) The amount of an unpaid distribution is a debt payable by the governance body to the owner entitled to receive the distribution or to the owner’s successor in title.
- (4) A governance body must keep records of the unpaid distribution details of each unpaid distribution, and publish those records in the way that is most likely to bring the details of unpaid distributions to the attention of those who are entitled to receive them. 15
- (4A) The Unclaimed Money Act 1971 does not apply to an unpaid distribution.
- (5) To avoid doubt, this section applies to all unpaid distributions held by a governance body, irrespective of whether that governance body made the original distribution. 20

*Access to information held by governance bodies*

**214 Requests for information**

- (1) A governance body must endeavour to inform the owners of Māori freehold land that the body manages under a governance agreement about the governance body and its operations under the agreement, so that—
- (a) the owners can participate effectively in making decisions about the land and any other decisions required under the governance agreement; and
  - (b) the governance body is accountable to the owners. 30
- (2) An owner may ask the governance body to make particular information available.
- (3) To enable the governance body to make the information available within a reasonable time,—
- (a) a request for information must be reasonably detailed and specific; and 35
  - (b) the governance body must give an owner reasonable assistance to formulate a sufficiently detailed and specific request.
- (4) If a governance body receives a request for information, the body must—



- (a) promptly notify the owner in writing of whether the body holds the requested information; and
- (b) within a reasonable time after receiving the request,—
- (i) provide the information to the owner; or
  - (ii) notify the owner in writing that the information will be provided only if the owner pays a reasonable charge to meet the cost of providing the information; or 5
  - (iii) notify the owner in writing of the body's decision to withhold the information under **section 215** and of the reasons why.
  - (i) ~~notify the owner whether the body is withholding any information under **section 215** and, if so, of the grounds on which the information is being withheld; and~~ 10
  - (ii) ~~provide the remaining information to the owner.~~
- (5) If the requested information is, or is contained in, a document, the governance body may provide the information to the owner by— 15
- (a) giving the owner a reasonable opportunity to inspect the document; or
  - (b) providing the owner with a copy of the document either in full or with any deletions or alterations necessary to remove or protect information withheld under **section 215**.
- (6) If a governance body requires an owner to pay a charge before the body will provide information,— 20
- (a) the body must specify and explain the charge in the notice given under **subsection (4)(b)(ii)**; and
  - (b) if the owner does not pay or object to the charge within 20 working days after receiving that notice, the body may treat the request for information as having been withdrawn. 25
- (7) If the owner considers that the charge is unreasonable,—
- (a) the owner may apply to the court; and
  - (b) the court may make an order requiring the governance body to provide the requested information on payment of a charge (if any) that the court considers reasonable. 30

## 215 Reasons for withholding information

A governance body may withhold information requested under **section 214** if—

- (a) withholding the information is necessary to— 35
  - (i) protect the privacy of natural persons, including deceased natural persons; or
  - (ii) maintain legal professional privilege; or

- (iii) enable the governance body to carry out commercial activities without prejudice or disadvantage; or
- (iv) enable the governance body to carry on negotiations without prejudice or disadvantage (including commercial and industrial negotiations); or 5
- (b) making the information available—
  - (i) would disclose a trade secret; or
  - (ii) would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information; or 10
  - (iii) would breach an obligation of confidence; or
- (c) the requested information cannot be provided without substantial collation or research, or substantial cost; or
- (d) the request is frivolous or vexatious or the information requested is trivial. 15

*Powers of Māori Land Court in relation to governance bodies*

**216 Court may make orders or investigate governance bodies**

- (1) This section applies if the court is satisfied that a governance body is or may be operating in a manner that creates, or is likely to create, a substantial risk of serious loss to the owners of the Māori freehold land managed under a governance agreement. 20
- (2) The court may make an order requiring a kaitiaki, or any officer or employee of the governance body, to do 1 or more of the following:
  - (a) file in the court a written report on any matter relating to the governance body's management of Māori freehold land or operations under the governance agreement that concern or affect Māori freehold land: 25
  - (b) produce any papers, documents, records, or things in that person's possession or under that person's control that are relevant to the governance body's management of Māori freehold land or operations under the governance agreement that concern or affect Māori freehold land: 30
  - (c) appear before the court—
    - (i) for questioning on a report filed under **paragraph (a)**; or
    - (ii) for questioning on anything produced under **paragraph (b)**; or
    - (iii) to explain any failure of the governance body or its kaitiaki to comply with an obligation under **Parts 1 to 9** in respect of Māori freehold land. 35
- (3) The court may make an order appointing 1 or more persons (**examining officers**) to—

- (a) investigate the affairs of the governance body (but only to the extent that those affairs relate to the body’s management of Māori freehold land or operations under the governance agreement that concern or affect Māori freehold land); and
- (b) report to the court in the manner directed by the court. 5
- (4) However, if the court is satisfied that there is a matter in dispute that the owners and the governance body should attempt to resolve themselves, the court must first—
- (a) adjourn the matter to allow any dispute resolution process set out in the governance agreement to be carried out; or 10
- (b) refer the dispute to the chief executive to initiate a dispute resolution process (*see section 331*).
- (5) The court’s jurisdiction under this section may be exercised—
- (a) on the application of—
- (i) ~~at least 15 of the owners of the Māori freehold land that is managed under the governance agreement; or~~ 15
- (ii) ~~the owners who collectively hold at least 5% of the beneficial interest in the freehold estate in the Māori freehold land that is managed under the governance agreement; or~~
- (iii) the governance body; or 20
- (iv) at least 15 owners of the Māori freehold land managed under the governance agreement who together hold at least 5% of the beneficial interest in the freehold estate in the land; or
- (v) if the land has more than 10 but not more than 14 owners, at least 11 owners who together hold at least 5% of the beneficial interest in the freehold estate in the land; or 25
- (vi) if the land has 10 or fewer owners, all of the owners; or
- (b) on the court’s own initiative, if the court is considering whether to issue an injunction under **section 407 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016** in relation to the Māori freehold land that is managed under the governance agreement. 30

## 217 Matters relating to investigation of governance bodies

- (1) Before appointing an examining officer under **section 216(3)** to investigate the affairs of a governance body, the court may require security for the cost of the investigation to be given by the applicant that is seeking the investigation. 35
- (2) The court may, with the consent of the chief executive of a department, appoint an officer or employee of the department as an examining officer.

- (3) If an examining officer is appointed, the kaitiaki of the governance body, and other officers or employees of the governance body (whether past or present), must—
- (a) provide to the examining officer any documents relating to the governance body’s role under **Parts 1 to 9** that are held by the kaitiaki, officers, or employees; and 5
  - (b) give to the examining officer any assistance that the kaitiaki, officers, or employees are reasonably able to give; and
  - (c) comply with any direction of the court to explain a matter or question referred to in any report of the examining officer. 10
- (4) On completing the investigation, or at any stage of it, the court may order the governance body, an owner, or any other person to pay a reasonable sum towards the costs of the investigation and of any inquiry before the court.

### **218 What court may do after making order or investigating governance body**

- (1) This section applies if the court, after considering any information that it receives as the result of making an order or investigating a governance body under **section 216**, is of the opinion that— 15
- (a) a matter or question affecting the governance body should be the subject of inquiry at a sitting of the court; or
  - (b) a prima facie case for the exercise of a power conferred upon the court by **Parts 1 to 9** or **Parts 10 to 15 of Te Ture Whenua Māori Act 2016** has been established. 20
- (2) The court—
- (a) may appoint a time and place for a sitting of the court and give any directions for service of notice of the sitting that it thinks fit; and 25
  - (b) must ensure that notice of the sitting identifies the matter or question that will be the subject of inquiry (if **subsection (1)(a)** applies) or the power that there is a prima facie case for exercising (if **subsection (1)(b)** applies).
- (3) At or after the sitting of the court, the court may exercise any of the following powers on its own initiative, if the court considers that the grounds exist for exercising the power: 30
- (a) the court’s power under **section 175** to make an order to start the process of cancelling the governance agreement:
  - (b) the court’s power under **section 219** to make an order restraining a governance body, kaitiaki, or owner from engaging in conduct that would contravene the governance agreement: 35
  - (c) the court’s power under **section 220** to make an order disqualifying a person from being appointed, or continuing in an appointment, as a kaitiaki: 40

(d) the court's powers under **Parts 10 to 15 of Te Ture Whenua Māori Act 2016.**

### **219 Court may make restraining order**

- (1) The court may, on application by a governance body, kaitiaki, or owner, make an order restraining a governance body, kaitiaki, or owner who proposes to engage in conduct that would contravene a governance agreement or **Parts 1 to 9** from engaging in that conduct. 5
- (2) Despite anything to the contrary in the Crown Proceedings Act 1950, an order made under this section may be expressed to be binding on the Māori Trustee, Public Trust, or any other entity that is a government department (as defined in section 2(1) of that Act). 10

### **220 Court may disqualify kaitiaki**

- (1) The court may make an order disqualifying a person from being appointed, or continuing in an appointment, as a kaitiaki if the court is satisfied that—
- (a) the person was appointed, or continued in an appointment, as a kaitiaki of a governance body while not eligible under **section 184(3)** to hold that position; or 15
- (b) the person has, while a kaitiaki of a governance body and whether convicted or not,—
- (i) persistently failed to comply with a duty arising under any enactment, rule of law, rules of court, or court order (to the extent that the duty relates to the role of kaitiaki under **Parts 1 to 9**); or 20
- (ii) persistently failed to take reasonable steps to ensure that the governance body complies with a duty arising under any enactment, rule of law, rules of court, or court order (to the extent that the duty relates to the governance body's role under **Parts 1 to 9**); or 25
- (iii) been guilty of fraud in relation to the governance body or of a breach of duty to the governance body; or
- (iv) acted in a reckless or incompetent manner in the performance of the person's duties as a kaitiaki. 30
- (2) An order made under this section may disqualify a person permanently or for a period specified in the order.
- (3) However, the court may make an order under this section permanent or for a period longer than 10 years only in the most serious of cases for which an order may be made. 35

### *Distribution schemes*

### **221 Obligation to prepare full distribution scheme**

- (1) A full distribution scheme is required if—

- (a) the process of cancelling a governance agreement is started as described in **section 175**; and
- (b) **sections 176 and 177** do not apply.
- (2) As soon as practicable after a governance body becomes aware that a full distribution scheme is or will be required, the governance body must apply to the court for a kaiwhakahaere to be appointed under **section 189** to oversee the preparation and implementation of the scheme. 5
- (3) **Subsection (2)** does not apply if the court has already appointed a kaiwhakahaere under **section 175(3)**.
- (4) As soon as practicable, but within 6 months, after the kaiwhakahaere is appointed, the kaiwhakahaere must— 10
  - (a) prepare, or ensure that the governance body prepares, a full distribution scheme that complies with **section 222**; and
  - (b) apply to the court for an order confirming the scheme.
- (5) The court may make an order confirming a full distribution scheme if the court is satisfied that the scheme complies with **section 222**. 15

## 222 Requirements for full distribution scheme

- (1) A full distribution scheme must—
  - (a) identify the Māori freehold land managed under the agreement; and
  - (b) identify the amount of unpaid distributions held by the governance body; and 20
  - (c) identify the remainder of the asset base (including details of the governance body's secured and unsecured creditors, and the amounts they are owed); and
  - (d) subject to **subsection (3)** and **sections 223 and 224**, provide for— 25
    - (i) the amount of unpaid distributions identified under **paragraph (b)** to be transferred to the Māori Trustee along with the unpaid distribution details; and
    - (ii) the secured and unsecured creditors identified under **paragraph (c)** to be paid in full; and 30
  - (e) specify how and when the remainder of the asset base will be distributed to the owners of the Māori freehold land identified under **paragraph (a)**; and
  - (f) provide that, if a distribution under the distribution scheme cannot be made (for example, because the governance body is unable to contact the owner), the amount of the distribution is to be transferred to the Māori Trustee as an unpaid distribution; and 35
  - (g) propose the date, to be confirmed or amended by the court, by which the governance body must make the transfer referred to in **paragraph (f)**.

- (2) In deciding how and when the remainder of the asset base will be distributed, the governance body must have regard to relative land areas, fairness, and practical considerations.
- (3) If the asset base is insufficient for the purpose of **subsection (1)(d)**, the distribution scheme must— 5
- (a) identify the amount (if any) that is available for paying unsecured creditors (which includes the amount of unpaid distributions identified under **subsection (1)(b)**: *see section 224(2)(d)*); and
  - (b) provide for the proportion of the amount identified under **paragraph (a)** that relates to unpaid distributions to be transferred to the Māori Trustee along with the unpaid distribution details; and 10
  - (c) ensure that the unpaid distribution details record the amount of each unpaid distribution as the pro rata amount that has been transferred to the Māori Trustee.
- (4) Any of the following persons may apply to the court for a determination on any aspect of a full distribution scheme: 15
- (a) the governance body:
  - (b) any owner of the Māori freehold land identified under **subsection (1)(a)**:
  - (c) the kaiwhakahaere appointed to oversee the preparation and implementation of the scheme. 20

### 223 Expenses of kaiwhakahaere

Costs, charges, and expenses properly incurred by a kaiwhakahaere in the preparation or implementation of a full distribution scheme for a governance body are payable out of the asset base of the governance body in priority to all other claims. 25

### 224 Application of certain provisions of Companies Act 1993 to full distribution scheme

- (1) This section applies if a kaiwhakahaere is appointed to oversee the preparation and implementation of a full distribution scheme for a governance body. 30
- (2) Sections 275, 292 to 301, 310G, 310I, and 312 of the Companies Act 1993 apply to the governance body in all respects, and with such modifications as may be necessary, as if—
- (a) the governance body were a company in liquidation under that Act; and
  - (b) the kaiwhakahaere were the liquidator of the company; and 35
  - (c) the date on which, and the time at which, the kaiwhakahaere was appointed were the date on which, and the time at which, a liquidation commenced; and

- (d) the amount of unpaid distributions identified under **section 222(1)(b)** were an amount owed to an unsecured creditor; and
- (e) the reference in section 275(4) of the Companies Act 1993 to clause 1(1)(a) of Schedule 7 of the Companies Act 1993 were a reference to **section 223 of Parts 1 to 9.** 5
- (3) Section 263 of the Companies Act 1993 does not apply to a governance body by virtue of the application of section 312 of that Act.
- 225 Obligation to prepare partial distribution scheme**
- (1) A partial distribution scheme is required if the owners of some, but not all, of the Māori freehold land managed under a governance agreement revoke the governance body's appointment in respect of that land (*see section 174*). 10
- (2) If a governance body becomes aware that a partial distribution scheme is or will be required, the governance body must, within the time frame specified in **subsection (3)**,—
- (a) prepare a partial distribution scheme that complies with **section 226**; and 15
- (b) apply to the court for an order confirming the scheme.
- (3) A governance body must comply with **subsection (2)**,—
- (a) if no owner seeks a review of the decision to revoke the governance body's appointment within the period specified in **section 188(3)**, as soon as practicable after the expiry of that period; or 20
- (b) if an owner has sought a review of the decision to revoke the governance body's appointment within the period specified in **section 188(3)**, as soon as practicable after the court confirms the decision under that section. 25
- (4) The court may make an order confirming a partial distribution scheme if the court is satisfied that the scheme complies with **section 226**.
- 226 Requirements for partial distribution scheme**
- (1) A partial distribution scheme must—
- (a) identify the Māori freehold land that is to be removed from the asset base; and 30
- (b) identify the amount of unpaid distributions payable to the owners of the land identified under **paragraph (a)** (the **departing owners**); and
- (c) identify, in accordance with generally accepted accounting practice, the remainder of the asset base (including details of the governance body's secured and unsecured creditors, and the amounts they are owed) and the share that is to be distributed to the departing owners; and 35



- (d) provide for the amount of unpaid distributions identified under **paragraph (b)** to be transferred to the Māori Trustee along with the unpaid distribution details; and
- (e) specify how and when the share of the remainder of the asset base will be distributed to the departing owners; and 5
- (f) provide that if a distribution under the distribution scheme cannot be made (for example, because the governance body is unable to contact the owner), the amount of the distribution is to be transferred to the Māori Trustee as an unpaid distribution; and
- (g) propose the date, to be confirmed or amended by the court, by which the governance body must make the transfer referred to in **paragraph (f)**. 10
- (2) The share of the asset base to be distributed to the departing owners must be calculated using the following formula:
- $$(a \div b) \times (c - d)$$
- where— 15
- a is the value of the Māori freehold land that is to be removed from the asset base
- b is the value of all Māori freehold land that is within the asset base (including the land to be removed)
- c is the total value of the remainder of the asset base 20
- d is the amount of unpaid distributions payable to the departing owners.
- (3) However, the share of the asset base to be distributed to the departing owners may be calculated by a different method from that required by **subsection (2)** if the difference—
- (a) gives effect to an agreement or arrangement between the governance body and the departing owners; or 25
- (b) is consented to by the departing owners; or
- (c) is reasonable and is necessary, in the opinion of the governance body, to equitably reflect the removal of the particular Māori freehold land from the asset base. 30
- (4) In deciding how and when the share of the asset base will be distributed to the departing owners, the governance body must have regard to relative land areas, fairness, and practical considerations.
- (5) Any of the following persons may apply to the court for a determination on any aspect of a partial distribution scheme: 35
- (a) the governance body;
- (b) 1 or more of the departing owners.
- (6) In this section, **generally accepted accounting practice** has the meaning given in section 8 of the Financial Reporting Act 2013.

**227 Process once court confirms distribution scheme**

- (1) If the court confirms a partial distribution scheme, the governance body must,—
- (a) as soon as practicable, but within 1 month, after the court confirms the scheme, send an updated governance agreement to the chief executive for registration under **section 163**; and
  - (b) as soon as practicable after the court confirms the scheme, distribute the relevant share of the asset base in accordance with the scheme.
- (2) If the court confirms a full distribution scheme, the kaiwhakahaere must do, or ensure that the governance body does, the following:
- (a) as soon as practicable after the scheme is confirmed, distribute the asset base in accordance with the scheme; and
  - (b) as soon as practicable after complying with **paragraph (a)**, apply to the court for an order cancelling the governance agreement.
- (3) If the court is satisfied that a full distribution scheme has been properly implemented, the court may make an order—
- (a) cancelling the governance agreement (*see* **section 178**); and
  - (b) if the governance body is a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust, winding up the incorporation or trust.
- (4) The Registrar must send a copy of any order made under **subsection (3)** to the chief executive, so that the chief executive can cancel the governance certificate under **section 180**.
- (5) **Section 228** applies to any unpaid distributions transferred to the Māori Trustee under a distribution scheme confirmed under this section.

*Obligations of Māori Trustee in respect of unpaid distributions***228 Transfer of unpaid distributions from outgoing governance body to Māori Trustee**

- (1) This section applies if an amount relating to unpaid distributions is transferred to the Māori Trustee in accordance with a distribution scheme confirmed by the court under **section 227**.
- (2) The person making the transfer must—
- (a) notify the chief executive of the transfer; and
  - (b) ensure that the Māori Trustee and the chief executive receive, at the time of the transfer, unpaid distribution details for each unpaid distribution.
- (3) The Māori Trustee must—
- (a) credit the amount to the Common Fund (within the meaning of the Māori Trustee Act 1953); and

- (b) hold the amount on trust for the persons entitled to receive the unpaid distributions (or for their successors in title); and
- (c) ensure that any distributable income derived from the amount, and payable under section 26(2) of the Māori Trustee Act 1953, is added to the amount of the distribution. 5
- (4) If the Māori Trustee is holding an amount relating to an unpaid distribution, the person entitled to receive the distribution is entitled to claim that amount from the Māori Trustee (which may be less than the amount of the original distribution (*see* **section 222(3)**), or more, if distributable income has been added under **subsection (3)(c)**). 10
- 229 Māori Trustee must transfer unpaid distributions to successor governance body**
- (1) This section applies if, in respect of a parcel of Māori freehold land,—
- (a) the Māori Trustee is holding an amount relating to an unpaid distribution (*see* **section 228**) that is payable to an owner of the land or that person’s successor in title; and 15
- (b) the land comes under the management of a governance body.
- (2) The governance body may apply to the Māori Trustee for the amount.
- (3) If the Māori Trustee receives an application, and is satisfied that the land is managed by the governance body under a governance agreement, the Māori Trustee must— 20
- (a) transfer the amount to the governance body; and
- (b) ensure that the governance body receives, at the time of the transfer, the up-to-date unpaid distribution details.
- (4) If a successor governance body receives an amount relating to unpaid distributions,— 25
- (a) the body must manage the amount as if the body had made the original distributions; and
- (b) the amount of each unpaid distribution is the amount relating to the distribution that was received from the Māori Trustee. 30
- (5) If a successor governance body is holding an unpaid distribution received from the Māori Trustee under this section, the person entitled to receive the distribution is entitled to claim from the successor governance body the amount of the distribution that the successor governance body received (which may be less than the amount of the original distribution (*see* **section 222(3)**)). 35

*Certain governance bodies must maintain interests register*

**230 Governance bodies must maintain interests register**

- (1) This section applies to a governance body that is any of the following:

- (a) a rangatōpū:  
 (b) a Māori incorporation:  
 (c) the trustees of an ahu whenua trust or a whenua tōpū trust, unless the trustee is an existing statutory body.
- (2) The governance body must establish and maintain an interests register for the holdings and dealings by its kaitiaki in the individual freehold interests in the Māori freehold land managed by the governance body under the governance agreement. 5
- (3) The register must contain—
- (a) details of the individual freehold interests held by each kaitiaki; and 10  
 (b) details of dealings in the individual freehold interests by each kaitiaki; and  
 (c) declarations made under **section 231**.
- (4) The governance body must keep the register at its registered office or principal place of business. 15
- (5) The interests register must be available for inspection, during normal business hours and at the place at which the register is kept, by any owner of the Māori freehold land managed by the governance body under the governance agreement.
- 231 Kaitiaki must make annual declaration for purpose of interests register** 20
- (1) This section applies to each kaitiaki of a governance body that is any of the following:
- (a) a rangatōpū:  
 (b) a Māori incorporation:  
 (c) the trustees of an ahu whenua trust or a whenua tōpū trust, unless the trustee is an existing statutory body. 25
- (2) Promptly after the end of each financial year for the governance body, the kaitiaki must make a declaration of his or her holdings as at the end of the financial year, and dealings during the financial year, in the individual freehold interests in the Māori freehold land managed by the governance body under the governance agreement. 30

*Rule against perpetuities does not apply*

**232 Governance bodies not subject to rule against perpetuities**

- The rule against perpetuities and the provisions of the Perpetuities Act 1964 do not prescribe or restrict the period during which— 35
- (a) an asset base may be held by a governance body; or

- (b) the kaitiaki of a governance body may hold or deal with an asset base (including income derived from the asset base).

*Shares in Māori incorporations*

**233 Māori incorporations may continue to maintain share register**

- (1) A Māori incorporation may— 5
- (a) keep its own share register (*but see clause 6 of Schedule 1*); or
- (b) rely on the Māori land register as the record of its shareholders, the number of shares held by each, and the address of each (where known).
- (2) A Māori incorporation that keeps its own share register must—
- (a) keep the register in accordance with regulations made under **section 326(m)**; and 10
- (b) if the incorporation approves any change in the share register, notify the chief executive of the change ~~within 5 working days after the change is entered in the share register~~ in accordance with regulations made under **section 326(m)**. 15

**234 Chief executive must notify Māori incorporation of matters affecting share register**

- (1) This section applies if—
- (a) a Māori incorporation keeps its own share register and has notified the chief executive of that fact (*see clause 6 of Schedule 1*); and 20
- (b) the chief executive creates or receives, from someone other than from the Māori incorporation, an instrument or notice that affects ownership interests in Māori freehold land that the Māori incorporation manages under a governance agreement.
- (2) The chief executive must, within 20 working days after receiving the instrument or notice, send a copy of it to the Māori incorporation. 25

**235 Māori incorporations may adjust shareholding**

- (1) A Māori incorporation may amend the total number of shares in the incorporation to a specified number, and correspondingly amend the number of shares held by each shareholder so as to represent the same proportion of the total shares as was represented by that person's shareholding before the amendment. 30
- (2) If a Māori incorporation makes an amendment referred to in **subsection (1)**, it must—
- (a) notify the chief executive within 5 days after the amendment is made; and 35
- (b) if the incorporation keeps its own share register under **section 233**, update the register to reflect the amendment.

- (2A) See **clause 13 of Schedule 4**, which provides that an adjustment requires the agreement of owners who together hold more than a 50% share in the Māori freehold land managed under the governance agreement (unless the governance agreement requires a greater level of agreement).
- 236 Relationship between share register and Māori land register** 5
- (1) This section applies if there is an inconsistency in the details relating to beneficial interests in a parcel of Māori freehold land as they are recorded on—
- (a) a share register kept by a Māori incorporation under **section 233**; and
- (b) the Māori land register.
- (2) The details recorded in the share register are presumed to be correct in the absence of proof to the contrary. 10
- (3) The court may, on application, make an order declaring the correct details.
- (4) An application may be made by—
- (a) the Māori incorporation; or
- (b) the chief executive; or 15
- (c) any person who owns or claims to own, or has any other interest in, a beneficial interest affected by the inconsistency.
- (5) The Registrar must send the chief executive and the Māori incorporation a copy of each order made under this section.
- (6) Promptly after receiving an order, the chief executive and Māori incorporation must amend any relevant register, document, or instrument to reflect the corrections made by the court in the order. 20
- 237 Sections 233 to 236 cease to apply if Māori incorporation becomes rangatōpū**
- Sections 233 to 236** do not apply to a Māori incorporation after it becomes a rangatōpū (*see section 160*). 25

## Part 7

### Administration of estates

#### *Introductory provisions*

- 238 General law on estates subject to this Part** 30
- (1) On the death of an owner of Māori freehold land, or an individual freehold interest in a parcel of Māori freehold land, the provisions of this Part override all other enactments and rules of law relating to—
- (a) applications for, and grants of, administration of estates of deceased persons; and 35
- (b) the administration of those estates; and

- (c) the bringing and settling of claims against those estates; and
- (d) succession to property owned by deceased persons at their death.
- (2) However, relative interests in the Titi Islands continue to be determined in accordance with Part 2 of the Maori Purposes Act 1983 and the court continues to have exclusive jurisdiction in relation to matters referred to in section 6(4) of that Act. 5
- (3) In **subsection (2)**, **Titi Islands** means the islands specified in section 6(10) of the Maori Purposes Act 1983.
- 239 Restrictions on gifting Māori freehold land by will**
- (1) A parcel of Māori freehold land may be gifted by will only to a preferred recipient or a preferred entity and only in accordance with **section 105**. 10
- (2) An individual freehold interest in a parcel of Māori freehold land may be gifted by will only to a preferred recipient or a rangatōpū and only in accordance with **section 140**.
- 240 Invalid disposition by will must be treated as intestacy** 15
- (1) If a provision in a will purports to dispose of land or an individual freehold interest in land in breach of the requirements of **Parts 1 to 9**, the provision is void and the owner is intestate in relation to the land or interest.
- (2) However, the owner is not intestate in relation to the land or interest if the land or individual freehold interest is disposed of in accordance with **Parts 1 to 9** by some other provision in the will. 20
- 241 Land status at time of death of owner determinative**
- (1) The status of a deceased owner's land (or land in which a beneficial interest is held by a deceased owner) is the status of the land at the time the owner died.
- (2) **Subsection (1)** applies for the purpose of determining any matter under **Parts 1 to 9**, including whether a person is an eligible beneficiary for the purposes of this Part. 25
- 242 Change in land status between death of owner and vesting**
- (1) This section applies if—
- (a) an owner of a parcel of Māori freehold land, or an individual freehold interest in Māori freehold land, dies; and 30
- (b) at the time the owner dies, the land, or the land in which the owner had an interest, is private land other than Māori land; and
- (c) before the land or interest is vested in the persons entitled to succeed to it under **section 241**, the land, or the land in which the interest is held, becomes Māori freehold land. 35

- (2) The court may, on application, make an order vesting the land or interest in the persons entitled to succeed to it under **section 241**, despite the change in status of the land.
- (3) The application—
- (a) may be made by a person who claims to be entitled to succeed to the land or interest; and 5
  - (b) must comply with requirements prescribed in regulations made under **Parts 1 to 9**.

*Māori land not available for payment of debts of estate*

**243 Māori land not available for payment of debts of estate** 10

- (1) The following land or interests in land that are owned by a deceased person (**estate land**) cannot be used to pay the debts and liabilities of the person's estate:
- (a) Māori land;
  - (b) a beneficial interest in the freehold estate in Māori land: 15
  - (c) a beneficial interest in the freehold estate in a Māori reserve.
- (2) However, revenue derived from estate land is available for payment of the debts and liabilities of the person's estate if—
- (a) the person died on or after 1 April 1968; and
  - (b) the revenue was derived before the person's death. 20
- (3) Nothing in **subsection (1) or (2)** limits or affects—
- (a) the operation of a mortgage or charge to which estate land is subject when the person dies; or
  - (b) the recovery of rates or taxes payable for the land.
- (4) Property held by the chief executive in trust for a deceased person in respect of land subject to Part 2 of the Maori Affairs Restructuring Act 1989 cannot be used to pay the debts and liabilities of the person's estate. 25
- (5) For the purposes of this section, if a person who died before 1 April 1968 held a freehold interest in Māori freehold land that is subject to a contract of sale, lease, or other disposition, the deceased's freehold interest includes the deceased's interest in money payable in respect of the disposition— 30
- (a) if the money was not paid before his or her death; and
  - (b) whether the money was due and payable before or after death.



*Restrictions relating to testamentary promises and family protection legislation***244 Restrictions relating to testamentary promises legislation**

- (1) An order ~~may~~ must not be made under the Law Reform (Testamentary Promises) Act 1949 in respect of a person's estate to which this Part applies if the order would have the effect described in **subsection (2)**. 5
- (2) The order ~~may~~ must not be made if it would have the effect of disposing of a beneficial interest in the freehold estate in Māori freehold land to anyone to whom the deceased person could not have disposed of the interest by will.
- (3) An application for succession under **Parts 1 to 9** that is affected by a proceeding under the Law Reform (Testamentary Promises) Act 1949 must not be dealt with until the chief executive receives notice that the proceeding has been determined, resolved, or withdrawn. 10
- (4) Nothing in this section limits the power of the High Court to make an order—
- (a) conferring the right to reside in a dwelling; or
  - (b) affecting income derived from a beneficial interest in the freehold estate in Māori freehold land. 15

**245 Restrictions relating to family protection legislation**

- (1) An order ~~may~~ must not be made under the Family Protection Act 1955 in respect of a person's estate to which this Part applies if the order would have the effect described in **subsection (2)**. 20
- (2) The order ~~may~~ must not be made if it would have the effect of disposing of a beneficial interest in the freehold estate in Māori freehold land to a person ~~other than a child or grandchild of the deceased owner who is associated with the land in accordance with tikanga Māori, who is—~~
- (a) not a child or grandchild of the deceased owner; and 25
  - (b) not associated with the land in accordance with tikanga Māori.
- (3) An application for succession under **Parts 1 to 9** that is affected by a proceeding under the Family Protection Act 1955 must not be dealt with until the chief executive receives notice that the proceeding has been determined, resolved, or withdrawn. 30
- (4) Nothing in this section limits the power of the High Court to make an order—
- (a) conferring the right to reside in a dwelling; or
  - (b) affecting income derived from a beneficial interest in the freehold estate in Māori freehold land.
- (5) A Māori person who was married in accordance with tikanga Māori is to be treated as the spouse of a deceased Māori for the purposes of the Family Protection Act 1955 if— 35

- (a) they were married in accordance with tikanga Māori before 1 April 1952; and
- (b) when the person died, they were still married in that way and neither was legally married to at that time the spouse, civil union partner, or de facto partner of someone else.

5

*Distribution of interests when owner dies intestate*

**246 Eligible beneficiaries ~~may succeed to interests~~ when owner dies intestate**

- (1) If the owner of a parcel of Māori freehold land, or an owner of an individual freehold interest in a parcel of Māori freehold land, dies intestate, only eligible beneficiaries ~~are eligible to~~ succeed to the land or interest. 10
- (2) A person cannot be an eligible beneficiary unless he or she is associated with the land or interest in accordance with tikanga Māori.
- (3) **Eligible beneficiaries** ~~are, in order of priority,~~ the persons who are described in the first of the following paragraphs that applies (and, to avoid doubt, if there are also persons who are described in a subsequent paragraph, those persons are not eligible beneficiaries): 15
  - (a) surviving children of the owner ~~and the,~~ and descendants of the owner's children (in the case of a descendant of the owner's child, whether or not the owner's child survived the owner):
  - (b) surviving siblings of the owner ~~and the,~~ and descendants of the owner's siblings (in the case of a descendant of the owner's sibling, whether or not the owner's sibling survived the owner): 20
  - (c) ~~a surviving parent~~ parents of the owner:
  - (d) surviving siblings of a parent of the owner ~~and the,~~ and descendants of a parent's siblings (in the case of a descendant of a parent's sibling, whether or not the parent's sibling survived the owner): 25
  - (e) other descendants of the owner's great-grandparents if the descendants are living at or born after the date of the owner's death (even if whether or not the great-grandparent did not survive survived the owner).
- (4) ~~If there is no eligible beneficiary of—~~ 30
  - (a) ~~a parcel of Māori freehold land, **section 295** applies; or~~
  - (b) ~~an individual freehold interest in a parcel of Māori freehold land, **section 296** applies.~~
- (5) ~~A vesting to give effect to succession must be made only after—~~
  - (a) ~~an application is made to the chief executive under **section 249**; and~~ 35
  - (b) ~~if necessary, the application has been determined in accordance with **section 251**.~~

**246A Succession by eligible beneficiaries when owner dies intestate**

- (1) If the owner of a parcel of Māori freehold land, or an individual freehold interest in a parcel of Māori freehold land, dies intestate and there is—
- (a) 1 eligible beneficiary, the eligible beneficiary succeeds to the parcel or freehold interest; or 5
  - (b) more than 1 eligible beneficiary, the eligible beneficiaries succeed to the parcel or individual freehold interest in accordance with **section 247**.
- (2) If there is no eligible beneficiary of—
- (a) a parcel of Māori freehold land, **section 295** applies; or
  - (b) an individual freehold interest in a parcel of Māori freehold land, **section 296** applies. 10
- (3) A vesting to give effect to succession must be made only after—
- (a) an application is made to the chief executive under **section 249**; and
  - (b) if necessary, the application has been determined in accordance with **section 251**. 15

**247 Succession ~~on intestacy~~ where more than 1 eligible beneficiary when owner dies intestate**

- (1) This section applies if there is more than 1 eligible beneficiary when the owner of a parcel of Māori freehold land, ~~or an owner of an individual freehold interest in a parcel of Māori freehold land,~~ dies intestate. 20
- (2) A whānau trust must be established over the ~~land or~~ parcel or freehold interest and the owner's beneficial interest in—
- (a) any other parts of the asset base of any governance body appointed for any Māori freehold land in which the deceased owner has an individual freehold interest; and 25
  - (b) any estate or interest in Māori freehold land other than the freehold estate.
- (2A) Alternatively, the land and interests described in **subsection (2)** may be vested, in accordance with **section 254A**, in the trustees of an existing whānau trust (and this vesting is to be treated as establishing a whānau trust) if— 30
- (a) the eligible beneficiaries are all beneficiaries of the existing whānau trust (whether or not there are other beneficiaries); and
  - (b) the trustees of the existing whānau trust and the eligible beneficiaries agree to the vesting.
- (3) ~~However,~~ Despite **subsections (2) and (2A)**, a whānau trust must not be established if 1 or more of the eligible beneficiaries— 35
- (a) do not want a whānau trust to be established or do not want to participate in a whānau trust; and

- (b) obtain a court order under **subsection (4)**.
- (4) An eligible beneficiary described in **subsection (3)(a)** may apply to the court to—
- (a) confirm a family arrangement, in which case the court may make an order vesting land or a beneficial interest in land to which the family arrangement relates; or 5
- (b) make an order vesting land or a beneficial interest in land in the eligible beneficiaries in equal shares ~~(with the children of a deceased beneficiary taking the share of the children's parents equally as between themselves if there is more than 1 child)~~. 10

#### 248 Family arrangement instead of whānau trust

- (1) Under a family arrangement confirmed by the court under **section 247**, all or any of the land or interests in the land must be vested in an eligible beneficiary instead of the trustees of a whānau trust.
- (2) A family arrangement may provide for the land or interests in the land to vest in an eligible beneficiary and other interests to vest in the trustees of a whānau trust.— 15
- (a) a whānau trust to be established in accordance with **section 247(2)**; or
- (b) an existing whānau trust in accordance with **section 254A** if—
- (i) the eligible beneficiary in whom the land is or interests in land are to vest, is a beneficiary of the existing whānau trust (whether or not there are other beneficiaries); and 20
- (ii) the trustees of the existing whānau trust and the eligible beneficiary agree to the vesting.
- (3) ~~If interests are vested in the trustees of a whānau trust,—~~ 25
- (a) ~~the trustees may hold interests other than those of the deceased owner; and~~
- (b) ~~the beneficiaries of the trust may include eligible beneficiaries and their descendants as well as other owners or preferred recipients and their descendants.~~ 30
- (4) A vesting order made under **section 247** may include any terms that the court ~~thinks~~ considers are necessary to give effect to the family arrangement.
- (5) A dispute over the terms of a family arrangement, or over whether any land or interests should be excluded from a whānau trust, must be referred to the chief executive for dispute resolution under **Part 9**. 35

#### 249 ~~Application for to give effect to succession when owner dies intestate~~

- (1) This section applies to an application required by ~~**section 246(5)(a)**~~ **section 246A(4)(a)**.

- (2) An application may be made by the following persons:
- (a) an eligible beneficiary:
  - (b) a parent of the deceased owner who is not an eligible beneficiary:
  - (c) if administration has been granted, the administrator of the estate.
- (3) ~~An application must comply with requirements prescribed in regulations made under **Parts 1 to 9**.~~ 5
- (3) An application must—
- (a) comply with requirements prescribed in regulations made under **Parts 1 to 9**; and
  - (b) include a proposed declaration of trust for a whānau trust where there is more than 1 eligible beneficiary (unless an application has been made to the court under **section 247(4)**). 10
- 250 Processing of application for to give effect to succession when owner dies intestate**
- (1) On receiving an application under **section 249**, the chief executive must determine whether the application satisfies the requirements of that section. 15
  - (2) For that purpose, the chief executive may—
    - (a) require the applicant to provide further information:
    - (b) refer the application to the court, if the chief executive is uncertain as to whether any of the information contained in the application is correct. 20
  - (3) When an application is in order, the chief executive must give notice of the application by publishing the following information on an Internet site to which the public has free access:
    - (a) a summary of the application:
    - (b) the date the application is first published on the site: 25
    - (c) an invitation to make submissions on the application by the end of the date that is ~~20~~ 40 working days after it is first published.
  - (4) The chief executive—
    - (a) may also use any other method of publication that is reasonably likely to bring the application to the attention of the owners of the land; and 30
    - (b) must also provide the information described in **subsection (3)(a) to (c)** directly to each eligible beneficiary and proposed trustee whose details are included in the application.
  - (5) If any objections or competing applications are received within the ~~20-working-day~~ 40-working-day period, **section 251** applies. 35
  - (6) If no objections or competing applications are received within the ~~20-working-day~~ 40-working-day period, the chief executive must—

- (a) amend the Māori land register to record the new ownership details, including the details relating to any whānau trust, as set out in the application; and
- (b) give notice to the Registrar-General of the new ownership details, in which case the Registrar-General must register the new ownership under the Land Transfer Act 1952. 5

**251 Determination of application ~~for to give effect to succession where objection or competing application received~~**

- (1) This section applies to an application ~~for succession to give effect to succession~~ if an objection or a competing application is received within the notice period. 10
- (2) The application must be referred to the court.
- (3) ~~The~~ If the parties cannot resolve the dispute under **Part 9**, the court must determine which persons are to succeed to the land or interest to which the application relates.
- (4) The Registrar must give notice of the court's decision to the chief executive, and the chief executive must— 15
  - (a) amend the Māori land register to record the new ownership details, including the details relating to any whānau trust, as set out in the decision; and
  - (b) give notice to the Registrar-General of the new ownership details, in which case the Registrar-General must register the new ownership under the Land Transfer Act 1952. 20

**252 Effect of succession**

- (1) This section applies if the chief executive has amended the Māori land register in accordance with **section 250(6) or 251(4)**. 25
- (2) The beneficial ownership of the land or interest is vested—
  - (a) in accordance with the entries made in the register; and
  - (b) on the date on which the entries are recorded.
- (3) The beneficial ownership is subject to any rights of the surviving spouse, civil union partner, or de facto partner of the deceased conferred by **section 253**. 30
- (4) ~~A whānau trust—~~
  - (a) ~~is established—~~
    - (i) ~~in accordance with the entries made in the register; and~~
    - (ii) ~~on the date on which the entries are recorded; and~~
  - (b) ~~is subject to **sections 253 and 254**.~~ 35
- (4) A whānau trust established on intestacy takes effect in accordance with its declaration of trust on the date that the trust is entered in the Māori land register.

### 253 Succession interests subject to certain rights of surviving spouse or partner

- (1) This section applies if—
- (a) the owner—
    - (i) of a parcel of Māori freehold land dies intestate; or 5
    - (ii) of an individual freehold interest in a parcel of Māori freehold land dies intestate; and
  - (b) the owner is survived by a spouse, civil union partner, or de facto partner (the **survivor**); and
  - (c) at the date on which the owner dies, the survivor’s marriage, civil union, or de facto relationship with the owner has not ended (within the meaning of section 2A(2), 2AB(2), or 2D(4) of the Property (Relationships) Act 1976, as applicable). 10
- (2) The survivor has the following rights:
- (a) in respect of a parcel of Māori freehold land, to occupy the principal family home if it is on that land; 15
  - (b) in respect of either a parcel of Māori freehold land or an individual freehold interest in a parcel of Māori freehold land, to receive any income or discretionary grants that the owner would have been entitled to receive were the owner to remain the holder of the estate or interest. 20
- (3) A survivor’s rights end when ~~the survivor—~~ any of the following events first occurs:
- (a) the survivor remarries or enters a new civil union or de facto relationship; ~~or;~~
  - (b) the survivor dies; ~~or;~~ 25
  - (c) the survivor relinquishes the right.
- (4) The persons who succeed to the land or interest under **section 252**—
- (a) are the owners of the land or interest; and
  - (b) are entitled to receive the income or discretionary grants when the survivor’s right ends. 30

### 254 Matters relating to whānau trust established on intestacy

- (1AA) The beneficiaries of a whānau trust established on intestacy may appoint the trustees of the trust.
- (1AB) If the beneficiaries cannot agree on the appointment of trustees the court may appoint trustees under **section 68**. 35
- (1AC) If interests are vested in the trustees of a whānau trust,—
- (a) the trustees may also hold interests other than those of the deceased owner; and

- (b) the beneficiaries of the trust may include other owners or preferred recipients and their descendants as well as eligible beneficiaries and their descendants.
- (1) The declaration of trust in relation to a whānau trust established on intestacy must be treated as including a prohibition on the trustees disposing of the beneficial interest in the freehold estate by way of sale, exchange, gift, or mortgage or other charge unless the court has authorised the trustees to do so on application under **section 68(2)**. 5
- (2) ~~The following provisions (relating to whānau trusts established in accordance with **section 58**) apply to the trust and the trustees, with any necessary modifications:~~ 10
- (a) ~~**section 61** (effect of establishing whānau trust):~~
- (b) ~~**section 62** (trustees of whānau trust):~~
- (c) ~~**section 66** (entitlements of beneficiaries of whānau trusts):~~
- (d) ~~**section 68** (court may determine matters relating to whānau trust and amend declaration of trust):~~ 15
- (e) ~~**section 69** (court may validate actions of trustees):~~
- (f) ~~**section 71** (termination of whānau trust by court order):~~
- (g) ~~**section 72** (responsibilities of trustees if whānau trust terminated):~~
- 254A Trustees must update declaration of combined whānau trust** 20
- (1) This section applies when a parcel of Māori freehold land or an individual freehold interest in a parcel of Māori freehold land is vested in an existing whānau trust under **section 247(2A)**.
- (2) The trustees of the whānau trust must, promptly after the vesting,—
- (a) update the declaration of the trust to include a description of the additional parcels and individual freehold interests that vest in the trustees; 25  
and
- (b) send a copy of the updated declaration to the chief executive.
- (4) The vesting takes effect, and a whānau trust is treated as established, in accordance with the declaration of trust on the date that the trust is entered in the Māori land register. 30

*Vesting of rent-free lease for residential housing where grantee dies intestate*

**255 Vesting of rent-free lease for residential housing where grantee dies intestate**

- (1) The unexpired term of a rent-free lease for residential housing that is granted under **section 42 or 130** may be vested in another person if the grantee of the lease dies intestate, but the lease must be vested in accordance with this section and **sections 256 to 258**. 35



- (2) The lease must be vested in 1 of the following persons (the **recipient**) ~~who occupied the premises to which the lease applies as for whom the premises to which the lease applies were~~ his or her primary principal place of residence when the grantee died:
- (a) a child or grandchild of the grantee: 5
  - (b) a parent of the grantee:
  - (c) the grantee's spouse, civil union partner, or de facto partner.
- (3) The lease is vested only if the chief executive, on application under **section 256**, issues a written notice under that section vesting the unexpired term of the lease in the recipient. 10
- (4) The vesting of the lease has effect—
- (a) for the purposes of equitable title once the written notice is recorded in the Māori land register; and
  - (b) for the purposes of legal title once the written notice is registered under the Land Transfer Act 1952. 15
- (5) Any provision of the lease referred to in **section 42(6) or 130(6)** (about additional occupants) applies to the recipient as the grantee of the lease.
- (6) Despite any provision of the lease, if a recipient is less than 18 years of age or requires full-time care, the recipient's principal caregiver is entitled to occupy the premises on the leased land in addition to the recipient. 20
- (7) If **subsection (6)** applies and the recipient's principal caregiver is also the principal caregiver for persons not entitled to occupy the premises, those persons are entitled to occupy the premises as long as any maximum number of occupants that is specified in the lease is complied with.
- (8) If a recipient has a principal caregiver, a kaiwhakamarumarū, or a welfare guardian, that person may administer the lease on the recipient's behalf. 25
- (9) A lease vested in a recipient under this section or **section 131** may in turn be vested in accordance with this section, but only in a child or grandchild of the original grantee of the lease.
- 256 Application for vesting of rent-free lease for residential housing** 30
- (1) A person qualified to be a recipient of a lease under **section 255** may apply to have the lease vested in him or her ~~within 60 working days after the death of the grantee of the lease.~~
- (2) ~~An application must comply with requirements prescribed in regulations made under **Parts 1 to 9**.~~ 35
- (2) An application must—
- (a) be made within 40 working days after the first anniversary of the death of the grantee of the lease; and

- (b) comply with requirements prescribed in regulations made under **Parts 1 to 9**.
- (3) A proposed recipient under an application made under this section may continue to occupy the premises to which the lease applies until the application is finally determined and, for that purpose, must be treated as if the lease had been vested in him or her under **section 255**. 5
- 257 Procedure after chief executive receives application for vesting of rent-free lease for residential housing**
- (1) On receiving an application under **section 256**, the chief executive must determine whether the application satisfies the requirements of **subsection (2)** of that section and, for that purpose, the chief executive may— 10
- (a) require the applicant or, if applicable, the person acting on behalf of the applicant to provide further information:
- (b) refer the application to the court, if the chief executive is uncertain as to whether any of the information contained in the application is correct. 15
- ~~(2) Promptly after the 60-working-day application period has expired, the chief executive must give written notice of any applications received to the owners of the land and invite those owners to make submissions on the applications within 20 working days after the notice is given.~~
- (2) Promptly after the application period has expired, the chief executive must give written notice of any applications received to the following persons and invite those persons to make submissions on the applications within 20 working days after the notice is given: 20
- (a) the owners of the land:
- (b) eligible beneficiaries of the deceased’s interest in the land: 25
- (c) children and grandchildren of the deceased (if they are not eligible beneficiaries):
- (d) parents of the deceased (if they are not eligible beneficiaries):
- (e) the deceased’s spouse, civil union partner, or de facto partner (if he or she is not an eligible beneficiary): 30
- (f) any principal caregiver, kaiwhakamarumarū, or welfare guardian of any of those persons.
- (3) If there is only 1 application and the chief executive has not received any objection to the application within the 20 working days, the chief executive must issue a written notice vesting the unexpired term of the lease in the recipient. 35
- (4) If there is more than 1 application, the chief executive must refer the matter to the Māori land dispute resolution service together with any objections to any of the applications received within the 20 working days.

- (5) If the chief executive receives notification that the competing applications and any objections have been resolved through the Māori land dispute resolution service process, the chief executive must—
- (a) issue a written notice vesting the unexpired term of the lease in the agreed recipient; or 5
  - (b) if it is agreed that no vesting will occur, record in the register that the lease has expired.
- (6) If the chief executive receives notification that the competing applications and any objections have not been resolved through the Māori land dispute resolution service process, the chief executive must refer the matter to the court to determine in accordance with **section 258**. 10
- 258 Matters for court to take into account when determining competing applications for vesting of rent-free lease for residential housing**
- In making a determination on competing applications for the vesting of a rent-free lease for residential housing, the court must take into account— 15
- (a) the merits of each application; and
  - (b) the merits of the objections to the applications; and
  - (c) the degree of hardship each proposed recipient would face if the lease were not vested in them.
- Vesting of land or interests gifted by will* 20
- 259 Vesting of land or interest gifted by will where grant of administration**
- (1) This section applies if administration has been granted over—
- (a) the estate of an owner of Māori freehold land or an individual freehold interest in Māori freehold land gifted by will; or
  - (b) an estate that includes a beneficial interest in any estate or interest in Māori freehold land gifted by will. 25
- (2) The administrator may apply to the chief executive (or, if the land is managed by a governance body that is a Māori incorporation, to the governance body) to have the land or interest vested in the beneficiaries of the gift.
- (3) The application must comply with requirements prescribed in regulations made under **Parts 1 to 9**. 30
- (4) If the application is lodged with the chief executive and the chief executive is satisfied that the application is in order, the chief executive must—
- (a) amend the Māori land register to record the new ownership details; and
  - (b) give notice of the new ownership details to the Registrar-General, who must register the new ownership under the Land Transfer Act 1952. 35
- (5) If the application is lodged with a governance body that is a Māori incorporation and the governance body is satisfied that the application is in order, the

governance body must amend the share register to record the new ownership details.

- (6) The land or interest is vested—
- (a) in accordance with the entries made in the Māori land register (or the share register, if a governance body amends the share register under **subsection (5)**); and 5
  - (b) on the date on which the entries are recorded.
- (7) The vesting of land or an interest under **subsection (6)** includes the owner's beneficial interest in any other parts of the asset base of any governance body appointed for any Māori freehold land in which the deceased owner had an individual freehold interest. 10

**260 Vesting of land or interest gifted by will where grant of administration but no effective administration**

- (1) This section applies if—
- (a) administration has been granted over an estate described in **section 259(1)(a) or (b)**; but 15
  - (b) the gift is unlikely to be administered for any reason, including the following:
    - (i) the administrator refuses to apply to have the land or interest vested in the beneficiaries of the gift; or 20
    - (ii) it is impracticable for the administrator to apply to have the land or interest vested in the beneficiaries of the gift (for example, because the administrator or executor has died or is overseas).
- (2) The court may, on application, make an order vesting the land or interest in the beneficiaries of the gift. 25
- (3) The application—
- (a) may be made by a person who claims to be a beneficiary of the gift; and
  - (b) must comply with requirements prescribed in regulations made under **Parts 1 to 9**.
- (4) The court must not make an order under **subclause (2)** unless it is satisfied 30 that—
- (a) this section applies and the applicant has complied with its requirements; and
  - (b) the gift complies with the requirements of **Parts 1 to 9**.

**261 Vesting of land or interest gifted by will where no grant of administration** 35

- (1) This section applies if administration has not been granted over an estate described in **section 259(1)(a) or (b)**.

- (2) ~~A person who claims to be a beneficiary of the gift may apply to the chief executive to have the land or interest vested in the beneficiaries of the gift.~~
- (2) The following applications may be made to the chief executive:
- (a) a person who claims to be a beneficiary of the gift may apply to have the land or interest vested in the beneficiaries of the gift: 5
- (b) the trustees of any whānau trust to be established under the will may apply to have the land or interest vested in the trustees.
- (3) ~~The~~An application must comply with requirements prescribed in regulations made under **Parts 1 to 9**.
- (4) If the chief executive is satisfied that the application is in order, the chief executive must notify, in writing, each person entitled to seek a grant of administration of the application and must invite a response within 20 working days. 10
- (5) If the chief executive receives no responses or only responses indicating that no persons entitled to seek a grant of administration have sought or intend to seek such a grant, the chief executive must amend the Māori land register and give notice to the Registrar-General as provided in **section 259(4)**, and **section 259(6)** applies. 15
- (6) If the chief executive receives a response within 20 working days indicating that a person is seeking or intends to seek a grant of administration, the chief executive must notify the applicant in writing that the application has been refused, but invite the applicant to— 20
- (a) resubmit the application if, within 20 working days, a grant of administration has not been made; and
- (b) include with the application a certified notice from the court or the High Court confirming that no grant of administration has been made. 25
- (7) If an application is resubmitted, and the chief executive is satisfied that it and the court notice are in order, the chief executive must amend the Māori land register and give notice to the Registrar-General as provided in **section 259(4)**, and **section 259(6)** applies.
- 262 Family arrangements made by beneficiaries of testamentary gift** 30
- (1) This section overrides **sections 259 to 261**.
- (2) The beneficiaries of a beneficial interest in any estate or interest in Māori freehold land, including an individual freehold interest, gifted by will may enter into a family arrangement.
- (3) Under a family arrangement, any or all of the beneficial interests may be, subject to confirmation by the court,— 35
- (a) vested in 1 or more eligible recipients instead of, or in addition to, the beneficiaries; or

- (b) vested in the trustees of a whānau trust that meets the requirements of **Part 3**.
- (4) ~~The court must make an order confirming the family arrangement if the court is satisfied—~~
- (a) ~~that—~~ 5
- (i) ~~the beneficiaries have entered into the arrangement with the benefit of independent legal advice; or~~
- (ii) ~~the arrangement is understood by the members of the family and is fair in the circumstances; and~~
- (b) ~~that the arrangement complies with the Act.~~ 10
- (4) A beneficiary described in **subsection (2)** may apply to the court to confirm a family arrangement.
- (4A) The court must make an order confirming the family arrangement if the court is satisfied that the arrangement complies with **Parts 1 to 9** and that all beneficiaries— 15
- (a) have received independent legal advice about the effect of the agreement (but each beneficiary does not need to have received separate legal advice); or
- (b) understand the terms of the agreement and the agreement is fair in the circumstances. 20
- (5) When the court has made an order confirming a family arrangement, one of the beneficiaries who applied for the order may apply to the chief executive to have the interests that are included in that arrangement vested in accordance with the arrangement instead of the will.
- (6) The application must comply with requirements prescribed in regulations made under **Parts 1 to 9**. 25
- (7) If the chief executive is satisfied that the application is in order, the chief executive must amend the Māori land register and give notice to the Registrar-General as provided in **section 259(4)**, and **section 259(6)** applies.
- (8) Any dispute over the terms of a family arrangement, or over whether any land or interests should be excluded from a whānau trust, must be referred to the chief executive for dispute resolution under **Part 9**. 30

*Additional vesting*

**263 Chief executive may vest beneficial interest in administrator**

- (1) This section applies if administration has been granted over an estate that includes a beneficial interest in Māori freehold land gifted by will. 35
- (2) The administrator may apply to the chief executive to have the beneficial interest vested in the administrator.

- (3) The application must comply with requirements prescribed in regulations made under **Parts 1 to 9**.
- (4) If the chief executive is satisfied that the application is in order, the chief executive must amend the Māori land register and give notice to the Registrar-General as provided in **section 259(4)**, and **section 259(6)** applies. 5

*Recording of rights of surviving spouses and partners*

**264 Recording of certain rights of surviving spouses and partners**

- (1) This section applies if,—
- (a) under **section 153**, an owner gifts by will to his or her spouse, civil union partner, or de facto partner the right to receive any income or discretionary grants from the owner’s land or interest in the land; or 10
- (b) **section 253(2)** entitles the spouse, civil union partner, or de facto partner of an intestate deceased owner to receive income or discretionary grants from the owner’s land or interest in the land.
- (2) On the death of the owner, the spouse, civil union partner, or de facto partner must apply in writing to the chief executive to have the right to receive the income or grants recorded in the Māori land register. 15
- (3) The chief executive must—
- (a) record the right of the spouse, civil union partner, or de facto partner in the register if the chief executive is satisfied that— 20
- (i) the applicant is the surviving spouse, civil union partner, or de facto partner of the deceased owner; and
- (ii) the requirements of **section 153** have been met or, as the case may be, **section 253** applies; and
- (b) if the right relates to Māori freehold land managed under a governance agreement by a Māori incorporation, and if the chief executive is satisfied of the matters set out in **paragraph (a)(i) and (ii)**, notify the incorporation of the right. 25
- (4) For the purposes of **subsection (3)(a)**,—
- (a) if the chief executive is unsure about a matter described in **subparagraph (i) or (ii)**, the chief executive may refer the matter to the court to determine in accordance with **section 300**: 30
- (b) a dispute about a matter described in **subparagraph (i) or (ii)** must be referred to the chief executive for dispute resolution under **Part 9**.

**265 Removal of records of certain rights of surviving spouses and partners** 35

- (1) This section applies if the right of a spouse, civil union partner, or de facto partner that is recorded in the Māori land register under **section 264** ends because—

- (a) the spouse or partner dies or relinquishes it; or
- (b) in the case of a right conferred by **section 253**, the spouse or partner remarries or enters a new civil union or de facto relationship.
- (2) The person who is the owner of the land or interest in the land on the date on which the right ends must apply in writing to the chief executive to have the record of the right removed from the register. 5
- (3) The chief executive must, if the chief executive is satisfied that the right has ended,—
  - (a) remove the record of the right from the register; and
  - (b) if the right relates to Māori freehold land managed under a governance agreement by a Māori incorporation, notify the incorporation of the removal of the right from the register. 10
- (4) For the purposes of **subclause (3)**,—
  - (a) if the chief executive is unsure as to whether a right has ended, the chief executive may refer the matter to the court to determine in accordance with **section 300**; and 15
  - (b) a dispute about whether a right has ended must be referred to the chief executive for dispute resolution under **Part 9**.

*Special provision by court relating to income for whāngai descendants and adopted children* 20

**266 Court may make special provision relating to income for whāngai descendants and adopted children**

- (1) The court may make an order conferring on any person the right to all or part of the income from a parcel of Māori freehold land or from an individual freehold interest in a parcel of Māori freehold land. 25
- (2) The court may make the order only in respect of a person who is not entitled to succeed to the land or interest solely because, under **section 8**, the tikanga of the ~~relevant iwi~~ respective whānau or hapū determines that there is no relationship of descent between a child (who is a whāngai or the subject of an adoption order) and certain parents for the purposes of the succession. 30
  - (a) ~~a whāngai relationship is not treated as a relationship of descent for the purposes of that succession; or~~
  - (b) ~~a relationship by birth, or a relationship by adoption order, is not treated as a relationship of descent for the purposes of that succession.~~
- (3) The court may make the order only if it considers that— 35
  - (a) the order is required to prevent an injustice to that person; and
  - (b) the person's claim is not within the jurisdiction of the High Court under the Law Reform (Testamentary Promises) Act 1949 or the Family Protection Act 1955.



*Succession register***267 Chief executive to keep succession register**

- (1) The chief executive must keep a succession register and record in the register particulars of every—
- (a) succession application; and 5
  - (b) completed succession.
- (2) The succession register must be in the public part of the Māori land register but the contact details of particular individuals must be excluded unless those individuals consent to their inclusion.
- (3) If a succession application is processed by a Māori incorporation, the incorporation must provide details of the succession application and completed succession to the chief executive. 10
- (4) The Māori incorporation must provide the details within 5 working days after the date that the incorporation entered the details in its share register.
- (5) The chief executive must then include the details in the succession register. 15

**Part 8****Registers, jurisdiction about land, giving of notices, and other provisions***Provision of documents to chief executive and Registrar-General***268 Instruments or notices issued under Parts 1 to 9 must be provided to chief executive 20**

- (1) This section applies if any chief executive or the Minister issues an instrument or a notice under **Parts 1 to 9** that affects Māori land, a whenua tāpui, or a governance agreement or governance body.
- (2) The issuer must provide a copy of the instrument or notice to the chief executive who maintains the Māori land register (unless the issuer is that chief executive), so that the instrument or notice— 25
- (a) can be recorded in the Māori land register; and
  - (b) can be lodged for registration under the Land Transfer Act 1952 if it affects the legal ownership of an estate or interest in land. 30

**269 Chief Registrar of Māori Land Court to provide certain documents**

- (1) The Chief Registrar of the Māori Land Court must—
- (a) provide to the chief executive who maintains the Māori land register a sealed copy of each relevant order so that the order can be recorded in the Māori land register; and 35

- (b) lodge with the Registrar-General each relevant order that affects the legal ownership of an estate or interest in land so that the order can be registered under the Land Transfer Act 1952.
- (2) The **relevant orders** are any orders made by the Māori Land Court, the Māori Appellate Court, the Chief Judge acting under **section 310**, or a Registrar that— 5
- (a) affect any land, including a vesting order or an order of confirmation that a disposition complies with the requirements of **Parts 1 to 9**; or
- (b) affect or relate to a governance body; or
- (c) amend or cancel an order described in **paragraph (a) or (b)**. 10
- (3) The Chief Registrar of the Māori Land Court must provide to the chief executive who maintains the Māori land register, or to the Registrar-General, copies of any document or information held in the permanent record of the Māori Land Court that the chief executive, or the Registrar-General, determines is relevant to his or her functions. 15
- (4) This section also applies to any certificate of confirmation issued by a Registrar under Te Ture Whenua Maori Act 1993 as if the certificate were a sealed order of the court.

*Māori land register*

- 270 Māori land register** 20
- (1) The chief executive must establish and maintain a register of Māori land (the **Māori land register**) that comprises—
- (a) a public part; and
- (b) an administrative part.
- (2) The Māori land register may be kept— 25
- (a) as an electronic register; or
- (b) in any other form that the chief executive thinks fit.
- (3) However, the chief executive must keep the register in a form that permits its contents to be readily accessed or reproduced in usable form.
- 271 Purpose of Māori land register** 30
- The purpose of the Māori land register is—
- (a) to enable the public to identify—
- (i) owners of Māori land; and
- (ii) interests affecting Māori land; and
- (b) to enable the public— 35

- (i) to know whether a parcel of Māori freehold land is managed by a governance body and, if so, to access information about the body and the governance agreement under which it operates; and
- (ii) to know whether Māori freehold land or an interest in Māori freehold land is managed by any other person (such as a kaiwhakamarumarū) and, if so, to access information about that person and the land or interest; and 5
- (c) to facilitate—
- (i) decision making, by enabling owners of Māori freehold land and other interested persons to be identified when decisions need to be made in relation to the land: 10
- (ii) dealings with beneficial interests in Māori freehold land:
- (iii) giving effect to the purpose of **Parts 1 to 9**; and
- (d) to assist the court, the chief executive, the Registrar, and Registrar-General in the exercise or performance of their powers, functions, or duties under **Parts 1 to 9** or any other enactment; and 15
- (e) to enable compliance with the requirements of this or any other Act for the recording of instruments or other matters affecting Māori land or interests in Māori land.
- 272 Contents of Māori land register 20**
- (1) The public part of the Māori land register must contain—
- (a) the information prescribed by regulations (other than contact details for owners of Māori land); and
- (b) instruments, orders, notices, and other documents provided to the chief executive for the recording of any matter in the register; and 25
- (c) any other information required by or under another provision of **Parts 1 to 9**.
- (2) The administrative part of the Māori land register may contain contact details for owners of Māori land.
- (3) Despite **subsection (1)**, the chief executive may exclude from the public part of the register any information in an order of appointment for a kaiwhakahaere that the order specifies is commercially sensitive. 30
- (a) ~~any information in an order of appointment for a kaiwhakahaere that the order specifies is commercially sensitive; or~~
- (b) ~~the name or any other details relating to a person, if the chief executive is satisfied, on the application of the person, that the publication of the person's name or other details would be prejudicial to the personal safety of that person or of his or her family.~~ 35

- (4) Despite **subsection (1)(a)**, the register need not include prescribed information about Māori customary land whose status has not been determined by a court.

### 273 Access to Māori land register

- (1) The chief executive must— 5
- (a) make the public part of the Māori land register (*see* **section 272(1)**) available to the public; and
- (b) make the administrative part of the Māori land register, which contains contact details for owners of Māori land, available to— 10
- (i) a governance body managing the land; and
- (ii) any other person authorised by or under **Parts 1 to 9** to act on behalf of, or to arrange a meeting of, the owners of the land; and
- (c) when making a part of the register available under **paragraph (a) or (b)**, ensure that it is available—
- (i) free of charge; and 15
- (ii) during normal business hours on a working day; and
- (iii) at any other time that the chief executive allows.
- (2) The chief executive must, on request ~~for a purpose that is consistent with the purpose of the register~~ and on payment of the prescribed fee or charge,—
- (a) provide a person with a copy of any information or document in the Māori land register; and 20
- (b) if the person requires the copy of the information or document to be a certified copy, provide a certified copy.
- (3) The copies referred to in **subsection (2)** may, if the chief executive determines, be provided in electronic form. 25
- (4) A determination under **subsection (3)** may be made subject to specified conditions.
- (5) This section is subject to—
- (a) **section 274**, Part 6 of the Domestic Violence Act 1995, and any other enactment under which information may be withheld; and 30
- (b) the Public Records Act 2005.

### 274 Chief executive may withhold personal information for person's safety

- (1) The chief executive may do the following during any withholding period granted to a person under this section:
- (a) refuse to make available, or provide a copy of, any part of the Māori land register under **section 273** if the part names or contains identifying information about the person: 35

- (b) prevent the name of the person, or identifying information about the person, from being included in any part of the Māori land register that is made available to the public.

*Decision about withholding period*

- (2) The chief executive must, on application by a person under **section 275**, decide whether to grant a withholding period to the person. 5
- (3) The chief executive must grant the withholding period if satisfied that the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family.
- (4) The chief executive must, as soon as is reasonably practicable after making the decision, give notice to the person of— 10
- (a) the decision; and
- (b) the date of the decision; and
- (c) if the withholding period is not granted, the reasons for the decision.

*Duration of withholding period*

- (5) A withholding period for a person starts on the date on which the chief executive decides to grant it. 15
- (6) A withholding period for a person ends 5 years after it starts or on any earlier date on which the chief executive decides to end the period.
- (7) The chief executive must decide to end the withholding period if he or she— 20
- (a) receives the person's application to end the withholding period; or
- (b) becomes aware and is satisfied that the basis for granting the withholding period no longer exists (for example, because an order has ceased to have effect or because the person has died and the safety of the person's family is not prejudiced). 25
- (8) The chief executive must, as soon as is reasonably practicable after making a decision to end a withholding period for a person under **subsection (7)(b)**, give notice to the person of—
- (a) the decision; and
- (b) the date of the decision; and 30
- (c) the reasons for the decision.

*Other matters*

- (9) The fact that a withholding period has ended does not prevent the chief executive from deciding to grant another withholding period on the same evidential basis. 35
- (10) This section overrides any requirements of **Parts 1 to 9** that relate to the Māori land register.

**275 Application to chief executive to withhold ~~personal~~ information for person's safety**

- (1) A person may apply to the chief executive to grant a withholding period under **section 274**.
- (2) The application must include— 5
- (a) the details of any identifying information about the person that enables the information to be located in any instrument or other document, or to be excluded from the public parts of the Māori land register, for the purposes of **section 274(1)**; and
  - (b) a statutory declaration by the person as to why the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family; and 10
  - (c) sufficient evidence that the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family. 15
- (3) Evidence provided in the application may include—
- (a) a restraining order that is in force under the Harassment Act 1997 in respect of any person:
  - (b) any prescribed order of a court:
  - (c) a statutory declaration by a constable, or the person's employer (if the prejudice arises from the person's employment), that he or she believes that the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family: 20
  - (d) any other relevant evidence. 25
- (4) Unless there is proof to the contrary, an order referred to in **subsection (3)(a) or (b)** is conclusive evidence of the matters to which it relates.
- Later notice about order used as evidence for withholding period*
- (5) A person must give notice to the chief executive of the date on which an order will cease, or has ceased, to have effect if— 30
- (a) a withholding period applies to the person; and
  - (b) the person included the order as evidence in the application for the withholding period.
- (6) The person must give the notice as soon as is reasonably practicable after becoming aware of the date, but need not give the notice if the date is apparent from the order itself. 35

**276 Exceptions to withholding ~~personal~~ information for person's safety**

- (1) Even if the chief executive is entitled to refuse to make available, or provide a copy of, a part of the Māori land register under **section 274(1)**, the chief

executive may make available, or provide a copy of, that part to a person who requires it—

- (a) to conduct a transaction with the protected person; or
  - (b) to have an instrument or other document recorded or registered under **Parts 1 to 9** or any other enactment; or 5
  - (c) to exercise a right held, or satisfy an obligation owed, in relation to the particular land (but not land generally), such as the right to sell the land under a mortgagee’s power of sale.
- (2) The person to whom the part of the Māori land register, or a copy, is made available or provided must not disclose it, or any information obtained from it, to anyone else except for the purpose for which it was required under **subsection (1)**. 10
- (3) The chief executive must give notice to the protected person—
- (a) before making available, or providing the copy of, the part of the Māori land register to the person who requires it; or 15
  - (b) as soon as practicable after making available, or providing the copy of, the part of the register to the person who requires it, if it is impracticable to give notice before that.
- (4) The notice must specify—
- (a) the part of the Māori land register that will be made available or copied; 20  
and
  - (b) the person to whom the part or copy will be made available or provided; and
  - (c) when the part or copy will be made available or provided to the person.
- (5) In this section, **protected person** means the person to whom the relevant withholding period applies under **section 274**. 25

### **277 Historical and other information in Māori land register to be retained**

- (1) Information that is recorded in the Māori land register must be retained in the register or elsewhere even if—
- (a) the information was incorrect and has subsequently been corrected; or 30
  - (b) the information has been superseded; or
  - (c) the information is no longer current; or
  - (d) the form in which the register is kept has changed.
- (2) Information retained under **subsection (1)(a), (b), or (c)** must be clearly identified as information that has been corrected or superseded or is no longer current (as applicable). 35

### **278 Powers to alter Māori land register**

- (1) The chief executive may alter the Māori land register to—

- 
- (a) correct an error made by the chief executive or a person acting under delegation by the chief executive:
- (b) correct an error made by a person in preparing or submitting a document or information to be recorded:
- (c) record a boundary change resulting from accretion or erosion that has been recorded under the Land Transfer Act 1952: 5
- (d) give effect to an order or a direction of a court:
- (e) change the name of a person whose name has changed.
- (2) The chief executive must not alter the Māori land register under **subsection (1)(a), (b), or (c)** if the alteration would materially affect the estate or interest of any person. 10
- (3) The chief executive may, in exercising powers under this section, have regard to any material or information that the chief executive considers relevant and reliable.
- (4) **Subsection (3)** is subject to any regulations made under **Parts 1 to 9**. 15
- (5) The chief executive must provide a notice to the Registrar-General of any alteration to the Māori land register under this section that affects the legal ownership of an estate or interest in land.
- 279 Electronic workspace facilities**
- (1) The chief executive may approve 1 or more electronic facilities for use in the preparation of certain electronic instruments to be provided under **Parts 1 to 9**. 20
- (2) The chief executive must not approve an electronic facility unless satisfied that adequate provision is made to ensure that—
- (a) instruments prepared in the facility comply with the requirements of **Parts 1 to 9** when provided; and 25
- (b) the chief executive is able to carry out the chief executive’s functions and duties under **Parts 1 to 9**.
- (3) The chief executive may, at any time, withdraw approval of an electronic workspace facility that fails to meet the requirements of **subsection (2)**. 30
- (4) The chief executive may monitor activities in an electronic workspace facility for the purpose of detecting fraud and improper dealings.
- (5) The chief executive may provide an electronic workspace facility.
- (6) The chief executive may—
- (a) set conditions for the use of the electronic workspace facility: 35
- (b) audit the electronic workspace facility to ensure compliance with the conditions:



- (c) monitor activities in the electronic workspace facility for the purpose of maintaining the effectiveness and efficiency of the facility.
- (7) In **Parts 1 to 9, electronic workspace facility** means a facility approved by the chief executive under **subsection (1)**.
- 280 Effect of certification of electronic instrument** 5
- (1) On being recorded in the Māori land register, an electronic instrument certified in accordance with regulations under **Parts 1 to 9**—
- (a) is to be treated as having been made in writing and executed by every party specified for the purpose in regulations; and
- (b) has effect according to its terms. 10
- (2) Nothing in any ~~other~~ enactment or rule of law relating to the execution, signing, witnessing, or attestation of instruments applies to the electronic instrument.
- 281 Evidentiary presumptions relating to Māori land register**
- (1) A record of any information in the Māori land register is conclusive evidence for all purposes that the information is correct, unless there is proof to the contrary. 15
- (2) **Subsection (3)** applies to a document that—
- (a) appears to be or to represent an electronic image of an instrument recorded in the Māori land register under **Parts 1 to 9**; and 20
- (b) does not appear to have been altered in any way.
- (3) Unless there is proof to the contrary, the document is conclusive evidence—
- (a) of the contents of the instrument; and
- (b) that the instrument is recorded in the Māori land register.
- (4) Unless there is proof to the contrary, a copy of an instrument that is certified by or on behalf of the chief executive to be a correct copy of an instrument recorded in the Māori land register is conclusive evidence— 25
- (a) of the contents of the instrument; and
- (b) that the instrument is recorded in the Māori land register.
- (4A) The fact that the copy of the instrument appears to be certified by or on behalf of the chief executive is conclusive evidence that it is certified by or on behalf of the chief executive, unless there is proof to the contrary. 30
- (5) This section is subject to **section 236**.
- 282 Court order to replace lost or destroyed instrument**
- (1) This section applies to a person who claims that— 35

- (a) an instrument entitles the person to be recorded in the Māori land register as an owner of Māori freehold land or a holder of an interest in Māori freehold land; and
- (b) ~~the instrument, or an authority required for it to be recorded,~~ has been lost or destroyed or no record of ~~the instrument~~ it can be found. 5
- (2) The person may apply to the court for an order that ~~has the same effect as the instrument~~ the person is entitled to be recorded in the Māori land register as an owner of the land or a holder of the interest.
- (3) The person must give notice of the application to— 10
- (a) the chief executive; and
- (b) every person recorded in the Māori land register as an owner of the land or a holder of a lease, licence, mortgage, easement, or other interest that affects the land; and
- (c) any other person that the court directs.
- (4) The court may, if satisfied that the person’s claims are correct,— 15
- ~~(a) make an order on the terms that the court determines have the same effect as the instrument; and~~
- (a) order the chief executive to record the person in the Māori land register as an owner of the land or a holder of the interest; or
- (b) make any other order that the court thinks fit. 20

### 283 Chief executive may replace or reconstitute records

- (1) This section applies to—
- (a) an instrument that is or has been recorded in the Māori land register and that has been lost, damaged, or destroyed or has become unfit for use:
- (b) an instrument that is or has been in the custody of the chief executive and that has been lost, damaged, or destroyed or has become unfit for use: 25
- (c) information recorded in the Māori land register or ~~lodged~~ provided for recording that has been lost or is unfit for use.
- (2) The chief executive may replace or reconstitute the instrument or information to which this section applies, except if the instrument is a court order (in which case the chief executive must apply to the Registrar for a replacement order to be issued by the court). 30
- (3) The replacement or reconstituted instrument or information has the same effect as if it were the original. 35
- (4) The chief executive must note on any entry in the Māori land register to which the instrument or information relates that the replacement or reconstituted instrument or information has been created or obtained under or in accordance with this section.

**284 Copying and imaging of paper instruments for purposes of Māori land register or other statutory purpose**

- (1) The chief executive may—
- (a) produce a record, copy, or image of a paper instrument provided under **Parts 1 to 9** or any other enactment; and 5
  - (b) unless it is necessary to retain the instrument so that the record, copy, or image can be understood, return the instrument to the person who provided it together with a written statement that a record, copy, or image has been made.
- (2) The chief executive may use the record, copy, or image for the purposes of establishing or maintaining the Māori land register or to perform any other statutory function under **Parts 1 to 9**. If the record, copy, or image is used in that way, it must be treated as if it— 10
- (a) were the original instrument; and
  - (b) had been ~~lodged~~provided at the same time as the original instrument. 15

*Land title registration***285 Māori freehold land status to be recorded on computer freehold register**

- (1) The Registrar-General must ensure that the computer freehold register (if any) for land to which this section applies records that the land is Māori freehold land that is subject to **Parts 1 to 9**. 20
- (2) This section applies to land for which the Registrar-General—
- (a) receives from the chief executive a written notice that states that the land is Māori freehold land; or
  - (b) receives an order of the court that changes the status of the land to, or declares or determines that the land is, Māori freehold land. 25
- (3) There is no fee for anything done by the Registrar-General under this section.
- (4) To avoid doubt, **subsection (2)(a)** does not give the chief executive the power to change the status of land.

**286 Computer freehold register for land that is not Māori freehold land**

- (1) The Registrar-General must remove from the computer freehold register (if any) for land to which this section applies any record that the land is Māori freehold land that is subject to **Parts 1 to 9**. 30
- (2) This section applies to land for which the Registrar-General—
- (a) receives from the chief executive a written notice that states that the land is not Māori freehold land; or 35
  - (b) receives an order of the court that changes the status of the land from, or declares or determines that the land is not or ceases to be, Māori freehold land.

- (3) There is no fee for anything done by the Registrar-General under this section.
- (4) To avoid doubt, **subsection (2)(a)** does not give the chief executive the power to change the status of land.
- 287 Computer freehold register only for entire freehold estate in Māori freehold land** 5
- (1) The Registrar-General must not create a separate computer freehold register for Māori freehold land unless it is for the entire freehold estate in the land.
- (2) However, this section does not apply to land subject to a cross lease (as defined by section 2(1) of the Resource Management Act 1991).
- 288 Change to name of parcel** 10
- (1) The court may, on application, make an order changing the name that constitutes the legal description of all or part of a parcel of Māori freehold land.
- (2) The application may be made by—
- (a) the governance body, if the land is managed under a governance agreement; or 15
- (b) 1 or more owners of the land, in any other case.
- (3) The Registrar must, as soon as practicable after the application is made, give notice to the Registrar-General and the ~~Surveyor-General~~ chief executive under the Cadastral Survey Act 2002.
- (4) The notice must— 20
- (a) provide details of the application; and
- (b) invite submissions on the application from the recipients of the notice; and
- (c) specify the deadline by which submissions must be received.
- (5) The court must consider any submissions received by the deadline specified in the notice. 25
- (6) The court must not make an order under this section unless it is satisfied that—
- (a) the application,—
- (i) for land managed under a governance agreement, is ~~made agreed to by~~ made agreed to by the governance body ~~in accordance with the requirements of~~ **Parts 1 to 9**; or 30
- (ii) for other land, is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); and
- (b) the new name complies with standards ~~set for parcel appellations under section 49 Part 5 of the Cadastral Survey Act 2002 for parcel appellations.~~ 35
- (6A) For a governance body's application, see **clause 13 of Schedule 4**, which requires the agreement of more than 50% of the participating owners of the

land (casting votes of equal weight), unless the governance agreement requires a greater level of agreement.

- (7) If the court makes an order under this section, the Registrar must—
- (a) provide the ~~Surveyor-General~~ chief executive under the Cadastral Survey Act 2002 with the information required to integrate the name change into the cadastre; and 5
  - (b) pay the prescribed fee (if any) for the integration.

### **289 Orders, instruments, and notices must be registered**

- (1) The Registrar-General must register under the Land Transfer Act 1952 any of the following that affect any land: 10
- (a) an order made by the Māori Land Court, the Māori Appellate Court, the Chief Judge acting under **section 310**, or a Registrar:
  - (b) an order amending or cancelling an order described in **paragraph (a)**:
  - (c) an instrument or a notice issued under **Parts 1 to 9** by any chief executive or the Minister that affects the legal ownership of an estate or interest in land. 15
- (2) However, this section does not apply to—
- (a) an order that affects the beneficial, but not the legal, ownership of an estate or interest in the land:
  - (b) an order amending or cancelling an order described in **paragraph (a)**: 20
  - (c) an order whose effect is incorporated into another order that must be registered under this section.
- (3) The chief executive must lodge an instrument or a notice for registration as soon as practicable after the chief executive issues it or receives a copy of it under **section 268**. 25
- (4) There is no fee for registration.

### **290 Registration under Land Transfer Act 1952**

- (1) In **Parts 1 to 9**, a requirement to register anything under the Land Transfer Act 1952 includes the requirement to register it,—
- (a) for land that is subject to the Land Transfer Act 1952,— 30
    - (i) on the computer register for the land; or
    - (ii) on the provisional register for the land if there is only a provisional register for the land under section 50 of that Act; or
    - (iii) as a provisional register created under section 50 of that Act if there is no computer register or provisional register for the land under that Act; or 35
  - (b) for land that is not subject to the Land Transfer Act 1952, in accordance with the Deeds Registration Act 1908.

- (2) In registering any matter in accordance with this section, the Registrar-General must record any entries on the relevant register and do anything else necessary to give effect to the matter.

### 291 Notation upon registration of certain dispositions

If the Registrar-General registers the aggregation of ownership of 2 or more parcels of Māori freehold land, he or she must record on the computer freehold registers for each parcel a notation that the ownership of the parcel is aggregated under **Parts 1 to 9** so that—

- (a) **section 124(5)** restricts the land from ceasing to be Māori freehold land; and 10
- (b) **section 140(3)** restricts the disposition of an individual freehold interest in the land.

### 292 Registration of land in name of trust or tupuna

- (1) Any Māori freehold land managed under a governance agreement with an unincorporated trust as the governance body may be registered, or may cease to be registered, in the name of the trust in accordance with this section. 15
- (2) The following land may be registered, or may cease to be registered, in the name of a tupuna in accordance with this section:
- (a) any Māori freehold land managed under a governance agreement; or
- (b) any land reserved as a whenua tāpui. 20
- (3) The land must be land registered under the Land Transfer Act 1952.
- (4) The governance body or the administering body of the land must apply to the Registrar-General—
- (a) stating whether the land is to be registered, or is to cease to be registered, in the name of the trust or the tupuna; and 25
- (b) identifying the land and specifying the name of the trust or the tupuna.
- (5) The application must be agreed to as follows:
- (a) for Māori freehold land managed under a governance agreement, by the governance body; or
- (b) for Māori freehold land reserved as a whenua tāpui, by owners who together hold 75% or more of the participating owners' total share in the parcel; or 30
- (c) for other land reserved as a whenua tāpui, by satisfying the following requirements:
- (i) the administering body notifies and holds a meeting of the owners of the land in accordance with **Schedule 2** to consider the application (and that schedule applies to the application with any necessary modifications); and 35

- (ii) at least 10 owners attend the meeting; and
  - (iii) the application is agreed to by more than 50% of the owners who attend the meeting.
- (6) The applicant must obtain an order of confirmation that the application complies with the requirements of **Parts 1 to 9**. 5
- (7) If the Registrar-General receives an application made in accordance with this section, he or she must—
  - (a) comply with the application by (as the case may be)—
    - (i) registering the land under the Land Transfer Act 1952 in the name of the trust or the tupuna and noting in the register that the proprietor is a trust or a tupuna registered in accordance with this section; or 10
    - (ii) registering the land under the Land Transfer Act 1952 in the name of the governance body (meaning its trustees if it is an unincorporated trust) or administering body in place of the name of the trust or the tupuna; and 15
  - (b) give notice of the registration of those matters to the chief executive responsible for the Māori land register, who must record the same matters on that register.
- (8) Despite the registration of land in the name of a trust or a tupuna,— 20
  - (a) the following continue to apply as if the governance body (meaning its trustees if it is an unincorporated trust) or administering body remained the registered proprietor:
    - (i) the rights and obligations of the governance body or administering body as legal owner of the land; and 25
    - (ii) the Land Transfer Act 1952, any regulations under that Act, or any other enactment that applies to the land; and
  - (b) the beneficial ownership of the land is not affected.

### *Vesting of land*

- 293 Vesting of land by or under enactment** 30
- (1) A person may apply to the chief executive to record in the Māori land register the vesting of an estate or interest in land by or under **Parts 1 to 9** or any other enactment.
  - (2) The application must be in the prescribed form and contain the prescribed information. 35
  - (3) The chief executive must record the vesting of the estate or interest in accordance with the enactment.

**294 Māori land remains affected by existing interests after vesting**

- (1) An estate or interest in Māori land or other land, after being vested by or under **Parts 1 to 9**, remains affected by any lease, licence, mortgage, easement, or other interest that affected it immediately before the vesting.
- (2) This section is subject to any contrary provision of **Parts 1 to 9**. 5

*Māori freehold land does not vest in the Crown if it has no owner*

**295 Parcel of Māori freehold land does not vest in the Crown if it has no owner**

- (1) A parcel of Māori freehold land does not vest in the Crown as *bona-vacantia* ownerless property under section 77 of the Administration Act 1969, section 324 of the Companies Act 1993, or otherwise. 10
- (2) Instead, the beneficial ownership of the parcel of land vests in the class of collective owners who would, in accordance with tikanga Māori, hold the parcel if it became Māori customary land.
- (3) To avoid doubt, after the vesting,—
- (a) the parcel of land remains Māori freehold land: 15
- (b) the parcel of land continues to be managed under a governance agreement (if any):
- (c) the parcel of land remains affected by existing interests (*see section 294*):
- (d) the beneficial ownership in the parcel of land is subject to any rights of the surviving spouse, civil union partner, or de facto partner of the deceased former owner (if an individual) conferred by **section 253**. 20
- (4) The court must, on application, determine the class of collective owners of the parcel of land, which must include all descendants of the members of the class.
- (5) The application may be made by any person with an interest in the matter. 25
- (6) After determining the class of collective owners, the court must make an order that defines the class of collective owners of the parcel of land.
- (7) If the former owner is a deceased individual with a surviving spouse, civil union partner, or de facto partner, the court may also, at its discretion, make an order declaring that a lease is granted over all or part of the parcel of land to the spouse or partner for the purpose of residential housing, either with rent payable or rent-free, for the life of the spouse or partner. 30
- (8) The lease must be treated as if it had been—
- (a) granted under **section 129**, for a lease with rent payable, or **section 130**, for a rent-free lease; and 35
- (b) gifted to the spouse or partner by will.
- (9) This section overrides any other enactment or rule of law.



**296 Individual freehold interest in Māori freehold land does not vest in the Crown if it has no owner**

- (1) An individual freehold interest in a parcel of Māori freehold land does not vest in the Crown as *bona vacantia* ownerless property under section 77 of the Administration Act 1969, section 324 of the Companies Act 1993, or otherwise. 5
- (2) Instead, the individual freehold interest vests in the remaining owners of the parcel of land in proportion to their existing interests.
- (3) An owner of the parcel, or the governance body that manages the parcel (if any), may give notice of the vesting to the chief executive.
- (4) The chief executive must record the vesting in the Māori land register if he or she is satisfied that the vesting has occurred. 10
- (5) This section overrides any other enactment or rule of law.

*Disposition or vesting of land to which roadway provides access*

**297 Disposition or vesting of land to which roadway provides access**

- (1) This section applies to any land that— 15
  - (a) is accessed by a roadway laid out over any land by an order made under Te Ture Whenua Maori Act 1993 or any former enactment; and
  - (b) is disposed of to, or vested in, new owners.
- (2) The new owners of the land become entitled to the same rights, and subject to the same obligations, in relation to the roadway as the existing owners had immediately before the disposal or vesting. 20
- (3) If the land comprising the roadway is held in a separate instrument of title, the disposal or vesting must be treated as including a disposal or vesting of the existing owners' interest (if any) in the roadway.
- (4) This section is subject to anything contrary in the instrument of disposition or vesting. 25

*Road stopping and vesting of stopped roads*

**298 Unused road may be stopped and vested**

- (1) The court may, on application, make an order stopping all or part of a road if— 30
  - (a) any relevant adjoining land is Māori land when the order is made; or
  - (b) the court cannot identify the relevant adjoining land, and—
    - (i) both sides of the road are adjoined by any Māori land; or
    - (ii) only 1 side of the road is adjoined by any Māori land and the other side is adjoined by any other private land whose owners agree to the application. 35
- (2) An application may be made by—

- (a) the governance body, or an owner, of land adjoining the road that is not Māori customary land; or
- (b) a kaiwhakahaere appointed for that purpose in relation to land adjoining the road that is Māori customary land or, if the land has no such kaiwhakahaere, the Māori Trustee; or 5
- (c) the person or body that controls the road (for example, a council, the Minister of Transport, or the New Zealand Transport Authority); or
- (d) any affected person.
- (3) In deciding whether to stop any road, the court must have regard to—
- (a) whether use of the road or anything else justifies the retention of the road; and 10
- (b) how the retention or stopping of the road would affect the utilisation of land adjoining the road; and
- (c) any cultural or historical association of the owners of land that adjoins the road with any land within the road; and 15
- (d) any other matter the court considers relevant.
- (4) A road must not be stopped—
- (a) without the written consent of the person or body that controls the road; or
- (b) if the stopping would cause land adjoining the road to become land-locked land (as defined by **section 319**). 20
- (5) In this section and **section 299**, **relevant adjoining land** means the land that adjoins a road and of which the road would have formed part if the road had not been created.
- 299 Vesting of stopped road** 25
- (1) The court may, in accordance with this section, make an order vesting any land comprising road stopped under **section 298** (or the corresponding provisions of any former enactment) in the owners of the following land (**recipient land**):
- (a) the relevant adjoining land if any of it is Māori land when the order is made; or 30
- (b) if the court cannot identify the relevant adjoining land and any Māori land adjoins the road, any 1 or more parcels of land adjoining the stopped road (whether Māori land or otherwise).
- (2) The court may make the order—
- (a) when making an order to stop any road under **section 298**; or 35
- (b) on application, in any other case.
- (3) An application under **subsection (2)(b)** may be made by—

- 
- (a) the governance body, or an owner, of land adjoining the stopped road that is not Māori customary land; or
- (b) a kaiwhakahaere appointed for that purpose in relation to land adjoining the stopped road that is Māori customary land or, if the land has no such kaiwhakahaere, the Māori Trustee; or 5
- (c) the person or body that controlled the road (for example, a council, the Minister of Transport, or the New Zealand Transport Authority); or
- (d) any affected person.
- (4) An order under this section—
- (a) must vest any land comprising the stopped road in the owners of the recipient land and, for an order under **subsection (1)(b)** with more than 1 parcel of recipient land, in the proportions the court considers equitable, having regard to how the vesting will affect the utilisation of land and any other matter the court considers relevant; and 10
- (b) must state that the vested land is held as part of the recipient land, is affected by the same interests as the recipient land, and has the same status as the recipient land (as Māori freehold land, Māori customary land, or otherwise); and 15
- (c) may vest the land subject to any conditions that require the payment of compensation or that provide for any other matters, as the court considers equitable. 20
- (5) The court must not make an order under this section unless the court is satisfied that,—
- (a) for recipient land that is managed under a governance agreement (whether Māori freehold land or otherwise), the vesting is agreed to by the governance body; or 25
- (b) for recipient land that is Māori freehold land that is not managed under a governance agreement, the vesting is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); or
- (c) for recipient land that is Māori customary land,— 30
- (i) the chief executive, at the court's direction, notified and held a meeting of the owners of the land in accordance with **Schedule 2** to consider the proposed vesting (and that schedule applies to the proposed vesting with any necessary modifications); and
- (ii) the vesting is agreed to by more than 50% of the owners of the land who attended the meeting; or 35
- (d) for recipient land that is other private land that is not managed under a governance agreement, the vesting is agreed to by the owners of the land; or

- (e) for recipient land that is Crown land, the vesting is agreed to by the Minister responsible for the land or the registered proprietor of the land.

*Jurisdiction of court in certain land matters*

**300 Jurisdiction of court for purposes of Parts 1 to 9**

- (1) The court has (in addition to any other powers conferred under ~~this Part~~ an enactment) jurisdiction to determine— 5
- (aaa) whether a person is a member of a class of collective owners of Māori customary land or Māori freehold land:
- (a) whether a whānau trust has been established in accordance with the provisions of **Parts 1 to 9:** 10
- (b) whether a succession complies with **Parts 1 to 9** or is lawful:
- (c) whether a disposition of Māori freehold land complies with **Parts 1 to 9** or is lawful:
- (d) a dispute arising from a kaiwhakahaere carrying out a purpose for which the kaiwhakahaere is appointed: 15
- (e) whether a decision of the owners of Māori freehold land is lawful:
- (f) a claim to recover damages for trespass or other injury to Māori land:
- (g) a claim founded on contract or tort where the debt, demand, or damage relates to Māori land:
- (h) a claim to the ownership of buildings or other fixtures situated on or attached to Māori land: 20
- (i) whether an entity is a representative entity for the purposes of **Parts 1 to 9:**
- (j) whether a person is a preferred recipient, or whether an entity is a preferred entity, for the purposes of **section 96:** 25
- (k) whether any Māori land is or is not held by any person in a fiduciary capacity:
- (l) a dispute about a kaiwhakamarumarū appointment or the exercise of the powers of a kaiwhakamarumarū:
- (m) an allegation or claim of breach of duty or misconduct by a governance body or a kaitiaki of a governance body: 30
- (n) whether a person is a whāngai:
- (o) ~~whether a whāngai relationship, a relationship by birth, or a relationship by adoption order is to be treated as a relationship of descent for the purposes of a provision in **Parts 1 to 9** (see **section 8**):~~ 35
- (o) for any child who is a whāngai or the subject of an adoption order, whether the child's relationship with certain parents is a relationship of descent for the purposes of a provision in **Parts 1 to 9** (see **section 8**):

- (p) whether a person is entitled to have a right recorded in the Māori land register under **section 264**;
- (q) whether a right of a spouse, civil union partner, or de facto partner that is recorded in the Māori land register has ended;
- (r) whether a person is an eligible beneficiary for the purpose of **Part 7**; 5
- (s) whether the tikanga of the whānau, hapū, or iwi prevails in any particular situation.
- (2) In determining under **subsection (1)(c)** whether a disposition of Māori freehold land complies with **Parts 1 to 9** or is lawful, the court may—
- (a) confirm the disposition; or 10
- (b) amend the terms of the disposition; or
- (c) set aside the disposition.
- (3) In determining under **subsection (1)(e)** whether a decision is lawful, the court—
- (a) may uphold the decision; or 15
- (b) may set aside the decision; or
- (c) may set aside the decision and order that the decision-making process be repeated, subject to any directions imposed by the court on how the decision-making process is to be carried out; but
- (d) must not make the decision itself. 20
- (3A) In determining a matter under **subsection (1)(n) or (o)**, and despite **subsection (1)(s)**, the court—
- (a) must first consider the tikanga of the respective whānau; and
- (b) may also consider the tikanga of the members of the hapū with which the whānau are most closely connected. 25
- (4) The court's jurisdiction may be exercised on the application of any person with an interest in the matter.
- (5) In the course of any proceedings relating to any particular part of the court's jurisdiction, the court may, subject to the rules of court,—
- (a) exercise any other part of its jurisdiction that it considers necessary or desirable to deal effectively with the matter before it; and 30
- (b) exercise that jurisdiction without further application and on any terms as to notice to parties and otherwise that the court thinks fit.
- 301 Rights and interests preserved**
- If the court determines under **section 300(1)(c)** that a disposition of Māori freehold land is unlawful, the court's order amending the terms of the disposition or setting it aside does not affect a right or interest acquired for value and 35

in good faith under any instrument of disposition registered under the Land Transfer Act 1952 before the making of the court's order.

### **302 Power of court to grant relief in relation to Māori freehold land**

The court has, in relation to Māori freehold land, all of the powers of the High Court under the following provisions of the Property Law Act 2007:

- (a) section 253 (relief against cancellation of lease for breach of covenant or condition): 5
- (b) section 254 (mortgagee or receiver may apply for extension of time for bringing proceedings):
- (c) section 255 (application for relief not to constitute admission): 10
- (d) section 256 (powers of court on application for relief):
- (e) section 257 (effect of order granting relief against cancellation of lease):
- (f) section 258 (protection of sublessee on cancellation of superior lease):
- (g) section 259 (interested person may apply for extension of time for bringing proceedings): 15
- (h) section 260 (powers of court on application for relief by sublessee):
- (i) section 264 (relief court may grant on application):
- (j) subpart 1 of Part 6 (entry onto neighbouring land):
- (k) subpart 2 of Part 6 (wrongly placed structures).

### **303 Court may determine claims to ownership, etc, of Māori freehold land** 20

- (1) The court may, on application, determine any claim at law or in equity to—
  - (a) the ownership or possession of Māori freehold land; or
  - (b) a right or title to, or an estate or interest in, Māori freehold land; or
  - (c) the proceeds of the disposition of a right or title to, or an estate or interest in, Māori freehold land. 25
- (2) The court may, on application, determine—
  - (a) the relative interests of legal or equitable owners of Māori freehold land; or
  - (b) whether any Māori land is or is not held by any person in a fiduciary capacity. 30
- (3) An application may be made by any person with an interest in the matter.

### **304 Court may declare ownership of Māori freehold land if ownership not accurately recorded**

- (1) The court may, on application, make an order declaring the ownership of a parcel of Māori freehold land if it is satisfied that any matter in relation to the 35

ownership of the land is not accurately recorded in either or both of the following:

- (a) the Māori land register;
  - (b) a computer freehold register, computer interest register, or other instrument of title. 5
- (2) An application may be made by—
- (a) the chief executive; or
  - (b) an owner of the land; or
  - (c) the governance body for the land, if the land is managed under a governance agreement; or 10
  - (d) a kaiwhakamarumarū appointed to manage the land or an interest in the land.
- (3) The order must specify—
- (a) each owner of the land; and
  - (b) the beneficial interest that each owner has in the freehold estate in the land; and 15
  - (c) the date on which the order comes into force.
- (4) The Registrar must send the chief executive and the Registrar-General a copy of each order made under this section.
- (5) If the land is managed by a Māori incorporation, the Registrar must also send the incorporation a copy of the order. 20
- (6) Promptly after receiving an order, the chief executive, Registrar-General, and Māori incorporation must amend any relevant register, document, or instrument to reflect the corrections made by the court in the order.
- 305 Jurisdiction in respect of certain trusts** 25
- (1) This section applies in respect of—
- (a) any rangatōpū in the form of a private trust; and
  - (b) any other trust constituted in respect of Māori freehold land.
- (2) The court has, in respect of the trust, all the powers and authorities of the High Court under the Trustee Act 1956. 30
- (3) **Subsection (2)** does not limit or affect the jurisdiction of the High Court.
- (4) This section does not apply in respect of a governance body just because it holds its asset base on trust under **section 155(1)(b)**.
- 306 Jurisdiction in proceeding for recovery of land**
- (1) The court has jurisdiction to hear and determine any proceeding for the recovery of Māori freehold land if— 35
- (a) the land was under a lease and—

- 
- (i) the term and interest of the lessee has ended or been terminated by the lessor or the lessee (whether or not the lessee is liable for the payment of any rent); and
- (ii) the lessee or other occupier of the land or part of the land neglects or refuses to quit and deliver up possession of the land; or 5
- (b) the land is under a written or oral lease or licence, the payment of rent is in arrears for any period, and the lessor or licensor is entitled to exercise a right of re-entry under the terms of the lease or licence; or
- (c) the land is under a written or oral lease or licence, the payment of rent is in arrears, and the occupier deserts the land, leaving it uncultivated or unoccupied so that no remedy of forfeiture is available; or 10
- (d) any person without right, title, or licence is in possession of the land.
- (2) **Subsection (1)** applies despite anything to the contrary in the District Courts Act 1947.
- 307 Power of court to grant specific performance of leases of Māori freehold land** 15
- (1) This section applies to—
- (a) leases of Māori freehold land; and
- (b) leases of other land that ceased to be Māori land under Part 1 of the Maori Affairs Amendment Act 1967. 20
- (2) The court has, in relation to leases to which this section applies, the same jurisdiction as the High Court to grant and enforce specific performance or to award damages in addition to, or in substitution for, specific performance.
- 308 Jurisdiction of court under Fencing Act 1978**
- (1) The court has exclusive jurisdiction to hear and determine a claim, dispute, or question if it relates only to Māori freehold land and arises under the Fencing Act 1978. 25
- (2) **Subsection (1)** applies despite anything to the contrary in the Fencing Act 1978.
- (3) In addition, the court has jurisdiction to hear and determine a claim, dispute, or question if it relates partly to Māori freehold land and arises under the Fencing Act 1978. 30
- (4) The court's jurisdiction under **subsection (3)** applies to Māori freehold land and is concurrent with that of any other court of competent jurisdiction.
- (5) In exercising its jurisdiction under this section, the court— 35
- (a) may order the payment of any sum for any claim, dispute, or question under the Fencing Act 1978, and by the same or a subsequent order may direct by whom and to whom any sum must be paid:



- (b) may order payment to be made for the erection or repair of any fence, even if any notice required by the Fencing Act 1978 to be given or served has not been given or served, if the court is satisfied that all reasonable attempts were made to give or serve the notice.

**309 Powers of court under Contracts (Privity) Act 1982 and Contractual Remedies Act 1979** 5

- (1) The court has all the powers of the High Court under—
- (a) the Contracts (Privity) Act 1982; and
  - (b) sections 4, 7(6) and (7), and 9 of the Contractual Remedies Act 1979.
- (2) However, a power conferred on the court by **subsection (1)** may be exercised only if the occasion for the exercise of that power arises in the course of proceedings properly before the court. 10
- (3) **Subsection (2)** does not apply to an application made for the purposes of section 7(1) of the Contracts (Privity) Act 1982 or section 7(6) or 9 of the Contractual Remedies Act 1979. 15

*Special powers of Chief Judge*

**310 Chief Judge may correct mistakes and omissions**

- (1) The Chief Judge may, on application under **section 311**, make an order cancelling or amending—
- (a) an order made by a court or a Registrar; or 20
  - (b) an order made by a Registrar before the commencement of this section; or
  - (c) a record in the Māori land register other than a record of the—
    - (i) registration of a governance agreement (including any amendment to or cancellation of the agreement); and 25
    - (ii) issuing of a governance certificate or a rangatōpū certificate.
- (2) The Chief Judge must not make an order under this section unless satisfied that the order, certificate, or record is erroneous in fact or in law because of any mistake or omission—
- (a) on the part of the court or the Registrar; or 30
  - (b) in the presentation of the facts of the case to the court or to the Registrar; or
  - (c) on the part of the chief executive; or
  - (d) in any document lodged with the chief executive.
- (3) The Chief Judge may— 35
- (a) make an order cancelling or amending the order, certificate, or record; or

- (b) make any other order that, in the opinion of the Chief Judge, is necessary in the interests of justice to rectify the mistake or omission.
- (4) An order under this section may be made to take effect retrospectively to such extent as the Chief Judge thinks necessary for the purpose of giving full effect to that order. 5
- (5) **Subsection (4)** is subject to **section 314**, but is not limited by any other provision of **Parts 1 to 9**.
- (6) The Chief Judge may exercise his or her powers under this section that relate to orders to which **section 413** (which relates to orders that would otherwise be conclusive) would otherwise apply. 10
- (7) The Chief Judge may decline to exercise jurisdiction under this section.
- (8) A party to an application made under **section 311** or a person affected by a decision or order of the Chief Judge under this section (including a decision under **subsection (7)**) may appeal to the Māori Appellate Court against all or part of the decision or order as if it were a decision or order of the court. 15
- (9) On the Māori Appellate Court's determination of the appeal, no further application in respect of the same matter may be made under **section 311**.

Compare: 1993 No 4 s 44

### **311 Applications for exercise of special powers**

- (1) The Chief Judge's jurisdiction under **section 310** may be exercised only on written application— 20
- (a) by or on behalf of a person who claims to have been adversely affected by the order, certificate, or record to which the application relates; or
- (b) by a Registrar; or
- (c) by the chief executive responsible for keeping the Māori land register. 25
- (2) On any application under this section, the Chief Judge may—
- (a) require the applicant to deposit in an office of the court any sum that the Chief Judge thinks fit as security for costs; and
- (b) summarily dismiss the application if the amount fixed is not deposited within the time allowed. 30

Compare: 1993 No 4 s 45

### **312 Powers of Chief Judge to deal with applications under section 311**

- (1) The Chief Judge may refer an application under **section 311** to the court or the Māori Appellate Court for inquiry and report, and may deal with an application without holding formal sittings or without hearing the parties in open court. 35
- (2) The Chief Judge may state a case for the opinion of the High Court on any point of law that arises in relation to any application made under **section 311**.

- (3) **Section 405** applies with the necessary modifications for the purpose of **subsection (2)**.
- (4) The Chief Judge may make any order as to the payment of costs for an application under **section 311** that the court can make under **section 414**.
- (5) **Section 414** applies with the necessary modifications for the purpose of **subsection (4)**. 5

Compare: 1993 No 4 s 46

### 313 Administrative and consequential matters

- (1) An order made by the Chief Judge under **section 310** must be signed by the Chief Judge and sealed with the seal of the court. 10
- (2) The Chief Judge may, at any time, cause duplicates of an order to be signed and sealed if the order was made under **section 310** or under the corresponding provisions of any former enactment by the Chief Judge, any former Chief Judge, the Deputy Chief Judge, or any former Deputy Chief Judge.
- (3) A duplicate must have the word “Duplicate” written or stamped on it, and has the same evidentiary value as the order of which it is a duplicate. 15
- (4) Any Judge of the court may make all consequential amendments that are required to be made in any order, certificate, or record, or document made, issued, or kept by the court because of any order made by the Chief Judge under **section 310** or made by the Māori Appellate Court on appeal from the order. 20
- (4A) The chief executive may make all consequential amendments that are required to be made in the Māori land register because of any order made by the Chief Judge under **section 310** or made by a court on an appeal relating to the order. 25
- (5) Consequential amendments made to an order under **subsection (4)** are to be treated as if they were made by order for the purposes of **section 269** and the provisions of **Parts 1 to 9** that relate to recording matters in the Māori land register and registration under the Land Transfer Act 1952.
- (6) No fee is payable for registration under the Land Transfer Act 1952 of an order made by the Chief Judge under **section 310** or consequential amendments made to an order under **subsection (4) or (4A)**. 30

Compare: 1993 No 4 s 47

### 314 Effect of amendment or cancellation on payments made or trust money

- (1) No payment made in good faith under, or for the purposes of, the original order may be treated as having been made without lawful authority just because that order has been cancelled or amended by an order made under **section 310**. 35
- (2) Even though an application has been made under **section 311**, any trustee or agent holding any money for distribution may distribute the money to the person entitled to it in accordance with the terms of the order to which the applica- 40

tion relates, unless the distribution is prohibited by an injunction under **section 407(1)(d)** that has been served on the trustee.

- (3) If an injunction is obtained, the Chief Judge may, in the order made on the application or by a separate order, determine the persons to whom any money to which the injunction relates must be paid and their relative shares or interests in the money. 5

Compare: 1993 No 4 s 48

*Exercise of powers by Deputy Chief Judge*

**315 Deputy Chief Judge may exercise special powers of Chief Judge**

The Deputy Chief Judge has the powers, functions, and duties of the Chief Judge under **sections 310 to 314**, subject to the direction of the Chief Judge. 10

Compare: 1993 No 4 s 48A

*Enforcement of judgment for debt or bankruptcy in relation to Māori land*

**316 Māori customary land not available for enforcing judgment against debtor**

A judgment against a debtor for payment of debts or liabilities cannot be enforced against an interest in Māori customary land of the debtor. 15

**317 Māori freehold land not available for enforcing judgment against debtor**

- (1) A judgment against a debtor for payment of debts or liabilities cannot be enforced against a beneficial interest in freehold in Māori freehold land of the debtor. 20

- (2) However, this section does not limit—

- (a) the operation of any mortgage or charge on the land; or  
(b) the recovery of rates or taxes payable for the land.

**318 Māori freehold land available in bankruptcy**

- (1) ~~The court must, on application by the Official Assignee, make an order vesting in the Official Assignee any beneficial interest in freehold in Māori freehold land of a person adjudicated bankrupt.~~ 25

- (1) If a person adjudicated bankrupt has any beneficial interest in freehold in Māori freehold land, the Official Assignee may have the interest vested in the Official Assignee by transmission. 30

- (2) Despite anything in the Insolvency Act 2006,—

- (a) a beneficial interest in freehold in Māori freehold land of a bankrupt does not vest in the Official Assignee except by a vesting order made transmission under this section:

- (b) the Official Assignee cannot disclaim the interest: 35

- (c) to avoid doubt, the Official Assignee cannot sell the interest except to a person to whom the bankrupt could have disposed of it in accordance with **Part 4**;
- (d) if the person is discharged from bankruptcy and any interest remains vested in the Official Assignee under this section, the person may have the interest re-vested in the person by transmission. 5

*Application of certain laws to Māori land*

**319 Reasonable access to landlocked Māori land**

- (1) Sections 327 to 331 of the Property Law Act 2007 apply, despite section 8(3) of that Act, to any of the following that is landlocked land: 10
- (a) Māori land;
- (b) land that is reserved as a whenua tāpui;
- (c) private land that has at least 1 Māori owner and that ceased to be Māori land under Part 1 of the Maori Affairs Amendment Act 1967.
- (2) However, those sections of the Property Law Act 2007 apply with the following modifications: 15
- (a) the definitions in **subsections (4) and (5)** apply in those sections;
- (b) section 328(3)(a) of that Act does not apply;
- (c) the court has exclusive jurisdiction under those sections;
- (d) an application may be made under section 327(1) of that Act for the owner by a kaiwhakahaere appointed for that purpose or, if the land is Māori customary land with no such kaiwhakahaere, by the Māori Trustee: 20
- (e) if the landlocked land is Māori land, section 329(a) of that Act applies only if the applicant purchased the land or acquired the land by exchange: 25
- (f) if the landlocked land or the land over which reasonable access is sought is Māori land, the court must have regard to the following matters in addition to those in section 329 of that Act:
- (i) the relationship that the beneficial owners of that land have with the land and with any water, sites, wāhi tapu, wāhi tūpuna, or other taonga associated with the land; and 30
- (ii) the culture and traditions of those beneficial owners with respect to that land.
- (3) The court may appoint expert assessors or valuers, as additional members of the court, to assist it to determine issues of valuation or compensation in relation to an application for an order granting reasonable access. 35
- (4) In this section,—

- landlocked land** means a piece of land to which there is no reasonable access
- reasonable access** means physical access to land for persons or services that is of a nature and quality that is reasonably necessary to enable the owner or occupier to use and enjoy the land.
- (5) For the purposes of **subsection (2)(a)**,— 5
- occupier** means a person who lawfully occupies land
- owner**—
- (a) means a person with a legal or beneficial interest in the fee simple estate in land; and
- (b) in relation to Māori customary land, includes Māori who hold the land in accordance with tikanga Māori. 10
- 320 No court order for division of Māori land among co-owners**
- Subpart 5 of Part 6 of the Property Law Act 2007 (which relates to the division of property among co-owners) does not apply to Māori land.
- 321 Exclusion of interests in Māori land founded on adverse possession** 15
- (1) Despite any other enactment or rule of law, no person may claim an interest in Māori land on the ground of adverse possession.
- (2) No relief may be claimed by any person for any loss or damage arising from this section.
- Giving of notices* 20
- 322 Giving of notices**
- (1) If a notice or other document is to be given to a person under **Parts 1 to 9**, it must be given in writing—
- (a) directly to the person; or
- (b) by post addressed to the person at the person's usual or last-known place of business or residence; or 25
- (c) by service on the person's lawyer or another person authorised to act on behalf of the person; or
- (d) by electronic transmission to the person or the person's lawyer or another person authorised to act on behalf of the person (for example, by fax, email, or electronic data transfer). 30
- (2) In the absence of proof to the contrary, a notice or document—
- (a) sent by post is deemed to have been received when it would have been delivered in the ordinary course of post; or
- (b) sent by electronic transmission is deemed to have been received when it enters the information system of the person to whom it is sent or comes to the person's attention. 35

- 323 Notices to owners of Māori customary land**
- (1) If any enactment, bylaw, rule of law, or court requires a notice to be given to or served on the owners of Māori customary land, the notice must instead be given to or served on,—
- (a) for land reserved as a whenua tāpui, the administering body: 5
- (b) for other land,—
- (i) a kaiwhakahaere appointed for that purpose; or
- (ii) the Registrar for the district in which the land is situated, if there is no kaiwhakahaere appointed for that purpose.
- (2) Notice given or served in accordance with this section must be treated for all purposes as if it had been given to or served on the owners of the land. 10
- (3) If the Registrar receives a notice under this section, the Registrar must bring the notice to the court’s attention, together with any information relating to the land and its ownership.
- 324 Notices to owners of Māori freehold land** 15
- (1) If any enactment, bylaw, rule of law, or court requires a notice to be given to or served on the owners of Māori freehold land, the notice must instead be given to or served on,—
- (a) for land managed under a governance agreement, the governance body:
- (b) for land reserved as a whenua tāpui, the administering body: 20
- (c) for land managed under an order made under **section 73**, the kaiwhakamarumaruru:
- (d) for land for which a kaiwhakahaere is appointed to receive notices, the kaiwhakahaere:
- (e) for any other land, the following persons: 25
- (i) each of the legal owners, if there are 10 or fewer owners of the land:
- (ii) the Registrar for the district in which the land is situated, if there are more than 10 owners of the land.
- (2) Notice given or served in accordance with this section must be treated for all purposes as if it had been given to or served on the owners of the land. 30
- (3) If the Registrar receives a notice under this section,—
- (a) the Registrar must—
- (i) provide a copy of the notice to the chief executive; and
- (ii) bring the notice to the court’s attention, together with any information relating to the land and its ownership (so that the court may consider appointing a kaiwhakahaere on its own initiative under **section 193**); and 35

- (b) the chief executive, on receiving the copy, must provide a copy of the notice to each owner of the land whose contact details are known to the chief executive.

### 325 Time for responding to notices

- (1) This section applies if— 5
- (a) a person receives, in accordance with **section 323 or 324**, a notice on behalf of the owner or owners of Māori customary land or Māori freehold land; and
- (b) any enactment, bylaw, rule of law, or court specifies a period of time within which the owner— 10
- (i) may lodge an objection, a claim, or an appeal or do anything else in response to the notice; or
- (ii) is required to respond to any matter.
- (1A) If a person other than the Registrar receives the notice, the period of time must be extended by 15 working days. 15
- (2) If the Registrar receives the notice, the period of time—
- (a) does not begin to run until any decision is made on whether to appoint a kaiwhakahaere under **section 189** to act on behalf of the owners; and
- (b) must be extended by a further 15 working days (regardless of whether an appointment is made). 20
- ~~(3) If any other person receives the notice, the period of time must be extended by 15 working days.~~

### *Regulations*

### 326 Regulations

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes: 25
- (a) prescribing any of the following for any application, notice, instrument, certificate, declaration of trust, or other document provided for under **Parts 1 to 9**:
- (i) the form of the document: 30
- (ii) the content required in the document:
- (iii) any documentation or information that must accompany the document:
- (iv) how the document must be executed and witnessed:
- (v) how the document must be provided: 35
- (b) prescribing the instrument that is required to be used in order for a disposition, or any other matter, of a specified type to be recorded in the



- Māori land register (*see* **section 142**), which may be a new instrument or may be an instrument prescribed by another enactment, with or without specified modifications or additional content or accompanying information:
- (e) ~~prescribing the dispositions for which an electronic instrument may or must be used (and provided from an electronic workspace facility) in order for the disposition to be recorded in the Māori land register:~~ 5
- (c) prescribing requirements in order for a disposition, or any other matter, of a specified type to be recorded in the Māori land register, such as the following: 10
- (i) whether an electronic instrument may or must be used (instead of a paper instrument):
- (ii) whether an electronic instrument, if used, must be provided from an electronic workspace facility:
- (ca) prescribing different requirements under **paragraph (c)** for instruments provided by different persons: 15
- (d) regulating the practice applying to and the conduct of dispositions under **Parts 1 to 9**:
- (e) prescribing requirements for 1 or more declarations about a disposition's or other matter's compliance with the requirements of **Parts 1 to 9** ~~(for the purposes of the certification referred to in **paragraph (f)(i)**):~~ 20
- (f) prescribing, for each type of instrument for a disposition under **Parts 1 to 9**, the matters (if any) that must be certified by specified persons before the chief executive may record the instrument in the Māori land register, such as the following: 25
- (i) that any required declarations about the disposition's compliance with the requirements of **Parts 1 to 9** have been made:
- (ii) that the person giving the certificate has authority to act for the party specified in the regulations and that the party has the legal capacity to give the authority: 30
- (iii) that the person giving the certificate has taken reasonable steps to confirm the identity of the person who gave the authority to act:
- (iv) that the person giving the certificate has evidence showing the truth of the certifications and that the evidence will be retained for a prescribed period: 35
- (g) ~~prescribing different matters requirements under **paragraph (f)** for instruments provided in different ways (for example, as a paper instrument or as an electronic instrument):~~—
- (i) instruments provided in different ways (for example, as a paper instrument or as an electronic instrument); or 40

- (ii) instruments provided by different persons (for example, by a party to the instrument or by a practitioner):
- (h) providing that in all circumstances, or in specified circumstances, matters prescribed under **paragraph (e) or (f)** for declaration or certification may instead be included in, and confirmed by, an order of confirmation for a disposition: 5
- (i) applying any requirement for certification under another enactment, instead of any requirement prescribed under **paragraph (f)**, in specified circumstances (for example, applying the requirements for certification under the Land Transfer Act 1952 and its regulations to any instrument that may also be registered or noted under that Act): 10
- (j) prescribing any other requirements that must be satisfied before the chief executive may record a governance body or a governance agreement in the Māori land register:
- (k) prescribing charges or fees for— 15
- (i) services provided by any chief executive under **Parts 1 to 9**, such as provision of a copy of a document held in the Māori land register:
- (ii) any other matter under **Parts 1 to 9**:
- (l) providing for the administration of whenua tāpui, or for any other matters that may be necessary or expedient for giving full effect to **subpart 2 of Part 2** (whenua tāpui), whether in relation to a specified whenua tāpui, a specified class of whenua tāpui, or all whenua tāpui: 20
- ~~(m) in relation to the share register maintained by Māori incorporations under **section 233**,—~~ 25
- ~~(i) prescribing the requirements that are to apply in place of section 263 of Te Ture Whenua Maori Act 1993; and~~
- ~~(ii) prescribing the way in which a Māori incorporation may use the Māori land register in order to meet those requirements:~~
- (m) in relation to the share register maintained by Māori incorporations under **section 233**, prescribing procedures, requirements, and other matters, including matters that relate to— 30
- (i) the operation of the register:
- (ii) the form of the register:
- (iii) the information to be contained in or to accompany the register: 35
- (iv) access to the register, including matters relating to the payment of fees for access:
- (v) amendments to the register:
- (n) prescribing the information that must be kept on the public part of the Māori land register (which must not include contact details for owners of 40

- Māori freehold land, as those details may be kept only on the administrative part of the register):
- (o) specifying any orders of a court that may be included under **section 275(3)(b)** in an application for the withholding of personal information:
  - (p) providing for any other matters contemplated by **Parts 1 to 9**, necessary for its administration, or necessary for giving it full effect. 5
- (2) The Minister must consult the Minister for Land Information before recommending the making of regulations under **subsection (1)(b)** for a disposition that may also be registered under the Land Transfer Act 1952.
- 327 Regulations relating to governance agreements** 10
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing the provisions that must be contained in a governance agreement.
  - (2) Regulations made under this section—
    - (a) may prescribe different governance agreement provisions for different kinds of governance body; but 15
    - (b) must not prescribe governance agreement provisions that are inconsistent with the provisions set out in **Schedule 4**.
  - (3) The Minister must not make a recommendation under this section without first consulting the persons or representatives of the persons that the Minister considers appropriate, having regard to the subject matter of the proposed regulations. 20

## Part 9 Dispute resolution

- 328 Purpose** 25
- ~~The purpose of this Part is to assist Māori land owners and other parties to quickly and effectively resolve between themselves disputes about Māori land in a way that is consistent with the concept of mātauranga takawaenga.~~
- (1) The purpose of this Part, which relates to disputes about Māori land, is to—
    - (a) assist Māori land owners and other participants in a dispute to quickly and effectively resolve the dispute— 30
      - (i) between themselves; and
      - (ii) in accordance with, as far as possible, the relevant tikanga and values and protocols, both as to process and to substance; and
    - (b) enable disputes to be managed in a manner that maintains or enhances the relationships among Māori land owners and the members of their whānau and hapū. 35

- (2) In this section,—  
**relevant tikanga** means the tikanga of the whānau or hapū with whom the participants are affiliated  
**values and protocols** means the values and protocols that are derived from or consistent with the relevant tikanga. 5
- 329 Interpretation**
- In this Part,—  
**kaitakawaenga** means a person employed or engaged under **section 330** to provide dispute resolution services  
**mātauranga takawaenga** means a process to assist people and groups to resolve disagreements and conflicts,— 10
- (a) in the case of a hapū dispute, in accordance with the tikanga, values, and kawa of the hapū associated with the relevant land, both as to process and to substance; and  
 (b) in the case of a whānau dispute, in accordance with the kawa of the whānau, both as to process and to substance. 15
- In this Part, **kaitakawaenga** means a person employed or engaged under **section 330** to provide dispute resolution services.
- 330 Chief executive to provide dispute resolution services**
- (1) The chief executive must employ or engage persons to provide dispute resolution services to assist Māori land owners and other parties to quickly and effectively resolve disputes about Māori land. 20
- (2) **Parts 1 to 9** do not prevent a person from seeking and using dispute resolution services that are not provided under **Parts 1 to 9**.
- (3) The chief executive may— 25
- (a) decide how the dispute resolution services under **Parts 1 to 9** are to be provided; and  
 (b) in order to promote fast and effective resolutions, offer a variety of approaches to assist the parties to resolve the issues in dispute.
- 331 How dispute resolution process initiated** 30
- (1) A dispute resolution process under this Part may be commenced by—
- (a) a party to the dispute lodging an application for dispute resolution assistance with the chief executive; or  
 (b) the parties referring a dispute to the chief executive under **section 342**; or 35

- (c) a Judge referring a dispute to the chief executive under **section 216(4) or 341(1)(b), clause 3(3)(c) of Schedule 6, or clause 4(3)(d) of Schedule 7.**
- (2) The application must—
- (a) state the nature of the dispute and briefly describe the issues in dispute and the parties to the dispute; and 5
  - (b) describe where and when the dispute arose; and
  - (c) set out the names and contact addresses of the parties; and
  - (d) provide the full name and contact address of the party or person lodging the application. 10
- (3) On receiving the application, the chief executive must—
- (a) serve all other parties named in the application with a copy of the application; and
  - (b) notify each party served that the party must, within 20 working days after the date of receipt of the application, lodge a response. 15
- (4) A response must state—
- (a) whether the responding party agrees with the description of the dispute set out in the application; and
  - (b) whether the responding party agrees that the application correctly identifies the parties in dispute. 20
- (5) For the purposes of **subsection (1)(c)**, the dispute may be defined by the Judge.

### 332 When dispute resolution process must begin

- (1) The parties to a dispute may together nominate for appointment 1 or more kaitakawaenga within the relevant ~~following~~ period as follows: 25
- (a) if **section 331(1)(a)** applies, the relevant period is 20 working days after the date for lodging a response with the chief executive:
  - (b) if **section 331(1)(b) or (c)** applies, the relevant period is 20 working days after the date on which the chief executive receives the referral.
- (2) The chief executive must appoint the nominated kaitakawaenga if ~~satisfied that,~~— 30
- (a) after giving due consideration to the nature of the dispute, he or she is satisfied that the criteria in **subsection (3)** have been met; and
  - (b) he or she is satisfied that the nominated kaitakawaenga is not from the same hapū as a party to the dispute or all the parties to the dispute have given their consent to the appointment of that person. 35
- (3) The criteria are as follows:

- (a) the kaitakawaenga or at least 1 of the kaitakawaenga must possess knowledge and experience of tikanga Māori; and
  - (b) each kaitakawaenga, when deciding how to deal with the dispute, is able to act impartially; and
  - (c) each kaitakawaenga has suitable skills and attributes to assist the parties to resolve the dispute. 5
- (4) If the parties do not nominate a kaitakawaenga or fail to nominate a suitable person, the chief executive must appoint 1 or more kaitakawaenga in accordance with the criteria in **subsection (3)**.
- (5) The kaitakawaenga must begin the dispute resolution process with the parties as soon as is reasonably practicable after being appointed. 10

### 333 Role of kaitakawaenga

- (1) A kaitakawaenga may,—
- (a) having regard to the purpose of this Part, the principles of **Parts 1 to 9**, and the needs of the parties,— 15
    - (i) follow any procedures, whether structured or unstructured, or do any things that he or she considers appropriate to resolve the dispute quickly and effectively; and
    - (ii) be guided by ~~the concept of mātauranga takawaenga~~ **section 328** when deciding the procedures that should be followed; and 20
    - (iii) conduct the proceedings in te reo Māori or permit the use of te reo Māori by the parties; and
  - (b) assist the parties to resolve at an early stage any issue that is in dispute, including, at the request of a party, by discussing the issue with that party without any representative of that party being present; and 25
  - (c) receive any information, statement, admission, document, or other material in any way that the kaitakawaenga thinks fit, whether or not it would be admissible in judicial proceedings.
- (2) However, a kaitakawaenga must act in accordance with any general instructions issued for the purpose of this Part by the chief executive under **section 340**. 30
- (3) **Subsection (1)(b)** is subject to **section 335(2A)**.

### 334 Conduct of dispute resolution process

- (1) A kaitakawaenga may, subject to **section 335(2A)**,—
- (a) address any party to the issues in dispute with or without any representative of that party being present; and 35
  - (b) express to any party his or her views on the substance of 1 or more of the issues in dispute—

- (i) with or without any representative of the party being present; and
- (ii) with or without any other party or parties to the matter being present; and
- (c) express to any party his or her views on the process the party is following or the position the party has adopted about the dispute or any issue in dispute— 5
- (i) with or without any representative of the party being present; and
- (ii) with or without any other party or parties to the matter being present.
- (2) Any statement, admission, or document created or made for the purposes of the dispute resolution process, and any information that, for the purposes of the process, is disclosed orally in the course of the process, must be kept confidential by a person who is— 10
- (a) a kaitakawaenga; or
- (b) a person to whom dispute resolution services are provided; or 15
- (c) a person employed or engaged by the chief executive; or
- (d) a person who assists either a kaitakawaenga or a person to whom dispute resolution services are provided.
- (3) However, the confidentiality under **subsection (2)** may be waived with the consent of the parties or the relevant party (as the case may be). 20
- 335 Parties may confer powers of recommendation or decision on kaitakawaenga**
- (1) The parties to a dispute may agree in writing to confer on a kaitakawaenga—
- (a) the power to make a written recommendation in relation to the issues in dispute; or 25
- (b) the power to decide the issues in dispute.
- (2) Before the parties make and sign an agreement under **subsection (1)**, a kaitakawaenga must—
- (a) explain to the parties the effect of **section 336(3)**; and
- (b) be satisfied that the parties, knowing the effect of ~~that section~~ **subsection (1)**, have affirmed their agreement with the recommendation or decision. 30
- (2A) If the parties confer on a kaitakawaenga a power to decide the issues in dispute, the kaitakawaenga must not, unless the parties agree otherwise, discuss with a party any matter relating to the dispute without the party's representative (if any) being present. 35
- (3) A kaitakawaenga is immune from civil and criminal liability for any decision made under a power conferred under **subsection (1)(b)** if the decision is made in good faith and in a reasonable manner.

**336 Successful dispute resolution outcome**

- (1) This section applies if some or all of the issues referred to a dispute resolution service are resolved with the assistance of a kaitakawaenga.
- (2) The kaitakawaenga must—
- (a) explain to the parties the effect of **subsection (3)**; and 5
  - (b) on being satisfied that the parties, knowing the effect of **subsection (3)**, affirm their agreement,—
    - (i) record and sign the agreed terms of resolution; and
    - (ii) deliver the signed record of the agreed terms of resolution to the chief executive. 10
- (3) On the signing by the kaitakawaenga of the agreed terms of resolution,—
- (a) those terms are final and binding on, and enforceable by, the parties; and
  - (b) except for enforcement purposes, no party may seek to bring those terms before a court, whether by action, appeal, application for review, or otherwise. 15
- (4) The court may, on the application of a party to a successful dispute resolution outcome, exercise its jurisdiction to enforce the outcome.

**337 Unsuccessful dispute resolution outcome**

- (1) This section applies if some or all of the issues referred to a dispute resolution service are not resolved despite the assistance of a kaitakawaenga and the kaitakawaenga believes that those issues are unlikely to be resolved. 20
- (2) The kaitakawaenga must—
- (a) report the lack of resolution to the chief executive; and
  - (b) state the issues that are unresolved and any issues that have been resolved. 25
- (3) The parties may, if they fail to resolve their dispute and they all agree, withdraw and discontinue the matter.
- (4) The chief executive, on receiving the report of the kaitakawaenga, must refer the unresolved issues to the court.
- (5) The court, on having the unresolved issues referred to it, may— 30
- (a) hear and determine all of the unresolved issues; or
  - (b) hear and determine some of the unresolved issues and, in accordance with **section 341**, refer the rest of the unresolved issues back to the chief executive for dispute resolution; or
  - (c) in accordance with **section 341**, refer all of the unresolved issues back to the chief executive for dispute resolution. 35



**338 Status of dispute resolution services**

- (1) No dispute resolution services may be challenged or called in question in any proceedings on the ground that—
- (a) the nature and content of the services were inappropriate; or
  - (b) the manner in which the services were provided was inappropriate. 5
- (2) Nothing in this Part prevents any agreed terms of resolution signed under **section 336(2)** from being challenged or called in question on the ground that **section 336(2)** was not complied with.

**339 Independence of kaitakawaenga**

- (1) The chief executive must ensure that any kaitakawaenga is, in deciding how to deal with any particular dispute or aspect of it, able to act impartially. 10
- (2) If the parties agree, a kaitakawaenga who belongs to the same hapū as 1 or more of the parties may be appointed to conduct the dispute resolution process.
- (3) A person appointed as a kaitakawaenga is protected from civil liability, however it may arise, for any act that the person does or omits to do in fulfilment or intended fulfilment of the purpose for which the person is appointed, unless— 15
- (a) the terms of the appointment provides otherwise; or
  - (b) the act or omission is done in bad faith or without reasonable cause.

**340 Chief executive may issue general instructions**

- (1) The chief executive, in managing the overall provision of dispute resolution services, may issue general instructions about the manner in which, and the times and places at which, dispute resolution services are to be provided. 20
- (2) Any general instructions issued by the chief executive may include general instructions about the manner in which dispute resolution services are to be provided in relation to particular types of issues or particular types of situations, or both. 25
- (2A) As soon as practicable after issuing any general instructions, the chief executive must make the instructions publicly available by publishing them on an Internet site on which the public has free access or by any other means that the chief executive considers appropriate. 30
- (3) Nothing in **section 339** prevents the chief executive from issuing general instructions under this section.

**341 Judge may refer dispute for dispute resolution**

- ~~(1) A Judge may, after consulting the persons affected by any dispute brought to the court, refer the dispute to the chief executive for dispute resolution under this Part. 35~~
- (1) A Judge in a dispute before the court may,—

- (a) after having regard to the views of the parties, recommend that the dispute be dealt with by dispute resolution under this Part; or
- (b) with the agreement of the parties, refer the dispute to the chief executive for dispute resolution under this Part.
- (1A) A recommendation under **subsection (1)(a)** is not binding on the parties. 5
- (2) This Part applies with the following modifications if the dispute is referred to the chief executive in accordance with **subsection (1)(b)**:
- (a) the chief executive must give the court a certified copy of any record of any agreed terms of resolution signed by the parties:
- (b) the court may, on receipt of a report of the kaitakawaenga provided under **section 337(4)**,— 10
- (i) hear and determine the unresolved issues; or
- (ii) after consulting the affected parties, refer some or all of the unresolved issues to the chief executive for dispute resolution under this Part. 15
- (3) An agreement referred to in **subsection (2)(a)** must be treated as confidential by the court unless confidentiality is waived by all the parties to the dispute.
- (4) A decision by the court under **subsection (2)(b)** is subject to the right of the parties to discontinue the proceeding.
- 342 Parties to refer disputes for dispute resolution before court may proceed** 20
- (1) This section applies if, in any proceeding that is filed in the court, there is a dispute between any of the parties over an issue that does not involve a point of law.
- (2) In **subsection (1)**, **proceeding** means any of the following:
- (a) an objection to an application for ~~succession~~ to give effect to succession, or competing applications to give effect to succession; 25
- (b) an application to determine whether a person is a whāngai;
- (c) an application to determine ~~whether a whāngai relationship, a relationship by birth, or a relationship by adoption order is to be treated as, for any child who is a whāngai or the subject of an adoption order whether the child's relationship with certain parents is a relationship of descent~~ for the purposes of a provision in **Parts 1 to 9** (*see section 8*); 30
- (d) an application to determine whether a person is entitled to receive the rights of a surviving spouse or partner;
- (e) a proceeding to determine whether an entity is a representative entity for the purposes of **Parts 1 to 9**; 35
- (f) a ~~proceeding~~ an application to determine whether a person is a preferred recipient, or whether an entity is a preferred entity, for the purposes of **section 96**:

- (g) ~~an application to determine whether a person is a preferred recipient:~~
- (h) ~~an application to determine whether a person is a preferred entity.~~
- (g) a proceeding to determine whether the tikanga of the whānau, hapū, or iwi prevails in any particular situation.
- (3) If this section applies, the parties must refer the issue in dispute to the chief executive for dispute resolution under this Part. 5
- (4) The court does not have jurisdiction to hear and determine any issue referred to the dispute resolution service unless—
- (a) some or all of the issues referred for dispute resolution are not resolved by dispute resolution and have been referred to the court under **section 337(4)**; or 10
- (b) the issues in dispute have been the subject of unsuccessful dispute resolution under this Part or any other dispute resolution process within the previous 6 months and the court is exercising jurisdiction by consent of the parties. 15
- (5) Nothing in **subsection (4)**—
- (a) applies if urgent intervention by way of injunction or other remedy is required to preserve or prevent damage to any property or to avoid loss; or
- (b) prevents a Judge of the court from including any agreed terms of resolution that are completed, signed, and delivered in accordance with **section 336**, in an order of the court; or 20
- (c) prevents the court from hearing and determining any challenge to the validity of any agreed terms of resolution under **section 338(2)**.
- (6) A claim for the whole or part of a debt or liquidated demand may not be the subject of dispute resolution under this Part unless— 25
- (a) the applicant satisfies the court or the chief executive, before dispute resolution commences, that the claim, or a part of the claim, is in dispute; or
- (b) the applicant satisfies the court or the chief executive, before dispute resolution commences, that the claim is in the nature of a counterclaim by a respondent against an applicant; or 30
- (c) the applicant satisfies the kaitakawaenga that the claim is in the nature of a counterclaim by a respondent against an applicant.
- (7) Nothing in **Parts 1 to 9** requires any person to file proceedings in the court in order to be eligible to seek and use the dispute resolution services under this Part. 35

## Part 10

### Preliminary provisions

#### 343 Interpretation

In **Parts 10 to 15**, unless the context otherwise requires,—

**chief executive**, in relation to any provision of **Parts 10 to 15**, means the chief executive of the department that, with the authority of the Prime Minister, is responsible for the administration of that provision 5

**court** means the Māori Land Court

**department** has the meaning given in section 2(1) of the Public Finance Act 1989 10

**Judge**—

(a) means a Judge of the Māori Land Court; and

(b) includes the Chief Judge and the Deputy Chief Judge of that court

**kaitakawaenga** has the meaning given by **section 329** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** 15

**land** includes—

(a) estates and interests in land:

(b) buildings and other permanent structures on land:

(c) land covered with water:

(d) ~~plants and trees on land~~ 20

(d) plants, trees, and timber on or under land

**Māori** means an individual of the Māori race of New Zealand, and includes a descendant of such an individual

**Māori customary land** has the meaning given by **section 12** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** 25

~~**Māori freehold land**~~ has the meaning given by ~~**section 20**~~ of ~~**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**~~

**Māori freehold land**—

(a) has the meaning given by **section 20** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; and 30

(b) for the purposes of a matter relating to **Part 7** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, includes—

(i) vested land within the meaning of section 2(1) of the Māori Vested Lands Administration Act 1954; and

(ii) reserved land within the meaning of section 2(1) of the Māori Reserved Land Act 1955 35

**Māori land** means Māori customary land and Māori freehold land

~~Māori reserve~~ means—

- (a) ~~any land vested in the Māori Trustee as, or for the purposes of, a Māori reserve; and~~
- (b) ~~any land that is subject to the Maori Reserved Land Act 1955~~

Māori Trustee has the meaning given by section 2(3) of the Māori Trustee Act 1953 5

Minister for Māori Development means the Minister who, with the authority of the Prime Minister, is responsible for the administration of **Parts 10 to 15**  
~~owner~~ has the meaning given by ~~section 7~~ of ~~Parts 1 to 9 of Te Ture Whenua Māori Act 2016~~ 10

owner—

- (a) has the meaning given by section 7 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016; but
- (b) for the purposes of a matter relating to Part 7 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016, means a person entitled to a beneficial interest 15

~~parcel~~, in relation to any Māori freehold land, means the freehold estate in a discrete area of land with a continuous boundary that is—

- (a) ~~defined in compliance with the applicable survey standards; or~~
- (b) ~~identified in a court order, a Crown grant, or any other instrument issued under an Act for the purpose of defining a parcel and specifying the freehold ownership of the parcel~~ 20

private land—

- (a) ~~means land held in fee simple by a person other than the Crown; and~~
- (b) ~~includes Māori land~~ 25

Registrar means any Registrar of the Māori Land Court

rules of court means rules made under **section 443**.

### 344 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 5** have effect according to their terms. 30

### 345 Act binds the Crown

**Parts 10 to 15** binds the Crown.

## Part 11 Māori Land Court

### *Continuation and administration of court*

#### 346 Māori Land Court continued

- (1) The Māori Land Court is continued as a court of record, and is the same court as the court that existed under the same name immediately before the commencement of this section. 5
- (2) The court has all the powers that are inherent in a court of record.
- (3) The court's powers under **subsection (2)** are in addition to the jurisdiction and powers conferred on it by other provisions of **Parts 10 to 15** or by **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** or any other enactment. 10

Compare: 1993 No 4 s 6

#### 347 Administration of court

- (1) A Chief Registrar, Registrars, Deputy Registrars, and other officers of the court may be appointed under the State Sector Act 1988 for the conduct of the business of the court. 15
- (2) The Chief Registrar and Registrars have the duties and powers that—
- (a) are conferred by or under **Parts 10 to 15** or any other enactment, or by the rules of court; and
- (b) are necessary or desirable to ensure the efficient and effective administration of the operations of the court. 20
- (3) A Deputy Registrar has the same duties and powers as a Registrar.
- (4) **Subsection (3)** is subject to any provision to the contrary in the rules of court.
- (5) An officer of the court may also hold another office or employment in the Public Service. 25

Compare: 1993 No 4 s 14; 1991 No 69 s 260

#### 348 Court districts

- (1) The Governor-General may, by Order in Council, do 1 or more of the following:
- (a) divide New Zealand into Māori Land Court districts: 30
- (b) declare the name by which each Māori Land Court district must be designated:
- (c) abolish any district or alter the limits or the designation of any district.
- (2) The Chief Judge must assign a Judge to each district, or to 2 or more districts, as the Chief Judge thinks fit. 35

- (3) Each district must have a Registrar. The same person may hold office as Registrar for any 2 or more districts.
- (4) An Order in Council under this section must be published in the *Gazette*.
- (5) Each Māori Land Court district that existed immediately before the commencement of this section— 5
- (a) continues to exist unless and until it is abolished under **subsection (1)**; and
- (b) may be altered in accordance with **subsection (1)(c)**.
- Compare: 1993 No 4 s 15

### 349 Seal of court 10

- (1) The court must have a seal of the court that must be used for sealing documents that are required to be sealed.
- (2) The seal must be in a form that the Governor-General from time to time determines.
- (3) The seal in use by the court immediately before the commencement of this section continues to be the seal of the court unless and until a new seal is prescribed by the Governor-General. 15
- Compare: 1993 No 4 s 16

#### *Jurisdiction of court under Maori Fisheries Act 2004*

### 350 Interpretation 20

In **sections 351 to 357 and Schedule 6**, unless the context otherwise requires,—

~~**Aotearoa Fisheries Limited** has the meaning given to it in section 5 of the Maori Fisheries Act 2004~~

**constitutional documents** has the meaning given to it in section 5 of ~~that Act~~ *the Maori Fisheries Act 2004* 25

~~**income share** has the meaning given to it in section 5 of that Act~~

~~**mandated iwi organisation** has the meaning given to it in section 5 of that Act~~

~~**settlement assets** has the meaning given to it in section 5 of that Act~~

~~**Te Ohu Kai Moana Trustee Limited** has the meaning given to it in section 5 of that Act~~ 30

~~**Te Putea Whakatupu Trustee Limited** has the meaning given to it in section 5 of that Act~~

~~**Te Wai Maori Trustee Limited** has the meaning given to it in section 5 of that Act~~ 35

**trust income** has the meaning given to it in section 78 of that Act.

Compare: 1993 No 4 s 26A

**351 Advisory jurisdiction of court**

The court has exclusive jurisdiction to advise on disputes referred to it—

- (a) under a dispute resolution process referred to in section 181(1) of the Maori Fisheries Act 2004; or
- (b) by a party to a dispute under section 182(2) of that Act. 5

Compare: 1993 No 4 s 26B

**352 Jurisdiction of court to make determinations**

The court has exclusive jurisdiction to hear and determine, and make orders accordingly, in relation to—

- (a) disputes referred to it under section 182 of the Maori Fisheries Act 2004: 10
- (b) applications by Te Ohu Kai Moana Trustee Limited under section 185(1) of that Act:
- (c) action taken by Te Ohu Kai Moana Trustee Limited in reliance on section 186 of that Act:
- (d) disputes referred to it by any party under section 187 of that Act. 15

Compare: 1993 No 4 s 26C

**353 Procedural provisions in Schedule 6 apply**

**Schedule 6** applies for the purposes of **sections 350 to 352**.

*Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004* 20

**354 Interpretation**

In **sections 355 to 357 and Schedule 7**, unless the context otherwise requires,—

**iwi aquaculture organisation** has the meaning given to it in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004 25

**settlement assets** has the meaning given to it in section 5 of that Act

**trustee** has the meaning given to it in section 4 of that Act.

Compare: 1993 No 4 s 26O

**355 Advisory jurisdiction of court**

The court has exclusive jurisdiction to advise on disputes referred to it under a dispute resolution process referred to in section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004. 30

Compare: 1993 No 4 s 26P



**356 Jurisdiction of court to make determinations**

The court has exclusive jurisdiction to hear and determine disputes referred to it under section 54 of the Maori Commercial Aquaculture Claims Settlement Act 2004 and may make orders accordingly.

Compare: 1993 No 4 s 26Q

5

**357 Procedural provisions in Schedule 7 apply**

**Schedule 7** applies for the purposes of **sections 354 to 356**.

*Special jurisdiction***358 Governor-General may confer special jurisdiction**

(1) The Governor-General may, by Order in Council, confer on the court jurisdiction to determine— 10

(a) any claim, dispute, issue, question, or other matter affecting the rights of Māori in any real or personal property; or

(b) any other matter that is within the field of the special expertise of the court. 15

(2) Any order made by the court in any case referred to it under this section has the same effect and must be dealt with, as far as practicable, in the same manner as an order or a determination of a similar nature made by the court in the exercise of its jurisdiction expressly conferred on it by an Act.

(3) Nothing in this section authorises an extension of the jurisdiction of the court that would— 20

(a) remove or modify any statutory restriction or limitation of the jurisdiction of the court; or

(b) confer on the court authority to vary or annul any order or decision of the Māori Appellate Court. 25

Compare: 1993 No 4 s 27

**359 Orders for payment of money held in trust**

(1) This section applies to any money held in trust for any Māori, or any money derived from any Māori land and held in trust, by any trustee, department (within the meaning of section 27A of the State Sector Act 1988), officer of the Public Service, corporation, solicitor, or accountant. 30

(2) The court may, on the application of any person interested or on its own motion, order that any money to which this section applies be paid to the person or persons beneficially entitled to the money, or to any other person, as the court may direct, on behalf of the person or persons so entitled. 35

(3) Despite **subsection (2)**, the court may direct that any money to which this section applies be applied wholly or partly in or towards the payment of any legal costs, survey costs, funeral expenses, tangi expenses, costs of headstones,

or other disbursements, or the reimbursement of any person who has already paid any such costs, expenses, or disbursements.

- (4) The court may exercise any powers under this section in respect of any money to which this section will apply when it is received by any person or body specified in **subsection (1)**, but the order has no effect until that money is received. 5

### **360 Additional members for purposes of court's special jurisdiction**

- (1) An Order in Council made under **section 358** may provide that, for the purpose of any claim, dispute, issue, question, or other matter to which the Order in Council relates, there must be 1 or 2 additional members of the Māori Land Court or the Māori Appellate Court (as the case requires). 10
- (2) Each additional member must possess knowledge and experience relevant to the claim, dispute, issue, question, or other matter to which the Order in Council relates.
- (3) No Judge of the Māori Land Court may be an additional member. 15
- (4) The Order in Council may appoint the additional member or additional members or authorise the Chief Judge to appoint the additional member or additional members.
- (5) If the Chief Judge is authorised to appoint an additional member for the purposes of any claim, dispute, issue, question, or other matter, he or she must, before appointing the member, consult the parties to the proceedings about the knowledge and experience that the additional member should possess. 20

Compare: 1993 No 4 s 28

### *Reference of matters to court for inquiry*

- 361 Reference to court for inquiry** 25
- (1) The Minister for Maori Development, the chief executive, or the Chief Judge may at any time refer a matter to the court for inquiry and report if, in his or her opinion, it is necessary or expedient that an inquiry be conducted.
- (2) A reference under this section is an application within the ordinary jurisdiction of the court, and the court may hear the matter and make any report and recommendations on the matter to the Minister for Maori Development, the chief executive, or the Chief Judge that the court thinks proper. 30

Compare: 1993 No 4 s 29

### **362 Additional members for purposes of inquiry**

- (1) If any matter is referred to the court for inquiry under **section 361(1)**, the Chief Judge may, for the purposes of that inquiry, appoint to the court 1 or 2 additional members who are not Judges of the court. 35

- (2) Each person appointed under **subsection (1)** must possess knowledge and experience relevant to the subject matter of the inquiry.
- (3) The Chief Judge must, before appointing any person under **subsection (1)** for the purpose of any inquiry, consult the parties to the inquiry about the knowledge and experience that the person should possess. 5
- (4) *See also section 363* (2 or more additional members to be appointed if matter of tikanga Māori referred).

Compare: 1993 No 4 s 31

### 363 Additional members in relation to matter of tikanga Māori

- (1) If a matter of tikanga Māori is referred to the court under **section 361(1)**, the Chief Judge must, under **section 362(1)**, appoint 2 or more additional members to the court. 10
- (2) If **subsection (1)** applies in relation to any matter of tikanga Māori, each person appointed under **section 362** in relation to that matter must possess knowledge and experience of tikanga Māori. 15

Compare: 1993 No 4 s 32

#### *Other provisions relating to additional members*

### 364 Application

**Sections 365 to 368** apply to additional members of the Māori Land Court or Māori Appellate Court who are appointed— 20

- (a) by or under an Order in Council made under **sections 358 and 360**; or
- (b) under **section 362(1) or 363(1)**; or
- (c) under **clause 3(4), 4(4), or 5(6) of Schedule 6** or **clause 3(4), 4(4), or 5(6) of Schedule 7**. 25

### 365 Oath to be taken by additional member

Before performing the duties of his or her office, any additional member of the Māori Land Court or the Māori Appellate Court must take an oath before a Judge of the Māori Land Court that he or she will faithfully and impartially perform the duties of his or her office. 30

Compare: 1993 No 4 s 34

### 366 Fees and allowances

- (1) There must be paid to any additional member of the Māori Land Court or the Māori Appellate Court, out of public money, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951. 35

- (2) The provisions of that Act apply accordingly as if the Māori Land Court or the Māori Appellate Court (as the case requires) were a statutory Board within the meaning of section 2 of that Act.  
Compare: 1993 No 4 s 35
- 367 Quorum and decisions** 5
- (1) If any additional members are appointed to the court for the purposes of any proceedings or matter, the presence of a Judge and of at least 1 additional member is necessary to constitute a sitting of the court.
- (2) The decision of a majority of the members present at a sitting of the court is the decision of the court if— 10
- (a) the matter before the court is a matter of tikanga Māori; or
- (b) the matter before the court is a matter arising on a reference made under **section 361**; or
- (c) the court is constituted under **section 362**.
- (3) The decision of a majority (including the Judge) of the members present at a sitting of the court is the decision of the court if the matter before the court is not a matter to which **subsection (2)** applies. If the members present are equally divided in opinion, the decision of the Judge is the decision of the court. 15  
Compare: 1993 No 4 s 36(1)–(3) 20
- 368 Questions undecided referred to Māori Appellate Court**
- (1) If any question before the Māori Land Court cannot be decided in accordance with **section 367**, the question must be referred to the Māori Appellate Court for decision in accordance with the practice and procedure of that court.
- (2) In any proceedings under this section,— 25
- (a) the Māori Appellate Court has all the powers of the Māori Land Court under **Parts 10 to 15**; and
- (b) the decision of the Māori Appellate Court is final and is enforceable as if it were a decision of the Māori Land Court under **Parts 10 to 15**.
- (3) **Subsection (4)** applies if, for the purposes of any proceedings or matter, an additional member or additional members are appointed to the Māori Appellate Court under **sections 358 and 360**. 30
- (4) If this subsection applies, **section 390** applies in relation to the proceedings or matter as if the Māori Appellate Court were constituted, for the purposes of the proceedings or matter, under **section 389**. 35  
Compare: 1993 No 4 s 36(4), (5)

*Jurisdiction and powers***369 Exercise of jurisdiction generally**

- (1) The jurisdiction of the court may be exercised on application by—
- (a) any person claiming to have an interest in the matter; or
  - (b) the Minister for Māori Development, the chief executive, or a Registrar. 5
- (2) **Subsection (1)** is subject to any express provisions of **Parts 10 to 15** or of the rules of court relating to the making of applications.
- (3) The court may give any person, body, or association leave to make an application to the court for the exercise of its jurisdiction if the court is satisfied—
- (a) that a question of importance to Māori or any iwi or hapū is involved; 10  
and
  - (b) that, because of the standing of the proposed applicant among the Māori concerned and the proposed applicant's relationship to or connection with any land to which the application relates, it is appropriate that leave be given to the proposed applicant. 15

Compare: 1993 No 4 s 37

**370 Powers of court may be exercised by any Judge**

- (1) Any Judge sitting alone, or any 2 or more Judges sitting together, may exercise all the powers of the court.
- (2) With the consent of the parties, proceedings may be continued before a Judge 20  
or Judges other than the Judge or Judges before whom they were commenced.

Compare: 1993 No 4 s 38

**371 Powers of Registrars**

- (1) The jurisdiction and powers conferred on the court by **Parts 10 to 15** or any other enactment may be exercised by any Registrar of the court who is designated for the purposes of this section by the Chief Judge. 25
- (2) The designation may be made only with the concurrence of the Chief Registrar and may apply in all or any of the classes of case specified by the rules of court, as the Chief Judge may determine.
- (3) An order made by a Registrar in the exercise of any jurisdiction or power under **subsection (1)** has effect for all purposes as an order of the court. 30
- (4) Nothing in this section limits **section 370**.

Compare: 1993 No 4 s 39

**372 Power of Judge to refer matter to Registrar**

- (1) A Judge may refer to a Registrar for inquiry and report— 35
- (a) any proceedings that require the preparation of any whakapapa:

- (b) any proceedings that require any prolonged examination of documents or any scientific or local investigation that cannot, in the opinion of the Judge, conveniently be made before the Judge:
- (c) any proceedings where the question in dispute consists wholly or in part of matters of account: 5
- (d) with the consent of the parties, any other proceedings:
- (e) any question arising in any proceedings.
- (2) The court's exercise of powers under **subsection (1)** is subject to the rules of court.
- (3) If any proceedings or questions are referred to a Registrar under this section, a Judge may direct how the reference must be conducted and may remit any report for further inquiry and report. 10
- (4) On consideration of any report or further report, a Judge may give any judgment or make any order in the proceedings that may be just.
- (5) A Judge may,— 15
- (a) after deciding or reserving any question of liability, refer to the Registrar or to the Registrar and an accountant any mere matter of account that is in dispute between the parties; and
- (b) after deciding the question of liability, give judgment on the Registrar's report. 20
- Compare: 1993 No 4 s 40
- 373 Power to remove proceedings to another court**
- Any proceedings commenced in the court may, if the Judge thinks fit, be removed for hearing into any other court of competent jurisdiction.
- Compare: 1993 No 4 s 18 25
- 374 Power to award interest on debt or damages**
- The court has, in its proceedings, the same powers to award interest on any debt or damages as the District Court has under section 62B of the District Courts Act 1947 in its own proceedings.
- Compare: 1993 No 4 s 24B 30
- 375 Equitable relief**
- (1) The court may make an order under this section—
- (a) for the purposes of or as a result of exercising jurisdiction conferred on it by or under any Act; and
- (b) to the extent that the order is not inconsistent with that Act. 35
- (2) The court may make an order for equitable relief if it is satisfied that, in the particular circumstances of the case,—

- (a) the order is necessary to achieve a just outcome; and
  - (b) any other available relief is insufficient to achieve a just outcome.
- (3) The court may make an order under **subsection (2)** on the application of a party to a proceeding or on the court's own motion.

*Decisions, orders, and rehearings*

5

**376 Decisions and orders to be pronounced in open court, and minute recorded**

- (1) The substance of a final decision or order of the court must be pronounced orally in open court.
  - (2) A final decision or order takes effect according to its terms as from the beginning of the day on which it is pronounced orally in open court. 10
  - (3) **Subsection (2)** is subject to **section 377**.
  - (4) A minute of the decision or order must be entered in the records of the court without delay.
- Compare: 1993 No 4 s 41 15

**377 Formal requirements and commencement of orders**

- (1) An order of the court must be drawn up, sealed, and signed in accordance with the rules of court.
  - (2) The rules of court may provide for exemptions from the requirements in **subsection (1)**. 20
  - (3) An order of the court must be dated with the date of the minute of the order; and ~~relates~~ relate back to that date.
- Compare: 1993 No 4 s 42

**378 Rehearings**

- (1) Any person interested in any matter to which an order of the court relates may apply in accordance with the rules of court for a rehearing under this section. 25
- (2) On application under **subsection (1)**, the Judge who made the order, or any other Judge, may—
  - (a) order a rehearing on any terms that the Judge thinks reasonable; and
  - (b) in the meantime, stay the proceedings. 30
- (3) A rehearing under this section must not be granted if the application is made more than 28 working days after the date of the order, unless the Judge is satisfied that the application could not reasonably have been made sooner.
- (4) An application under this section does not operate as a stay of proceedings unless the Judge so orders. 35
- (5) The rehearing need not take place before the Judge who heard the original proceedings.

- (6) On any rehearing, the court may—
- (a) affirm, vary, or annul its former determination; and
  - (b) exercise any jurisdiction that it could have exercised when the proceedings were originally heard.
- (7) When a rehearing is granted, the period allowed for an appeal to the Māori Appellate Court does not begin to run until the rehearing has been disposed of by a final decision or order of the court. 5
- Compare: 1993 No 4 s 43

*Judges and officers of court appointed under Te Ture Whenua Maori Act 1993*

- 379 Judges and officers of court appointed under the Te Ture Whenua Maori Act 1993** 10
- Judges and officers of court appointed under the Te Ture Whenua Maori Act 1993 who were in those positions immediately before the commencement of **Parts 10 to 15** continue to hold office under the conditions of their appointment. 15

**Part 12**  
**Māori Appellate Court**

*Continuation and administration of court*

- 380 Māori Appellate Court continued**
- The Māori Appellate Court is continued as a court of record, and is the same court as that existing under the same name immediately before the commencement of this section. 20
- Compare: 1993 No 4 s 50
- 381 Constitution of court**
- (1) The Judges of the Māori Land Court for the time being are the Judges of the Māori Appellate Court. 25
  - (2) Any 3 or more Judges have power to act as the Māori Appellate Court.
  - (3) The Māori Appellate Court may sit in 2 or more divisions at the same time, and each division has all the powers and jurisdiction of the Māori Appellate Court.
  - (4) The presiding Judge in the Māori Appellate Court is— 30
    - (a) the Chief Judge; or
    - (b) in the absence of the Chief Judge, the Deputy Chief Judge; or
    - (c) in the absence of the Chief Judge and the Deputy Chief Judge, either the senior Judge present or another Judge who is appointed by the Chief Judge. 35



- (5) Proceedings in the Māori Appellate Court may be continued before Judges other than those before whom they were commenced.

Compare: 1993 No 4 s 51

### **382 Officers of Māori Land Court to be officers of Māori Appellate Court**

The Registrars, Deputy Registrars, and other officers of the Māori Land Court may act in the same capacity in the Māori Appellate Court. 5

Compare: 1993 No 4 s 52

### **383 Seal**

- (1) The Māori Appellate Court must have a seal of the court that must be used for sealing documents that are required to be sealed. 10
- (2) The seal must be in a form prescribed by the Governor-General.
- (3) The seal in use at the commencement of this section continues to be the seal of the Māori Appellate Court until a new seal is prescribed by the Governor-General.

Compare: 1993 No 4 s 53

15

### *Jurisdiction*

### **384 Appeals from Māori Land Court**

- (1) The Māori Appellate Court has jurisdiction to hear and determine appeals from any final decision or order of the Māori Land Court, whether made under **Parts 10 to 15** or any other enactment. 20
- (2) The court's jurisdiction under **subsection (1)** is subject to any express provision to the contrary in **Parts 10 to 15** or any other enactment.

Compare: 1993 No 4 s 58(1)

### *Rights of appeal*

### **385 Who can bring appeal against final decision or order of Māori Land Court** 25

- (1) An appeal against any final decision or order of the Māori Land Court may be brought by or on behalf of—
- (a) any party to the proceedings in which the order is made; or
- (b) any other person bound by the order or materially affected by it.
- (2) An appeal must be commenced by notice of appeal given in the form and manner prescribed by the rules of court. 30
- (3) The notice of appeal must be given within 2 months after the date of the minute of the order appealed from or within any further period that the Māori Appellate Court may allow.

Compare: 1993 No 4 s 58(2), (3)

35

**386 Appeals against provisional determinations of Māori Land Court**

- (1) An appeal may be brought to the Māori Appellate Court against any provisional or preliminary determination of the Māori Land Court if the Māori Land Court gives leave to appeal.
- (2) An appeal under this section may be brought by or on behalf of any person who— 5
- (a) is materially affected by the determination appealed against; or
- (b) would be bound by an order made in relation to the determination.
- (3) The Māori Land Court may decline leave to appeal if satisfied that the interests of justice and of the parties would best be served by completing the proceedings before any appeal is made to the Māori Appellate Court. 10
- (4) When leave to appeal is given, the Māori Land Court may either stay further proceedings in the matter or continue the proceedings, but no final decision or order may be made until the appeal has been finally disposed of or dismissed.
- (5) When the appeal has been determined by the Māori Appellate Court, no further appeal may be made against any aspect of the final decision or order of the Māori Land Court that conforms to the Māori Appellate Court’s determination. 15
- (6) To avoid doubt, nothing in **subsection (5)** prevents an appeal under **section 391 or 392** or an appeal against a different aspect of the Māori Land Court’s decision. 20

Compare: 1993 No 4 s 59

*Cases stated***387 Māori Land Court may state case for Māori Appellate Court**

- (1) The Māori Land Court may, in any proceedings before it, state a case for the opinion of the Māori Appellate Court on any point of law that arises in those proceedings. 25
- (2) Any case stated under this section may be removed into the High Court under **section 405**.
- (3) The decision of the Māori Appellate Court on any case stated under this section is binding on the Māori Land Court. 30
- (4) **Subsection (3)** is subject to removal or appeal under **section 405**.

Compare: 1993 No 4 s 60

**388 High Court may state case for Māori Appellate Court**

- (1) The High Court may state a case and refer it to the Māori Appellate Court if— 35
- (a) any question of fact relating to the interests or rights of Māori in any land or in any personal property arises in the High Court; or
- (b) any question of tikanga Māori arises in the High Court.

- (2) The Māori Appellate Court must—
- (a) consider any case referred to it under **subsection (1)**; and
  - (b) transmit a certificate of its opinion on the matter to the High Court.
- (3) The High Court may refer any case back to the Māori Appellate Court for further consideration. 5
- (4) If the High Court has stated a case for the opinion of the Māori Appellate Court on any question of tikanga Māori, the opinion of the Māori Appellate Court on that question is binding on the High Court.
- (5) **Subsection (4)** is subject to **subsection (3)**. 10  
Compare: 1993 No 4 s 61

### 389 Additional members with knowledge and experience in tikanga Māori

- (1) If any case is stated under **section 388(1)(b)** for the opinion of the Māori Appellate Court, the Chief Judge may, if any party to the proceeding so requests, direct that, for the purpose of the hearing of that case, the Māori Appellate Court consist of— 15
- (a) 3 Judges of the Māori Land Court; and
  - (b) 1 or 2 other members, appointed by the Chief Judge, who are not Judges of the Māori Land Court.
- (2) Each person appointed under **subsection (1)(b)** must possess knowledge and experience of tikanga Māori. 20
- (3) The Chief Judge must, before appointing any person under **subsection (1)(b)** for the purpose of any hearing, consult the parties to the proceedings about the knowledge and experience of tikanga Māori that the person should possess.
- (4) Before performing the duties of his or her office, any member of the Māori Appellate Court appointed under **subsection (1)(b)** must take an oath before a Judge of the Māori Land Court that he or she will faithfully and impartially perform the duties of his or her office. 25
- (5) There must be paid to any member appointed to the Māori Appellate Court under **subsection (1)(b)** remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, which applies as if the Māori Appellate Court were a statutory Board within the meaning of section 2 of that Act. 30  
Compare: 1993 No 4 s 62

### 390 Quorum and decision of court

- (1) If the Māori Appellate Court is constituted under **section 389** for the purpose of any proceedings, the presence of all 4 members or all 5 members (as the case requires) is necessary to constitute a sitting of the Māori Appellate Court for the purpose of those proceedings. 35

- (2) The decision of a majority of the members is the decision of the Māori Appellate Court.
- (3) The decision of the Māori Appellate Court in every case must be signed by the presiding Judge, and may be issued by the presiding Judge or by any other Judge of the Māori Appellate Court or by the Registrar of the Māori Appellate Court. 5
- Compare: 1993 No 4 s 63

*Further appeals*

**391 Further appeal to Court of Appeal from Māori Appellate Court**

- (1) A party to an appeal brought under **section 385** may appeal to the Court of Appeal against all or part of the Māori Appellate Court's determination on the appeal. 10
- (2) On an appeal under **subsection (1)**, the Court of Appeal may make any order or determination it thinks fit.
- Compare: 1993 No 4 s 58A 15

**392 Direct appeal to Supreme Court from Māori Appellate Court in exceptional circumstances**

- (1) A party to an appeal brought under **section 385** may, with the leave of the Supreme Court, appeal to the Supreme Court against all or part of the Māori Appellate Court's determination on the appeal. 20
- (2) On an appeal under **subsection (1)**, the Supreme Court may make any order or determination it thinks fit.
- (3) This section is subject to section 14 of the Supreme Court Act 2003 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court). 25
- Compare: 1993 No 4 s 58B

*Procedural provisions and decisions*

**393 Commencement of orders** 30

- (1) An order made by the Māori Appellate Court takes effect or must be treated as having taken effect in accordance with this section.
- (2) An order takes effect or must be treated as having taken effect on a date to be specified in the order.
- (3) The court may fix different dates for the commencement of different provisions of any order. 35
- (4) If the Māori Appellate Court varies an order of the Māori Land Court, the Māori Appellate Court may fix as the order's commencement a date that is not

earlier than the date on which the varied order would have taken effect if there had been no appeal.

- (5) An order made by the Māori Land Court by direction of the Māori Appellate Court under **section 396(1)(d)** takes effect, in accordance with the terms of the order of the Māori Appellate Court,— 5
- (a) on the date on which the order appealed against takes effect under **section 377**; or
- (b) on a date to be specified by the Māori Appellate Court.
- (6) If the Māori Appellate Court fails to specify the date on which the order of the court takes effect, the order takes effect on the commencement of the day of the date of the minute of the order entered in the records of the Māori Appellate Court. 10

Compare: 1993 No 4 s 64

#### **394 Successive appeals about same matter**

- (1) Different persons may bring successive appeals about the same order to the Māori Appellate Court. 15
- (2) However, no matter determined on appeal may be again brought in question in any other appeal to the Māori Appellate Court under **Parts 10 to 15**.

Compare: 1993 No 4 s 54

#### **395 Appeals to be by way of rehearing** 20

- (1) An appeal to the Māori Appellate Court must be dealt with by way of rehearing.
- (2) At the hearing of an appeal, no party is entitled to give any evidence that was not given at the earlier hearing, but the Māori Appellate Court may allow any further evidence to be given if, in its opinion, it is necessary to enable it to reach a just decision in the case. 25
- (3) Nothing in **subsection (2)** prevents the Māori Appellate Court from referring to any record or other document filed or held in the records of the court or of the Māori Land Court even though that record or document may not have been produced or referred to at the earlier hearing. 30
- (4) The evidence given at the earlier hearing must be proved by the records of the Māori Land Court, and no other proof of that evidence may be admitted unless the Māori Appellate Court gives leave to admit the proof.

Compare: 1993 No 4 s 55

#### **396 Powers of court on appeal** 35

- (1) On any appeal, the Māori Appellate Court may, by order, do 1 or more of the following things as it thinks fit:
- (a) affirm the order appealed from:

- (b) annul or revoke that order, with or without substituting any other order:
  - (c) vary that order:
  - (d) direct the Māori Land Court to make any other or any additional order that the Māori Appellate Court thinks fit:
  - (e) direct the Māori Land Court to rehear the whole or any specified part of the matter to which the order relates: 5
  - (f) make any order that the Māori Land Court could have made in the proceedings:
  - (g) dismiss the appeal.
- (2) In exercising its jurisdiction under this section, the Māori Appellate Court has all the discretionary powers of the Māori Land Court. 10
- Compare: 1993 No 4 s 56

### **397 Decision of majority to be decision of court**

- (1) The decision of the Māori Appellate Court must be in accordance with the opinion of the majority of the Judges present. 15
  - (2) If the Judges present are equally divided in opinion, the order appealed from or under review is taken to be affirmed.
- Compare: 1993 No 4 s 57

## **Part 13**

### **Provisions applying to both courts** 20

#### **398 Application and interpretation**

- (1) This Part applies in relation to both the Māori Land Court and the Māori Appellate Court except to the extent that it is expressly excluded by another enactment.
  - (2) In this Part, unless the context otherwise requires, **court** means the Māori Land Court or the Māori Appellate Court. 25
- Compare: 1993 No 4 s 65

#### *Procedural provisions*

#### **399 Conduct of proceedings generally**

- (1) A Judge conducting or presiding over any hearing may— 30
  - (a) apply to the hearing any rules of marae kawa that the Judge considers appropriate:
  - (b) make any ruling on the use of te reo Māori during the hearing, additional to the rights provided by **section 401**.

- (2) Proceedings before the court must be conducted in such a way as, in the opinion of the Judge conducting or presiding over the proceedings, will best avoid unnecessary formality.
- (3) Nothing in **subsection (1) or (2)** affects any of the powers a Judge has to ensure that the proceedings of the court are conducted in a proper manner. 5
- (4) No appeal may be brought against any decision of a Judge made for the purposes of this section.

Compare: 1993 No 4 s 66

#### **400 Judicial conferences and directions**

- (1) A Judge may, at any time on application by any party or intended party or without application, and on any terms that the Judge thinks fit, direct that a conference of the parties or intended parties or their counsel (a **judicial conference**) be held and be presided over by a Judge. 10
- (2) The purpose of a judicial conference is to ensure that any application or intended application may be determined in a convenient and expeditious manner, and that all matters in dispute may be effectively and completely determined. 15
- (3) At any judicial conference, the presiding Judge may do 1 or more of the following things:
- (a) with the consent of the applicant, amend an application to give better effect to the applicant's intention: 20
  - (b) identify the issues to be determined:
  - (c) give directions as to service and as to the public notification of the application and any hearing:
  - (d) direct by whom and by what time any notice of intention to appear, or any statement in reply, must be filed: 25
  - (e) direct any party to file further particulars:
  - (f) direct any party to undertake further research, or direct the Registrar to undertake further research from the court records:
  - (g) direct any party to file any valuation, land use, or other report that may assist the court in determining any matter in issue: 30
  - (h) fix a time by which affidavits or other documents must be filed:
  - (i) exercise any powers of direction or appointment vested in the court or a Judge by the rules of court that relate to applications of the class with which the Judge is dealing:
  - (j) give any consequential directions that may be necessary: 35
  - (k) fix a time and place for the hearing of the application.

- (4) A Judge may, at any time before the hearing of an application commences, exercise any of the powers specified in **subsection (3)** without holding a judicial conference.

Compare: 1993 No 4 s 67

#### **401 Parties and witnesses may use Māori language** 5

- (1) Any party or witness in any proceedings before the court may give evidence or address the court in te reo Māori.

- (2) Nothing in **subsection (1)** limits the Māori Language (Te Reo Māori) Act ~~2014~~ Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016.

Compare: 1993 No 4 s 68

10

#### **402 Evidence in proceedings**

- (1) The court may act on any testimony, sworn or unsworn, and may receive as evidence any statement, document, information, or matter (whether legally admissible or not) that, in the opinion of the court, may assist it to deal effectively with the matters before it. 15

- (2) The court may, on its own initiative, cause any inquiries to be made, call any witnesses (including expert witnesses), and seek and receive any evidence so long as the court—

(a) considers that the action may assist it to deal effectively with the matters before it; and 20

(b) ensures that the parties are kept fully informed and, where appropriate, given an opportunity to reply.

- (3) The Evidence Act 2006 applies to the court, and to the Judges of the court, and to all proceedings in the court, in the same manner as if the court were a court within the meaning of that Act. 25

- (4) **Subsection (3)** is subject to **subsections (1) and (2)**.

Compare: 1993 No 4 s 69

#### **403 Representation of parties, etc**

- (1) Any party or other person entitled to appear in any proceedings in the court may appear— 30

(a) personally; or

(b) by a lawyer; or

(c) with the leave of the court, by any other agent or representative.

- (2) Any leave under **subsection (1)(c)** may be given on any terms that the court thinks fit, and may at any time be withdrawn. 35

- (3) In any proceedings in the court, the court may appoint a lawyer—

(a) to assist the court, if any application before the court is unopposed and the court considers that it should hear argument on any point; or



- (b) to represent any person or class of persons, if the court considers that the interests of that person or class of persons could be affected by any order that may be made in the proceedings.
- (4) A lawyer appointed under **subsection (3)** may call any person as a witness in the proceedings and may cross-examine witnesses called by any party to the proceedings or by the court. 5  
Compare: 1993 No 4 s 70
- 404 Court may correct defects or errors in proceedings**
- (1) In the course of any proceedings, the court may, on application by any party or on its own initiative, amend the proceedings to correct defects or errors. 10
- (2) The amendments may be made on any terms that the court thinks fit.  
Compare: 1993 No 4 s 71
- 405 Case may be stated for High Court**
- (1) The Māori Appellate Court may state a case for the opinion of the High Court on any point of law that arises in any proceedings before it. 15
- (2) The Māori Land Court may, with the leave of the Chief Judge, state a case for the opinion of the High Court on any point of law that arises in any proceedings before it.
- (3) The Chief Judge may withdraw any case stated under this section at any time before it has been considered by the High Court. 20
- (4) Any party to a decision of the High Court on any case stated under this section may appeal against the decision to the Court of Appeal.
- (5) The High Court may remove into the Court of Appeal any case stated under this section for the opinion of the High Court. 25  
Compare: 1993 No 4 s 72
- 406 Court must give notice before making order on own initiative**
- (1) This section applies in any proceedings where the court has power to make an order on its own initiative.
- (2) Before exercising the power, the court must give the affected parties reasonable notice of its intention to proceed on its own initiative and reasonable opportunity to be heard on the matter. 30

### *Injunctions*

- 407 Jurisdiction to issue injunctions**
- (1) The court may, by order made at any time on application by any person interested or by the Registrar of the court or on its own initiative, issue an injunction that— 35

- (a) prohibits any person from trespassing on, damaging, adversely affecting, disposing of, or doing anything that diminishes the value of—
- (i) any Māori land, whenua tāpui, or wāhi tapui; or
  - (ii) any property that is the subject of proceedings pending before the court or the Chief Judge, or that may be affected by any order that may be made in the proceedings; or 5
- (b) requires any person to—
- (i) remove any structure or object from any Māori land, whenua tāpui, or wāhi tapui; or
  - (ii) restore any Māori land, whenua tāpui, or wāhi tapui to the condition it was in before it was modified by any infrastructure work, earthwork, or other means; or 10
  - (iii) remedy any damage done to any Māori land, whenua tāpui, or wāhi tapui; or
- (c) prohibits the cutting or removing, or otherwise disposing of, any timber trees, timber, other wood, flax, tree ferns, sand, topsoil, metal, minerals, or other substances on or from any Māori freehold land (whether usually quarried or mined or not); or 15
- (d) prohibits any trustee or agent from distributing any of the following affected by any order to which an application under **section 311** or an appeal under **Part 12** relates: 20
- (i) any rent, purchase money, royalties, or other proceeds of the disposition of land; or
  - (ii) any compensation payable in respect of other revenue derived from land; or 25
- (e) requires the trustee of any trust of Māori land to carry out the obligations of the trustee under that trust.
- (2) An order made by the court under this section—
- (a) may be expressed as binding on a department; and
  - (b) has final effect unless it is expressed to be of interim effect only. 30
- (3) If the court makes an order under this section, the court may grant any consequential relief as it thinks fit.

Compare: 1993 No 4 s 19

#### **408 High Court may enforce injunctions**

- (1) For the purpose of enforcing any injunction issued by the court, the Chief Judge may, on application by any party or on the Chief Judge's own initiative, transmit to any Registrar of the High Court a copy of the injunction, signed by the Chief Judge and bearing the seal of the court that issued the injunction. 35

- (2) The Registrar of the High Court who receives the copy must file it as a record of the High Court.
- (3) On the filing of the copy, the injunction must be treated as having been issued by the High Court and may be enforced by writ of attachment or other means in accordance with the practice of that court. 5
- (4) For the purpose of this section, a Judge of the Māori Land Court may provide a certificate signed by him or her that sets out—
- (a) any particulars of the relevant proceedings of that court or of the Māori Appellate Court; or
- (b) any particulars relating to the performance or non-performance by any person of the requirements of the injunction. 10
- (5) A certificate provided under **subsection (4)** must, unless the contrary is proved, be accepted by the High Court and by all officers of that court as sufficient evidence of the facts certified.
- (6) The filing of the copy of an injunction in the High Court does not limit or affect any right or power of rehearing, appeal, amendment, or cancellation existing in respect of the order that created the injunction. 15
- Compare: 1993 No 4 s 85

*General provisions about orders*

- 409 Orders may be made subject to conditions** 20
- (1) Any order may be made subject to the performance of any condition within any period that may be specified in the order.
- (2) An order that is made subject to the performance of any condition must not be sealed while it remains subject to a condition that has not yet been fulfilled.
- (3) **Subsection (2)** applies despite anything in **section 377** or the rules of court. 25
- (4) If an order has been made subject to the performance of any condition, the court may, without further application but subject to the giving of any notices (if any) that the court may direct,—
- (a) amend or cancel the order on the failure to comply with the condition within the specified period; or 30
- (b) extend that period for any further time that the court thinks fit.
- Compare: 1993 No 4 s 73
- 410 Orders not invalid for want of form, etc**
- (1) No order may be questioned or invalidated on the ground of any error, irregularity, or defect in the form of the order or in the practice or procedure of the court. 35

- (2) No order may be questioned or invalidated on the ground of any variance between the order as drawn up, sealed, and signed and the minute of the order. In the case of any variance, the order prevails.

Compare: 1993 No 4 s 74

#### **411 Orders nominally in favour of deceased persons** 5

- (1) This section applies if an order is made in favour, or otherwise in respect, of any person who is deceased at the time of the making, sealing, or date of the order.

- (2) The order may not be questioned or invalidated just because the person was deceased at the time of the making, sealing, or date of the order. 10

- (3) The court may, unless prevented by another provision in **Parts 10 to 15**, amend the order at any time so that it conforms to the facts of the case as existing at the date of the order, and any amendment takes effect from the date of the amended order.

Compare: 1993 No 4 s 75

15

#### **412 Persons bound by orders affecting land**

An order affecting the title to Māori land or any interest in Māori land binds all persons having any estate or interest in that land, whether or not they—

- (a) were parties to or had notice of the proceedings in which the order was made; or 20
- (b) are subject to any disability.

Compare: 1993 No 4 s 76

#### **413 Orders affecting Māori land conclusive after 10 years**

- (1) An order made in relation to Māori land becomes conclusive 10 years after the date of the order and may not be annulled or quashed, or declared or held to be invalid, by any court in any proceedings instituted after the order becomes conclusive. 25

- (2) If there is any conflict between any 2 orders that are conclusive under this section, the order that bears the earlier date prevails to the extent of the inconsistency, and it does not matter whether those orders were made by the same or different courts. 30

- (3) Nothing in this section limits or affects the authority of the Chief Judge to cancel or amend any order under **section 310**.

Compare: 1993 No 4 s 77

#### **414 Costs orders** 35

- (1) In any proceedings, the court may make any order that it thinks just as to the payment of the costs (a **costs order**) by or to any person who is or was a party

to those proceedings or to whom leave has been granted by the court to be heard.

- (2) A costs order under **subsection (1)** may relate to the payment of costs of the particular proceedings referred to in that subsection or of any proceedings or matters incidental or preliminary to the particular proceedings. 5
- (3) The court may make a costs order under **subsection (1)** for the payment of costs by or to any person even if that person is deceased at the time of the order.
- (4) If the court is satisfied that any party to the proceedings has acted not only on his or her own behalf but also on behalf of other persons having a similar interest in the proceedings, the court has the same power to make a costs order for the payment of the costs of those proceedings by those other persons as it has under **subsection (1)** to make a costs order for the payment of costs by that party. 10
- (5) In any proceedings, the court may make an order charging on any land or interest in land, or on any revenues derived from any land or interest in land, to which the proceedings relate the whole or any part of— 15
- (a) the costs of the proceedings; and
- (b) any charges, fees, or expenses that, in the opinion of the court, were reasonably and properly incurred by any party to the proceedings or by any other person for the purposes of or in relation to the proceedings. 20
- (6) An order may be made under **subsection (5)** whether or not any other order is made in the proceedings in relation to the land.
- (7) Any order made under this section for the payment of costs or imposing a charge for costs may, when made in open court,— 25
- (a) specify the sum or sums payable or charged; or
- (b) leave the amount to be determined by taxation in accordance with the rules of court.

Compare: 1993 No 4 s 79(1)–(3), (6), (7)

#### **415 Security for costs** 30

- (1) At any stage of any proceedings, the court may require any party to deposit any sum of money as security for costs, and, in default of that deposit being made, the court may stay or dismiss the proceedings either wholly or in respect of the party in default.
- (2) When any sum has been deposited as security for costs, it must be disposed of in any manner that the court directs. 35

Compare: 1993 No 4 s 79(4), (5)

**416 Taxation of costs**

- (1) All costs, charges, or expenses charged or chargeable to any party in connection with or incidental to the prosecution of or opposition to any claim or application to the court are subject to taxation in accordance with this section.
- (2) On application by or on behalf of the person chargeable, the court may either tax any of the costs, charges, or expenses or refer the costs, charges, or expenses to the Registrar or other officer of the court for taxation. 5
- (3) The court may order a bill of items to be supplied for the purpose of any such taxation, or the taxing officer may require the production of such a bill.
- (4) The costs, charges, or expenses are subject to taxation even though the person chargeable may have entered into an agreement as to the amount to be paid, and, if the court or taxing officer thinks that the agreement is unfair or unreasonable, the court or taxing officer may reduce the amount payable under the agreement. 10
- (5) The court or taxing officer must certify in writing the amount that should, in fairness to the parties, be paid in respect of any costs, charges, or expenses, and the amount certified must be treated as being the amount properly payable by the person chargeable. 15
- (6) Nothing in this section prevents or limits the right to make a complaint to a complaints service under section 132(2) or 160 of the Lawyers and Conveyancers Act 2006. 20
- (7) No costs, charges, or expenses may be taxed under this section while they are the subject of a complaint under section 132(2) or 160 of the Lawyers and Conveyancers Act 2006 on which no final decision has been made by the relevant complaints service. 25

Compare: 1993 No 4 s 80

*Enforcement of judgments and charging orders*

**417 Enforcement of judgments and orders relating to money, land, or chattels**

- (1) This section applies for the purpose of enforcing any judgment or order of the court for— 30
  - (a) the recovery of money; or
  - (b) the recovery of land; or
  - (c) the delivery of specific chattels.
- (2) For the purpose of this section, a Judge may, on application by any party or on the Judge's own initiative, transmit to a Registrar of the District Court a copy of the judgment or order, signed by the Judge and bearing the seal of the court that gave the judgment or made the order. 35
- (3) The Registrar who receives the copy must file it as a record of the District Court.

- (4) Once filed, the judgment or order must, so long as it remains in force, be treated as if it had been given or made by the District Court, and may be enforced accordingly.
- (5) For the purpose of this section, a Judge of the Māori Land Court may provide a certificate signed by him or her that sets out— 5
- (a) any particulars of the relevant judgment or order of that court or of the Māori Appellate Court; or
- (b) any particulars relating to the performance or non-performance by any person of the requirements of any relevant judgment or order.
- (6) A certificate provided under **subsection (5)** must, unless the contrary is proved, be accepted by the District Court, and by all officers of that court, as sufficient evidence of the facts so certified. 10
- (7) The filing in the District Court under this section of a copy of a judgment or an order of the Māori Land Court or of the Māori Appellate Court does not limit or affect any right or power of rehearing, appeal, amendment, or cancellation existing in respect of that judgment or order. 15

Compare: 1993 No 4 s 81

#### 418 Charging orders

- (1) A Judge may, on application by any party or on the Judge's own initiative, make an order for the purpose of enforcing any order made by the court for the payment of money (a **charging order**). 20
- (2) A charging order may create a charge on any of the following property to which the person liable to pay the money is entitled:
- (a) any Māori freehold land:
- (b) any legal or equitable interest in any Māori freehold land: 25
- (c) any revenue derived from any Māori freehold land:
- (d) the proceeds of the disposition of any Māori freehold land:
- (e) any assets associated with Māori freehold land (for example, any livestock):
- (f) any things within the asset base of a governance body. 30
- (3) The property becomes subject to a charge accordingly in favour of the person to whom for the time being, and from time to time, the money is or becomes payable.
- (4) A charge created by a charging order that affects land must be recorded on the Māori land register and registered under the Land Transfer Act 1952 (*see **section 269(1)** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016***). 35
- (5) A charging order must identify the property on which the charge is imposed.
- (6) A charging order may at any time be varied or discharged by the court.

- (7) Nothing in section 123 of the Accident Compensation Act 2001 applies to any charge constituted under this section.
- (8) Nothing in this section limits anything in **section 417**.  
Compare: 1993 No 4 s 82(1)–(5)

**419 Appointment of receiver to enforce charges, etc** 5

- (1) This section applies if, by or under **Parts 10 to 15** or any other enactment, any charge has been imposed on—
- (a) any Māori freehold land; or
  - (b) any legal or equitable interest in any Māori freehold land; or
  - (c) any revenue derived from any Māori freehold land; or 10
  - (d) the proceeds of the disposition of any Māori freehold land.
- (2) The court may, for the purpose of enforcing the charge, appoint the Māori Trustee or any other fit person to be a receiver for the property charged.
- (3) However, the court must not appoint the Māori Trustee as a receiver unless the court is satisfied that the Māori Trustee consents to the appointment. 15
- (4) If, in any proceeding before the court, there is any dispute over the title to any property that is the subject of that proceeding, the court may, pending its determination of the dispute, appoint the Māori Trustee or any other fit person to be a receiver for that property.
- Compare: 1993 No 4 s 83(1)–(3) 20

**420 Functions and powers of receiver**

- (1) A receiver appointed under **section 419** has—
- (a) all the rights, powers, duties, and liabilities that are expressly conferred or imposed on the receiver by the court; and
  - (b) any other incidental powers that may be reasonably necessary for the exercise of the powers conferred by the court. 25
- (2) However, a receiver appointed under **section 419** must not sell or lease any Māori freehold land except as provided in **subsection (3)**.
- (3) A receiver appointed under **section 419** for the purpose of enforcing a charge may, with the leave of the court, grant leases of any land charged or grant licences to remove timber, flax, kauri gum, minerals, or other substances from the land. 30
- (4) A receiver appointed under **section 419** may grant a lease or licence under **subsection (3)** in his or her own name.
- (5) A lease or licence may be granted under **subsection (3)** for any term not exceeding 21 years (including any term or terms of renewal) on any conditions and for the rent or other consideration that the receiver thinks fit. 35



- (6) Any lease or licence granted under **subsection (3)** in respect of land subject to the Land Transfer Act 1952 may be registered under that Act, and the Registrar-General of Land may register the lease or licence accordingly.

Compare: 1993 No 4 s 83(4)–(7)

**421 Discharge of receiver** 5

- (1) If a receiver has performed the functions for which he or she was appointed, or if the court is satisfied for any other reason that the receiver should be discharged, the court may—
- (a) make an order for the discharge of the receiver; and
  - (b) if necessary, appoint some other person to be a receiver in place of the discharged receiver. 10
- (2) If the receiver applies for discharge, the receiver must file final accounts with the application, and, unless the receiver is the Māori Trustee, must pay into court any money held by the receiver for the receivership.

Compare: 1993 No 4 s 83(8), (9)

15

**422 Court may order repayment out of money held by trustee, etc**

- (1) This section applies if the Māori Trustee or any other person (the **trustee**) is holding or is entitled to receive any money on trust for the owners, or any of the owners, of any Māori freehold land, and the land or any legal or equitable interest in the land is subject to a charge imposed by or under **Parts 10 to 15** or any other enactment. 20
- (2) The court may, whether or not it appoints a receiver under **section 419**, give notice of the charge to the trustee.
- (3) The court may, by order, require the trustee to apply that money, in accordance with the terms of the order, in or towards the repayment of the amount secured by the charge. 25

Compare: 1993 No 4 s 84

*Amendment of orders, warrants, and records*

**423 Amendment of orders, warrants, etc**

- (1) The court or any Judge of the court may at any time make or authorise to be made in any order, warrant, record, or other document made, issued, or kept by the court any amendments that are considered necessary to— 30
- (a) give effect to the true intention of any decision or determination of the court, including the amendment or cancellation of any earlier orders of the court for the purpose of giving effect to a new order; or 35
  - (b) record the actual course and nature of any proceedings in the court.

- (2) Amendments made under **subsection (1)** take effect on the date of commencement of the order, warrant, record, or other document amended.

Compare: 1993 No 4 s 86

#### **424 Amendment or cancellation of orders not to affect acquired rights**

- (1) If any order, warrant, record, or other document is amended or cancelled under **section 310 or 423** or otherwise, the amendment or cancellation does not take away or affect any right or interest acquired in good faith and for value before the making of the amendment or cancellation. 5
- (2) However, **subsection (1)** is subject to—
- (a) any order or decision of the court that amends or cancels any earlier orders of the court for the purpose of giving effect to a new order (for example, where any rights or obligations under an earlier order are apportioned by a new order); and 10
- (b) any order or decision of the Māori Appellate Court, the Court of Appeal, or the Supreme Court. 15
- (3) If any order or other document amended or cancelled has previously been registered by the Registrar-General of Land, the court must transmit a copy of the order of amendment or cancellation to the Registrar-General of Land, and he or she must make all necessary consequential amendments in the registration of the title to any land that is affected by the amendment or cancellation. 20

Compare: 1993 No 4 s 88

#### *Judicial settlement conferences*

#### **425 Judge may convene judicial settlement conference**

- (1) The purpose of a judicial settlement conference is to give the parties to a proceeding before the court an opportunity to negotiate a settlement of a claim or any issue. 25
- (2) A judicial settlement conference must be convened by a Judge and held in chambers.
- (3) A Judge who convenes a judicial settlement conference may assist the parties in their negotiations, but that Judge must not preside at the hearing of the proceeding (if any) unless— 30
- (a) all parties taking part in the conference consent; or
- (b) the only matter for resolution at the hearing is a question of law.
- (4) A proceeding is treated as having been discontinued 30 working days after the date on which the Judge endorses the proceeding as having been settled, unless one of the following applies: 35
- (a) the parties, by notice to the Judge given before the close of that 30-day period, consent to an extension of that period, and in that case the Judge

must direct accordingly and the discontinuance takes effect on the close of that extended period:

- (b) the Judge, in the interests of justice, directs that the proceeding be discontinued with effect on and from some other date stated by the Judge.

Compare: SR 2014/179 r 7.3

5

### *Contempt of court*

#### **426 Contempt of court**

- (1) This section applies if any person—
- (a) wilfully insults a judicial officer, Registrar, officer of the court, or witness during his or her sitting or attendance in court or in going to or returning from the court; or 10
  - (b) wilfully interrupts the proceedings of the court or otherwise misbehaves in court; or
  - (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of the hearing of any proceedings; or 15
  - (d) after being summoned to attend to give evidence before the court or to produce to the court any papers, documents, records, or things,—
    - (i) fails, without sufficient cause, to attend in accordance with the summons; or
    - (ii) refuses, without sufficient cause, to be sworn or to give evidence or, having been sworn, refuses to answer any question that the person is lawfully required by the court to answer; or 20
    - (iii) fails, without sufficient cause, to produce any such paper, document, record, or thing.
- (2) If this section applies,— 25
- (a) any constable or officer of the court, with or without the assistance of any other person, may, by order of a Judge, take the person into custody and detain him or her until the rising of the court; and
  - (b) the Judge may, if he or she thinks fit, sentence the person to—
    - (i) imprisonment for a period not exceeding 3 months; or 30
    - (ii) a fine not exceeding \$1,000 for each offence.
- (3) Nothing in this section limits or affects any power or authority of the court to punish any person for contempt of court in any case to which this section does not apply.
- (4) A person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who wilfully ob-
- 35

structs or interferes with any Judge, Registrar, Receiver, or other officer of the court in the execution of his or her powers or duties.

Compare: 1993 No 4 ss 89, 90; 2011 No 81 s 365

## Part 14

### Appointment of Judges and related provisions

5

#### 427 Appointment of Judges

- (1) The Governor-General may from time to time, on the advice of the Minister for Māori Development, given after consulting the Attorney-General, by warrant, appoint fit and proper persons to be Judges of the Māori Land Court.
- (2) The number of Judges appointed under this section must not at any time exceed 10  
14.
- (3) For the purposes of **subsection (2)**,—
  - (a) a Judge who is acting on a full-time basis counts as 1:
  - (b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1: 15
  - (c) the aggregate number (for example, 13.5) must not exceed the maximum number of Judges that is for the time being permitted.
- (4) A person must not be appointed as a Judge unless the person is suitable, having regard to the person's knowledge and experience of te reo Māori, tikanga Māori, and Te Tiriti o Waitangi. 20
- (5) A person may be appointed as a Judge only if—
  - (a) that person has for at least 7 years held a New Zealand practising certificate as a barrister or as a barrister and solicitor; or
  - (b) that person—
    - (i) holds a degree in law granted or issued by any university within New Zealand; and 25
    - (ii) has been admitted as a barrister and solicitor of the High Court; and
    - (iii) has held a practising certificate in a jurisdiction specified by Order in Council— 30
      - (A) for at least 7 years; or
      - (B) for a lesser number of years, but when that number of years is added to the number of years for which the person has held a New Zealand practising certificate the total number of years is at least 7. 35
  - (6) No person may be appointed a Judge after attaining the age of 70 years.
  - (7) **Subsection (6)** is subject to **sections 434(6) and 435(1)**.

- (8) A Judge is, by virtue of that office, a Justice of the Peace for New Zealand.
- (9) A Judge must not practise as a lawyer.  
Compare: 1993 No 4 s 7
- 428 Attorney-General to publish information concerning appointment process**  
The Attorney-General must publish information explaining ~~his or her~~ the Minister for Māori Development's process for— 5
- (a) seeking expressions of interest for the appointment of Judges of the court; and
- (b) nominating persons for appointment as a Judge of the court.
- (2) ~~If the Attorney-General is not for the time being responsible for recommending the appointment of Judges of the court, he or she must publish information explaining the responsible Minister's process for doing the things referred to in **subsection (1)**:~~ 10
- 429 Judge not to undertake other employment or hold other office**
- (1) A Judge of the court must not undertake any other paid employment or hold any other office (whether paid or not) without the approval of the Chief Judge. 15
- (2) An approval under **subsection (1)** may be given only if the Chief Judge is satisfied that undertaking the employment or holding the office is consistent with the Judge's judicial office.
- (3) However, **subsection (1)** does not apply to another office if an enactment permits or requires the office to be held by a Judge. 20
- 430 Protocol relating to activities of Judges**
- (1) The Chief Justice must develop and publish a protocol containing guidance on—
- (a) the employment, or types of employment, that he or she considers may be undertaken consistent with being a Judge; and 25
- (b) the offices, or types of offices, that he or she considers may be held consistent with being a Judge.
- (2) The Chief Justice may develop and publish a protocol under **subsection (1)** only after consultation with the Chief Judge. 30
- 431 Judges act on full-time basis but may be authorised to act part-time**
- (1) A person acts as a Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
- (2) The Attorney-General may, in accordance with **subsection (4)**, authorise a Judge who is appointed under **section 427 or 432** to act on a part-time basis for any specified period. 35

- (3) To avoid doubt, an authorisation under **subsection (2)** may take effect as from a Judge's appointment or at any other time, and may be made more than once in respect of the same Judge.
- (4) The Attorney-General may authorise a Judge to act on a part-time basis only—
- (a) on the request of the Judge; and 5
  - (b) with the concurrence of the Chief Judge.
- (5) In considering whether to concur under **subsection (4)(b)**, the Chief Judge must have regard to the ability of the court to discharge its obligations in an orderly and expeditious way.
- (6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period. 10
- (7) The basis on which a Judge acts must not be altered during the term of the Judge's appointment without the Judge's consent, but consent under this subsection is not necessary if the alteration is required by **subsection (6)**. 15
- Compare: 1993 No 4 s 7A

#### 432 Chief Judge and deputy

- (1) The Governor-General must from time to time, on the advice of the Minister for Māori Development, given after consulting the Attorney-General, by warrant, appoint a Chief Judge of the Māori Land Court and a Deputy Chief Judge of the Māori Land Court. 20
- (2) A person appointed as Chief Judge or as Deputy Chief Judge must hold that office so long as that person holds office as a Judge.
- (3) However, with the prior approval of the Governor-General, the Chief Judge and the Deputy Chief Judge may resign those offices without resigning the office of Judge. 25
- (4) **Subsection (5)** applies if, because of illness, absence from New Zealand, or any other cause, the Chief Judge is prevented from exercising the duties of office and that subsection also applies during any vacancy in the office of Chief Judge.
- (5) If this subsection applies, the Deputy Chief Judge has all the functions, duties, and powers of the Chief Judge until the Chief Judge resumes or takes up the duties of office. 30
- Compare: 1993 No 4 s 8

#### 433 Delegation to Deputy Chief Judge

- (1) The Chief Judge may delegate to the Deputy Chief Judge, either generally or particularly, any power, function, or duty conferred on the Chief Judge by or under **Parts 10 to 15**. 35
- (2) Subject to general or particular directions given by the Chief Judge, the Deputy Chief Judge may exercise and perform all the powers, functions, or duties dele-

gated by the Chief Judge in the same manner and with the same effect as if they had been conferred on the Deputy Chief Judge directly by **Parts 10 to 15** and not by delegation.

- (3) A delegation—
- (a) must be in writing; and 5
  - (b) is revocable in writing at any time; and
  - (c) may be made subject to any restrictions or conditions that the Chief Judge thinks fit; and
  - (d) does not prevent the exercise or performance of a power, function, or duty by the Chief Judge; but 10
  - (e) must not include a power of delegation.
- (4) In the absence of proof to the contrary, the Deputy Chief Judge, when purporting to act under a delegation, is presumed to be acting in accordance with the terms of the delegation.
- (5) Powers exercised, functions performed, or decisions made by the Deputy Chief Judge acting as the Chief Judge may not be questioned in any proceeding on the ground that the occasion for the Deputy Chief Judge so acting had not arisen or had ceased. 15

Compare: 1993 No 4 s 8A

#### **434 Appointment of temporary Judges** 20

- (1) The Governor-General may whenever, in his or her opinion, it is necessary or expedient to make a temporary appointment, on the advice of the Minister for Māori Development, given after consulting the Attorney-General, appoint 1 or more temporary Judges of the Māori Land Court to hold office for the period specified in the warrant of appointment. 25
- (2) **Subsection (1)** is subject to **section 436**.
- (3) The period specified under **subsection (1)** must not exceed 2 years.
- (4) However, a person appointed under this section may be reappointed.
- (5) A person may not be appointed as a temporary Judge under this section unless that person is eligible for appointment as a Judge under **section 427**. 30
- (6) However, a person otherwise qualified who has attained the age of 70 years (including a Judge who has retired after attaining that age) may be appointed as a temporary Judge under this section.
- (7) **Subsection (3)** applies to an appointment made under **subsection (6)**.
- (8) The power conferred by this section may be exercised at any time, even though there may be 1 or more persons holding the office of Judge under **section 427 or 435**. 35

- (9) A person appointed under this section must be paid, during the term of the appointment, the salary and allowances payable under **section 439** to a Judge other than the Chief Judge and the Deputy Chief Judge.

Compare: 1993 No 4 s 9

#### **435 Former Judges** 5

- (1) The Governor-General may, by warrant, on the advice of the Minister for Māori Development, given after consulting the Attorney-General, appoint any former Judge to be an acting Judge for a term not exceeding 2 years or, if the former Judge has attained the age of 72 years, not exceeding 1 year, as the Governor-General may specify. 10

- (2) **Subsection (1)** is subject to **section 436**.

- (3) During the term of the appointment, the former Judge may act as a Judge only during any period or periods, and only in any place or places, that the Chief Judge determines.

- (4) During each period when the former Judge acts as a Judge, but not otherwise, a former Judge appointed under this section must— 15

(a) be paid a salary at the rate for the time being payable by law to a Judge other than the Chief Judge and the Deputy Chief Judge; and

(b) be paid any travelling allowances or other incidental or minor allowances that may be fixed from time to time by the Governor-General. 20

- (5) During each period when a former Judge acts as a Judge, he or she has all the jurisdiction, powers, protections, privileges, and immunities of a Judge.

Compare: 1993 No 4 s 10

#### **436 Certificate by Chief Judge and 1 other Judge prerequisite** 25

Before an appointment may be made under **section 434 or 435**, the Chief Judge and at least 1 other permanent Judge must sign a certificate to the effect that, in their opinion, it is necessary for the due conduct of the business of the court that 1 or more temporary Judges, or (as the case requires) 1 or more acting Judges, be appointed.

Compare: 1993 No 4 s 11 30

#### **437 Tenure of office**

- (1) The Governor-General may remove a Judge for inability or misbehaviour.

- (2) A Judge must retire from office on attaining the age of 70 years.

Compare: 1993 No 4 s 12

#### **438 Judges to have immunities of High Court Judges** 35

The Judges have all the immunities of a Judge of the High Court.

Compare: 1993 No 4 s 12A



**439 Salaries and allowances of Judges**

- (1) There must be paid to the Chief Judge, to the Deputy Chief Judge, and to the other Judges—
- (a) salaries at the rates that the Remuneration Authority from time to time determines; and 5
  - (b) the allowances that the Remuneration Authority from time to time determines; and
  - (c) the additional travelling allowances or other incidental or minor allowances that the Governor-General from time to time determines.
- (2) The salary of a Judge must not be diminished during the continuance of the Judge's appointment. 10
- (3) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position.
- (4) For the purpose of **subsection (2)**, the payment of salary and allowances on a pro-rata basis under **subsection (3)** is not a diminution of salary. 15
- (5) Any determination made under **subsection (1)**, and any provision of the determination, may be made to come into force on a date specified in the determination, being the date of the making of the determination or any other date, whether before or after the date of the making of the determination or the date of the commencement of this section. 20
- (6) **Subsection (5)** is subject to the Remuneration Authority Act 1977.
- (7) A determination, and every provision of a determination, for which no commencement date is specified comes into force on the date of the making of the determination. 25
- Compare: 1993 No 4 s 13

**Part 15****Rules, regulations, judgments, restricting right to commence proceedings, etc***Rules* 30**440 Rules Committee continued**

- (1) There continues to be a Rules Committee comprising—
- (a) the Chief Judge; and
  - (b) 1 other Judge appointed by the Chief Judge; and
  - (c) a person nominated by the New Zealand Māori Council and appointed by the Chief Judge; and 35

- (d) the chief executive of the Ministry of Justice or a person nominated by that chief executive; and
  - (e) the chief executive or a person nominated by the chief executive; and
  - (f) a person appointed by the Minister for Māori Development and the Minister of the Crown who is responsible for the Ministry of Justice; and 5
  - (g) a lawyer nominated by the Council of the New Zealand Law Society and appointed by the Chief Judge; and
  - (h) not more than 2 other persons appointed by the Minister for Māori Development.
- (2) Each appointed member holds office for any term, not exceeding 3 years, that may be specified in his or her instrument of appointment, but may from time to time be reappointed. 10
- (3) Any appointed member may resign by notice in writing to the Chief Judge or the appointing Minister (as the case requires).
- (4) Whenever the Chief Judge is unable to attend any meeting of the Rules Committee or to perform any other function of a member of that Committee, the Deputy Chief Judge may attend that meeting or perform that function in place of the Chief Judge. 15
- (5) **Subsection (4)** does not limit **section 432**. 20  
Compare: 1993 No 4 s 92

#### 441 Fees and travelling allowances

- (1) The Rules Committee must be treated as a statutory Board within the meaning of section 2 of the Fees and Travelling Allowances Act 1951.
- (2) There must be paid to the members of the Rules Committee out of money appropriated by Parliament for the purpose any fees, allowances, travelling allowances, and expenses that may be fixed in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly. 25  
Compare: 1993 No 4 s 93

#### 442 Principal function of Rules Committee

- The principal function of the Rules Committee is— 30
- (a) to review the rules of court and to keep the rules under review; and
  - (b) to make any recommendations to the Minister for Māori Development that it thinks fit for the amendment or revocation of any rules, or the making of any new rules, to ensure that the rules facilitate the prompt, inexpensive, and just dispatch of the business of the court and the administration of justice in the court. 35

Compare: 1993 No 4 s 94

**443 Rules of court**

- (1) The Governor-General may, by Order in Council made with the concurrence of the Chief Judge and any 2 or more of the other members of the Rules Committee, make rules of court for the purposes of facilitating the prompt, inexpensive, and just dispatch of the business of the court. 5
- (2) The power of making rules under this section extends to all matters of practice or procedure and matters relating to or concerning the effect or operation in law of any practice or procedure in any case within the jurisdiction of the court, but does not confer the power to prescribe fees.
- (3) Rules of court may be made for 1 or more of the following purposes: 10
- (a) prescribing forms to be used for the purposes of any proceedings before the court:
  - (b) prescribing the district or office in which proceedings are to be commenced, and the procedure to be adopted where proceedings are commenced in one district or office but should, under **Parts 10 to 15** or any other enactment or the rules, have been commenced in another district or office: 15
  - (c) prescribing the circumstances in which proceedings may be transferred from one district to another, and the procedure that applies when proceedings are transferred: 20
  - (d) prescribing the form of the records of the court and providing for the custody of records:
  - (e) providing for the receipt of, and accounts for, all money paid into or out of court:
  - (f) providing for the appointment and public notification of sitting days of the court, empowering any Judge to appoint special sittings of the court at any places and times that the Judge thinks fit, and authorising any Judge to hold a sitting of the court at any place where the court does not usually sit: 25
  - (g) providing for the public notification of applications to the court, and prescribing the circumstances in which any application or class of applications may be disposed of without public notification and without a hearing: 30
  - (h) prescribing the manner in which and the procedure by which witnesses are to be summoned to appear before the court: 35
  - (i) prescribing the circumstances and manner in which and the procedure by which any Registrar may take evidence for use in any proceedings before the court:
  - (j) authorising a Registrar to hear and determine any uncontested proceedings, or to conduct and report on any inquiry: 40

- (k) prescribing the class or classes of proceedings in which the jurisdiction and powers of the court may be exercised by a Registrar in accordance with **section 371**:
- (l) prescribing, according to the nature of the proceedings and the amount involved, the costs and charges to be paid by any party in any proceedings before the court to any other party, in addition to the money paid out of pocket: 5
- (m) providing for the drawing up in writing, sealing, and signing of orders of the court, the minuting and other evidencing of any orders or class of orders, and the issuing of duplicate orders for evidentiary and registration purposes: 10
- (n) prohibiting the formal issuing of any order until the time for appeal has expired and any conditions attached to the order have been fulfilled or security for the performance of any conditions has been given to the satisfaction of the court, or until any necessary plan sufficient for the purposes of registration under the Land Transfer Act 1952 has been prepared: 15
- (o) prescribing the terms and conditions on which appeals to the Māori Appellate Court may be brought, prosecuted, or withdrawn:
- (p) requiring an appellant to give security for the costs of the appeal: 20
- (q) providing for the dismissal of an appeal by the Māori Land Court or by a Judge of that court on the ground of the failure of the appellant—
- (i) to conform to a requirement to give security for those costs; or
- (ii) to prosecute the appeal in accordance with the rules:
- (r) prescribing the classes of person before whom affidavits, declarations, or affirmations to be used in any proceedings before the court may be sworn or made within or outside New Zealand. 25
- (4) **Subsection (3)** does not limit the generality of **subsections (1) and (2)**.
- (5) Rules of court made under this section take effect on a date specified by the Order in Council by which the rules are made. 30
- Compare: 1993 No 4 s 95

### *Fees*

#### 444 **Regulations**

The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes: 35

- (a) prescribing the matters in respect of which fees are payable under **Parts 10 to 15**:

- (b) prescribing scales of fees for the purposes of **Parts 10 to 15** and for the purposes of any proceedings before the Māori Land Court or the Māori Appellate Court, whether under **Parts 10 to 15** or any other enactment:
- (c) prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which **Parts 10 to 15** applies: 5
- (d) conferring on a Judge, a Registrar, a Deputy Registrar, or any other person the power to determine the amount of the fee payable in a particular case and whether any fees should be refunded, remitted, or reduced.
- Compare: 1993 No 4 s 96 10

### *Court practice*

#### **445 Practice notes**

- (1) The Chief Judge may, with the concurrence of at least 2 other Judges, issue practice notes for the guidance of parties to any class or classes of proceedings and the parties' advisers. 15
- (2) Practice notes may contain or provide for any matters that may be necessary or desirable for the proper conduct of the proceedings, including any instructions or suggestions that are not inconsistent with **Parts 10 to 15** or the rules of court.
- Compare: 1993 No 4 s 97 20

### *Aid Fund*

#### **446 Māori Land Court Special Aid Fund**

- (1) There must be paid out of public money into a fund to be known as the Māori Land Court Special Aid Fund (the **Fund**) any amounts that are from time to time appropriated by Parliament for the purpose. 25
- (2) The Chief Registrar of the Māori Land Court must hold the Fund.
- (3) The court may from time to time make orders for the payment from the Fund of the reasonable legal costs or the reasonable out-of-pocket expenses, or both, of—
- (a) any person or class of persons heard or represented in any proceedings before the court: 30
- (b) any lawyer appointed to assist the court under **section 403(3)(a)**.
- (4) A duplicate of any order made by the court under **subsection (3)** must be forwarded by post to the Legal Services Commissioner as soon as practicable after the making of the order. 35
- (5) No person in whose favour an order has been made under **subsection (3)** may apply for or be granted assistance under the Legal Services Act 2011 for the same matter.

- (6) There must also be paid out of the Fund, unless the court orders otherwise,—
- (a) the reasonable fees and reasonable expenses of any accountant to whom a Judge refers a matter under **section 372(5)**; and
  - (b) the reasonable fees and reasonable expenses of any person that the Registrar is directed, by the Judge, to engage to assist with an inquiry and report under **section 372**; and 5
  - (c) the reasonable fees and reasonable expenses of a kaitakawaenga who is engaged by the chief executive to provide dispute resolution services in response to a reference by a Judge under **section 341 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016, clause 3(3)(c) of Schedule 6, or clause 4(3)(d) of Schedule 7**; and 10
  - (d) all reasonable costs and reasonable out-of-pocket expenses of any person called by the court as a witness under **section 402(2)**; and
  - (e) the reasonable fees and reasonable expenses of any lawyer appointed under **section 79(1) or 403(3)**; and 15
  - (f) the reasonable fees and reasonable expenses of any person appointed as a receiver under **section 419**.

Compare: 1993 No 4 s 98(1)–(5), (9)

#### 447 Court may create charges over property

- (1) If an order is made under **section 446(3) or (6)**, the court may also make an order that— 20
- (a) the whole or any part of the amount ordered to be paid out of the Fund be a charge against any real or personal property of any of the following:
    - (i) the person or class of persons in whose favour the first order is made: 25
    - (ii) any other owners whose interests are or could have been affected by any order made in the proceedings to which the grant of aid relates; and
  - (b) fixes the terms and conditions on which the amount charged is to be repaid. 30
- (2) A charge created by an order of the court under **subsection (1)** must be in favour of the Māori Trustee on behalf of the Crown.
- (3) A charge created by an order of the court under **subsection (1)** may be registered against any interest in land to which the charge relates in accordance with **Part 4 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**. 35

Compare: 1993 No 4 s 98(6)–(8)

*Information regarding, and publication of, judgments***448 Information regarding reserved judgments**

The Chief Judge must, in consultation with the Chief Justice,—

- (a) publish information about the process by which parties to proceedings before the court may obtain information about the status of any reserved judgment in those proceedings; and 5
- (b) periodically publish information about the number of judgments of the court that he or she considers is outstanding beyond a reasonable time for delivery; and
- (c) publish information about reserved judgments that he or she considers is useful. 10

*Recusal***449 Recusal guidelines**

The Chief Judge must, in consultation with the Chief Justice, develop and publish guidelines to assist Judges to decide if they should recuse themselves from a proceeding. 15

*Restriction on commencing or continuing proceedings***450 Judge may make order restricting commencement or continuation of proceeding**

- (1) A Judge may make an order (a **section 450 order**) restricting a person from commencing or continuing proceedings in the court. 20
- (2) The order may have—
  - (a) a limited effect (a **limited order**); or
  - (b) an extended effect (an **extended order**).
- (3) A limited order restrains a party from continuing or commencing proceedings on a particular matter in the court. 25
- (4) An extended order restrains a party from continuing or commencing proceedings on a particular or related matter in the court.
- (5) Nothing in this section limits the court's inherent power to control its own proceedings. 30

**451 Grounds for making section 450 order**

- (1) A Judge may make a limited order if, in at least 2 proceedings about the same matter in the court, the Judge considers that 2 or more of the proceedings are or were totally without merit.

- (2) A Judge may make an extended order if, in at least 2 proceedings about any matter considered by the court, the Judge considers that the proceedings are or were totally without merit.
- (3) In determining whether the proceedings are or were totally without merit, the Judge may take into account the nature of any other interlocutory application or appeal involving the party to be restrained, but is not limited to those considerations. 5
- (4) The proceedings concerned must be proceedings commenced or continued by the party to be restrained, whether against the same person or different persons.
- (5) For the purposes of this section and **sections 452 and 453**, an appeal in a proceeding must be treated as part of that proceeding and not as a distinct proceeding. 10

#### **452 Terms of section 450 order**

- (1) A **section 450** order may restrain a party from commencing or continuing any proceeding (whether generally or against any particular person or persons) of any type specified in the order without first obtaining the leave of the court. 15
- (2) A **section 450** order, whether limited or extended, has effect for a period of up to 3 years as specified by the Judge, but the Judge making it may specify a longer period (which must not exceed 5 years) if he or she is satisfied that there are exceptional circumstances justifying the longer period. 20

#### **453 Procedure and appeals relating to section 450 orders**

- (1) A party to any proceeding may apply for a limited order or an extended order.
- (2) A Judge may make a **section 450** order either on application under **subsection (1)** or on his or her own initiative.
- (3) An application for leave to continue or to issue a proceeding by a party subject to a **section 450** order may be made without notice, but the court may direct that the application for leave be served on any specified person. 25
- (4) The party against whom a **section 450** order is made may appeal against the order to the Māori Appellate Court.
- (5) The appellant in an appeal under **subsection (4)** or the applicant for the **section 450** order concerned may, with the leave of the Māori Appellate Court, appeal against the determination of that appeal to the Court of Appeal. 30
- (6) A court determining an appeal under this section has the same powers as the court appealed from has to determine an application or appeal (as the case may be). 35

#### **454 References to Judge in sections 450 to 453**

The functions and powers of a Judge under **sections 450 to 453** may be performed and exercised by any Judge of the Māori Land Court, including a Judge who is acting as a Judge of the Māori Appellate Court.



## Part 16

### Repeals and amendments

- 455 Overview**
- (1) **Subpart 1**—
- (a) repeals and revokes the legislation replaced by **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** and **Parts 10 to 15 of Te Ture Whenua Māori Act 2016**; and 5
- (b) makes amendments to other enactments that are consequential on those replacements.
- (2) The transitional provisions governing the transition to— 10
- (a) **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** are set out in **Schedule 1 of those Parts**;
- (b) **Parts 10 to 15 of Te Ture Whenua Māori Act 2016** are set out in **Schedule 5 of those Parts**.
- (3) **Subpart 2** amends 3 Acts in relation to the jurisdiction and functions of the Māori Land Court. 15
- (4) **Subparts 3 and 4** amend 3 Acts in relation to rating and valuation matters.
- Subpart 1—Repeal, revocations, and consequential amendments
- 456 Repeal**
- Te Ture Whenua Maori Act 1993 (1993 No 4) is repealed. 20
- 457 Revocations**
- The following regulations are revoked:
- (a) Maori Assembled Owners Regulations 1995 (SR 1995/83);
- (b) Maori Occupation Orders Regulations 1994 (SR 1994/201);
- (c) Maori Reservations Regulations 1994 (SR 1994/57). 25
- 458 Consequential amendments to other enactments**
- The enactments specified in **Schedule 8** are consequentially amended in the manner indicated in that schedule.
- Subpart 2—Amendments that relate to jurisdiction and functions of Māori Land Court 30
- Amendments to Local Government Act 1974*
- 459 Principal Act**
- Section 460** amends the Local Government Act 1974 (the **principal Act**).

**460 Section 446 amended (Council may cover in watercourse so as to make it a public drain)**

- (1) Replace section 446(7) with:
- (7) If land may be affected by the work, an application may be made for an order under subsection (8) at any time between the publicising of the summary of proposal under subsection (5)(d) and 10 days after a resolution of the council is made under subsection (6). 5
- (7A) The application must be made to the following:
- (a) for affected land that is not Māori land, the District Court:
  - (b) for affected land that is Māori land, the Māori Land Court. 10
- (7B) The application must be made by an occupier of the affected land or by the following:
- (a) for affected land that is not Māori land, an owner of the land:
  - (b) for affected land that is Māori freehold land,—
    - (i) if the land is managed under a governance agreement, the governance body of the land; or 15
    - (ii) if the land is not managed under a governance agreement, an owner of the land:
  - (c) for affected land that is Māori customary land,—
    - (i) a kaiwhakahaere appointed for the land; or 20
    - (ii) the Māori Trustee, if there is no kaiwhakahaere appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act:
  - (d) despite the other paragraphs, for affected land that is reserved as a whenua tāpui, the administering body of the whenua tāpui. 25
- (2) After section 446(8), insert:
- (8A) The Māori Land Court may refer to the District Court any proceedings applied for under **subsection (7)**, or any question in those proceedings, if it considers that the proceedings or question would be more appropriately dealt with in the District Court. 30
- (8B) The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.
- (8C) Any appeal from an order made under subsection (8) must be made to the High Court (even for an order of the Māori Land Court).
- (3) In section 446(9), replace “subsections (5) to (8)” with “subsections (5) to **(8C)**”. 35
- (4) After section 446(9), insert:

- (10) In this section, **Māori land**, **Māori customary land**, **Māori freehold land**, and **whenua tāpui** have the meanings given by **section 5** of **Parts 1 to 9** of **Te Ture Whenua Māori Act 2016**.

*Amendments to Government Roding Powers Act 1989*

- 461 Principal Act** 5  
**Sections 462 to 468** amend the Government Roding Powers Act 1989 (the principal Act).
- 462 Section 2 amended (Interpretation)**  
 In section 2(1), insert in their appropriate alphabetical order:
- Māori customary land** has the same meaning as in **section 12** of **Parts 1 to 9** of **Te Ture Whenua Māori Act 2016** 10
- Māori freehold land** has the same meaning as in **section 20** of **Parts 1 to 9** of **Te Ture Whenua Māori Act 2016**
- Māori land** has the same meaning as in **section 5** of **Parts 1 to 9** of **Te Ture Whenua Māori Act 2016** 15
- whenua tāpui** has the same meaning as in **section 5** of **Parts 1 to 9** of **Te Ture Whenua Māori Act 2016**
- 463 Section 48 amended (Powers of Minister over roads under Minister’s control)**
- (1) Replace section 48(6) with: 20
- (6) An application may be made for an order or a direction under subsection (7) about the relevant land—
- (a) within 10 working days after the Minister’s or officer’s notice is received; and
- (b) after prior notice is given to the Minister or officer that the application will be made. 25
- (6A) The application must be made to the following:
- (a) for relevant land that is not Māori land, the District Court;
- (b) for relevant land that is Māori land, the Māori Land Court.
- (6B) The application must be made, and the prior notice must be given, by an occupier of the relevant land or by the following: 30
- (a) for relevant land that is not Māori land, an owner of the land;
- (b) for relevant land that is Māori freehold land,—
- (i) if the land is managed under a governance agreement, the governance body of the land; or 35

- (ii) if the land is not managed under a governance agreement, an owner of the land:
- (c) for relevant land that is Māori customary land,—
- (i) a kaiwhakahaere appointed for the land; or
- (ii) the Māori Trustee, if there is no kaiwhakahaere appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act: 5
- (d) despite the other paragraphs, for relevant land that is reserved as a whenua tāpui, the administering body of the whenua tāpui.
- (6C) The court may, on receipt of the application, summon the Minister or the officer to appear before the court at a time and place specified in the summons. 10
- (2) After section 48(7), insert:
- (7A) The Māori Land Court may refer to the District Court any proceedings applied for under **subsection (6)**, or any question in those proceedings, if it considers that the proceedings or question would be more appropriately dealt with in the District Court. 15
- (7B) The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.
- (7C) Any appeal from an order or a direction made under subsection (7) must be made to the High Court (even for an order or a direction of the Māori Land Court). 20
- 464 Section 50 amended (Owner or occupier of land not to cause damage to bridge by removal of stone, etc)**
- (1) Replace section 50(3) with:
- (3) Any person dissatisfied with the requirements of the notice may appeal against the requirements within 10 working days after the notice is received by that person or another person. 25
- (3A) The appeal must be made to the following:
- (a) for requirements about land that is not Māori land, the District Court:
- (b) for requirements about land that is Māori land, the Māori Land Court. 30
- (2) After section 50(5), insert:
- (5A) The Māori Land Court may refer to the District Court any appeal made under **subsection (3)**, or any question in the appeal, if it considers that the appeal or question would be more appropriately dealt with in the District Court.
- (5B) The Māori Land Court may refer the appeal or question on its own initiative or on application by a party to the appeal. 35
- (5C) Any further appeal from the court's decision must be made to the High Court (even for a decision of the Māori Land Court).

**465 Section 55 amended (Removal of trees, hedges, etc, that obscure visibility or interfere with public work)**

- (1) Replace section 55(3) with:
- (3) An application may be made for an order setting aside a notice about relevant land within 10 working days after service of the notice under subsection (2). 5
- (3A) The application must be made to the following:
- (a) for relevant land that is not Māori land, the District Court:
  - (b) for relevant land that is Māori land, the Māori Land Court.
- (3B) The application must be made by an occupier of the relevant land or by the following: 10
- (a) for relevant land that is not Māori land, an owner of the land:
  - (b) for relevant land that is Māori freehold land,—
    - (i) if the land is managed under a governance agreement, the governance body of the land; or
    - (ii) if the land is not managed under a governance agreement, an owner of the land: 15
  - (c) for relevant land that is Māori customary land,—
    - (i) a kaiwhakahaere appointed for the land; or
    - (ii) the Māori Trustee, if there is no kaiwhakahaere appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act: 20
  - (d) despite the other paragraphs, for relevant land that is reserved as a whenua tāpui, the administering body of the whenua tāpui.
- (2) After section 55(6), insert:
- (6A) The Māori Land Court may refer to the District Court any proceedings applied for under **subsection (3)**, or any question in those proceedings, if it considers that the proceedings or question would be more appropriately dealt with in the District Court. 25
- (6B) The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings. 30
- (6C) Any appeal from a decision made under subsection (6) must be made to the High Court (even for a decision of the Māori Land Court).

**466 Section 61 amended (Powers and duties of Agency in relation to State highways)**

- (1) Replace section 61(8) with: 35
- (8) An application may be made for an order or a direction under subsection (9) about the relevant land—

- (a) within 10 working days after the Agency’s or officer’s notice is received; and
- (b) after prior notice is given to the Agency or officer that the application will be made.
- (8A) The application must be made to the following: 5
- (a) for relevant land that is not Māori land, the District Court;
- (b) for relevant land that is Māori land, the Māori Land Court.
- (8B) The application must be made, and the prior notice must be given, by an occupier of the relevant land or by the following: 10
- (a) for relevant land that is not Māori land, an owner of the land: 10
- (b) for relevant land that is Māori freehold land,—
- (i) if the land is managed under a governance agreement, the governance body of the land; or
- (ii) if the land is not managed under a governance agreement, an owner of the land: 15
- (c) for relevant land that is Māori customary land,—
- (i) a kaiwhakahaere appointed for the land; or
- (ii) the Māori Trustee, if there is no kaiwhakahaere appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act: 20
- (d) despite the other paragraphs, for relevant land that is reserved as a whenua tāpui, the administering body of the whenua tāpui.
- (8C) The court may, on receipt of the application, summon the Agency (through any officer) or the officer to appear before the court at a time and place specified in the summons. 25
- (2) After section 61(9), insert:
- (9A) The Māori Land Court may refer to the District Court any proceedings applied for under **subsection (8)**, or any question in those proceedings, if it considers that the proceedings or question would be more appropriately dealt with in the District Court. 30
- (9B) The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.
- (9C) Any appeal from an order or a direction made under subsection (9) must be made to the High Court (even for an order or a direction of the Māori Land Court). 35

**467 Section 74 amended (Land may be temporarily occupied)**

- (1) Replace section 74(3) with:

- (3) An application may be made for an order or a direction under subsection (4) about the relevant land—
- (a) within 10 working days after the engineer’s or other person’s notice is received; and
  - (b) after prior notice is given to the engineer or other person that the application will be made. 5
- (3A) The application must be made to the following:
- (a) for relevant land that is not Māori land, the District Court;
  - (b) for relevant land that is Māori land, the Māori Land Court.
- (3B) The application must be made, and the prior notice must be given, by an occupier of the relevant land or by the following: 10
- (a) for relevant land that is not Māori land, an owner of the land;
  - (b) for relevant land that is Māori freehold land,—
    - (i) if the land is managed under a governance agreement, the governance body of the land; or 15
    - (ii) if the land is not managed under a governance agreement, an owner of the land:
  - (c) for relevant land that is Māori customary land,—
    - (i) a kaiwhakahaere appointed for the land; or
    - (ii) the Māori Trustee, if there is no kaiwhakahaere appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act: 20
  - (d) despite the other paragraphs, for relevant land that is reserved as a whenua tāpui, the administering body of the whenua tāpui.
- (3C) The court may, on receipt of the application, summon the engineer or other person to appear before the court at a time and place specified in the summons. 25
- (2) After section 74(4), insert:
- (4A) The Māori Land Court may refer to the District Court any proceedings applied for under **subsection (3)**, or any question in those proceedings, if it considers that the proceedings or question would be more appropriately dealt with in the District Court. 30
- (4B) The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.
- (4C) Any appeal from an order or a direction made under subsection (4) must be made to the High Court (even for an order or a direction of the Māori Land Court). 35

- 468 Section 76 amended (Access to land cut off from road or separated by motorway)**
- (1) In section 76(4), delete “; and if no agreement can be reached between the parties the matter shall be referred to the nearest District Court, and the decision of the court thereon shall be final”. 5
- (2) After section 76(4), insert:
- (5) If the appointed person cannot obtain the agreement of the owner of the relevant land, the person must refer the matter to the following court, whose decision on the matter is final: 10
- (a) for relevant land that is not Māori land, the District Court: 10
- (b) for relevant land that is Māori land, the Māori Land Court.

*Amendments to Land Valuation Proceedings Act 1948*

- 469 Principal Act**
- Section 470** amends the Land Valuation Proceedings Act 1948 (the **principal Act**). 15
- 470 New section 19A inserted (Alternate Land Valuation Tribunals for matters under specified enactments)**
- After section 19, insert:
- 19A Alternate Land Valuation Tribunals for matters under specified enactments** 20
- (1) Despite section 19(2), a Land Valuation Tribunal that hears any matter referred to it under a specified enactment must consist of—
- (a) 1 member who is a Judge of the Māori Land Court and is Chairman of the Tribunal for the purposes of hearing such matters: 25
- (b) 1 or both of the people who are members of the Tribunal under section 19(2)(b). 25
- (2) The provisions of this Act apply, for the purposes of this section, as if a Judge of the Māori Land Court were a District Court Judge.
- (3) In this section,—
- Māori land** has the meaning given by **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** 30
- specified enactment** means—
- (a) section 33, 37, or 38 of the Maori Reserved Land Act 1955: 30
- (b) section 10, 18, 26, or 32 of the Maori Vested Lands Administration Act 1954: 35



- (c) section 208 of Te Ture Whenua Maori Act 1993 as continued by **clause 28 of Schedule 1 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**:
- (d) section 23 or 24 of the New Zealand Railways Corporation Restructuring Act 1990, but only if the matter is about ~~Māori~~ land that was Māori land when it was acquired: 5
- (e) section 326 of the Local Government Act 1974, but only if the matter is about Māori land:
- (f) section 75 of the Government Roding Powers Act 1989, but only if the matter is about Māori land. 10

### Subpart 3—Amendments for transitional provisions that relate to rating and valuation matters

#### *Amendments to Rating Valuations Act 1998*

- 471 Amendments to Rating Valuations Act 1998**  
**Sections 472 to 474** amend the Rating Valuations Act 1998 (the **principal Act**). 15
- 472 New section 2A inserted (Transitional, savings, and related provisions)**  
 After section 2, insert:
- 2A Transitional, savings, and related provisions**  
 The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms. 20
- 473 Sections 53 and 54 and cross-heading repealed**  
 Repeal sections 53 and 54 and the cross-heading above section 53.
- 474 Schedules 1 and 2 replaced**  
 Replace Schedules 1 and 2 with the **Schedule 1** set out in **Schedule 9 of Part 16**. 25

#### *Amendments to Local Government (Rating) Act 2002*

- 475 Amendments to Local Government (Rating) Act 2002**  
**Sections 476 and 477** amend the Local Government (Rating) Act 2002 (the **principal Act**). 30
- 476 New section 5A inserted (Transitional, savings, and related provisions)**  
 After section 5, insert:

**5A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

**477 New Schedule 1AA inserted**

Before Schedule 1, insert the **Schedule 1AA** set out in **Schedule 10** of **Part 16**. 5

*Amendments to Local Government Act 2002***478 Amendments to Local Government Act 2002**

**Section 479** amends the Local Government Act 2002 (the **principal Act**).

**479 Schedule 1AA amended** 10

(1) Replace the Schedule 1AA heading with:

**Schedule 1AA**  
**Transitional, savings, and related provisions**

s 8A

(2) In Schedule 1AA, before clause 1, insert: 15

**Part 1**  
**Provisions relating to Local Government Act 2002 Amendment Act 2014**

(3) In Schedule 1AA, after clause 13, insert the **Part 2** set out in **Schedule 11** of **Part 16**. 20

Subpart 4—Amendments that relate to rating and valuation matters

*Amendments to Rating Valuations Act 1998***480 Amendments to Rating Valuations Act 1998**

**Sections 481 to 484** amend the Rating Valuations Act 1998 (the **principal Act**). 25

**481 Section 2 amended (Interpretation)**

(1) In section 2, insert in their appropriate alphabetical order:

**Māori freehold land** has the meaning given by **section 20** of **Parts 1 to 8 of Te Ture Whenua Māori Act 2016**

**Māori land** has the meaning given by **section 5** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** 30

(2) In section 2, insert as subsection (2):

- (2) The definitions of **annual value**, **capital value**, **land value**, and **value of improvements** must be applied in relation to Māori freehold land as if it were private land other than Māori land.

**482 Section 5 amended (Valuer-General may make rules setting requirements in relation to valuations and district valuation rolls)**

5

- (1) After section 5(1)(a), insert:

(aa) prescribing the requirement that any valuation of a rating unit of Māori freehold land must include the calculation of whenua Māori adjusted values under **section 22**:

(ab) prescribing, for the purposes of the calculation of whenua Māori adjusted values under **section 22** (and regulations made under **section 52A**),—

10

(i) how to determine whether a rating unit contains a site of significance (for example, ~~the site of a~~ pā tawhito, urupā, rūnanga, ~~whai whai~~ parekura, kāinga, ~~garden~~ māra kai, ~~kai moana~~ mahinga kai moana, ~~indigenous forest~~ ngahere taketake, ~~access trail~~ ara tūpuna, or other wāhi tapu as defined by **section 5** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**):

15

(ii) how to assess or determine the proportion of a rating unit's area that is occupied by sites of significance:

20

(ac) prescribing any matters required or desirable for the calculation of whenua Māori adjusted values under **section 22** (and regulations made under **section 52A**):

- (2) In section 5(3)(c), at the end, insert “; and”.

- (3) After section 5(3)(c), insert:

25

(d) for rules under **subsection (1)(aa) to (ac)**,—

(i) have regard to the purpose specified in **section 22(5)**; and

(ii) also consult the chief executive of Te Puni Kōkiri.

**483 New section 22 inserted (Whenua Māori adjusted values for rating unit of Māori freehold land)**

30

After section 21, insert:

**22 Whenua Māori adjusted values for rating unit of Māori freehold land**

- (1) This section sets out how to calculate the **whenua Māori adjusted value** of each of the following values (**standard values**) for a rating unit of Māori freehold land:

35

(a) capital value:

(b) land value:

(c) value of improvements:

- (d) annual value.
- (2) For the capital value or the land value, the whenua Māori adjusted value is calculated as the standard value adjusted in accordance with regulations made under this Act.
- (3) For the value of improvements, the whenua Māori adjusted value is calculated based on the whenua Māori adjusted values of the capital value and the land value. 5
- (4) For the annual value, the whenua Māori adjusted value is calculated in accordance with the definition of annual value in section 2, except that—
- (a) the rent determined under paragraph (a) of that definition must be adjusted in accordance with regulations made under this Act; and 10
- (b) the whenua Māori adjusted value of the capital value must be used in paragraph (b) of that definition.
- (5) The purpose of this section and related regulations and rules is to provide a simple and efficient mechanism to adjust standard values to provide an easily calculated proxy for the value of Māori freehold land that is suitable for the purposes of rating. 15
- (6) A whenua Māori adjusted value must not be calculated in any valuation whose purpose is not related to rating.

**484 New section 52A inserted (Regulations about whenua Māori adjusted values for Māori freehold land) 20**

After section 52, insert:

**52A Regulations about whenua Māori adjusted values for Māori freehold land**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations in relation to a rating unit of Māori freehold land for all or any of the following purposes: 25
- (a) prescribing, for the purposes of **section 22(2)**, 1 or more adjustments to be applied to the standard value of the capital value or land value in order to calculate the whenua Māori adjusted value of the capital value or land value: 30
- (b) prescribing, for the purposes of **section 22(4)**, 1 or more adjustments to be applied to the rent determined under paragraph (a) of the definition of annual value in order to calculate the whenua Māori adjusted value of the annual value:
- (c) prescribing 1 of the following as a minimum value below which a standard value cannot be adjusted: 35
- (i) a specified percentage of the standard value; or
- (ii) a specified amount;

- (iii) a value calculated in accordance with a specified formula with the variables described by **subparagraphs (i) and (ii)**.
- (2) An adjustment must be based on 1 or more of the following matters that relate to Māori freehold land:
- (a) the decision-making processes provided for in **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**: 5
  - (b) Māori Land Court processes:
  - (c) the number of owners of the land:
  - (d) the type of any sites of significance on the land:
  - (e) the area of the land that is occupied by sites of significance: 10
  - (f) the importance of the land to owners as a taonga tuku iho.
- (3) An adjustment that is based on 1 or more of the matters described in **subsection (2)(a) to (c)**—
- (a) must be based on a reasonable assessment of how the 1 or more matters would add to the time and cost (including the opportunity cost of capital) that would be incurred in the removal of the status of land as Māori freehold land; but 15
  - (b) must not be based in any way on the probability that the particular land would have its status as Māori freehold land removed.
- (4) An adjustment must allow a valuer to determine whether the adjustment applies to a rating unit using only the information in the district valuation roll. 20
- (5) The adjustments prescribed in relation to each of capital value, land value, and annual value may be the same or different.
- (6) The Minister must, before recommending that an Order in Council is made under this section,— 25
- (a) have regard to the purpose specified in **section 22(5)**; and
  - (b) consult the Minister for Māori Development.
- (7) In this section,—
- adjustment** means a reduction by— 30
- (a) a specified percentage; or
  - (b) a specified amount; or
  - (c) a value calculated in accordance with a specified formula with the variables described by **paragraphs (a) and (b)**
- owner**—
- (a) has the meaning given by **section 7 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; but 35
  - (b) for land, or an individual freehold interest in land, held by the trustees of a whānau trust or other trust (other than a governance body), means each

of the beneficiaries of the trust instead of the trustees (as the terms used in this paragraph are defined by **section 5 of those Parts**)

**site of significance** means a site that is determined to be significant in accordance with rules made under this Act.

*Amendments to Local Government (Rating) Act 2002* 5

**485 Amendments to Local Government (Rating) Act 2002**

**Sections 486 to 491** amend the Local Government (Rating) Act 2002 (the **principal Act**).

**486 Section 5 amended (Interpretation)**

In section 5, replace the definitions of **annual value**, **capital value**, and **land value** with, respectively: 10

**annual value**—

- (a) has the meaning set out in section 2 of the Rating Valuations Act 1998; but
- (b) when referred to in relation to Māori freehold land and for a purpose related to rating, is to be treated as a reference to the whenua Māori adjusted value of the annual value (as calculated under **section 22** of that Act) 15

**capital value**—

- (a) has the meaning set out in section 2 of the Rating Valuations Act 1998; but 20
- (b) when referred to in relation to Māori freehold land and for a purpose related to rating, is to be treated as a reference to the whenua Māori adjusted value of the capital value (as calculated under **section 22** of that Act) 25

**land value**—

- (a) has the meaning set out in section 2 of the Rating Valuations Act 1998; but
- (b) when referred to in relation to Māori freehold land and for a purpose related to rating, is to be treated as a reference to the whenua Māori adjusted value of the land value (as calculated under **section 22** of that Act) 30

**487 Section 27 amended (Rating information database)**

After section 27(4), insert:

- (4A) Despite **subsection (4)(a)**, of the information included in the district valuation roll about the whenua Māori adjusted values of a rating unit of Māori freehold land (the values being calculated under **section 22** of the Rating 35

Valuations Act 1998), only the values themselves are required to be included in the database.

#### 488 Cross-heading above section 114 replaced

Replace the cross-heading above section 114 with:

*Remission, postponement, exemption, and write-off of rates*

5

#### 489 New section 117AA inserted (Write-off of rates)

After section 117, insert:

##### 117AA Write-off of rates

- (1) A local authority may write off all or part of the rates on a rating unit (including penalties for unpaid rates) if— 10
- (a) the local authority has adopted a rates write-off policy under **sections 102(3)(d) and 110A** of the Local Government Act 2002; and
  - (b) the local authority is satisfied that the conditions and criteria in the policy are met.
- (2) The local authority must give notice to the ratepayer identifying the rates that are written off. 15

#### 490 Schedule 1 amended

- (1) In Schedule 1, after clause 1, insert:
- 1A Land that is subject to a Nga Whenua Rahui kawenata under section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987. 20
- (2) In Schedule 1, replace clause 10 with:
- 10 Land—
- (a) that does not exceed 2 hectares and that is used as a cemetery, crematorium, or burial ground, within the meaning of section 2(1) of the Burial and Cremation Act 1964 (except a burial ground or crematorium that is owned and conducted for private pecuniary profit): 25
  - (b) that is used as a Māori burial ground or urupā.
- (3) In Schedule 1, replace clauses 12 and 13 with:
- 12 Land that is a whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** and reserved— 30
- (a) for the purpose of a marae or meeting place; or
  - (b) for the common use and benefit of the people of New Zealand.
- 13 Land that is used as a marae,—
- (a) including the land where the members of whānau, hapū, or iwi meet and engage in pōwhiri (the ceremony of greeting and encounter); and 35

- (b) including the land on which any building that forms part of a marae is situated, such as the wharenuī (meeting house), wharekai (dining room), kitchen, ablution blocks, buildings for wānanga or temporary accommodation, or any other associated building that supports the cultural and social role of a marae; and 5
- (c) including the curtilage of a marae and adjoining or nearby land used for access to a marae, organised field sports of a marae, māra kai to support a marae, or parking for a marae; but
- (d) excluding any land that is used primarily or exclusively for commercial activity or is used for permanent residential accommodation. 10
- 13A Unused Māori freehold land that is non-rateable in accordance with a policy made under **section 102(3)(c)** of the Local Government Act 2002.
- (4) In Schedule 1, note 2, replace “clauses 1 and 2” with “clauses 1, **1A**, and 2”.
- 491 Schedule 3 amended**
- In Schedule 3, note 2, after item 1 of the formula, insert: 15
- To avoid doubt, when the value of improvements is referred to in relation to Māori freehold land and for a purpose related to rating, the whenua Māori adjusted values of the capital value and the land value must be used (*see* the definitions of capital value and land value in section 5).
- Amendments to Local Government Act 2002* 20
- 492 Amendments to Local Government Act 2002**
- Sections 493 to 495** amend the Local Government Act 2002 (the **principal Act**).
- 493 Section 102 amended (Funding and financial policies)**
- Replace section 102(3) with: 25
- (3) A local authority may adopt 1 or more of the following policies:
- (a) a rates remission policy:
- (b) a rates postponement policy:
- (c) a policy on the non-rateability of unused Māori freehold land:
- (d) a policy on the write-off of rates owed for unused Māori freehold land. 30
- 494 New section 110A inserted (Policy on non-rateability of unused Māori freehold land and on write-off of earlier rates)**
- After section 110, insert:
- 110A Policy on non-rateability of unused Māori freehold land and on write-off of earlier rates** 35
- (1) A policy adopted under **section 102(3)(c)** must state—



- (a) the objectives sought to be achieved by the non-rateability of unused Māori freehold land; and
- (b) the conditions and criteria to be met in order for Māori freehold land to be non-rateable on the basis that the land is unused.
- (2) A policy adopted under **section 102(3)(d)** must state— 5
- (a) the objectives sought to be achieved by the write-off of rates owed for unused Māori freehold land; and
- (b) the conditions and criteria to be met in order for the rates owed for Māori freehold land (including penalties payable on unpaid rates) to be written off on the basis that the land is unused, which must include a condition that there is sufficient evidence that— 10
- (i) the land is unused but there is a demonstrable commitment to use the land; or
- (ii) the land is unused and is likely to remain unused for the foreseeable future. 15
- (3) A policy adopted under **section 102(3)(c) or (d)** must—
- (a) define **unused**, in relation to land, so that it—
- (i) includes land that is unoccupied or is used similarly to a reserve or conservation area, despite any personal visits to the land or any personal collection of kai or cultural or medicinal material from the land; and 20
- (ii) excludes land that is leased or that is used, continuously or with some breaks, for agricultural, forestry, residential, horticultural, commercial, or industrial activity; and
- (b) apply only to a rating unit that is wholly unused land or to any part of a rating unit that exceeds 1 hectare of unused land that is contiguous (or would be contiguous if not for any interruptions by land not included in the rating unit). 25
- (4) In determining a policy under **section 102(3)(c) or (d)**, the local authority must consider the matters set out in **Schedule 11A**. 30
- (5) If a policy is adopted under **section 102(3)(c) or (d)**, the policy—
- (a) must be reviewed at least once every 6 years using a consultation process that gives effect to the requirements of section 82; and
- (b) may be revoked after the review under **paragraph (a)**.
- 495 New Schedule 11A inserted** 35
- After Schedule 11, insert the **Schedule 11A** set out in **Schedule 12** of **Part 16 of Te Ture Whenua Māori Act 2016**.

## Schedule 1

### Transitional, savings, and related provisions

s 10

#### Contents

Page

#### Part 1

#### Provisions relating to Act as enacted

1	Interpretation	304
	<i>Provisions applying to Māori incorporations</i>	
2	Māori incorporations continue to exist and are governance bodies	304
3	Transitional matters relating to Māori incorporations	304
4	Investment land held by Māori incorporation before commencement date	305
5	Information kept on register of Māori incorporations to be provided to chief executive	306
6	Matters relating to share registers	306
7	Kaitiaki quorum and eligibility requirements: delayed application to Māori incorporations	307
8	Jurisdiction of court to review decisions relating to Māori incorporations: section 188 not to have retrospective effect	307
9	Land management plans for Māori incorporations	307
10	Māori incorporation constituted by Mawhera Incorporation Order 1976	307
11	Māori incorporations constituted by section 21 of Maori Purposes Act 1975	308
	<i>Provisions applying to certain ahu whenua trusts and whenua tōpū trusts</i>	
12	Trustees of certain ahu whenua trusts and whenua tōpū trusts continue to exist and are governance bodies	308
13	Transitional matters relating to certain ahu whenua trusts and whenua tōpū trusts	309
14	Māori incorporation may continue as trustee of ahu whenua trust or whenua tōpū trust	311
15	Kaitiaki quorum and eligibility requirements: delayed application to ahu whenua trusts and whenua tōpū trusts	311
16	Jurisdiction of court to review decisions relating to ahu whenua trusts and whenua tōpū trusts: section 188 not to have retrospective effect	311
17	Land management plans for ahu whenua trusts and whenua tōpū trusts	311
18	Whenua tōpū trust: Te Ngae Farm Trust	312

<i>Provisions applying to other existing trusts</i>		
19	Existing whānau trusts	312
20	Existing kai tiaki trusts	313
21	Termination of existing kai tiaki trust	313
22	Jurisdiction of court regarding existing kai tiaki trusts	314
23	Other existing trusts not affected	314
<i>Existing Māori reservations become whenua tāpui</i>		
24	Existing Māori reservations become whenua tāpui	314
<i>Dispositions of Māori freehold land</i>		
25	Confirmation of alienation of Māori freehold land	315
26	Recording and registration of existing instruments	316
27	Order of confirmation for sale of parcel after partition restricted under earlier Act	316
28	Existing leases of Māori freehold land and other land	317
29	Occupation orders become leases for residential housing purposes	317
30	Existing occupation of house by owner	317
<i>Administration of estates</i>		
31	Administration of estates if administration granted before commencement date	319
32	Determining eligibility of beneficiary to succeed to interests of intestate owner in certain circumstances	319
<i>Land title registration</i>		
33	Provisional registration of existing instruments if survey inadequate	320
34	Existing registration of land in name of trust or tipuna	320
<i>Existing charges for surveys of Māori land</i>		
35	Existing charges for surveys of Māori land	320
<i>Existing roadways</i>		
36	Roadways may be declared roads	321
37	Cancellation or variation of roadway	321
38	Cancellation of roadway with separate instrument of title	322
39	Compensation for roadway	323
<i>Transfer of employees</i>		
40	Transfer of Ministry of Justice employees elsewhere in the State services	324
<i>Land Titles Protection Act 1908</i>		
40A	<u>Effect of Land Titles Protection Act 1908 preserved</u>	<u>324</u>

## Part 1

### Provisions relating to Act as enacted

#### 1 Interpretation

In this Part, **commencement date** means the date on which this **Part** comes into force.

5

#### *Provisions applying to Māori incorporations*

#### 2 Māori incorporations continue to exist and are governance bodies

- (1) On the commencement date, a Māori incorporation—
- (a) continues to exist as a body corporate with perpetual succession under the name specified in the order of incorporation; and 10
  - (b) is a governance body for the purposes of this Act.
- (2) A Māori incorporation may do anything necessary to give effect to any resolution or decision validly made under Te Ture Whenua Maori Act 1993 before the repeal of that Act.
- (3) In this clause, **Māori incorporation** means any of the following that exist on the commencement date, as identified in the register of Māori incorporations kept under section 279 of Te Ture Whenua Maori Act 1993: 15
- (a) a Māori incorporation established under Part 13 of Te Ture Whenua Maori Act 1993:
  - (b) a Māori incorporation established under or continued in existence by the provisions of Part 4 of the Maori Affairs Amendment Act 1967: 20
  - (c) a Māori incorporation constituted by section 21 of the Maori Purposes Act 1975:
  - (d) the Māori incorporation constituted by the Mawhera Incorporation Order 1976 (*but see clause 10* of this schedule): 25
  - (e) the Māori incorporation constituted by the Parininihi Ki Waitotara Incorporation Order 1976:
  - (f) the Māori incorporation constituted by the Wakatu Incorporation Order 1977.

#### 3 Transitional matters relating to Māori incorporations 30

- (1) This clause applies to a Māori incorporation that is a governance body for the purposes of **Parts 1 to 9** (*see clause 2*).
- (2) On the commencement date,—
- (a) each member of the committee of management of the incorporation becomes a kaitiaki of the governance body; and 35

- (b) the constitution of the Māori incorporation, as in force immediately before the commencement date (*see* section 268 of Te Ture Whenua Maori Act 1993) and as modified by **clause 4 of Schedule 4**, becomes the governance agreement; and
- (c) the assets and liabilities of the Māori incorporation become the asset base managed by the incorporation under the governance agreement; and 5
- (d) the shares in the Māori incorporation continue to be individual freehold interests in the Māori freehold land managed under the governance agreement; and
- (e) each unclaimed dividend held by the incorporation, or by a preceding incorporation or body corporate (including the Māori Trustee), becomes an unpaid distribution for the purposes of **Parts 1 to 9**. 10
- (3) As soon as practicable after the start of the commencement date, the chief executive must—
- (a) register the governance agreement by issuing a governance certificate; and 15
- (b) make any necessary changes to the Māori land register.
- (4) The matters referred to in **subclauses (2) and (3)** do not, of themselves,—
- (a) constitute a change of control of the incorporation; or
- (b) alter or affect the tax status of the incorporation; or 20
- (c) place the incorporation or any other person or body in breach of a contract or confidence, or make it guilty of a civil wrong; or
- (d) give rise to a right for any person to terminate or cancel any contract or arrangement, to accelerate the performance of an obligation, to impose a penalty, or to increase a charge; or 25
- (e) place the incorporation or any other person or body in breach of an enactment, a rule of law, or a contract that prohibits, restricts, or regulates the assignment or transfer of an asset or a liability or the disclosure of information; or
- (f) release a surety, wholly or in part, from an obligation; or 30
- (g) invalidate or discharge a contract.
- 4 Investment land held by Māori incorporation before commencement date**
- (1) This clause applies if a Māori incorporation holds any land on the commencement date—
- (a) that it acquired on or after 1 July 1993; and 35
- (b) that, before the commencement date, it had determined to retain as an investment rather than as part of the corpus of the incorporation (*see* section 256 of Te Ture Whenua Maori Act 1993).

- (2) The court may, on application made by the incorporation at any time within the period of 3 years after the commencement date, make an order—
- (a) authorising the Māori incorporation to hold the whole or any part of the land as an investment; and
  - (b) declaring that the land that is the subject of the authorisation ceases to be Māori freehold land. 5
- (3) The court must not make an order unless it is satisfied that—
- (a) no part of the land is reserved as a whenua tāpui; and
  - (b) no part of the land is subject to a kawenata tiaki whenua; and
  - (c) the land does not contain any wāhi tapu or wāhi tūpuna; and 10
  - (d) the incorporation’s decision to retain the land as an investment was properly made.
- (4) An order—
- (a) must specify the parcel or parcels that comprise the land; and
  - (b) may make any other provision in relation to the change of status of the land that the court thinks just. 15
- (5) If an order is made, the parcel of land that ceases to be Māori freehold land remains private land, but is not Māori land.
- 5 Information kept on register of Māori incorporations to be provided to chief executive 20**
- (1) As soon as practicable after the start of the commencement date, the Chief Registrar of the Māori Land Court must provide to the chief executive a copy of each register of Māori incorporations kept by a Registrar of a Māori Land Court district under section 279 of Te Ture Whenua Maori Act 1993.
- (2) If, after the Chief Registrar has provided information to the chief executive under **subclause (1)**, a Registrar of a Māori Land Court district receives a copy of a special resolution made before the commencement date, the Chief Registrar must forward the copy to the chief executive. 25
- 6 Matters relating to share registers**
- (1) Every Māori incorporation must, no later than 6 months after the commencement date,— 30
- (a) send an up-to-date copy of its share register to the chief executive; and
  - (b) decide, and notify the chief executive, whether the incorporation intends to continue to keep its own share register or rely on the Māori land register as the record of its shareholders, the number of shares held by each shareholder, and the address of each shareholder (where known). 35
- (2) Until regulations made under **section 326(m)** come into force, **section 233(2)(a)** must be read as if it required a Māori incorporation that keeps its

own share register to do so in accordance with section 263 of Te Ture Whenua Maori Act 1993, which continues to apply for this purpose as if it had not been repealed.

- 7 Kaitiaki quorum and eligibility requirements: delayed application to Māori incorporations** 5
- (1) This clause applies to a governance body that is a Māori incorporation, but ceases to apply to the governance body if it becomes a rangatōpū.
- (2) Until the expiry of 3 years after the commencement date,—
- (a) **section 184** (which sets out quorum and eligibility requirements for kaitiaki) does not apply to the governance body; but 10
- (b) the governance body must continue to have at least 3 and no more than 7 kaitiaki; and
- (c) section 272 of Te Ture Whenua Maori Act 1993 (qualification, disqualification, and removal of members) continues to apply to the governance body— 15
- (i) despite the repeal of that section; and
- (ii) as if the reference in that section to the powers of the court under section 269(4) of that Act were a reference to the powers of the court under **section 220** of **Parts 1 to 9**.
- 8 Jurisdiction of court to review decisions relating to Māori incorporations: section 188 not to have retrospective effect** 20
- To avoid doubt, **section 188**, which enables the court to review certain decisions relating to governance bodies, does not apply to any decision made before the commencement date in relation to a Māori incorporation.
- 9 Land management plans for Māori incorporations** 25
- (1) This clause applies to any governance body that is a Māori incorporation.
- (2) If **section 210** requires the governance body to have in place a land management plan, the governance body may have in place—
- (a) a land management plan of the kind referred to in **section 210**; or
- (b) a land acquisition plan or land improvement plan, or both, that the court approved under section 137(2)(b) of Te Ture Whenua Maori Act 1993 before the commencement date. 30
- (3) If the governance body has in place either or both of the plans referred to **sub-clause (2)(b)** (the **approved plans**), any reference in **Parts 1 to 9** to the governance body's land management plan must be read as a reference to the approved plans. 35
- 10 Māori incorporation constituted by Mawhera Incorporation Order 1976**
- (1) This clause applies to the governance body that is—

- (a) the Māori incorporation constituted by the Mawhera Incorporation Order 1976; and
- (b) any rangatōpū that results from the Māori incorporation specified in **paragraph (a)** changing its form under **section 160** or amalgamating with another governance body under **section 161**. 5
- (2) For as long as the Māori incorporation or rangatōpū holds the land described in section 27(6) of the Maori Purposes Act 1976, it must hold the land as Māori freehold land.
- (3) **Subclause (2)** prevails over any other provision of **Parts 1 to 9**.
- 11 Māori incorporations constituted by section 21 of Maori Purposes Act 1975** 10
- (1) This clause applies to—
- (a) the Māori incorporation constituted by section 21(b) of the Maori Purposes Act 1975 (The Proprietors of Rangatira Point Block); and
- (b) the Māori incorporation constituted by section 21(c) of the Maori Purposes Act 1975 (The Proprietors of Hiruharama-Ponui Block). 15
- (2) An incorporation specified in **subclause (1)** must not, as long as it continues to be a Māori incorporation, amend its governance agreement in a manner that is inconsistent with section 21(3) to (6) of the Maori Purposes Act 1975.
- (3) However, section 21(3) to (6) of the Maori Purposes Act 1975 ceases to apply 20 to the incorporation if it becomes a rangatōpū.

*Provisions applying to certain ahu whenua trusts and whenua tōpū trusts*

- 12 Trustees of certain ahu whenua trusts and whenua tōpū trusts continue to exist and are governance bodies**
- (1) On the commencement date,— 25
- (a) an ahu whenua trust or a whenua tōpū trust specified in **subclause (3)** continues to exist as a private trust under the name specified in the trust order; and
- (b) the trustees of the trust are, for the purposes of this Act, the governance body in respect of the trust property. 30
- (2) The trustees of the trust may do anything necessary to give effect to any resolution or decision validly made under Te Ture Whenua Maori Act 1993 before the repeal of that Act.
- (3) This clause applies to any of the following trusts that exist on the commencement date, as identified in the permanent record of the Māori Land Court kept under rule 7.19 of the Māori Land Court Rules 2011, and whose trust property includes Māori freehold land: 35



- (a) an ahu whenua trust constituted under section 215 of Te Ture Whenua Maori Act 1993:
- (b) a whenua tōpū trust constituted under section 216 of Te Ture Whenua Maori Act 1993 (*but see clause 18*, which relates to Te Ngae Farm Trust): 5
- (c) a trust that is an amalgamation under section 221 of Te Ture Whenua Maori Act 1993 of any 2 or more ahu whenua or whenua tōpū trusts:
- (d) a trust constituted under section 438(1) of the Maori Affairs Act 1953 and continued as an ahu whenua trust under section 354 of Te Ture Whenua Maori Act 1993—unless the trust is specified in **subclause (4)**: 10
- (e) an ahu whenua trust constituted under section 357(4)(b) of the Ngāi Tahu Claims Settlement Act 1998.
- (4) This clause does not apply to any of the following trusts, as continued as ahu whenua trusts by section 354 of Te Ture Whenua Maori Act 1993, that exist on the commencement date: 15
- (a) a trust constituted under section 5 of the Maori Purposes Act 1954 (in respect of the Ratana Settlement in the Aotea District):
- (b) a trust referred to in section 6(7) of the Maori Purposes Act 1983 (in respect of the Titi Islands): 20
- (c) the Te Puna-Topu-O-Hokianga Trust constituted by the court on 2 May 1974 (*see* section 17 of the Reserves and Other Lands Disposal Act 1977):
- (d) the Ruapuha Uekaha Hapu Trust constituted by the court on 2 October 1990 (in respect of land associated with the Waitomo Caves): 25
- (e) the Tuaropaki Trust constituted by the court on 3 October 1979 (and continued under a trust order dated 3 July 2015).
- (5) To avoid doubt, **clause 23** applies to—
- (a) each trust specified in **subclause (3)** whose trust property does not include Māori freehold land; and 30
- (b) each trust specified in **subclause (4)**.
- 13 Transitional matters relating to certain ahu whenua trusts and whenua tōpū trusts**
- (1) This clause applies to the trustees of an ahu whenua trust or a whenua tōpū trust who are a governance body for the purposes of **Parts 1 to 9** (*see clause 12*). 35
- (2) Each trustee who was appointed before the commencement date continues to hold that office on and from the commencement date—
- (a) in accordance with the terms of the instrument of appointment; and

- (b) with the same general powers and authorities as the trustee had under section 226 of Te Ture Whenua Maori Act 1993; and
- (c) with any additional roles and responsibilities that arise under **subclause (3)(a) or (b)**.
- (3) On the commencement date,— 5
- (a) each responsible trustee (being any trustee other than an advisory trustee, an associate trustee, or a custodian trustee) who is a natural person becomes a kaitiaki of the governance body; and
- (b) if a responsible trustee is not a natural person, each person occupying a position in the trustee that is comparable with that of a director of a company becomes a kaitiaki of the governance body; and 10
- (c) each advisory trustee becomes a member of an advisory committee for the trustees who become kaitiaki under **paragraphs (a) and (b)**; and
- (d) the terms of the trust that are in effect immediately before the commencement date, as set out in the order constituting the trust and as modified by **clause 4 of Schedule 4**, become the governance agreement; and 15
- (e) the trust property becomes the asset base managed by the trustees under the governance agreement.
- (4) As soon as practicable after the start of the commencement date, the chief executive must— 20
- (a) register the governance agreement by issuing a governance certificate; and
- (b) make any necessary changes to the Māori land register.
- (5) The matters referred to in **subclauses (2) and (3)** do not, of themselves,— 25
- (a) constitute a change of control of the trust; or
- (b) alter or affect the tax status of the trust; or
- (c) place the trustees or any other person or body in breach of a contract or confidence, or make them guilty of a civil wrong; or
- (d) give rise to a right for any person to terminate or cancel any contract or arrangement, to accelerate the performance of an obligation, to impose a penalty, or to increase a charge; or 30
- (e) place the trustees or any other person or body in breach of an enactment, a rule of law, or a contract that prohibits, restricts, or regulates the assignment or transfer of an asset or a liability or the disclosure of information; or 35
- (f) release a surety, wholly or in part, from an obligation; or
- (g) invalidate or discharge a contract.

- 14 Māori incorporation may continue as trustee of ahu whenua trust or whenua tōpū trust** 5
- If a Māori incorporation is the trustee of an ahu whenua trust or a whenua tōpū trust, and is therefore the governance body in respect of the trust property (*see clause 12*),—
- (a) despite **clause 3(7) of Schedule 3**, the Māori incorporation may be a party to more than 1 governance agreement—one in its capacity as a governance body under **clause 2** of this schedule and one in its capacity as a governance body under **clause 12** of this schedule; but
  - (b) the Māori incorporation must maintain a separate asset base under each governance agreement. 10
- 15 Kaitiaki quorum and eligibility requirements: delayed application to ahu whenua trusts and whenua tōpū trusts**
- (1) This clause applies to any governance body that is the trustees of an ahu whenua trust or a whenua tōpū trust, but ceases to apply to the governance body if it becomes a rangatōpū. 15
  - (2) Until the expiry of 5 years after the commencement of this clause,—
    - (a) **section 184** (which sets out quorum and eligibility requirements for kaitiaki) does not apply to the governance body; but
    - (b) the governance body must comply with any quorum and eligibility requirements for kaitiaki that are set out in its governance agreement; and 20
    - (c) any kaitiaki appointed after the commencement of this clause must be eligible under **section 184(3)** to hold that position.
- 16 Jurisdiction of court to review decisions relating to ahu whenua trusts and whenua tōpū trusts: section 188 not to have retrospective effect** 25
- To avoid doubt, **section 188**, which enables the court to review certain decisions relating to governance bodies, does not apply to any decision made before the commencement date in relation to an ahu whenua trust or a whenua tōpū trust.
- 17 Land management plans for ahu whenua trusts and whenua tōpū trusts** 30
- (1) This clause applies to any governance body that is the trustees of an ahu whenua trust or a whenua tōpū trust.
  - (2) If **section 210** requires the governance body to have in place a land management plan, the governance body may have in place—
    - (a) a land management plan of the kind referred to in **section 210**; or 35
    - (b) a land acquisition plan or land improvement plan, or both, that the court approved under section 137(2)(b) of Te Ture Whenua Maori Act 1993 before the commencement date.

- (3) If the governance body has in place either or both of the plans referred to **sub-clause (2)(b)** (the **approved plans**), any reference in **Parts 1 to 9** to the governance body's land management plan must be read as a reference to the approved plans.
- 18 Whenua tōpū trust: Te Ngae Farm Trust** 5
- (1) This clause applies to the governance body that is the whenua tōpū trust constituted under section 216 of Te Ture Whenua Maori Act 1993 as Te Ngae Farm Trust, and its governance agreement (being the terms of the trust as set out in the order constituting the trust).
- (2) The governance agreement must not be— 10
- (a) cancelled; or
- (b) amended in a manner that is inconsistent with the terms of the settlement of the Wai 32 claim (Rangiteaorere land claim) signed on 21 October 1993.
- (3) The trust must continue to be the governance body for the land referred to in section 13 of the Reserves and Other Lands Disposal Act 1993 (Te Ngae Mission Farm: *see* section 11(4) of Ngāti Rangiteaorere Claims Settlement Act 2014). 15
- (4) Nothing in **Parts 1 to 9** affects the powers, rights, or duties of trustees of Māori land under the trust, whether created by Act, Crown grant, or other instrument of title, or in any other manner. 20
- (5) **Subclauses (2) to (4)** prevail over anything to the contrary in **Parts 1 to 9**.

*Provisions applying to other existing trusts*

- 19 Existing whānau trusts**
- (1) This clause applies to a whānau trust that was constituted by the court under section 214 of Te Ture Whenua Maori Act 1993 and that exists on the commencement date. 25
- (2) The trust continues in force in accordance with the terms of the order constituting the trust and any further order or extension of powers granted by the court before the commencement date. 30
- (3) The trustees who held office immediately before the commencement date continue to hold the office for the duration, and in accordance with the terms, of their appointment, even if they would not be eligible to be appointed as a trustee in accordance with **section 62**.
- (4) Otherwise **sections 61 to 72–72A** apply to the trust, with any necessary modifications, as if the trust were a trust established in accordance with **section 58**. 35

**20 Existing kai tiaki trusts**

- (1) This clause and **clauses 21 and 22** apply to a kai tiaki trust that was constituted by the court under section 217 of Te Ture Whenua Maori Act 1993 and that exists on the commencement date.
- (2) The trust continues in force in accordance with the terms of the order constituting the trust and any further order or extension of powers granted by the court before the commencement date. 5
- (3) The trustees who held office immediately before the commencement date continue to hold office for the duration, and in accordance with the terms, of their appointment, even if they would not be eligible to be appointed as a trustee in accordance with **section 62**. 10
- (4) The trustees must apply to the court for a review of the trust at the following intervals:
- (a) no later than 5 years after the establishment of the trust or, if a period is specified in the trust order, no later than the date specified in the order; and 15
- (b) at the end of each subsequent 5-year period or, if subsequent reporting intervals are specified in the trust order, no later than the date specified in the order.
- (5) When conducting a review, the court may require the trustees to— 20
- (a) provide explanations to the court; and
- (b) produce relevant documents, including accounts.
- (6) Having conducted a review, the court may make an order—
- (a) confirming the trust order without variation; or
- (b) varying the terms of the order in the manner it thinks fit; or 25
- (c) terminating the trust; or
- (d) terminating the trust and appointing a kaiwhakamarumarū under **Parts 1 to 9** to assume responsibility for the former trust property.

**21 Termination of existing kai tiaki trust**

- (1) If a kai tiaki trust is terminated under **clause 20** (irrespective of whether a kaiwhakamarumarū is appointed in its place), the court must, by order, vest the beneficial interest in any Māori land— 30
- (a) in the beneficiary of the trust, if the beneficiary is living;
- (b) in the person or persons who are entitled to succeed to the beneficiary's interest in accordance with **Parts 1 to 9**, if the beneficiary is deceased. 35
- (2) Promptly after the trust is terminated, the trustees must deliver to the chief executive any money, books of account, and records held in their capacity as trustees of the terminated trust.

**22 Jurisdiction of court regarding existing kai tiaki trusts**

- (1) In respect of a kai tiaki trust described in **clause 20**, the court has jurisdiction to inquire into and determine—
- (a) whether the purpose of the trust has been fulfilled; and
  - (b) any question or dispute in relation to the administration of the trust; and 5
  - (c) any question or dispute in relation to the appointment, replacement, or removal of trustees.
- (2) Without limiting **clause 20(4)**, the court has and may exercise, in relation to the trust, all the same powers and authorities as the High Court has and may exercise under the Trustee Act 1956 in respect of trusts generally. 10
- (3) The court must exercise those powers and authorities consistently with **Parts 1 to 9**.
- (4) **Subclause (2)** does not limit or affect the jurisdiction of the High Court.

**23 Other existing trusts not affected**

- (1) This clause applies to— 15
- (a) each trust specified in **clause 12(3)** whose trust property does not include Māori freehold land; and
  - (b) each trust specified in **clause 12(4)**; and
  - (c) any other trust over Māori land, whether created by Act, Crown grant, or other instrument of title, or in any other manner, if— 20
    - (i) the trust is in force on the commencement date; and
    - (ii) none of **clauses 12, 19, and 20 to 22** applies to it.
- (2) The trust continues in force in accordance with the terms of the order constituting the trust and any further order or extension of powers granted by the court before the commencement date. 25
- (3) Nothing in **Parts 1 to 9** affects the powers, rights, or duties of the trustees of the trust, and those powers, rights, and duties continue to exist and may be exercised and performed in the same manner as if Te Ture Whenua Maori Act 1993 had not been repealed.
- (4) Despite **subclause (3)**, section 241 of Te Ture Whenua Maori Act 1993 30 (which authorises the court to terminate a trust) does not apply in respect of the Ruapuha Uekaha Hapu Trust referred to in **clause 12(4)(d)**.

*Existing Māori reservations become whenua tāpui***24 Existing Māori reservations become whenua tāpui**

- (1) This clause applies to a Māori reservation set apart under section 338 of Te Ture Whenua Maori Act 1993 or the corresponding provisions of any former enactment. 35

*Existing whenua tāpui*

- (2) The Māori reservation is treated as if it were an existing whenua tāpui that had been declared under **subpart 2 of Part 2**, but **Parts 1 to 9** applies with 2 modifications if that existing whenua tāpui is reserved for the purposes of a marae or an urupā. 5
- (3) The first modification is that if any additional land is reserved and included in the existing whenua tāpui under **subpart 2 of Part 2**, the beneficial ownership of the additional land does not vest in the Māori who belong to the class of persons specified in the declaration, despite **section 38(4)**.
- (4) The second modification is that, for agreement to an application under **section 292** (registration of land in name of trust or tupuna), the beneficiaries of the existing whenua tāpui are treated as if they were the owners of the land. 10

*Administering body*

- (5) The trustees who hold the Māori reservation immediately before the commencement date are treated as if they were the members of the administering body appointed for the whenua tāpui under **subpart 2 of Part 2**. 15
- (6) If the trustees became the holders of the Māori reservation under an Act to settle historical claims under the Treaty of Waitangi, then **subclause (8)** and **section 39(1) to (3)** do not apply to the administering body.
- (7) Any terms of trust imposed on the trustees are treated as if they were conditions or restrictions imposed on the administering body under **subpart 2 of Part 2**. 20
- (8) If, on the commencement date, the membership of the administering body does not comply with the requirements of **section 39(2)** or of any regulations made under **Parts 1 to 9**, the members must ensure that the membership complies within 3 years after the commencement date. Until then, non-compliance is ignored. 25
- (9) If, on the commencement date, no trustees hold the Māori reservation, the court may appoint an administering body, which is treated as if it were appointed for the whenua tāpui under **subpart 2 of Part 2**. 30

*Dispositions of Māori freehold land***25 Confirmation of alienation of Māori freehold land**

- (1) This clause applies to a proposed alienation of any interest in Māori freehold land if, immediately before the commencement date,—
- (a) any consent, agreement, resolution, or court approval required for the alienation by Te Ture Whenua Maori Act 1993 had been obtained in accordance with that Act; and 35
- (b) confirmation under Part 8 of that Act was required in relation to the alienation, but had not been obtained.

- (2) Parts 7 and 8 of Te Ture Whenua Maori Act 1993 continue to apply, as if that Act had not been repealed, for the purposes of—
- (a) obtaining the confirmation; and
  - (b) if applicable, giving effect to a resolution (*see* section 157 of that Act).
- 26 Recording and registration of existing instruments** 5
- (1) This clause applies to a proposed alienation of any interest in Māori freehold land for which, immediately before the commencement date, there was an instrument—
- (a) that was able to be noted by the Registrar in accordance with Te Ture Whenua Maori Act 1993; but 10
  - (b) that had not been noted in that way.
- (2) This clause also applies to a proposed alienation of any interest in Māori freehold land—
- (a) to which **subclause (1)** would apply if the confirmation referred to in **clause 25(2)(a)** had been obtained, and anything referred to in **clause 25(2)(b)** had been done, immediately before the commencement date; and 15
  - (b) for which the confirmation has since been obtained, and anything else has since been done, under **clause 25**.
- (3) The instrument of alienation may be recorded in the Māori land register under **Parts 1 to 9**, and registered or noted under the Land Transfer Act 1952, despite anything in **Parts 1 to 9**. 20
- 27 Order of confirmation for sale of parcel after partition restricted under earlier Act**
- (1) This clause applies if— 25
- (a) application is made for an order of confirmation for the sale of a parcel of Māori freehold land; and
  - (b) the parcel resulted from a partition of land made on or after 1 October 1991 on which a restriction was imposed under section 432A of the Maori Affairs Act 1953 or section 304 of Te Ture Whenua Maori Act 1993; and 30
  - (c) the sale is to persons who are not members of the same hapū as the owners of the parcel that was partitioned.
- (2) Before making the order, the court must comply with section 304(3) to (6) of Te Ture Whenua Maori Act 1993, which applies as if it were not repealed and with any necessary modifications. 35



**28 Existing leases of Māori freehold land and other land**

Any provision of Part 11 of Te Ture Whenua Maori Act 1993 that applied to a lease (as defined by section 192 of that Act) immediately before the commencement date continues to apply to the lease—

- (a) as if that Part were not repealed; and 5
- (b) as if references in that Part to trustees or a Māori incorporation in which land is vested were to a governance body that manages the land; and
- (c) with any other necessary modifications.

**29 Occupation orders become leases for residential housing purposes**

(1) If an occupation order made under Part 15 of Te Ture Whenua Maori Act 1993 applies immediately before the commencement date, the order must be treated as if it were,— 10

- (a) for an order that required rent to be paid, a lease granted under **section 129** for the purpose of residential housing and with rent payable; or
- (b) for an order that did not require rent to be paid, a lease granted under **section 130** for the purpose of residential housing and rent-free. 15

(2) The lease must be treated as including the following terms and conditions, which override any inconsistent provision of **Parts 1 to 9**:

- (a) any terms and conditions that applied to the occupation order; and
- (b) a term by which the court may at any time, on the application of any person or on its own initiative, make an order amending or cancelling the lease (*see* section 330 of Te Ture Whenua Maori Act 1993); and 20
- (c) if the occupation order was made before 1 July 2002, a term by which the court may—
  - (i) review the lease on application by an owner of a beneficial interest in the leased land or by the grantee of the lease; and 25
  - (ii) conduct the review as if it were exercising its jurisdiction to make the initial occupation order, and having particular regard to the fact that, after it was made, the occupation order could pass by succession (*see* section 330A of Te Ture Whenua Maori Act 1993). 30

(3) The court has jurisdiction to do anything required by a term or condition referred to in this clause.

**30 Existing occupation of house by owner**

(1) This clause applies if,— 35

- (a) immediately before the commencement date, ~~an owner of Māori freehold land occupies an existing house on the land as his or her principal~~

- ~~place of residence~~ an existing house on Māori freehold land is the principal place of residence of an owner of the land,—
- (i) whether or not under any recorded arrangement with other owners and whether any such arrangement is subject to payment of rent or rent-free; but 5
  - (ii) not under a lease granted under Part 11 of Te Ture Whenua Maori Act 1993 or an occupation order made under Part 15 of that Act; and
- (b) on the commencement date, the land—
- (i) is not managed under a governance agreement; and 10
  - (ii) is not a whenua tāpui; and
  - (iii) is not subject to Part 2 of the Maori Affairs Restructuring Act 1989, the Maori Reserved Land Act 1955, or the Maori Vested Lands Administration Act 1954.
- (2) The owner, along with any immediate family who also occupy the house, may continue to occupy the house as a principal place of residence. 15
- (3) The owner cannot dispose of the right to occupy during his or her life, but may agree to end the right.
- (4) If the owner dies, the outcome is determined by the first of the following paragraphs that applies: 20
- (a) if the owner’s spouse, civil union partner, or de facto partner also occupies the house, the spouse or partner, along with any immediate family who also occupy the house, may continue to occupy the house as a principal place of residence:
  - (b) if a child or children of the owner who are under 18 years of age also occupy the house, the child or children may continue to occupy the house as a principal place of residence, along with— 25
    - (i) any immediate family who also occupy the house; and
    - (ii) the children’s principal caregiver; and
    - (iii) any other persons for whom the children’s principal caregiver is also the principal caregiver, subject to any maximum number of occupants required by any arrangement with other owners: 30
  - (c) if **paragraphs (a) and (b)** do not apply, the right to occupy ends.
- (5) If the right to occupy is continued by **subclause (4)(a)** and the owner’s spouse or partner dies, the right ends unless **subclause (4)(b)** is satisfied, in which case the right is continued by that paragraph. 35
- (6) If the right to occupy is continued by **subclause (4)(a)** and the owner’s spouse or partner remarries or enters a new civil union or de facto relationship, or agrees to end the right, the right ends.

- (7) If the right to occupy is continued by **subclause (4)(b)**, the right ends when each of the owner's children to whom the right applies has reached 18 years of age.
- (8) If the land subject to the right to occupy becomes managed under a governance agreement,— 5
- (a) the right to occupy continues; but
- (b) the owner or other occupants must pay any reasonable charges that relate to the property as required by the governance body.
- (9) If the house is occupied under an arrangement with other owners, the occupants must comply with the arrangement. 10
- (10) The other owners of the land, and any governance body that manages the land, have no liability in relation to the occupation by the owner or other occupants.

*Administration of estates*

- 31 Administration of estates if administration granted before commencement date** 15
- (1) **Part 7** does not apply to the administration of the estate of a deceased owner of a parcel of Māori freehold land or an individual freehold interest in a parcel of Māori freehold land, if administration was granted before the commencement date.
- (2) Instead,— 20
- (a) the estate must be administered in accordance with Te Ture Whenua Maori Act 1993 (and any other Act that applied immediately before the commencement date) as if that Act had not been repealed; and
- (b) the court may make an order vesting the land or interest in the persons entitled to the land or interest regardless of its value. 25
- 32 Determining eligibility of beneficiary to succeed to interests of intestate owner in certain circumstances**
- (1) The eligibility of a beneficiary to succeed to land or an interest when an owner dies intestate is not determined in accordance with **section 246** if— 30
- (a) administration of the owner's estate was granted before the commencement date; or
- (b) the land or interest has been vested in or conveyed to the persons entitled to it before the commencement date.
- (2) In those circumstances,—
- (a) the eligibility of a beneficiary to succeed must be determined in accordance with the law that applied on the date of the owner's death; and 35
- (b) **clause 31(2)** applies.

- (3) To avoid doubt, the eligibility of a beneficiary to succeed to land or an interest when an owner dies intestate is determined in accordance with **section 246** if the land or interest—
- (a) is vested in the Māori Trustee under section 84 of the Maori Affairs Amendment Act 1967; and 5
  - (b) has not been conveyed to the persons beneficially entitled to it before the commencement date.

*Land title registration*

**33 Provisional registration of existing instruments if survey inadequate**

- (1) This clause applies if— 10
- (a) an instrument that affects Māori freehold land and that was created or entered into before the commencement date is lodged for registration; but
  - (b) 1 of the following applies:
    - (i) the instrument cannot be registered because the boundaries of the land to which the instrument applies are not adequately defined in a deposited plan or other plan: 15
    - (ii) the title to the land is not registered or provisionally registered under the Land Transfer Act 1952.
- (2) The Registrar-General must register the instrument on the provisional register under section 50 of the Land Transfer Act 1952. 20

**34 Existing registration of land in name of trust or tipuna**

- (1) This clause applies if, immediately before the commencement date, land is registered in the name of a trust or tipuna under section 220A of Te Ture Whenua Maori Act 1993. 25
- (2) **Section 292** applies to the land—
- (a) as if the name were the name of a trust or a tupuna that had been registered under that section; and
  - (b) if the land is private land other than Māori land, as if the land were Māori freehold land. 30

*Existing charges for surveys of Māori land*

**35 Existing charges for surveys of Māori land**

- (1) This clause applies to a charge that, immediately before the commencement date, is imposed on Māori land by an order made under section 333 or 336 of Te Ture Whenua Maori Act 1993, or any corresponding former enactment, to secure the costs of a survey. 35

- (2) Sections 334, 335, 336(2), and 337 of Te Ture Whenua Maori Act 1993 apply to the charge as if they were not repealed, as if section 337 related only to the amount secured by the charge, and with any other necessary modifications.

*Existing roadways*

- 36 Roadways may be declared roads** 5
- (1) The Governor-General may, by proclamation made on the recommendation of the Minister of Transport, declare that the land that comprises a roadway laid out by an order made under Te Ture Whenua Maori Act 1993 or any former enactment is a road.
- (2) The Minister may recommend a proclamation only in accordance with a recommendation of the court, which must describe the roadway in sufficient detail to enable its boundaries to be accurately determined. 10
- (3) The Minister's recommendation must—
- (a) state whether the roadway is proposed to be a State highway once it becomes a road; and 15
- (b) have the written consent of—
- (i) the territorial authority for the district containing the road; and
- (ii) if the road is to be a State highway, the New Zealand Transport Agency.
- (4) A proclamation under this clause takes effect on— 20
- (a) the date of its publication in the *Gazette*; or
- (b) any later date specified in the proclamation.
- (5) The effect of the proclamation is—
- (a) to cancel the roadway over the land; and
- (b) to vest the land as a road, free of all interests, in the territorial authority 25 for the district containing the land.
- (6) Section 57 of the Public Works Act 1981 applies to a proclamation under this clause with any necessary modifications.
- 37 Cancellation or variation of roadway**
- (1) The court may, on application, make an order cancelling or varying any roadway laid out by an order made under Te Ture Whenua Maori Act 1993 or any former enactment. 30
- (2) An application may be made by any affected person.
- (3) In deciding whether to cancel or vary any roadway, the court must have regard to— 35
- (a) whether the use of the roadway or whether anything else justifies the retention of the roadway; and

- (b) how the retention, cancellation, or variation of the roadway would affect the utilisation of the land over which the roadway runs and of the land to which the roadway provides access; and
- (c) any cultural or historical association of the owners of the land over which the roadway runs, and of the land to which the roadway provides access, with any land within the roadway; and 5
- (d) any other matter the court considers relevant.
- (4) ~~Any~~A roadway must not be cancelled or varied if it would cause land to which the roadway provides access to become landlocked land (as defined by **section 319**). 10
- (5) An order varying ~~any~~a roadway may—
- (a) vary the persons or classes of persons who are entitled to use the roadway:
- (b) vary how the roadway may be used:
- (c) vary the roadway’s alignment over a parcel of land, but only if agreed to by the following persons in respect of that parcel and each parcel of land to which the roadway provides access: 15
- (i) for Māori freehold land managed under a governance agreement, the governance body:
- (ii) for other Māori freehold land, more than 50% of the participating owners of the land (casting votes of equal weight): 20
- (iii) for Māori customary land that has a kaiwhakahaere appointed for that purpose, the kaiwhakahaere:
- (iv) for other Māori customary land, the Māori Trustee:
- (v) for other private land, the owners of the land: 25
- (vi) for Crown land, the Minister responsible for the land or the registered proprietor of the land.
- (6) The Registrar must give written notice ~~to the Surveyor-General~~ of the cancellation or variation of a roadway under this clause to the chief executive under the Cadastral Survey Act 2002. 30
- (7) To avoid doubt, a roadway may be cancelled or varied even if the status of the land has changed since the roadway was created.

### **38 Cancellation of roadway with separate instrument of title**

- (1) This clause applies if the court makes an order under **clause 37** cancelling a roadway that has a separate instrument of title. 35
- (2) The court may also order that—
- (a) the separate instrument of title is cancelled; and

- (b) the land comprising the roadway is vested in the owners of the following land (**recipient land**):
- (i) the land adjoining the roadway, and of which the roadway would have formed part if the roadway had not been laid out, if any of it is Māori land when the order is made; or 5
  - (ii) if the court cannot identify the land in **subparagraph (i)** and any Māori land adjoins the roadway, any 1 or more parcels of land adjoining the roadway (whether Māori land or otherwise); and
- (c) for a vesting under **paragraph (b)(ii)** with more than 1 parcel of recipient land, the land comprising the roadway is vested in the proportions that the court considers equitable having regard to how the vesting will affect the utilisation of land and any other matter the court considers relevant; and 10
- (d) the vested land is held as part of the recipient land, is affected by the same interests as the recipient land, and has the same status as the recipient land (as Māori freehold land, Māori customary land, or otherwise). 15
- (3) The court must not include the matters under **subclause (2)** in the order unless the court is satisfied that,—
- (a) for recipient land that is managed under a governance agreement (whether Māori freehold land or otherwise), the vesting is agreed to by the governance body; or 20
  - (b) for recipient land that is Māori freehold land not managed under a governance agreement, the vesting is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); or
  - (c) for recipient land that is Māori customary land,— 25
    - (i) the chief executive, at the court's direction, notified and held a meeting of the owners of the land in accordance with **Schedule 2** to consider the proposed vesting (and that schedule applies to the proposed vesting with any necessary modifications); and
    - (ii) the vesting is agreed to by more than 50% of the owners of the land who attended the meeting; or 30
  - (d) for recipient land that is other private land not managed under a governance agreement, the vesting is agreed to by the owners of the land; or
  - (e) for recipient land that is Crown land, the vesting is agreed to by the Minister responsible for the land. 35

### 39 Compensation for roadway

- (1) If the court makes an order under **clause 37** cancelling or varying a roadway, the court may also make an order that requires the payment of compensation, or that provides for any other matters, as the court considers equitable between the owners of the land that the roadway is over and any other persons. 40

- (2) An order for compensation must specify the amount of compensation, who must pay it, and ~~who to whom~~ it must be paid to.
- (3) A person may waive his or her entitlement to compensation under an order referred to in this clause.
- (4) If the court awards compensation under an order referred to in this clause, the court may secure the amount by imposing a charge on any land held by the persons who are required to pay the amount. 5

*Transfer of employees*

**40 Transfer of Ministry of Justice employees elsewhere in the State services**

- (1) This clause applies if, as a consequence of **Parts 1 to 9**, functions are transferred because— 10
- (a) the functions will no longer be carried out by the Ministry of Justice; and
- (b) another part of the State services has responsibility for—
- (i) the functions previously carried out by the Ministry of Justice; or
- (ii) functions that are substantially the same as the functions previously carried out by the Ministry of Justice. 15
- (2) The chief executive of the Ministry of Justice must identify the employees of the Ministry—
- (a) whose duties are, overall, more closely connected with the transferred functions; and 20
- (b) whose positions will, as a result of the transfer of the functions, cease to exist within the Ministry of Justice.
- (3) An employee who is identified under **subclause (2)** must be offered, by the part of the State services that has responsibility for functions described in **subclause (1)(b)**, a position that complies with section 61A(1)(a) or (b) of the State Sector Act 1988. 25
- (4) In this clause, **State services** has the meaning given to it in section 2 of the State Sector Act 1988.

*Land Titles Protection Act 1908*

**40A Effect of Land Titles Protection Act 1908 preserved** 30

- (1) An order of the Māori Land Court, a Crown grant, or another instrument of title that, at the commencement of the Native Land Act 1909, was within the protection of the Land Titles Protection Act 1908 must not, on any grounds, be called in to question in any court or proceedings.
- (2) This section is subject to **sections 310 to 314.** 35



**Schedule 2**  
**Default decision-making process for decisions requiring agreement  
of owners of Māori freehold land**

**ss 16, 32, 36, 51, 98, 164, 194, 197,  
292, 299**

**Contents**

		Page
1	When decision-making process applies	325
2	Decision-making process commences with notice of proposal	325
3	General requirements for notice of proposal	326
4	Additional requirements for notice given by owners of land	326
5	Additional requirements for notice of proposal to appoint governance body	326
6	Additional requirements for notice of proposal to offer Māori freehold land for sale	327
7	Additional requirements for notice of proposal to dispose of Māori freehold land by way of gift	327
8	Additional requirements for notice of proposal to grant long-term lease of Māori freehold land	327
9	Additional requirements for notice of proposal to dispose of or deal with Māori freehold land in any other way	327
10	Governance body or chief executive may apply to have notice of proposal struck out	328
11	Governance body or chief executive to arrange meeting of owners	328
12	Meeting of owners	329
13	Voting on proposals	329
14	Decision-making process ends with notification of vote results	330
<b>1</b>	<b>When decision-making process applies</b>	<b>5</b>
	The decision-making process set out in this schedule applies if <b>Parts 1 to 9</b> or a governance agreement requires—	
	(a) that a decision be agreed to by a majority of the owners of Māori free- hold land; and	
	(b) that the decision be made in accordance with the process set out in this schedule.	10
<b>2</b>	<b>Decision-making process commences with notice of proposal</b>	
(1)	A decision-making process is commenced as follows:	
	(a) if the decision is to be made by the owners of Māori freehold land that is managed under a governance agreement,—	15

- (i) 1 or more of the owners of the land give the governance body a notice of proposal; or
- (ii) the governance body prepares a notice of proposal on its own initiative; or
- (b) if the decision is to be made by the owners of Māori freehold land that is not managed under a governance agreement, 1 or more of the owners of the land gives the chief executive a notice of proposal. 5
- (2) Despite **subclause (1)**, an owner of Māori freehold land is not entitled to commence a decision-making process for a proposal to appoint a governance body for the land if, during the previous 6 months,— 10
- (a) a proposal to appoint a governance body (whether the same or a different body) for that land failed to gain sufficient votes to pass; or
- (b) a decision to appoint a governance body for that land was set aside by the court under **section 188**.
- 3 General requirements for notice of proposal** 15
- A notice of proposal must—
- (a) describe the matter for decision; and
- (b) identify the Māori freehold land that will be affected by the decision (if applicable); and
- (c) be in writing, be dated, and be signed by or on behalf of the person commencing the decision-making process; and 20
- (d) comply with any applicable requirements of **clauses 4 to 9**.
- 4 Additional requirements for notice given by owners of land**
- If a notice of proposal is given by 1 or more owners of Māori freehold land,—
- (a) the notice must include— 25
- (i) the names and contact details of the owners giving notice; and
- (ii) the names and any known contact details of the other owners of the land; and
- (b) the signature by or on behalf of the owners giving notice must be witnessed by a person who— 30
- (i) is at least 20 years of age; and
- (ii) is not an owner of the land; and
- (iii) is not a member of the immediate family of an owner of the land.
- 5 Additional requirements for notice of proposal to appoint governance body** 35
- A notice of proposal for a decision to appoint a governance body to manage Māori freehold land must include—

- (a) a governance agreement that complies with **Schedule 4**; and
- (b) a copy of any report, held by the person preparing or giving the notice, that relates to the land and its condition (for example, a council report, valuation report, utilisation report, inspection report, or research report).
- 6 Additional requirements for notice of proposal to offer Māori freehold land for sale** 5
- A notice of proposal for a decision to offer Māori freehold land for sale must include—
- (a) an independent valuation of the land to be disposed of; and
- (b) the proposed minimum sale price and any other proposed terms of the sale. 10
- 7 Additional requirements for notice of proposal to dispose of Māori freehold land by way of gift**
- A notice of proposal for a decision to dispose of Māori freehold land by way of gift must— 15
- (a) include an independent valuation of the land to be disposed of; and
- (b) state whom the disposal is being made to (the **recipient**); and
- (c) specify how the recipient qualifies as a preferred recipient.
- 8 Additional requirements for notice of proposal to grant long-term lease of Māori freehold land** 20
- A notice of proposal to grant a long-term lease over Māori freehold land must—
- (a) include an independent valuation of the land to be leased; and
- (b) state the name of the proposed lessee; and
- (c) include details of the proposed lease (including the proposed initial rent, the term of the lease, the basis for rent reviews, and the terms of any rights of renewal). 25
- 9 Additional requirements for notice of proposal to dispose of or deal with Māori freehold land in any other way**
- (1) This clause applies to a notice of proposal to— 30
- (a) dispose of Māori freehold land other than by way of sale, gift, or the grant of a long-term lease; and
- (b) deal with Māori freehold land in any other way.
- (2) The notice must include details of the proposed disposition or dealing (including the names of the parties). 35

- 10 Governance body or chief executive may apply to have notice of proposal struck out**
- (1) If a governance body or the chief executive receives a notice of proposal that the governance body or chief executive considers is frivolous or vexatious or is not made in good faith,— 5
- (a) the governance body or chief executive may apply to the court to have the notice of proposal struck out; and
- (b) for the purpose of calculating the time frames referred to in **clause 11(1) and (2)**, the decision-making process is deemed to commence on the date that the court decides the application. 10
- (2) The court may strike out the notice of proposal if satisfied that the proposal is frivolous or vexatious or is not made in good faith.
- 11 Governance body or chief executive to arrange meeting of owners**
- (1) In the case of a decision to be made by the owners of Māori freehold land that is not managed under a governance agreement, the chief executive must, within 15 1 month after the decision-making process is commenced, make arrangements for the owners of the affected land to meet and consider the proposal.
- (2) In the case of a decision to be made by the owners of Māori freehold that is managed under a governance agreement, the governance body must make arrangements for the owners of the affected land to meet and consider the proposal— 20
- (a) at the next scheduled general meeting of owners; or
- (b) at a special general meeting of owners convened to consider the proposal before the next scheduled general meeting of owners.
- (3) The governance body or chief executive must endeavour to notify all the owners of— 25
- (a) the date, time, and place of the meeting; and
- (b) the main details of the proposal; and
- (c) details of how a person may access or obtain a copy of the full notice of proposal (for example, in ~~hard-copy paper form~~ paper form from the governance body or chief executive and in electronic form from an Internet site to which the public have free access); and 30
- (d) details of the decision-making process, including—
- (i) who is eligible to vote; and
- (ii) how to cast a vote; and 35
- (iii) the closing date for voting, which must be at least 7 days after the date of the meeting; and
- (iv) the name of the returning officer for votes.

- (4) The governance body or chief executive must also give notice of the matters set out in **subclause (3)**—
- (a) on an Internet site to which the public has free access; and
  - (b) using any other method that the chief executive or governance body considers is reasonably likely to bring the notice to the attention of the owners of the land. 5

## 12 Meeting of owners

An owner of Māori freehold land may attend a meeting of owners arranged under **clause 11**—

- (a) in person; or 10
  - (b) via a ~~nominated proxy or other~~ representative; or
  - (c) via telephone or Internet-based communication technology.
- (2) ~~The quorum for a meeting to consider a proposal that affects a parcel of Māori freehold land is,—~~
- (a) ~~if the parcel has 10 or fewer owners, all the owners; and 15~~
  - (b) ~~if the parcel has more than 10 but not more than 100 owners, at least 10 owners who together hold at least 25% of the individual freehold interests in the parcel; and~~
  - (c) ~~if the parcel has more than 100 but not more than 500 owners, at least 20 owners who together hold at least 25% of the individual freehold interests in the parcel; and 20~~
  - (d) ~~if the parcel has more than 500 owners, at least 50 owners who together hold at least 10% of the individual freehold interests in the parcel.~~

## 13 Voting on proposals

The governance body or chief executive must appoint an independent returning officer to receive and count votes on a proposal. 25

- (2) ~~A person is entitled to vote on a proposal that requires the agreement of a majority of the owners of Māori freehold land if the person is—~~
- (a) ~~an owner of the land who is at least 18 years of age; or~~
  - (b) ~~if a kai tiaki trust holds an interest in the land, a trustee of the trust; or 30~~
  - (c) ~~if a whānau trust holds an interest in the land, either—~~
    - (i) ~~if the proposal is for the purpose of **section 25** (private land other than Māori land may be declared Māori freehold land), **section 31** (court order declaring private land reserved as whenua tāpui), or **section 288** (change to name of parcel), a beneficiary of the trust; or 35~~
    - (ii) ~~in any other case, a trustee of the trust; or~~
  - (d) ~~a person—~~

- (i) who is at least 18 years of age; and
- (ii) ~~who is appointed as a proxy to vote for a person described in paragraph (a) or (b).~~
- (2) A person is entitled to vote on a proposal that requires the agreement of a majority of the owners of Māori freehold land if the person is— 5
- (a) an owner of the land who is at least 18 years of age (which includes a trustee of a whānau trust or other trust, other than a governance body— see **section 7(6)**); or
- (b) where an owner of the land is under 18 years of age, a person who manages the owner’s beneficial interest in the land as a kaiwhakamarumarū or under a property order made under the Protection of Personal and Property Rights Act 1988 (see **section 52**); or 10
- (c) where an owner of the land is a trustee of a whānau trust or other trust (other than a governance body) and voting is by participating owners casting votes of equal weight, a beneficiary of the trust (see **section 56**); or 15
- (d) a person who is appointed as a proxy or other representative to vote for a person described in any of **paragraphs (a) to (c)**.
- (3) A person may cast a vote on a proposal—
- (a) at the meeting of owners arranged under **clause 11**; or 20
- (b) until the date specified by the governance body or the chief executive as the closing date for voting,—
- (i) by sending a voting form by post or email to the returning officer; or
- (ii) by using an electronic voting system set up by the returning officer. 25
- (4) A proposal passes if the vote on the proposal satisfies the level of agreement required for the particular decision by **Parts 1 to 9** or the governance agreement (as applicable).
- 14 Decision-making process ends with notification of vote results** 30
- (1) No later than 14 days after the closing date for voting on a proposal, the returning officer must provide, to the person who arranged the meeting of owners (being the governance body or the chief executive), a written notice setting out the result of the vote.
- (2) No later than 14 days after receiving written notice of the result of a vote on a proposal,— 35
- (a) the person who arranged the meeting of owners must—
- (i) endeavour to notify all the owners of the result; and

- 
- (ii) if the person is the governance body, notify the chief executive of the result so that it can be recorded in the Māori land register; and
- (b) the chief executive must record the result in the Māori land register.
- (3) If the proposal has passed (*see* **clause 13(4)**), the decision that is the subject of the proposal must be treated as having been made on the day on which the result of the vote on the proposal is recorded in the Māori land register. 5

**Schedule 3**  
**Governance bodies: appointment and other processes and  
 registration requirements**

**ss 159, 160, 161, 162, 165, 176, 188,  
 206**

**Contents**

		Page
1	Interpretation	333
<b>Part 1</b>		
<b>Process for appointing governance body</b>		
2	Overview	333
3	Preliminary decisions	334
	<i>Process if incoming Māori freehold land to be in separate asset base</i>	
4	When clauses 5 to 7 apply	334
5	Appoint kaitiaki	335
6	Approve governance agreement	335
7	Register governance agreement	335
	<i>Process if incoming Māori freehold land to be incorporated with existing asset base</i>	
8	When clauses 9 to 11 apply	336
9	Approve kaitiaki appointments	336
10	Approve replacement governance agreement	336
11	Register replacement governance agreement	337
<b>Part 2</b>		
<b>Process for Māori incorporation or trust to become rangatopū</b>		
12	When clauses 13 to 16 apply	337
13	Preliminary decisions	337
14	Approve kaitiaki appointments	337
15	Approve replacement governance agreement	337
16	Register replacement governance agreement	338
<b>Part 3</b>		
<b>Process for governance bodies to amalgamate</b>		
17	When clauses 18 to 20 apply	338
18	Approve kaitiaki appointments	338
19	Approve amalgamated governance agreement	338
20	Register amalgamated governance agreement	339



**Part 4**  
**Requirements for application to register governance agreement**

21	Overview	339
22	General requirements	339
23	Additional requirements depending on type of governance body	340
24	Additional requirements if governance body is replacing its registered governance agreement	340
25	Additional requirements if governance body is being replaced	341
26	Additional requirements if amalgamated governance agreement replaces 2 or more registered governance agreements	341

**1 Interpretation**

In this schedule,—

**existing owners**, in relation to a registered governance agreement, means the owners of the Māori freehold land governed under the agreement

**governed Māori freehold land** means the Māori freehold land that is managed under a registered governance agreement 5

**incoming Māori freehold land** means Māori freehold land that is not managed under a registered governance agreement, but for which a governance body is to be appointed

**incoming owners** means the owners of the incoming Māori freehold land. 10

**Part 1**

**Process for appointing governance body**

**2 Overview**

- (1) This Part sets out the process for appointing a governance body for Māori freehold land that is not already managed under a governance agreement, which is referred to in this schedule as the **incoming Māori freehold land**. 15
- (2) The process begins with the owners of the incoming Māori freehold land making the preliminary decisions set out in **clause 3**.
- (3) The process then differs depending on whether the incoming Māori freehold land is to be— 20
  - (a) managed under a new governance agreement in an asset base that contains no other Māori freehold land, in which case **clauses 5 to 7** apply; or
  - (b) incorporated into an asset base that is already managed under a registered governance agreement, and managed under a replacement governance agreement, in which case **clauses 9 to 11** apply. 25

- (4) The final step in the process is for the proposed governance body to apply to the chief executive to register the governance agreement. The application requirements are set out in **Part 4** of this schedule.
- 3 Preliminary decisions**
- Type of governance body* 5
- (1) The incoming owners must decide which type of governance body, of the types set out in **section 158(1)**, they wish to appoint.
- Form of governance body (if body is to be rangatōpū)*
- (2) **Subclauses (3) and (4)** apply if the incoming owners decide to establish a rangatōpū for the purpose of appointing it as a governance body. 10
- (3) The owners must decide whether the proposed rangatōpū is to be a body corporate or a private trust.
- (4) The decision under **subclause (3)** must be consistent with **section 158(1)(c)**.
- Separate or combined governance agreement (if governance body is already party to an agreement)* 15
- (5) **Subclauses (6) and (7)** apply if the incoming owners decide to appoint a governance body that is already a party to a registered governance agreement.
- (6) If the governance body is an existing statutory body or a representative entity, the incoming owners must decide whether the incoming Māori freehold land is to be managed— 20
- (a) in an asset base that contains no other Māori freehold land (*see clauses 5 to 7*); or
- (b) in an asset base that includes the governed Māori freehold land (*see clauses 9 to 11*). 25
- (7) If the governance body is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust,—
- (a) the governance body must not be a party to more than 1 governance agreement (*see section 158(2)*); and
- (b) the incoming Māori freehold land must be managed in an asset base that includes the governed Māori freehold land. 30
- Process if incoming Māori freehold land to be in separate asset base*
- 4 When clauses 5 to 7 apply**
- Clauses 5 to 7** apply if the proposed governance body is to manage the incoming Māori freehold land in an asset base that includes no other Māori freehold land. This will be the case if the proposed governance body is ~~any~~ either of the following: 35
- (a) a rangatōpū to be established by the incoming owners; ~~or~~

- (b) an existing statutory body or a representative entity that—
- (i) is not already managing other Māori freehold land under a registered governance agreement; or
  - (ii) is already managing other Māori freehold land under a registered governance agreement, but will manage the incoming Māori freehold land under a different governance agreement from the governed Māori freehold land. 5

## 5 Appoint kaitiaki

- (1) This clause applies only if the proposed governance body is a rangatōpū.
- (2) The incoming owners must approve the appointments of at least 3 kaitiaki who are eligible under **section 184(3)** to hold that position. 10
- (3) If the proposed rangatōpū is already registered as a body corporate or operating under an existing trust deed, the incoming owners may approve existing directors or trustees as kaitiaki or appoint new kaitiaki, or both.
- (4) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 327**, which must be applied as if any reference in those provisions to Māori freehold land managed under a governance agreement were a reference to the Māori freehold land that the governance body will manage if it is appointed. 15  
20

## 6 Approve governance agreement

- (1) The incoming owners must approve a governance agreement that complies with **Schedule 4**.
- (2) If the proposed governance body is a rangatōpū that is already a trust established under an existing trust deed, the incoming owners must ensure that the terms of the trust are set out in a trust deed that complies with **Schedule 4**. 25
- (3) A decision of the owners of a parcel of Māori freehold land to approve a governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land. 30

## 7 Register governance agreement

The proposed governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the governance agreement.

*Process if incoming Māori freehold land to be incorporated with existing asset base*

**8 When clauses 9 to 11 apply**

**Clauses 9 to 11** apply if the proposed governance body is already managing Māori freehold land under a governance agreement and is to manage the incoming Māori freehold land under the same governance agreement as the governed Māori freehold land. This— 5

- (a) will be the case if the proposed governance body is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust (because these governance bodies must not be party to more than 1 governance agreement); and 10
- (b) may be the case if the proposed governance body is an existing statutory body or a representative entity.

**9 Approve kaitiaki appointments**

- (1) This clause applies only if the proposed governance body is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust. 15
- (2) The incoming owners and the existing owners must approve the appointments of at least 3 kaitiaki who are eligible under **section 184(3)** to hold that position. 20
- (3) The owners may approve existing kaitiaki or appoint new kaitiaki, or both.
- (4) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 327**, which must be applied as if any reference in those provisions to Māori freehold land managed under a governance agreement were a reference to the Māori freehold land that the governance body will manage if it is appointed. 25

**10 Approve replacement governance agreement**

- (1) The incoming owners and the existing owners must both agree and approve the governance agreement that is to replace the registered governance agreement. 30
- (2) The asset base to be managed under the replacement governance agreement must include the same governed Māori freehold land that is managed under the registered governance agreement, as well as the incoming Māori freehold land. This subclause does not limit **section 206 or 207**.
- (3) The governance body must comply with the registered governance agreement in seeking the existing owners' approval of the replacement governance agreement. 35
- (4) The replacement governance agreement must comply with **Schedule 4**.

- (5) A decision of the owners of a parcel of Māori freehold land to approve the replacement governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land.

- 11 Register replacement governance agreement** 5  
The governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the replacement governance agreement.

## Part 2

### Process for Māori incorporation or trust to become rangatōpū

- 12 When clauses 13 to 16 apply** 10  
**Clauses 13 to 16** apply if a governance body that is a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust, wishes to become a rangatōpū.
- 13 Preliminary decisions**
- (1) The owners must decide whether the proposed rangatōpū is to be a body corporate or to comprise the trustees of a private trust. 15
- (2) The decision under **subclause (1)** must be consistent with **section 158(1)(c)**.
- 14 Approve kaitiaki appointments**
- (1) The existing owners must approve the appointments of at least 3 kaitiaki who are eligible under **section 184(3)** to hold that position. 20
- (2) The owners may approve existing kaitiaki or appoint new kaitiaki, or both.
- (3) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 327**. 25
- 15 Approve replacement governance agreement**
- (1) The existing owners must agree and approve a governance agreement that is to replace the registered governance agreement.
- (2) The asset base to be managed under the replacement governance agreement must include the same governed Māori freehold land that is managed under the registered governance agreement. This subclause does not limit **section 206 or 207**. 30
- (3) The governance body must comply with the registered governance agreement in seeking the existing owners' approval of the replacement governance agreement. 35
- (4) The replacement governance agreement must comply with **Schedule 4**.

- (5) A decision of the owners of a parcel of Māori freehold land to approve the replacement governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land.

**16 Register replacement governance agreement** 5

The governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the replacement governance agreement.

### Part 3

#### Process for governance bodies to amalgamate

**17 When clauses 18 to 20 apply** 10

**Clauses 18 to 20** apply if 2 or more governance bodies of the kinds referred to in **section 161** wish to amalgamate to form a new rangatōpū.

**18 Approve kaitiaki appointments**

- (1) The existing owners in relation to the registered governance agreement of each amalgamating governance body must approve the appointments of at least 3 kaitiaki who are eligible under **section 184(3)** to hold that position. 15

- (2) The existing owners may approve any kaitiaki of an amalgamating governance body as kaitiaki of the amalgamated governance body or appoint new kaitiaki, or both.

- (3) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 327**, which must be applied as if any reference in those provisions to Māori freehold land managed under a governance agreement were a reference to the Māori freehold land that the amalgamated governance body will manage under the amalgamated governance agreement. 20  
25

**19 Approve amalgamated governance agreement**

- (1) The existing owners in relation to the governance agreement of each amalgamating governance body must agree and approve the governance agreement that is to replace the registered governance agreements. 30

- (2) The asset base to be managed under the amalgamated governance agreement must include the same governed Māori freehold land that is managed under each registered governance agreement. This subclause does not limit **section 206 or 207**.

- (3) Each amalgamating governance body must comply with its registered governance agreement in seeking the existing owners' approval of the amalgamated governance agreement. 35

- (4) The amalgamated governance agreement must comply with **Schedule 4**.
- (5) A decision of the owners of a parcel of Māori freehold land to approve the amalgamated governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land. 5

## 20 Register amalgamated governance agreement

The proposed amalgamated governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the amalgamated governance agreement.

## Part 4 10

### Requirements for application to register governance agreement

#### 21 Overview

- (1) This Part sets out the requirements for an application to the chief executive to register a governance agreement.
- (2) The general requirements are set out in **clause 22**. 15
- (3) The additional requirements then differ depending on the circumstances, as set out in **clauses 23 to 26**.

#### 22 General requirements

Each application to register a governance agreement must—

- (a) include a governance agreement that complies with **Schedule 4**; and 20
- (b) state the name and contact details of each kaitiaki; and
- (c) be signed by each kaitiaki; and
- (d) include a statutory declaration by each kaitiaki—
- (i) that the information in the application is complete and correct; and
- (ii) that the applicable procedural requirements of this schedule have 25  
been satisfied; and
- (e) identify the Māori freehold land, other land (if any), and other assets and liabilities (if any) that are intended to vest in the governance body on the issue of a governance certificate (*see section 169*); and
- (f) identify any known lease, licence, mortgage, easement, or other interest 30  
that affected the land, assets, or liabilities referred to in **paragraph (e)** immediately before the vesting.

- 23 Additional requirements depending on type of governance body**
- Rangatōpū*
- (1) If the governance body is a rangatōpū or a proposed rangatōpū, the application must—
- (a) include a statutory declaration by each kaitiaki that he or she is eligible to be a kaitiaki; and 5
  - (b) in the case of a proposed rangatōpū,—
    - (i) include a request that the rangatōpū be registered under the name stated in the application; and
    - (ii) state whether the rangatōpū is to be a body corporate or a private trust; and 10
    - (iii) if the rangatōpū is to be a body corporate, state whether it is already registered as a body corporate under an enactment and include evidence of that registration, if applicable. 15
- Representative entity*
- (2) If the governance body is a representative entity, the application must include a declaration by 1 or more kaitiaki confirming that—
- (a) the entity represents at least 1 of the hapū or iwi associated in accordance with tikanga Māori with the Māori freehold land to be managed under the agreement; and 20
  - (b) the entity is recognised by the members of the hapū or iwi as having authority to represent the hapū or iwi; and
  - (c) if the entity has an existing trust deed, constitution, or other governing document, that document permits (whether expressly or by implication) the entity to enter into a governance agreement. 25
- Māori incorporation, ahu whenua trust, or whenua tōpū trust*
- (3) If the proposed governance body is a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust, the application must include a statutory declaration by each kaitiaki that he or she is eligible to be a kaitiaki.
- 24 Additional requirements if governance body is replacing its registered governance agreement** 30
- (1) If a governance body applies to register a governance agreement in place of its registered governance agreement, the application must—
- (a) identify the registered governance agreement that is to be replaced; and
  - (b) include a statutory declaration by 1 or more kaitiaki that the replacement agreement has been prepared and agreed to in accordance with the requirements of the registered agreement; and 35



- (c) if the replacement agreement reflects a change in the governance body's holdings of Māori freehold land, comply with whichever of **subclauses (2) or (3)** is applicable; and
- (d) include a request to cancel the registered governance agreement and register the replacement governance agreement in its place. 5
- (2) If the replacement governance agreement reflects a change in the governance body's holdings of Māori freehold land that is the result of the owners of some of the governed Māori freehold land revoking the governance body's appointment in respect of the land, the application must—
- (a) include evidence that the owners' decision to revoke the body's appointment was made in accordance with **section 174(2)**; and 10
- (b) include a copy of the distribution scheme confirmed by the court under **section 225**.
- (3) If **section 206** applies (a governance body decides to hold land as Māori freehold land), the application must include a copy of the allocation scheme confirmed by the court under that section. 15
- 25 Additional requirements if governance body is being replaced**
- If the asset base to be managed under the governance agreement is already being managed by another governance body under a governance agreement that is to be cancelled (*see* **section 176**), the application must include a request to cancel the existing governance agreement. 20
- 26 Additional requirements if amalgamated governance agreement replaces 2 or more registered governance agreements**
- If a proposed amalgamated governance body (*see* **Part 3** of this schedule) applies to register an amalgamated governance agreement, the application must— 25
- (a) identify the registered governance agreement of each amalgamating governance body; and
- (b) include a statutory declaration by each kaitiaki that the replacement agreement has been prepared and agreed to in accordance with the requirements of the registered governance agreements; and 30
- (c) include a request to cancel the registered governance agreements and register the amalgamated governance agreement in their place; and
- (d) include a request that the amalgamated governance body be registered as a rangatōpū.

## Schedule 4 Governance agreements

**ss 5, 98, 154, and 327**

### Contents

		Page
1	Overview	342
<b>Part 1</b>		
<b>Rangatōpū, Māori incorporations, ahu whenua trusts, and whenua tōpū trusts</b>		
2	Application of this Part	343
3	Form of governance agreement	343
4	Contents of governance agreement	343
5	Method of appointing kaitiaki	344
6	Matters relating to kaitiaki	345
<b>Part 2</b>		
<b>Representative entities and existing statutory bodies</b>		
7	Application of this Part	345
8	Form of governance agreement	345
9	Contents of governance agreement	345
<b>Part 3</b>		
<b>All governance bodies: provisions relating to amendments and decision making</b>		
10	Application of this Part	346
11	Requirements for amending governance agreement	346
12	Decision-making processes	347
13	Decisions requiring minimum level of owner agreement	347
<b>1</b>	<b>Overview</b>	
	This schedule sets out the requirements for governance agreements as follows:	5
(a)	<b>Part 1</b> sets out the requirements that apply if the governance body is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust:	
(b)	<b>Part 2</b> sets out the requirements that apply if the governance body is a representative entity or an existing statutory body:	10
(c)	<b>Part 3</b> sets out the provisions relating to decision making that are to be included in, or read into, all governance agreements.	

## Part 1

### Rangatōpū, Māori incorporations, ahu whenua trusts, and whenua tōpū trusts

#### 2 Application of this Part

This Part applies to a governance agreement if the governance body that is a party to the agreement is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust. 5

#### 3 Form of governance agreement

(1) The governance agreement must be in the form of a constitution if the governance body is— 10

- (a) a rangatōpū in the form of a body corporate; or
- (b) a Māori incorporation.

(2) The governance agreement must be in the form of a trust deed if the governance body is—

- (a) a rangatōpū in the form of a private trust; or 15
- (b) the trustees of an ahu whenua trust or a whenua tōpū trust.

#### 4 Contents of governance agreement

(1) The governance agreement must contain, or be read as if it contained,—

- (a) the provisions that are prescribed by regulations (the **prescribed provisions**); and 20
- (b) the provisions relating to kaitiaki that are required by **clause 5**; and
- (c) the provisions relating to amendments and decision making that are required by **Part 3**.

(2) However,—

- (a) if the governance body is a Māori incorporation, the prescribed provisions must be read as if they included any amendments or replacements made— 25

- (i) before the commencement of **Parts 1 to 9** under section 268(3) of Te Ture Whenua Maori Act 1993; or

- (ii) on or after the commencement of **Parts 1 to 9** in accordance with the process for amending the agreement that is set out in the prescribed provisions; and 30

- (b) if the governance body is the trustees of an ahu whenua trust or a whenua tōpū trust, the prescribed provisions must be read as if they included the terms of the trust— 35

- (i) as set out in the instrument constituting the trust; and

- (ii) including any amendments to that instrument made under Te Ture Whenua Maori Act 1993 before its repeal; and
- (iii) including any approved extension of the activities of the trust made under section 229 of Te Ture Whenua Maori Act 1993 before its repeal. 5
- 5 Method of appointing kaitiaki**
- (1) The governance agreement must specify, or be read as if it specified, a process for appointing a kaitiaki in the event of a vacancy (*see* **section 185**) that complies with **subclauses (2) and (3)**.
- (2) The process must— 10
- (a) enable any owner of the Māori freehold land managed under the agreement to nominate a person who is eligible under **section 184(3)** to be a kaitiaki of the governance body; and
- (b) in the event of more eligible persons being nominated than the number of kaitiaki to be appointed,— 15
- (i) enable any owner to participate in a vote to elect the kaitiaki; and
- (ii) set participation thresholds for the election that are consistent with those set out in **section 51(4) 51A(1)**; and
- (iii) provide for each vote to have a weight that is proportional to the voting owner's share in the Māori freehold land managed under the agreement; and 20
- (iv) result in the vacancies being filled by the nominated persons who receive votes that represent the greatest share of the Māori freehold land managed under the agreement; and
- (c) if **paragraph (b)** does not apply, result in the vacancies being filled by the nominated persons without a vote being held. 25
- (3) If the governance agreement relates to more than 1 parcel of Māori freehold land,—
- (a) the process must specify whether nominations and appointments are to be made— 30
- (i) on a collective basis (all kaitiaki appointed for all parcels, and any owner of any parcel may nominate an eligible person or cast a vote); or
- (ii) on a representative basis (1 kaitiaki appointed for each parcel, and only an owner of the parcel to which the appointment relates may nominate an eligible person or cast a vote); or 35
- (iii) on a collective basis for some kaitiaki positions and on a representative basis for others; and

- (b) if the process does not comply with **paragraph (a)**, the process must be read as if it required nominations and appointments to be made on a collective basis.
- 6 Matters relating to kaitiaki**
- (1) The governance agreement may— 5
- (a) provide for a kaitiaki to be appointed for a term that is equal to or ~~less~~ more than (but not ~~greater~~ less than) 3 years; and
- (b) contain other provisions relating to the appointment of kaitiaki, including how vacancies will be filled.
- (2) If a governance agreement does not provide for the term of office of kaitiaki, the agreement must be read as if it authorises a kaitiaki to hold office for a term of 3 years. 10
- (3) A governance agreement must contain, or be read as if it contains, a provision that—
- (a) restricts kaitiaki from entering into any contract or enforceable obligation on behalf of the rangatōpū whenever the rangatōpū has fewer than 3 kaitiaki; and 15
- (b) invalidates any contract or enforceable obligation entered into in breach of the restriction in **paragraph (a)**.
- Part 2** 20
- Representative entities and existing statutory bodies**
- 7 Application of this Part**
- This Part applies to a governance agreement if the governance body that is a party to the agreement is a representative entity or an existing statutory body.
- 8 Form of governance agreement** 25
- The governance agreement must be in the form of a written agreement.
- 9 Contents of governance agreement**
- The governance agreement must contain, or be read as if it contained,—
- (a) a statement of the objects of the agreement, in terms of the owners' vision and priorities (whether cultural, economic, or environmental) for the land; and 30
- (b) the provisions that are prescribed by regulations (the **prescribed provisions**); and
- (c) the provisions relating to amendments and decision making that are required by **Part 3** of this schedule. 35

### Part 3

## All governance bodies: provisions relating to amendments and decision making

### 10 Application of this Part

This Part applies to all governance agreements. 5

### 11 Requirements for amending governance agreement

- (1) The governance agreement may specify a process for making amendments to the agreement, and may specify different processes for particular amendments or classes of amendment.
- (2) A process specified in a governance agreement must require, or be read as if it requires, an amendment— 10
  - (a) to be signed by or on behalf of the governance body; and
  - (b) to be incorporated into an updated version of the governance agreement and registered with the chief executive as soon as practicable after the amendment is finalised. 15
- (3) If a governance agreement does not specify a process for making amendments, the agreement must be read as if it—
  - (a) requires the governance body to make a substantive amendment by—
    - (i) using the decision-making process set out in **Schedule 2** to reach a decision about the amendment; and 20
    - (ii) obtaining the agreement of the owners who together hold 75% or more of the participating owners' total share in the land; and
  - (b) enables the governance body to make any other amendment without the agreement of owners; and
  - (c) requires an amendment to be signed by or on behalf of the governance body; and 25
  - (d) requires the amendment to be incorporated into an updated version of the governance agreement and registered with the chief executive as soon as practicable after the amendment is finalised.
- (4) An amendment is **substantive** to the extent that it changes any of the following: 30
  - (a) the objects of the agreement:
  - (b) the rights or entitlements of any of the owners of the Māori freehold land managed by the governance body:
  - (c) the level of owner agreement required for any decision relating to Māori freehold land: 35
  - (d) a process for amending the governance agreement.

**12 Decision-making processes**

The governance agreement must—

- (a) require the following decisions to be made in accordance with the process set out in **Schedule 2**:
  - (i) a decision to revoke the appointment of the governance body: 5
  - (ii) a decision to offer to sell Māori freehold land:
  - (iii) a decision to remove the status of Māori freehold land; or
- (b) be read as if it complies with **paragraph (a)**.

**13 Decisions requiring minimum level of owner agreement**

- (1) The governance agreement must require, or be read as if it requires, that a decision to revoke the governance body's appointment to manage a parcel of Māori freehold land be agreed to by the owners who together hold 75% or more of the participating owners' total share in the land. 10
- (2) For a decision set out in the first column of the table below, the governance agreement— 15
  - (a) may require a minimum level of owner agreement that is equal to or greater than (but not less than) the level set out in the corresponding row in the second column; and
  - (b) if **paragraph (a)** does not apply, must be read as if it requires the level of owner agreement set out in the corresponding row in the second column. 20
- (3) The decisions for which a minimum level of owner agreement is required are—

<b>Matter for decision by governance body</b>	<b>Minimum level of owner agreement</b>
<del>Converting separate ownership interests in Māori freehold land into collective ownership (see <b>section 48</b>)</del>	<del>The agreement of owners who together hold a 75% or more share in the land</del>
Offering Māori freehold land for sale (see <b>section 100</b> )	The agreement of owners who together hold a 75% or more share in the land
Exchanging Māori freehold land for something else (see <b>section 102</b> )	The agreement of owners who together hold more than a 50% share in the land
Agreeing to a disposition of Māori freehold land under another enactment (see <b>section 107</b> )	The agreement of owners who together hold a 75% or more share in the land
Agreeing to a boundary adjustment of a parcel of Māori freehold land that changes the area of the parcel by 2% or more (see <b>section 110</b> )	The agreement of owners who together hold more than a 50% share in the land
Partitioning Māori freehold land (see <b>section 113</b> )	The agreement of owners who together hold more than a 50% share in the land
Amalgamating Māori freehold land (see <b>section 118</b> )	The agreement of owners who together hold more than 50% of the participating owners' total share in the land
Aggregating ownership of Māori freehold land (see <b>section 122</b> )	The agreement of owners who together hold 75% or more of the participating owners' total share in the land

**Matter for decision by governance body**

Cancelling the aggregation of the ownership of Māori freehold land (*see* **section 125**)

Granting a lease over Māori freehold land for more than 52 years (*see* **section 128(6)**)

Setting a land management plan for ~~an asset-base~~ Māori freehold land managed under a governance agreement (*see* **section 210**)

If the governance body is a Māori incorporation, adjusting the shareholding of the incorporation in respect of Māori freehold land (*see* **section 235**)

Applying for an order to change the name of a parcel of Māori freehold land (*see* **section 288**)

**Minimum level of owner agreement**

The agreement of owners who together hold 75% or more of the participating owners' total share in the land

The agreement of owners who together hold more than a 50% share in the land

The agreement of owners who together hold 75% or more of the participating owners' total share in the land

The agreement of owners who together hold more than a 50% share in the land

The agreement of more than 50% of the participating owners of the land (casting votes of equal weight)



## Schedule 5

### Transitional, savings, and related provisions

s 344

#### Part 1

#### Provisions relating to Act as enacted

5

#### 1 Interpretation

In this Part, **commencement date** means the date on which this Part comes into force.

#### 2 Incomplete proceedings

- (1) In this clause, **matter** means any application, action, appeal, or proceeding commenced under Te Ture Whenua Maori Act 1993 that is not determined or completed by the commencement date. 10
- (2) If the matter, had it been commenced under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** or **Parts 10 to 15**, would have been required to be referred to dispute resolution under **section 342(3)** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**,— 15
- (a) the Māori Land Court or Māori Appellate Court may, with the consent of the parties, refer the matter to the chief executive for dispute resolution; and
- (b) the provisions of **Part 9** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** apply accordingly. 20
- (3) **Subclause (4)** applies to a matter—
- (a) that was commenced more than 2 years before the commencement date; and
- (b) that has not been heard by the Māori Land Court (whether fully or partially); and 25
- (c) for which there is provision under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** or **Parts 10 to 15** for dealing with a matter of its kind.
- (4) The matter must be determined or completed by the Māori Land Court or Māori Appellate Court under Te Ture Whenua Maori Act 1993 as if it had not been repealed, except that a Judge may convene a judicial settlement conference in accordance with **section 425**. 30

#### 3 Incomplete court orders

- (1) If an order made by the Māori Land Court or Māori Appellate Court under Te Ture Whenua Maori Act 1993 has not been drawn up, signed, and sealed in ac- 35

- cordance with the Māori Land Court Rules 2011 before the commencement date,—
- (a) Part 7 of those rules applies as if Te Ture Whenua Maori Act 1993 had not been repealed; and
  - (b) the order must be dated as if the date of the minute of the order were made in accordance with section 41(3) of Te Ture Whenua Maori Act 1993; and 5
  - (c) the order takes effect according to its tenor on and from the day on which it was pronounced orally in open court pursuant to section 41(1) of Te Ture Whenua Maori Act 1993. 10
- (2) If an order of the Māori Land Court or Māori Appellate Court under Te Ture Whenua Maori Act 1993 is made subject to the performance of any conditions and those conditions have not been fulfilled by the commencement date,—
- (a) **section 409** of **Parts 10 to 15** applies as if the order had been made under **Parts 10 to 15**; and 15
  - (b) the order takes effect according to its tenor on and from the date that all outstanding conditions have been fulfilled.

## Schedule 6

### Procedural provisions relating to Maori Fisheries Act 2004

ss 331, 350, 353, 364, 446

#### *Principles*

- |          |   |    |
|----------|---|----|
| <b>1</b> | <b>Principles applying to exercise of jurisdiction in relation to Maori Fisheries Act 2004</b>  | 5  |
| (1)      | Any person who is a party to a matter referred to in <b>section 351 or 352</b> has standing in relation to the powers provided for in those sections and this schedule.   |    |
| (2)      | A request for advice under <b>section 351</b> , or an application for a determination under <b>section 352</b> , is—  | 10 |
|          | (a) a proceeding for the purposes of <b>Parts 1 to 9</b> ; and  |    |
|          | (b) an application within the ordinary jurisdiction of the court.   |    |
| (3)      | The court has the power and authority to give advice or make determinations as it thinks proper.  | 15 |
| (4)      | The court must determine an application or a matter referred to it for advice or determination under <b>section 351 or 352</b> by applying the same considerations as would be relevant under the Maori Fisheries Act 2004.   |    |
| (5)      | <b>Sections 351 and 352</b> do not limit the right of any person to appeal against any decision of the court.   | 20 |
| (6)      | Nothing in this clause or in <b>section 351 or 352</b> restricts any other right of a person to bring proceedings in the court.   |    |
|          | Compare: 1993 No 4 s 26D(1)–(5), (9)  |    |
| <b>2</b> | <b>Application of section 181 of Maori Fisheries Act 2004</b>   |    |
| (1)      | The court does not have jurisdiction under <b>section 351 or 352</b> unless it is satisfied that the parties have complied with section 181(1) of the Maori Fisheries Act 2004.   | 25 |
| (2)      | <b>Subclause (1)</b> does not limit section 182, 185, or 186 of the Maori Fisheries Act 2004.   |    |
| (3)      | If a dispute resolution process contemplated by section 181(1) of the Maori Fisheries Act 2004 has not been agreed or has not been complied with, the court must order the parties to engage in a dispute resolution process on terms the court prescribes unless it believes, for specified reasons, that a dispute resolution process is inappropriate. | 30 |
|          | Compare: 1993 No 4 s 26D(6)–(8)   | 35 |

*Advisory jurisdiction***3 Procedure of court in its advisory jurisdiction**

- (1) The jurisdiction conferred by **section 351** is exercised by written request to the Chief Judge by a party seeking advice.
- (2) Within 20 working days of receiving a request under **section 351**, the Chief Judge must allocate the request either to himself or herself or to another Judge to address. 5
- (3) Before supplying the advice sought, the Judge addressing a request for advice may (but is not obliged to)—
- (a) exercise the powers in **section 400** for the purpose stated there: 10
  - (b) consult the requestor and parties affected by the advice:
  - (c) refer some or all of the issues arising from the request to a kaitakawaenga for dispute resolution.
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the Judge with the request for advice. 15

Compare: 1993 No 4 s 26E

*Determinations***4 Procedure of court in making determinations** 20

- (1) The jurisdiction conferred by **section 352** is exercised on written application to the Chief Judge by a party seeking the determination.
- (2) Within 20 working days of receiving an application under **section 352**, the Chief Judge must allocate the application either to himself or herself or to another Judge to address. 25
- (3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following:
- (a) if **subclause (5)** applies, determine the issue without a full or any hearing and make an order accordingly:
  - (b) refer the application to the court for hearing and determination: 30
  - (c) exercise the powers in **section 400** for the purpose stated there:
  - (d) refer issues arising from the application to a kaitakawaenga for dispute resolution:
  - (e) if **subclause (6)** applies, dismiss or defer consideration of the application. 35
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga

- Māori or other expertise, for the purpose of providing advice on the application.
- (5) The Judge may make a determination under **subclause (3)(a)** if the Judge is satisfied that—
- (a) the applicant has taken reasonable steps to notify affected parties of the application and those parties do not oppose the application; or 5
- (b) the parties have taken reasonable steps to resolve their dispute, as provided for in section 182(3) of the Maori Fisheries Act 2004.
- (6) The Judge may dismiss or defer consideration of an application under **subclause (3)(e)** if— 10
- (a) the application is vexatious, frivolous, or an abuse of the court, or fails to satisfy the rules of court; or
- (b) the application does not present serious issues for determination; or
- (c) the Judge considers it is appropriate to dismiss or defer consideration of the application for another reason. 15
- (7) The Judge may choose not to address an application if the Judge is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.

Compare: 1993 No 4 s 26F

*Powers to deal with clause 4(3)(b) applications* 20

**5 Powers of court if application referred under clause 4(3)(b)**

- (1) If a matter is referred to the court for hearing and determination under **clause 4(3)(b)**, the court must proceed to hear and determine the application.
- (2) However, despite **subclause (1)**, the court may (but is not obliged to) do 1 or more of the following: 25
- (a) if **subclause (3)** applies, determine the issue without a full or any hearing and make an order accordingly:
- (b) exercise the powers in **section 400** for the purpose stated there:
- (c) if **subclause (4)** applies, dismiss or defer consideration of the application: 30
- (d) request a report from Te Ohu Kai Moana Trustee Limited on any matter the court considers appropriate.
- (3) The court may make a determination under **subclause (2)(a)** if it is satisfied that—
- (a) the applicant has taken reasonable steps to notify affected parties of the application; and 35
- (b) those parties do not oppose the application.

- (4) The court may dismiss or defer consideration of an application under **sub-clause (2)(c)** if—
- (a) the application is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) the application does not present serious issues for determination; or 5
  - (c) the court considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (5) The court may choose not to address an application if it is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum. 10
- (6) The court may, on its own initiative or at the request of any party to the proceeding, appoint 1 or more additional members, who are not Judges of the Māori Land Court and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the court.
- Compare: 1993 No 4 s 26G 15

### *Dispute resolution*

#### **6 Appointment of kaitakawaenga**

- (1) A Judge who decides to refer issues to a kaitakawaenga under **clause 3(3)(c), 4(3)(d), or 10(3)(a)** must consult the affected parties about whom to appoint as kaitakawaenga. 20
- (2) The affected parties may, by agreement, appoint as kaitakawaenga 1 or more persons with the skills and experience to undertake dispute resolution on issues arising under the Maori Fisheries Act 2004.
- (3) If a kaitakawaenga is not appointed by agreement under **subclause (2)**, the Judge must— 25
- (a) appoint the kaitakawaenga; and
  - (b) before doing so, be satisfied that the kaitakawaenga has the skills and experience to undertake dispute resolution on issues arising under the Maori Fisheries Act 2004.

Compare: 1993 No 4 s 26H 30

#### **7 Judge appointed as kaitakawaenga**

- (1) A Judge other than the Judge dealing with the relevant application or request to the court may be a kaitakawaenga.
- (2) A Judge acting as a kaitakawaenga is to be treated as acting judicially and retains the same immunities as he or she has when acting as a Judge. 35
- (3) A Judge who acts as a kaitakawaenga must not sit as a Judge of the court on any of the same issues.

Compare: 1993 No 4 s 26I

**8 Conduct of dispute resolution**

- (1) A Judge may advise a kaitakawaenga of the issues that need to be addressed in the dispute resolution.
- (2) The following persons are entitled to attend and participate in the dispute resolution: 5
- (a) parties affected and their representatives; and
  - (b) any other person with the leave of the Judge who is dealing with the relevant application or request to the court.
- (3) A kaitakawaenga may— 10
- (a) follow the procedures (structured or unstructured) and do the things that the kaitakawaenga considers appropriate to resolve the issues referred to the kaitakawaenga promptly and effectively; and
  - (b) receive any information, statement, admission, document, or other material in any way or form the kaitakawaenga thinks fit, whether or not it would be admissible in judicial proceedings. 15
- (4) Written and oral material presented at or for the dispute resolution must be kept confidential by the kaitakawaenga and those participating in the dispute resolution, unless the party who produces the material consents to its disclosure.
- (5) No person may be sued for defamation for statements made in the dispute resolution. 20
- (6) Statements made and material presented at the dispute resolution are admissible in a subsequent dispute resolution of the same issues but are not admissible in other proceedings before a person acting judicially, unless the parties participating in the dispute resolution consent to the admission of the statement or material. 25

Compare: 1993 No 4 s 26J

**9 Successful dispute resolution**

- (1) If some or all of the issues referred to dispute resolution are resolved at the dispute resolution, the kaitakawaenga must— 30
- (a) record the terms of that resolution; and
  - (b) deliver them to the Judge.
- (2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the court.

Compare: 1993 No 4 s 26K

**10 Unsuccessful dispute resolution** 35

- (1) If some or all of the issues referred to dispute resolution are not resolved by the dispute resolution, and the kaitakawaenga believes that those issues are unlikely to be resolved, the kaitakawaenga must—

- (a) report that lack of resolution to the Judge; and
- (b) state the issues that are unresolved and any issues that have been resolved.
- (2) Affected parties who participate in the dispute resolution may, if the dispute resolution fails and they all agree, withdraw from and discontinue the dispute resolution. 5
- (3) Subject to **subclause (2)**, the Judge, on receiving a report under **subclause (1)**, must—
- (a) refer some or all of the unresolved issues to a kaitakawaenga for dispute resolution; or 10
- (b) refer the unresolved issues to the court for hearing and determination or for the provision of advice, as the case may be.
- (4) A Judge who refers unresolved issues to the court under **subclause (3)(b)** may be the Judge who hears the matter or provides advice. 15
- Compare: 1993 No 4 s 26L

### *Orders*

#### **11 Orders and interim orders**

- (1) In making orders under **section 351 or 352** or this schedule, the Judge or the court, as the case may be, may do 1 or more of the following:
- (a) incorporate or restate the terms of an agreement reached by the persons participating in an application: 20
- (b) incorporate the terms that express the outcome of a dispute resolution:
- (c) specify that the order applies for general or specific purposes:
- (d) specify the purpose or purposes for which the order is made:
- (e) specify a date after which the order ceases to have effect: 25
- (f) in the case of a mandated iwi organisation, take any action specified in **subclause (2)**:
- (g) make orders about costs under **section 414 or 415**:
- (h) make other orders not inconsistent with the Maori Fisheries Act 2004, as the Judge or the court considers appropriate. 30
- (2) **Subclause (1)(f)** authorises the Judge or the court to do 1 or more of the following:
- (a) require new elections or the appointment of office holders in accordance with the constitutional documents of the mandated iwi organisation:
- (b) require Te Ohu Kai Moana Trustee Limited to suspend recognition of a mandated iwi organisation until specified changes are made to its constitutional documents: 35



- (c) until the Judge or the court is satisfied that the dispute has been satisfactorily resolved, prevent an action—
- (i) to allocate and transfer settlement assets under section 130 or 135 of the Maori Fisheries Act 2004:
  - (ii) to pay income under section 76 of the Maori Fisheries Act 2004: 5
  - (iii) to distribute trust income under section 83 or 98 of the Maori Fisheries Act 2004:
- (d) specify additional conditions or requirements that are necessary—
- (i) to assist in the timely resolution of the dispute; or
  - (ii) to prevent prejudice to the interests of the mandated iwi organisation or the members of its iwi. 10
- (3) The Judge or the court, at the request of any party, may also order, as considered appropriate, that an action referred to in **subclause (2)(c)** be subject to an interim injunction until—
- (a) the date specified in the order; or 15
  - (b) the conditions specified in the order are met; or
  - (c) a further order is made by the court; or
  - (d) the order ceases to have effect.
- (4) If the court makes an order under **subclause (2)(c) or (3)** that an action be prevented or be subject to an interim injunction, as the case may be,— 20
- (a) Te Ohu Kai Moana Trustee Limited must hold the assets that are subject to the order in trust for that mandated iwi organisation until—
    - (i) the date specified in the order; or
    - (ii) the conditions specified in the order are met; or
    - (iii) the order ceases to have effect; and 25
  - (b) the mandated iwi organisation is entitled to receive any income earned from those assets for the period that they are held in trust, except that Te Ohu Kai Moana Trustee Limited is entitled to deduct the reasonable costs of administering the assets.
- Compare: 1993 No 4 s 26M 30

*Restriction on challenges against additional members*

## 12 Proceedings where additional members appointed

If additional members are appointed under **clause 3(4), 4(4), or 5(6)**, the proceedings and processes of the court cannot be challenged on appeal or in any other proceedings on the grounds that an additional member had a tribal affiliation or other relationship with any of the parties, unless it is shown that the additional member acted in bad faith. 35

Compare: 1993 No 4 s 26N

**Schedule 7**  
**Procedural provisions relating to Maori Commercial Aquaculture  
 Claims Settlement Act 2004**

ss 331, 354, 357, 364, 446

*Principles*

5

**1 Principles applying to exercise of jurisdiction in relation to Maori  
 Commercial Aquaculture Claims Settlement Act 2004**

- (1) Any person who is a party to a matter referred to in **section 355 or 356** has standing in relation to the powers provided for in this schedule.
- (2) A request for advice under **section 355**, or an application for a determination under **section 356**, is— 10
- (a) a proceeding for the purposes of **Parts 10 to 15**; and
- (b) an application within the ordinary jurisdiction of the court.
- (3) The court has the power and authority to give advice or make determinations as it thinks proper. 15
- (4) The court must determine an application or a matter referred to it for advice or determination under **section 355 or 356** by applying the same criteria as would be applied under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (5) **Sections 355 and 356** do not limit the right of any person to appeal against any decision of the court. 20
- (6) Nothing in this clause or in **section 355 or 356** restricts any other right of a person to bring proceedings in the court.
- Compare: 1993 No 4 s 26R(1)–(5), (8)

**2 Application of section 53 of Maori Commercial Aquaculture Claims  
 Settlement Act 2004** 25

- (1) The court does not have jurisdiction under this clause unless it is satisfied that the parties have complied with section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (2) If a dispute resolution process contemplated by section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004 has not been agreed or has not been complied with, the court must order the parties to engage in a dispute resolution process on terms it prescribes unless it believes, for specified reasons, that a dispute resolution process is inappropriate. 30
- Compare: 1993 No 4 s 26R(6), (7) 35

*Advisory jurisdiction***3 Procedure of court in its advisory jurisdiction**

- (1) The jurisdiction conferred by **section 355** is exercised by written request to the Chief Judge by a party seeking advice.
- (2) Within 20 working days of receiving a request under **section 355**, the Chief Judge must allocate the request either to himself or herself or to another Judge to address. 5
- (3) Before supplying the advice sought, the Judge addressing a request for advice may (but is not obliged to)—
- (a) exercise the powers in **section 400** for the purpose stated there: 10
  - (b) consult with the requestor and parties affected by the advice:
  - (c) refer some or all of the issues arising from the request to a kaitakawaenga for dispute resolution.
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the Judge with the request for advice. 15

Compare: 1993 No 4 s 26S

*Determinations*

- 4 Procedure of court in making determinations** 20
- (1) The jurisdiction conferred by **section 356** is exercised on written application to the Chief Judge by a party seeking the determination.
- (2) Within 20 working days of receiving an application under **section 356**, the Chief Judge must allocate the application either to himself or herself or to another Judge to address. 25
- (3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following:
- (a) if **subclause (5)** applies, determine the issue without a full or any hearing and make an order accordingly:
  - (b) refer the application to the court for hearing and determination: 30
  - (c) exercise the powers in **section 400** for the purpose stated there:
  - (d) refer issues arising from the application to a kaitakawaenga for dispute resolution:
  - (e) if **subclause (6)** applies, dismiss or defer consideration of the application. 35
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga

- Māori or other expertise, for the purpose of providing advice on the application.
- (5) The Judge may make a determination under **subclause (3)(a)** if the Judge is satisfied that—
- (a) the applicant has taken reasonable steps to notify affected parties of the application, and those parties do not oppose the application; or 5
- (b) the parties have taken reasonable steps to resolve their dispute, as provided for in section 54(3) of the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (6) The Judge may dismiss or defer consideration of an application under **subclause (3)(e)** if— 10
- (a) the application is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
- (b) the application does not present serious issues for determination; or
- (c) the Judge considers it is appropriate to dismiss or defer consideration of the application for another reason. 15
- (7) The Judge may choose not to address an application if the Judge is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum. 20
- Compare: 1993 No 4 s 26T

*Powers to deal with clause 4(3)(b) applications*

**5 Powers of court if application referred under clause 4(3)(b)**

- (1) If a matter is referred to the court for hearing and determination under **clause 4(3)(b)**, the court must proceed to hear and determine the application.
- (2) However, despite **subclause (1)**, the court may (but is not obliged to) do 1 or more of the following: 25
- (a) if **subclause (3)** applies, determine the issue without a full or any hearing and make an order accordingly;
- (b) exercise the powers in **section 425** for the purpose stated there;
- (c) if **subclause (4)** applies, dismiss or defer consideration of the application: 30
- (d) request a report from Te Ohu Kai Moana Trustee Limited on any matter the court considers appropriate.
- (3) The court may make a determination under **subclause (2)(a)** if it is satisfied that— 35
- (a) the applicant has taken reasonable steps to notify affected parties of the application; and
- (b) those parties do not oppose the application.

- (4) The court may dismiss or defer consideration of an application under **sub-clause (2)(c)** if—
- (a) the application is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) the application does not present serious issues for determination; or 5
  - (c) the court considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (5) The court may choose not to address an application if it is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum. 10
- (6) The court may, on its own initiative or at the request of any party to the proceeding, appoint 1 or more additional members who are not Judges of the Māori Land Court and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the court.
- Compare: 1993 No 4 s 26U 15

### *Dispute resolution*

#### **6 Appointment of kaitakawaenga**

- (1) A Judge who decides to refer issues to a kaitakawaenga under **clause 3(3)(c), 4(3)(d), or 10(3)(a)** must consult the affected parties about who to appoint as kaitakawaenga. 20
- (2) The affected parties may, by agreement, appoint as kaitakawaenga 1 or more persons with the skills and experience to undertake dispute resolution on issues arising under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (3) If a kaitakawaenga is not appointed by agreement under **subclause (2)**, the Judge must— 25
- (a) appoint the kaitakawaenga; and
  - (b) before doing so, be satisfied that the kaitakawaenga has the skills and experience to undertake dispute resolution on issues arising under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- Compare: 1993 No 4 s 26V 30

#### **7 Judge appointed as kaitakawaenga**

- (1) A Judge other than the Judge dealing with the relevant application or request to the court may be a kaitakawaenga.
- (2) A Judge acting as a kaitakawaenga is to be treated as acting judicially and retains the same immunities as he or she has when acting as a Judge. 35
- (3) A Judge who acts as a kaitakawaenga must not sit as a Judge of the court on any of the same issues.
- Compare: 1993 No 4 s 26W

**8 Conduct of dispute resolution**

- (1) A Judge may advise a kaitakawaenga of the issues that need to be addressed at the dispute resolution.
- (2) The following persons are entitled to attend and participate in the dispute resolution: 5
- (a) the affected parties and their representatives; and
  - (b) any other person with the leave of the Judge who is dealing with the relevant application or request to the court.
- (3) A kaitakawaenga may— 10
- (a) follow the procedures (structured or unstructured) and do the things that the kaitakawaenga considers appropriate to resolve the issues referred to the kaitakawaenga promptly and effectively; and
  - (b) receive any information, statement, admission, document, or other material in any way or form the kaitakawaenga thinks fit, whether or not it would be admissible in judicial proceedings. 15
- (4) Written and oral material presented at or for the dispute resolution must be kept confidential by the kaitakawaenga and those participating in the dispute resolution, unless the party who produces the material consents to its disclosure.
- (5) No person may be sued for defamation for statements made in the dispute resolution. 20
- (6) Statements made and material presented at the dispute resolution are admissible in a subsequent dispute resolution of the same issues, but are not admissible in other proceedings before a person acting judicially, unless the parties participating in the dispute resolution consent to the admission of the statement or material. 25

Compare: 1993 No 4 s 26X

**9 Successful dispute resolution**

- (1) If some or all of the issues referred to dispute resolution are resolved at the dispute resolution, the kaitakawaenga must— 30
- (a) record the terms of that resolution; and
  - (b) deliver them to the Judge.
- (2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the court.

Compare: 1993 No 4 s 26Y

**10 Unsuccessful dispute resolution** 35

- (1) If some or all of the issues referred to dispute resolution are not resolved by the dispute resolution, and the kaitakawaenga believes that those issues are unlikely to be resolved, the kaitakawaenga must—

- (a) report that lack of resolution to the Judge; and
- (b) state the issues that are unresolved and any issues that have been resolved.
- (2) Affected parties who participate in the dispute resolution may, if dispute resolution fails and they all agree, withdraw from and discontinue the dispute resolution. 5
- (3) Subject to **subclause (2)**, the Judge must, on receiving a report under **subclause (1)**, either—
- (a) refer some or all of the unresolved issues to a kaitakawaenga for dispute resolution; or 10
- (b) refer the unresolved issues to the court for hearing and determination or for the provision of advice, as the case may be.
- (4) A Judge who refers unresolved issues to the court under **subclause (3)(b)** may be the Judge who hears the matter or provides advice. 15
- Compare: 1993 No 4 s 26Z

### *Orders*

#### **11 Orders and interim orders**

- (1) In making orders under **section 355 or 356** or this schedule, the Judge or the court, as the case may be, may do 1 or more of the following:
- (a) incorporate or restate the terms of an agreement reached by the persons participating in an application: 20
- (b) incorporate the terms that express the outcome of a dispute resolution:
- (c) specify that the order applies for general or specific purposes:
- (d) specify the purpose or purposes for which the order is made:
- (e) specify a date after which the order ceases to have effect: 25
- (f) in the case of an iwi aquaculture organisation, take any action specified in **subclause (2)**:
- (g) make orders about costs under **section 414 or 415**:
- (h) make other orders not inconsistent with the Maori Commercial Aquaculture Claims Settlement Act 2004, or as the Judge or the court considers appropriate. 30
- (2) **Subclause (1)(f)** authorises the Judge or the court to do 1 or more of the following:
- (a) require new elections or the appointment of office holders in accordance with the constitutional documents of the iwi aquaculture organisation: 35
- (b) require the trustee to suspend recognition of an iwi aquaculture organisation until specified changes are made to its constitutional documents:

- (c) until the Judge or the court is satisfied that the dispute has been satisfactorily resolved, prevent an action to allocate and transfer settlement assets under the Maori Commercial Aquaculture Claims Settlement Act 2004;
- (d) specify additional conditions or requirements that are necessary— 5
- (i) to assist in the timely resolution of the dispute; or
- (ii) to prevent prejudice to the interests of the iwi aquaculture organisation or the members of its iwi.
- (3) The Judge or the court, at the request of any party, may also order, as it considers appropriate, that an action referred to in **subclause (2)(c)** be subject to an interim injunction until— 10
- (a) the date specified in the order; or
- (b) the conditions specified in the order are met; or
- (c) a further order is made by the court; or
- (d) the order ceases to have effect. 15
- (4) If the court makes an order under **subclause (2)(c) or (3)** that an action be prevented or be subject to an interim injunction, as the case may be,—
- (a) the trustee must hold the assets that are subject to the order in trust for that iwi aquaculture organisation until—
- (i) the date specified in the order; or 20
- (ii) the conditions specified in the order are met; or
- (iii) the order ceases to have effect; and
- (b) the iwi aquaculture organisation is entitled to receive any income earned from those assets for the period that they are held in trust, except that the trustee is entitled to deduct the reasonable costs of administering the 25 assets.

Compare: 1993 No 4 s 26ZA

*Restriction on challenges against additional members*

**12 Proceedings where additional members appointed**

If additional members are appointed under **clause 3(4), 4(4), or 5(6)**, the proceedings and processes of the court cannot be challenged on appeal or in any other proceedings on the ground that an additional member had a tribal affiliation or other relationship with any of the parties unless it is shown that the additional member acted in bad faith. 30

Compare: 1993 No 4 s 26ZB

35



## Schedule 8

### Consequential amendments to other enactments

s 458

#### Part 1

#### Amendments to Acts

5

##### Administration Act 1969 (1969 No 52)

In section 2(1), definition of **Maori**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 77, item 8, second column, insert after the second bullet point:

However, a parcel, or a share of an individual freehold interest in a parcel, of Māori freehold land does not belong to the Crown as *bona vacantia*, but is instead subject to **section 295 or 296 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**.

##### Adoption Act 1955 (1955 No 93)

10

In section 2, definition of **Maori**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

##### Animal Welfare Act 1999 (1999 No 142)

In section 2(1), definition of **marae**, replace paragraph (a)(i) with:

- (i) land that is reserved for the purposes of a marae or meeting place under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** and that is used for the purposes for which it is reserved; or

15

In section 2(1), definition of **marae**, paragraph (b), replace “for which the land is so set apart” with “of a marae or meeting place”.

20

##### Biosecurity Act 1993 (1993 No 95)

In section 128(2), replace “section 181 of Te Ture Whenua Maori Act 1993” with “**sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

##### Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

In Schedule 1A, ~~delete~~repeal the item relating to the Ministry of Justice (Maori Land Court Unit).

25

In Schedule 1A, insert in its appropriate alphabetical order:

Land Information New Zealand	Death information	To identify deceased owners of Maori land
------------------------------	-------------------	---

##### Building Act 2004 (2004 No 72)

In section 73(1)(b), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

30

**Building Act 2004 (2004 No 72)**—*continued*

In section 74(1)(a), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

In section 74(4), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

In section 395, replace “Part 10 of Te Ture Whenua Maori Act 1993” with “**Sections 322 to 325 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 395, replace “section 181(4)” with “**section 325**”.

**Burial and Cremation Act 1964 (1964 No 75)**

In section 2(1), definition of **Maori burial ground**, replace “land set apart for the purposes of a burial ground under section 439 of the Maori Affairs Act 1953” with “land that is reserved for the purposes of an urupā under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Charities Act 2005 (2005 No 39)**

In section 5(2)(b), replace “Maori reservation referred to in Te Ture Whenua Maori Act 1993 (Maori Land Act 1993)” with “whenua tāpui referred to in **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Civil Aviation Act 1990 (1990 No 98)**

In section 25(3)(b), replace “and the provisions of Part 10 of Te Ture Whenua Maori Act 1993 shall apply in respect of notices served in the circumstances set out in that Part of that Act” with “and **sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** apply in respect of notices served in the circumstances set out in those sections”.

**Climate Change Response Act 2002 (2002 No 40)**

In section 4(1), definition of **landowner**, paragraph (b)(ii), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 12 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 4(1), definition of **landowner**, paragraph (b)(ii), replace “under Te Ture Whenua Maori Act 1993” with “under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 4(1), definition of **landowner**, paragraph (b)(iii), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 4(1), definition of **Maori land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 168(1)(g), replace “a Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

**Climate Change Response Act 2002 (2002 No 40)**—*continued*

In section 195(1)(a), replace “the Registrar of the Maori Land Court in whose jurisdiction the land is situated” with “the chief executive responsible for the Māori land register”.

In section 195(2) and (3), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register.” 5

In section 195(2), replace “record of the Maori Land Court” with “Māori land register.”

**Companies Act 1993 (1993 No 105)**

After section 324(6), insert:

- (7) A parcel, or a share of a parcel, of Māori freehold land does not vest in the Crown under this section, but is instead subject to **section 295 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**. 10

**Conservation Act 1987 (1987 No 65)**

In section 2(1), definition of **Maori**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 15

In section 2(1), definition of **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 2(1), definition of **private land**, paragraph (a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Crown Minerals Act 1991 (1991 No 70)** 20

In section 2(1), definition of **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 25A(2), replace “the Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”.

In section 25A(3), replace “the Registrar of the Māori Land Court must enter in his or her records the particulars of the permit” with “the chief executive responsible for the Māori land register must enter the particulars of the permit in the register”. 25

In section 36(5C), replace “the Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”.

In section 36(5D), replace “the Registrar of the Māori Land Court must enter in his or her records the particulars of that certificate” with “the chief executive responsible for the Māori land register must enter the particulars of the certificate in the register”. 30

In section 51(1)(a), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

**Crown Proceedings Act 1950 (1950 No 54)**

In section 2(1), definition of **court**, replace “constituted under Te Ture Whenua Maori Act 1993” with “continued by **Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

**Electricity Act 1992 (1992 No 122)**

5

In section 2(1), definition of **road**, paragraph (c), delete “under section 320 of that Act”.

In section 168(1), replace “may be served on the Registrar of the Maori Land Court in accordance with Part 9 of the Maori Affairs Amendment Act 1974, and the provisions of that Part shall apply accordingly” with “must be given in accordance with **sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, and **section 325 of those Parts** applies accordingly”.

10

In section 168(2), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**.”

**Electronic Transactions Act 2002 (2002 No 35)**

15

In the Schedule, Part 4, paragraph (6), replace “Te Ture Whenua Maori Act 1993” with “**Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

**Fencing Act (1978 No 50)**

In section 23(2), replace “section 26 of Te Ture Whenua Maori Act 1993” with “**section 308 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

20

**Fisheries Act 1996 (1996 No 88)**

In section 200(1), replace “Maori reservation constituted by or under the Maori Affairs Act 1953 or Part 17 of Te Ture Whenua Maori Act 1993” with “whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

25

In section 200(3), replace “Maori reservation” with “whenua tāpui”.

**Forests Act 1949 (1949 No 19)**

In section 2(1), definition of **specified Maori land**, replace “land having the status of Maori land or General land owned by Maori, as defined in section 4 of Te Ture Whenua Maori Act 1993” with “land having the status of Māori land, or of private land (other than Māori land) that is beneficially owned by a Māori or by a group of persons of whom a majority are Māori, as those terms are defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

30

Replace section 64(5) with:

(5) Despite anything contained in **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**,—

35

**Forests Act 1949 (1949 No 19)**—*continued*

- (a) the provisions of this section apply to Maori land as defined by **those Parts**; and
- (b) the following persons may appoint the Minister or Crown Forestry Management Limited as their agent:
  - (i) if the land is managed under a governance agreement, the governance body; or 5
  - (ii) if the land is not managed under a governance agreement,—
    - (A) owners who together hold 75% or more of the participating owners’ total share in the land; or
    - (B) a kaiwhakahaere appointed under **section 189 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** for the purpose of appointing an agent under this section. 10

Replace section 67K(5) with:

- (5) If the land concerned is Māori land (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**) and the land is not within the boundaries of a parcel of land identified on a plan lodged in terms of subsection (4), the owner must request the chief executive responsible for the Māori land register to record a notation of the sustainable forest management plan on that register in relation to the land. The chief executive must record the notation accordingly and the notation is sufficient compliance with the requirements of this section. 15  
20

In section 67K(11),—

- (a) replace “District Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”; and
- (b) replace “District Registrar shall” with “the chief executive must”. 25

Replace section 67ZD(3) with:

- (3) If a forest sink covenant relates to Māori land (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**) for which no computer freehold register or provisional register has been created, the chief executive responsible for the Māori land register must record a notation of the forest sink covenant on that register in relation to the land. 30

In Schedule 2, clause 3(2)(b), replace “the appropriate Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

**Gas Act 1992 (1992 No 124)**

In section 2(1), definition of **road**, paragraph (c), delete “under section 320 of that Act”. 35

In section 53(1), replace “may be served on the Registrar of the Maori Land Court in accordance with Part 10 of Te Ture Whenua Maori Act 1993, and the provisions of

**Gas Act 1992 (1992 No 124)—continued**

that Part shall apply accordingly” with “must be given in accordance with **sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, and **section 325 of those Parts** applies accordingly”.

In section 53(2), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

5

**Government Roding Powers Act 1989 (1989 No 75)**

In section 71(5), replace “deposited in the office of the Registrar of the Maori Land Court who shall record it in the records of the court” with “provided to the chief executive responsible for the Māori land register, who must record it in the register”.

In section 94(d),—

10

- (a) replace “deposited in the office of the Registrar of the Maori Land Court” with “provided to the chief executive responsible for the Māori land register”; and
- (b) replace “the Registrar shall record the declaration and the certificate in the records of the court” with “the chief executive must record the declaration and the certificate in the register”.

15

In section 95(2), replace “the Registrar of the Maori Land Court, who shall record the certificate in the records of that court” with “the chief executive responsible for the Māori land register, who must record the certificate in the register”.

Replace section 95(3)(b) with:

- (b) if any of the land affected is Māori land, the chief executive responsible for the Māori land register, who must record the certificate in the register; and

20

**Government Superannuation Fund Act 1956 (1956 No 47)**

In section 72, definition of **Judge**, paragraph (d), replace “section 7 of Te Ture Whenua Maori Act 1993” with “**section 427 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

25

In section 72, definition of **temporary Judge**, paragraph (d), replace “section 9 of Te Ture Whenua Maori Act 1993” with “**section 434 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 81A, definition of **Judge**, paragraph (d), replace “section 7 of Te Ture Whenua Maori Act 1993” with “**section 427 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

30

In section 81A, definition of **temporary Judge**, paragraph (d), replace “section 9 of Te Ture Whenua Maori Act 1993” with “**section 434 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

35

**Hauraki Gulf Marine Park Act 2000 (2000 No 1)**

In section 4, repeal the definition of **Maori land** and **Maori customary land**.

**Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)**

In section 6, definition of **Māori land**, replace “given to Maori land in section 4 of Te Ture Whenua Maori Act 1993” with “given in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 67(8)(a), replace “the appropriate Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”. 5

Replace section 67(8)(b) with:

- (b) the chief executive must record the effect of the application in the register.

In section 68(8)(a), replace “the appropriate Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”. 10

Replace section 68(8)(b) with:

- (b) the chief executive must record the effect of the application in the register.

**Hineuru Claims Settlement Act 2016 (2016 No 33)** 15

In section 121(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Income Tax Act 2007 (2007 No 97)**

In section CW 1, heading above subsection (2), replace “*Maori incorporation*” with “*governance body*”. 20

In section CW 1(2)(b), replace “Maori incorporation” with “governance body”.

In section CW 1, list of defined terms,—

- (a) after “forestry company,”, insert “governance body,”; and  
 (b) delete “Maori incorporation,”.

In section DP 9 (2)(b), replace “Maori incorporation” with “governance body”. 25

In section DP 9, list of defined terms,—

- (a) after “forestry company,”, insert “governance body,”; and  
 (b) delete “Maori incorporation,”.

In section HF 2(2)(a) and (b), (3)(a) and (b), and (4), replace “Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993)” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 30

In section YA 1, definition of **charitable purpose**, paragraph (b)(i), replace “Maori reservation referred to in Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993)” with “whenua tāpui referred to in **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 35

In section YA 1, insert in its appropriate alphabetical order:

**Income Tax Act 2007 (2007 No 97)**—*continued*

**governance body** is defined in **section 5** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

In section YA 1, repeal the definition of **Maori incorporation**.

In section YA 1, definition of **Maori land**, replace “the Maori Land Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

5

In section YA 1, definition of **Maori owners**, paragraph (b), replace “every Maori incorporation that has a beneficial interest in the land” with “every governance body that has a beneficial interest in Maori land bought by a forestry company”.

**Joint Family Homes Act 1964 (1964 No 45)**

In section 25(1),—

10

(a) replace “Part 19 of the Maori Affairs Act 1953” with “**Part 4 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”; and

(b) delete “, but no application for the settlement of any such land shall be accepted by the Registrar unless it bears an endorsement by the Registrar of the Maori Land Court to the effect that the application has been recorded in the records of the Maori Land Court”.

15

In section 25(2), replace “the Maori Affairs Act 1953” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**KiwiSaver Act 2006 (2006 No 40)**

In Schedule 1, clause 8(6), definition of **Maori land**, replace “the Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

20

**Land Act 1948 (1948 No 64)**

In section 2, definition of **Maori** and **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Land Transfer Act 1952 (1952 No 52)**

25

Replace section 10(c) with:

(c) all Māori freehold land (as defined by **section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**):

**Land Transfer Amendment Act 1963 (1963 No 61)**

In section 21(b), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

30

**Land Transport Act 1998 (1998 No 110)**

In section 2(1), definition of **premises**, replace “dwelling or Maori reservation constituted by or under the Maori Affairs Act 1953 or Part 17 of Te Ture Whenua Maori



**Land Transport Act 1998 (1998 No 110)—continued**

Act 1993” with “dwelling or whenua tāpui constituted by or under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** or any corresponding former enactment”.

**Land Transport Management Act 2003 (2003 No 118)**

In section 5(1), definition of **Māori land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 5(1), definition of **Māori roadway**, delete “or to be laid out”.

**Legal Services Act 2011 (2011 No 4)**

Replace section 48(4)(b) to (d) with:

- (b) a governance body (within the meaning of **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**): 10
- (c) a whānau trust (within the meaning of **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**):
- (d) a trust continued as an ahu whenua or whenua tōpū trust by **clause 23 of Schedule 1 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**. 15

In Schedule 1, clause 5(4), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Limitation Act 2010 (2010 No 110)**

In section 4, definition of **Maori customary land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 19(2) with:

- (2) However,—
  - (a) section 28 is the only provision in Parts 2 and 3 that applies to Māori customary land; and 25
  - (b) sections 21 to 27 do not apply to Māori freehold land.

In section 28(4), replace “section 344 of Te Ture Whenua Maori Act 1993” with “**section 321 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 28(4)(b), replace “Te Ture Whenua Maori Act 1993 or of any other Act” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016, Parts 10 to 15 of Te Ture Whenua Māori Act 2016**, or any other Act”.

**Local Government Act 1974 (1974 No 66)**

Replace section 324A(3) with:

- (3) In any case where land comprising or adjoining a roadway laid out pursuant to Part 14 of Te Ture Whenua Maori Act 1993 is Māori land (as defined by **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**) and the 35

**Local Government Act 1974 (1974 No 66)—continued**

whereabouts of its owners is unknown, consent under subsection (2) may be obtained by giving notice in accordance with **sections 322 to 325 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**.

**Local Government Act 2002 (2002 No 84)**

In section 197(2), definition of **development contribution**, paragraph (c)(ii), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 5

Replace section 205(d)(iii) with:

- (iii) the administering body of a whenua tāpui under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, to enhance the whenua tāpui for cultural or other purposes: 10

**Local Government (Rating) Act 2002 (2002 No 6)**

In section 5, replace the definition of **Māori freehold land** with:

**Māori freehold land** has the meaning set out in **section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** 15

In section 91, replace “general land” with “private land other than Māori land”.

Repeal section 92(3).

In section 92(4), replace “If subsection (2) or subsection (3) do not apply” with “If subsection (2) does not apply”.

In section 92(5), replace the definition of **trustee** with: 20

**trustee** includes a governance body that is a party to a registered governance agreement under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**.

In section 92(7), replace “Subsections (2), (3), and (4)” with “Subsections (2) and (4)”.

In section 99(4), replace “Section 82 of Te Ture Whenua Maori Act 1993 does not” with “**Section 289 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** and **section 418 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016** do not”. 25

Replace section 100(1)(i) with:

- (i) the aronga/purpose set out in **section 3 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**. 30

In section 102, replace “the provisions of section 123 or section 124 of Te Ture Whenua Maori Act 1993, as the case may require, with the necessary modifications” with “**section 289 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 108(2) with:

- (2) If the Māori Land Court is satisfied that it would not be contrary to the interests of the owners to do so, it must, without further application, enforce the charging order by appointing a receiver under **section 419 of Parts 10 to 15 of** 35

**Local Government (Rating) Act 2002 (2002 No 6)**—*continued*

**Te Ture Whenua Māori Act 2016** in respect of the relevant land for the purpose of enforcing the charging order.

In section 113(2), replace “the provisions of section 123 or section 124 of Te Ture Whenua Maori Act 1993, as the case may require, with any necessary modifications” with “**section 289 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

5

In Schedule 1, Part 1, replace item 12 with:

12 Land that is a whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** and—

- (a) that is reserved for the purpose of a marae or meeting place and that does not exceed 2 hectares; or
- (b) that is reserved for the common use and benefit of the people of New Zealand.

10

**Local Legislation Act 1989 (1989 No 110)**

Replace section 2(5) with:

- (5) Where, under **section 36(1)(a) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, the reservation of the said land is cancelled for some or all of the land, the legal ownership of the land is not vested in the beneficial owners of the land, despite **section 38(6) of those Parts**. Instead, the Registrar of the Māori Land Court must execute a transfer of the land to the territorial authority of the district in which it is situated as a recreation reserve under the Reserves Act 1977 (in the case of the land described in subsection (7)(a) or any part of it, without power of sale).

15

20

**Maori Affairs Restructuring Act 1989 (1989 No 68)**

In section 2(1), definition of **General land owned by Maori**, replace “any General land” with “any private land (other than Māori land)”.

25

In section 2(1), insert in its appropriate alphabetical order:

**Māori land** has the meaning given in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

In section 14(2), replace “General land” with “private land other than Māori land”.

In section 19(2)(b), replace “any General land owned for the benefit of Maori” with “any private land (other than Māori land) owned for the benefit of Māori”.

30

Replace section 19(5) and (6) with:

- (5) Land subject to this Part must not be alienated or partitioned, and any interest in such land must not be alienated, without the consent of the chief executive.
- (6) However, the chief executive’s consent is not needed for the acquisition by the Māori Trustee of any land or interest in land under any provision of this Act.

35

**Maori Affairs Restructuring Act 1989 (1989 No 68)**—*continued*

In section 49(4), replace “Maori incorporation as defined by section 4 of Te Ture Whenua Maori Act 1993” with “governance body as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 64(2), replace “as General land or Maori freehold land” with “as Māori freehold land or otherwise”. 5

In section 73(1), delete “Nothing in Part 16 of Te Ture Whenua Maori Act 1993 shall apply with respect to surveys under this section.”

In section 79(2), replace “General land” with “private land other than Māori land”.

**Maori Commercial Aquaculture Claims Settlement Act 2004 (2004 No 107)**

In section 54(2), replace “section 26P of Te Ture Whenua Maori Act 1993” with “**section 355 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”. 10

In section 54(3), replace “section 26Q of Te Ture Whenua Maori Act 1993” with “**section 356 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 55(2), replace “section 26Q of Te Ture Whenua Maori Act 1993” with “**section 356 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”. 15

**Maori Education Foundation (Abolition) Act 1993 (1993 No 53)**

In section 6(1), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 6(1), replace “Maori (within the meaning of section 4)” with “Māori (within the meaning of **section 5**”. 20

In section 6(1)(a), replace “Maori freehold land (within the meaning of section 4)” with “Māori freehold land (within the meaning of **section 20**”.

Repeal section 6(2).

In section 6(3), replace “Maori incorporation (within the meaning of section 4 of Te Ture Whenua Maori Act 1993)” with “governance body (within the meaning of **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 25

**Maori Fisheries Act 2004 (2004 No 78)**

In section 5, definition of **Maori**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 5, replace the definition of **tikanga Maori** with: 30

**tikanga Māori** means Māori customary values and practices

In section 182(2), replace “section 26B of Te Ture Whenua Maori Act 1993” with “**section 351 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 182(3), (4), and (5), replace “section 26C of Te Ture Whenua Maori Act 1993” with “**section 352 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”. 35

**Maori Fisheries Act 2004 (2004 No 78)**—*continued*

In section 183(1)(e), replace “section 26M of Te Ture Whenua Maori Act 1993” with “**clause 11 of Schedule 6 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 183(2), replace “section 26C of Te Ture Whenua Maori Act 1993” with “**section 352 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

5

In section 185(1), replace “section 26C of Te Ture Whenua Maori Act 1993” with “**section 352 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 187(1), replace “section 26C(d) of Te Ture Whenua Maori Act 1993” with “**section 352(d) of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

**Maori Housing Act 1935 (1935 No 34)**

10

In section 2, definition of **court**, replace “constituted under Te Ture Whenua Maori Act 1993” with “continued by **Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 6(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

15

**Maori Housing Amendment Act 1938 (1938 No 17)**

In section 3(3), replace “Notwithstanding the provisions of Part 21 of the Maori Affairs Act 1953” with “Despite **section 105(4) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 21(7), replace “the Registrar of the Maori Land Court for filing with the orders of the court” with “the chief executive responsible for the Māori land register for recording in the register”.

20

In section 21(7), replace “the Registrar of the Maori Land Court to send” with “the chief executive responsible for the Māori land register to send”.

In section 25,—

25

(a) replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”; and

(b) replace “Maori reservation” with “whenua tāpui”.

**Maori Purposes Act 1931 (1931 No 32)**

In section 103(3), replace “a Maori reservation under the principal Act” with “a whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

30

**Maori Purposes Act 1948 (1948 No 69)**

In section 16(1), after “Maori Purposes Act 1933”, insert “and **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

35

**Maori Purposes Act 1959 (1959 No 90)**

In section 3, definition of **the Trustees**, replace “the committee of management of any body corporate incorporated under Part 13 of Te Ture Whenua Maori Act 1993” with “the kaitiaki of any governance body that is party to a registered governance agreement under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

5

**Maori Purposes Act 1970 (1970 No 120)**

In section 28(1), replace “the financial statement required to be prepared under sub-clause (3) of regulation 5 of the Maori Reservations Regulations 1963” with “a financial statement for the most recent financial year ending on 31 March”.

In section 30, replace “subsection (9) of section 439 of the Maori Affairs Act 1953” with “**section 44 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

10

**Maori Purposes Act 1975 (1975 No 135)**

In section 21(4)(c),—

- (a) replace “alienation” with “disposition” in each place; and
- (b) replace “as defined in section 4 of Te Ture Whenua Maori Act 1993” with “as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

15

In section 21(5), replace “section 43 of the Maori Affairs Amendment Act 1967” with “**section 202(2) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 21(6), replace “The proviso to section 48(1) of the Maori Affairs Amendment Act 1967” with “**Section 99 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

20

**Maori Purposes Act 1976 (1976 No 148)**

Repeal section 27(4).

**Maori Purposes Act 1978 (1978 No 70)**

25

Repeal section 11(4).

**Maori Purposes Act 1979 (1979 No 136)**

Replace section 21(7) with:

- (7) If the reservation is cancelled for some or all of the land, and that land would be vested in the Crown by **section 38(6) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, the court may, on application by the trustees, make an order that instead vests the land in the members of the Tuahuriri hapu of Ngai Tahu as a class of collective owners.

30

**Maori Purposes Act 1983 (1983 No 146)**

In section 6(1), definition of **the principal Act**, replace “the Maori Affairs Act 1953” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

35

**Maori Purposes Act 1983 (1983 No 146)**—*continued*

In section 6(5), replace “section 452” with “**section 310**”.

In section 6(7), replace “If the court makes an order under section 438 of the principal Act vesting the islands in trustees” with “If a governance body is appointed to manage the islands”.

**Māori Purposes Act 2011 (2011 No 73)**

5

In section 3, definition of **Maori Land Court**, replace “section 6 of Te Ture Whenua Maori Act 1993” with “**section 346 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

Replace section 4(1) and (2) with:

- (1) The Māori Land Court has jurisdiction to— 10
- (a) appoint and remove trustees of the estate; and
  - (b) fix payments from the estate for the trustees’ fees and allowances.
- (2) In exercising its jurisdiction under **subsection (1)**, the Māori Land Court has the same powers as the High Court under the Trustee Act 1956.

**Maori Reserved Land Act 1955 (1955 No 38)**

15

In section 10A(1), replace “Maori Land Court” with “Māori land register”.

In section 10A(2), replace “Registrar of the Maori Land Court” with “chief executive responsible for the Māori land register”.

In section 10A(4), replace “Registrar” with “chief executive responsible for the Māori land register”. 20

In section 10A(5), replace “Registrar” with “chief executive responsible for the Māori land register”.

Replace section 15A(8) with:

- (8) The chief executive responsible for the Māori land register must, in respect of each incorporation constituted pursuant to this section, register the Order in Council as the governance agreement by issuing a governance certificate (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**). 25

**Maori Reserved Land Amendment Act 1997 (1997 No 101)**

Replace section 5(6) with:

30

- (6) The provisions implied in a lease by subsection (1) apply subject to—
- (a) the provisions relating to the disposition of Māori freehold land by sale or exchange in **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; and

**Maori Reserved Land Amendment Act 1997 (1997 No 101)**—*continued*

- (b) the provisions relating to the alienation of Maori freehold land by lease in Te Ture Whenua Maori Act 1993 (which apply as if not repealed, instead of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**).

In section 8(5)(b), replace “a person that comes within the preferred classes of alienees under Te Ture Whenua Maori Act 1993” with “a preferred recipient or preferred entity in relation to the leased land (as those terms are defined by **section 96 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

5

In section 9(4)(a), replace “a person that comes within the preferred classes of alienees under Te Ture Whenua Maori Act 1993” with “a preferred recipient in relation to the leased land (as preferred recipient is defined by **section 96 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, which applies as if a beneficiary were also an owner of the leased land)”.

10

In Schedule 1, clause 26, replace “a person who comes within the preferred classes of alienees under Te Ture Whenua Maori Act 1993” with “a preferred recipient or preferred entity in relation to the leased land (as those terms are defined by **section 96 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

15

**Maori Trust Boards Act 1955 (1955 No 37)**

Repeal section 24E.

Replace section 24F with:

**24F Board may contract to provide services to other bodies**

20

A Board may contract to provide administrative, secretarial, accounting, or other services to any governance body (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**), trust, or other body if the majority of the owners of the Māori freehold land managed by the governance body or the majority of the beneficiaries or members of the trust or other body (as applicable) are beneficiaries of the Board.

25

**Māori Trustee Act 1953 (1953 No 95)**

In section 11(5), replace “General land” with “private land (other than Māori land)”.

In section 13B(1), replace “any General land owned by Maori or any General land owned on behalf of Maori” with “any private land (other than Māori land) owned by Māori or any private land (other than Māori land) owned on behalf of Māori”.

30

Repeal section 30(7).

Replace section 30A(a) and (b) with:

- (a) any trust continued as an ahu whenua trust by **clause 12 of Schedule 1 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; or
- (b) any governance body (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**); or

35



**Māori Trustee Act 1953 (1953 No 95)**—*continued*

In section 30A(3), replace “Maori incorporation” with “governance body”.

**Maori Vested Lands Administration Act 1954 (1954 No 60)**

In section 4B(1), replace “registration in the Maori Land Court” with “recording in the Māori land register”.

In section 4B(2), replace “the Registrar of the Maori Land Court shall register the same by making a note thereof in the court’s records of” with “the chief executive responsible for the Māori land register must record the memorial by recording in the register the”.

In section 4B(4), replace “the Registrar shall cancel the entry in the court’s records” with “the chief executive responsible for the Māori land register must cancel the entry in the register”.

In section 4B(5), replace “the court shall direct the Registrar to” with “the chief executive responsible for the Māori land register may”.

**Maraeroa A and B Blocks Claims Settlement Act 2012 (2012 No 52)**

In section 78, definition of **protected land**, replace paragraph (b) with: 15

- (b) any Māori freehold land held by the Maraeroa and B Blocks Incorporation.

In section 85(1), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 85(2)(f) with: 20

- (f) **sections 103, 289, 300(1)(f) and (g), 303, 306, 308, 317, and 321 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016:**
- (fa) **section 407 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016:**

**Maraeroa A and B Blocks Incorporation Act 2012 (2012 No 2)** 25

Replace section 11 with:

**11 Application of other enactments**

- (1) Except as provided in this Act, nothing in **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** applies to the Maraeroa A and B Blocks Incorporation (the **Incorporation**). 30
- (2) If the Incorporation wishes to amalgamate with a rangatōpū (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**),—
- (a) **section 161 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** applies as if the Incorporation had been continued as a governance body under **clause 2 of Schedule 1 of those Parts**; and 35

**Maraeroa A and B Blocks Incorporation Act 2012 (2012 No 2)**—*continued*

- (b) after the amalgamation, **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** applies without modification to the resulting rangatōpū.
- (3) If the Incorporation acquires or is holding land that is not Māori freehold land, but that the Incorporation decides to hold as Māori freehold land,—
- (a) the Incorporation may apply to the court for an order declaring that the land is Māori freehold land; and 5
- (b) if the court makes an order under **paragraph (a)**, the Chief Registrar of the court must comply with **section 269 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**.
- (4) If the Incorporation acquires land that is Māori freehold land, but that the Incorporation decides to hold as an investment rather than as part of the corpus of the incorporation,— 10
- (a) the Incorporation may apply to the court under **section 27 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** for an order declaring that the land ceases to be Māori freehold land; and 15
- (b) the court may make the order despite **section 27(3)(a) of those Parts**.
- (5) **Sections 216 to 218 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** apply in respect of the Incorporation as if, in those sections,—
- (a) the references to a governance body were references to the Incorporation; and 20
- (b) the references to a governance agreement were references to the constitution of the Incorporation.
- (6) The Māori land register kept under **section 270 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** must contain as much of the information specified in **section 272 of those Parts** as is available in respect of the Incorporation. 25
- (7) For the purpose of **subsection (6), section 272 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** applies as if—
- (a) the Incorporation were a rangatōpū; and
- (b) the constitution of the Incorporation were a governance agreement. 30
- (8) Despite the repeal of Te Ture Whenua Maori Act 1993, sections 268 and 271 to 278 of that Act continue to apply to the Incorporation as if it were a Māori incorporation within the meaning of section 4 of that Act, except that—
- (a) the requirement to file documents with the Registrar of the court does not apply; and 35
- (b) the constitution of the Incorporation is set out in attachment 8 of the documents schedule and alterations to the constitution are to be made in accordance with the constitution.

**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**

In section 9(1), definition of **Māori Appellate Court**, replace “section 50 of Te Ture Whenua Maori Act 1993” with “**section 380 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 9(1), definition of **Māori Land Court**, replace “section 6 of Te Ture Whenua Maori Act 1993” with “**section 346 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 59(4)(b)(iv), replace “Māori reservation” with “whenua tāpui”.

After section 59(4)(b)(iv), insert:

- (iva) land that is subject to a kawenata tiaki whenua created under **section 137 44A of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** and that directly abuts the specified area:

In section 99(1)(a), replace “section 61 of Te Ture Whenua Maori Act 1993” with “**section 388 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

**Marine Reserves Act 1971 (1971 No 15)**

In section 5(10),—

- (a) replace “the Maori Affairs Act 1953” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”; and
- (b) replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”; and
- (c) replace “request the Registrar” with “request the chief executive”.

**Maritime Transport Act 1994 (1994 No 104)**

In section 434(3)(b), replace “and the provisions of Part 10 of Te Ture Whenua Maori Act 1993 shall apply in respect of notices served in the circumstances set out in that Part” with “and **sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** apply in respect of notices served in the circumstances set out in those sections”.

**Maungaharuru-Tangitū Hapū Claims Settlement Act 2014 (2014 No 12)**

In section 135(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Mining Tenures Registration Act 1962 (1962 No 48)**

In section 14(2), replace “private General land” with “other private land”.

In the Schedule 4 heading, replace “private General land” with “other private land”.

**Mortgagors and Lessees Rehabilitation Act 1936 (1936 No 33)**

In section 61(4), replace “the Registrar of the Maori Land Court for the district in which the land is situated, either personally or by posting it by registered letter addressed to the Registrar at his office” with “the chief executive responsible for the

**Mortgagors and Lessees Rehabilitation Act 1936 (1936 No 33)—continued**

Māori land register, either personally or by posting it by registered letter addressed to the chief executive’s office”.

**National Animal Identification and Tracing Act 2012 (2012 No 2)**

In Schedule 2, clause 6(3), replace “section 181 of Te Ture Whenua Maori Act 1993” with “**sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**New Zealand Railways Corporation Restructuring Act 1990 (1990 No 105)**

Replace section 26(a) with:

- (a) Māori freehold land, or private land (other than Māori land) that is beneficially owned by a Māori or by a group of persons of whom a majority are Maori, as those terms are defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; and

In section 26(c), after “trustees”, insert “, or managed under a governance agreement (within the meaning of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

In section 26, replace “section 436 of the Maori Affairs Act 1953” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 (2014 No 52)**

In section 6(2)(e), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016 and Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In the heading to section 12, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016 and Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 12(1), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 134(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāi Tahu Claims Settlement Act 1998 (1998 No 97)**

In section 8, definition of **Māori freehold land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

After section 12, insert:

**Ngāi Tahu Claims Settlement Act 1998 (1998 No 97)—continued****12A Application of Te Ture Whenua Maori Act 1993 and regulations**

A provision of Te Ture Whenua Maori Act 1993, or of any regulations made under that Act, continues to have effect (despite its repeal) for the purposes of any section of this Act that refers to the provision.

In section 394(3), replace “determined by the Maori Land Court from time to time to be beneficial owners pursuant to Te Ture Whenua Maori Act 1993” with “recorded as beneficial owners on the Māori land register maintained under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 5

In section 472(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 10

**Ngai Tāmanuhiri Claims Settlement Act 2012 (2012 No 55)**

In section 100(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāi Takoto Claims Settlement Act 2015 (2015 No 78)**

In section 167(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 15

**Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014 (2014 No 19)**

In section 175(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 20

**Ngāti Awa Claims Settlement Act 2005 (2005 No 28)**

In section 159(1), replace “Sections 297 to 304 of Te Ture Whenua Maori Act 1993” with “**Sections 112 to 116 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 159(2), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, and 194 of Te Ture Whenua Maori Act 1993” with “**sections 300(1)(g) and (h), 302(k), 306, and 308 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016, section 407(1)(a) of Parts 10 to 15 of Te Ture Whenua Māori Act 2016, and section 194 of Te Ture Whenua Maori Act 1993 (which applies as if not repealed)**”. 25

In section 159(3), replace “Section 342 of Te Ture Whenua Maori Act 1993” with “**Section 317 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 30

In section 159(4), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 170, replace “section 241(2)(b) of Te Ture Whenua Maori Act 1993 does not apply to the termination” with “the Māori Land Court must, in making the order to terminate the entity, vest the fee simple estate in Pukaahu in the Pukaahu claimants as a class of collective owners”. 35

**Ngāti Hauā Claims Settlement Act 2014 (2014 No 75)**

In section 122(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014 (2014 No 20)**

5

In section 195(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Koroki Kahukura Claims Settlement Act 2014 (2014 No 74)**

In section 59(5) and (6), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

10

Replace section 68(5) with:

(5) The provisions in **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, and in any regulations made under **section 326(i) of those Parts**, do not apply to the Māori reservation properties (which are treated as whenua tāpui by **clause 24 of Schedule 1 of those Parts**) except as follows:

15

(a) the Māori Land Court has jurisdiction under **section 36(1)(e) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** to amend the conditions or restrictions that apply to a whenua tāpui on application from the trustees, but must not amend or derogate from the terms in subsection (4); and

20

(b) the Māori Land Court may make an order declaring the reservation as whenua tāpui is cancelled for some or all of the land in a whenua tāpui in accordance with **section 36(1)(a) of those Parts**.

In section 68(6), replace “Sections 18(1)(c), 18(1)(d), 19(1)(a), 20, 24, 26, 194, and 342 of Te Ture Whenua Maori Act 1993” with “**Sections 300(1)(g) and (h), 302(k), 306, 308, and 317 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016, section 407(1)(a) of Parts 10 to 15 of Te Ture Whenua Māori Act 2016, and section 194 of Te Ture Whenua Maori Act 1993 (as if not repealed)**”.

25

In section 68(7), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

30

Replace section 85(1)(c) with:

(c) **sections 13, 243, and 316 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016.**

In section 85(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

35

In section 119(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Kuri Claims Settlement Act 2015 (2015 No 76)**

In section 166(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Mākino Claims Settlement Act 2012 (2012 No 53)**

In section 109(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Manawa Claims Settlement Act 2012 (2012 No 27)**

In section 86(4), replace “section 338(8) of Te Ture Whenua Maori Act 1993 to amend the terms of the trust of the Māori reservation” with “**section 36(1)(e) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** to amend the conditions or restrictions that apply to the whenua tāpui (as the Māori reservation is treated by **clause 24 of Schedule 1 of those Parts**)”.

Replace section 86(5) with:

- (5) No other provision of **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** or regulations made under **section 326(i) of those Parts** applies to the whenua tāpui.

In section 87(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 87(4), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply” with “section 194 applies (as if not repealed)”.

After section 87(4), insert:

- (4A) In relation to **Parts 1 to 9 of Te Ture Whenua Māori Act 2016, sections 300(1)(g) and (h), 302(k), 306, 308, and 317** apply to the jointly vested sites as if the land were Māori freehold land.
- (4B) In relation to **Parts 10 to 15 of Te Ture Whenua Māori Act 2016, section 407(1)(a)** applies to the jointly vested sites as if the land were Māori freehold land.

**Ngāti Manuhiri Claims Settlement Act 2012 (2012 No 90)**

In section 126(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Pāhauwera Treaty Claims Settlement Act 2012 (2012 No 30)**

In section 109(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Porou Claims Settlement Act 2012 (2012 No 31)**

In section 112(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Rangiteaorere Claims Settlement Act 2014 (2014 No 13)**

In section 76(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Rangiwewehi Claims Settlement Act 2014 (2014 No 14)**

In section 119(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 5

**Ngāti Toa Rangatira Claims Settlement Act 2014 (2014 No 17)**

In section 160(2)(c), replace “Maori reservation” with “whenua tāpui”.

In section 197(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 10

**Ngāti Whare Claims Settlement Act 2012 (2012 No 28)**

In section 89(4), replace “section 338(8) of Te Ture Whenua Maori Act 1993 to amend the terms of the trust of the Māori reservation” with “**section 36(1)(e) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** to amend the conditions or restrictions that apply to the whenua tāpui (as the Māori reservation is treated by **clause 24 of Schedule 1 of those Parts**)”. 15

Replace section 89(5) with:

(5) No other provision of **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** or regulations made under **section 326(i) of those Parts** applies to the whenua tāpui. 20

In section 90(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 90(4), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply” with “section 194 applies (as if not repealed)”. 25

After section 90(4), insert:

(4A) In relation to **Parts 1 to 9 of Te Ture Whenua Māori Act 2016, sections 300(1)(g) and (h), 302(k), 306, 308, and 317** apply to the jointly vested sites as if the land were Māori freehold land.

(4B) In relation to **Parts 10 to 15 of Te Ture Whenua Māori Act 2016, section 407(1)(a)** applies to the jointly vested sites as if the land were Māori freehold land. 30

In section 105(4), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 105(5), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply” with “section 194 applies (as if not repealed)”. 35

After section 105(5), insert:



**Ngāti Whare Claims Settlement Act 2012 (2012 No 28)**—*continued*

(5A) In relation to **Parts 1 to 9 of Te Ture Whenua Māori Act 2016, sections 300(1)(g) and (h), 302(k), 306, 308, and 317** apply to the jointly vested sites as if the land were Māori freehold land.

(5B) In relation to **Parts 10 to 15 of Te Ture Whenua Māori Act 2016, section 407(1)(a)** applies to protected land as if it were Māori freehold land.

5

**Ngāti Whātua o Kaipara Claims Settlement Act 2013 (2013 No 37)**

In section 111(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Ngāti Whātua Ōrākei Claims Settlement Act 2012 (2012 No 91)**

In section 60(2), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

10

In section 60(3)(a), replace “sections 338(3) and (5) to (14), 340, and 341 of Te Ture Whenua Maori Act 1993” with “**sections 31(3)(a) and (b) and (4)(b), 33 to 36, 40 to 43, and 44(2) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 63(3)(c)(i), replace “General land within the meaning of section 4 of Te Ture Whenua Maori Act 1993” with “private land (other than Māori land) within the meanings of **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

15

In section 66(4)(c), replace “Te Ture Whenua Maori Act 1993 relating to trustees of Maori reservations” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016** relating to administering bodies of whenua tāpui”.

20

In section 67(2)(a), replace “the trustees of a Maori reservation by any regulations made under section 338 of Te Ture Whenua Maori Act 1993” with “the administering body of a whenua tāpui by any regulations made under **section 326(d) of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 75(1) and (2), replace “the Registrar of the Maori Land Court” with “chief executive responsible for the Māori land register”.

25

**Overseas Investment Act 2005 (2005 No 82)**

In Schedule 1, Part 1, table 2, replace the item relating to a Māori reservation to which section 340 of Te Ture Whenua Maori Act 1993 applies with:

- a whenua tāpui reserved under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** for the common use and benefit of the people of New Zealand; or
- land that is subject to a kawenata tiaki whenua created under **section 137 44A of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

30

**Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 (2009 No 26)**

In section 48(6)(a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 103(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Privacy Act 1993 (1993 No 28)**

In Schedule 2, Part 1, replace the item relating to Te Ture Whenua Maori Act 1993 with:

<b>Parts 1 to 9 of Te Ture Whenua Māori Act 2016</b>	<b>Section 270(1)(a)</b>
--	--------------------------

**Property Law Act 2007 (2007 No 91)**

In section 8(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 264(4), after “Te Ture Whenua Maori Act 1993”, insert “if it relates to an existing lease to which **clause 28 of Schedule 1 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** applies”.

In section 328(3)(a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Property (Relationships) Act 1976 (1976 No 166)**

In section 6, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Protected Objects Act 1975 (1975 No 41)**

In section 12(1)(d), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 12(1)(g) with:

- (g) to appoint a new trustee or trustees for any taonga tūturu held in trust, but only if—
  - (i) the trustee would be eligible for appointment—
    - (A) as a governance body under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** (see **section 158(1)** of those **Parts**); or
    - (B) as a kaitiaki of a governance body under **section 184(3)** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; and
  - (ii) the trustee consents to the appointment.

**Protected Objects Act 1975 (1975 No 41)**—*continued*

In section 12(3), replace “section 19(1)(b) of Te Ture Whenua Maori Act 1993” with “**section 407(1)(b) of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 12(4), replace “section 30 of Te Ture Whenua Maori Act 1993” with “**Part 9 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Protection of Personal and Property Rights Act 1988 (1988 No 4)**

5

Replace sections 31A and 31B with:

**31A Kaiwhakamarumarū appointed**

- (1) This section applies if, in respect of any interests in land or any properties,—
- (a) a kaiwhakamarumarū is appointed under **section 73 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; or
  - (b) a kaitiaki trust is constituted under section 217 of the Te Ture Whenua Maori Act 1993.
- (2) No property order made under section 31 and no declaration accepted by a trustee corporation and filed under section 32(3) or 33(4) applies in respect of the interests or property.

10

15

**31B Māori land**

- (1) Where it appears to a Family Court that an application for the exercise of the court’s jurisdiction under this Part may result in an order appointing 1 or more persons to act as the manager of beneficial interests in Māori freehold land (as defined in **section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**), the court must refer that application to the Māori Land Court.
- (2) The Māori Land Court must treat the application, to the extent that it relates to beneficial interests in Māori freehold land, as if it were an application under **section 73 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** for the appointment of a kaiwhakamarumarū to manage the interests.
- (3) Where the Māori Land Court makes an order appointing a kaiwhakamarumarū in respect of any beneficial interests in Māori freehold land and the order covers other interests or property,—
- (a) no order may be made under section 31 in respect of any of the interests or property covered by the order appointing the kaiwhakamarumarū; and
  - (b) no trustee corporation may, under section 32(3) or 33(4), accept any application filed under section 32 or 33 in respect of any of the interests or property covered by the order appointing the kaiwhakamarumarū.
- (4) Where the Māori Land Court, after considering an application referred to that court under **subsection (1)**, declines to appoint a kaiwhakamarumarū in respect of any beneficial interests in Māori freehold land to which that application relates, a Family Court may—

20

25

30

35

**Protection of Personal and Property Rights Act 1988 (1988 No 4)—continued**

- (a) make a property order under section 31 in respect of any or all of those interests; or
- (b) otherwise exercise its jurisdiction under this Part in respect of any or all of those interests.

**Public Trust Act 2001 (2001 No 100)**

5

Replace section 99(2)(a) with:

- (a) Māori land within the meaning of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; or

**Public Works Act 1981 (1981 No 35)**

In section 17(4)(a), replace “section 2 of Te Ture Whenua Maori Act 1993” with **“section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016”**. 10

In section 17(4)(c), after “trustees”, insert “or managed under a governance agreement (within the meaning of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

In section 17(4), replace “the Maori Land Court for the district in which the land is situated for an order under the provisions of Part 9 of the Maori Affairs Amendment Act 1974” with “the Māori Land Court to appoint a kaiwhakahaere for the land under **section 189 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 15

In section 17(5), replace “an agent” with “a kaiwhakahaere”.

In section 18(5)(a), replace “section 4 of Te Ture Whenua Maori Act 1993” with **“section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016”**. 20

In section 18(5)(c), after “trustees”, insert “or managed under a governance agreement (within the meaning of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

In section 18(5), replace “the Maori Land Court for the district in which the land is situated for an order under the provisions of Part 10 of Te Ture Whenua Maori Act 1993” with “the Māori Land Court to appoint a kaiwhakahaere for the land under **section 189 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 25

In section 18(6), replace “an agent” with “a kaiwhakahaere”.

In section 23(2), replace “at the appropriate Maori Land Court” with “from the Māori land register kept under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 41(a) with: 30

- (a) Māori freehold land, or private land (other than Māori land) that is beneficially owned by a Māori or by a group of persons of whom a majority are Māori, as those terms are defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**); and

In section 41(c), after “trustees”, insert “or managed under a governance agreement (within the meaning of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”. 35

Replace section 41(e) with:

**Public Works Act 1981 (1981 No 35)**—*continued*

- (e) apply to the Māori Land Court for an order under **section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**.

**Queen Elizabeth the Second National Trust Act 1977 (1977 No 102)**

In section 2, definition of **Maori land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 22(2), replace “(and, if the land is Maori land, of the Registrar of the Maori Land Court)” with “(and, if the land is Māori freehold land, of the person or persons entitled to receive a notice to the owners of the land under **section 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

**Railways Act 2005 (2005 No 37)**

In section 4(1), definition of **road**, replace paragraph (b)(iii) with:

- (iii) a roadway laid out by order of the Māori Land Court under sections 315 to 327 of Te Ture Whenua Maori Act 1993 or any former Act, unless—
- (A) that order has been cancelled; or
- (B) the roadway has been declared to be a road; or

**Rating Valuations Act 1998 (1998 No 69)**

Replace section 5B(3)(b)(i)(C) with:

- (C) Māori freehold land subject to a lease granted for the purposes of residential housing in accordance with **section 129 or 130 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; and

Replace section 5C(5)(b)(i)(B) with:

- (B) Māori freehold land subject to a lease granted for the purposes of residential housing in accordance with **section 129 or 130 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; and

**Raukawa Claims Settlement Act 2014 (2014 No 7)**

In section 119(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Reserves Act 1977 (1977 No 66)**

In section 2(1), definition of **Maori** and **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 2(1), delete the definition of **Maori reservation**.

In section 2(1), definition of **reserve** or **public reserve**, replace paragraph (m) with:

**Reserves Act 1977 (1977 No 66)**—*continued*

(m) any whenua tāpui

In section 2(1), insert in its appropriate alphabetical order:

**whenua tāpui** means land reserved as a whenua tāpui by a declaration under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

In section 12(1), replace “on the Registrar of the Maori Land Court in accordance with Part 10 of Te Ture Whenua Maori Act 1993, and the provisions of that Part shall apply accordingly” with “in accordance with **sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, and **section 325 of those Parts** applies accordingly”.

In section 38(1) and (2), replace “Maori reservation” with “whenua tāpui”.

In section 38(2), delete “(including trustees appointed under section 438 of the Maori Affairs Act 1953)”.

In section 38(2), replace “Maori incorporation” with “governance body (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

In section 39(b), delete “(including trustees appointed under section 438 of the Maori Affairs Act 1953)”.

In section 39(b), replace “Maori incorporation” with “governance body (as defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**)”.

In section 85(1), replace “Maori reservation” with “whenua tāpui and any land that is subject to a kawenata tiaki whenua created under **section ~~137~~ 44A of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 86 with:

**86 Payment of rates on whenua tāpui**

If a whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** is reserved for the common use and benefit of the people of New Zealand, and is held and managed by an administering body, the Minister may, by agreement with the administering body, contribute towards the payment, out of money appropriated by Parliament for the purpose, of the whole or part of any rates from time to time levied on the land.

In section 119(2), replace “section 181 of Te Ture Whenua Maori Act 1993” with “**sections 322 to 324 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Reserves and Other Lands Disposal Act 1995 (1995 No 54)**

In section 13, replace “Registrars of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

**Resource Management Act 1991 (1991 No 69)**

Replace section 11(1)(c) with:

**Resource Management Act 1991 (1991 No 69)**—*continued*

- (c) effected by the reservation of land as a whenua tāpui or for inclusion in a whenua tāpui, or by any land ceasing to be reserved as a whenua tāpui, under **subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; or

In section 11(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 5

In section 108(9)(b), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 353, replace “Part 10 of Te Ture Whenua Maori Act 1993” with “**Sections 322 to 325 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 10

In section 353, replace “section 181(4)” with “**section 325**”.

**Rongowhakaata Claims Settlement Act 2012 (2012 No 54)**

In section 82(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Search and Surveillance Act 2012 (2012 No 24)** 15

In the Schedule, item relating to the Fisheries Act 1996, item relating to section 200(1), third column, replace “Māori reservation” with “whenua tāpui”.

**Summary Proceedings Act 1957 (1957 No 87)**

In section 30, replace “Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 20

**Summit Road (Canterbury) Protection Act 2001 (2001 No 3 (L))**

In section 35, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Tapuika Claims Settlement Act 2014 (2014 No 15)**

In section 162(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 25

**Tauranga City Council and Mount Maunganui Borough Council (Tauranga Harbour Bridge) Empowering Act 1972 (1972 No 4 (L))**

In section 13(2),—

- (a) replace “section 439 of the Maori Affairs Act 1953” with “**subpart 2 of Part 2 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”; and 30
- (b) replace “Maori reservation set apart under that section” with “whenua tāpui declared under that subpart”.

**Te Aupouri Claims Settlement Act 2015 (2015 No 77)**

In section 168(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Te Kawerau ā Maki Claims Settlement Act 2015 (2015 No 75)**

In section 78(8), replace “Te Ture Whenua Maori Act 1993” with “**Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 78(8)(a), replace “section 34” with “**section 365**”.

In section 78(8)(b), replace “section 35” with “**section 366**”.

In section 78(8)(c), replace “section 36” with “**section 367**”.

In section 79(1), replace “section 41 of Te Ture Whenua Maori Act 1993” with “**section 376 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

In section 126(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Te Rarawa Claims Settlement Act 2015 (2015 No 79)**

In section 196(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Te Runanga o Ngai Tahu Act 1996 (1996 No 1)**

After section 11(2), insert:

- (3) Section 30 of Te Ture Whenua Maori Act 1993 continues to have effect (despite its repeal) for the purposes of this section and section 12.

**Te Urewera Act 2014 (2014 No 51)**

In section 88, definition of **Māori freehold land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 93(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 104(2)(a) with:

- (a) the agreement for the Board to acquire the land by sale and purchase, or to receive the land as a gift, must be treated as a disposition of the whole or part of a parcel for the purposes of **Part 4 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; and

Replace section 104(2)(c) with:

- (c) the requirements of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** for the disposition by sale or gift of the whole or part of a parcel must be complied with.

Replace section 105(2) with:



**Te Urewera Act 2014 (2014 No 51)—continued**

(2) In the case of a proposal relating to Māori freehold land, the Minister must be satisfied that the Māori Land Court has made an order of confirmation under **Part 4 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** that the disposition of the land for the purpose of adding it to Te Urewera complies with the requirements of **those Parts**.

5

**Treaty of Waitangi Act 1975 (1975 No 114)**

In section 6A(8), replace “section 58 of Te Ture Whenua Maori Act 1993” with “**sections 384 and 385 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**” in each place.

In Schedule 2, clause 5AC(2)(a)(ii), replace “section 12 of Te Ture Whenua Maori Act 1993” with “**section 437 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

10

**Tūhoe Claims Settlement Act 2014 (2014 No 50)**

In section 72(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 24 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

15

**Tutae-Ka-Wetoweto Forest Act 2001 (2001 No 48)**

In section 9(1), replace “The Registrar of the Maori Land Court” with “The chief executive responsible for the Māori land register”.

In section 9(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

20

**Unit Titles Act 2010 (2010 No 22)**

In section 14, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Waikato Raupatu Claims Settlement Act 1995 (1995 No 58)**

In section 22, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

25

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)**

In section 71(7), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

30

In section 78(7), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Waitutu Block Settlement Act 1997 (1997 No 84)**

In section 3, definition of **Incorporation**, replace “continued under section 357 of Te Ture Whenua Maori Act 1993” with “continued as a governance body by **clause 2 of Schedule 1 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Walking Access Act 2008 (2008 No 101)**

5

In section 4, definition of **Maori freehold land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 4, definition of **Maori Land Court**, replace “section 6 of Te Ture Whenua Maori Act 1993” with “**section 346 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

10

In section 4, definition of **private land**, paragraph (a)(ii), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace section 27(1)(a) to (c) with:

15

- (a) in the case of Māori freehold land vested in a whānau trust established under **section 58 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, with the trustees of that trust; and
- (b) in the case of Māori freehold land managed under a governance agreement (within the meaning of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**), with the governance body that is a party to the agreement; and
- (c) in the case of Maori freehold land not managed under a governance agreement or vested in a whānau trust, with the sole owner, joint tenants, or owners in common of that land, as the case may be; and

20

25

In section 27(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 27(2)(a), replace “obtained” with “to be obtained”.

**Wills Act 2007 (2007 No 36)**

Replace section 8(6) with:

30

- (6) This section is overridden by any provision of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** that restricts the disposition by will of a beneficial interest in Māori freehold land.

Replace section 34(3) with:

- (3) This section is overridden by any provision of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** that restricts the disposition by will of a beneficial interest in Māori freehold land.

35

## Part 2

### Amendments to legislative instruments

#### Climate Change (Forestry Sector) Regulations 2008 (SR 2008/355)

In regulation 4(1), definition of **Registrar**, replace “a Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”. 5

In regulation 10(2)(a), replace “Registrar of the Maori Land Court in whose jurisdiction the land is located” with “chief executive responsible for the Māori land register”.

In regulation 10(3)(c) and 11, replace “record of the Maori Land Court” with “record in the Māori land register”. 10

In regulation 12(3)(a) and (b), replace “Maori Land Court record” with “record in the Māori land register”.

In regulation 17(b), replace “Maori Land Court records” with “records in the Māori land register”.

In regulation 24(b)(i)(B), replace “Maori Land Court records” with “records in the Māori land register”. 15

In Schedule 3, form 1, replace “Registrar of the Maori Land Court at [*specify location of court*]” with “chief executive responsible for the Māori land register”.

In Schedule 3, form 2, replace “Registrar of the Maori Land Court at [*specify location of court*]” with “chief executive responsible for the Māori land register”. 20

#### Domestic Violence (Public Registers) Regulations 1998 (SR 1998/342)

In Schedule 1, replace the item relating to Te Ture Whenua Maori Act 1993 with:

**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**                      **Section 270(1)(a)**

#### Employment Court Regulations 2000 (SR 2000/250)

In regulation 32, replace “Maori within the meaning of Te Ture Whenua Maori Act 1993” with “Māori within the meaning of **section 5** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 25

#### Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482)

In regulation 6(1), definition of **Māori**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 30

#### Land Information New Zealand (Fees and Charges) Regulations 2003 (SR 2003/124)

In the Schedule, Part 6, item 5,—

**Land Information New Zealand (Fees and Charges) Regulations 2003 (SR 2003/124)—*continued***

- (a) replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”; and
- (b) replace “section 134(3)(c)(ii) or 151(1)(a)” with “**section 24(2)(c)(ii) or 149**”.

**Land Transfer (Land Information and Offshore Persons Information) Exemption Regulations 2015 (LI 2015/222)** 5

In regulation 4(2), definition of **Maori land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

**Land Transfer Regulations 2002 (SR 2002/213)** 10

In Schedule 1, Part 1, item relating to discharge instrument, paragraph (c), replace “Sections 82, 333, Te Ture Whenua Maori Act 1993” with “**Section 418 of Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

**Maori Incorporations Constitution Regulations 1994 (SR 1994/60)**

In regulation 2, replace “sections 253A and 268(3) of the Act” with “**Part 1 of Schedule 4 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 15

In Schedule 1, clause 1, definition of **the Act**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In Schedule 1, clause 2(1)(a), replace “section 280” with “any of **sections 216 to 220**”. 20

In Schedule 1, clause 4(1)(a), replace “section 251” with “**clauses 9 to 11 of Schedule 3**”.

In Schedule 1, clause 4(1)(b), replace “section 252” with “**section 161**”.

In Schedule 1, revoke ~~regulation-clause~~ 4(1)(c) to (e).

In Schedule 1, clause 4(1)(f), delete “, under section 258 of the Act,”. 25

In Schedule 1, clause 4(1)(h), delete “pursuant to section 253A or 268(3) of the Act”.

In Schedule 1, revoke clause 4(1)(j).

In Schedule 1, ~~regulation-clause~~ 4(4), replace “to the Registrar, who shall record the resolution in the register of Maori incorporations in accordance with section 279 of the Act” with “to the chief executive for registration on the Māori land register”. 30

In Schedule 1, revoke clause 4(5).

In Schedule 1, clause 6(b), replace “required by section 276(4) of the Act to be” with “that are”.

In Schedule 1, clause 6(d), delete “under section 277 of the Act”.

In Schedule 1, clause 6(e), delete “under section 278 of the Act”. 35

**Maori Incorporations Constitution Regulations 1994 (SR 1994/60)—continued**

In Schedule 1, clause 6(f)(i), replace “section 259(1)(c)” with “**section 212(1)(a)**”.

In Schedule 1, clause 6(f)(ii), replace “section 259(1)(d)” with “**section 212(1)(b)**”.

In Schedule 1, replace clause 12(2) with:

(1A) **Subclause (2)** applies to any person—

- (a) who, by virtue of a kai tiaki trust established under section 217 of Te Ture Whenua Maori Act 1993, is a trustee for any shareholder in respect of his or her shares; or 5
- (b) who, by virtue of a kaiwhakamarumarū appointment made under **section 73 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**, is the manager of any shareholder’s shares; or 10
- (c) who is the duly appointed attorney of any shareholder.

(2) A person to whom this subclause applies may attend, vote, and act at any meeting of the incorporation, either personally, by proxy, or by postal vote, in the same manner and on the same conditions as if that person were the shareholder.

In Schedule 1, clause 25(3), delete “, as required by section 273 of the Act,”. 15

In Schedule 1, clause 29, replace “section 263(4) of the Act” with “section 263(4) of Te Ture Whenua Maori Act 1993 (as continued by **clause 6 of Schedule 1** of the Act)”.

In Schedule 1, clause 31(2)(b), replace “Part 7” with “**section 140**”.

**Māori Land Court Fees Regulations 2013 (SR 2013/219)** 20

In regulation 3, definition of **proceeding**, paragraph (a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016 or Parts 10 to 15 of Te Ture Whenua Māori Act 2016**”.

**Māori Trustee Regulations 2009 (SR 2009/169)**

In regulation 6(3), replace “the agent of the owners under Part 9 of Te Ture Whenua Maori Act 1993 in the sale of the land” with “the kaiwhakahaere of the owners under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** in the sale of the land”. 25

**Social Security (Monetary Benefits) Regulations 2007 (SR 2007/229)**

In regulation 4(a), replace “section 4 of the Maori Land Act 1993” with “**section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 30

## Schedule 9 Schedules 1 and 2 replaced

s 474

### Schedule 1 Transitional, savings, and related provisions

5

s 2A

#### Part 1 Provisions relating to Part 16 of Te Ture Whenua Māori Act 2016

- 1 Action may be taken before commencement of amendments**
- (1) Regulations may be made under **section 52A**, and rules may be made under **section 5(1)(aa) to (ac)**, before the commencement of the amendments as long as the regulations and rules commence on or after the commencement of the amendments (the **regulations and rules**). 10
- (2) A person may, before the commencement of the amendments, take action in accordance with any provision of this Act and the regulations and rules. 15
- (3) However, any action taken under **subclause (2)** must not affect valuations, rates, or related matters that apply to any period before the commencement of the amendments.
- (4) **Subsections Subclauses (1) and (2)** apply as if the amendments, and any related enactment that has not commenced, had commenced, and **subsection subclause (2)** also applies as if the regulations and rules had commenced. 20
- (5) In this clause,—
- (a) **amendments** means **subpart 4 of Part 16 of Te Ture Whenua Māori Act 2016**;
- (b) a reference to a provision of this Act is a reference to the provision as it will be on the commencement of the amendments. 25

**Schedule 10**  
**New Schedule 1AA inserted**

s 477

**Schedule 1AA**  
**Transitional, savings, and related provisions**

5

s 5A

**Part 1**

**Provisions relating to Part 16 of Te Ture Whenua Māori Act 2016**

**1 Interpretation**

In this Part,—

10

- (a) **amendments** means **subpart 4 of Part 16 of Te Ture Whenua Māori Act 2016**;
- (b) a reference to a provision of this Act or the Rating Valuations Act 1998 is a reference to the provision as it will be on the commencement of the amendments.

15

**2 Action may be taken before commencement of amendments**

- (1) A person may, before the commencement of the amendments, take action in accordance with any provision of this Act and any regulations or rules made under **section 52A or 5(1)(aa) to (ac)** of the Rating Valuations Act 1998.
- (2) However, any action taken under **subclause (1)** must not affect valuations, rates, or related matters that apply to any period before the commencement of the amendments.
- (3) **Subsection—Subclause (1)** applies as if the amendments, regulations, and rules, and any related enactment that has not commenced, had commenced.

20

**3 Write-off of rates on land that becomes non-rateable on commencement of amendments**

25

- (1) This clause applies to any land that, on the commencement of the amendments, becomes non-rateable under **clause 1A, 10, 12, or 13** of Schedule 1 (which relate to land subject to a Nga Whenua Rahui kawenata, land used as a Māori burial ground or urupā, whenua tāpui declared for the purpose of a marae or meeting place, and land used as a marae).
- (2) The local authority must write off any rates owed on the land for the period before the commencement of the amendments,—
- (a) including penalties for unpaid rates; but
- (b) excluding any targeted rate to which section 9 applies.

30

35

- (3) The local authority must give notice to the ratepayer identifying the rates that are written off.



**Schedule 11**  
**New Part 2 of Schedule 1AA inserted**

s 479

**Part 2**

**Provisions relating to Part 16 of Te Ture Whenua Māori Act 2016** 5

- 1 Action may be taken before commencement of amendments**
- (1) A person may, before the commencement of the amendments, take action towards the adoption of a policy under **section 102(3)(c) or (d)** in accordance with any provision of this Act.
- (2) However, the policy must not be adopted before the commencement of the amendments. 10
- (3) **Subsection-Subclause (1)** applies as if the amendments, and any related enactment that has not commenced, had commenced.
- (4) In this clause,—
- (a) **amendments** means **subpart 4 of Part 16 of Te Ture Whenua Māori Act 2016**: 15
- (b) a reference to a provision of this Act is a reference to the provision as it will be on the commencement of the amendments.

**Schedule 12**  
**New Schedule 11A inserted**

s 495

<b>Schedule 11A</b>		
<b>Matters relating to non-rateability of unused Māori freehold land and write-off of earlier rates</b>		5
		<b>s 110A(4)</b>
1	The matters that the local authority must consider under <b>section 110A(4)</b> are—	
	(a) the desirability and importance within the district of each of the objectives in <b>clause 2</b> ; and	10
	(b) whether, and to what extent, the attainment of any of those objectives could be prejudicially affected if unused Māori freehold land remains rateable or earlier rates owed on unused Māori freehold land remain payable; and	15
	(c) whether, and to what extent, the attainment of those objectives is likely to be facilitated by the non-rateability of unused Māori freehold land or the write-off of earlier rates owed on unused Māori freehold land; and	
	(d) the extent to which different criteria and conditions for non-rateability or write-off of earlier rates may contribute to different objectives.	20
2	The objectives are—	
	(a) supporting the use of the land by the owners for traditional purposes:	
	(b) recognising and supporting the relationship of Māori and their culture and traditions with their ancestral lands:	
	(c) avoiding further alienation of Māori freehold land:	25
	(d) facilitating any wish of the owners to develop the land for economic use:	
	(e) recognising and taking account of the presence of waahi tapu that may affect the use of the land for other purposes:	
	(f) recognising matters related to the physical accessibility of the land.	

**Legislative history**

14 April 2016  
11 May 2016

Introduction (Bill 126–1)  
First reading and referral to Māori Affairs Committee