

Te Ture Whenua Māori Bill

Government Bill

Explanatory note

General policy statement

This is a Bill to restate and reform the law relating to Māori land.

There have been more than 180 statutes relating to Māori land. The subject matter of these statutes has ranged from specific technical matters to substantial law reform, reflecting the changing nature of Māori land policy over the past 162 years. This Bill has had to be developed in the context of the historical regime for Māori land with all its complications.

Currently, the primary law relating to Māori land is contained in Te Ture Whenua Maori Act 1993. Te Ture Whenua Maori Act 1993 reflects a significant change of legislative focus from a legal framework that, historically, tended to regulate the ways in which Māori land could be assimilated and alienated and, instead, established a legal framework with retention of Māori land as its central policy premise.

This Bill recognises the intrinsic cultural dimension to Māori land. The Bill continues to have retention of Māori land as a central focus but its protection mechanisms are built more around procedural safeguards than around extensive reliance upon the exercise of judicial discretion.

Te Ture Whenua Maori Act 1993 has more than 200 operative provisions creating discretionary decision-making situations. In reports such as *Ko Ngā Tumanako o Ngā Tāngata Whai Whenua Māori: Owner Aspirations Regarding the Utilisation of Māori Land* (Te Puni Kōkiri, 2011) it has been noted that extensive reliance on judicial discretion creates uncertainty for owners of Māori land in the development of aspirations for their land and in the implementation of actions to achieve those aspirations.

Utilisation goes hand-in-hand with retention and Te Ture Whenua Maori Act 1993 expressly refers to the dual kaupapa of retention and utilisation of Māori land in its Preamble. However, the Act treats the two objectives quite differently. Provisions in the Act relating to alienation are given a clear focus in order to avoid ambiguity in their

application but provisions associated with utilisation have not been given the same focus.

The Bill addresses this imbalance with new provisions associated with the governance and utilisation of Māori land that set clear and unambiguous parameters for decision making and action. The Bill's provisions are designed to support and promote the use of Māori land by its owners and future generations and to more closely align legislative policy with the principle of rangatiratanga by facilitating the pursuit by Māori land owners of their aspirations for their land.

The policy settings for Te Ture Whenua Maori Act 1993 drew on advice contained in *The Māori Land Courts: Report of the Royal Commission of Inquiry* (1980) and the New Zealand Māori Council's discussion paper *Kaupapa Te Wahanga Tuatahi* (February 1983). The policy for this Bill continues to draw on that advice together with advice contained in the report of *Te Ture Whenua Māori Act 1993 Review Panel* (March 2014), and feedback from multiple rounds of consultation, workshops, and engagement with relevant Māori organisations. The Bill has been strongly influenced by submissions on an exposure draft released for public consultation in May 2015.

The development of this Bill has also been informed by advice and information contained in a number of other reports, including the Māori Land Investment Group's *Securing Finance on Multiple-Owned Māori Land: Options for Government* (1996), the Federation of Māori Authorities' *Māori Land Court and Utilisation Options Under Te Ture Whenua Māori Act 1993* (1997), the Māori Multiple-Owned Land Development Committee's *Māori Land Development* (1998), Te Puni Kōkiri reports arising from the 1998 review of Te Ture Whenua Maori Act 1993 including feedback reports on consultation hui, *Report of the National Wānanga Held to Discuss the Principles to Underpin Māori Land Legislation* (1999), the New Zealand Institute of Economic Research's *Māori Economic Development: Te Ōhanga Whanaketanga Māori* (2003), the Controller and Auditor-General's *Māori Land Administration: Client Service Performance of the Māori Land Court Unit and the Māori Trustee* (2004), the Hui Taumata's *Māori Land Tenure Review: Report on Issues* (2006), Te Puni Kōkiri's *Ko Ngā Tumanako o Ngā Tangata Whai Whenua Māori: Owner Aspirations Regarding the Utilisation of Māori Land* (2011), the Ministry of Agriculture and Forestry's *Māori Agribusiness in New Zealand: A Study of the Māori Freehold Land Resource* (2011), and the Ministry for Primary Industries' *Growing the Productive Base of Māori Freehold Land* (2013).

Whenua Māori/Māori land

The total amount of Māori freehold land is now reduced to 1.456 million hectares out of a total land mass of 26.771 million hectares. This is approximately 5.5% of all land in New Zealand. Ninety-five percent of Māori freehold land, 1.390 million hectares, is in the North Island, and makes up approximately 12% of all land in the North Island. The greatest concentrations of Māori freehold land are in the Bay of Plenty/East Cape region, the central North Island, and Northland.

In *Kaupapa Te Wahanga Tuatahi*, the New Zealand Māori Council described Māori land in the following terms:

Māori land has several cultural connotations for us. It provides us with a sense of identity, belonging and continuity. It is proof of our continued existence not only as a people, but as tangatawhenua of this country. It is proof of our tribal and kin group ties. Māori land represents turangawaewae.

It is proof of our link with the ancestors of our past, and with the generations yet to come. It is an assurance that we shall forever exist as a people, for as long as the land shall last.

But also land is a resource capable of providing greater support for our people – to provide employment – to provide us with sites for our dwellings – and to provide an income to help support our people and to maintain our marae and tribal assets.

The Bill reflects these special characteristics by keeping Māori land retention as a core focus and by continuing to regulate transactions where retention may be placed at risk. This is done using the same high thresholds for sales and permanent alienations applying under Te Ture Whenua Maori Act 1993 and building on those thresholds by enabling owners of Māori land to set even higher thresholds within the governance arrangements for their land. The Bill prescribes a clear decision-making process and provides the Māori Land Court with jurisdiction to ensure due process is followed and legal protections are complied with. The Bill also provides the Māori Land Court with some discretion over whether Māori freehold land status can be removed and over whether partitions will assist owners of Māori freehold land to retain, occupy, or develop their land.

In order to reflect the dual kaupapa expressed by the New Zealand Māori Council, the Bill reflects a policy shift to more clearly support land utilisation as determined by the owners themselves. This is done by providing a new framework within which owners of Māori land are themselves better able to determine, design, establish, and operate effective governance arrangements for their land. The new framework establishes a clear and explicit governance environment, providing certainty for those working within it, flexible options for governance structures, the ability to reflect tikanga Māori in governance arrangements, baseline thresholds for certain decisions, appropriate measures for governor accountability, and new dispute resolution procedures.

Tikanga Māori

One of the principles of the Bill is that tikanga Māori is central to matters involving Māori land. The Bill expressly defers to tikanga Māori for a range of matters including, as examples, the way associations with Māori customary land are determined, the way preferred recipients of Māori freehold land are determined, the way relationships of descent are determined, and the way disputes are resolved.

While the common law as applied in New Zealand has always been amenable to development to take account of tikanga Māori, which is considered to be part of the values of the New Zealand common law (*Takamore v Clarke* [2012] NZSC 116), stat-

ute law has tended to be less cognisant of tikanga Māori. However, a statute dealing with Māori land is one in which tikanga Māori should clearly be recognised and applied.

In making references to tikanga Māori in the Bill, care has been taken to avoid a statutory codification of what constitutes tikanga Māori. The Bill directs courts to determine any question as to the tikanga Māori that applies in a particular situation on the basis of evidence.

As noted by the Chief Justice, Rt Hon Dame Sian Elias, in *Takamore v Clarke*, what constitutes tikanga Māori in any particular case is a question of fact for expert evidence and a court asked to identify the content of tikanga Māori by evidence is not engaged in a process of interpretation or law-creation.

Whenua tāpui

The Bill provides for whenua tāpui, which are the equivalent of Māori reservations under Te Ture Whenua Maori Act 1993 but with some differences.

Under the Bill a Māori Land Court order is required in order to reserve land as whenua tāpui but in most cases the process will no longer require the 2 steps of a court recommendation and, then, a notice by the Chief Executive of Te Puni Kōkiri published in the *Gazette*.

Unless the relevant land is Crown land, the court will have jurisdiction to make, rather than merely recommend, the reservation of whenua tāpui and a subsequent notice in the *Gazette* will not be required.

In the case of Crown land, the Bill provides that the Minister responsible for that land is able to reserve it as whenua tāpui by publishing a declaration to that effect in the *Gazette* without requiring a Māori Land Court order.

The Bill enables land owners to agree that the underlying beneficial ownership of land reserved as whenua tāpui for the purposes of a marae or urupā may vest in the collective group for whom the marae or urupā is established. For this to occur, the holders of at least 75% of the pre-existing beneficial ownership interests must agree.

The Bill provides for court-appointed administering bodies, rather than individual trustees, to administer whenua tāpui. This is more consistent with the administration of reserves, generally.

The Bill provides that land reserved as whenua tāpui cannot be disposed of or vested under an Act or in any other way. This does not prevent cancellation of the reservation or any vesting associated with the cancellation, nor the granting or cancellation of certain easements and leases, nor the disposition of an individual freehold interest in the underlying beneficial ownership.

To avoid undue complexity, Māori freehold land held by a governance body cannot be reserved as whenua tāpui but the Bill provides an alternative mechanism in that case through a new instrument called a kawenata tiaki whenua.

A kawenata tiaki whenua may apply to an area of cultural or historical interest or a place of special significance according to tikanga Māori and requires the area to be managed so as to preserve and protect those values.

Status of Māori land

The Bill continues to provide specific land statuses for the Māori land categories of Māori customary land and Māori freehold land, both of which are unique forms of private land with characteristics that differ significantly from other private land.

The focus of the Bill is Māori land and accordingly the statuses of general land and general land owned by Māori are not provided for. They are no longer required.

The status of Māori customary land is a statutory recognition of land held by Māori in accordance with tikanga Māori. It is neither a codification of the common law doctrine of aboriginal title nor an extinguishment of aboriginal title.

The Bill continues the jurisdiction of the Māori Land Court to determine whether land is Māori customary land and makes important changes to other aspects of the court's jurisdiction in relation to Māori customary land.

The jurisdiction of the Māori Land Court to determine and vest ownership of Māori customary land on the basis of individual interests is discontinued and replaced with a jurisdiction to determine ownership only on a collective basis. If the court exercises its jurisdiction to change the status of Māori customary land to Māori freehold land, the land must remain in collective ownership. This provides a closer alignment of the law with tikanga Māori and ends the process of individualisation of customary land, the implementation of which has been found to have been inconsistent with the principles of the Treaty of Waitangi.

Since 1909, Māori customary land has been deemed to be Crown land for the purposes of preventing trespass or other injury to the land, recovering damages for trespass or injury, and recovering possession from anyone in wrongful occupation. The Bill discontinues this method of dealing with trespass and related matters affecting Māori customary land and, instead of deeming such land to be Crown land, enables the Māori Land Court to appoint a kaiwhakahaere to act as the agent of the owners to deal with those matters. If there is no kaiwhakahaere, the Bill empowers the Māori Trustee to represent owners for those purposes.

The Bill provides that Māori customary land cannot be disposed of or vested under an Act or in any other way. This does not prevent recognition of customary transfers, the establishment of whenua tāpui, a change of status to Māori freehold land, or the creation and cancellation of certain easements and access arrangements.

Under the Bill, all land that has previously become, or subsequently becomes, Māori freehold land under any enactment continues to have that status until it ceases to be Māori freehold land by declaration of the Māori Land Court, or as a consequence of an exchange or boundary adjustment, or under an enactment. The Bill places limitations on the jurisdiction of the Māori Land Court to make an order declaring that Māori freehold land ceases to have that status.

The Bill places protective restrictions on a wide range of dispositions of Māori freehold land.

Māori land tenure

Unlike other forms of private land, Māori land tenure is derived from customary rights that have their basis in tikanga Māori rather than from the Crown through a system of estates. Owners of Māori customary land hold their interests on the basis of tikanga Māori, not on the basis of an originating Crown grant.

Owners of Māori freehold land hold individual or collective freehold interests that, with a few exceptions arising from historical anomalies in the law, are based on connections with the land and with one another that are derived through whakapapa.

The Bill reflects these unique factors through the principles that tikanga Māori is central to matters involving Māori land and that Māori land endures as a taonga tuku iho by virtue of whakapapa and by providing that a parcel of Māori freehold land does not vest in the Crown as *bona vacantia* but, instead, vests in the collective owners who would, in accordance with tikanga Māori, hold it if it were Māori customary land. Similarly, the Bill provides that individual freehold interests in Māori freehold land do not vest in the Crown as *bona vacantia* but, instead, vest proportionately in the remaining owners.

The nature of property rights in the context of Māori land

The Bill strikes a balance between two important public policy issues. First, laws that enable ancestral Māori land to be held as individual personal property are inconsistent with the principles of the Treaty of Waitangi and, secondly, those who have acquired a property interest through the historic legal framework applying to Māori land should not be arbitrarily deprived of their interest.

Property interests in Māori land, even individualised interests, are not the same as interests in a freely tradable economic commodity and, in particular, are not the same as property interests in other private land.

As a rule, notions of “ownership” of Māori land tend to be regarded by Māori in terms of stewardship and connection, rather than proprietorship, and in terms of permanence rather than transience.

Property interests in Māori land are characterised by the cultural importance of the land as a taonga tuku iho, as a source of connection and of identity, and by the fact that, despite individualisation in the late 19th century, the ongoing multiplicity of interests has meant there remains a collective characteristic to Māori land ownership.

In the context of legal theory, “property” is not a thing in itself. It is a legal relationship with a thing. The registered proprietor of an estate in fee simple in land does not own the land itself but, rather, owns an abstract thing called an estate in land. In the same context, “property rights” have come to be regarded as a “bundle of rights”.

It is necessary to take into account the bundle of rights and obligations that make up a property interest in Māori land in order to strike an appropriate balance between the two public policy issues referred to above.

Generally accepted elements of the bundle of rights, which include obligations, and how they relate to Māori land include the following.

The right to exclude—collectively, the owners of Māori land are entitled to exclude non-owners from using or enjoying their land but in practice the right is constrained by the multiple nature of Māori land ownership (individually, owners cannot exclude other owners or those who are invited or have the permission of other owners) and if the land is vested in a governance body the right passes to the governance body and becomes a right, at law at least, to exclude not just non-owners but also owners.

The right to possess—to the extent that the right to possess includes the right to occupy, this is a constrained right for multiple owners of Māori land due to the practical issue that when everyone has the same right they cannot all exercise it at once without interfering with each other's rights (in effect the right is held collectively, not individually).

The right to use—for the same reasons that the right to possess is constrained, the right to use is also a constrained right for multiple owners of Māori land individually and, as it can only be exercised collectively, generally requires a governance body to exercise the right on behalf of the owners or the creation of a third party right to use through an instrument such as a lease.

The right to alienate—

- in relation to a whole parcel of land, the right to alienate is constrained, first, by the practical difficulty of requiring every owner to participate in the transaction, secondly, by a legal framework that places restrictions on the alienation of Māori land and, thirdly, by the widely accepted view that Māori land is taonga and should be protected from alienation:
- in relation to individual shares in Māori freehold land, the right to alienate is constrained by a legal framework that places restrictions on the capacity to alienate shares, and that has historically included the requirement to obtain an order from the Māori Land Court, which must satisfy itself on a range of jurisdictional threshold requirements and has been given a discretion as to whether, ultimately, to make the order.

The right to receive income—in principle, the owners of Māori land enjoy the right to receive income but the effect of fragmentation and ever-diminishing interests renders the right meaningless for many and the ability to generate income is constrained by the practical limitations arising from multiple ownership. If a governance body is in place, the right may also be affected by the discretion of the governance body to retain earnings for future investment (the right to receive income passes to the governance body).

The duty to refrain from using property in a way that harms others—in the context of Māori land, this duty can be likened to a duty to a wider, inter-generational commu-

nity of interest associated with Māori land, given its generally accepted status as taonga tuku iho, and includes a duty to care for the land and ensure it remains to be passed to future generations.

Many legal frameworks that have general application to land, such as the Rating Valuations Act 1998, are not well aligned with the unique characteristics of Māori land and the Bill contains measures designed to lead to a more equitable application of those frameworks to Māori land.

Ownership of Māori freehold land

In the case of Maori freehold land in multiple ownership (other than a collective class of owners), the Bill contains a presumption of a tenancy in common in equal shares unless there is other proof to the contrary. This provides a closer alignment of the law with principles of tikanga Maori.

Existing ownership interests in Māori freehold land are preserved but the Bill provides a new option for the owners to convert to collective ownership. If the land is owned by tenants in common, converting to collective ownership will require the agreement of owners holding at least a 75% share of the land. If the land is owned by joint tenants they will all need to agree.

Establishing whānau trusts for ownership interests in Māori freehold land is an important mechanism for mitigating the effects of fragmented interests and whānau trusts are continued under the Bill, but instead of requiring a Māori Land Court order to establish them they will be able to be set up by owners by registering a declaration of trust or by making provision for them under a will. Whānau trusts also become the default mechanism on intestate succession unless members of the whānau enter into an alternative family arrangement.

The Bill replaces the jurisdiction of the Māori Land Court to establish kai tiaki trusts for owners under a disability with a new jurisdiction to appoint kaiwhakamarumarū to act as managers for owners needing protection, being owners under 18 years of age or owners who, in the opinion of the court, wholly or partly lack the legal capacity or competence to manage their own affairs in relation to their land interests. The new jurisdiction aligns more closely with the provisions for the appointment of managers under the Protection of Personal and Property Rights Act 1988.

Preferred recipients and preferred entities

The Bill continues the policy of limiting those who may acquire, or have preference to acquire, Māori freehold land or individual freehold interests in Māori freehold land. This approach is consistent with the principles of retention of Māori freehold land in Māori ownership, of tikanga Māori being central to matters involving Māori land, and of Māori land enduring as a taonga tuku iho by virtue of whakapapa.

There are important differences in the way the Bill defines “preferred recipients” when compared with Te Ture Whenua Maori Act 1993. In particular, no-one can be a preferred recipient under the Bill unless they have an association with the relevant Māori freehold land in accordance with tikanga Māori.

In addition to a change in terminology from “preferred classes of alienees” (Te Ture Whenua Maori Act 1993) to “preferred recipients” (the **Bill**), the main changes made by the Bill are summarised as follows:

Bill

Children, grandchildren, and other descendants of the owner if the children, grandchildren, or other descendants are associated with the land in accordance with tikanga Māori.

Grandparents, parents, uncles, aunts, siblings, nieces, nephews, and first cousins of the owner if the grandparents, parents, uncles, aunts, siblings, nieces, nephews, or first cousins are associated with the land in accordance with tikanga Māori.

Other owners of the relevant land if those owners are associated with the land in accordance with tikanga Māori.

Former owners of the relevant land if those owners are associated with the land in accordance with tikanga Māori.

Descendants of former owners of the relevant land or any former parcel the land formed part of if the descendants are associated with the land in accordance with tikanga Māori.

Under Te Ture Whenua Maori Act 1993, a Māori incorporation has a second right of preference, behind members of the preferred classes of alienees, to acquire shares in the incorporation (ie, individual freehold interests in the land). The Bill extends this right to “preferred entities”. Preferred entities are a “rangatōpū” and a “representative entity”. A rangatōpū is a new type of governance body. To qualify as a preferred entity a rangatōpū must be managing the relevant Māori freehold land or any other Māori freehold land that has one or more owners who are preferred recipients in relation to the relevant land. A representative entity is an entity that represents a hapū or an iwi associated with the relevant land in accordance with tikanga Māori and that is recognised by the owners of the land as having authority to represent the hapū or iwi.

Decision making by owners of Māori land

Under the Bill, the role of the Māori Land Court changes from having final discretion over a range of decisions to one of ensuring due process and legal requirements are complied with. The Bill provides greater autonomy for owners of Māori land and their own entities to make final decisions about their land. This change recognises the

Te Ture Whenua Maori Act 1993

Children and remoter issue of the owner whether or not the children or issue are associated with the land in accordance with tikanga Māori.

Whanaunga of the owner if the whanaunga are associated with the land in accordance with tikanga Māori.

Other owners of the relevant land if those owners are members of the hapū associated with the land.

No equivalent.

Descendants of former owners if the former owner is or was a member of the hapū associated with the land.

principle of rangatiratanga, articulated by the late Dr Apirana Tuahae Mahuika as follows (Te Ture Whenua Māori hui, Pakirikiri Marae, Tokomaru Bay, 15 August 2014):

Nooku te whenua, kei a au te korero...Nooku te whenua, ko au te rangatira.
The land is mine, I have all the say...The land is mine, I make all the decisions.

There are more than 2.5 million individual freehold interests in Māori freehold land. The number of owners for each parcel ranges from one through to 14,286, with an average of nearly 100 owners per parcel. This presents a unique set of challenges for decision making.

Under the Bill, owners of Māori freehold land with a governance body are able to prescribe decision-making processes of their own choice or preferences to be included within the governance agreement for their land. If a process is not included in the governance agreement or if the land is not managed by a governance body, the Bill prescribes a default decision-making process designed to ensure as many owners as possible are aware that a decision is to be made and have the opportunity to participate.

The Bill provides that owners may participate in decision making using postal or email voting forms or by using an electronic voting system and may attend meetings of owners in person, via a nominated representative, or via telephone or Internet-based technology.

Certain decisions require the agreement of a minimum threshold of all the ownership interests in the relevant parcel of Māori freehold land. Those decisions are, for the most part, decisions that will affect the ownership and retention of the land and include decisions to apply to the Māori Land Court for an order declaring that the land ceases to be Māori freehold land, decisions to convert to collective ownership, decisions to offer the land for sale, and decisions to agree to a disposition of the land under an Act other than Te Ture Whenua Maori Act, all of which require the agreement of owners together holding a 75% or more share in the land.

Decisions to exchange Māori freehold land, to agree to a boundary adjustment that changes the area of the parcel by more than 2%, to partition the land, or to grant a long-term lease of more than 52 years require the agreement of owners together holding more than a 50% share in the land.

The Bill also provides for certain decisions, mostly to do with the management and utilisation of the land, to be made with the agreement of a minimum threshold of the ownership interests of owners who actually participate in making the decision (referred to in the Bill as the “participating owners”) as distinct from all the owners.

Decisions that can be made by “participating owners” include decisions to appoint a governance body, to approve a governance agreement, to change the name of a parcel of Māori freehold land, or to amalgamate parcels of Māori freehold land (all of which require the agreement of owners who together hold more than 50% of the combined share in the land of the participating owners) and decisions to set a land management plan, to revoke the appointment of a governance body, or to aggregate the ownership of Māori freehold land or cancel an aggregation (which require the agreement of

owners who together hold 75% or more of the combined share in the land of the participating owners).

Prescribed thresholds are included in the Bill rather than subjective criteria such as “a sufficient degree of support” or “no meritorious objection” used in Te Ture Whenua Maori Act 1993. The Bill provides an objective framework with clear and unambiguous decision-making criteria so as to facilitate final decision making by the owners themselves rather than having the final decision dependent on a subjective assessment by the court.

For decisions that can be made by “participating owners” the Bill provides a graduated set of participation thresholds. These are not the same as the decision thresholds and set the minimum level of participation needed before a decision can be considered.

If there are 10 or fewer owners, they are all required to participate. If there are more than 10 but not more than 100 owners, at least 10 owners together holding a 25% or more share in the land are required to participate. If there are more than 100 but not more than 500 owners, at least 20 owners together holding a 25% or more share in the land are required to participate. If there are more than 500 owners, at least 50 owners together holding a 10% or more share in the land are required to participate.

If the applicable participation threshold is not met, the Bill provides that the decision-making process can be re-run without the required threshold requirement provided the second process is commenced within 20 working days and is notified to the 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.

The “participating owner” provisions are designed to address the practical difficulties associated with owner decision making for parcels of Māori freehold land.

Representation of owners of Māori land

The Bill continues to provide a mechanism for court-appointed agents for owners of Māori land that does not have a governance arrangement in place. The Bill refers to agents as kaiwhakahaere.

The role of a kaiwhakahaere is to represent owners for mostly one-off, specific issues such as responding to a notice issued by a local authority or the Crown, or when the land is affected by a process under the Resource Management Act 1991, or implementing a decision of the owners.

The kaiwhakahaere process under the Bill involves the owners, is within the purview of the court, and is a protective mechanism.

Governance of Māori freehold land

The Bill contains important reforms for the governance of Māori freehold land, moving from a regime of trusts and incorporations appointed by the court to a regime of

owner-appointed governance bodies operating under owner-approved governance agreements.

The Bill's approach continues and builds on an ongoing policy direction first noted by Mahon J in *Alexander v Maori Appellate Court* [1979] 2 NZLR 44 (SC) at 53 when he said—

...I should think it no longer safe to rely upon the historical view that members of the Māori race are incapable of managing their own affairs without supervision. As I see it, there has been a shift in legislative policy directed towards liberating the Māori race from juridical control of their transactions in relation to Māori land and for that reason, as already stated, I should think it unsatisfactory to place too much reliance today upon those judicial opinions expressed many years ago, which stressed the parental role of the Māori Land Courts in relation to matters within their jurisdiction.

The Bill's framework for Māori land governance bodies is based on—

- enabling owners to easily appoint whatever form of governance body they choose, with compliance measures limited to those things essential to ensure the process is fair and transparent:
- providing options for owners to form their own legal entity and design its constitution to reflect their aspirations and their culture:
- enabling existing trusts and incorporations to transition as simply as possible without disrupting their ongoing operations:
- providing a clear, straightforward legal framework within which to operate and that protects the interests of owners if things go wrong.

Owners forming new governance bodies will have a wide choice of entity. They may choose to form a new entity referred to in the Bill as a rangatōpū or they may appoint an existing rangatōpū. A rangatōpū may take the form of a private trust or an entity registered under another Act (such as a company, a limited partnership, or an incorporated society) or the owners may choose to register it as a body corporate under new provisions contained in the Bill.

Instead of forming a rangatōpū, owners have the option to appoint an existing statutory body, namely a Māori Trust Board, the Māori Trustee, Public Trust or a trustee company, or to appoint a representative entity. The Bill defines a representative entity as an entity that represents a hapū or an iwi associated with the land in accordance with tikanga Māori and that is recognised by the owners of the land as having authority to represent the hapū or iwi.

Existing ahu whenua trusts, whenua tōpū trusts, and Māori incorporations will transition as they are, with the terms of their existing trust orders or constitutions preserved. After a transition period, existing trustees and incorporation committee members will need to meet eligibility criteria contained in the Bill and trustees' terms will be for a finite period.

Under the Bill, appointing and forming governance bodies is a matter for the owners of the relevant Māori freehold land themselves through a process of decision making and registration instead of requiring a discretionary decision from the Māori Land Court by way of application, hearing, and adjudication. This change provides consistency with the principle of rangatiratanga and contributes to a new framework in which Māori land utilisation in accordance with the aspirations of the owners is supported and facilitated.

The appointment process for governance bodies requires the appointing owners to approve a governance agreement under which the body is to operate. The Bill sets out minimum, as well as default, provisions for governance agreements while providing owners with the flexibility to set up governance arrangements tailored specifically for their own circumstances and preferred way of operating, whether that be with a commercially oriented focus or with a strong tikanga focus.

In terms of accountability, the Bill continues to provide the Māori Land Court with jurisdiction to investigate governance bodies within prescribed parameters. The court's powers include a new power to disqualify individual governors, referred to as kaitiaki, from holding such a position on any governance body. That power can be exercised in specified circumstances, such as fraudulent, reckless or incompetent performance, and is consistent with similar powers under the Companies Act 1993 relating to the disqualification of company directors.

In addition to the right of owners or governance bodies to initiate cancellation of a governance agreement, the Māori Land Court is given power to do so if it is satisfied the governance body is insolvent, the governance body has failed to comply with statutory duties or obligations, or continuation would materially prejudice the owners.

Māori freehold land and succession

The Bill's succession provisions reflect policy preferences that the community of ownership of Māori freehold land should comprise individuals who have an association with the land that accords with tikanga Māori and whakapapa links, that intestate succession should not result in excessively fragmented individual interests, and that as far as possible succession should be an administrative process.

The Bill provides that individual freehold interests in Māori freehold land may be gifted under a will but only to a preferred recipient or to the rangatōpū, if there is one, managing the land in which the interest is held. A whole parcel of Māori freehold land may only be gifted to a preferred recipient or a preferred entity.

The Bill makes changes to the way eligible beneficiaries are determined on intestacy and the way in which individual freehold interests or parcels of Māori freehold land devolve on intestacy. The determination of who might be an eligible beneficiary does not go further back than the descendants of the deceased owner's grandparents, after which the interest vests in all the other owners of the relevant land. This differs from Te Ture Whenua Maori Act 1993 under which the determination traces back through the chain of title of the deceased owner until a beneficiary is found.

Descent relationships are crucial to determinations about whether a person is an eligible beneficiary or a preferred recipient in relation to Māori freehold land. Descent relationships by birth are clear but when there is an adoption, whether by custom (whāngai) or by adoption order, descent relationships are more complex.

The Bill provides that it is the tikanga of the relevant iwi or hapū that determines whether a whāngai relationship at any link in the chain of descent is to be treated as a relationship of descent for the purposes of any provision that refers to a child, grandchild, brother, sister, parent, grandparent, whānau, or descendant, or that refers to an association with land in accordance with tikanga Māori.

The Bill overrides the Adoption Act 1955 by providing that it is the tikanga of the relevant iwi or hapū, rather than that Act, that determines whether an adopted child is in a relationship of descent with either or both of the adopting parents or the birth parents.

Under the Bill, there is an automatic whānau trust if there is more than one eligible beneficiary on intestacy unless one or more beneficiaries do not want to participate in a whānau trust. If that is the case, a family arrangement may be entered into and the Māori Land Court has jurisdiction to give effect to the family arrangement.

This approach is consistent with the aim of mitigating or reducing excessive fragmentation of ownership interests in Māori freehold land and also reflects the nature of property rights in the context of Māori land described above. It aligns with views such as those expressed by the late Sir Robert Mahuta in *He Matapuna* (New Zealand Planning Council, 1979; cited in the report of the 1980 *Royal Commission of Inquiry on the Māori Land Courts*) when he said, “Perhaps we should be subscribing to some kind of title structure which ensures group inheritance; trusteeship rather than individual ownership.”

Generally, successions under the Bill do not require an application to the Māori Land Court and can simply be registered administratively in the Māori land register. Transparency remains important so a succession on intestacy cannot be registered without publication of notice of the application to register it.

Māori incorporations will continue to be able to process transfers of, and testate successions to, shares in the incorporation.

The special powers of the Chief Judge of the Māori Land Court to correct errors or omissions is continued under the Bill and extended to include errors or omissions in the Māori land register arising from the new administrative processes.

Māori land register

Historically, details about Māori freehold land title and ownership have been held in the records of the Māori Land Court. The Bill establishes a formal Māori land register of Māori land title, ownership, and governance. The establishment of the Māori land register is important because, under the Bill, many of the dealings affecting Māori land title, ownership, and governance will be transacted by the owners themselves

and their governance bodies without requiring Māori Land Court orders so they will not be recorded in the records of the court.

The Māori land register will record both legal and beneficial interests in Māori freehold land. Māori freehold land will continue to be subject to, and registered under, the Land Transfer Act 1952. Legal interests in Māori freehold land will be recorded in the land transfer system as well as in the Māori land register.

The Māori land register will—

- enable owners of Māori land and interests affecting Māori land to be identified:
- enable people to know whether a parcel of Māori freehold is managed by a governance body and, if so, to access information about the body and the governance agreement under which it operates:
- enable people 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:
- facilitate—
 - 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:
 - dealings with beneficial interests in Māori freehold land:
 - giving effect to the purpose of the Act:
- assist the court, the chief executive, Registrars of the Māori Land Court, and the Registrar-General of Land in the exercise or performance of their powers, functions, or duties under the Act or any other enactment:
- enable compliance with the requirements of the Act or any other Act for recording instruments or other matters affecting Māori land or interests in Māori land.

Given the broad nature of its content, the Māori land register will have a public part and an administrative part. The administrative part will be accessible by Māori land governance bodies and those authorised to act on behalf of owners of Māori land or to arrange meetings of owners of Māori land.

Dispute resolution

The Bill establishes a new dispute resolution mechanism for disputes about Māori land. The approach to dispute resolution is based on a concept of mātauranga takawaenga, which is a process to assist people and groups to resolve disagreements and conflicts in accordance with the tikanga, values, and kawa of the relevant hapū or whānau, both as to process and in substance.

The dispute resolution process recognises that the parties will often be connected with one another in an ongoing relationship and mitigating the risk of relationship damage is important. The process is designed to reflect the principle of rangatiratanga and to

empower parties to achieve their own solutions and outcomes rather than having to accept an outcome imposed on them by a court.

The Bill makes it mandatory for certain disputes to be referred to dispute resolution before the court has jurisdiction to consider them on a litigated basis. Examples include disputes over whether a person is a whāngai or whāngai descendant.

Mandatory mediation is not a new concept. It has been operating successfully in a number of jurisdictions such as the Canadian province of Ontario where it applies to a range of civil disputes, such as disputes related to estates and trusts.

The Bill also provides Judges of the Māori Land Court with a previously unavailable power to hold judicial settlement conferences in which the Judge is able to assist parties to negotiate their own settlement.

Māori Land Court

The Māori Land Court remains a key institution for the determination of matters relating to Māori land. Both the Māori Land Court and the Māori Appellate Court are continued under the Bill.

In addition to jurisdiction conferred under the Bill, the Māori Land Court continues to have jurisdiction under more than 25 other Acts.

The Bill provides for the jurisdiction of the Māori Land Court along lines similar to that first suggested by the 1980 *Royal Commission of Inquiry on the Māori Land Courts*, which recommended (among other things)—

There should be as far as possible a separation of the administrative and judicial functions relating to Māori land. This would minimise the necessity for Judges to be involved in other than judicial matters. The court should aim at being a court of law and not an administrative body.

The focus of the Bill is Māori land and its ownership, protection, and governance. The Māori Land Court and the Māori Appellate Court are provided for as part of the supportive institutional framework rather than as the central focus of the legislation, as has tended to be the case historically.

Omnibus Bill to be divided into 3 Bills

The Bill is an omnibus Bill introduced in accordance with Standing Order 263.

It is intended to divide the Bill at the committee of the whole House stage so that—

- *Parts 1 to 9 and Schedules 1 to 4* become Te Ture Whenua Māori Bill:
- *Parts 10 to 15 and Schedules 5 to 7* become Te Kooti Whenua Māori Bill:
- *Part 16 and Schedules 8 to 12* become Te Ture Whenua Māori (Repeals and Amendments) Bill.

Departmental disclosure statement

Te Puni Kōkiri is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=126>

Regulatory impact statement

Te Puni Kōkiri produced 4 regulatory impact statements to help inform the main policy decisions taken by the Government relating to the contents of this Bill. The regulatory impact statements were produced on 21 August 2013, 27 November 2013, 25 June 2014, and 29 January 2016.

A copy of these regulatory impact statements can be found at—

- <http://www.tpk.govt.nz/a-matou-mohiotanga/land/regulatory-impact-statements-ttwmb>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 states the title of the Bill.

Clause 2 specifies the commencement date of the Bill. The Bill 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. Any part of the Bill that is not already in force on 1 October 2018 comes into force then. However, there are exceptions for *subparts 3 and 4* of *Part 16*, which amend 3 Acts in relation to rating and valuation matters.

Part 1

Preliminary provisions

Clause 3 sets out the purpose and principles of *Parts 1 to 9* (which are to become Te Ture Whenua Māori Bill) in Māori and English, and states that the Māori version prevails.

Clause 4 requires a person who exercises a power or performs a function or duty under *Parts 1 to 9*—

- to do so, as far as possible, to achieve the purpose of those Parts; and
- in seeking to achieve that purpose, to recognise the principles of those Parts.

Clauses 5 to 7 define terms used in *Parts 1 to 9*, including **Māori land** (which means Māori customary land and Māori freehold land).

Clause 8 states that the tikanga of the relevant iwi or hapū determines whether a whāngai relationship, or a relationship by birth or adoption order that is deemed by the Adoption Act 1955 to be a relationship of a different kind, is treated as a relationship of descent in the provisions of *Parts 1 to 9*.

Clause 9 provides for any applicable tikanga Māori to be determined by evidence in proceedings.

Clause 10 gives effect to the transitional, savings, and related provisions set out in *Schedule 1*.

Clause 11 states that *Parts 1 to 9* bind the Crown.

Part 2

Whenua Māori/Māori land and whenua tāpui

Subpart 1—Whenua Māori/Māori land

Clause 12 defines Māori customary land.

Clause 13 provides that Māori customary land cannot be disposed of or vested in any way, with limited exceptions.

Clause 14 provides that the Māori Land Court (the **court**) may determine whether any land is Māori customary land. The court makes an order to declare the land's status.

Clause 15 provides that the court may determine the class of collective owners who, in accordance with tikanga Māori, hold a parcel of Māori customary land. The class includes all descendants of its members. If the court also decides under *clause 16* that the land is to remain Māori customary land, the court makes an order to define the class and appoint a kaiwhakahaere for the land.

Clause 16 provides for the court to decide whether to change the status of Māori customary land to Māori freehold land. The court must decide this after determining a class of collective owners under *clause 15* or on application by a kaiwhakahaere appointed for the land. The change of status must be agreed to by more than 50% of the owners of the land who attend a meeting. If the court decides to change the status, it makes an order to change the status of the land to Māori freehold land and to define the class of collective owners.

Clause 17 provides for the court to appoint a kaiwhakahaere for Māori customary land when making an order under *clause 15* to define the class of collective owners of the land (but not to change the status of the land to Māori freehold land). The kaiwhakahaere has certain functions set out in the clause and may be given more functions by the court order.

Clause 18 restricts who may bring proceedings to recover possession of Māori customary land or to prevent, or recover damages for, trespass or injury to the land.

Clause 19 excludes *clauses 14 to 18* from applying to the common marine and coastal area.

Clause 20 defines Māori freehold land.

Clause 21 provides that 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.

Clause 22 provides that the court may determine whether any land is Māori freehold land. The court issues a declaration of the land's status.

Clause 23 sets out all the ways in which land becomes Māori freehold land.

Clause 24 provides for the court to make an order that vests land in certain persons and changes the status of the land to Māori freehold land. Applications are restricted to certain persons and land.

Clause 25 provides for the court to make an order declaring any private land other than Māori land to be Māori freehold land. An owner must apply for the order. The court must be satisfied that certain persons are associated with the area in accordance with tikanga Māori and that the requirements for the owners' agreement are met. The court order declaring the status change must also specify the existing owners and their relative shares.

Clause 26 sets out all the ways in which land ceases to be Māori freehold land.

Clause 27 provides for the court to make an order declaring that a parcel of land ceases to be Māori freehold land (but remains private land). An owner may apply for the order. The court must be satisfied that the land meets certain requirements and that the application is agreed to by owners who together hold a 75% or more share in the land.

Clause 28 preserves the High Court's jurisdiction to determine anything relating to the status of land. It states that a High Court determination prevails over a conflicting declaration or determination of the Māori Land Court.

Subpart 2—Whenua tāpui

Clause 29 defines the certain purposes for which whenua tāpui may be reserved.

Clause 30 sets out how to apply to the court for an order under *clause 31* relating to a new whenua tāpui, or the addition of land to an existing whenua tāpui, over private land. Private land includes all Māori land.

Clause 31 provides that the court may make an order declaring that—

- private land is reserved as a new whenua tāpui; or
- additional private land is reserved and included in an existing whenua tāpui declared over private land.

The land is reserved for 1 or more certain purposes, for the common use and benefit of a specified class of beneficiaries, and to be held and managed by an administering body subject to any specified conditions or restrictions. Land reserved for the purpose of a marae or an urupā may have its beneficial ownership vested in the beneficiaries.

Clause 32 sets out what the court must be satisfied of before making an order under *clause 31*. The application must be agreed to by a certain majority of owners.

Clause 33 provides for the responsible Minister to make a declaration that—

- Crown land or other specified land is reserved as a new whenua tāpui; or
- additional Crown land or other specified land is reserved and included in an existing whenua tāpui declared over Crown land or other specified land.

The land is reserved for 1 or more certain purposes, for the common use and benefit of Māori who belong to a specified class of persons, and to be held and managed by an administering body subject to any specified conditions or restrictions. Land reserved for the purpose of a marae or an urupā has its beneficial ownership vested in the beneficiaries if the land is a new whenua tāpui or, in some cases, if the land is additional land for an existing whenua tāpui.

Clause 34 sets out requirements that the responsible Minister must meet before declaring a new whenua tāpui under *clause 33*. The Minister must apply to the court for a recommendation about the new whenua tāpui.

Clause 35 sets out how to apply to the court for an order under *clause 36* (making a declaration for any existing whenua tāpui over any land).

Clause 36 provides that the court may make an order declaring certain things in relation to any existing whenua tāpui over any land. The whenua tāpui may be cancelled in whole or in part or reserved for a different purpose or for a different class of beneficiaries. Or the administering body may have changes made to its membership or conditions and restrictions. The court must be satisfied of certain matters before making the order. The application must be agreed to by a certain majority of owners or beneficiaries or, for certain Crown land or other specified land, by the responsible Minister.

Clause 37 requires the court to seek and consider submissions before declaring a new whenua tāpui under *clause 31* or changing an administering body's conditions and restrictions under *clause 36*.

Clause 38 sets out the effect of a declaration about a whenua tāpui. The legal ownership of the land vests in the administering body, which holds the land in trust, unless the land is Māori customary land. In that case, *clause 29* provides that the administering body controls the land as if it were held on trust. A beneficiary may enter and use the land, with certain restrictions.

Clause 39 provides for administering bodies of whenua tāpui. An administering body is a body corporate with at least 3 members.

Clause 40 lets an administering body grant a lease over a whenua tāpui for general purposes (that is, for the purpose of carrying out any activity, trade, business, or occupation, other than residential housing). A lease is granted on certain terms and conditions and for up to 14 years. The lease is conditional on the court making an order of confirmation that the grant of the lease complies with the requirements of *Parts 1 to 9* and is consistent with certain matters.

Clause 41 lets an administering body grant a lease over certain whenua tāpui for the purpose of residential housing and with rent payable. The lease is granted for up to 99 years or as a periodic tenancy.

Clause 42 lets an administering body grant a lease over certain whenua tāpui for the purpose of residential housing and rent-free. The lease is granted for up to 99 years or for the life of the person to whom it is granted. The grantee must be a beneficiary of the whenua tāpui. The lease may allow the premises on the leased land to be occupied by members of the grantee's immediate family and a principal caregiver.

Clause 43 restricts how a lease over a whenua tāpui may be varied to apply to additional or different land in a whenua tāpui, may have its term varied, or may be varied so that the lease is for a different purpose.

Clause 44 states that *subpart 2* overrides any other provision of *Parts 1 to 9* or another enactment about the disposition or administration of land. The clause prohibits the disposition or vesting of land in a whenua tāpui, with some exceptions.

Part 3

Ownership interests in Māori freehold land

Subpart 1—Ownership and decision making

Clause 45 describes an example of ownership of a parcel of Māori freehold land where there are multiple owners who are tenants in common. The owners together hold the beneficial interest in the freehold estate in the parcel. Each owner holds an individual freehold interest. 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).

Clause 46 sets out a presumption about multiple owners (other than a class of collective owners) of the beneficial interest in a freehold estate in a parcel of Māori freehold land. The presumption is that the owners hold beneficial interests in the land as tenants in common and that each owner's beneficial interest is an equal share of the land.

Clause 47 sets out the rights of owners of Māori freehold land.

Clause 48 provides for the conversion to collective ownership of a parcel of Māori freehold land. The decision must be agreed to by the tenants-in-common owners who together hold a 75% or more share in the land, or by all of the joint-tenant owners. The class must be defined in a certain way. The court must make an order of confirmation that the conversion complies with the requirements of *Parts 1 to 9*.

Clause 49 sets out the effect of a conversion to collective ownership.

Clause 50 states that a collective owner has no interest in the land that is able to be dealt with separately from the interests of the other collective owners.

Clause 51 applies to a decision about a parcel of Māori freehold land for which *Parts 1 to 9* or a governance agreement (if a governance body manages the land) requires the agreement of a certain majority of owners. The clause specifies the process to be

used in making the decision, the participation thresholds required for a decision by participating owners, and which owners must agree to satisfy the majority requirement.

Clause 52 allows certain owners of Māori freehold land who are under 18 years of age to participate in meetings about decisions, but prevents them from voting on the decisions.

Clause 53 provides that joint tenants of an individual freehold interest (or share) in land have 1 (combined) vote in relation to the land.

Clauses 54 to 56 are about obtaining the agreement of any specified majority of owners of Māori freehold land, for land owned by tenants in common or by a class of collective owners. The clauses specify which owners must agree to satisfy the majority requirement. A class of collective owners can satisfy a majority requirement if it relates to participating owners, but not if it relates to all owners.

Clause 57 states that a decision made in accordance with *subpart 1* binds all of the owners of the land, whether or not all of the owners participated in making the decision.

Subpart 2—Whānau trusts

Subpart 2 of Part 3 contains provisions about the establishment, operation, and termination of whānau trusts.

Clause 58 provides for the establishment of whānau trusts to hold and manage beneficial interests in Māori freehold land and other property for trust beneficiaries.

A trust may be established by an owner of Māori freehold land or an interest in Māori freehold land, while the owner is living. It may also be established by multiple owners. Alternatively, it may be declared by a single owner's will so that it becomes operational on the owner's death.

Clauses 59 and 60 specify what type of property may be made trust property for a whānau trust. In general terms, whānau trust property may include the following:

- beneficial interests in parcels of Māori freehold land;
- beneficial interests in individual freehold interests in Māori freehold land;
- other property, including other land.

The clauses also provide that the formal requirements for establishing a whānau trust will be prescribed in regulations.

Clause 61 states that a whānau trust is established on the date that the trust is entered in the Māori land register. In most cases, property is vested in the trustees on that date. The clause requires the trustees to deal with the trust property according to conditions and restrictions set out in the declaration of trust.

Clauses 62 and 63 specify who may be a trustee and the powers and responsibilities of trustees.

Any legal person may be a trustee. This includes, for example, a company. A trustee who is an individual must be at least 18 years old and must not be subject to disqualifications set out in *clause 184*.

Trustees must administer the trust property in accordance with the declaration of trust, keep beneficiaries informed, and comply with laws relating to trustees. They may acquire other property and make investments of income.

Clauses 64 and 65 set out the registration requirements for whānau trusts. A trust needs to be entered in the Māori land register. Beneficiaries may also have their details entered in relation to the entry for the trust.

Clause 66 makes it clear that beneficiaries are entitled to speak at meetings of owners, as if they were an owner of the land. In particular circumstances, beneficiaries are entitled to vote as if they were a participating owner. They are also allowed to receive grants from the income of the trust.

Clause 67 provides that the rule against perpetuities does not apply to whānau trusts. The rule against perpetuities requires trust property to become the absolute property of the final owner within a specified period.

Clause 68 sets out what the court may do in relation to whānau trusts. In particular, the court may change the terms of a declaration of trust if asked to do so by a trustee or beneficiary.

Clause 69 allows the court to validate the actions of the trustees of a whānau trust, unless those actions were taken in bad faith.

Clause 70 allows the court to require trustees of a whānau trust to provide a report to the court and to appear before the court for questioning. The court may also enforce the obligations of the trustees.

Clause 71 provides that a court may make an order ending a whānau trust. In summary, the court may terminate the trust if—

- the trust is not fulfilling the purpose for which it was established; and
- 75% of the beneficiaries who participate in making the decision agree that it should be terminated; and
- in the court's opinion, a beneficiary will not be unduly prejudiced by the termination.

The clause sets out how the court must vest the beneficial interests and other trust property depending on whether the original owner is still alive and whether there are surviving beneficiaries.

The court may also terminate the trust if it is satisfied that there are no surviving beneficiaries of the trust or the trust no longer holds any trust property. If the trust no longer holds an interest in Māori freehold land but still has other property, the court may only terminate the trust if at least 25% of the beneficiaries who participate in making a decision about the termination agree to the termination.

Clause 72 sets out the obligations of the trustees after a whānau trust is terminated. They must deliver money, accounts, and records to the chief executive.

Subpart 3—Kaiwhakamarumarū for owners needing protection

Subpart 3 of Part 3 contains provisions about kaiwhakamarumarū appointments. A kaiwhakamarumarū is a person who manages certain property of an owner needing protection.

An owner needing protection is a person who—

- is younger than 18 years old; or
- in the opinion of a court, is unable to manage his or her own affairs in relation to his or her interests in Māori freehold land.

Clause 73 provides that the court may make an order appointing a kaiwhakamarumarū to manage property of a person who is an owner needing protection. The property that may be managed by a kaiwhakamarumarū is—

- a beneficial interest in Māori freehold land; or
- another interest in private land if the person is Māori; or
- personal property (but only if the person also owns a beneficial interest in Māori freehold land or the person is Māori and owns another interest in private land).

An order cannot be made for property for which a property order under the Protection of Personal and Property Rights Act 1988 is in place.

Under *clause 75*, the court may appoint any legal person as a kaiwhakamarumarū. This includes, for example, a company. A kaiwhakamarumarū who is an individual must be at least 18 years old and must not be subject to disqualifications set out in *clause 184*.

Clause 76 provides that a kaiwhakamarumarū has the functions and powers set out in the order of appointment and may apply to the court for directions when performing or exercising the functions and powers. A kaiwhakamarumarū must manage the property in accordance with the order.

As far as practicable, the kaiwhakamarumarū must consult the owner and keep the owner informed about the property. The kaiwhakamarumarū must also consult anyone else that is interested in the owner's welfare and is competent to advise the kaiwhakamarumarū about managing the property.

Under *clause 77*, property does not vest in the kaiwhakamarumarū but the kaiwhakamarumarū is treated as if he or she is the owner. The owner cannot deal with the property except by way of will (if the owner has the capacity to make a will).

Clauses 78 to 81 set out procedural requirements for appointing a kaiwhakamarumarū.

A person needing protection may apply for an order appointing a kaiwhakamarumarū. The other persons who may apply for an order are listed in *clause 78*.

The court may appoint a lawyer to represent the person who owns the property.

In deciding whether to make an order, the court must have regard to the extent to which appointing a kaiwhakamarumarū would best protect and promote the interests of the person. The court must also have regard to the extent to which the person is, or is likely to be, subject to undue influence. The person may not be managing or intending to manage his or her property as a person of ordinary prudence would manage the property. However, that is not enough reason in itself to appoint a kaiwhakamarumarū.

The order appointing the kaiwhakamarumarū may set out, amongst other things, conditions and restrictions on how the kaiwhakamarumarū may exercise his or her powers.

Clauses 82 to 84 cover operational matters in respect of a kaiwhakamarumarū appointment.

A kaiwhakamarumarū is not liable for his or her actions as a kaiwhakamarumarū unless the actions are taken in bad faith or without reasonable care.

A kaiwhakamarumarū can be reimbursed for reasonable expenses from the property managed as kaiwhakamarumarū. However, money payable for those expenses must not be charged against an interest in Māori freehold land.

If Public Trust is appointed as a kaiwhakamarumarū, the Public Trust Act 2001 applies to the appointment. If the Māori Trustee is appointed as a kaiwhakamarumarū, the Māori Trustee Act 1953 applies to the appointment. Similarly, if a trustee company is appointed as a kaiwhakamarumarū, the Trustee Companies Act 1967 applies.

Clauses 85 and 86 cover changes to a kaiwhakamarumarū appointment and the termination of an appointment.

The court may appoint 1 or more additional kaiwhakamarumarū or replace a kaiwhakamarumarū if a vacancy exists. The court may also terminate an appointment or disqualify a person from being appointed. The court may take this step if it decides that the person was not eligible to be a kaiwhakamarumarū, failed to comply with legal obligations, was guilty of fraud, or acted in a reckless or incompetent manner in performing the duties of a kaiwhakamarumarū.

In most cases, a kaiwhakamarumarū appointment ends on the date specified in the order of appointment. If the owner dies, the appointment terminates on his or her death. If a kaiwhakamarumarū has been appointed to manage the property of a person under 18 years of age, the appointment ends on the person's 18th birthday. However, if the kaiwhakamarumarū was appointed because the person also could not manage his or her own affairs, the appointment does not end.

Clauses 87 to 89 set out reporting requirements for a kaiwhakamarumarū appointment. A kaiwhakamarumarū must report to the Registrar for every 12-month period. The report must contain details of transactions, income, and payments relating to the property managed by the kaiwhakamarumarū. It must also detail any remuneration received by the kaiwhakamarumarū.

Clause 90 sets out the actions that may result from a report by a kaiwhakamarumarū. If the Registrar considers that a report deserves inquiry, the Registrar must refer it to the court and the court may initiate a review. If a kaiwhakamarumarū fails to report, the Registrar must inform the court and the court may order the report to be provided or initiate a review.

Clause 91 provides that, if allowed by the Registrar or the court, any person may inspect or copy a report.

Clause 92 provides for the review of a kaiwhakamarumarū appointment by the court. The court must periodically review appointments. The court may also review an appointment at another time if asked to do so by a kaiwhakamarumarū because—

- circumstances have changed; or
- the kaiwhakamarumarū needs directions from the court about the appointment.

The court may also review a kaiwhakamarumarū appointment at another time if a report of the kaiwhakamarumarū has been referred to the court by the Registrar or the kaiwhakamarumarū has failed to report.

Clauses 93 to 95 cover the recording and registration of an order appointing a kaiwhakamarumarū.

The Chief Registrar of the court must send the chief executive a copy of the order. The chief executive must then add a notation to relevant entries in the Māori Land Register stating that an order has been made.

An order may be registered as an instrument affecting the title to land and it may be entered on the computer register of land. The entries must be updated after a kaiwhakamarumarū appointment ends.

Part 4

Dispositions of Māori freehold land and other land

Clause 96 defines preferred recipient and preferred entity. Preferred recipients are certain persons who are associated with land in accordance with tikanga Māori, with certain exceptions.

Clause 97 restricts who may make a disposition of Māori freehold land. A disposition of a parcel may be made by the owners (if no governance body manages the land) or the governance body. A disposition of an individual freehold interest may be made by the owner of the interest. There are some exceptions.

Clause 98 provides an overview of what a governance body must do to agree to a disposition of Māori freehold land (under a provision of *Part 4* that requires the governance body's agreement). The governance body must agree to the disposition in accordance with the governance agreement. A governance agreement generally requires the governance body to obtain the agreement of a certain majority of owners, depending on the type of disposition.

Clause 99 restricts the sale of a parcel of Māori freehold land.

Clause 100 specifies the only way in which a parcel of Māori freehold land may ordinarily be sold (without obtaining an order under *clause 103* or relying on a mortgagee's power of sale or a right to buy in certain historical leases). The sale must be to a preferred recipient or preferred entity or, if a preferential tender process under *clause 101* ends without a qualifying tender, to any other person on terms determined by that process. The decision to offer the land for sale must be agreed to by the governance body or, if there is not one, by owners who together hold a 75% or more share in the land. The sale requires an order of confirmation.

Clause 101 sets out how a preferential tender process is run. Tenders to buy the land are requested from only the preferred recipients and preferred entities.

Clause 102 restricts the exchange of a parcel of Māori freehold land. If any parcel to be exchanged is Māori freehold land, the exchange must be agreed to by the governance body or, if there is not one, by owners who together hold more than a 50% share in the parcel. The exchange requires an order of confirmation.

Clause 103 lets a governance body apply for a court order declaring that a parcel will cease to be Māori freehold land on the change of ownership from a sale or exchange. The body must be satisfied that there is no reasonable prospect of obtaining the owner agreement required for the land to be sold or exchanged as Māori freehold land. If an order is obtained, the restrictions on sale or exchange under *clause 100* or *102* do not apply.

Clause 104 imposes requirements on the governance body that manages a parcel of Māori freehold land before it agrees to offer to sell the parcel under *clause 100*, or agrees to exchange the parcel under *clause 102*, or offers to sell the parcel or exchanges the parcel under *clause 103*. The governance body must have a land management plan, must prepare an allocation scheme for the beneficial interests in replacement land, and must obtain a court order.

Clause 105 restricts the gifting of a parcel of Māori freehold land. The gift must be agreed to by owners who together hold a 75% or more share in the land. The recipient of the gift must be a preferred recipient or preferred entity. The gift requires an order of confirmation, unless it is by will.

Clause 106 prohibits a governance body that manages a parcel of Māori freehold land from settling the land on the trustees of a trust (by transfer to the trustees).

Clause 107 restricts dispositions of a parcel of Māori freehold land that may be made or agreed to under other enactments but are not restricted by another provision in *Part 4*. The disposition must be agreed to by the governance body or, if there is not one, by owners who together hold a 75% or more share in the land. The disposition requires an order of confirmation.

Clause 108 prohibits part of a parcel of Māori freehold land from being sold, gifted, exchanged, or transferred separately from the rest of the parcel (except for a boundary adjustment or partition).

Clause 109 provides for a boundary adjustment to a parcel of Māori freehold land.

Clause 110 sets out the actions that must be completed for a boundary adjustment. A survey plan and an allocation scheme for beneficial ownership must be prepared. The boundary adjustment, including the survey plan and allocation scheme, must be agreed to by certain persons. For any affected parcel of Māori freehold land, the boundary adjustment must be agreed to by the governance body or, if there is not one, by owners who together hold more than a 50% share in the parcel (if the area changes by 2% or more) or by owners who together hold 75% or more of the participating owners' total share in the parcel (if the area changes by less than 2%). The boundary adjustment requires an order of confirmation.

Clause 111 sets out the effect of a boundary adjustment.

Clause 112 provides for a partition of a parcel of Māori freehold land.

Clause 113 sets out the actions that must be completed for a partition (other than by a mortgagee). A survey plan and an allocation scheme for beneficial ownership must be prepared. The partition, including the survey plan and allocation scheme, must be agreed to by the governance body or, if there is not one, by owners who together hold more than a 50% share in the parcel. A governance body must have a land management plan that authorises the particular partition. The partition requires an order of confirmation, including confirmation the court is satisfied that the partition will assist the owners to retain, occupy, or develop their land and that the allocation scheme is fair and equitable to all owners.

Clause 114 sets out the requirements for an allocation scheme for a partition (other than by a mortgagee).

Clause 115 sets out the actions that must be completed for a partition by a mortgagee. A survey plan and an allocation scheme for beneficial ownership must be prepared. The partition does not require the agreement of a governance body or owners. The partition requires an order of confirmation, including confirmation the court is satisfied that the partition will assist the owners to retain the most land consistent with the circumstances leading to the mortgagee sale.

Clause 116 sets out the effect of a partition.

Clause 117 provides for an amalgamation of 2 or more parcels of land (at least 1 of which is Māori freehold land).

Clause 118 sets out the actions that must be completed for an amalgamation. A survey plan and an allocation scheme for beneficial ownership must be prepared. The amalgamation, including the survey plan and allocation scheme, must be agreed to by certain persons. For any affected parcel of Māori freehold land, the amalgamation must be agreed to by the governance body or, if there is not one, by owners who together hold more than 50% of the participating owners' total share in the parcel. A governance body must have a land management plan that authorises the particular amalgamation. The amalgamation requires an order of confirmation, including confirmation the court is satisfied that the allocation scheme is fair and equitable to all owners.

Clause 119 sets out the requirements for an allocation scheme for an amalgamation.

Clause 120 sets out the effect of an amalgamation.

Clause 121 provides for an aggregation of beneficial ownership of 2 or more parcels of land (at least 1 of which is Māori freehold land).

Clause 122 sets out the actions that must be completed for an aggregation of ownership. An allocation scheme for beneficial ownership must be prepared. The aggregation, including the allocation scheme, must be agreed to by certain persons. For any affected parcel of Māori freehold land, the aggregation must be agreed to by the governance body or, if there is not one, by owners who together hold 75% or more of the participating owners' total share in the parcel. The aggregation requires an order of confirmation, including confirmation the court is satisfied that the allocation scheme is fair and equitable to all owners.

Clause 123 sets out the requirements for an allocation scheme for an aggregation of ownership.

Clause 124 sets out the effect of an aggregation of ownership.

Clause 125 provides for the cancellation of an aggregation of ownership of 2 or more parcels of Māori freehold land. An allocation scheme for beneficial ownership must be prepared. The cancellation, including the allocation scheme, must be agreed to for each parcel by the governance body or, if there is not one, by owners who together hold 75% or more of the participating owners' total share in the parcel. The cancellation requires an order of confirmation, including confirmation the court is satisfied that the allocation scheme is fair and equitable to all owners.

Clause 126 sets out the requirements for an allocation scheme for the cancellation of an aggregation of ownership.

Clause 127 sets out the effect of the cancellation of an aggregation of ownership.

Clause 128 restricts the leasing of a parcel of Māori freehold land for a general purpose (that is, a purpose other than residential housing). The lease may be granted for up to 99 years. The lease must be agreed to by the governance body or, if there is not one, by owners who together hold 75% or more of the participating owners' total share in the land (for a term of 52 years or less) or by owners who together hold more than a 50% share in the land (for a term of more than 52 years). However, a self-lease back to the governance body or an entity it controls must simply be agreed to by the governance body. A lease for more than 52 years of land with no governance body requires an order of confirmation.

Clause 129 restricts the leasing of a parcel of Māori freehold land for the purpose of residential housing and with rent payable. The lease may be granted for up to 99 years or as a periodic tenancy. The lease must be agreed to by the governance body.

Clause 130 restricts the leasing of a parcel of Māori freehold land for the purpose of residential housing and rent-free. The lease may be granted for up to 99 years or for the life of the grantee. The lease must be agreed to by the governance body or, if there is not one, by owners who together hold 75% or more of the participating owners' total share in the land. The person to whom the lease is granted must be an owner or a beneficiary of a whānau trust with an interest in the land. The lease may allow the

premises on the leased land to be occupied by members of the grantee's immediate family and a principal caregiver.

Clause 131 restricts the gifting of a rent-free lease for residential housing. The gift is restricted to certain recipients.

Clause 132 restricts the grant of a licence or *profit à prendre* over a parcel of Māori freehold land. The term of the licence or *profit à prendre* must be up to 52 years (or up to 99 years, for a forestry right). The interest must be agreed to by the governance body or, if there is not one, by owners who together hold more than a 50% share in the land.

Clause 133 restricts the grant of a mortgage or other charge over a parcel of Māori freehold land. The charge must be agreed to by the governance body or, if there is not one, by owners who together hold a 75% or more share in the land.

Clause 134 restricts how a lease, licence, *profit à prendre*, mortgage, or charge may be varied to apply to additional or different Māori freehold land. It also restricts how a lease, licence, or *profit à prendre* over Māori freehold land may have its term varied. And it restricts how a lease over Māori freehold land may be varied so that the lease is for a different purpose.

Clause 135 restricts the grant of an easement over Māori land and of an easement over land other than Māori land for the benefit of Māori land. The easement must be agreed to by certain persons. For any affected parcel of Māori freehold land, the easement must be agreed to by the governance body or, if there is not one, by owners who together hold more than a 50% share in the land. The easement requires an order of confirmation.

Clause 136 restricts the cancellation and variation of an easement over Māori land, an easement over land other than Māori land for the benefit of Māori land, and similar easements over such land that has since changed status. The cancellation or variation must be agreed to by certain persons. For any affected parcel of Māori freehold land, it must be agreed to by the governance body or, if there is not one, by owners who together hold more than a 50% share in the land. The cancellation or variation requires an order of confirmation.

Clause 137 provides for the creation of a kawenata tiaki whenua over a parcel of land managed under a governance agreement. The governance body must agree to the relevant instrument. The purpose of a kawenata tiaki whenua is to ensure that the land is managed to preserve and protect a place of cultural or historical interest or a place of special significance according to tikanga Māori.

Clause 138 provides for the cancellation or variation of a kawenata tiaki whenua. The governance body must agree to the relevant instrument. If the land is no longer managed by a governance body, the court may make an order with the agreement of owners who together hold more than 50% of the participating owners' total share in the parcel.

Clause 139 sets out the effect of a kawenata tiaki whenua. It is a covenant that runs with and binds the land, and is an interest in land for the purposes of the Land Trans-

fer Act 1952. The clause provides for notation of the interest on the computer freehold register for the land.

Clause 140 restricts the separate disposition of an individual freehold interest in Māori freehold land. The individual freehold interest may be sold, gift, exchanged, or mortgaged or charged, but there are restrictions.

Clause 141 sets out the restrictions on the exchange of an individual freehold interest in Māori freehold land.

Clause 142 states that 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. 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.

Clause 143 states that a disposition of Māori freehold land does not have effect until it is recorded in the Māori land register. However, a disposition that may be registered under the Land Transfer Act 1952 does not have effect for the purposes of legal title until it is registered under that Act.

Clause 144 provides for an instrument for a disposition of Māori freehold land to be recorded in the Māori land register. The instrument must comply with requirements prescribed by regulations.

Clause 145 provides for an instrument for a disposition of Māori freehold land to be registered under the Land Transfer Act 1952. The instrument must be recorded on the Māori land register already or at the same time.

Clause 146 provides that the requirements of certain enactments are additional to the requirements in provisions of *Parts 1 to 9* that restrict a disposition.

Clause 147 applies if, in recording an instrument under *clause 144*, the chief executive considers there is doubt about whether the disposition complies with the requirements of any enactment. The chief executive may request satisfactory evidence, or apply for an order, that the disposition complies.

Clause 148 provides for the court to make an order as to whether a disposition recorded in the Māori land register complied with the requirements of an enactment. The court may also do certain things to rectify a mistake or an omission about compliance.

Clause 149 provides for the court to make an order of confirmation that a disposition that involves Māori freehold land complies with the requirements of *Parts 1 to 9*. The order may include other matters. An order may be made even for a disposition that does not require an order of confirmation under *Parts 1 to 9*.

Clause 150 provides for the court to make an order determining whether a disposition is of a type to which a particular section of *Part 4* applies.

Clause 151 provides that certain caveats for individual freehold interests do not prevent the registration of some matters under the Land Transfer Act 1952.

Clause 152 applies the provisions of Part 3 of the Property Law Act 2007, with modifications, to a mortgage of Māori freehold land. The Māori Land Court is involved.

Clause 153 provides that an owner may make a disposition of Maori freehold land subject to a gift to the owner's spouse or partner of the right to receive income or discretionary grants from the land.

Part 5

Authority to act in relation to Māori freehold land

Part 5 contains provisions that authorise certain persons other than the owners of Māori freehold land to act for certain purposes in relation to the land as if they were the owners.

Subpart 1—Governance bodies

This *subpart* provides for governance bodies to manage Māori freehold land on behalf of its owners. The key matters covered by this subpart are described below thematically, rather than clause by clause.

Clause 154 is an overview provision.

Nature and function of governance bodies

The owners of a parcel of Māori freehold land may appoint a governance body to manage it, except where the land is held by a sole owner or joint tenants or reserved as a whenua tāpui (*see clauses 155 and 157*).

The following entities may be appointed as governance bodies (*see clause 158*):

- rangatōpū (bodies corporate or trusts controlled by the owners of the Māori freehold land that the rangatōpū is to manage):
- Māori incorporations:
- the trustees of certain ahu whenua trusts and whenua tōpū trusts:
- existing statutory bodies (a Māori Trust Board, the Māori Trustee, Public Trust, or a trustee company, being any of Trustees Executors Limited, AMP Perpetual Trustee Company NZ Limited, PGG Trust Limited, New Zealand Permanent Trustees Limited, and The New Zealand Guardian Trust Company Limited):
- representative entities (entities that represent a hapū or iwi associated with the relevant parcel of Māori freehold land in accordance with tikanga Māori and that are recognised by the owners of that land as having authority to represent the hapū or iwi).

The key differences between the types of governance bodies relate to—

- the extent to which owners or the court have a role to play in the appointment of kaitiaki, as described in *clause 154*; and
- whether a governance body can enter into multiple governance agreements (*see clause 158(2)*).

The process for appointing a governance body is set out in *Part 1 of Schedule 3*. The owners of the land decide which type of governance body to appoint, appoint kaitiaki

or approve kaitiaki appointments (for certain types of governance body), and approve a governance agreement. The decision to approve a governance agreement for Māori freehold land requires the agreement of owners who together hold more than a 50% share of the total share in the land that is held by the owners who participate in making the decision. The governance agreement is then sent to the chief executive for registration. The requirements for an application to register a governance agreement are set out in *Part 4 of Schedule 3*. The chief executive must register a governance agreement unless 1 or more of the grounds set out in *clause 165* applies: these grounds are matters of fact and the chief executive has no discretion in the matter.

Existing Māori incorporations and trusts

Māori incorporations continue to exist and are governance bodies under this Bill (*see the transitional arrangements in clauses 2 to 11 of Schedule 1*). Certain ahu whenua trusts and whenua tōpū trusts also continue to exist, and their trustees are governance bodies under this Bill (*see the transitional arrangements in clauses 12 to 18 of Schedule 1*). These entities may later decide to become rangatōpū (*see clause 160 and Part 2 of Schedule 3*). Governance bodies that are rangatōpū, Māori incorporations, or the trustees of ahu whenua trusts or whenua tōpū trusts may amalgamate to form a new rangatōpū (*see clause 161 and Part 3 of Schedule 3*).

Other trusts of Māori land are continued, but not as governance bodies (*see clauses 19 to 23 of Schedule 1*).

Assets managed by a governance body

A governance body managing Māori freehold land may manage it together with other land and assets as part of a wider asset base. The governance body holds the asset base on trust for the owners of the Māori freehold land and must manage it in accordance with the objects and requirements of the governance agreement (*see clauses 155 and 202*).

The owners of the Māori freehold land retain beneficial ownership of the land but the governance body is the legal owner. This enables the governance body to deal with the land on the owners' behalf. The owners regain legal ownership of the land only if the governance agreement is cancelled, and they are entitled to receive a share of the rest of the asset base only by way of a distribution of profits made by the governance body or a distribution of the asset base if the governance agreement is cancelled (*see clause 156*).

Clause 169 provides a mechanism for Māori freehold land, other land, and other assets and liabilities to vest in a governance body on the registration of a governance agreement.

Clause 170 requires the Registrar-General of Land to ensure that a statutory vesting of land under *clause 169* is recorded on the computer freehold register.

Clauses 171 to 173 specify matters that are not affected by the vesting of an asset or liability in a governance body under *clause 169*, including existing contracts and se-

curities relating to the asset or liability. This ensures that the appointment of a governance body does not disturb existing commercial arrangements.

Governance agreements

A governance agreement governs the relationship between a governance body and the owners of the Māori freehold land that it manages. *Schedule 4* prescribes some matters that must be included in governance agreements, including the mandatory level of owner agreement that a governance body must have before it takes certain actions, mainly dispositions, relating to Māori freehold land (*see clause 13 of Schedule 4*). Other governance agreement provisions will be prescribed by regulations (*see clause 327*), in the same way that the constitution of Māori incorporations is currently prescribed.

Clauses 174 to 183 deal with how governance agreements are cancelled. The key points to note are as follows:

- the owners of Māori freehold land may revoke a governance body's appointment to manage that land only with the agreement of the owners who together hold 75% or more of the participating owners' total share in the land (*see clause 174*). This is a higher level of owner agreement than is required to enter into a governance agreement (*compare clause 6(3) of Schedule 3*);
- the cancellation of a governance agreement may be preceded by a distribution of the asset base to the owners of the Māori freehold land within it (*see clauses 221, 222, and 227*).

Kaitiaki requirements for certain governance bodies

For governance bodies that are rangatōpū, Māori incorporations, or the trustees of ahu whenua trusts or whenua tōpū trusts, the Bill provides for the following:

- *clause 184* requires the governance body to have at least 3 kaitiaki who are ordinarily resident in New Zealand and who meet the specified eligibility criteria: but *see clauses 7 and 15 of Schedule 1*, which delay the application of these requirements to Māori incorporations and the trustees of ahu whenua trusts and whenua tōpū trusts;
- *clause 185* provides for administrative matters relating to kaitiaki appointments, including vacancies in office and suspension from office.

Jurisdiction of court

For governance bodies that are rangatōpū, Māori incorporations, or the trustees of ahu whenua trusts or whenua tōpū trusts, the Bill provides for the following:

- *clause 186* empowers the court to investigate kaitiaki appointments, but only in respect of the appointment process and the person's eligibility for appointment—not the person's suitability for appointment;
- *clause 187* empowers the court to appoint kaitiaki for a governance body that has fewer than 3 kaitiaki, but only if the court is satisfied that it is not practic-

able for a kaitiaki to be appointed in accordance with the governance agreement. An application to the court under this section may be made by an owner of Māori freehold land managed by the governance body, or by a creditor of the governance body.

Clause 188 empowers to the court to review certain decisions of owners relating to the appointment, or revocation of appointment, of governance bodies: a decision may be set aside only on the grounds of a procedural irregularity.

Subpart 2—Kaiwhakahaere

Clause 189 provides that the court may appoint a person as a kaiwhakahaere to carry out a particular purpose relating to a parcel of Māori freehold land.

Clause 190 sets out the purposes for which a kaiwhakahaere may be appointed. For Māori freehold land that is managed under a governance agreement, a kaiwhakahaere may be appointed to oversee the preparation and implementation of a full distribution scheme: this will be necessary only if the governance agreement is to be cancelled. For Māori freehold land that is not managed under a governance agreement, a kaiwhakahaere may be appointed as an agent of the owners for any of the administrative purposes set out in *clause 190(2)*: these purposes are similar to the purposes for which an agent may currently be appointed under section 183 of Te Ture Whenua Maori Act 1993. *Clause 189(4)* sets out who is eligible to be appointed as a kaiwhakahaere.

Clause 191 sets out the responsibilities of a kaiwhakahaere, which include—

- protecting the interests of the owners of the land while fulfilling the purpose for which the kaiwhakahaere is appointed; and
- consulting with the owners and keeping them informed about actions taken on the owners' behalf.

Clause 192 gives a kaiwhakahaere the powers that are necessary for the purpose of the appointment, subject to any conditions of the appointment that are imposed by the court.

Clause 193 sets out the process for appointing a kaiwhakahaere.

Clause 194 sets out the requirements that apply if the chief executive is required to arrange a meeting of the owners of Māori freehold land before a kaiwhakahaere is appointed in relation to that land.

Clause 195 specifies what must and may be specified in a court order appointing a kaiwhakahaere.

Clauses 196 and 197 provide mechanisms for requiring a kaiwhakahaere to report to the court or to the owners of Māori freehold land on matters that are relevant to the purpose for which the kaiwhakahaere is appointed.

Clause 198 empowers the court to make an order relating to the costs of a kaiwhakahaere.

Clauses 199 and 200 describe how the appointment of a kaiwhakahaere is terminated.

Clause 201 protects a person from civil liability in respect of acts and omissions relating to the person's appointment as a kaiwhakahaere.

Part 6

Operation of governance bodies

Part 6 regulates the operation of governance bodies.

Clause 202 sets out the powers, duties, and responsibilities of governance bodies.

Clause 203 sets out the duties and responsibilities of kaitiaki.

Clauses 204 and 205 provide an immunity from personal liability for the kaitiaki of a governance body and the owners of the Māori freehold land managed by a governance body.

Clauses 206 to 211 regulate dealings in Māori freehold land held by a governance body, as follows:

- a governance body may add to its holdings of Māori freehold land under a governance agreement by changing the status of land that it already holds or by acquiring new land. In either case, *clause 206* requires the interests in the land to be allocated to the owners of the Māori freehold land that is already managed under the agreement. For this purpose, the governance body must prepare an allocation scheme that complies with *clause 209* and have it confirmed by the court under *clause 211*:
- a governance body may dispose of Māori freehold land that it manages under a governance agreement only if—
 - the governance body obtains the necessary level of owner agreement (*see Part 3 of Schedule 4*); and
 - the disposition is authorised by a land management plan that complies with *clause 210* (if the disposition is a sale, exchange, partition, or amalgamation); and
 - the governance body meets any requirements of *Part 4* that apply to the particular disposition:
- a governance body must use the proceeds of a disposition of Māori freehold land to acquire or improve other land, and the interests in the new land—which the governance body must hold as Māori freehold land—must be allocated to the owners of the Māori freehold land that was disposed of (*see clause 104(3)(b)*). For this purpose, the governance body must prepare an allocation scheme that complies with *clause 209* and have it confirmed by the court under *clause 211*:
- within 1 month after any change to its holdings of Māori freehold land, a governance body must update the governance agreement and send it to the chief executive for registration (*see clauses 206(3), 207(3), and 208(2)*).

Clause 212 clarifies what a governance body may do with revenues it derives from managing an asset base under a governance agreement, which includes paying a distribution to the owners of the Māori freehold land managed under the agreement. A governance body must keep records of distributions made to owners.

Clause 213 deals with unpaid distributions, which are distributions that a governance body has been unable to pay to the persons entitled to receive them—for example, because the governance body has been unable to contact those persons. A governance body must keep records of unpaid distributions, and a person entitled to receive an unpaid distribution may claim it at any time. A governance body may apply unpaid distributions, while they remain unclaimed, for any purpose that is consistent with the governance agreement. However, if the governance body ceases to manage the parcel of Māori freehold land to which unpaid distributions relate, the amount of the unpaid distributions must be transferred to the replacement governance body or to the Māori Trustee (*see clauses 176, 228, and 229*).

Clauses 214 and 215 provide mechanisms for owners of Māori freehold land to access information held by the governance body that is managing their land.

Clauses 216 to 218 empower the court to investigate the affairs of a governance body. The court may exercise these powers only if satisfied that the governance body is or may be operating in a manner that could create a substantial risk of serious loss to the owners of the Māori freehold land managed by the governance body.

Clause 219 enables a governance body, a kaitiaki, or an owner of Māori freehold land managed by a governance body to apply to the court for an order restraining a governance body, a kaitiaki, or an owner from engaging in conduct that would contravene a governance agreement.

Clause 220 empowers the court to make an order disqualifying a person from being appointed, or continuing in an appointment, as a kaitiaki.

Clauses 221 to 227 deal with distribution schemes, which govern what happens to the asset base managed by a governance body if the governance body's appointment to manage some or all of its Māori freehold land comes to an end.

A full distribution scheme is required if all the Māori freehold land in an asset base is to cease being managed by the governance body. This will be the case if the agreement is to be cancelled for any reason other than the direct replacement of the governance body or an amalgamation of the governance body with 1 or more others (*see clause 221*). The circumstances that commence the cancellation of a governance agreement are set out in *clause 175*.

If a full distribution scheme is required, a kaiwhakahaere will be appointed by the court to oversee the preparation and implementation of the scheme. The kaiwhakahaere has 6 months to ensure that a scheme is prepared and to apply to the court for an order confirming the scheme (*see clause 221*).

Clause 222 specifies the requirements for a full distribution scheme, which include—

- identifying the amount of unpaid distributions held by the governance body:

- identifying the amounts owed to secured and unsecured creditors:
- providing for the amount of unpaid distributions to be transferred to the Māori Trustee and for other creditors to be paid in full—except that if the asset base is insufficient for this purpose, the Māori Trustee and creditors will receive only their relative proportion of what is available:
- specifying how the remainder of the asset base (if any) will be distributed to the owners of the Māori freehold land in the asset base. In deciding how this will be done, a governance body must have regard to relative land areas, fairness, and the practical considerations.

A full distribution scheme must apply the same order of priority of payments as would apply if the governance body were a company in liquidation (*see* Schedule 7 of the Companies Act 1993, as applied by *clause 224*); however, the expenses of a kaiwhakahaere have priority over all other claims (*see clause 223*). Certain other liquidation provisions of the Companies Act 1993 are applied by *clause 224*, which also provides that the amount of unpaid distributions held by a governance body is to be treated as an amount owed to an unsecured creditor.

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 to manage that land. If a partial distribution scheme is required, the governance body must prepare the scheme and apply to the court to have it confirmed, and a kaiwhakahaere is not involved (*see clause 225*).

Clause 226 sets out the requirements for a partial distribution scheme. These are similar to the requirements for a full distribution scheme, except that only part of the asset base will be distributed to the departing owners. *Clause 226(2)* sets out how to calculate the share of the asset base to be distributed.

Clause 227 sets out what happens after a distribution scheme is confirmed, as follows:

- in the case of a partial distribution scheme, the governance body must distribute the relevant share of the asset base in accordance with the scheme and update the governance agreement:
- in the case of a full distribution scheme, the kaiwhakahaere must distribute the asset base in accordance with the scheme, or ensure that the governance body does so, and then apply to the court for an order cancelling the governance agreement and, if applicable, winding up the governance body.

Clauses 228 and 229 relate to any amount of unpaid distributions that is transferred to the Māori Trustee in accordance with a distribution scheme. The key points are as follows:

- unpaid distribution details must be notified to the Māori Trustee when the amount of unpaid distributions is transferred:
- the Māori Trustee is required to hold unpaid distributions on trust for the persons entitled to receive them and to increase the amount of an unpaid distribu-

tion by the amount of any distributable income earned on it (*see* section 26 of the Māori Trustee Act 1953 as applied by *clause 228(3)(c)*):

- a person entitled to receive an unpaid distribution that is held by the Māori Trustee is entitled to claim from the Māori Trustee the amount being held. The claimable amount might be less than the amount of the original distribution if only a proportion of the unpaid distribution was transferred to the governance body (*see clause 222(3)(c)*). However, the claimable amount might be more than the amount of the original distribution if it has been increased by additions of distributable income;
- unpaid distributions held by the Māori Trustee will remain linked to the parcel of Māori freehold to which they relate. If another governance body is appointed to manage that land, the new governance body may apply to the Māori Trustee for the amount and then continue to administer the amount as if it had made the original distribution.

Clauses 230 and 231 apply to a governance body only if it is a rangatōpū, a Māori incorporation, or the trustees of an ahu whenua trust or a whenua tōpū trust. *Clause 230* requires a governance body to keep an interests register. The register must record any holdings and dealings by kaitiaki in individual freehold interests in the Māori freehold land managed by the governance body. *Clause 231* requires kaitiaki to make an annual declaration for the purpose of keeping the interests register up to date.

Clause 232 ensures that the rule against perpetuities and the provisions of the Perpetuities Act 1964 do not apply to an asset base held by a governance body. The rule against perpetuities requires trust property to become the absolute property of the final owner within a specified period.

Clauses 233 to 236 apply to a governance body only if it is a Māori incorporation. Those provisions—

- enable, but do not require, Māori incorporations to continue to maintain their own share registers (*see clause 233*); and
- require the chief executive to notify a Māori incorporation of matters that affect its share register, if the Māori incorporation is keeping its own share register (*see clause 234*); and
- enable a Māori incorporation to adjust its shareholding (*see clause 235*); and
- clarify the relationship between a share register and the Māori land register: in the case of an inconsistency, the details in the share register are deemed to be correct in the absence of proof to the contrary (*see clause 236*).

Clause 237 provides that *clauses 233 to 236* cease to apply to a Māori incorporation if it becomes a rangatōpū.

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 of the land or interest dies. It also sets out how the estate is to be administered. The estate is the deceased person's property left after his or her death.

Clause 238 provides that this Part overrides the general law about the administration of estates and who is entitled to succeed to land on the death of the owner. The only exception is the Titi Islands, which continue to be covered by the relevant provisions in the Māori Purposes Act 1983.

Clause 239 sets out restrictions on gifting Māori freehold land by will.

A parcel of Māori freehold land may be gifted by will only to a preferred recipient or a preferred entity and only if the gift complies with restrictions about gifting a parcel.

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 if the gift complies with restrictions about disposing of an individual freehold interest.

Under *clause 240*, a provision in a will that attempts to dispose of land or an interest in land in breach of *Parts 1 to 9* is void. It is as if the owner is without a will for that disposition. However, if the owner disposed of the land or interest in accordance with *Parts 1 to 9* under another provision in the will, the owner is not treated as being without a will in respect of that disposition.

Clause 241 provides that the status of a deceased owner's land is determined at the date of his or her death.

Clause 242 covers the situation where land, or land in which an owner has an interest, changes from being private land to Māori freehold land between the time of the owner's death and the time the land is to vest in the persons entitled to succeed to it. In that case, the court may make an order vesting the land in the person who would have succeeded to it despite the change in status of the land.

Clause 243 makes it clear that Māori land or a beneficial interest in Māori land cannot be used to pay the debts of a person who has died.

Clauses 244 and 245 restrict the operation of the Law Reform (Testamentary Promises) Act 1949 and the Family Protection Act 1955. Both of those Acts allow the courts to change the outcome in certain circumstances when a will-maker's responsibilities were not met by the provisions in his or her will.

Clauses 246 to 254 regulate the distribution of assets when an owner of Māori freehold land or an interest in Māori freehold land dies without having made a will.

When an owner of Māori freehold land or an interest in Māori freehold land dies without having made a will, only eligible beneficiaries can succeed to the land.

A person can only be an eligible beneficiary if he or she is associated with the land according to tikanga Māori. Eligible beneficiaries are listed in order of priority. They are as follows:

- surviving children of the owner and descendants of those children:
- surviving siblings of the owner and descendants of those siblings:
- a surviving parent of the owner:
- surviving siblings of a parent of the owners and descendants of that parent's siblings:
- other descendants of the owner's grandparents living at, or born after, the owner's death.

If there is more than 1 eligible beneficiary, a whānau trust must be established. The declaration of trust for the whānau trust is treated as prohibiting the trustees from disposing of the beneficial interest in the freehold estate, unless allowed by the court.

However, a whānau trust must not be established if 1 or more of the eligible beneficiaries—

- do not want a whānau trust or do not want to participate in a whānau trust; and
- obtain a court order confirming a family arrangement instead.

Under a family arrangement, land or interests in land vest in an eligible beneficiary instead of the trustees of a whānau trust. When making an order vesting land under a family arrangement, the court may include terms that it thinks are necessary to give effect to the family arrangement. Disputes are to be dealt with according to the dispute resolution provisions.

An application for succession may be made by an eligible beneficiary, a parent of a deceased owner, or the administrator if administration has been granted over the estate. The application is processed by the chief executive unless objections are received. In that case, the application must be referred to the court, which decides it.

The rights of those who are entitled to the interest are overridden by certain rights of a surviving spouse or partner. The spouse or partner may be entitled to occupy the principal family home on the land and receive income and grants in respect of the land. The rights of a spouse or partner end when he or she—

- remarries; or
- enters a new civil union or de facto relationship; or
- relinquishes the right; or
- dies.

Clauses 255 to 258 provide for a person to receive the unexpired term of a rent-free lease for residential housing granted under *clause 42 or 130*. This is only allowed to happen if—

- the person to whom the lease was granted died intestate; and

- the recipient lived in the house at the time that the person to whom the lease was granted died.

The following people are eligible to receive the unexpired term of a rent-free lease:

- a child or grandchild of the person to whom the lease was granted:
- a parent of the person to whom the lease was granted:
- the spouse, civil union partner, or de facto partner of the person to whom the lease was granted.

Particular provisions apply if the person receiving the lease is younger than 18 years old or has a kaiwhakamarumarū (appointed under *clause 73*) or a welfare guardian (appointed under the Protection of Personal and Property Rights Act 1988).

An application for vesting of a rent-free lease for residential housing is made to the chief executive. However, any competing applications or objections must be dealt with through the Māori land dispute resolution service. If competing applications or objections cannot be resolved, the matter is referred to the court to make a decision.

Clauses 259 to 261 cover the vesting of beneficial interests gifted by will. When there has been a grant of administration over an estate that includes land or an interest gifted by will, the administrator may have the land or interest vested in the beneficiaries of the gift.

In a situation where administration has been granted but the gift made in the will is unlikely to be carried out, the court may make an order vesting the land or interest in the beneficiaries of the gift.

The final situation is where administration has not been granted. In that case, a person who claims that he or she is a beneficiary may apply to the chief executive to have the land or interest vested in the beneficiaries of the gift.

Under *clause 262*, the beneficiaries of a beneficial interest that has been gifted by will may choose to enter into a family arrangement. Under a family arrangement, beneficial interests may be vested in other persons instead of, or in addition to, the beneficiaries. Alternatively, they may be vested in the trustees of a whānau trust.

Clause 263 enables the administrator of an estate to have a beneficial interest in Māori freehold land that has been gifted by will vested in the administrator.

Clauses 264 and 265 require the recording of certain rights of surviving spouses and partners. The provisions apply in relation to an owner of Māori freehold land or an individual freehold interest in Māori freehold land. They apply if—

- an owner's will provides that his or her spouse or partner has the right to receive income or grants from the owner's land or interest; or
- an owner dies without a will but the owner's spouse or partner is entitled to receive income or grants from the owner's land or interest.

Clause 266 allows the court to make an order so that a person receives income from a parcel of Māori freehold land or from an individual freehold interest in a parcel of

Māori freehold land. However, such an order can only be made by the court in particular circumstances.

In summary, the court may make an order only if—

- the person is not entitled to succeed to the land or interest because tikanga determines that a whāngai relationship or a birth relationship is not treated as a relationship of descent for the purposes of the succession; and
- it is necessary to prevent injustice; and
- the person's claim is not covered by the Law Reform (Testamentary Promises) Act 1949 or the Family Protection Act 1955.

Clause 267 requires the chief executive to keep a register of succession applications.

Part 8

Registers, jurisdiction about land, giving of notices, and other provisions

Clause 268 requires a chief executive or the Minister to provide certain instruments and notices to the chief executive who maintains the Māori land register to be recorded in that register and, if appropriate, registered under the Land Transfer Act 1952.

Clause 269 requires the Chief Registrar of the court to have certain orders recorded on the Māori land register and, if appropriate, registered under the Land Transfer Act 1952. The clause also requires the Chief Registrar to provide documents or information to the persons responsible for those registers.

Clause 270 requires the chief executive to establish and maintain a register of Māori land (the **Māori land register**), comprising a public part (information and documents) and an administrative part (including contact details for owners of Māori land). The register may be electronic.

Clause 271 sets out the purpose of the Māori land register.

Clause 272 specifies the information and documents that the Māori land register must contain.

Clause 273 requires the chief executive to make the public part of the Māori land register available to the public and the administrative part of the register available to a governance body and any authorised person. The clause requires the chief executive to provide a person with a copy, or a certified copy, of any information or document on payment of the prescribed fee or charge.

Clause 274 allows the chief executive to grant a withholding period to a person if the chief executive is satisfied that the publication of information that is likely to disclose the whereabouts of the person may prejudice the safety of the person or the person's family. During the withholding period, the chief executive may restrict access to information about the person.

Clause 275 provides for how a person applies to the chief executive to grant a withholding period.

Clause 276 provides for exceptions where the chief executive may make available, or provide a copy of, any part of the Māori land register despite being entitled to withhold it. The exceptions relate to the conduct of transactions, the recording or registration of instruments or other documents, and rights held and obligations owed in relation to land.

Clause 277 requires information that is recorded in the Māori land register to be retained, even if certain changes happen.

Clause 278 provides for the chief executive to alter the Māori land register in certain situations.

Clause 279 provides for the chief executive to approve electronic workspace facilities for use in the preparation of electronic instruments to be provided under *Parts 1 to 9*. The chief executive may provide and manage an electronic workspace facility.

Clause 280 provides for the effect of certification of an electronic instrument that is recorded in the Māori land register. The instrument is treated as if it were in writing and executed by the parties and has effect according to its terms.

Clause 281 provides for the evidentiary effect of information in the Māori land register, certain documents, and certified copies of instruments.

Clause 282 provides for a person to have an order made to replace an instrument that has been lost or destroyed or of which no record can be found.

Clause 283 provides for the chief executive to replace or reconstitute instruments or information that has been lost, damaged, or destroyed or has become unfit for use.

Clause 284 provides for the chief executive to produce a record, a copy, or an image of a paper instrument. The record, copy, or image can be used for the purposes of establishing or maintaining the Māori land register or for other purposes.

Clause 285 requires the Registrar-General to ensure that any computer freehold register for certain land records that the land is Māori freehold land.

Clause 286 requires the Registrar-General to remove from any computer freehold register for certain land any record that the land is Māori freehold land.

Clause 287 prevents the creation of a separate computer freehold register for Māori freehold land unless it is for the entire freehold estate in the land.

Clause 288 provides for the court to make an order changing the name that constitutes the legal description of all or part of a parcel of Māori freehold land.

Clause 289 requires the Registrar-General to register under the Land Transfer Act 1952 certain orders, instruments, and notices that affect any land (but not an order that affects the beneficial, but not the legal, ownership of an estate or interest in the land).

Clause 290 sets out the requirements for registration of anything that *Parts 1 to 9* require to be registered under the Land Transfer Act 1952.

Clause 291 requires the Registrar-General, when registering the aggregation of ownership of 2 or more parcels of Māori freehold land, to record a notation about aggregation on the computer freehold register for each parcel.

Clause 292 provides for certain Māori freehold land or whenua tāpui to be registered under the Land Transfer Act 1952 in the name of an unincorporated trust or a tupuna.

Clause 293 provides for the recording in the Māori land register of the vesting of an estate or interest in land by or under *Parts 1 to 9* or another enactment.

Clause 294 states that 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.

Clause 295 provides that a parcel of Māori freehold land, instead of vesting in the Crown as *bona vacantia* (if it has no owner), vests in the class of collective owners who would, in accordance with tikanga Māori, hold the parcel if it became Māori customary land.

Clause 296 provides that an individual freehold interest in a parcel of Māori freehold land, instead of vesting in the Crown as *bona vacantia* (if it has no owner), vests in the remaining owners of the parcel of land in proportion to their existing interests.

Clause 297 transfers the rights and obligations relating to a roadway made under former enactments to the new owners of land that is accessed by the roadway.

Clause 298 provides for the court to make an order stopping all or part of a road if any relevant adjoining land is Māori land or in other situations.

Clause 299 provides for the court to make an order vesting any land comprising road stopped under *clause 298* in the owners of relevant adjoining land that is Māori land or the owners of other adjoining land.

Clause 300 states the matters that the court has jurisdiction to determine (in addition to other powers conferred under this *Part*). The court's jurisdiction includes, among other things, the power to determine whether a decision of the owners of Māori freehold land is lawful, whether a person is a whāngai, and whether a succession complies with *Parts 1 to 9* or is lawful. In determining whether a decision of the owners of Māori freehold land is lawful, the court must not make the decision itself, but may uphold or set aside the decision, or set aside the decision and order a new decision-making process.

Clause 301 relates to any determination by the court under *clause 300(1)(c)* that a disposition of Māori freehold land is unlawful. *Clause 301* provides that the court's order amending the terms of the disposition or setting it aside does not affect the rights and interests acquired for value in good faith under any instrument of disposition registered under the Land Transfer Act 1952 before the making of the court order.

Clause 302 provides that the court has, in relation to Māori freehold land, all the powers of the High Court under specified provisions of the Property Law Act 2007.

Clause 303 provides that the court may, on application, determine certain claims in law or in equity relating to Māori freehold land. The court may also, on application, determine the relative interests of legal or equitable owners of Māori freehold land, or whether Māori land is held by a person in a fiduciary capacity.

Clause 304 provides that the court may, on application, declare the ownership of a parcel of Māori freehold land if it is satisfied that the ownership is not accurately recorded on the Māori land register, a computer freehold register, a computer interest register, or another instrument of title. *Clause 304(2)* sets out who may make an application under this clause.

Clause 305 provides that the court has, in relation to the following trusts, all the powers and authorities of the High Court under the Trustee Act 1956:

- any rangatōpū in the form of a private trust;
- any other trust constituted in respect of Māori freehold land.

Clause 306 provides for the jurisdiction of the court to hear and determine proceedings for the recovery of Māori freehold land—

- in specified situations where the land is under a written or an oral lease or licence (*see clauses 306(1)(a) to (c)*); and
- where any person without right, title, or licence is in possession of the land.

Clause 307 provides that the court has, in relation to the following leases, the jurisdiction of the High Court to grant and enforce specific performance or to award damages relating to specific performance:

- leases of Māori freehold land;
- leases of other land that ceased to be Māori land under Part 1 of the Maori Affairs Amendment Act 1967.

Clause 308 states the court's jurisdiction under the Fencing Act 1978 in relation to disputes about Māori freehold land.

Clause 309 provides that the court has the power of the High Court under the Contracts (Privity) Act 1982 and sections 4, 7(6) and (7), and 9 of the Contractual Remedies Act 1979.

Clause 310 enables the Chief Judge, on application under *clause 311*, to cancel or amend—

- orders made by the court or a Registrar; or
- certain records in the Māori land register.

The Chief Judge must be satisfied of the matters referred to in *clause 310(2)* before making an order under this clause.

Clause 311 relates to applications for the Chief Judge to exercise his or her powers under *clause 310*.

Clause 312 provides for how a Chief Judge may deal with an application under *clause 311*.

Clause 313 provides for administrative matters arising from an order under *clause 310*.

Clause 314(1) preserves the lawfulness of a payment that is made in good faith under an order that is subsequently amended or cancelled by an order made under *clause 310*. Similarly, *clause 314(2)* ensures that the distribution of money by a trustee or agent is not affected by an application under *clause 311*, unless the distribution is prohibited by an injunction under *clause 407(1)(d)*.

Clause 315 states that the Deputy Chief Judge has the powers, functions, and duties of the Chief Judge under *clauses 310 to 314*, subject to the direction of the Chief Judge.

Clause 316 states that a judgment against a debtor for payment of debts or liabilities cannot be enforced against an interest in Māori customary land of the debtor.

Clause 317 states that 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, with certain exceptions.

Clause 318 provides for the court to make an order vesting in the Official Assignee any beneficial interest in freehold in Māori freehold land of a person adjudicated bankrupt.

Clause 319 applies provisions of the Property Law Act 2007, with modifications, to Māori land, whenua tāpui, and certain other private land that is landlocked.

Clause 320 excludes provisions of the Property Law Act 2007 that relate to the division of property among co-owners from applying to Māori land.

Clause 321 states that no person may claim an interest in Māori land on the ground of adverse possession.

Clause 322 provides for how a notice or other document must be given to a person under *Parts 1 to 9*.

Clause 323 requires a notice that must be given to or served on the owners of Māori customary land to instead be given to or served on another appropriate person.

Clause 324 requires a notice that must be given to or served on the owners of Māori freehold land to instead be given to or served on a certain person or persons.

Clause 325 extends the period of time for doing certain things in response to a notice received on behalf of owners under *clause 323 or 324*.

Clause 326 is an empowering provision for various regulations.

Clause 327 is an empowering provision for regulations that prescribe governance agreement provisions for different kinds of governance bodies. Provisions prescribed under this section must not be inconsistent with the provisions set out in *Schedule 4*.

Part 9

Dispute resolution

The purpose of *Part 9* is to assist Māori land owners and other parties to quickly and effectively resolve disputes about Māori land—

- in the case of a hapū dispute, in accordance with the tikanga, values, and kawa of the relevant hapū;
- in the case of a whānau dispute, in accordance with the kawa of the whānau.

The chief executive, must on the application of a party to the dispute or on the referral of a Judge in specified circumstances, provide dispute resolution services conducted by a kaitakawaenga (an intermediary who assists parties to resolve a conflict themselves).

Parties to the dispute may nominate 1 or more kaitakawaenga to the chief executive, who must be satisfied that the person nominated satisfies the requirements of *clause 332(2)*.

Clause 334 sets out how a kaitakawaenga may conduct the dispute resolution process, and *clause 335* enables parties to confer powers on the kaitakawaenga in relation to the matters in issue.

If a dispute is successfully resolved, the kaitakawaenga will record and sign terms of resolution agreed to by the parties. The agreed terms of resolution are final and binding and enforceable by the parties. No party may seek to bring the agreed terms of resolution to court except for the purpose of enforcement.

If a dispute is not resolved, parties may agree to discontinue the matter and if no such agreement is reached, the chief executive may refer the unresolved matters to the court.

Clause 342 applies to a proceeding listed in *clause 342(2)* (which, by way of example, includes an objection to an application for succession, an application to determine whether a person is a whāngai, or an application to determine whether a person is a preferred entity). If there is a dispute in the proceeding that does not involve a point of law, the parties to the proceeding must refer the matter to a dispute resolution service under this Part. Once the matter is referred to a dispute resolution service, the court's power to hear and determine that matter is limited (*see clauses 342(4) and (5)*). Note that a claim for the whole or part of a debt or liquidated demand may not be referred to a dispute resolution service unless the applicant complies with *clause 342(6)*.

Part 10

Preliminary provisions

Part 10 contains preliminary provisions for the purposes of *Parts 10 to 15*, which are to become Te Kooti Whenua Māori Bill. *Clause 343* provides for the interpretation of terms, *clause 344* gives effect to transitional, savings, and related provisions, and *clause 345* states that *Parts 10 to 15* bind the Crown.

Part 11

Māori Land Court

Part 11 provides for the continuation of the Māori Land Court in its present form and largely with its present jurisdiction.

Part 11—

- provides for the appointment of the Chief Registrar, Registrars, Deputy Registrars and other court officers:
- enables Māori Land Court districts to be established by Order in Council:
- provides for the seal of the court:
- continues the jurisdiction of the court under the Maori Fisheries Act 2004 and the Maori Commercial Aquaculture Claims Settlement Act 2004:
- enables the Governor-General to confer by Order in Council, special jurisdiction on the court to determine any claim, dispute, issue, question, or matter affecting the rights of Māori in real or personal property or to determine any other matter that is within the court's special expertise:
- enables the court to make orders for the payment of money held in trust for any Māori, or any money derived from any Māori land and held in trust:
- provides for the appointment of additional members of the court:
- allows the Minister, chief executive, or the Chief Judge to refer matters to the court for inquiry and report:
- provides for the decision making of the court and the referral of matters for the decision of the Māori Appellate Court:
- provides for the exercise of the jurisdiction of the court and the powers of the Judge and the Registrars:
- carries over other provisions under the Te Ture Whenua Maori Act 1993 relating to removal of proceedings to another court, awarding interest on debt or damages, decisions and orders of the court, and rehearings.

Clause 375 is new. For the purposes of, or as a result of, exercising jurisdiction conferred on it by or under any Act, the court may make an order for equitable relief, if in the particular circumstances of the case, the court is satisfied that—

- the order is necessary to achieve a just outcome; and
- any other available relief is insufficient to achieve that outcome.

An order for equitable relief must not be inconsistent with the Act concerned.

Clause 379 preserves the positions of Judges and officers of the court who were in those positions immediately prior to the commencement of *Parts 10 to 15*.

Part 12

Māori Appellate Court

Part 12 continues the Māori Appellate Court in its present form and largely with its present jurisdiction. The Judges of the Māori Land Court for the time being are the Judges of the Māori Appellate Court.

Part 12, among other things,—

- provides for the constitution of the Māori Appellate Court:
- sets out the rights of appeal to the Māori Appellate Court:
- enables cases to be stated to the Māori Appellate Court (from the Māori Land Court and the High Court):
- provides for appeals from the Māori Appellate Court to the Court of Appeal and the Supreme Court.

Part 13

Provisions applying to both courts

Part 13 sets out provisions that apply to both the Māori Land Court and the Māori Appellate Court, including provisions relating to—

- judicial conferences and directions:
- the use of te reo Māori:
- the representation of parties:
- stating cases for the High Court:
- the jurisdiction to issue injunctions:
- costs orders:
- the enforcement of judgments and orders:
- the appointment of receivers.

Part 14

Appointment of Judges and related provisions

Part 14 carries over provisions relating to the appointment of Judges of the Māori Land Court and the Māori Appellate Court. The existing provisions have been updated to reflect proposed amendments contained in the Judicature Modernisation Bill, including—

- a requirement to publish the process for appointments:
- restrictions on undertaking other employment or holding other offices:
- a requirement for a protocol relating to the activities of Judges.

Part 15

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

Part 15 carries over provisions relating to the Rules Committee, the rules of court, fees regulations, practice notes, and the Māori Land Court Special Aid Fund. The existing provisions have been updated to reflect proposed amendments contained in the Judicature Modernisation Bill that relate to meritless litigation.

This Part also includes provisions relating to reserved judgments and the publication of judgments, and enables the making of guidelines relating to recusal of Judges.

Part 16

Repeals and amendments

Part 16—

- repeals Te Ture Whenua Maori Act 1993 and revokes certain other enactments:
- provides for consequential amendments to the enactments set out in *Schedule 8*:
- amends the Local Government Act 1974, Government Rooding Powers Act 1989, and Land Valuation Proceedings Act 1948 in relation to the jurisdiction and functions of the Māori Land Court:
- amends the Rating Valuations Act 1998, Local Government (Rating) Act 2002, and Local Government Act 2002 in relation to rating and valuation matters.

Schedules

There are 12 schedules, as follows:

- *Schedule 1* sets out transitional, savings, and related provisions for *Parts 1 to 9*:
- *Schedule 2* sets out the default decision-making process for decisions requiring the agreement of owners of Māori freehold land:
- *Schedule 3* sets out matters relating to governance bodies:
- *Schedule 4* sets out the requirements for governance agreements:
- *Schedule 5* sets out transitional, savings, and related provisions for *Parts 10 to 15*:
- *Schedule 6* sets out procedural provisions relating to the Maori Fisheries Act 2004:
- *Schedule 7* sets out procedural provisions relating to the Maori Commercial Aquaculture Claims Settlement Act 2004:
- *Schedule 8* sets out consequential amendments to other enactments:
- *Schedule 9* contains a schedule of transitional, savings, and related provisions for the Rating Valuations Act 1998:

- *Schedule 10* contains a schedule of transitional, savings, and related provisions for the Local Government (Rating) Act 2002:
- *Schedule 11* contains transitional, savings, and related provisions for Schedule 1AA of the Local Government Act 2002:
- *Schedule 12* contains a schedule of matters relating to non-rateability of unused Māori freehold land and write-off of earlier rates for the Local Government Act 2002.

Hon Te Ururoa Flavell

Te Ture Whenua Māori Bill

Government Bill

Contents

	Page
1 Title	21
2 Commencement	21
Part 1	
Preliminary provisions	
3 Aronga me ngā mātāpono o tēnei Ture/Purpose and principles of Act	22
4 Achieving purpose and recognising principles of Act	23
5 Interpretation	23
6 Meaning of individual freehold interest	29
7 Meaning of owner	29
8 Descent relationships determined by tikanga Māori	30
9 Evidence of applicable tikanga Māori	30
10 Transitional, savings, and related provisions	30
11 Act binds the Crown	30
Part 2	
Whenua Māori/Māori land and whenua tāpui	
Subpart 1—Whenua Māori/Māori land	
<i>Māori customary land</i>	
12 Definition of Māori customary land	31
13 Māori customary land cannot be disposed of	31
14 Court may determine whether land is Māori customary land	31
15 Court may determine class of collective owners of Māori customary land	32
16 Court may change status of Māori customary land to Māori freehold land	33

Te Ture Whenua Māori Bill

17	Kaiwhakahaere appointed for Māori customary land	33
18	Trespass or injury to Māori customary land	34
19	Provisions for jurisdiction about Māori customary land do not apply to common marine and coastal area	34
	<i>Māori freehold land</i>	
20	Definition of Māori freehold land	35
21	Māori freehold land may be disposed of in certain ways	35
22	Court may determine whether land is Māori freehold land	35
	<i>Land becomes Māori freehold land</i>	
23	How land becomes Māori freehold land	35
24	Land becomes Māori freehold land by vesting order on change of ownership	36
25	Private land other than Māori land may be declared Māori freehold land	37
	<i>Land ceases to be Māori freehold land</i>	
26	How land ceases to be Māori freehold land	38
27	Land may cease to be Māori freehold land by declaration	39
	<i>High Court jurisdiction over status of land</i>	
28	High Court jurisdiction over status of land	39
	Subpart 2—Whenua tāpui	
29	Preliminary provision	39
30	Application for court order declaring private land reserved as whenua tāpui	40
31	Court order declaring private land reserved as whenua tāpui	41
32	Court must be satisfied of matters for whenua tāpui on private land	42
33	Minister declares Crown land or other specified land reserved as whenua tāpui	43
34	Minister must apply for court recommendation for new whenua tāpui on Crown land or other specified land	45
35	Application for court order of declaration for existing whenua tāpui	46
36	Court order of declaration for existing whenua tāpui	47
37	Court must seek and consider submissions for some orders	49
38	Effect of declarations about whenua tāpui	49
39	Administering bodies	50
40	Lease of whenua tāpui for general purposes	51
41	Lease of papakāinga housing site for residential housing with rent payable	52
42	Lease of papakāinga housing site for residential housing rent-free	53
43	Variation of lease of whenua tāpui	54
44	Reservation and disposition of whenua tāpui	54

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	55
46	Presumption of tenancy in common and equal sharing where multiple owners	55
47	Rights of owners	55

Collective ownership

48	Conversion to collective ownership of Māori freehold land	56
49	Effect of conversion to collective ownership	57
50	Collective owner has no separate interest	57

How owners of Māori freehold land make decisions

51	Decisions by specified majority of owners of Māori freehold land	57
52	Minor cannot vote on decisions and is not counted as participating owner	59
53	Voting for individual freehold interest owned by joint tenants	60
54	Agreement by owners with >50% or ≥75% share in land	60
55	Agreement by owners with >50% or ≥75% of participating owners' total share in land	60
56	Agreement by >50% of participating owners (casting votes of equal weight)	61
57	Effect of decisions	61

Subpart 2—Whānau trusts

Establishment of whānau trust

58	Owner of Māori freehold land may establish whānau trust	61
59	Whānau trust (operational while owner or owners living)	61
60	Whānau trust (operational on death of owner)	62

Operation of whānau trust

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

Jurisdiction of court and enforcement of obligations of trustees

68	Court may determine matters relating to whānau trust and amend declaration of trust	65
69	Court may validate actions of trustees	66

Te Ture Whenua Māori Bill

70	Court may enforce obligations of whānau trust	66
	<i>Termination of whānau trust</i>	
71	Termination of whānau trust by court order	67
72	Responsibilities of trustees if whānau trust terminated	68
	Subpart 3—Kaiwhakamarumarū for owners needing protection	
	<i>Appointment of kaiwhakamarumarū for owners needing protection</i>	
73	Appointment of kaiwhakamarumarū for owners needing protection	68
74	Meaning of owner needing protection	68
75	Who may be appointed as kaiwhakamarumarū	69
76	Functions and duties of kaiwhakamarumarū	69
77	Consequences of appointing kaiwhakamarumarū	70
	<i>Procedure for appointing kaiwhakamarumarū</i>	
78	Who may apply for order appointing kaiwhakamarumarū	70
79	Court may appoint lawyer to represent person if application for order appointing kaiwhakamarumarū made in relation to person’s property	71
80	Matters to which court must have regard when deciding whether to appoint kaiwhakamarumarū	72
81	Content of order appointing kaiwhakamarumarū	72
	<i>Operational matters in respect of kaiwhakamarumarū appointment</i>	
82	Protection of kaiwhakamarumarū from liability	72
83	Expenses incurred by kaiwhakamarumarū and remuneration	73
84	Application of other enactments to kaiwhakamarumarū appointment	73
	<i>Changes to kaiwhakamarumarū appointment and termination of appointment</i>	
85	Circumstances in which court may appoint, replace, remove, or disqualify kaiwhakamarumarū	74
86	Termination of kaiwhakamarumarū appointment	75
	<i>Reporting requirements and review of kaiwhakamarumarū appointments</i>	
87	Kaiwhakamarumarū must report to Registrar	75
88	Frequency of reporting by kaiwhakamarumarū	75
89	Contents of kaiwhakamarumarū report	76
90	Actions resulting from report by kaiwhakamarumarū	76
91	Inspection of kaiwhakamarumarū reports	76
92	Review by court of appointment of kaiwhakamarumarū	77
	<i>Registration of order appointing kaiwhakamarumarū</i>	
93	Recording of order appointing kaiwhakamarumarū	77
94	Orders appointing kaiwhakamarumarū may be registered	78

95	Changes to be made to registers after kaiwhakamarumaruru appointment terminated	78
----	---	----

Part 4

Dispositions of Māori freehold land and other land

96	Meaning of preferred recipient and preferred entity	78
97	Disposition of land made by owner or governance body	79
98	Overview of governance body's agreement to disposition	80

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

99	Sale of parcel	80
100	Sale of parcel in ordinary cases	81
101	Preferential tender process for sale of parcel	82
102	Exchange of parcel	83
103	Order declaring that land ceases to be Māori freehold land on sale or exchange by governance body	84
104	Other requirements before governance body offers to sell parcel or exchanges parcel	84
105	Gift of parcel	85
106	Transfer of parcel for settlement on trustees	85
107	Agreement to certain dispositions of parcels under enactments	85
108	No sale, gift, exchange, or transfer of part of parcel	86

Boundary adjustment of parcel of Māori freehold land

109	Boundary adjustment of parcel	86
110	Actions required for boundary adjustment	86
111	Effect of boundary adjustment	87

Partition of parcel of Māori freehold land

112	Partition of parcel	88
113	Actions required for partition (other than by mortgagee)	88
114	Allocation scheme for new parcels on partition (other than by mortgagee)	89
115	Actions required for partition by mortgagee	90
116	Effect of partition	90

Amalgamation of parcels of Māori freehold land or other land

117	Amalgamation of parcels	91
118	Actions required for amalgamation	92
119	Allocation scheme for new parcel on amalgamation	93
120	Effect of amalgamation	93

Aggregation of parcels of Māori freehold land or other land

121	Aggregation of ownership of parcels	94
122	Actions required for aggregation of ownership	94
123	Allocation scheme for parcels on aggregation of ownership	95
124	Effect of aggregation of ownership	95

Te Ture Whenua Māori Bill

<i>Cancellation of aggregation of parcels of Māori freehold land</i>		
125	Cancellation of aggregation of ownership of parcels	96
126	Allocation scheme for parcels on cancellation of aggregation of ownership	96
127	Effect of cancellation of aggregation	97
<i>Grant of lesser interest over parcel of Māori freehold land</i>		
128	Lease of parcel for general purposes	97
129	Lease of parcel for residential housing with rent payable	99
130	Lease of parcel for residential housing rent-free	99
131	Gift of rent-free lease for residential housing	100
132	Licence or <i>profit à prendre</i> over parcel	101
133	Mortgage or charge over parcel	101
134	Variation of lease, licence, <i>profit à prendre</i> , mortgage, or charge	102
135	Easement over parcel	102
136	Cancellation or variation of easement	103
137	Kawenata tiaki whenua over parcel	104
138	Cancellation or variation of kawenata tiaki whenua	105
139	Effect and notation of kawenata tiaki whenua	105
<i>Sale, gift, exchange, and mortgage of individual freehold interest in Māori freehold land</i>		
140	Disposition of individual freehold interest	106
141	Exchange of individual freehold interest	106
<i>General provisions about dispositions</i>		
142	Dispositions made by instruments	107
143	Dispositions of Māori freehold land have effect when recorded or registered	107
144	Recording dispositions on Māori land register	107
145	Registering dispositions under Land Transfer Act 1952	108
146	Disposition must comply with certain other enactments	108
147	Evidence and orders about compliance with enactments before instruments recorded	109
148	Orders about compliance with enactments after instruments recorded	109
149	Orders of confirmation for dispositions	109
150	Determinations about dispositions by court	110
151	Certain matters registrable despite caveat	110
152	Application of Part 3 of Property Law Act 2007 to mortgage of Māori freehold land	111
<i>Gift by will of entitlements arising from ownership</i>		
153	Gift by will of entitlements arising from ownership	112

Part 5

Authority to act in relation to Māori freehold land

Subpart 1—Governance bodies

154	Overview of provisions relating to governance bodies	113
155	Function and purpose of governance bodies	114
156	Rights of owners of Māori freehold land managed under governance agreement	115
	<i>Appointing a governance body for Māori freehold land</i>	
157	Who may appoint a governance body	115
158	Who may be appointed as governance body	116
159	Process for appointing governance body	117
	<i>Certain governance bodies may become rangatōpū</i>	
160	Governance bodies that are Māori incorporations or trusts may become rangatōpū	117
	<i>Certain governance bodies may amalgamate</i>	
161	Certain governance bodies may amalgamate	117
	<i>Registering governance agreements</i>	
162	Application to register governance agreement	118
163	Registration of governance agreement	118
164	Process for dealing with simultaneous applications	119
165	Grounds for rejecting application for registration of governance agreement	120
166	When registration of rangatōpū creates separate legal personality	121
167	Certificates are conclusive evidence of registration	121
168	Registered governance agreement has legal effect	121
	<i>Establishment of asset base</i>	
169	Asset base vests in governance body on registration of governance agreement	121
170	Registrar-General to record change of ownership of land	122
171	Status of contracts and other instruments	123
172	Status of existing securities	123
173	Matters not affected by vesting under section 169	123
	<i>Revoking governance body appointments</i>	
174	Owners of Māori freehold land may revoke governance body's appointment for that land	124
	<i>Cancelling governance agreements</i>	
175	Ways to start cancellation of governance agreement	124
176	Cancellation of governance agreement when governance body replaced	125

Te Ture Whenua Māori Bill

177	Cancellation of governance agreements when governance bodies amalgamate	126
178	Cancellation of governance agreement in other circumstances	126
179	Liability of kaitiaki for compensation for void transaction or dealing	127
180	Cancelling governance certificates	127
181	Revesting of Māori freehold land vests on cancellation of governance certificate	127
182	Liability of kaitiaki to continue	128
	<i>Cancelling rangatōpū registration</i>	
183	Cancelling rangatōpū registration	128
	<i>Kaitiaki requirements for certain governance bodies</i>	
184	Kaitiaki: quorum and eligibility	128
185	Kaitiaki: vacancies in office, suspension from office, validity of acts	130
	<i>Jurisdiction of court</i>	
186	Court may investigate kaitiaki appointments for certain governance bodies	130
187	Court may appoint kaitiaki for certain governance bodies	131
188	Court may review certain decisions of owners relating to governance bodies	132
	Subpart 2—Kaiwhakahaere	
189	Court may appoint kaiwhakahaere	132
190	Purposes for which kaiwhakahaere may be appointed	133
191	Responsibilities of kaiwhakahaere	134
192	Powers of kaiwhakahaere	134
193	Process for appointing kaiwhakahaere	135
194	Requirements if meeting of owners required	136
195	Order of appointment	136
196	Court may require kaiwhakahaere to report to court	137
197	Court may require kaiwhakahaere to report to owners	137
198	Court may make order relating to costs of kaiwhakahaere	137
199	Termination of appointment of kaiwhakahaere	137
200	Responsibilities of kaiwhakahaere if appointment terminated	138
201	Immunity from civil liability	139

Part 6

Operation of governance bodies

Powers, duties, and responsibilities

202	Powers, duties, and responsibilities of governance bodies	139
203	Duties and responsibilities of kaitiaki	140
204	Immunity of kaitiaki from personal liability	140

Te Ture Whenua Māori Bill

205	Immunity of owners from personal liability	140
	<i>Changes to holdings of Māori freehold land</i>	
206	Requirements if governance body decides to hold land as Māori freehold land	140
207	Requirements if governance body sells or exchanges parcel of Māori freehold land	141
208	Requirements in cases of partition, amalgamation, or boundary adjustment of Māori freehold land managed under governance agreement	142
209	Requirements for allocation scheme	142
210	Requirements for land management plan	142
	<i>Order relating to acquisition of Māori freehold land</i>	
211	Order declaring land to be Māori freehold land and confirming allocation scheme	143
	<i>Application of revenues</i>	
212	Application of revenues	144
213	Unpaid distributions	144
	<i>Access to information held by governance bodies</i>	
214	Requests for information	145
215	Reasons for withholding information	146
	<i>Powers of Māori Land Court in relation to governance bodies</i>	
216	Court may make orders or investigate governance bodies	146
217	Matters relating to investigation of governance bodies	148
218	What court may do after making order or investigating governance body	148
219	Court may make restraining order	148
220	Court may disqualify kaitiaki	149
	<i>Distribution schemes</i>	
221	Obligation to prepare full distribution scheme	149
222	Requirements for full distribution scheme	150
223	Expenses of kaiwhakahaere	151
224	Application of certain provisions of Companies Act 1993 to full distribution scheme	151
225	Obligation to prepare partial distribution scheme	152
226	Requirements for partial distribution scheme	152
227	Process once court confirms distribution scheme	153
	<i>Obligations of Māori Trustee in respect of unpaid distributions</i>	
228	Transfer of unpaid distributions from outgoing governance body to Māori Trustee	154

Te Ture Whenua Māori Bill

229	Māori Trustee must transfer unpaid distributions to successor governance body	155
	<i>Certain governance bodies must maintain interests register</i>	
230	Governance bodies must maintain interests register	155
231	Kaitiaki must make annual declaration for purpose of interests register	156
	<i>Rule against perpetuities does not apply</i>	
232	Governance bodies not subject to rule against perpetuities	156
	<i>Shares in Māori incorporations</i>	
233	Māori incorporations may continue to maintain share register	157
234	Chief executive must notify Māori incorporation of matters affecting share register	157
235	Māori incorporations may adjust shareholding	157
236	Relationship between share register and Māori land register	157
237	Sections 233 to 236 cease to apply if Māori incorporation becomes rangatōpū	158

Part 7

Administration of estates

Introductory provisions

238	General law on estates subject to this Part	158
239	Restrictions on gifting Māori freehold land by will	159
240	Invalid disposition by will must be treated as intestacy	159
241	Land status at time of death of owner determinative	159
242	Change in land status between death of owner and vesting	159
	<i>Māori land not available for payment of debts of estate</i>	
243	Māori land not available for payment of debts of estate	160
	<i>Restrictions relating to testamentary promises and family protection legislation</i>	
244	Restrictions relating to testamentary promises legislation	160
245	Restrictions relating to family protection legislation	161
	<i>Distribution of interests when owner dies intestate</i>	
246	Eligible beneficiaries may succeed to interests when owner dies intestate	161
247	Succession on intestacy where more than 1 eligible beneficiary	162
248	Family arrangement instead of whānau trust	163
249	Application for succession when owner dies intestate	163
250	Processing of application for succession when owner dies intestate	163
251	Determination of application for succession where objection or competing application received	164
252	Effect of succession	165

Te Ture Whenua Māori Bill

253	Succession interests subject to certain rights of surviving spouse or partner	165
254	Matters relating to whānau trust established on intestacy <i>Vesting of rent-free lease for residential housing where grantee dies intestate</i>	166
255	Vesting of rent-free lease for residential housing where grantee dies intestate	166
256	Application for vesting of rent-free lease for residential housing	167
257	Procedure after chief executive receives application for vesting of rent-free lease for residential housing	167
258	Matters for court to take into account when determining competing applications for vesting of rent-free lease for residential housing <i>Vesting of land or interests gifted by will</i>	168
259	Vesting of land or interest gifted by will where grant of administration	168
260	Vesting of land or interest gifted by will where grant of administration but no effective administration	169
261	Vesting of land or interest gifted by will where no grant of administration	170
262	Family arrangements made by beneficiaries of testamentary gift <i>Additional vesting</i>	170
263	Chief executive may vest beneficial interest in administrator <i>Recording of rights of surviving spouses and partners</i>	171
264	Recording of certain rights of surviving spouses and partners	172
265	Removal of records of certain rights of surviving spouses and partners <i>Special provision by court relating to income for whāngai descendants and adopted children</i>	172
266	Court may make special provision relating to income for whāngai descendants and adopted children <i>Succession register</i>	173
267	Chief executive to keep succession register	174
Part 8		
Registers, jurisdiction about land, giving of notices, and other provisions		
<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	174
269	Chief Registrar of Māori Land Court to provide certain documents	174

Te Ture Whenua Māori Bill

Māori land register

270	Māori land register	175
271	Purpose of Māori land register	175
272	Contents of Māori land register	176
273	Access to Māori land register	177
274	Chief executive may withhold personal information	177
275	Application to chief executive to withhold personal information	179
276	Exceptions to withholding personal information	179
277	Historical and other information in Māori land register to be retained	180
278	Powers to alter Māori land register	180
279	Electronic workspace facilities	181
280	Effect of certification of electronic instrument	182
281	Evidentiary presumptions relating to Māori land register	182
282	Court order to replace lost or destroyed instrument	182
283	Chief executive may replace or reconstitute records	183
284	Copying and imaging of paper instruments for purposes of Māori land register or other statutory purpose	183

Land title registration

285	Māori freehold land status to be recorded on computer freehold register	184
286	Computer freehold register for land that is not Māori freehold land	184
287	Computer freehold register only for entire freehold estate in Māori freehold land	184
288	Change to name of parcel	185
289	Orders, instruments, and notices must be registered	185
290	Registration under Land Transfer Act 1952	186
291	Notation upon registration of certain dispositions	186
292	Registration of land in name of trust or tupuna	187

Vesting of land

293	Vesting of land by or under enactment	188
294	Māori land remains affected by existing interests after vesting	188

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	188
296	Individual freehold interest in Māori freehold land does not vest in the Crown if it has no owner	189

Disposition or vesting of land to which roadway provides access

297	Disposition or vesting of land to which roadway provides access	190
-----	---	-----

Road stopping and vesting of stopped roads

298	Unused road may be stopped and vested	190
-----	---------------------------------------	-----

Te Ture Whenua Māori Bill

299	Vesting of stopped road	191
	<i>Jurisdiction of court in certain land matters</i>	
300	Jurisdiction of court for purposes of Parts 1 to 9	192
301	Rights and interests preserved	194
302	Power of court to grant relief in relation to Māori freehold land	194
303	Court may determine claims to ownership, etc, of Māori freehold land	194
304	Court may declare ownership of Māori freehold land if ownership not accurately recorded	195
305	Jurisdiction in respect of certain trusts	195
306	Jurisdiction in proceeding for recovery of land	196
307	Power of court to grant specific performance of leases of Māori freehold land	196
308	Jurisdiction of court under Fencing Act 1978	196
309	Powers of court under Contracts (Privity) Act 1982 and Contractual Remedies Act 1979	197
	<i>Special powers of Chief Judge</i>	
310	Chief Judge may correct mistakes and omissions	197
311	Applications for exercise of special powers	198
312	Powers of Chief Judge to deal with applications under section 311	199
313	Administrative and consequential matters	199
314	Effect of amendment or cancellation on payments made or trust money	199
	<i>Exercise of powers by Deputy Chief Judge</i>	
315	Deputy Chief Judge may exercise special powers of Chief Judge	200
	<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	200
317	Māori freehold land not available for enforcing judgment against debtor	200
318	Māori freehold land available in bankruptcy	200
	<i>Application of certain laws to Māori land</i>	
319	Reasonable access to landlocked Māori land	201
320	No court order for division of Māori land among co-owners	202
321	Exclusion of interests in Māori land founded on adverse possession	202
	<i>Giving of notices</i>	
322	Giving of notices	202
323	Notices to owners of Māori customary land	203
324	Notices to owners of Māori freehold land	203
325	Time for responding to notices	204

Regulations

326	Regulations	204
327	Regulations relating to governance agreements	206

Part 9

Dispute resolution

328	Purpose	206
329	Interpretation	207
330	Chief executive to provide dispute resolution services	207
331	How dispute resolution process initiated	207
332	When dispute resolution process must begin	208
333	Role of kaitakawaenga	209
334	Conduct of dispute resolution process	209
335	Parties may confer powers of recommendation or decision on kaitakawaenga	210
336	Successful dispute resolution outcome	210
337	Unsuccessful dispute resolution outcome	211
338	Status of dispute resolution services	211
339	Independence of kaitakawaenga	211
340	Chief executive may issue general instructions	212
341	Judge may refer dispute for dispute resolution	212
342	Parties to refer disputes for dispute resolution before court may proceed	212

Part 10

Preliminary provisions

343	Interpretation	214
344	Transitional, savings, and related provisions	215
345	Act binds the Crown	215

Part 11

Māori Land Court

Continuation and administration of court

346	Māori Land Court continued	215
347	Administration of court	215
348	Court districts	216
349	Seal of court	216

Jurisdiction of court under Maori Fisheries Act 2004

350	Interpretation	217
351	Advisory jurisdiction of court	217
352	Jurisdiction of court to make determinations	217
353	Procedural provisions in Schedule 6 apply	217

Te Ture Whenua Māori Bill

<i>Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004</i>		
354	Interpretation	218
355	Advisory jurisdiction of court	218
356	Jurisdiction of court to make determinations	218
357	Procedural provisions in Schedule 7 apply	218
<i>Special jurisdiction</i>		
358	Governor-General may confer special jurisdiction	218
359	Orders for payment of money held in trust	219
360	Additional members for purposes of court's special jurisdiction	219
<i>Reference of matters to court for inquiry</i>		
361	Reference to court for inquiry	220
362	Additional members for purposes of inquiry	220
363	Additional members in relation to matter of tikanga Māori	220
<i>Other provisions relating to additional members</i>		
364	Application	220
365	Oath to be taken by additional member	221
366	Fees and allowances	221
367	Quorum and decisions	221
368	Questions undecided referred to Māori Appellate Court	221
<i>Jurisdiction and powers</i>		
369	Exercise of jurisdiction generally	222
370	Powers of court may be exercised by any Judge	222
371	Powers of Registrars	222
372	Power of Judge to refer matter to Registrar	223
373	Power to remove proceedings to another court	223
374	Power to award interest on debt or damages	224
375	Equitable relief	224
<i>Decisions, orders, and rehearings</i>		
376	Decisions and orders to be pronounced in open court, and minute recorded	224
377	Formal requirements and commencement of orders	224
378	Rehearings	225
<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	225

Part 12
Māori Appellate Court

Continuation and administration of court

380	Māori Appellate Court continued	226
381	Constitution of court	226
382	Officers of Māori Land Court to be officers of Māori Appellate Court	226
383	Seal	226

Jurisdiction

384	Appeals from Māori Land Court	227
-----	-------------------------------	-----

Rights of appeal

385	Who can bring appeal against final decision or order of Māori Land Court	227
386	Appeals against provisional determinations of Māori Land Court	227

Cases stated

387	Māori Land Court may state case for Māori Appellate Court	228
388	High Court may state case for Māori Appellate Court	228
389	Additional members with knowledge and experience in tikanga Māori	228
390	Quorum and decision of court	229

Further appeals

391	Further appeal to Court of Appeal from Māori Appellate Court	229
392	Direct appeal to Supreme Court from Māori Appellate Court in exceptional circumstances	230

Procedural provisions and decisions

393	Commencement of orders	230
394	Successive appeals about same matter	230
395	Appeals to be by way of rehearing	231
396	Powers of court on appeal	231
397	Decision of majority to be decision of court	231

Part 13

Provisions applying to both courts

398	Application and interpretation	232
-----	--------------------------------	-----

Procedural provisions

399	Conduct of proceedings generally	232
400	Judicial conferences and directions	232
401	Parties and witnesses may use Māori language	233
402	Evidence in proceedings	233
403	Representation of parties, etc	234
404	Court may correct defects or errors in proceedings	234

Te Ture Whenua Māori Bill

405	Case may be stated for High Court	234
406	Court must give notice before making order on own initiative	235
	<i>Injunctions</i>	
407	Jurisdiction to issue injunctions	235
408	High Court may enforce injunctions	236
	<i>General provisions about orders</i>	
409	Orders may be made subject to conditions	237
410	Orders not invalid for want of form, etc	237
411	Orders nominally in favour of deceased persons	237
412	Persons bound by orders affecting land	238
413	Orders affecting Māori land conclusive after 10 years	238
414	Costs orders	238
415	Security for costs	239
416	Taxation of costs	239
	<i>Enforcement of judgments and charging orders</i>	
417	Enforcement of judgments and orders relating to money, land, or chattels	240
418	Charging orders	241
419	Appointment of receiver to enforce charges, etc	241
420	Functions and powers of receiver	242
421	Discharge of receiver	242
422	Court may order repayment out of money held by trustee, etc	243
	<i>Amendment of orders, warrants, and records</i>	
423	Amendment of orders, warrants, etc	243
424	Amendment or cancellation of orders not to affect acquired rights	243
	<i>Judicial settlement conferences</i>	
425	Judge may convene judicial settlement conference	244
	<i>Contempt of court</i>	
426	Contempt of court	244
	Part 14	
	Appointment of Judges and related provisions	
427	Appointment of Judges	245
428	Attorney-General to publish information concerning appointment process	246
429	Judge not to undertake other employment or hold other office	246
430	Protocol relating to activities of Judges	247
431	Judges act on full-time basis but may be authorised to act part-time	247
432	Chief Judge and deputy	248
433	Delegation to Deputy Chief Judge	248
434	Appointment of temporary Judges	249

Te Ture Whenua Māori Bill

435	Former Judges	249
436	Certificate by Chief Judge and 1 other Judge prerequisite	250
437	Tenure of office	250
438	Judges to have immunities of High Court Judges	250
439	Salaries and allowances of Judges	250

Part 15

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

Rules

440	Rules Committee continued	251
441	Fees and travelling allowances	252
442	Principal function of Rules Committee	252
443	Rules of court	252

Fees

444	Regulations	254
-----	-------------	-----

Court practice

445	Practice notes	254
-----	----------------	-----

Aid Fund

446	Māori Land Court Special Aid Fund	255
447	Court may create charges over property	255

Information regarding, and publication of, judgments

448	Information regarding reserved judgments	256
-----	--	-----

Recusal

449	Recusal guidelines	256
-----	--------------------	-----

Restriction on commencing or continuing proceedings

450	Judge may make order restricting commencement or continuation of proceeding	256
451	Grounds for making section 450 order	257
452	Terms of section 450 order	257
453	Procedure and appeals relating to section 450 orders	257
454	References to Judge in sections 450 to 453	258

Part 16

Repeals and amendments

455	Overview	258
	Subpart 1—Repeal, revocations, and consequential amendments	
456	Repeal	258
457	Revocations	259
458	Consequential amendments to other enactments	259

Te Ture Whenua Māori Bill

Subpart 2—Amendments that relate to jurisdiction and functions
of Māori Land Court

Amendments to Local Government Act 1974

459	Principal Act	259
460	Section 446 amended (Council may cover in watercourse so as to make it a public drain)	259

Amendments to Government Roading Powers Act 1989

461	Principal Act	260
462	Section 2 amended (Interpretation)	260
463	Section 48 amended (Powers of Minister over roads under Minister’s control)	260
464	Section 50 amended (Owner or occupier of land not to cause damage to bridge by removal of stone, etc)	262
465	Section 55 amended (Removal of trees, hedges, etc, that obscure visibility or interfere with public work)	262
466	Section 61 amended (Powers and duties of Agency in relation to State highways)	263
467	Section 74 amended (Land may be temporarily occupied)	264
468	Section 76 amended (Access to land cut off from road or separated by motorway)	265

Amendments to Land Valuation Proceedings Act 1948

469	Principal Act	265
470	New section 19A inserted (Alternate Land Valuation Tribunals for matters under specified enactments)	265
	19A Alternate Land Valuation Tribunals for matters under specified enactments	266

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	266
472	New section 2A inserted (Transitional, savings, and related provisions)	266
	2A Transitional, savings, and related provisions	267
473	Sections 53 and 54 and cross-heading repealed	267
474	Schedules 1 and 2 replaced	267

Amendments to Local Government (Rating) Act 2002

475	Amendments to Local Government (Rating) Act 2002	267
476	New section 5A inserted (Transitional, savings, and related provisions)	267
	5A Transitional, savings, and related provisions	267
477	New Schedule 1AA inserted	267

Te Ture Whenua Māori Bill

<i>Amendments to Local Government Act 2002</i>		
478	Amendments to Local Government Act 2002	267
479	Schedule 1AA amended	267
	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	268
481	Section 2 amended (Interpretation)	268
482	Section 5 amended (Valuer-General may make rules setting requirements in relation to valuations and district valuation rolls)	268
483	New section 22 inserted (Whenua Māori adjusted values for rating unit of Māori freehold land)	269
22	Whenua Māori adjusted values for rating unit of Māori freehold land	269
484	New section 52A inserted (Regulations about whenua Māori adjusted values for Māori freehold land)	270
52A	Regulations about whenua Māori adjusted values for Māori freehold land	270
<i>Amendments to Local Government (Rating) Act 2002</i>		
485	Amendments to Local Government (Rating) Act 2002	271
486	Section 5 amended (Interpretation)	271
487	Section 27 amended (Rating information database)	272
488	Cross-heading above section 114 replaced	272
<i>Remission, postponement, exemption, and write-off of rates</i>		
489	New section 117AA inserted (Write-off of rates)	272
117AA	Write-off of rates	272
490	Schedule 1 amended	272
491	Schedule 3 amended	273
<i>Amendments to Local Government Act 2002</i>		
492	Amendments to Local Government Act 2002	274
493	Section 102 amended (Funding and financial policies)	274
494	New section 110A inserted (Policy on non-rateability of unused Māori freehold land and on write-off of earlier rates)	274
110A	Policy on non-rateability of unused Māori freehold land and on write-off of earlier rates	274
495	New Schedule 11A inserted	275
	Schedule 1	276
	Transitional, savings, and related provisions	
	Schedule 2	299
	Default decision-making process for decisions requiring agreement of owners of Māori freehold land	

Schedule 3	305
Governance bodies: appointment and other processes and registration requirements	
Schedule 4	315
Governance agreements	
Schedule 5	322
Transitional, savings, and related provisions	
Schedule 6	324
Procedural provisions relating to Maori Fisheries Act 2004	
Schedule 7	331
Procedural provisions relating to Maori Commercial Aquaculture Claims Settlement Act 2004	
Schedule 8	338
Consequential amendments to other enactments	
Schedule 9	375
Schedules 1 and 2 replaced	
Schedule 10	376
New Schedule 1AA inserted	
Schedule 11	378
New Part 2 of Schedule 1AA inserted	
Schedule 12	379
New Schedule 11A inserted	

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. 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

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 relationships between the owners and 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 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

charge—

- (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 5
- (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

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** 10

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 15
- (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 20

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

custodian trustee, in relation to a trust, means a trustee— 25

- (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

dispose of means to make a disposition 30

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: 35
 - (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
 - (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 5
 - (d) includes a disposition by a living individual, by any other person, or by will; and
 - (e) includes an agreement to make a disposition, such as an agreement to the acquisition of land under the Public Works Act 1981; but 10
 - (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)**)
- eligible beneficiary**, in **Part 7**, means a person described in **section 246(2) and (3)** 15
- 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
 - (b) does not include a leasehold estate, such as a lease for life
- governance agreement** means an agreement that complies with **Schedule 4** 20 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
- governance certificate** means a governance certificate (*see section 167*) that 25 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 30
 - (ii) have, in accordance with tikanga Māori, responsibility for, or an interest in, the person’s welfare and best interests; and
 - (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: 35
 - (iii) the person’s brother, sister, half-sister, half-brother, stepsister, or stepbrother:
 - (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
 (b) includes an order of the court and an order made by a Judge 5
- 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
 (b) includes the Chief Judge and the Deputy Chief Judge of that court 10
- 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: 15
 (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): 20
 (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 owners of 1 or more parcels of Māori freehold land for a specified administrative purpose 25
- 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 137** to preserve and protect places of cultural or historical interest or special significance according to tikanga Māori 30
- land** includes—
- (a) estates and interests in land:
 (b) buildings and other fixtures attached to the land:
 (c) all things growing on land:
 (d) land covered with water 35
- 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**

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 5
 - (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— 10

- (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 15
- (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 20

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— 25

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

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

parcel, in relation to any Māori freehold land,—

- (a) means the freehold estate in a discrete area of land that— 30
 - (i) is defined as a parcel in compliance with the applicable survey standards; or
 - (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: 35

- (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

participating owners means the owners of land who participate in making a decision 5

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

private land—

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

- (b) includes Māori land

Public Trust has the meaning given by section 4 of the Public Trust Act 2001 10

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** 15

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)**

road has the meaning given by section 315(1) of the Local Government Act 1974 20

State highway has the meaning given by section 5(1) of the Land Transport Management Act 2003

statutory declaration means a declaration made in accordance with the Oaths and Declarations Act 1957 25

Surveyor-General means the Surveyor-General appointed under section 5(1) of the Cadastral Survey Act 2002

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)** 30

unpaid distribution details, in relation to an unpaid distribution, means the details listed in **section 213(1)(b)**

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 35

welfare guardian has the meaning given by section 2 of the Protection of Personal and Property Rights Act 1988

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

whenua tāpui means land reserved as a whenua tāpui by a declaration under **subpart 2 of Part 2**. 5

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. 10
- (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. 15

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). 20

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. 25
- (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. 30
- (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. 35
- (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**). 5

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 relationships of descent between people, such as a reference to—
- (a) a child, grandchild, brother, sister, parent, grandparent, whānau, or descendant; or 10
 - (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: 15
 - (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.
- (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**: 20
- (a) whether a whāngai relationship exists:
 - (b) whether a whāngai relationship is to be treated as a relationship of descent:
 - (c) whether a relationship by birth, or by adoption order, is to be treated as a relationship of descent. 25

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. 30

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

Parts 1 to 9 binds the Crown. 35

Part 2

Whenua Māori/Māori land and whenua tāpui

Subpart 1—Whenua Māori/Māori land

Māori customary land

- 12 Definition of Māori customary land** 5
- In **Parts 1 to 9**, **Māori customary land**—
- (a) means land held by Māori in accordance with tikanga Māori; and
 - (b) includes land that,—
 - (i) before the commencement of **Parts 1 to 9**, the court determined to be Māori customary land; and 10
 - (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.
- 13 Māori customary land cannot be disposed of**
- (1) An estate or interest in Māori customary land cannot be— 15
 - (a) disposed of; or
 - (b) vested 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: 20
 - (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**: 25
 - (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**). 30
- 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 35

- (b) on application by—
- (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— 5
- (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
 - (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. 10
- 15 Court may determine class of collective owners of Māori customary land**
- (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 15
 - (b) on application by—
 - (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. 20
- (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) If the court decides to change the status, it must make an order under **section 16**. 25
- (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
 - (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. 30
- (7) The court has exclusive jurisdiction to determine the class of collective owners of Māori customary land.
- (8) To avoid doubt,—
- (a) the court must not determine that the land is held by owners in defined shares; and 35

- (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
- (c) a determination under this section merely recognises, and does not change, the existing ownership.

5

16 Court may change status of Māori customary land to Māori freehold land

- (1) This section applies if—
 - (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.
- (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
 - (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) 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**.
- (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.

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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.
- (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.

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- (3) The kaiwhakahaere appointed by the order may also do the following in relation to the land:
- (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): 5
 - (c) bring proceedings under **section 18** (trespass or injury to Māori customary land):
 - (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**). 10
- (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. 15

18 Trespass or injury to Māori customary land

- (1) This section applies to proceedings in the Māori Land Court or any other court— 20
- (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.
- (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 25
 - (b) in any case, the following persons on behalf of the owners of the 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. 30

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). 35

*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 5
- (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. 10

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 15
 - (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 20
 - (b) declares that the land is, or is not, Māori freehold land.
- (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** 25

- (1) Land becomes Māori freehold land only in the following ways:
 - (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: 30
 - (c) the court makes an order under **section 25** declaring private land to be Māori freehold land:
 - (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:
- (f) land that is amalgamated, or whose ownership is aggregated, becomes Māori freehold land under **section 120 or 124**: 5
- (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:
- (h) another Act expressly provides that the land becomes Māori freehold land. 10
- (2) To avoid doubt,—
- (a) the court may determine and declare under **section 22** that land is Māori freehold land; and
- (b) land may already have been Māori freehold land at the commencement of **Parts 1 to 9**; and 15
- (c) the chief executive has no power under **Parts 1 to 9** to determine and declare that land is Māori freehold land.
- 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. 20
- (2) An application may be made by—
- (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 25
- (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:
- (i) the Minister of the Crown under whose control the land is held or administered: 30
- (ii) the chief executive of the department responsible for the administration of the Cadastral Survey Act 2002:
- (iii) the local authority or public body that holds or administers the land; or 35
- (d) the Minister for Māori Development for any Crown land set aside or reserved for the use or benefit of Māori; or
- (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:
 - (c) propose any other conditions to be imposed by the order. 5
- (4) A vesting order—
- (a) must specify the parcel or parcels comprising the land; and
 - (b) must vest the land in freehold—
 - (i) in the 1 or more persons, and in the relative shares, determined by the court; or 10
 - (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—
 - (i) is released from any lease, licence, mortgage, easement, or other interest from which the grantee has consented to release it; but 15
 - (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. 20
- (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. 25
- (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:
- (a) the land is not managed under a governance agreement:
 - (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 30
 - (ii) the application is agreed to by the trustees and does not breach the terms of the trust:
 - (c) for other land,— 35

- (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). 5
- (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. 10
- (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. 15

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: 20
 - (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: 25
 - (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. 30
- (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 35
 - (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.
- (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— 5
- (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
 - (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 10
 - (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.
- (4) An order must specify the parcel or parcels comprising the land. 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.
- (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. 20

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. 25
- (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— 30
- (a) a papakāinga housing site:
 - (b) a marae:
 - (c) a meeting place:
 - (d) a recreation or sports ground: 35

- (e) a bathing place:
 - (f) a church site:
 - (g) a building site:
 - (h) an urupā:
 - (i) a landing place: 5
 - (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: 10
 - (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 controlled and managed by the administering body, but as if the administering body held the land on trust. 15
- 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. 20
- (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. 25
- (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. 30
- (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. 35
- (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

- (1) The court may, on application, make an order declaring that—
- (a) any private land is reserved as a **new whenua tāpui**; or 5
 - (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**.
- (3) The declaration must not apply to— 10
- (a) land that is managed under a governance agreement (*see section 137* for how a kawenata tiaki whenua may be created over such land for certain purposes); or
 - (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. 15
- (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: 20
 - (i) the owners of the land:
 - (ii) Māori who belong to a class of persons specified in the declaration:
 - (iii) the people of New Zealand; and
 - (c) to be held and managed— 25
 - (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
 - (ii) subject to any conditions or restrictions that the court, at its discretion, specifies in the declaration. 30
- (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 35
 - (b) to be 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 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.
- (7) 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, and the application specified that beneficial ownership of the whenua tāpui is to vest in the beneficiaries; or
- (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. 10
- (8) The chief executive must give notice in the *Gazette* of the reservation of land 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). 15
- 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. 20
- (2) The court must be satisfied that the application complies with **section 30**.
- (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 25
- (ii) the application is agreed to by 75% or more of the owners of the land who attended the meeting; or 30
- (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
- (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 35
- (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
 - (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. 5
- (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— 10
- (a) the relevant territorial authority consents to the reservation; and
 - (b) the land does not contain a wāhi tapu or wāhi tūpuna.
- 33 Minister declares Crown land or other specified land reserved as whenua tāpui** 15
- (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. 20
- (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 25
 - (c) Crown forest land unless the reservation will not cause the Crown to breach any Crown forestry licence that affects the land.
- (3) The declaration of a new whenua tāpui over Crown land must reserve the land— 30
- (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
 - (c) to be held and managed—
 - (i) by the administering body appointed in the declaration and comprising the members specified in the declaration; and 35
 - (ii) subject to any conditions or restrictions that the Minister, at his or her discretion, specifies in the declaration.

- (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
 - (ii) a place of special significance according to tikanga Māori; or 5
 - (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 held and managed—
 - (i) by the administering body appointed in the declaration and comprising the members specified in the declaration; and 10
 - (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— 15
- (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 held and managed by the same administering body, and subject to the same conditions or restrictions (if any), as for the existing whenua tāpui. 20
- (6) 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; 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. 25
- (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). 30
- (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—
- (a) the name and membership of the administering body to be appointed for the whenua tāpui; and 35
 - (b) an appropriate class of Māori persons for whose common use and benefit the whenua tāpui should be reserved.
- (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, **other specified land** means—
- (a) Crown forest land (as defined by section 2(1) of the Crown Forest Assets Act 1989): 5
 - (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):
 - (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): 10
 - (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). 15
- 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**. 20
- (2) If the land to be reserved is only part of a parcel, the Minister 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
 - (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. 25
- (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 30
 - (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. 35
- (4) The application may, but need not, specify—
- (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).
- (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. 5
- (7) If the Minister applies for a recommendation under **subsection (3)(b)**, the court must do the following before making the recommendation: 10
- (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 15
- (b) having determined the appropriate class, give its members an opportunity to be heard on the name and membership of the administering body.

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. 20
- (2) The application may be made—
- (a) by the administering body of the whenua tāpui; or
- (b) by the following:
- (i) a kaiwhakahaere appointed for the land, for a declaration relating to Māori customary land; or 25
- (ii) 1 or more owners of the land, for a declaration relating to Māori freehold land or other private land; or
- (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 30
- (iii) by the Minister responsible for the land, if the whenua tāpui is over Crown land or other specified land.
- (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. 35
- (4) For a declaration about the membership of an administering body, the application must specify—
- (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.

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: 5
 - (a) the reservation as whenua tāpui is cancelled for some or all of the land; or
 - (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 10
 - (d) a person becomes, ceases to be, or replaces a member of the administering body appointed for the whenua tāpui; or
 - (e) the conditions or restrictions imposed on how the administering body holds and manages the whenua tāpui are changed. 15
- (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**. 20
- (4) The court must not make an order of declaration under this section unless it is satisfied of the following:
 - (a) the application complies with **section 35**;
 - (b) the declaration would have been permitted by the provision under which the whenua tāpui was first declared: 25
 - (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 30
 - (ii) the application is agreed to by 75% or more of the owners of the land who attended the meeting:
 - (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: 35

- (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):
- (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,— 5
- (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 10
- (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:
- (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: 15
- (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 Zealand, the application is agreed to by the Minister responsible for the land. 20
- (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,— 25
- (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.
- (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,— 30
- (a) for a lease granted under **section 40**, the declaration does not affect the lease:
- (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: 35
- (c) for a lease granted under **section 41 or 42** and a declaration under **subsection (1)(e)**, the declaration does not affect the lease.

- (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. 5
- (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. 10
- 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. 15
- (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 20
- (c) for a declaration about an existing whenua tāpui, directly to the administering body of the existing whenua tāpui; and
- (d) in the pānuī of the court or any publication that replaces it.
- (3) The notice must—
- (a) provide details of the application; and 25
- (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.
- (4) The court must consider any submissions received by the deadline specified in the notice before finalising and making its order. 30
- 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.
- (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. 35

Reservation of land

- (3) When land is reserved as a whenua tāpui,—
- (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 5
 - (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 10
 - (iii) any reasonable conditions or restrictions imposed by the administering body; and
 - (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. 15
- (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 beneficiaries 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**). 20
- (5) When land is reserved as a whenua tāpui in any other case, the beneficial ownership of the land—
- (a) is unaffected and is distinct from the interests of the beneficiaries of the whenua tāpui; and 25
 - (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. 30

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 members, each of whom— 35
- (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.
- (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. 5
- (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— 10
- (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. 15
- (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).
- 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: 25
- (b) the land or building subject to the lease must be used solely for the purpose for which the lease is granted:
- (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: 30
- (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.
- (3) The lease may include any other terms and conditions that the administering body thinks fit. 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.
- (6) This section applies despite **section 13** (for Māori customary land) and instead of **section 128** (for Māori freehold land). 10
- (7) In this section and **sections 41 to 43**,—
- 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 15
- 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. 20
- 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
- (c) a whenua tāpui reserved for the purposes of a building site that is subject to use of the buildings for residential housing. 30
- (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).
- (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. 35
- (4) 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.
- (6) This section applies despite **section 13** (for Māori customary land) and instead of **section 129** (for Māori freehold land). 5
- 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 10
- (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 15
- (b) for the life of the person to whom it is granted.
- (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 is not required for a lease granted under a right of renewal included in another lease. 20
- (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: 25
- (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.
- (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. 30
- (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**. 35
- (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).

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— 5
- (a) is to be varied to apply to additional or different land reserved as a whenua tāpui; or
- (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). 10
- (3) **Subsection (4)** applies if—
- (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. 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).

44 Reservation and disposition of whenua tāpui 20

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.

Disposition

- (2) Land reserved as whenua tāpui must not be disposed of, or vested under an Act or in any other way, but this section does not prevent— 25
- (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
- (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 30
- (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
- (d) a disposition of an individual freehold interest in the land separately from the other individual freehold interests in the land. 35

- (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.

Part 3

Ownership interests in Māori freehold land 5

Subpart 1—Ownership and decision making

Introductory provisions

- 45 Example of multiple owners of parcel of Māori freehold land**
- (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. 10
- (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). 15
- 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: 20
- (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.
- (2) However, the presumption does not apply if there is proof in the Māori land register or elsewhere that it does not apply. 25
- 47 Rights of owners**
- (1) Every owner of Māori freehold land is entitled—
- (a) to engage in decisions relating to the land:
- (b) to be informed about the land, including its use and management:
- (c) to be heard in any proceedings relating to the land: 30
- (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,—
- (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 distributions, whether in accordance with a provision of **Parts 1 to 9** or any other rule of law; and 5
- (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. 10
- (3) **Subsection (1)** does not limit or affect other rights that owners may have at law or in accordance with tikanga Māori. 30

Collective ownership

- 48 Conversion to collective ownership of Māori freehold land** 15
- (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,—
 - (a) for a parcel owned by tenants in common, by owners who together hold a 75% or more share in the land; or 20
 - (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:
 - (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: 25
 - (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)**: 30
 - (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.
 - (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**. 35

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**.
- (2) The beneficial ownership of the parcel is vested in the defined class of collective owners. 5
- (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. 10
- (2) This section applies whether the person became a collective owner of the parcel—
- (a) by conversion to collective ownership under **sections 48 and 49**; or 15
- (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** 20

- (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 25
- (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). 30

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,—
- (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 35

- (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
- (c) in any other case, the decision must be made using the decision-making process set out in **Schedule 2**. 5

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— 10
 - (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. 15
- (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: 20
 - (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. 25
- (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. 30
- (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 35
 - (b) there is no participation threshold for the second decision-making process, as long as—

- (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 5
- (c) if the applicable decision-making process includes a separate quorum requirement, a failure to satisfy the quorum requirement does not invalidate the decision. 10
- 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:
- (a) where the whole parcel is owned by 1 person, by that person making the decision; and 15
- (b) where the whole parcel is owned by joint tenants, by all of the joint tenants agreeing to the decision; and
- (c) in any other case,—
- (i) by satisfying the requirements of whichever of **sections 54 to 56** applies; or 20
- (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. 25
- 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—
- (a) is under 18 years of age; and
- (b) does not have a kaiwhakamarumarū appointed to manage his or her beneficial interest in the land. 30
- (2) The owner—
- (a) may participate in a meeting of owners about any decision relating to the land; but
- (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)**). 35
- (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)**).

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—

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

53 Voting for individual freehold interest owned by joint tenants

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- (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.
- (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.

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

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- (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.
- (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.

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

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- (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:
 - (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:
 - (b) for land owned by a class of collective owners, by more than 50% of the participating owners (casting votes of equal weight).

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- (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:
- (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: 5
 - (b) for land owned by a class of collective owners, by 75% or more of the participating owners (casting votes of equal weight).
- 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).
- 57 Effect of decisions** 20
- 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 decision.
- Subpart 2—Whānau trusts**
- Establishment of whānau trust* 25
- 58 Owner of Māori freehold land may establish whānau trust**
- (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. 30
 - (3) The trust must be established under—
 - (a) **section 59** (whānau trust operational while owner or owners living); or
 - (b) **section 60** (whānau trust operational on death of owner).
- 59 Whānau trust (operational 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 35

- is to be held by the trustees of a whānau trust for the benefit of the owner and—
- (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 5
 - (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 to be held by the trustees of a whānau trust for the benefit of the owners and— 10
- (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: 15
- (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: 20
 - (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 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)**. 25
- (2) Whānau trust property may include any of the property described in **section 59(3)(a), (b), and (d)**. 30
- (3) The declaration of the whānau trust must comply with requirements prescribed in regulations made under **Parts 1 to 9**.

Operation of whānau trust

- 61 Effect of establishing whānau trust** 35
- (1) A whānau trust is established on the date that the trust is entered in the Māori land register.

- (2) Trust property vests in the trustees,—
- (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 resolution to sell the land). 5
- (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. 10
- (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. 15

62 Trustees of whānau trusts

- (1) Any legal person 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)**. 20

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 25
 - (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
 - (c) comply with any other function or duty under any enactment or rule of law that applies to a trustee. 30
- (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. 35
- (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 5
 - (b) administration of the owner’s estate has been granted, for a trust established under **section 60**.
- (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 10
 - (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
 - (c) the address and contact details of each trustee. 15
- (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)**, 20
the chief executive must give the trustees an opportunity to provide further particulars in support of the application before making a decision to refuse to enter the trust in the register.
- (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)**, 25
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
 - (b) the chief executive receives a court order made under **Part 7** vesting interests in Māori freehold land in the trustees of the trust. 30

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—
- (a) the entry for the whānau trust; and 35
 - (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).
- (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:
- (a) to attend and speak at meetings of owners, as if the beneficiary were an owner of the land; and 5
 - (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
 - (c) to receive grants made from income of the trust. 10
- (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
 - (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. 15

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). 20

*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: 25
- (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: 30
 - (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. 35

- (2) The court may, on application by a trustee or a beneficiary, amend the terms of the declaration of a whānau trust.
- (3) The amendments that may be made by the court 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. 5
- (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. 10
- (5) The court—
- (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 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. 15
- (6) **Subsection (4)** does not limit or affect the jurisdiction of the High Court.

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**. 20
- (2) An application may be made by—
- (a) the chief executive; or
 - (b) a trustee; or 25
 - (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

- (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 30
 - (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.
- (2) The court may enforce the obligations of a trustee of a whānau trust under either or both of the following: 35
- (a) the terms of the trust;
 - (b) the trustee's fiduciary duties to the beneficiaries of the trust.

- (3) The court may act under this section at any time—
- (a) on application to the court; or
 - (b) on the court’s own motion.

Termination of whānau trust

- 71 Termination of whānau trust by court order** 5
- (1) An application may be made to the court for an order terminating a whānau trust.
- (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 10
 - (c) at least 5 beneficiaries of the trust.
- (3) The court may make the order if it is satisfied that—
- (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 15
 - (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
 - (iii) in the court’s opinion, termination will not unduly prejudice a beneficiary of the trust; or 20
 - (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:
 - (i) the trust no longer holds an interest in Māori freehold land but has other trust property; and 25
 - (ii) 25% 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.
- (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: 30
- (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: 35

- (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: 5
- (c) 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: 10
- (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.
- 72 Responsibilities of trustees if whānau trust terminated** 15
- (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.
- (2) This section applies whether the trust is terminated under **section 49 or 71**.
- Subpart 3—Kaiwhakamarumarū for owners needing protection 20
- 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: 25
- (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— 30
- (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** 35
- (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.
- (2) For the purposes of **paragraph (b) of subsection (1)**,— 5
- (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. 10

75 Who may be appointed as kaiwhakamarumarū

- (1) The court may appoint any legal person as a kaiwhakamarumarū.
- (2) However, if an individual is appointed, he or she— 15
 - (a) must be eligible to be a kaitiaki of a governance body under **section 184(3)**; and
 - (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
- (3) 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
 - (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 compe-

tent to advise the kaiwhakamarumarū in relation to the management of the owner's property.

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. 5
- (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 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 10
 - (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 15
 - (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 has testamentary capacity. 20

Procedure for appointing kaiwhakamarumarū

78 Who may apply for order appointing kaiwhakamarumarū

- Any of the following people may apply for an order appointing a kaiwhakamarumarū: 25
- (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: 30
 - (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): 35
 - (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):
- (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: 5
- (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: 10
- (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. 15
- (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 20
- (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 25
- (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. 30
- (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**. 35

- 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 person is subject, or is likely to be subject, to undue influence in managing his or her property.
- (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. 10
- 81 Content of order appointing kaiwhakamarumarū**
- (1) The order appointing a kaiwhakamarumarū must— 15
- (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
- (d) state the contact details of the kaiwhakamarumarū; and 20
- (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
- (g) specify the property that the kaiwhakamarumarū is to manage (by reference to the Māori land register for any Māori land); and 25
- (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.
- (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. 30
- Operational matters in respect of kaiwhakamarumarū appointment* 35
- 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.

- (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— 5
- (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. 10
- (3) Despite **subsection (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. 15

83 Expenses incurred by kaiwhakamarumarū and remuneration

- (1) The reasonable expenses incurred by a kaiwhakamarumarū in performing or exercising the functions and powers of the office are charged against and payable from the property that the kaiwhakamarumarū is appointed to manage.
- (2) However, any amount payable must not be charged against any interest in Māori freehold land, although the income from the land may be used to satisfy the debt. 20
- (3) A kaiwhakamarumarū is not otherwise entitled to be remunerated unless the court directs that he or she should be remunerated either—
- (a) in the order appointing the kaiwhakamarumarū; or 25
- (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 30
- (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,— 35
- (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**.

- (3) If a trustee company is appointed as a kaiwhakamarumarū, the Trustee Companies Act 1967 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**.

Changes to kaiwhakamarumarū appointment and termination of appointment

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— 10
- (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:
 - (b) replacing a kaiwhakamarumarū, if the court is satisfied a vacancy exists. 15
- (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—
- (a) the person was appointed, or continued in an appointment, as a kaiwhakamarumarū while not eligible under **section 75** to hold that position; 20
or
 - (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 25
 - (ii) been guilty of fraud in relation to property he or she is managing in respect of the appointment or in breach of a duty owed to the owner of the property; or 30
 - (iii) acted in a reckless or incompetent manner in the performance of the person's duties under the appointment.
- (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. 35
- (4) In **subclause (2)(b)**, **appointment** means—
- (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
- (e) an appointment as a trustee of a trust.

- 86 Termination of kaiwhakamarumarū appointment** 5
- (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—
 - (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); or 10
 - (c) if— 15
 - (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 20
 - (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 of the kaiwhakamarumarū is the subject of an order made under **section 73** (appointment of kaiwhakamarumarū for owners needing protection); or 25
 - (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. 30

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. 35
- 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
 - (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). 5
- (2) Each report must be filed within 90 days after the last day of the reporting period.
- (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. 10

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:

- (a) details of transactions affecting the land or other property managed by the kaiwhakamarumarū: 15
- (b) details of income derived from the land or other property:
- (c) details of payments to or on behalf of the owner:
- (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: 20
- (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.

90 Actions resulting from report by kaiwhakamarumarū 25

- (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: 30
- (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**.

91 Inspection of kaiwhakamarumarū reports 35

- (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.

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. 5
- (2) The court may also, at any other time, review an order appointing a kaiwhakamarumarū if—
- (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 10
 - (ii) the kaiwhakamarumarū requires directions from the court in relation to the appointment; or
 - (b) a report of the kaiwhakamarumarū has been referred to the court by the Registrar; or 15
 - (c) the kaiwhakamarumarū has failed to provide a report to the Registrar and the court has decided to initiate a review.
- (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— 20
- (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. 25
- (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. 30

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**. 35
- (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

- (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. 5
- (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. 10

95 Changes to be made to registers after kaiwhakamarumarū appointment terminated

- (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. 15
- (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**. 20

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: 25
 - (i) children, grandchildren, and other descendants of an owner of the land:
 - (ii) grandparents, parents, uncles, aunts, siblings, nieces, nephews, and first cousins of an owner of the land: 30
 - (iii) any owners of the land:
 - (iv) former owners of the land:
 - (v) descendants of any former owner of the land, including the land when it formed any part of a former parcel; and
 - (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 35

- (c) 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:
- (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): 5
 - (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:
 - (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. 10
- (2) In this Part, **preferred entity**, in relation to Māori freehold land (the **land for disposition**), means— 15
- (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: 20
 - (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— 25
- (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. 30
- (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: 35
 - (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:

- (c) a mortgagee from selling land under a power expressed or implied in a mortgage.

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). 5
- (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*): 10
- (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 15
- (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 20
- (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
- (c) a power expressed or implied in a mortgage; or 25
- (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).
- (2) However, a parcel cannot be sold—
- (a) if it is owned by a class of collective owners; or 30
- (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.
- (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. 35

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— 5
- (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 10
 - (c) to any other person, under an agreement—
 - (i) made by tender or auction after a preferential tender process for the land ends without a qualifying tender; and
 - (ii) on terms at least as favourable to the seller as the terms required for a qualifying tender under that preferential tender process. 15
- (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. 20
- (4) If the land is not managed under a governance agreement,—
- (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 25
 - (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): 30
 - (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.
- (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 35
 - (b) otherwise be agreed to unconditionally within 9 months after the decision is made to offer the land for sale.

- (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** 5
- (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. 10
- (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. 15
- (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) The notice must specify the following as the terms of sale: 20
- (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 25
 - (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.
- (7) A **qualifying tender** is received if— 30
- (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 35
 - (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)**.

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). 5
- (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). 10
- (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. 15
- (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**):
- (a) private land other than Māori customary land; or 20
 - (b) Crown land that is subject to Part 2 of the Maori Affairs Restructuring Act 1989.
- (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**. 25
- (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.
- (7) If a parcel of land B is not Māori freehold land, the exchange must be agreed to as follows: 30
- (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.
- (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. 35

- (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: 5
- (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— 10
- (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.
- (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 15 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—
- (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 20 order is made.
- (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** 25
- (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 30
 - (c) offers to sell the parcel, or exchanges the parcel, under **section 103**.
- (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 35
 - (c) is not inconsistent with the offer to sell the parcel, or the exchange of the parcel, under **section 103**.

- (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
 - (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.

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) it is owned by a class of collective owners; or
 - (b) it is owned by the trustees of a whānau trust or other trust (other than a governance body); or
 - (c) it is managed under a governance agreement.
- (3) The gift must be agreed to by owners who together hold a 75% or more share in the land.
- (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.

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.

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
 - (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—
- (a) by the governance body, if the land is managed under a governance agreement; or 5
 - (b) by owners who together hold a 75% or more share in the land, in any other case.
- (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** 10
- (1) Part of a parcel of Māori freehold land must not be sold, gifted, exchanged, or transferred separately from the rest of the parcel.
- (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* 15
- 109 Boundary adjustment of parcel**
- (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 20
 - (b) the actions required by **section 110** are completed.
- (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** 25
- (1) This section sets out the actions that must be completed for a boundary adjustment to a parcel of Māori freehold land.
- (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. 35
- (4) The boundary adjustment, including the survey plan and allocation scheme, must be agreed to as follows:

- (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 10
- (b) in respect of the adjoining parcel of land,—
- (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. 15
- (5) The boundary adjustment, including the survey plan and allocation scheme, must also be agreed to by—
- (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. 20
- (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). 25
- (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. 30
- 111 Effect of boundary adjustment**
- (1) This section applies if a boundary adjustment is made to a parcel of Māori freehold land. 35
 - (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,—
- (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
- (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:
- (a) Māori freehold land:
 - (b) land subject to Part 2 of the Maori Affairs Restructuring Act 1989. 10
- (6) If, immediately before an existing parcel has its boundary adjusted, 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 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. 15
- (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 20

112 Partition of parcel

- (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. 25
- (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). 30
- (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**). 35
- (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:
- (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. 5
- (5) The partition, including the survey plan and allocation scheme, must also be agreed to by—
- (a) the grantor of each easement or other interest that benefits the existing parcel; and 10
 - (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens the existing parcel.
- (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. 15
- (7) The partition must be conditional on the court making an order of confirmation that—
- (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, occupy, or develop their land; and 20
 - (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. 25
- 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). 30
- (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.
- (3) Otherwise, the allocation scheme must provide for each new parcel to be owned in 1 of the following ways: 35
- (a) by a sole owner:
 - (b) by joint tenants:
 - (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. 5

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.
- (2) A survey plan must be prepared that defines the new parcels— 10
- (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. 15
- (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 20
 - (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— 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 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. 30

116 Effect of partition 35

- (1) This section applies if land is partitioned.
- (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,—
- (a) the new parcels are instead managed under the governance agreement; 5
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—
- (a) all or part of the parcel, the interest continues to apply to the same land 10
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.
- (6) However, **subsection (5)** does not prevent the variation of an interest immediately upon partition. 15

Amalgamation of parcels of Māori freehold land or other land

117 Amalgamation of parcels

- (1) Two or more existing parcels of land may be amalgamated into 1 new parcel, but only if— 20
- (a) the existing parcels comply with this section; and
 - (b) the actions required by **section 118** are completed.
- (2) The existing parcels—
- (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 25
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—
- (a) must be owned by 1 or more classes of collective owners or must not be 30
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: 35
- (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.
- 118 Actions required for amalgamation** 5
- (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.
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of the new parcel in accordance with **section 119**. 10
- (4) The amalgamation, including the survey plan and allocation scheme, must be agreed to in respect of each existing parcel as follows:
- (a) for Māori freehold land managed under a governance agreement, by the governance body: 15
- (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.
- (5) The amalgamation, 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.
- (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. 25
- (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 30
- (b) 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 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. 35

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

- (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. 5

- (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. 10

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: 15

- (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. 20

- (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. 25

- (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.

- (4) If the existing parcels are managed under a governance agreement immediately before the amalgamation,— 30

- (a) the new parcel is instead managed under the governance agreement; and
 (b) the governance body must comply with **section 208**.

- (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— 35

- (a) all or part of the parcel, the interest continues to apply to the same land in the new parcel; 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 parcel.
- (7) However, **subsection (6)** does not prevent the variation of an interest immediately upon amalgamation. 5

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— 10
 - (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. 15
- (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 20
 - (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. 30

122 Actions required for aggregation of ownership 25

- (1) This section sets out the actions that must be completed in order to aggregate ownership of parcels.
- (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: 30
 - (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: 35
 - (c) for other private land, by the owners of the parcel.

- (4) The aggregation must be conditional on the court making an order of confirmation that—
- (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. 5

123 Allocation scheme for parcels on aggregation of ownership

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

Class of collective owners 10

- (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.

No class of collective owners 15

- (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:

(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. 20

- (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. 25

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. 30

- (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 35

- (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. 5
- (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.
- Cancellation of aggregation of parcels of Māori freehold land* 10
- 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.
- (2) An allocation scheme must be prepared that allocates the beneficial ownership of the parcels in accordance with **section 126**. 15
- (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 20
- (b) owners who together hold 75% or more of the participating owners' total share in the parcel, in any other case.
- (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 25
- (b) the court is satisfied that the allocation scheme is fair and equitable to all owners.
- 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. 30
- 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. 35

No class of collective owners

- (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: 5
 - (c) by tenants in common.
- (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. 10
- (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. 15
- (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— 20
- (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. 25

*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. 30
- (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)**.
- (4) However, agreement is not required for a lease granted under a right of renewal included in another lease. 35
- (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.
- (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— 5
- (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. 10
- (7) If the lease is a self-lease, the lease must be agreed to by the governance body.
- Other provisions*
- (8) If the land is not managed under a governance agreement and the lease is granted for a term of more than 52 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**. 15
- (9) The lessee's interest under the lease may, unless the terms and conditions of the lease provide otherwise,—
- (a) be assigned; or
- (b) be subleased, but only in accordance with the provision in this Part that restricts a lease of the sublease's type. 20
- (10) However, the lessee's interest under a self-lease cannot be assigned or subleased to anyone other than—
- (a) the governance body that manages the land; or
- (b) an entity controlled by the governance body; or 25
- (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.
- (11) In this section and **sections 129 and 130**,—
- entity controlled by the governance body** means an entity for which the governance body has— 30
- (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) 35
- 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

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

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.

129 Lease of parcel for residential housing with rent payable 10

- (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). 15
- (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.
- (5) The lessee's interest under the lease may be— 20
- (a) assigned; or
- (b) subleased, but only in accordance with the provision in this Part that restricts a lease of the sublease's type.

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. 25
- (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. 30
- (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. 35
- (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.
- (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: 5
- (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.
- (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. 10
- (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**. 15
- (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.
- 131 Gift of rent-free lease for residential housing** 20
- (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.
- (2) The lease must be gifted to the following (the **recipient**):
- (a) a child or grandchild of the grantee; or 25
 - (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
 - (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. 30
- (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. 35
- (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—

- (a) is a child or grandchild of the grantee; and
- (b) is less than 18 years of age or requires full-time care; and
- (c) occupied the premises as his or her primary residence when the grantee died.
- (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. 5
- (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. 10
- (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.
- 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. 15
- (2) The term of the licence or *profit à prendre* must be—
- (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. 20
- (3) The licence or *profit à prendre* 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. 25
- (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) 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— 30
- (a) any further terms that may be granted under rights of renewal included in the licence or *profit à prendre*; and
- (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. 35
- 133 Mortgage or charge over parcel**
- (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
 - (b) owners who together hold a 75% or more share in the land, in any other case. 5
- (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
 - (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. 10
- (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
 - (b) the creation of a statutory land charge under another Act. 15

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). 20
- (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). 25
- (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. 30
- (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: 35
- (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.
- (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: 5
- (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: 10
- (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) 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. 15
- (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 20
- (b) the relevant territorial authority, for connection with any other road.
- (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**. 25
- (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** 30
- (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: 35

- (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: 5
- (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: 10
- (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. 15
- (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.
- (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**). 20
- (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** 25
- (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.
- (2) The kawenata tiaki whenua must be created by an instrument that is agreed to by the governance body that manages the land. 30
- (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
- (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. 35
- (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.
- (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 5
 - (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. 10

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. 15
- (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 20
 - (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 25

- (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. 30
- (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 35
 - (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**). 5

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. 10
- (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: 15
 - (b) gifted to—
 - (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: 20
 - (c) exchanged for something else, but only in accordance with **section 141**: 25
 - (d) mortgaged or charged. 25
- (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.
- (4) To avoid doubt, the sales or gifts to which this section applies include— 30
- (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.

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. 35

- (2) Interest A must be exchanged for an individual freehold interest (**interest B**) in any private land other than Māori customary land (**land B**).
- (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
- (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.

General provisions about dispositions

- 142 Dispositions made by instruments** 10
- (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.
- 143 Dispositions of Māori freehold land have effect when recorded or registered** 15
- (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— 20
 - (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. 25
- 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. 30
 - (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. 35

- (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—
- (a) need not record the instrument in the Māori land register; and 5
 - (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 10
an order that the disposition does not comply.

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. 15
- (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.
- (3) If the instrument has been recorded in the Māori land register, the Registrar-General may treat the instrument as an instrument that complies with the requirements prescribed by regulations. 20
- (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). 25

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**: 30
- (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). 35

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**.

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)**. 5
- (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.
- (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. 15

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.
- (2) The application may be made by any person who considers that the disposition did not comply with the requirements of the enactments. 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 of a parcel of Maori freehold land or an individual freehold interest in Maori 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 provided by the governance body.

Appointing a governance body for Māori freehold land 30

157 Who may appoint a governance body

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
- (b) land that has been reserved as whenua tāpui. 35

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**: 5
 - (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: 10
 - (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): 15
 - (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: 20
 - (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 25
 - (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*). 30
- (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): 35
 - (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—

- (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. 5

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**. 10

Certain governance bodies may become rangatōpū

160 Governance bodies that are Māori incorporations or trusts may become rangatōpū 15

- (1) The following governance bodies may become a rangatōpū:
 - (a) a Māori incorporation;
 - (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**. 20

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: 25
 - (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**. 30
- (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**

- (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. 5
- (2) A governance body that is a party to a registered governance agreement—
- (a) may at any time update the agreement and apply to the chief executive to register the updated version in place of the registered governance agreement; and
- (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 to boundaries or legal description (*see sections 206 to 208 and 225 to 227*). 10
- (3) An application to register a governance agreement must satisfy the requirements of **Part 4 of Schedule 3**. 15

163 Registration of governance agreement

- (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 20
- (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 25
- (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 30
- (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— 35
- (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: 5
 - (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: 10
 - (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. 15

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.
- (2) The chief executive must, within 1 month after receiving the last of the simultaneous applications,— 20
 - (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
 - (b) at the meeting,— 25
 - (i) advise the owners that the chief executive has received simultaneous applications to register a governance body for the land; and
 - (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. 30
- (3) If the vote satisfies the participation thresholds set out in **section 51(4)**, the preferred application is the one that receives votes that represent the greatest share of the parcel of Māori freehold land.
- (4) The chief executive must— 35
 - (a) notify the results of the vote in accordance with **clause 14 of Schedule 2**; and
 - (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—
- (a) the application to register agreement A is received before agreement B is registered; and 5
 - (b) neither application is rejected under **section 165**.
- 165 Grounds for rejecting application for registration of governance agreement**
- (1) The chief executive must reject an application to register a governance agreement if— 10
- (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 15
 - (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 20
 - (iii) is already managed under a registered governance 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 25
 - (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 30
 - (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 35
 - (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** 5
- (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 under another enactment. 10
- (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
 - (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. 15
- 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**.
- (2) A rangatōpū certificate is conclusive evidence that the rangatōpū named in the certificate is a registered rangatōpū under **Parts 1 to 9**. 20
- 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.
- Establishment of asset base* 25
- 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—
- (a) are intended to vest in a governance body on the registration of a governance agreement; and 30
 - (b) are identified for that purpose in an application made under **section 162**.
- (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 35

- (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—
- (a) the owners of the Māori freehold land to be managed under the agreement; or 5
- (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
- (c) if the governance body is directly replacing another governance body (*see section 176*), the governance body that is being replaced. 10
- (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,—
- (a) does not vest in a governance body under this section; and 15
- (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.
- (5) The vesting takes effect—
- (a) without any further authority than this section; and 20
- (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
- (d) subject to or together with any lease, licence, mortgage, easement, or other interest that affected the land or assets immediately before the vesting. 25
- (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.
- 170 Registrar-General to record change of ownership of land** 30
- 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**,—
- (a) register the governance body as the proprietor of the fee simple estate in the land; and 35
- (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.

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 5
 - (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)**. 10

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**. 15
- (2) The security—
- (a) is available to the governance body as security for the discharge of the debt or liability; and 20
 - (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.

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**. 25
- (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 30
 - (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
 - (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 35
 - (d) release a surety, wholly or in part, from an obligation; or

- (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. 5
- (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. 10

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. 15
- (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.
- (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*). 25

Cancelling governance agreements

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 under another enactment, rather than under **section 166**, the body ceases to be registered 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

176 Cancellation of governance agreement when governance body replaced

- (1) This section applies if—
- (a) the process of cancelling a governance agreement is started as described in **section 175(1)(a)** (revocation of governance body's appointment); and 25
- (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—
- (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 35

- (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—
- 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 of a trust: 35

- (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 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.
- (3) The application must be made within 20 working days after the date on which the decision is made.
- (4) The court must confirm the decision unless **subsection (5)** applies. 15
- (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. 20
- (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. 25

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.
- (2) **Section 190** specifies the purposes for which a kaiwhakahaere may be appointed. 30
- (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— 35
- (i) the Māori Trustee; or

- (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 5
- (b) the court considers that the person is qualified for appointment having regard to the requirements of the particular appointment. 10
- (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**. 15
- (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: 20
 - (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: 25
 - (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: 30
 - (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: 35
 - (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—

- (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: 5
 - (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**: 10
 - (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: 15
 - (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** 20
- (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—
 - (a) consult with the owners about actions the kaiwhakahaere proposes to take on the owners' behalf; and 25
 - (b) keep the owners informed about actions the kaiwhakahaere has taken on the owners' behalf; and
 - (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. 30
- 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. 35
 - (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 free-

hold land to which the purpose relates, unless the execution of the document is unrelated to the purpose for which the kaiwhakahaere is appointed.

- (3) A kaiwhakahaere may seek directions from the court in relation to the purpose for which the kaiwhakahaere is appointed.

193 Process for appointing kaiwhakahaere 5

- (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,—
- (a) unless **subsection (3)** 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 10
- (b) if a meeting of owners is held under **section 194**, consider the chief executive's report under that section; and
- (c) be satisfied that the appointment is necessary or desirable in the interests of the owners; and 15
- (d) select a person (the **proposed appointee**) who is eligible for the appointment under **section 189(4)**; and
- (e) consult the proposed appointee on the terms of the appointment; and
- (f) be satisfied that— 20
- (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
- (ii) the proposed appointee consents to the appointment.
- (3) If the court decides to proceed with appointing a kaiwhakahaere, the court must— 25
- (a) appoint the proposed appointee by making an order under **section 195**; and
- (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. 30
- (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 35
- (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
- (iii) the kaiwhakahaere can adequately protect the interests of the owners. 5

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)**: 10

- (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,—
 - (i) advise the owners that the court is considering appointing a kaiwhakahaere; and 15
 - (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
 - (iv) obtain the owners' views on a suitable person to appoint as the kaiwhakahaere; and 20
- (c) after the meeting, promptly report the owners' views to the court.

195 Order of appointment

A court order appointing a kaiwhakahaere—

- (a) must specify the purpose for which the kaiwhakahaere is appointed; and 25
- (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
- (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 30
- (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. 35

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
 - (b) the progress the kaiwhakahaere has made towards fulfilling that purpose; 5
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. 10

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 15
 - (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.
- (3) The chief executive must arrange a meeting of owners as soon as practicable after being directed to do so under this section. 20
- (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); 25
 - (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

- The court may make an order in relation to the costs of a kaiwhakahaere— 30
- (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)** 35
terminating the appointment; or

- (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 5
- (e) if the person is a body corporate registered under an Act, when the body corporate ceases to be registered 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 10
- (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:
- (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 15
- (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)**,— 20
- (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. 25
- (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. 30
- (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 35
- (b) the reason for terminating the appointment.

200 Responsibilities of kaiwhakahaere if appointment terminated

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

- (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. 5
- (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
 - (b) the act or omission is done in bad faith or without reasonable care. 10
- (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—
 - (a) the order appointing the person provides otherwise; or 15
 - (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

Operation of governance bodies

Powers, duties, and responsibilities 20

202 Powers, duties, and responsibilities of governance bodies

- (1) A governance body must—
 - (a) manage an 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; 25
and
 - (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 30
 - (ii) the creditors of the governance body; and
 - (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 35

- (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 5
- (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
- (b) act, and ensure that the governance body acts, in accordance with the governance agreement and the requirements of **Parts 1 to 9**; and 10
- (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**
- A kaitiaki of a governance body is not, by reason only of being a kaitiaki, personally liable for— 15
- (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. 20
- 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
- (b) any claims made on the governance body; or 25
- (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— 30
- (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 35

- (b) 1 or more parcels of land, other than Māori freehold land, that is already held by the body under a governance agreement.
- (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 5
- (b) apply for a court order under **section 211**—
- (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. 10
- (3) The governance body must update the governance agreement, and send it to the chief executive for registration under **section 163**, within 1 month after the later of—
- (a) the date on which the court order is made under **section 211**; and
- (b) the date on which the body acquires the land. 15
- (4) To avoid doubt, this section does not apply to an acquisition of land—
- (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 11 of Schedule 3**). 20

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**. 25
- (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 30
- (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
- (c) within 1 month after the sale, update the governance agreement and send it to the chief executive for registration under **section 163**. 35
- (3) If a governance body exchanges a parcel of Māori freehold land, the body must, within 1 month after the exchange, update the governance agreement and send it to the chief executive for registration under **section 163**.

- 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. 5
- (2) The governance body must, within 1 month after the partition, amalgamation, or boundary adjustment, update the governance agreement and send it to the chief executive for registration under **section 163**.
- 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)**. 10
- (2) An allocation scheme for interests in Māori freehold land that is held, or to be held, by a governance body must—
- (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 15
- (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 20
- (ii) in accordance with an agreement or arrangement between those owners; or
- (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. 25
- 210 Requirements for land management plan**
- (1) This section applies if—
- (a) a governance agreement requires a governance body to have in place a land management plan; or 30
- (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
- (c) a governance body wishes to partition or amalgamate a parcel of Māori freehold land (in which case **section 208** also applies). 35
- (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.

- (3) A land management plan must—
- (a) identify the Māori freehold land that is managed under the governance agreement; and 5
 - (b) set 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 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 10
 - (d) set out the financial implications of the proposed changes; and
 - (e) set out how the governance body will achieve the proposed changes; and
 - (f) set out the risks of adopting, as well as the risks of not adopting, the land management plan; and 15
 - (g) in respect of a proposed disposition of a parcel of Māori freehold land, set out—
 - (i) why the disposition is necessary for the governance body to effectively manage the asset base in accordance with the governance agreement; and 20
 - (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.

Order relating to acquisition of Māori freehold land

- 211 Order declaring land to be Māori freehold land and confirming allocation scheme** 25
- (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—
- (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 30
 - (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
 - (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. 5
- (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.

Application of revenues

212 Application of revenues 10

- (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
 - (b) for any other purpose that is consistent with the body's responsibilities in respect of the asset base. 15
- (2) If a governance body decides to pay owners a distribution, the body must keep a record of—
- (a) the name of each owner entitled to receive the distribution; and
 - (b) the amount to be distributed to each owner; and 20
 - (c) the date on which the distribution will be made (the **distribution date**).

213 Unpaid distributions

- (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 25
 - (b) the details of an unpaid distribution (the **unpaid distribution details**) are—
 - (i) the name of the owner entitled to receive the distribution; and
 - (ii) the amount of the distribution; and 30
 - (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.
- (2) A governance body— 35
- (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.
- (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. 5
- (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. 10
- (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.

Access to information held by governance bodies 15

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 20
 - (b) the governance body is accountable to the owners.
- (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,— 25
 - (a) a request for information must be reasonably detailed and specific; and
 - (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— 30
 - (a) promptly notify the owner whether the body holds the requested information; and
 - (b) within a reasonable time after receiving the request,—
 - (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 35
 - (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—
- (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**. 5

215 Reasons for withholding information

A governance body may withhold information requested under **section 214** if—

- (a) withholding the information is necessary to— 10
 - (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 15
 - (iv) enable the governance body to carry on negotiations without prejudice or disadvantage (including commercial and industrial negotiations); or
- (b) making the information available— 20
 - (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
 - (iii) would breach an obligation of confidence; or
- (c) the requested information cannot be provided without substantial collation or research, or substantial cost; or 25
- (d) the request is frivolous or vexatious or the information requested is trivial.

Powers of Māori Land Court in relation to governance bodies

216 Court may make orders or investigate governance bodies 30

- (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.
- (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: 35

-
- (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:
- (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: 5
- (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 10
- (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.
- (3) The court may make an order appointing 1 or more persons (**examining officers**) to— 15
- (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. 20
- (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 25
- (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 30
- (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 35
- (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.

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.
- (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. 5
- (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 10
- (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. 15
- (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 20

- (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—
- (a) a matter or question affecting the governance body should be the subject of inquiry at a sitting of the court; or 25
- (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.
- (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 30
- (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). 35

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 en-

gage in conduct that would contravene a governance agreement or **Parts 1 to 9** from engaging in that conduct.

- (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). 5

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 10
 - (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 15
 - (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 20
 - (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. 25
- (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. 30

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 35
 - (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.
- (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— 5
- (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**. 10

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 15
- (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— 20
- (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 25
- (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 30
- (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. 35
- (3) If the asset base is insufficient for the purpose of **subsection (1)(d)**, the distribution scheme must—

- (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 5
 - (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: 10
- (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. 15

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. 20

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. 25
- (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 30
 - (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 35
 - (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**.

- (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*). 5
- (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**; 10
and
- (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 15
soon as practicable after the expiry of that period; or
- (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 20
soon as practicable after the court confirms the decision under that section.
- (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 25
base; and
- (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 30
secured and unsecured creditors, and the amounts they are owed) and the share that is to be distributed to the departing owners; and
- (d) provide for the amount of unpaid distributions identified under **paragraph (b)** to be transferred to the Māori Trustee along with the unpaid 35
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
- (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)**.
- (2) The share of the asset base to be distributed to the departing owners must be calculated using the following formula: 5
- $$(a \div b) \times (c - d)$$
- where—
- a is the value of the Māori freehold land that is to be removed from the asset base 10
- 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
- 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— 15
- (a) gives effect to an agreement or arrangement between the governance body and the departing owners; or
- (b) is consented to by the departing owners; or 20
- (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.
- (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. 25
- (5) Any of the following persons may apply to the court for a determination on any aspect of a partial distribution scheme:
- (a) the governance body:
- (b) 1 or more of the departing owners. 30
- (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,— 35
- (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 5
- (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— 10
- (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**. 15
- (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* 20
- 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**. 25
- (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— 30
- (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. 35

- (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)**. 5

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 10
- (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— 15
- (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,— 20
- (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. 25
- (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)**)). 30

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; 35
- (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.
- (3) The register must contain— 5
- (a) details of the individual freehold interests held by each kaitiaki; and
 - (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. 10
- (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. 15

231 Kaitiaki must make annual declaration for purpose of interests register

- (1) This section applies to each kaitiaki of a governance body that is any of the following:
- (a) a rangatōpū;
 - (b) a Māori incorporation: 20
 - (c) the trustees of an ahu whenua trust or a whenua tōpū trust, unless the trustee is an existing statutory body.
- (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. 25

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— 30
- (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—
- (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). 5
- (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
 - (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. 10
- 234 Chief executive must notify Māori incorporation of matters affecting share register**
- (1) This section applies if— 15
- (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
 - (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. 20
- (2) The chief executive must, within 20 working days after receiving the instrument or notice, send a copy of it to the Māori incorporation. 10
- 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. 25
- (2) If a Māori incorporation makes an amendment referred to in **subsection (1)**, it must— 30
- (a) notify the chief executive within 5 days after the amendment is made; and
 - (b) if the incorporation keeps its own share register under **section 233**, update the register to reflect the amendment.
- 236 Relationship between share register and Māori land register** 35
- (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.
 - (3) The court may, on application, make an order declaring the correct details. 5
 - (4) An application may be made by—
 - (a) the Māori incorporation; or
 - (b) the chief executive; or
 - (c) any person who owns or claims to own, or has any other interest in, a beneficial interest affected by the inconsistency. 10
 - (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. 15
- 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*).

Part 7 20

Administration of estates

Introductory provisions

- 238 General law on estates subject to this Part**
- (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— 25
 - (a) applications for, and grants of, administration of estates of deceased persons; and
 - (b) the administration of those estates; and
 - (c) the bringing and settling of claims against those estates; and 30
 - (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. 35

- (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**. 5
- (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**
- (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. 10
- (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. 15
- 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. 20
- 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 25
- (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. 30
- (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 35
- (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**

- (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: 5
- (a) Māori land;
 - (b) a beneficial interest in the freehold estate in Māori land;
 - (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— 10
- (a) the person died on or after 1 April 1968; and
 - (b) the revenue was derived before the person's death.
- (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 15
 - (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.
- (5) For the purposes of this section, if a person who died before 1 April 1968 held 20 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—
- (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. 25

*Restrictions relating to testamentary promises and family protection legislation***244 Restrictions relating to testamentary promises legislation**

- (1) An order may 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)**. 30
- (2) The order may 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. 35

- (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.
- 245 Restrictions relating to family protection legislation** 5
- (1) An order may 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)**.
- (2) The order may 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. 10
- (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. 15
- (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. 20
- (5) A Māori is to be treated as the spouse of a deceased Māori for the purposes of the Family Protection Act 1955 if—
- (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 someone else. 25

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. 30
- (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,—
- (a) surviving children of the owner and the 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): 35

- (b) surviving siblings of the owner and the 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):
 - (c) a surviving parent of the owner:
 - (d) surviving siblings of a parent of the owner and the 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): 5
 - (e) other descendants of the owner’s grandparents living at or born after the date of the owner’s death (even if the grandparent did not survive the owner). 10
- (4) 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.
- (5) A vesting to give effect to succession must be made only after— 15
- (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**.
- 247 Succession on intestacy where more than 1 eligible beneficiary**
- (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 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.
- (3) However, a whānau trust must not be established if 1 or more of the eligible beneficiaries— 30
- (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— 35
- (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

- (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).
- 248 Family arrangement instead of whānau trust** 5
- (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. 10
- (3) If interests are vested in the trustees of a whānau trust,—
- (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. 15
- (4) A vesting order made under **section 247** may include any terms that the court thinks 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**. 20
- 249 Application for succession when owner dies intestate**
- (1) This section applies to an application required by **section 246(5)(a)**.
- (2) An application may be made by the following persons: 25
- (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**. 30
- 250 Processing of application for 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.
- (2) For that purpose, the chief executive may—
- (a) require the applicant to provide further information: 35
- (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.

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- (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: 5
 - (c) an invitation to make submissions on the application by the end of the date that is 20 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 10
 - (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 period, **section 251** applies. 15
- (6) If no objections or competing applications are received within the 20-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 20
 - (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.
- 251 Determination of application for succession where objection or competing application received** 25
- (1) This section applies to an application for succession if an objection or a competing application is received within the notice period.
- (2) The application must be referred to the court.
- (3) The court must determine which persons are to succeed to the land or interest to which the application relates. 30
- (4) The Registrar must give notice of the court’s decision to the chief executive, and 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 decision; and 35
 - (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.

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)**.
- (2) The beneficial ownership of the land or interest is vested—
- (a) in accordance with the entries made in the register; and 5
 - (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**.
- (4) A whānau trust—
- (a) is established— 10
 - (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**.

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

15

- (1) This section applies if—
- (a) the owner—
 - (i) of a parcel of Māori freehold land dies intestate; or
 - (ii) of an individual freehold interest in a parcel of Māori freehold land dies intestate; and 20
 - (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). 25
- (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;
 - (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. 30
- (3) A survivor's rights end when the survivor—
- (a) remarries or enters a new civil union or de facto relationship; or 35
 - (b) dies; or
 - (c) 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.
- 254 Matters relating to whānau trust established on intestacy** 5
- (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)**. 10
- (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:
- (a) **section 61** (effect of establishing whānau trust):
 - (b) **section 62** (trustees of whānau trust): 15
 - (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):
 - (e) **section 69** (court may validate actions of trustees):
 - (f) **section 71** (termination of whānau trust by court order): 20
 - (g) **section 72** (responsibilities of trustees if whānau trust terminated).

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**. 25
- (2) The lease must be vested in 1 of the following persons (the **recipient**) who occupied the premises to which the lease applies as his or her primary residence when the grantee died: 30
- (a) a child or grandchild of the grantee:
 - (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. 35

- (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. 5
- (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. 10
- (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. 15
- (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** 20
- (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**. 25
 - (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**.
- 257 Procedure after chief executive receives application for vesting of rent-free lease for residential housing** 30
- (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—
 - (a) require the applicant or, if applicable, the person acting on behalf of the applicant to provide further information: 35
 - (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.

- (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.
- (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. 5
- (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. 10
- (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 15
- (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**. 20

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— 25

- (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 30

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. 35

- (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**. 5
- (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. 10
- (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— 15
- (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
- (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 20
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.
- 260 Vesting of land or interest gifted by will where grant of administration but no effective administration** 25
- (1) This section applies if—
- (a) administration has been granted over an estate described in **section 259(1)(a) or (b)**; but
- (b) the gift is unlikely to be administered for any reason, including the following: 30
- (i) the administrator refuses to apply to have the land or interest vested in the beneficiaries of the gift; or
- (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). 35
- (2) The court may, on application, make an order vesting the land or interest in the beneficiaries of the gift.
- (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 that—
- (a) this section applies and the applicant has complied with its requirements; 5
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**
- (1) This section applies if administration has not been granted over an estate described in **section 259(1)(a) or (b)**. 10
- (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.
- (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 notify, in writing, each person entitled to seek a grant of administration of the application and must invite a response within 20 working days. 15
- (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. 20
- (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— 25
- (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. 30
- (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** 35
- (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—
- (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**. 5
- (4) The court must make an order confirming the family arrangement if the court is satisfied—
- (a) that—
 - (i) the beneficiaries have entered into the arrangement with the benefit of independent legal advice; or 10
 - (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.
- (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. 15
- (6) The application must comply with requirements prescribed in regulations made under **Parts 1 to 9**.
- (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. 20
- (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**. 25

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.
- (2) The administrator may apply to the chief executive to have the beneficial interest vested in the administrator. 30
- (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. 35

*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 5
 - (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. 10
- (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— 15
 - (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. 20
- (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**: 25
 - (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 30

- (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. 35

- (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.
- (3) The chief executive must, if the chief executive is satisfied that the right has ended,— 5
- (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.
- (4) For the purposes of **subclause (3)**,— 10
- (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
- (b) a dispute about whether a right has ended must be referred to the chief executive for dispute resolution under **Part 9**. 15

Special provision by court relating to income for whāngai descendants and adopted children

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. 20
- (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 or hapū determines that— 25
- (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— 30
- (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— 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— 15
- (i) free of charge; and
- (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,— 20
- (a) provide a person with a copy of any information or document in the Māori land register; and
- (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— 30
- (a) **section 274**, Part 6 of the Domestic Violence Act 1995, and any other enactment under which information may be withheld; and
- (b) the Public Records Act 2005.

274 Chief executive may withhold personal information

- (1) The chief executive may do the following during any withholding period granted to a person under this section: 35
- (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:

- (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

- (1) A person may apply to the chief executive to grant a withholding period under **section 274**.
- (2) The application must include—
- (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 5
 - (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.
- (3) Evidence provided in the application may include— 15
- (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.
- (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. 25
- 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—
- (a) a withholding period applies to the person; and 30
 - (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

- (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—

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- (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 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)**.
- (4) The chief executive may monitor activities in an electronic workspace facility for the purpose of detecting fraud and improper dealings. 30
- (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:
- (b) audit the electronic workspace facility to ensure compliance with the conditions: 35
- (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

- (1) On being recorded in the Māori land register, an electronic instrument certified in accordance with regulations under **Parts 1 to 9**— 5
- (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.
- (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. 10

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
- (b) does not appear to have been altered in any way.
- (3) Unless there is proof to the contrary, the document is conclusive evidence— 20
- (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.
- (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— 30
- (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 has been lost or destroyed or no record of the instrument can be found. 35
- (2) The person may apply to the court for an order that has the same effect as the instrument.

- (3) The person must give notice of the application to—
- (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 5
 - (c) any other person that the court directs.
- (4) The court may, if satisfied that the person’s claims are correct,—
- (a) make an order on the terms that the court determines have the same effect as the instrument; and
 - (b) make any other order that the court thinks fit. 10

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: 15
 - (c) information recorded in the Māori land register or lodged 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). 20
- (3) The replacement or reconstituted instrument or information has the same effect as if it were the original. 25
- (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 30

- (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
 - (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. 35

- (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—
- (a) were the original instrument; and
 - (b) had been lodged at the same time as the original instrument.

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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**.
- (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.
- (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.

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286 Computer freehold register for land that is not Māori freehold land

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- (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**.
- (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
 - (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.

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287 Computer freehold register only for entire freehold estate in Māori freehold land

- (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.

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- (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

- (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. 5
- (2) The application may be made by—
- (a) the governance body, if the land is managed under a governance agreement; or
- (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. 10
- (4) The notice must—
- (a) provide details of the application; and
- (b) invite submissions on the application from the recipients of the notice; and 15
- (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.
- (6) The court must not make an order under this section unless it is satisfied that—
- (a) the application,— 20
- (i) for land managed under a governance agreement, is made by the governance body in accordance with the requirements of **Parts 1 to 9**; or
- (ii) for other land, is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); and 25
- (b) the new name complies with standards set under section 49 of the Cadastral Survey Act 2002 for parcel appellations.
- (7) If the court makes an order under this section, the Registrar must—
- (a) provide the Surveyor-General with the information required to integrate the name change into the cadastre; and 30
- (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:
- (a) an order made by the Māori Land Court, the Māori Appellate Court, the Chief Judge acting under **section 310**, or a Registrar: 35
- (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.
- (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: 5
- (b) an order amending or cancelling an order described in **paragraph (a)**:
- (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**. 10
- (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,— 15
- (a) for land that is subject to the Land Transfer Act 1952,—
- (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 20
- (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
- (b) for land that is not subject to the Land Transfer Act 1952, in accordance with the Deeds Registration Act 1908. 25
- (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— 30

- (a) **section 124(5)** restricts the land from ceasing to be Māori freehold land; and 35
- (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.
- (2) The following land may be registered, or may cease to be registered, in the name of a tupuna in accordance with this section: 5
- (a) any Māori freehold land managed under a governance agreement; or
 - (b) any land reserved as a whenua tāpui.
- (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— 10
- (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
 - (b) identifying the land and specifying the name of the trust or the tupuna.
- (5) The application must be agreed to as follows: 15
- (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 20
 - (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 25
 - (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**. 30
- (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 35

- (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
 - (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. 5
- (8) Despite the registration of land in the name of a trust or a tupuna,—
 - (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: 10
 - (i) the rights and obligations of the governance body or administering body as legal owner of the land; and
 - (ii) the Land Transfer Act 1952, any regulations under that Act, or any other enactment that applies to the land; and 15
 - (b) the beneficial ownership of the land is not affected.

Vesting of land

293 Vesting of land by or under enactment

- (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. 20
- (2) The application must be in the prescribed form and contain the prescribed information.
- (3) The chief executive must record the vesting of the estate or interest in accordance with the enactment. 25

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**. 30

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* under section 77 of the Administration Act 1969, section 324 of the Companies Act 1993, or otherwise. 35

- (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: 5
 - (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**. 10
- (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. 15
- (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. 20
- (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 25
 - (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* under section 77 of the Administration Act 1969, section 324 of the Companies Act 1993, or otherwise. 30
- (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. 35
- (4) The chief executive must record the vesting in the Māori land register if he or she is satisfied that the vesting has occurred.
- (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—
- (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 5
 - (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.
- (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. 10
- (4) This section is subject to anything contrary in the instrument of disposition or vesting.

Road stopping and vesting of stopped roads 15**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—
- (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 20
 - (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.
- (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 25
 - (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
 - (c) the person or body that controls the road (for example, a council, the Minister of Transport, or the New Zealand Transport Authority); or 30
 - (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 35
 - (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
 - (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; 5
or
 - (b) if the stopping would cause land adjoining the road to become land-locked land (as defined by **section 319**).
- (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. 10

299 Vesting of stopped road

- (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**): 15
- (a) the relevant adjoining land if any of it is Māori land when the order is made; or
 - (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). 20
- (2) The court may make the order—
- (a) when making an order to stop any road under **section 298**; or
 - (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 25
 - (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
 - (c) the person or body that controlled the road (for example, a council, the Minister of Transport, or the New Zealand Transport Authority); or 30
 - (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 35

- (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
- (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. 5
- (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 10
- (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 15
- (c) for recipient land that is 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 proposed vesting (and that schedule applies to the proposed vesting with any necessary modifications); and 20
- (ii) the vesting is agreed to by more than 50% of the owners of the land who attended the meeting; or
- (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 25
- (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) jurisdiction to determine— 30
- (a) whether a whānau trust has been established in accordance with the provisions of **Parts 1 to 9**;
- (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: 35
- (d) a dispute arising from a kaiwhakahaere carrying out a purpose for which the kaiwhakahaere is appointed;
- (e) whether a decision of the owners of Māori freehold land is lawful:

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- (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: 5
- (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**:
- (k) whether any Māori land is or is not held by any person in a fiduciary capacity: 10
- (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 kaitiaki of a governance body: 15
- (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*):
- (p) whether a person is entitled to have a right recorded in the Māori land register under **section 264**: 20
- (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**.
- (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— 25
- (a) confirm the disposition; or
- (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— 30
- (a) may uphold the decision; or
- (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 35
- (d) must not make the decision itself.

- (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
 - (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** 10
- 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 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** 15
- 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):
 - (b) section 254 (mortgagee or receiver may apply for extension of time for bringing proceedings): 20
 - (c) section 255 (application for relief not to constitute admission):
 - (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): 25
 - (g) section 259 (interested person may apply for extension of time for bringing proceedings):
 - (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): 30
 - (k) subpart 2 of Part 6 (wrongly placed structures).
- 303 Court may determine claims to ownership, etc, of Māori freehold land**
- (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 35
 - (c) the proceeds of the disposition of a right or title to, or an estate or interest in, Māori freehold land.

- (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. 5
- (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 ownership of the land is not accurately recorded in either or both of the following: 10
- (a) the Māori land register;
 - (b) a computer freehold register, computer interest register, or other instrument of title. 15
- (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 20
 - (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 25
 - (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. 30
- (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** 35
- (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.
- (3) **Subsection (2)** does not limit or affect the jurisdiction of the High Court.
- 306 Jurisdiction in proceeding for recovery of land** 5
- (1) The court has jurisdiction to hear and determine any proceeding for the recovery of Māori freehold land if—
- (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 10
- (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
- (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 15
- (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
- (d) any person without right, title, or licence is in possession of the land. 20
- (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**
- (1) This section applies to— 25
- (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.
- (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. 30
- 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. 35
- (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.
- (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
- (5) In exercising its jurisdiction under this section, the court—
- (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. 10
- 309 Powers of court under Contracts (Privity) Act 1982 and Contractual Remedies Act 1979** 15
- (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. 20
- (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.
- Special powers of Chief Judge* 25
- 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
- (b) an order made by a Registrar before the commencement of this section; or 30
- (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
- (ii) issuing of a governance certificate or a rangatōpū certificate. 35
- (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
 - (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. 5
- (3) The Chief Judge may—
- (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. 10
- (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. 15
- (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. 20
- (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**. 25
- 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—
- (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 30
 - (b) by a Registrar; or
 - (c) by the chief executive responsible for keeping the Māori land register.
- (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 35
 - (b) summarily dismiss the application if the amount fixed is not deposited within the time allowed.

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. 5
- (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**. 10
- (5) **Section 414** applies with the necessary modifications for the purpose of **subsection (4)**.

Compare: 1993 No 4 s 46

313 Administrative and consequential matters 15

- (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.
- (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. 20
- (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.
- (4) Any Judge of the court may make all consequential amendments that are required to be made in any order, 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. 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. 30
- (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)**.

Compare: 1993 No 4 s 47

35

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**.

- (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 application relates, unless the distribution is prohibited by an injunction under **section 407(1)(d)** that has been served on the trustee. 5
- (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. 10
- 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.

Compare: 1993 No 4 s 48A

15

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.

317 Māori freehold land not available for enforcing judgment against debtor 20

- (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.

- (2) However, this section does not limit—

- (a) the operation of any mortgage or charge on the land; or 25
- (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. 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 under this section:

- (b) the Official Assignee cannot disclaim the interest: 35

- (c) 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**.

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: 5
- (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. 10
- (2) However, those sections of the Property Law Act 2007 apply with the following modifications:
- (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: 15
 - (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:
 - (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: 20
 - (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: 25
 - (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
 - (ii) the culture and traditions of those beneficial owners with respect to that land. 30
- (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.
- (4) In this section,—
- landlocked land** means a piece of land to which there is no reasonable access 35
- 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)**,—
- 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 5
- (b) in relation to Māori customary land, includes Māori who hold the land in accordance with tikanga Māori.

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. 10

321 Exclusion of interests in Māori land founded on adverse possession

- (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. 15

Giving of notices

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 20
- (b) by post addressed to the person at the person's usual or last-known place of business or residence; or
- (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). 25
- (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 30
- (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.

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.
- (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 15
- (b) must be extended by a further 15 working days (regardless of whether an appointment is made).
- (3) If any other person receives the notice, the period of time must be extended by 15 working days. 20

Regulations

326 Regulations

The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:

- (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**: 25
- (i) the form of the document:
- (ii) the content required in the document:
- (iii) any documentation or information that must accompany the document: 30
- (iv) how the document must be executed and witnessed:
- (v) how the document must be provided:
- (b) prescribing the instrument that is required to be used in order for a disposition 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: 35

- (c) 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:
- (d) regulating the practice applying to and the conduct of dispositions under **Parts 1 to 9**: 5
- (e) prescribing requirements for 1 or more declarations about a disposition's compliance with the requirements of **Parts 1 to 9** (for the purposes of the certification referred to in **paragraph (f)(i)**):
- (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: 10
- (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: 15
- (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: 20
- (g) prescribing different matters under **paragraph (f)** for instruments provided in different ways (for example, as a paper instrument or as an electronic instrument): 25
- (h) providing that in all circumstances, or in specified circumstances, matters prescribed under **paragraph (f)** for certification may instead be included in, and confirmed by, an order of confirmation for a disposition:
- (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): 30
- (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: 35
- (k) prescribing charges or fees for—
- (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: 40

- (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: 5
 - (m) in relation to the share register maintained by Māori incorporations under **section 233**,—
 - (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: 10
 - (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 Māori freehold land, as those details may be kept only on the administrative part of the register): 15
 - (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.
- 327 Regulations relating to governance agreements** 20
- (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 25
 - (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. 30

Part 9 Dispute resolution

- 328 Purpose** 35
- 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.

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,— 5

(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. 10

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. 15

(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—

(a) decide how the dispute resolution services 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. 20

331 How dispute resolution process initiated

(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 25

(b) the parties referring a dispute to the chief executive under **section 342**; or

(c) a Judge referring a dispute to the chief executive under **section 216(4) or 341, clause 3(3)(c) of Schedule 6, or clause 4(3)(d) of Schedule 7**. 30

(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

(b) describe where and when the dispute arose; and

(c) set out the names and contact addresses of the parties; and 35

(d) provide the full name and contact address of the party or person lodging the application.

- (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. 5
- (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. 10
- (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: 15
- (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— 20
- (a) the criteria in **subsection (3)** have been met:
 - (b) 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. 25
- (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 30
 - (c) each kaitakawaenga has suitable skills and attributes to assist the parties to resolve the dispute.
- (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)**. 35
- (5) The kaitakawaenga must begin the dispute resolution process with the parties as soon as is reasonably practicable after being appointed.

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,—
 - (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 5
 - (ii) be guided by the concept of mātauranga takawaenga when deciding the procedures that should be followed; and
 - (iii) conduct the proceedings in te reo Māori or permit the use of te reo Māori by the parties; and 10
 - (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
 - (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. 15
- (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**. 20

334 Conduct of dispute resolution process

- (1) A kaitakawaenga may—
- (a) address any party to the issues in dispute with or without any representative of that party being present; and
 - (b) express to any party his or her views on the substance of 1 or more of the issues in dispute— 25
 - (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— 30
 - (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. 35
- (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—

- (a) a kaitakawaenga; or
- (b) a person to whom dispute resolution services are provided; or
- (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. 5
- (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).
- 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— 10
- (a) the power to make a written recommendation in relation to the issues in dispute; or
- (b) the power to decide the issues in dispute.
- (2) Before the parties make and sign an agreement under **subsection (1)**, a kaitakawaenga must— 15
- (a) explain to the parties the effect of **section 336(3)**; and
- (b) be satisfied that the parties, knowing the effect of that section, have affirmed their agreement with the recommendation or decision.
- (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. 20
- 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— 25
- (a) explain to the parties the effect of **subsection (3)**; and
- (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. 30
- (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. 35

- (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. 5
- (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. 10
- (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— 15
- (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. 20

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 25
 - (b) the manner in which the services were provided was inappropriate.
- (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 30

- (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.
- (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— 35

- (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. 5
- (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. 10
- (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. 15
- (2) This Part applies with the following modifications:
 - (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)**,— 20
 - (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. 25
- (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 30

- (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: 35
 - (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 a relationship of descent for the purposes of a provision in **Parts 1 to 9** (*see section 8*):
- (d) an application to determine whether a person is entitled to receive the rights of a surviving spouse or partner: 5
- (e) a proceeding to determine whether an entity is a representative entity for the purposes of **Parts 1 to 9**:
- (f) a proceeding to determine whether a person is a preferred recipient, or whether an entity is a preferred entity, for the purposes of **section 96**: 10
- (g) an application to determine whether a person is a preferred recipient:
- (h) an application to determine whether a person is a preferred entity.
- (3) If this section applies, the parties must refer the issue in dispute to the chief executive for dispute resolution under this Part.
- (4) The court does not have jurisdiction to hear and determine any issue referred to the dispute resolution service unless— 15
- (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
- (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. 20
- (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 25
- (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
- (c) prevents the court from hearing and determining any challenge to the validity of any agreed terms of resolution under **section 338(2)**. 30
- (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—
- (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 35
- (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

- (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. 5

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 10

court means the Māori Land Court

department has the meaning given in section 2(1) of the Public Finance Act 1989 15

Judge—

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

land includes—

- (a) estates and interests in land: 20
- (b) buildings and other permanent structures on land:
- (c) land covered with water:
- (d) plants and trees on land

Māori means an individual of the Māori race of New Zealand, and includes a descendant of such an individual 25

Māori customary land has the meaning given by **section 12** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

Māori freehold land has the meaning given by **section 20** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

Māori land means Māori customary land and Māori freehold land 30

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

Minister means the Minister who, with the authority of the Prime Minister, is responsible for the administration of **Parts 10 to 15** 35

owner has the meaning given by **section 7** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

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 5
- (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

private land—

- (a) means land held in fee simple by a person other than the Crown; and 10
- (b) includes Māori land

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. 15

345 Act binds the Crown

Parts 10 to 15 binds the Crown.

Part 11

Māori Land Court 20

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. 25
- (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.

Compare: 1993 No 4 s 6 30

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.
- (2) The Chief Registrar and Registrars have the duties and powers that— 35

- (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.
- (3) A Deputy Registrar has the same duties and powers as a Registrar. 5
- (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.
- Compare: 1993 No 4 s 14; 1991 No 69 s 260
- 348 Court districts** 10
- (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:
- (b) declare the name by which each Māori Land Court district must be designated: 15
- (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.
- (3) Each district must have a Registrar. The same person may hold office as Registrar for any 2 or more districts. 20
- (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—
- (a) continues to exist unless and until it is abolished under **subsection (1)**; and 25
- (b) may be altered in accordance with **subsection (1)(c)**.
- Compare: 1993 No 4 s 15
- 349 Seal of court**
- (1) The court must have a seal of the court that must be used for sealing documents that are required to be sealed. 30
- (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. 35
- Compare: 1993 No 4 s 16

Jurisdiction of court under Maori Fisheries Act 2004

- 350 Interpretation**
- 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 5
- constitutional documents** has the meaning given to it in section 5 of that Act
- 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 10
- Te Ohu Kai Moana Trustee Limited** has the meaning given to it in section 5 of that Act
- 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 15
- 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** 20
- 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.
- Compare: 1993 No 4 s 26B
- 352 Jurisdiction of court to make determinations** 25
- 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:
- (b) applications by Te Ohu Kai Moana Trustee Limited under section 185(1) of that Act: 30
- (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.
- Compare: 1993 No 4 s 26C
- 353 Procedural provisions in Schedule 6 apply** 35
- Schedule 6** applies for the purposes of **sections 350 to 352**.

Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004

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

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

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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.

Compare: 1993 No 4 s 26P

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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

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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—

(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.

(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—

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- (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.

Compare: 1993 No 4 s 27

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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. 10
- (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.
- (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. 15
- (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. 20

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). 25
- (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. 30
- (3) No Judge of the Māori Land Court may be an additional member.
- (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. 35
- (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. 40

Compare: 1993 No 4 s 28

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*Reference of matters to court for inquiry***361 Reference to court for inquiry**

- (1) The Minister, 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. 5
- (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, the chief executive, or the Chief Judge that the court thinks proper. 10
- Compare: 1993 No 4 s 29 10

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.
- (2) Each person appointed under **subsection (1)** must possess knowledge and experience relevant to the subject matter of the inquiry. 15
- (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.
- (4) *See also section 363* (2 or more additional members to be appointed if matter of tikanga Māori referred). 20
- 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. 25
- (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. 30
- 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—

- (a) by or under an Order in Council made under **sections 358 and 360**; or 35
- 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**.

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. 5

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. 10
- (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. 15

Compare: 1993 No 4 s 35

367 Quorum and decisions

- (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. 20
- (2) The decision of a majority of the members present at a sitting of the court is the decision of the court if—
- (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 25
- (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. 30

Compare: 1993 No 4 s 36(1)–(3)

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. 35
- (2) In any proceedings under this section,—

- (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**. 5
 - (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**. 10
- 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 15
 - (b) the Minister, the chief executive, or a Registrar.
- (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— 20
 - (a) that a question of importance to Māori or any iwi or hapū is involved; 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. 25

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. 30
- (2) With the consent of the parties, proceedings may be continued before a Judge 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. 35

- (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. 5
- (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—
- (a) any proceedings that require the preparation of any whakapapa: 10
 - (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: 15
 - (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. 20
- (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,— 25
- (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. 30

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

35

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

5

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. 10
- (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. 15

*Decisions, orders, and rehearings***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. 20
- (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.
- (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. 25

Compare: 1993 No 4 s 41

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. 30
- (2) The rules of court may provide for exemptions from the requirements in **subsection (1)**.
- (3) An order of the court must be dated with the date of the minute of the order, and relates back to that date.

Compare: 1993 No 4 s 42

35

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.
- (2) On application under **subsection (1)**, the Judge who made the order, or any other Judge, may— 5
 - (a) order a rehearing on any terms that the Judge thinks reasonable; and
 - (b) in the meantime, stay the proceedings.
- (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. 10
- (4) An application under this section does not operate as a stay of proceedings unless the Judge so orders.
- (5) The rehearing need not take place before the Judge who heard the original proceedings.
- (6) On any rehearing, the court may— 15
 - (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. 20

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 25

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.

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. 5

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. 10

(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— 15

(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. 20

(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. 25

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. 30

(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 35

*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. 5

(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** 10

(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. 15

(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)

20

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— 25

(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. 30

(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. 35

- (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.

Compare: 1993 No 4 s 59

Cases stated

5

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.

- (2) Any case stated under this section may be removed into the High Court under **section 405**. 10

- (3) The decision of the Māori Appellate Court on any case stated under this section is binding on the Māori Land Court.

- (4) **Subsection (3)** is subject to removal or appeal under **section 405**.

Compare: 1993 No 4 s 60

15

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—

(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. 20

- (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. 25

- (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)**.

Compare: 1993 No 4 s 61

30

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—

35

(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.
- (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. 5
- (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. 10
- (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. 15

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. 20
- (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. 25

Compare: 1993 No 4 s 63

Further appeals 30

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.
- (2) On an appeal under **subsection (1)**, the Court of Appeal may make any order or determination it thinks fit. 35

Compare: 1993 No 4 s 58A

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. 5
- (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). 10

Compare: 1993 No 4 s 58B

Procedural provisions and decisions

393 Commencement of orders 15

- (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. 20
- (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. 25
- (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,—
 - (a) on the date on which the order appealed against takes effect under **section 377**; or 30
 - (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. 35

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.

- (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

- (1) An appeal to the Māori Appellate Court must be dealt with by way of rehearing. 5
- (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. 10
- (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.
- (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. 15

Compare: 1993 No 4 s 55

396 Powers of court on appeal

- (1) On any appeal, the Māori Appellate Court may, by order, do 1 or more of the following things as it thinks fit: 20
- (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: 25
 - (e) direct the Māori Land Court to rehear the whole or any specified part of the matter to which the order relates:
 - (f) make any order that the Māori Land Court could have made in the proceedings: 30
 - (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.

Compare: 1993 No 4 s 56

397 Decision of majority to be decision of court 35

- (1) The decision of the Māori Appellate Court must be in accordance with the opinion of the majority of the Judges present.

- (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 5

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. 10

Compare: 1993 No 4 s 65

Procedural provisions

399 Conduct of proceedings generally

- (1) A Judge conducting or presiding over any hearing may— 15
- (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. 20
- (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.
- (4) No appeal may be brought against any decision of a Judge made for the purposes of this section. 25

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. 30
- (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. 35

- (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:
 - (b) identify the issues to be determined: 5
 - (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:
 - (e) direct any party to file further particulars: 10
 - (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:
 - (h) fix a time by which affidavits or other documents must be filed: 15
 - (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:
 - (k) fix a time and place for the hearing of the application. 20
- (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** 25
- (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**.
Compare: 1993 No 4 s 68 30
- 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. 35
 - (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
- (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. 5
- (4) **Subsection (3)** is subject to **subsections (1) and (2)**.
Compare: 1993 No 4 s 69
- 403 Representation of parties, etc** 10
- (1) Any party or other person entitled to appear in any proceedings in the court may appear—
- (a) personally; or
- (b) by a lawyer; or
- (c) with the leave of the court, by any other agent or representative. 15
- (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.
- (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 20
- (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. 25
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. 30
- (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. 35

- (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. 5
- (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. 10
- 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. 15

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— 20
- (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 25
- (b) requires any person to—
- (i) remove any structure or object from any Māori land, whenua tāpui, or wāhi tapui; or 30
- (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
- (iii) remedy any damage done to any Māori land, whenua tāpui, or wāhi tapui; or 35
- (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
- (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: 5
- (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
- (e) requires the trustee of any trust of Māori land to carry out the obligations of the trustee under that trust. 10
- (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.
- (3) If the court makes an order under this section, the court may grant any consequential relief as it thinks fit. 15
- 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. 20
- (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. 25
- (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 30
- (b) any particulars relating to the performance or non-performance by any person of the requirements of the injunction.
- (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. 35

- (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.

Compare: 1993 No 4 s 85

General provisions about orders

5

409 Orders may be made subject to conditions

- (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. 10
- (3) **Subsection (2)** applies despite anything in **section 377** or the rules of court.
- (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 15
within the specified period; or
- (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. 20
- (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. 25

Compare: 1993 No 4 s 74

411 Orders nominally in favour of deceased persons

- (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. 30
- (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.
- (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. 35

Compare: 1993 No 4 s 75

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
- (b) are subject to any disability.

5

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.

10

(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.

15

(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

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(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.

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(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.

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(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.

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(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—

- (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.
- (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. 5
- (7) Any order made under this section for the payment of costs or imposing a charge for costs may, when made in open court,—
- (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. 10

Compare: 1993 No 4 s 79(1)–(3), (6), (7)

415 Security for costs

- (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. 15
- (2) When any sum has been deposited as security for costs, it must be disposed of in any manner that the court directs.

Compare: 1993 No 4 s 79(4), (5)

20

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. 25
- (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. 30
- (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. 35

- (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.
- (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. 5
- Compare: 1993 No 4 s 80

Enforcement of judgments and charging orders

417 Enforcement of judgments and orders relating to money, land, or chattels 10

- (1) This section applies for the purpose of enforcing any judgment or order of the court for—
- (a) the recovery of money; or
- (b) the recovery of land; or
- (c) the delivery of specific chattels. 15
- (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.
- (3) The Registrar who receives the copy must file it as a record of the District Court. 20
- (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— 25
- (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. 30
- (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.
- (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. 35

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**).
- (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: 5
- (a) any Māori freehold land:
 - (b) any legal or equitable interest in any Māori freehold land:
 - (c) any revenue derived from any Māori freehold land:
 - (d) the proceeds of the disposition of any Māori freehold land: 10
 - (e) any assets associated with Māori freehold land (for example, any live-stock):
 - (f) any things within the asset base of a governance body.
- (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. 15
- (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*).
- (5) A charging order must identify the property on which the charge is imposed. 20
- (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**. 25
Compare: 1993 No 4 s 82(1)–(5)

419 Appointment of receiver to enforce charges, etc

- (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 30
 - (c) any revenue derived from any Māori freehold land; or
 - (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. 35

- (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. 5
Compare: 1993 No 4 s 83(1)–(3)
- 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. 10
- (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. 15
- (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. 20
- (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. 25
Compare: 1993 No 4 s 83(4)–(7)
- 421 Discharge of receiver**
- (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— 30
- (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.
- (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. 35
Compare: 1993 No 4 s 83(8), (9)

- 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. 5
- (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. 10
- 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— 15
- (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 20
- (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** 25
- (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.
- (2) However, **subsection (1)** is subject to— 30
- (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
- (b) any order or decision of the Māori Appellate Court, the Court of Appeal, or the Supreme Court. 35
- (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.

Compare: 1993 No 4 s 88

Judicial settlement conferences

- 425 Judge may convene judicial settlement conference** 5
- (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.
- (2) A judicial settlement conference must be convened by a Judge and held in chambers. 10
- (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—
- (a) all parties taking part in the conference consent; or
- (b) the only matter for resolution at the hearing is a question of law. 15
- (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:
- (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: 20
- (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. 25
- Compare: SR 2014/179 r 7.3

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 30
- (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 35
- (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 5
- (iii) fails, without sufficient cause, to produce any such paper, document, record, or thing.
- (2) If this section applies,—
- (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 10
- (b) the Judge may, if he or she thinks fit, sentence the person to—
- (i) imprisonment for a period not exceeding 3 months; or
- (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. 15
- (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 obstructs or interferes with any Judge, Registrar, Receiver, or other officer of the court in the execution of his or her powers or duties. 20
- Compare: 1993 No 4 ss 89, 90; 2011 No 81 s 365

Part 14

Appointment of Judges and related provisions

- 427 Appointment of Judges** 25
- (1) The Governor-General may from time to time, 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 14.
- (3) For the purposes of **subsection (2)**,— 30
- (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:
- (c) the aggregate number (for example, 13.5) must not exceed the maximum number of Judges that is for the time being permitted. 35

- (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.
- (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 5
 - (b) that person—
 - (i) holds a degree in law granted or issued by any university within New Zealand; and
 - (ii) has been admitted as a barrister and solicitor of the High Court; and 10
 - (iii) has held a practising certificate in a jurisdiction specified by Order in Council—
 - (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. 15
- (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)**. 20
- (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**
- (1) The Attorney-General must publish information explaining his or her process for— 25
- (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)**. 30
- 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. 35

- (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. 5
- 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 10
- (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.
- 431 Judges act on full-time basis but may be authorised to act part-time** 15
- (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. 20
- (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 25
- (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. 30
- (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)**. 35
- Compare: 1993 No 4 s 7A

432 Chief Judge and deputy

- (1) The Governor-General must from time to time, by warrant, appoint a Chief Judge of the Māori Land Court and a Deputy Chief Judge of the Māori Land Court.
- (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. 5
- (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.
- (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. 10
- (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. 15

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**. 20
- (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 delegated 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. 25
- (3) A delegation—
 - (a) must be in writing; and
 - (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 30
 - (d) does not prevent the exercise or performance of a power, function, or duty by the Chief Judge; but
 - (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. 35
- (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.

Compare: 1993 No 4 s 8A

434 Appointment of temporary Judges

- (1) The Governor-General may whenever, in his or her opinion, it is necessary or expedient to make a temporary appointment, appoint 1 or more temporary Judges of the Māori Land Court to hold office for the period specified in the warrant of appointment. 5
- (2) **Subsection (1)** is subject to **section 436**.
- (3) The period specified under **subsection (1)** must not exceed 2 years. 10
- (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**.
- (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. 15
- (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**. 20
- (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 25

- (1) The Governor-General may, by warrant, 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.
- (2) **Subsection (1)** is subject to **section 436**. 30
- (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— 35
 - (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.

- (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

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. 5

Compare: 1993 No 4 s 11

10

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

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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— 20
- (a) salaries at the rates that the Remuneration Authority from time to time determines; and
 - (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. 25
- (2) The salary of a Judge must not be diminished during the continuance of the Judge's appointment.
- (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. 30
- (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.
- (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. 35

- (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.
- Compare: 1993 No 4 s 13

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Part 15

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

Rules

- 440 Rules Committee continued** 10
- (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 15
 - (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 20
 - (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. 25
- (3) Any appointed member may resign by notice in writing to the Chief Judge or the 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. 30
- (5) **Subsection (4)** does not limit **section 432**.
- Compare: 1993 No 4 s 92

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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. 5

Compare: 1993 No 4 s 93

442 Principal function of Rules Committee

The principal function of the Rules Committee is— 10

- (a) to review the rules of court and to keep the rules under review; and
- (b) to make any recommendations to the Minister 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. 15

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. 20
- (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. 25
- (3) Rules of court may be made for 1 or more of the following purposes:
- (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: 30
- (c) prescribing the circumstances in which proceedings may be transferred from one district to another, and the procedure that applies when proceedings are transferred: 35
- (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: 5
- (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: 10
- (h) prescribing the manner in which and the procedure by which witnesses are to be summoned to appear before the court:
- (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: 15
- (j) authorising a Registrar to hear and determine any uncontested proceedings, or to conduct and report on any inquiry:
- (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**: 20
- (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: 25
- (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:
- (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: 30
- (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:
- (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— 40
- (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.
- (4) **Subsection (3)** does not limit the generality of **subsections (1) and (2)**. 5
- (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.
- Compare: 1993 No 4 s 95

Fees

- 444 Regulations** 10
- The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:
- (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: 15
 - (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: 20
 - (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

Court practice 25

- 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.
 - (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. 30
- Compare: 1993 No 4 s 97

*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. 5
- (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: 10
- (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. 15
- (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 20
- (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
- (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 25
- (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 30
- (e) the reasonable fees and reasonable expenses of any lawyer appointed under **section 79(1) or 403(3)**; and
- (f) the reasonable fees and reasonable expenses of any person appointed as a receiver under **section 419**. 35

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—

- (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:
 - (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.
- (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**.
- 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
- (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.

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.

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.

- (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. 5
- (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.
- 451 Grounds for making section 450 order** 10
- (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. 15
- (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. 20
- (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. 25
- 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.
- (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. 30
- 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. 35
- (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.
- (4) The party against whom a **section 450** order is made may appeal against the order to the Māori Appellate Court. 5
- (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.
- (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). 10

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. 15

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 20
- (b) makes amendments to other enactments that are consequential on those replacements.
- (2) The transitional provisions governing the transition to— 25
- (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. 30
- (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. 35

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). 5

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 10

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) 15

- (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). 20
- (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.
- (7B) The application must be made by an occupier of the affected land or by the following: 25
 - (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
 - (ii) if the land is not managed under a governance agreement, an owner of the land: 30
 - (c) for affected 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:
- (d) despite the other paragraphs, for affected land that is reserved as a whenua tāpui, the administering body of the whenua tāpui. 5
- (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. 10
- (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). 15
- (3) In section 446(9), replace “subsections (5) to (8)” with “subsections (5) to **(8C)**”. 15
- (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**. 20

Amendments to Government Roding Powers Act 1989

- 461 Principal Act**
- Sections 462 to 468** amend the Government Roding Powers Act 1989 (the principal Act).
- 462 Section 2 amended (Interpretation)** 25
- 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**
- Māori freehold land** has the same meaning as in **section 20 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** 30
- Māori land** has the same meaning as in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**
- 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)** 35
- (1) Replace section 48(6) with:

- (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. 5
- (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: 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.
- (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. 25
- (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. 30
- (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). 35

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. 5
- (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.
- (2) After section 50(5), insert: 10
- (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. 15
- (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: 20
- (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).
- (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. 25
- (3B) The application must be made by an occupier of the relevant land or by the following:
- (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: 30
 - (c) for relevant land that is Māori customary land,—
 - (i) a kaiwhakahaere appointed for the land; or 35

(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 relevant land that is reserved as a whenua tāpui, the administering body of the whenua tāpui.	5
(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.	10
(6B)	The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.	
(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)	15
(1)	Replace section 61(8) with:	
(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	20
(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:	
(a)	for relevant land that is not Māori land, the District Court:	25
(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:	
(a)	for relevant land that is not Māori land, an owner of the land:	
(b)	for relevant land that is Māori freehold land,—	30
(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:	
(c)	for relevant land that is Māori customary land,—	35
(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:	
(d)	despite the other paragraphs, for relevant land that is reserved as a whenua tāpui, the administering body of the whenua tāpui.	5
(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.	
(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.	10
(9B)	The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.	15
(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).	
467	Section 74 amended (Land may be temporarily occupied)	
(1)	Replace section 74(3) with:	20
(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.	25
(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:	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;	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,—	

<ul style="list-style-type: none"> (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
<ul style="list-style-type: none"> (d) despite the other paragraphs, for relevant land that is reserved as a whenua tāpui, the administering body of the whenua tāpui. 	5
<p>(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.</p>	
<p>(2) After section 74(4), insert:</p>	
<p>(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.</p>	10
<p>(4B) The Māori Land Court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.</p>	15
<p>(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).</p>	
<p>468 Section 76 amended (Access to land cut off from road or separated by motorway)</p>	20
<p>(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”.</p>	
<p>(2) After section 76(4), insert:</p>	
<p>(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:</p> <ul style="list-style-type: none"> (a) for relevant land that is not Māori land, the District Court: (b) for relevant land that is Māori land, the Māori Land Court. 	25
<p style="text-align: center;"><i>Amendments to Land Valuation Proceedings Act 1948</i></p>	30
<p>469 Principal Act</p> <p>Section 470 amends the Land Valuation Proceedings Act 1948 (the principal Act).</p>	
<p>470 New section 19A inserted (Alternate Land Valuation Tribunals for matters under specified enactments)</p> <p>After section 19, insert:</p>	35

19A	Alternate Land Valuation Tribunals for matters under specified enactments	
(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:	5
(b)	1 or both of the people who are members of the Tribunal under section 19(2)(b).	
(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.	10
(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	
	specified enactment means—	
(a)	section 33, 37, or 38 of the Maori Reserved Land Act 1955:	15
(b)	section 10, 18, 26, or 32 of the Maori Vested Lands Administration Act 1954:	
(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 :	20
(d)	section 23 or 24 of the New Zealand Railways Corporation Restructuring Act 1990, but only if the matter is about Māori land:	
(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.	25

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	30
	Sections 472 to 474 amend the Rating Valuations Act 1998 (the principal Act).	
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.	
473	Sections 53 and 54 and cross-heading repealed	
	Repeal sections 53 and 54 and the cross-heading above section 53.	5
474	Schedules 1 and 2 replaced	
	Replace Schedules 1 and 2 with the Schedule 1 set out in Schedule 9 of Part 16 .	
	<i>Amendments to Local Government (Rating) Act 2002</i>	
475	Amendments to Local Government (Rating) Act 2002	10
	Sections 476 and 477 amend the Local Government (Rating) Act 2002 (the principal Act).	
476	New section 5A inserted (Transitional, savings, and related provisions)	
	After section 5, insert:	
5A	Transitional, savings, and related provisions	15
	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 .	20
	<i>Amendments to Local Government Act 2002</i>	
478	Amendments to Local Government Act 2002	
	Section 479 amends the Local Government Act 2002 (the principal Act).	
479	Schedule 1AA amended	
(1)	Replace the Schedule 1AA heading with:	25
	Schedule 1AA Transitional, savings, and related provisions	
		s 8A
(2)	In Schedule 1AA, before clause 1, insert:	

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**. 5

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**). 10

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 9 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** 15

- (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. 20

482 Section 5 amended (Valuer-General may make rules setting requirements in relation to valuations and district valuation rolls)

- (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**: 25

(ab) prescribing, for the purposes of the calculation of whenua Māori adjusted values under **section 22** (and regulations made under **section 52A**),—

- (i) how to determine whether a rating unit contains a site of significance (for example, the site of a pā, urupā, rūnanga, whaiwhai, kāinga, garden, kai moana, indigenous forest, access trail, or other wāhi tapu as defined by **section 5** of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**): 30

- (ii) how to assess or determine the proportion of a rating unit's area that is occupied by sites of significance: 35

- (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: 5
- (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)** 10
- 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: 15
- (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. 20
- (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. 25
- (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
- (b) the whenua Māori adjusted value of the capital value must be used in paragraph (b) of that definition. 30
- (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. 35
- (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)

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:
- (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: 10
 - (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: 15
 - (c) prescribing 1 of the following as a minimum value below which a standard value cannot be adjusted: 20
 - (i) a specified percentage of the standard value; or
 - (ii) a specified amount; or
 - (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**: 25
 - (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:
 - (f) the importance of the land to owners as a taonga tuku iho. 30
- (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 35
 - (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.
- (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,— 5
- (a) have regard to the purpose specified in **section 22(5)**; and
 - (b) consult the Minister for Māori Development.
- (7) In this section,— 10
- adjustment** means a reduction by—
- (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**— 15
- (a) has the meaning given by **section 7 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**; but
 - (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**) 20
- 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

- 485 Amendments to Local Government (Rating) Act 2002** 25
- 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: 30
- 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) 35

capital 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 capital value (as calculated under **section 22** of that Act)

5

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)

10

487 Section 27 amended (Rating information database)

After section 27(4), insert:

15

- (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 Valuations Act 1998), only the values themselves are required to be included in the database.

20

488 Cross-heading above section 114 replaced

Replace the cross-heading above section 114 with:

*Remission, postponement, exemption, and write-off of rates***489 New section 117AA inserted (Write-off of rates)**

After section 117, insert:

25

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—
 - (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.

30

490 Schedule 1 amended

35

- (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.
- (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): 5
 - (b) that is used as a Māori burial ground or urupā.
- (3) In Schedule 1, replace clauses 12 and 13 with: 10
- 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—
- (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,— 15
- (a) including the land where the members of whānau, hapū, or iwi meet and engage in pōwhiri (the ceremony of greeting and encounter); and
 - (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 20
 - (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 25
 - (d) excluding any land that is used primarily or exclusively for commercial activity or is used for permanent residential accommodation.
- 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”. 30
- 491 Schedule 3 amended**
- In Schedule 3, note 2, after item 1 of the formula, insert:
- 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). 35

*Amendments to Local Government Act 2002***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)

5

Replace section 102(3) with:

(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: 10
- (d) a policy on the write-off of rates owed for unused Māori freehold land.

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 15

(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. 20

(2) A policy adopted under **section 102(3)(d)** must state—

- (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— 25
 - (i) the land is unused but there is a demonstrable commitment to use the land; or 30
 - (ii) the land is unused and is likely to remain unused for the foreseeable future.

(3) A policy adopted under **section 102(3)(c) or (d)** must—

- (a) define **unused**, in relation to land, so that it— 35
 - (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
- (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 5
- (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).
- (4) In determining a policy under **section 102(3)(c) or (d)**, the local authority must consider the matters set out in **Schedule 11A**. 10
- (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)**. 15

495 New Schedule 11A inserted

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	278
	<i>Provisions applying to Māori incorporations</i>	
2	Māori incorporations continue to exist and are governance bodies	278
3	Transitional matters relating to Māori incorporations	278
4	Investment land held by Māori incorporation before commencement date	279
5	Information kept on register of Māori incorporations to be provided to chief executive	280
6	Matters relating to share registers	280
7	Kaitiaki quorum and eligibility requirements: delayed application to Māori incorporations	281
8	Jurisdiction of court to review decisions relating to Māori incorporations: section 188 not to have retrospective effect	281
9	Land management plans for Māori incorporations	281
10	Māori incorporation constituted by Mawhera Incorporation Order 1976	281
11	Māori incorporations constituted by section 21 of Maori Purposes Act 1975	282
	<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	282
13	Transitional matters relating to certain ahu whenua trusts and whenua tōpū trusts	283
14	Māori incorporation may continue as trustee of ahu whenua trust or whenua tōpū trust	285
15	Kaitiaki quorum and eligibility requirements: delayed application to ahu whenua trusts and whenua tōpū trusts	285
16	Jurisdiction of court to review decisions relating to ahu whenua trusts and whenua tōpū trusts: section 188 not to have retrospective effect	285
17	Land management plans for ahu whenua trusts and whenua tōpū trusts	285
18	Whenua tōpū trust: Te Ngae Farm Trust	286

<i>Provisions applying to other existing trusts</i>		
19	Existing whānau trusts	286
20	Existing kai tiaki trusts	287
21	Termination of existing kai tiaki trust	287
22	Jurisdiction of court regarding existing kai tiaki trusts	288
23	Other existing trusts not affected	288
<i>Existing Māori reservations become whenua tāpui</i>		
24	Existing Māori reservations become whenua tāpui	288
<i>Dispositions of Māori freehold land</i>		
25	Confirmation of alienation of Māori freehold land	289
26	Recording and registration of existing instruments	290
27	Order of confirmation for sale of parcel after partition restricted under earlier Act	290
28	Existing leases of Māori freehold land and other land	291
29	Occupation orders become leases for residential housing purposes	291
30	Existing occupation of house by owner	291
<i>Administration of estates</i>		
31	Administration of estates if administration granted before commencement date	293
32	Determining eligibility of beneficiary to succeed to interests of intestate owner in certain circumstances	293
<i>Land title registration</i>		
33	Provisional registration of existing instruments if survey inadequate	294
34	Existing registration of land in name of trust or tipuna	294
<i>Existing charges for surveys of Māori land</i>		
35	Existing charges for surveys of Māori land	294
<i>Existing roadways</i>		
36	Roadways may be declared roads	295
37	Cancellation or variation of roadway	295
38	Cancellation of roadway with separate instrument of title	296
39	Compensation for roadway	297
<i>Transfer of employees</i>		
40	Transfer of Ministry of Justice employees elsewhere in the State services	298

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 Maori 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
- (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
- (b) each trust specified in **subclause (4)**.
- 13 Transitional matters relating to certain ahu whenua trusts and whenua tōpū trusts** 30
- (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*).
- (2) Each trustee who was appointed before the commencement date continues to hold that office on and from the commencement date— 35
- (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,—
- (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 5
- (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
- (c) each advisory trustee becomes a member of an advisory committee for the trustees who become kaitiaki under **paragraphs (a) and (b)**; and 10
- (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—
- (a) register the governance agreement by issuing a governance certificate; and 20
- (b) make any necessary changes to the Māori land register.
- (5) The matters referred to in **subclauses (2) and (3)** do not, of themselves,—
- (a) constitute a change of control of the trust; or
- (b) alter or affect the tax status of the trust; or 25
- (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
- (f) release a surety, wholly or in part, from an obligation; or 35
- (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** 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 35 Ture Whenua Maori Act 1993 or the corresponding provisions of any former enactment.

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 25 within 3 years after the commencement date. Until then, non-compliance is ignored.
- (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,—

-
- (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
- (ii) not under a lease granted under Part 11 of Te Ture Whenua Maori Act 1993; and 5
- (b) on the commencement date, the land—
- (i) is not managed under a governance agreement; and
- (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. 10
- (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.
- (3) The owner cannot dispose of the right to occupy during his or her life, but may agree to end the right. 15
- (4) If the owner dies, the outcome is determined by the first of the following paragraphs that applies:
- (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: 20
- (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—
- (i) any immediate family who also occupy the house; and 25
- (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:
- (c) if **paragraphs (a) and (b)** do not apply, the right to occupy ends. 30
- (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.
- (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. 35
- (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,—
- (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. 5
- (9) If the house is occupied under an arrangement with other owners, the occupants must comply with the arrangement.
- (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* 10
- 31 Administration of estates if administration granted before commencement date**
- (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. 15
- (2) Instead,—
- (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 20
 - (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.
- 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— 25
- (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. 30
- (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
 - (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— 35

- (a) is vested in the Māori Trustee under section 84 of the Maori Affairs Amendment Act 1967; and
- (b) has not been conveyed to the persons beneficially entitled to it before the commencement date.

Land title registration 5

33 Provisional registration of existing instruments if survey inadequate

- (1) This clause applies if—
 - (a) an instrument that affects Māori freehold land and that was created or entered into before the commencement date is lodged for registration; but 10
 - (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:
 - (ii) the title to the land is not registered or provisionally registered under the Land Transfer Act 1952. 15
- (2) The Registrar-General must register the instrument on the provisional register under section 50 of the Land Transfer Act 1952.

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. 20
- (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 25
 - (b) if the land is private land other than Māori land, as if the land were Māori freehold land.

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. 30
- (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. 35

*Existing roadways***36 Roadways may be declared roads**

- (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. 5
- (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.
- (3) The Minister's recommendation must— 10
- (a) state whether the roadway is proposed to be a State highway once it becomes a road; and
 - (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. 15
- (4) A proclamation under this clause takes effect on—
- (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— 20
- (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 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. 25

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.
- (2) An application may be made by any affected person. 30
- (3) In deciding whether to cancel or vary any roadway, the court must have regard to—
- (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 35

- (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
- (d) any other matter the court considers relevant.
- (4) Any 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**). 5
- (5) An order varying any roadway may—
- (a) vary the persons or classes of persons who are entitled to use the roadway: 10
- (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:
- (i) for Māori freehold land managed under a governance agreement, the governance body: 15
- (ii) for other Māori freehold land, more than 50% of the participating owners of the land (casting votes of equal weight):
- (iii) for Māori customary land that has a kaiwhakahaere appointed for that purpose, the kaiwhakahaere: 20
- (iv) for other Māori customary land, the Māori Trustee:
- (v) for other private land, the owners of the land:
- (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. 25
- (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. 30
- (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**): 35
- (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

- (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 5
- (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). 10
- (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 15
- (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,— 20
- (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 25
- (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. 30

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. 35
- (2) An order for compensation must specify the amount of compensation, who must pay it, and who 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.

Transfer of employees

- 40 Transfer of Ministry of Justice employees elsewhere in the State services** 5
- (1) This clause applies if, as a consequence of **Parts 1 to 9**, functions are transferred because—
- (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 10
 - (ii) functions that are substantially the same as the functions previously carried out by the Ministry of Justice.
- (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 15
 - (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. 20
- (4) In this clause, **State services** has the meaning given to it in section 2 of the State Sector Act 1988.

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	299
2	Decision-making process commences with notice of proposal	299
3	General requirements for notice of proposal	300
4	Additional requirements for notice given by owners of land	300
5	Additional requirements for notice of proposal to appoint governance body	300
6	Additional requirements for notice of proposal to offer Māori freehold land for sale	301
7	Additional requirements for notice of proposal to dispose of Māori freehold land by way of gift	301
8	Additional requirements for notice of proposal to grant long-term lease of Māori freehold land	301
9	Additional requirements for notice of proposal to dispose of or deal with Māori freehold land in any other way	301
10	Governance body or chief executive may apply to have notice of proposal struck out	302
11	Governance body or chief executive to arrange meeting of owners	302
12	Meeting of owners	303
13	Voting on proposals	303
14	Decision-making process ends with notification of vote results	304
1	When decision-making process applies	5
	The decision-making process set out in this schedule applies if Parts 1 to 9 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
2	Decision-making process commences with notice of proposal	
(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 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 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

- (1) 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 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

- (1) 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)**.
- (3) A person may cast a vote on a proposal—
 - (a) at the meeting of owners arranged under **clause 11**; or 5
 - (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. 10
- (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** 15
- (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,— 20
 - (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 25
 - (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.

Schedule 3
**Governance bodies: appointment and other processes and
 registration requirements**

**ss 159, 160, 161, 162, 165, 176, 188,
 206**

Contents

		Page
1	Interpretation	306
Part 1		
Process for appointing governance body		
2	Overview	306
3	Preliminary decisions	307
	<i>Process if incoming Māori freehold land to be in separate asset base</i>	
4	When clauses 5 to 7 apply	307
5	Appoint kaitiaki	308
6	Approve governance agreement	308
7	Register governance agreement	308
	<i>Process if incoming Māori freehold land to be incorporated with existing asset base</i>	
8	When clauses 9 to 11 apply	309
9	Approve kaitiaki appointments	309
10	Approve replacement governance agreement	309
11	Register replacement governance agreement	310
Part 2		
Process for Māori incorporation or trust to become rangatopū		
12	When clauses 13 to 16 apply	310
13	Preliminary decisions	310
14	Approve kaitiaki appointments	310
15	Approve replacement governance agreement	310
16	Register replacement governance agreement	311
Part 3		
Process for governance bodies to amalgamate		
17	When clauses 18 to 20 apply	311
18	Approve kaitiaki appointments	311
19	Approve amalgamated governance agreement	311
20	Register amalgamated governance agreement	312

Part 4
Requirements for application to register governance agreement

21	Overview	312
22	General requirements	312
23	Additional requirements depending on type of governance body	313
24	Additional requirements if governance body is replacing its registered governance agreement	313
25	Additional requirements if governance body is being replaced	314
26	Additional requirements if amalgamated governance agreement replaces 2 or more registered governance agreements	314

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 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	315
Part 1		
Rangatōpū, Māori incorporations, ahu whenua trusts, and whenua tōpū trusts		
2	Application of this Part	316
3	Form of governance agreement	316
4	Contents of governance agreement	316
5	Method of appointing kaitiaki	317
6	Matters relating to kaitiaki	318
Part 2		
Representative entities and existing statutory bodies		
7	Application of this Part	318
8	Form of governance agreement	318
9	Contents of governance agreement	318
Part 3		
All governance bodies: provisions relating to amendments and decision making		
10	Application of this Part	319
11	Requirements for amending governance agreement	319
12	Decision-making processes	320
13	Decisions requiring minimum level of owner agreement	320
1	Overview	
	This schedule sets out the requirements for governance agreements as follows:	5
	(a) Part 1 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) Part 2 sets out the requirements that apply if the governance body is a representative entity or an existing statutory body:	10
	(c) Part 3 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)**; 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 than (but not greater 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—

Matter for decision by governance body	Minimum level of owner agreement
Converting separate ownership interests in Māori freehold land into collective ownership (<i>see section 48</i>)	The agreement of owners who together hold a 75% or more share in the land
Offering Māori freehold land for sale (<i>see section 100</i>)	The agreement of owners who together hold a 75% or more share in the land
Exchanging Māori freehold land for something else (<i>see section 102</i>)	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 (<i>see section 107</i>)	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 (<i>see section 110</i>)	The agreement of owners who together hold more than a 50% share in the land
Partitioning Māori freehold land (<i>see section 113</i>)	The agreement of owners who together hold more than a 50% share in the land
Amalgamating Māori freehold land (<i>see section 118</i>)	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 (<i>see section 122</i>)	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 (*see* **section 210**)

If the governance body is a Māori incorporation, adjusting the shareholding of the incorporation (*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 Maori Land Court or Maori 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

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- 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

- | | | |
|----------|---|----|
| 1 | Principles applying to exercise of jurisdiction in relation to Maori Fisheries Act 2004 | 5 |
| (1) | Any person who is a party to a matter referred to in section 351 or 352 has standing in relation to the powers provided for in those sections and this schedule. | |
| (2) | A request for advice under section 351 , or an application for a determination under section 352 , is— | 10 |
| | (a) a proceeding for the purposes of Parts 1 to 9 ; 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 351 or 352 by applying the same considerations as would be relevant under the Maori Fisheries Act 2004. | |
| (5) | Sections 351 and 352 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 351 or 352 restricts any other right of a person to bring proceedings in the court. | |
| | Compare: 1993 No 4 s 26D(1)–(5), (9) | |
| 2 | Application of section 181 of Maori Fisheries Act 2004 | |
| (1) | The court does not have jurisdiction under section 351 or 352 unless it is satisfied that the parties have complied with section 181(1) of the Maori Fisheries Act 2004. | 25 |
| (2) | Subclause (1) 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—
- (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 10
 - (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—
- (a) record the terms of that resolution; and 30
 - (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 assets. 25

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 a parcel, of Māori freehold land does not belong to the Crown as *bona vacantia*, but is instead subject to **section 295 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**.

Adoption Act 1955 (1955 No 93)

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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 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
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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**,—

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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),—

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- (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”.

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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.

Income Tax Act 2007 (2007 No 97) 15

In section CW 1, heading above subsection (2), replace “*Maori incorporation*” with “*governance body*”.

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 20
 (b) delete “Maori incorporation,”.

In section DP 9 (2)(b), replace “Maori incorporation” with “governance body”.

In section DP 9, list of defined terms,—

- (a) after “forestry company,”, insert “governance body,”; and
 (b) delete “Maori incorporation,”. 25

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**”.

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**”. 30

In section YA 1, insert in its appropriate alphabetical order:

governance body is defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016** 35

In section YA 1, repeal the definition of **Maori incorporation**.

Income Tax Act 2007 (2007 No 97)—continued

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**”.

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”.

5

Joint Family Homes Act 1964 (1964 No 45)

In section 25(1),—

(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”.

10

In section 25(2), replace “the Maori Affairs Act 1953” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

15

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**”.

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**”.

20

Land Transfer Act 1952 (1952 No 52)

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**):

25

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**”.

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 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”.

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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”. 5

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**):
- (c) a whānau trust (within the meaning of **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**): 10
- (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**.

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**”. 15

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: 20

- (2) However,—
 - (a) section 28 is the only provision in Parts 2 and 3 that applies to Māori customary land; and
 - (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**”. 25

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) 30

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 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**. 35

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**”.

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:

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**

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:

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”.

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**.

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 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**”.

Local Government (Rating) Act 2002 (2002 No 6)—continued

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.

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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).

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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)”.

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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”.

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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.

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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”.

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Maori Affairs Restructuring Act 1989 (1989 No 68)—*continued*

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**”. 5

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**”. 10

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**”. 15

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**”. 20

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: 25

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**”. 30

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**”. 35

Maori Fisheries Act 2004 (2004 No 78)—*continued*

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)

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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**”.

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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”.

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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,—

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- (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**”.

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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**”.

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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**”.

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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.**” 5

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.**” 10

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.**” 15

Maori Purposes Act 1976 (1976 No 148)

Repeal section 27(4).

Maori Purposes Act 1978 (1978 No 70) 20

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. 25

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.**” 30

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”. 35

Māori Purposes Act 2011 (2011 No 73)

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—
- (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)

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”.

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**).

Maori Reserved Land Amendment Act 1997 (1997 No 101)

Replace section 5(6) with:

- (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
 - (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**)”.

Maori Reserved Land Amendment Act 1997 (1997 No 101)—*continued*

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)”. 5

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**)”.

Maori Trust Boards Act 1955 (1955 No 37) 10

Repeal section 24E.

Replace section 24F with:

24F Board may contract to provide services to other bodies

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. 15

Māori Trustee Act 1953 (1953 No 95) 20

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”.

Repeal section 30(7). 25

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 30

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 35

Maori Vested Lands Administration Act 1954 (1954 No 60)—*continued*

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”.

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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:

- (b) any Māori freehold land held by the Maraeroa and B Blocks Incorporation.

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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:

- (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:**

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Maraeroa A and B Blocks Incorporation Act 2012 (2012 No 2)

Replace section 11 with:

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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**).

(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**),—

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(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

(b) after the amalgamation, **Parts 1 to 9 of Te Ture Whenua Māori Act 2016** applies without modification to the resulting rangatōpū.

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(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

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Maraeroa A and B Blocks Incorporation Act 2012 (2012 No 2)—*continued*

- (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,— 5
- (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
- (b) the court may make the order despite **section 27(3)(a) of those Parts**. 10
- (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 15
- (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. 20
- (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.
- (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— 25
- (a) the requirement to file documents with the Registrar of the court does not apply; and
- (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. 30

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**”. 35

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)—continued

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 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 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) 5

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 10

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) 15

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**”. 20

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**”. 25

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**”. 30

After section 12, insert:

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. 35

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

Ngāi Tahu Claims Settlement Act 1998 (1998 No 97)—*continued*

beneficial owners on the Māori land register maintained under **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

In section 472(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Ngai Tāmanuhiri Claims Settlement Act 2012 (2012 No 55)

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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**”.

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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**”.

Ngāti Awa Claims Settlement Act 2005 (2005 No 28)

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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)**”.

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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**”.

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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”.

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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)

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)

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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**”.

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:
- (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
- (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)**”.

In section 68(7), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

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**”.

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**”.

Ngati Toa Rangatira Claims Settlement Act 2014 (2014 No 17)

In section 160(2)(c), replace “Maori reservation” with “whenua tāpui”. 5

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**”.

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**)”. 10

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. 15

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)”. 20

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. 25

(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.

In section 105(4), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”. 30

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)”.

After section 105(5), insert:

(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. 35

(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.

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**”. 5

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**”. 10

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”. 15

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”. 20

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 25
- land that is subject to a kawenata tiaki whenua created under **section 137 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 (2009 No 26) 30

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**”. 35

Privacy Act 1993 (1993 No 28)

In Schedule 2, Part 1, replace the item relating to Te Ture Whenua Maori Act 1993 with:

Privacy Act 1993 (1993 No 28)—*continued***Parts 1 to 9 of Te Ture Whenua Māori Act 2016** **Section 270(1)(a)****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.

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)

Replace sections 31A and 31B with:

31A Kaiwhakamarumarū appointed

(1) This section applies if, in respect of any interests in land or any properties,—

Protection of Personal and Property Rights Act 1988 (1988 No 4)—continued

- (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 Māori 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. 5
- 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. 10
- (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. 15
- (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,— 20
- (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. 25
- (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—
- (a) make a property order under section 31 in respect of any or all of those interests; or 30
- (b) otherwise exercise its jurisdiction under this Part in respect of any or all of those interests.

Public Trust Act 2001 (2001 No 100)

- Replace section 99(2)(a) with: 35
- (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**”.

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**)”. 5

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**”.

In section 17(5), replace “an agent” with “a kaiwhakahaere”. 10

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**”.

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**”. 15

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**”. 20

Replace section 41(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 Māori, as those terms are defined in **section 5 of Parts 1 to 9 of Te Ture Whenua Māori Act 2016**); and 25

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**)”.

Replace section 41(e) with:

- (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**. 30

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**”. 35

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

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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

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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

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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**”.

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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**.

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In section 2(1), definition of **reserve** or **public reserve**, replace paragraph (m) with:

- (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**

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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”.

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In section 38(1) and (2), replace “Maori reservation” with “whenua tāpui”.

Reserves Act 1977 (1977 No 66)—continued

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 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:

- (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**”.

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**”.

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)

In the Schedule, item relating to the Fisheries Act 1996, item relating to section 200(1), third column, replace “Māori reservation” with “whenua tāpui”. 5

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**”.

Summit Road (Canterbury) Protection Act 2001 (2001 No 3 (L))

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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**”. 15

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 20
- (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**”. 25

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**”. 30

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**”. 35

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:

- (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**.

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**”.

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**”.

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**”.

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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**”.

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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**”.

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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**”.

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Walking Access Act 2008 (2008 No 101)

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**”.

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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**”.

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**”.

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Replace section 27(1)(a) to (c) with:

- (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**

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Walking Access Act 2008 (2008 No 101)—*continued*

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

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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:

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- (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.

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Part 2**Amendments to legislative instruments****Climate Change (Forestry Sector) Regulations 2008 (SR 2008/355)**

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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”.

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”.

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In regulation 10(3)(c) and 11, replace “record of the Maori Land Court” with “record in the Māori land register”.

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”.

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In regulation 24(b)(i)(B), replace “Maori Land Court records” with “records in the Māori land register”.

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”.

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Climate Change (Forestry Sector) Regulations 2008 (SR 2008/355)—continued

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”.

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)

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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**”.

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**”.

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Land Information New Zealand (Fees and Charges) Regulations 2003 (SR 2003/124)

In the Schedule, Part 6, item 5,—

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- (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)

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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)

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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**”.

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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**”.

Maori Incorporations Constitution Regulations 1994 (SR 1994/60)—continued

In Schedule 1, clause 2(1)(a), replace “section 280” with “any of **sections 216 to 220**”.

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**”. 5

In Schedule 1, revoke regulation 4(1)(c) to (e).

In Schedule 1, clause 4(1)(f), delete “, under section 258 of the Act,”.

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 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”. 10

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”. 15

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”.

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: 20

(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

(b) who, by virtue of a kaiwhakamarumaruru 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 25

(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. 30

In Schedule 1, clause 25(3), delete “, as required by section 273 of the Act,”.

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)”. 35

In Schedule 1, clause 31(2)(b), replace “Part 7” with “**section 140**”.

Māori Land Court Fees Regulations 2013 (SR 2013/219)

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)

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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”.

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** 10 of **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

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 (1) and (2)** apply as if the amendments, and any related enactment that has not commenced, had commenced, and **subsection (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

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s 5A

Part 1

Provisions relating to Part 16 of Te Ture Whenua Māori Act 2016

1 Interpretation

In this Part,—

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- (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.

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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 (1)** applies as if the amendments, regulations, and rules, and any related enactment that has not commenced, had commenced.

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3 Write-off of rates on land that becomes non-rateable on commencement of amendments

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- (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.

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- (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 (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

Schedule 11A

**Matters relating to non-rateability of unused Māori freehold land
and write-off of earlier rates** 5

s 110A(4)

- 1 The matters that the local authority must consider under **section 110A(4)** are—
- (a) the desirability and importance within the district of each of the objectives in **clause 2**; 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.