

Version
as at 28 October 2021



Māori Trustee Act 1953

Public Act 1953 No 95
Date of assent 26 November 1953
Commencement see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by Te Puni Kōkiri.

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Enactments repealed**An Act to consolidate and amend certain provisions of the law relating to the Māori Trustee**

Title: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

1 Short Title and commencement

- (1) This Act may be cited as the Māori Trustee Act 1953.
- (2) This Act shall come into force on 1 April 1954.

Section 1(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

2 Interpretation

- (1) Unless the context otherwise requires, terms and expressions that are defined in the Maori Affairs Act 1953 have, when used in this Act, the meanings that are given thereto by that Act.

- (2) The powers conferred on the Māori Trustee by this Act are in addition to the powers conferred on him by the Maori Affairs Act 1953, and nothing in either of the said Acts shall be construed to limit the provisions of the other Act.
- (3) Without limiting subsection (1), in this Act, unless the context otherwise requires,—

Appropriation Account means the account provided for under section 23

Common Fund means the separate fund authorised by section 23(1)(b)

General Purposes Fund means the separate fund authorised by section 23(1)(c)

Māori Trustee—

- (a) means the Māori Trustee established by section 3; and
- (b) includes, as the context requires, the Māori Trustee who—
 - (i) is appointed under section 6; or
 - (ii) continues to hold office under section 6A.

Section 2 heading: replaced, on 1 July 2009, by section 4(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 2(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 2(3): inserted, on 1 July 2009, by section 4(2) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Māori Trustee established

Heading: replaced, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

3 Māori Trustee established

- (1) This section establishes the Māori Trustee.
- (2) The Māori Trustee is a corporation sole with perpetual succession and a seal of office.

Section 3: replaced, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

Capacity, powers, and status of Māori Trustee

Heading: replaced, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

4 Capacity and powers of Māori Trustee

- (1) For the purpose of exercising the powers and performing the functions and duties of the Māori Trustee conferred by or under this Act or any other enactment, the Māori Trustee has—
 - (a) full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction; and

- (b) for the purpose of paragraph (a), full rights, powers, and privileges.
- (2) Subsection (1) applies subject to—
 - (a) the provisions of this Act and any other enactment; and
 - (b) the general law.

Section 4: replaced, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

5 Independence of Māori Trustee

In exercising the powers and performing the functions and duties of the Māori Trustee in his or her fiduciary capacity under this Act or any other enactment, the Māori Trustee must act independently, free from any direction or instruction from the Crown.

Section 5: replaced, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

Provisions relating to appointment of Māori Trustee

Heading: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

6 Appointment of Māori Trustee

- (1) The Māori Trustee is appointed by the Minister.
- (2) An appointment made under subsection (1) must be made by written notice to the person appointed.
- (3) The notice must—
 - (a) state the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) state the period for which the appointment is made, which must not exceed a period of 5 years; and
 - (c) be published by the Minister in the *Gazette* as soon as practicable after being given.
- (4) The person appointed under this section—
 - (a) may be reappointed; and
 - (b) continues in office, despite the expiry of his or her term of office, until—
 - (i) the person is reappointed; or
 - (ii) the person's successor is appointed; or
 - (iii) the person ceases to be the Māori Trustee in a circumstance provided for in section 6B.

Section 6: replaced, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

6A Continuation of appointment

Despite section 6, the person holding office as the Maori Trustee immediately before the commencement of the Māori Trustee Amendment Act 2009 is the Māori Trustee within the meaning of this Act and may hold that office for a period of up to 5 years from the commencement of the Māori Trustee Amendment Act 2009, as may be determined by the Minister and notified in accordance with section 6(3).

Section 6A: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

6B Termination of appointment of Māori Trustee

- (1) The Māori Trustee ceases to hold office if he or she—
 - (a) resigns from office by written notice to the Minister; or
 - (b) is removed or suspended from office under subsection (2); or
 - (c) ceases to hold office as the Māori Trustee under this Act.
- (2) The Minister may, if the Minister is satisfied that there is just cause, remove or suspend the Māori Trustee from office by written notice to the Māori Trustee, stating—
 - (a) the date on which the removal or suspension takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) the reasons for the removal or suspension; and
 - (c) in the case of a suspension from office,—
 - (i) the date on which the person’s appointment will be reinstated; or
 - (ii) the event upon which his or her reinstatement depends.
- (3) The Minister must notify the removal or suspension in the *Gazette* as soon as practicable after notice is given to the Māori Trustee.
- (4) The Māori Trustee is not entitled to receive compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as the Māori Trustee.
- (5) In exercising his or her powers under this section, the Minister must observe the rules of natural justice.
- (6) In subsection (2), **just cause** means—
 - (a) undischarged bankruptcy, misconduct, or neglect of duty; or
 - (b) inability to perform the functions and duties of the Māori Trustee.

Section 6B: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

Appointments by Māori Trustee

Heading: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

6C Deputy Māori Trustee

- (1) The Māori Trustee must appoint a Deputy Māori Trustee.
- (2) The Deputy Māori Trustee is an employee of the Māori Trustee.
- (3) In the case of a vacancy in the office of the Māori Trustee, or if the Māori Trustee is unable to perform the functions and duties of the Māori Trustee under this Act or any other enactment, or is for any reason prevented from doing so, the Deputy Māori Trustee has and may exercise the powers and perform the functions and duties of the Māori Trustee for as long as the vacancy or absence continues.
- (4) The powers exercised, and functions and duties performed, by the Deputy Māori Trustee under subsection (3) may not be questioned in any proceeding on the ground that the occasion for the Deputy Māori Trustee to act had not arisen or had ceased.

Section 6C: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

6D Other employees

- (1) The Māori Trustee may appoint the employees that the Māori Trustee considers appropriate to enable the Māori Trustee to exercise the powers and perform the functions and duties of office under this Act effectively and efficiently.
- (2) The Governor-General may, by Order in Council, provide that the Māori Trustee must not, in relation to any or all employees (including the Deputy Māori Trustee), agree to terms and conditions of employment in a collective employment agreement, or an amendment to those terms and conditions, without—
 - (a) consulting the Public Service Commissioner; and
 - (b) having regard to the recommendations that the Public Service Commissioner may make to the Māori Trustee within a reasonable time of being consulted.
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 6D: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 6D(2)(a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 6D(2)(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 6D(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Delegation

Heading: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

6E Delegation by Māori Trustee

- (1) The Māori Trustee may delegate to the Deputy Māori Trustee any of the powers, functions, or duties conferred on the Māori Trustee by or under this Act or any other enactment.
- (2) Subject to any general or express directions of the Māori Trustee, the Deputy Māori Trustee has and may exercise all the powers, or perform the functions and duties, delegated by the Māori Trustee in the same manner and with the same effect as if they had been conferred on the Deputy Māori Trustee directly by or under this Act or any other enactment.
- (3) A delegation under this section—
 - (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 Māori Trustee thinks fit; and
 - (d) does not prevent the exercise of a power or performance of a function or duty by the Māori Trustee; but
 - (e) does not include a power of delegation.
- (4) In the absence of proof to the contrary, the Deputy Māori Trustee, when purporting to act under a delegation, is presumed to be acting in accordance with the terms of the delegation.
- (5) Powers exercised, functions or duties performed, and decisions made by the Deputy Māori Trustee, acting as the delegate of the Māori Trustee, may not be questioned in any proceeding on the ground that the occasion for the Deputy Māori Trustee to act had not arisen or had ceased.

Section 6E: inserted, on 1 July 2009, by section 5 of the Māori Trustee Amendment Act 2009 (2009 No 12).

Further provisions relating to powers and functions of Māori Trustee

Heading: inserted, on 1 July 2009, by section 6 of the Māori Trustee Amendment Act 2009 (2009 No 12).

7 Judicial notice of appointment of Māori Trustee, etc

All courts shall take judicial notice of the appointment of the Māori Trustee and the Deputy Māori Trustee, of their respective signatures, and of the official seal.

Compare: 1930 No 33 s 7

Section 7 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 7: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

8 Contracts of Māori Trustee

- (1) Any contract which, if made between private persons, must be by deed shall, if made by the Māori Trustee, be in writing signed by him or by some person duly authorised by him in that behalf and sealed with his official seal.
- (2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Māori Trustee, be in writing signed by the Māori Trustee or by some person duly authorised by him in that behalf.
- (3) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Māori Trustee.

Compare: 1930 No 33 s 8

Section 8 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 8(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 8(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 8(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

9 Delegation of powers of Māori Trustee

- (1) The Māori Trustee may from time to time, by writing under his hand and seal, delegate to any officer of the Māori Trustee any of the powers or functions conferred or imposed upon him by this or any other Act or by any deed, will, or other instrument. The fact that the Māori Trustee has so delegated any of his powers or functions shall not prevent him or the Deputy Māori Trustee from exercising any such powers or functions.
- (2) Any such delegation may be of general application to all the powers or functions of the Māori Trustee, or may be limited in its application to any particular

matter or thing, and may at any time be in like manner varied or revoked by the Māori Trustee.

- (3) In the exercise or performance of any powers or functions delegated to him pursuant to this section, the delegate shall be subject in all respects to the direction, supervision, and control of the Māori Trustee.
- (4) No person to whom any powers or functions of the Māori Trustee have been delegated pursuant to this section shall be personally liable in damages for any act or thing done or omitted to be done by him in good faith and in pursuance and exercise or in the intended pursuance and exercise of any powers or functions delegated to him as aforesaid.
- (5) All acts and things done by a delegate in pursuance and exercise or in the intended pursuance and exercise of any powers or functions that have been delegated under this section shall have the same effect and consequences as if they had been done by the Māori Trustee.
- (6) Where any declaration, transfer, assurance, consent, or other deed or document is required to be signed by a delegate appointed under this section, he shall sign his personal name, adding the words, “acting for the Māori Trustee pursuant to section 9 of the Māori Trustee Act 1953”; and, where the document is required to be sealed, the delegate shall affix thereto the Māori Trustee’s seal of office. Any such declaration, transfer, assurance, consent, or other deed or document so executed shall have the same force and effect as if it were executed by the Māori Trustee.
- (7) Notwithstanding any rule of law to the contrary, where an officer of the Māori Trustee is empowered, by virtue of a delegation made under this section, to attend, vote, and act at a meeting of assembled owners held pursuant to Part 23 of the Maori Affairs Act 1953 he may, instead of exercising those powers personally, appoint any other officer of that office as a proxy to exercise them at the meeting on his behalf.

Compare: 1945 No 42 s 3; 1952 No 9 s 12

Section 9 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(1): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 9(7): inserted, on 14 December 1976, by section 22 of the Maori Purposes Act 1976 (1976 No 148).

Section 9(7): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

10 Authorised officer may make declaration on behalf of Māori Trustee

- (1) Any officer of the Māori Trustee who is authorised so to do by the Māori Trustee in writing may make and subscribe for the Māori Trustee any oath or declaration required to be made by the Māori Trustee under the rules of any court or otherwise, unless the matter is peculiarly within the knowledge of the Māori Trustee.
- (2) The person subscribing any such oath or declaration shall add to his signature the words “acting for the Māori Trustee pursuant to section 10 of the Māori Trustee Act 1953”.
- (3) Any officer of the Māori Trustee who is authorised so to do by the Māori Trustee in writing may, for the purposes of proceedings in any court, attend the court in place of the Māori Trustee unless the court requires the personal attendance of the Māori Trustee.

Compare: 1930 No 33 s 9(1)

Section 10 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 10(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 10(1): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 10(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 10(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 10(3): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

11 Māori Trustee may accept special trusts

- (1) The Māori Trustee may accept and hold in trust for any specified persons, being Maoris or the descendants of Maoris, or in trust for Maoris or the descendants of Maoris of any specified class or group, any land or other property that may be transferred to or vested in him for the purpose by or on behalf of the owners or other persons lawfully entitled to create the trust.
- (2) No alienation of Maori land to the Māori Trustee made for the purposes of this section shall require confirmation under Part 19 of the Maori Affairs Act 1953.
- (3) Where any land or other property is held, otherwise than by the Māori Trustee, in trust for any Maoris or for any persons being descendants of Maoris, or in trust for Maoris or the descendants of Maoris of any specified group or class,

the trustees may, with the consent of the Māori Trustee, vacate their office and appoint him to be the sole trustee in their place. The powers conferred on trustees by this subsection may be exercised without requiring the consent or approval of any court or Judge, but shall not in any case be exercised in contravention of any express provision contained in the statute or other instrument creating the trust.

- (4) On the application of the Māori Trustee or of any person beneficially entitled to any property held by the Māori Trustee in trust pursuant to this section the court may vary the terms of the trust or may terminate the trust and vest the trust property in the persons found by it to be equitably entitled thereto.
- (5) On the application of the Māori Trustee the court may make a vesting order vesting in the Māori Trustee any Maori land or any General land owned by Maoris to which subsection (1) or subsection (3) relates.

Compare: 1930 No 33 s 15

Section 11 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 11(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 11(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 11(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 11(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 11(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 11(5): amended, on 10 October 1975, by section 16(1) of the Maori Purposes Act 1975 (1975 No 135).

12 Pending grant of probate or administration, Māori Trustee may administer estates of deceased Maoris

- (1) Where any Maori dies, whether testate or intestate (and notwithstanding that some person other than the Māori Trustee is appointed executor, or is entitled to letters of administration), the Māori Trustee may, if he thinks fit, until administration is granted, exercise with respect to the estate of the deceased person all such powers and authorities and do all such acts and things as he would have or could exercise or do if the deceased had died intestate and the Māori Trustee had obtained administration:

provided that the Māori Trustee shall not sell, lease, exchange, mortgage, or partition any portion of the property unless the property is ordered to be sold, leased, exchanged, mortgaged, or partitioned by a Judge of the High Court on the application of the Māori Trustee, which order a Judge of the High Court is hereby authorised to make:

provided also that the Māori Trustee may sell, without obtaining an order of a Judge of the High Court, any portion of the personal estate that is of a perishable nature or is liable to deteriorate or is for any other reason liable to decrease unduly in value if retained; and the decision of the Māori Trustee as to whether any portion of the personal estate is of a perishable nature or is liable to deteriorate or is for any reason liable to decrease unduly in value if retained shall be conclusive and binding upon all persons whomsoever.

- (2) Before the Māori Trustee first acts under this section in respect of any estate he shall give notice, in writing or by telegram, to any person in New Zealand known to him who is of full age and full mental capacity and would be entitled to obtain administration, that he intends to so act unless that person forthwith proceeds to apply for administration.
- (2A) If that person does not, within a period of 21 days after the posting of the notice or the dispatching of the telegram, give notice, in writing or by telegram, to the Māori Trustee at Wellington that he intends to apply for administration, or if that person gives such notice but fails for 14 days thereafter so to apply, or makes such application and it fails, then, unless the court otherwise orders, the Māori Trustee may proceed to exercise all or any of the powers and authorities conferred by subsection (1).
- (2B) If more persons than 1 are entitled to take out administration, it shall be sufficient to give notice to one of those persons only.
- (2C) Nothing in this section shall, where it is not actually known to the Māori Trustee that there is in New Zealand any person entitled to obtain administration, or in any case of emergency (of which emergency the Māori Trustee shall be the sole judge) prevent the Māori Trustee from exercising the powers and authorities given by subsection (1) without giving such notice as aforesaid.
- (3) All costs, charges, and expenses incurred by the Māori Trustee under this section shall be a first charge upon the property of the deceased. Any person who afterwards obtains a grant of probate or letters of administration of the estate shall, before acting thereon, pay all costs, charges, commissions, and expenses incurred by or payable to the Māori Trustee under this section.
- (4) The Māori Trustee, acting under this section, shall not be deemed to be or to be liable as an executor or administrator *de son tort*.
- (5) On the grant of probate or of letters of administration to any person other than the Māori Trustee, the Māori Trustee shall furnish to the executor or administrator a statement in writing of his administration of the estate of the deceased pursuant to this section, with such particulars as the executor or administrator may properly require.

Compare: 1930 No 33 s 18

Section 12 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(1): replaced, on 24 October 1969, by section 10 of the Maori Purposes Act 1969 (1969 No 127).

Section 12(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(1) first proviso: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(1) first proviso: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 12(1) second proviso: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(1) second proviso: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 12(2): replaced, on 24 October 1969, by section 10 of the Maori Purposes Act 1969 (1969 No 127).

Section 12(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(2A): inserted, on 24 October 1969, by section 10 of the Maori Purposes Act 1969 (1969 No 127).

Section 12(2A): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(2B): inserted, on 24 October 1969, by section 10 of the Maori Purposes Act 1969 (1969 No 127).

Section 12(2C): inserted, on 24 October 1969, by section 10 of the Maori Purposes Act 1969 (1969 No 127).

Section 12(2C): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

12A Power of Māori Trustee to elect to administer small estates without grant of administration

- (1) Where any Maori has died intestate or testate, whether in or out of New Zealand, leaving property situated in New Zealand, the gross value of which as estimated by the Māori Trustee does not at the time of the election hereinafter mentioned exceed \$40,000, and no person has obtained a grant of administration in New Zealand, the Māori Trustee, in any case where he would be entitled to obtain such a grant, may, instead of obtaining such a grant, file in the High Court an election in writing under seal to administer the estate of the deceased Maori.
- (2) On any such election being filed, the Māori Trustee shall be deemed to be the executor of the will or the administrator of the estate, as the case may require, in like manner and to the same extent in all respects as if administration had been duly granted to him.

- (3) Every such election shall set forth the name, residence, and occupation of the deceased so far as the same are then known to the Māori Trustee, and the date of the death of the deceased and the property situated in New Zealand of the deceased as then known.
- (4) The election shall contain, in every case where the deceased died intestate, a statement to that effect, and in every case where the deceased died testate, a statement that after due inquiries the Māori Trustee believes that the document annexed to the election is the testator's last will (or an exemplification thereof where administration has been granted out of New Zealand) and that the will has been validly executed according to the law governing the execution of wills.
- (5) Any such election as aforesaid may be filed in the registry of the High Court at Wellington or in such other registry of the High Court as may either generally or in respect of particular estates be determined by the Māori Trustee.
- (6) If after filing any such election as aforesaid the gross value of the property situated in New Zealand to be administered is found to exceed the sum of \$60,000, the Māori Trustee shall, as soon as practicable thereafter, file in the registry of the High Court in which the election to administer was filed a memorandum under seal stating the fact; and shall thereupon proceed in the ordinary manner to obtain a grant of administration in New Zealand; and for that purpose may uplift from the court any will or exemplification filed with the election.
- (7) An election may be filed under this section relating to a written informal will to which subpart 3 of Part 2 of the Wills Act 2007 or the Wills Amendment Act 1955 applies. This section does not apply to any other informal will.

Section 12A: inserted, on 1 April 1968, by section 148(1) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 12A heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12A(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12A(1): amended, on 4 December 1982, by section 15(1)(a) of the Maori Purposes Act 1982 (1982 No 124).

Section 12A(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 12A(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12A(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12A(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12A(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12A(5): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 12A(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12A(6): amended, on 4 December 1982, by section 15(1)(b) of the Maori Purposes Act 1982 (1982 No 124).

Section 12A(6): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 12A(7): replaced, on 1 November 2007, by section 41 of the Wills Act 2007 (2007 No 36).

12B Elections in respect of unadministered balance of an estate

- (1) Where a grant of administration (in this section referred to as the **original grant**) has been made in New Zealand in respect of the estate of any deceased Maori (in this section referred to as the **original estate**) and the persons to whom the original grant or any substituted grant of administration was made have died, leaving part of the original estate unadministered, and the gross value of the property situated in New Zealand so left unadministered, as estimated by the Māori Trustee at the time of the election hereinafter mentioned, does not exceed the sum of \$40,000, and no person has since the death of the last administrator taken out letters of administration *de bonis non* in New Zealand in respect of the original estate, the Māori Trustee may, instead of applying for an order to administer *de bonis non* in New Zealand, file in the registry of the High Court out of which the original grant was issued an election in writing under seal setting forth the fact of the original grant, the death of the executors or other administrators, and the particulars of the property situated in New Zealand so left unadministered, and electing to administer the part of the original estate so left unadministered. If the original grant was made by the Maori Land Court, the election shall be filed in the registry of the High Court nearest to the registry of the Maori Land Court out of which the original grant issued.
- (2) On the election being filed, the Māori Trustee shall be deemed to be administrator of the original estate left unadministered in like manner and to the same extent in all respects as if an order to administer *de bonis non* had been duly granted to him.
- (3) If after the filing of any such election the gross value of the property situated in New Zealand to be administered by the Māori Trustee is found to exceed the sum of \$60,000, the Māori Trustee shall, as soon as practicable thereafter, file in the said registry of the High Court a memorandum under seal stating the fact, and shall thereupon proceed in the ordinary manner to obtain in New Zealand an order to administer *de bonis non* (either with or without the will annexed, as the case may be) in respect of the said estate, and for that purpose may uplift from the court any will or exemplification filed with the election.

Section 12B: inserted, on 1 April 1968, by section 148(1) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 12B(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12B(1): amended, on 4 December 1982, by section 16(1)(a) of the Maori Purposes Act 1982 (1982 No 124).

Section 12B(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 12B(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12B(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12B(3): amended, on 4 December 1982, by section 16(1)(b) of the Maori Purposes Act 1982 (1982 No 124).

Section 12B(3): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

12BA Court fees payable on elections, etc

- (1) The fee payable to the Registrar of the High Court for the filing of any election under section 12A or section 12B shall be such as may from time to time be prescribed by regulations made under this Act.
- (2) A copy of any such election certified as a correct copy under the seal of the High Court shall be equivalent to an exemplification of that election for all purposes, and the only fee payable in respect thereof shall be a sealing fee of such amount as may from time to time be prescribed by regulations made under this Act.

Section 12BA: inserted, on 30 July 1985, by section 2 of the Maori Trustee Amendment Act 1985 (1985 No 116).

12C Intestate estates

- (1) Where any Maori, whether domiciled in New Zealand or elsewhere, dies (whether before or after the commencement of this Act) in New Zealand or elsewhere intestate, leaving property situated in New Zealand, the Māori Trustee may, if he thinks fit to apply therefor, obtain a grant of administration of that person's estate.
- (2) The Māori Trustee shall be entitled as of right to the grant of administration:
provided that if some other person in New Zealand, being a person who if it were not for this section would be entitled to the grant of administration, applies for a grant of administration, then the court may grant administration to that person:

provided also that it shall not be necessary for the Māori Trustee to give notice of the application to any such person, nor shall the court require him to do so.

Section 12C: inserted, on 1 April 1968, by section 148(1) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 12C(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12C(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12C(2) second proviso: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

12D Application for probate in testate estates

- (1) Where any Maori dies testate, and application for probate or letters of administration with the will annexed is not made in New Zealand within 3 months after the date of death of that person, the Māori Trustee may apply for an order to administer with the will annexed, and the High Court shall make the grant unless the person entitled to probate or letters of administration with the will annexed applies therefor, or shows to the satisfaction of the court that the delay in making the application has been and still is unavoidable or accidental.
- (2) On any such application no costs shall be awarded against the Māori Trustee.
- (3) On the application of any person entitled to probate or letters of administration with the will annexed who was out of New Zealand when the grant to the Māori Trustee was made and who has not renounced or refused probate or letters of administration, or on the application of the attorney of that person, the court may grant probate or letters of administration to that person or to his attorney, as the case may be, in such a manner and subject to such limitations or conditions as the court thinks proper.
- (4) No application under subsection (3) shall be made until after 14 days' notice in writing of the intention to apply has been left at the office of the Māori Trustee at Wellington.
- (5) Immediately on the grant of any probate or letters of administration under subsection (3)—
 - (a) all the functions, powers, authorities, discretions, rights, and duties of the Māori Trustee (except the rights reserved by this subsection) in relation to the testator's estate, and all liability of the Māori Trustee under any contract entered into by the Māori Trustee, or otherwise, affecting or relating to the estate, shall pass to the person obtaining probate or letters of administration, and no claim shall thereafter lie against the Māori Trustee in respect of any such liability; and
 - (b) subject to and on the allowance and payment to the Māori Trustee of all money due for commission, necessary outlay, disbursements, costs, charges, and expenses affecting the estate, including the costs of the Māori Trustee of and incidental to the application for probate or letters of administration, and consequent thereon, such portion of the estate of the testator as is then unadministered by the Māori Trustee shall vest in the person obtaining probate or letters of administration.

Section 12D: inserted, on 1 April 1968, by section 148(1) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 12D(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12D(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 12D(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12D(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12D(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12D(5)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12D(5)(b): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

12DA Appointment of Māori Trustee by executors, administrators, and trustees

- (1) With the consent of the High Court, and subject to the agreement of the Māori Trustee,—
 - (a) executors, whether appointed before or after the commencement of this Act, may, unless expressly prohibited, before or after taking out probate, appoint the Māori Trustee as sole executor or appoint as co-executor the Māori Trustee and any other person or persons, whether or not the other person or persons include all or any of the executors making the appointment; and
 - (b) other administrators under a grant of administration with or without a will annexed, whether appointed before or after the commencement of this Act, may, unless expressly prohibited, appoint the Māori Trustee as sole administrator or appoint as co-administrators the Māori Trustee and any other person or persons, whether or not the other person or persons include all or any of the administrators making the appointment.
- (2) Where, pursuant to subsection (1), any executor or administrator with a will annexed appoints the Māori Trustee as executor or administrator, or appoints the Māori Trustee and any other person or persons as co-executors or co-administrators, the appointee or appointees shall, by virtue of the appointment, be also the sole trustee or co-trustees (as the case may be) in all cases where the executor or administrator was trustee, or where there was no trustee appointed by the trust instrument or in existence at the date of the appointment under this section. The provisions of this subsection shall apply to all appointments made under this Act before or after the commencement of this section, or made before the commencement of this Act under any Act repealed by this Act.
- (3) Where there are more executors or administrators or trustees or persons having power to appoint a trustee than 1, any one executor (whether before or after proving a will), any one administrator, or any one trustee, or any one of those persons having power to appoint a trustee, may, with the consent of the proposed appointee or appointees apply to the High Court to have the Māori Trustee appointed as sole executor, administrator, or trustee or to have appointed as co-executors, co-administrators, or co-trustees Public Trust and any other person or persons, whether or not the other person or persons include all or any

of the executors or administrators or trustees or persons having power to appoint a trustee.

- (4) On any application to the High Court under this section, the court shall have power to make such order as it thinks fit.

Section 12DA: inserted, on 20 June 1991, by section 2 of the Maori Trustee Amendment Act 1991 (1991 No 41).

Section 12DA heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12DA(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12DA(1)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12DA(1)(b): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12DA(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12DA(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12DA(3): amended, on 1 March 2002, pursuant to section 152(1) of the Public Trust Act 2001 (2001 No 100).

12E Place of application

Any application by or on behalf of the Māori Trustee for probate of a will, or for an order to administer with a will annexed (whether for general, limited, or special purposes) or for any other grant of administration (whether intestate or testate) may be made in any registry of the High Court at the discretion of the Māori Trustee; and on any such application, whether the person was domiciled in New Zealand or elsewhere and whether he died in New Zealand or elsewhere, in the absence of evidence to the contrary, no further proof of the death or testacy or intestacy of any person shall be required than an affidavit that, after due inquiries, the Māori Trustee is satisfied that the person has died either testate or intestate, as the case may be.

Section 12E: inserted, on 1 April 1968, by section 148(1) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 12E: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 12E: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

13 General authority for Māori Trustee to act as agent or trustee or in other representative capacity

- (1) The Māori Trustee may, in his discretion, accept appointment as the executor, administrator, or trustee of any Maori or any descendant of a Maori, or as the agent or attorney of any Maori or any descendant of a Maori, or as trustee under any trust created for the benefit of Maoris or the descendants of Maoris,

or in any other representative capacity where the rights or interests of Maoris or the descendants of Maoris are involved or affected.

- (2) Nothing in this section shall be construed to limit or affect the provisions of this or any other Act relating to any duties, powers, or functions of the Māori Trustee.
- (3) A certificate under the hand and seal of the Māori Trustee to the effect that he has been appointed or has authority to act as the executor or administrator of the estate of any person, or as the trustee, agent, or attorney of any person, or as the trustee of any fund or other property, or in any other capacity, shall be sufficient evidence of his authority so to act and of all such relevant particulars as may be set forth in the certificate.
- (4) Where the Māori Trustee has been granted probate of the will or letters of administration of the estate of a deceased Maori or descendant of a Maori a certificate under this section shall be sufficient authority for the District Land Registrar or any other official to register the Māori Trustee as the proprietor of any estate or interest in any land under the Land Transfer Act 1952 or in any shares, stock, or other property.

Compare: 1930 No 33 ss 19, 23

Section 13 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13(4): amended, on 1 April 1968, by section 89(2) of the Maori Affairs Amendment Act 1967 (1967 No 124).

13A Māori Trustee not required to give bond

No bond or security shall be required from the Māori Trustee upon or in respect of his appointment in any capacity by or under this Act or any other Act, whether as administrator, or other trustee or as guardian, committee, manager, liquidator, receiver, agent, or attorney, or otherwise.

Section 13A: inserted, on 1 April 1968, by section 148(2) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 13A heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13A: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

13B Māori Trustee may enter into joint ventures

- (1) In the performance and exercise of the Māori Trustee's functions, duties, and powers, and in pursuit of the Māori Trustee's objectives, the Māori Trustee may enter into any partnership, joint venture, or other arrangement with the owners of any Maori freehold land or any General land owned by Maori or any General land owned on behalf of Maori, or accept any lease or licence of any such land, for the purpose of co-operating with the owners in the use and development of the land or any enterprise conducted on or from the land.
- (2) Without limiting or being limited by subsection (1), the Māori Trustee may do all or any of the following things:
 - (a) establish or promote, or concur in or support the establishment or promotion of, any body corporate having power to carry on business of any kind related to the Māori Trustee's operations:
 - (b) subscribe for or otherwise acquire shares in any company incorporated in New Zealand that carries on or proposes to carry on business of any kind related to the Māori Trustee's operations, and exercise, in respect of any such shares acquired by the Māori Trustee, all rights and powers to which the Māori Trustee may be entitled as the holder of the shares:
 - (c) otherwise participate in any body corporate, firm, partnership, or joint venture (whether established before or after the commencement of this Act) having power to carry on business of any kind related to the Māori Trustee's operations.

Section 13B: inserted, on 20 June 1991, by section 3 of the Maori Trustee Amendment Act 1991 (1991 No 41).

Section 13B heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13B(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13B(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13B(2)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13B(2)(b): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 13B(2)(c): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

14 Māori Trustee may use revenues of land administered by him in acquisition of other land required for incidental purposes

- (1) Where by or pursuant to any Act, deed, will, or other instrument the fee simple of any land or the control thereof has been vested in or conferred on the Māori Trustee he may, subject to the provisions of this section, acquire any other land which in his opinion it is necessary or expedient to acquire for the purpose of providing access to the land administered by him, or for an adjustment of the

boundaries thereof, or for any other purpose in relation to that land that may be approved by the court.

- (2) Any land acquired by the Māori Trustee under this section may be so acquired by way of exchange, or by purchase or otherwise, and all moneys payable in respect of the acquisition of any such land, whether by way of equality of exchange or purchase money or otherwise, may be paid by the Māori Trustee out of the revenues of the land for the benefit of which any such other land has been acquired.
- (3) Where any land has been acquired by the Māori Trustee under this section for the purpose of providing access to other land he may dedicate the land so acquired or any part thereof as a road or street as if he were the absolute owner thereof.
- (4) Except as provided in subsection (3), all land acquired by the Māori Trustee pursuant to this section shall be held by him on the trusts for which he holds the land for the benefit of which the first-mentioned land was acquired.
- (5) If the revenues available for the acquisition of any land pursuant to this section are not sufficient for the purpose, the Māori Trustee may, in accordance with the provisions of section 38, advance the amount required out of the General Purposes Fund of the Māori Trustee's Account.

Compare: 1930 No 33 s 20

Section 14 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

14A Māori Trustee may recognise committee of beneficial owners

- (1) The provisions of this section shall apply in respect of any land which is by statute or otherwise vested in the Māori Trustee to administer for the benefit of specified Maoris or descendants of Maoris (hereinafter in this section referred to as **the beneficiaries**).
- (2) For the purpose of advising the beneficiaries of the progress of his administration and of assisting him in the administration of any land in respect of which the provisions of this section apply, the Māori Trustee may recognise a committee of the beneficiaries of that land.
- (3) The Māori Trustee shall recognise a committee for the purposes of subsection (2) if, in his opinion, the committee has been elected at a meeting or meetings

of beneficiaries or otherwise selected or appointed by the beneficiaries or a substantial part of them and is fairly representative of the beneficiaries.

- (4) The Māori Trustee may, from money held by him for the beneficiaries of any land in respect of which the provisions of this section apply:
- (a) make such contribution as he sees fit towards the expenses of members of any committee recognised by him; and
 - (b) set aside and expend for tribal or community purposes pursuant to a recommendation of a committee recognised by him, such sum as he sees fit, but not exceeding the sum recommended and not in any one case exceeding \$50:

provided that payment made pursuant to this section from money held in respect of any land shall not in any one year exceed in total an amount equal to 2.5% of the money available for distribution to the beneficiaries in that year.

- (5) Except as provided by subsection (4), nothing in this section shall be construed to authorise the Māori Trustee to act otherwise than in accordance with the terms and conditions governing his administration of any land or of the proceeds thereof.
- (6) A committee recognised by the Māori Trustee pursuant to this section shall not be or be deemed to be a special trust adviser in terms of section 74 of the Trusts Act 2019.

Section 14A: inserted, on 27 November 1970, by section 16 of the Maori Purposes Act 1970 (1970 No 120).

Section 14A heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14A(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14A(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14A(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14A(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14A(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 14A(6): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 14A(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

15 Māori Trustee may grant easements over land administered by him

- (1) Where any land is vested in or administered by the Māori Trustee in any manner referred to in section 14 he may, if he thinks fit, from time to time grant rights of way or other easements over the land, or dedicate any part thereof for the purposes of a road or street, as if he were the absolute owner thereof, and,

with the approval of the court, may sell any such land or may exchange any part thereof for any other land.

- (2) The powers conferred by this section are in addition to any powers conferred on the Māori Trustee by the Act or by the deed, will, or other instrument by which the land or the control thereof is vested in or conferred on the Māori Trustee and, with the approval of the court, may be exercised notwithstanding any prohibitions or restrictions imposed by any such Act or instrument.
- (3) All moneys received by the Māori Trustee as purchase money, compensation, or otherwise in respect of the exercise by him of any powers conferred by this section shall be held by him as if they were revenues derived from the land administered by him as aforesaid.

Section 15 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 15(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 15(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 15(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

16 Māori Trustee may sell personal property

Where the Māori Trustee in his capacity as executor or administrator of any estate, or as agent of the owners or otherwise, has possession or control of any personal property, he may, unless prohibited from so doing by the terms of any will or other instrument, sell that property or any part thereof, and, in the exercise of his power of sale he may, subject to the terms of any such will or other instrument as aforesaid, sell or concur with any other person in selling any such property by public auction or private contract, altogether or in lots, and on such terms and conditions as he thinks proper.

Compare: 1930 No 33 s 24

Section 16 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 16: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

16A Payment of claims when assets insufficient

[Repealed]

Section 16A: repealed, on 1 January 1971, by section 84(1) of the Administration Act 1969 (1969 No 52).

Māori Trustee's Account

Heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

17 Māori Trustee's Account

- (1) There shall continue to be an account to be called the Māori Trustee's Account, which shall be kept at such bank or banks approved by the Minister of Finance, or at any branches or agencies of any such bank or banks, as the Māori Trustee may from time to time think fit.
- (2) *[Repealed]*
- (3) Moneys may be paid out of the Māori Trustee's Account for all or any of the following purposes:
 - (a) for the purposes for which any moneys in the Conversion Fund established under Part 13 of the Maori Affairs Act 1953 may be applied:
 - (b) for the purposes of advances made pursuant to sections 248, 402, and 428 of the Maori Affairs Act 1953:
 - (c) for the purposes to or for which moneys in the Māori Trustee's Common Fund or in any Special Investment Account are expended, invested, or applied:
 - (d) for the purposes of paragraphs (a) and (b) of subsection (1) of section 32, sections 34, 38, 39, 40, and 44.
 - (e) *[Repealed]*
 - (f) *[Repealed]*
- (4) Money may be paid out of the Appropriation Account in the Māori Trustee's Account for the purposes that are agreed to from time to time between the Māori Trustee and the Crown.

Compare: 1930 No 33 s 40(1), (3)

Section 17 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 17(1): replaced, on 4 December 1982, by section 17(1) of the Maori Purposes Act 1982 (1982 No 124).

Section 17(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 17(2): repealed, on 1 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

Section 17(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 17(3): amended, on 1 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

Section 17(3)(c): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 17(3)(e): repealed, on 1 December 1961, by section 16(3) of the Maori Purposes Act 1961 (1961 No 129).

Section 17(3)(f): repealed, on 14 December 1976, by section 24(4)(b) of the Maori Purposes Act 1976 (1976 No 148).

Section 17(4): inserted, on 1 July 2009, by section 7 of the Māori Trustee Amendment Act 2009 (2009 No 12).

18 Branch accounts

[Repealed]

Section 18: repealed, on 4 December 1982, by section 17(2) of the Maori Purposes Act 1982 (1982 No 124).

19 Cheques drawn on Maori Trustee's Account

[Repealed]

Section 19: repealed, on 1 July 2009, by section 8 of the Māori Trustee Amendment Act 2009 (2009 No 12).

20 Cheques drawn on branch account

[Repealed]

Section 20: repealed, on 4 December 1982, by section 17(2) of the Maori Purposes Act 1982 (1982 No 124).

21 Authority to sign cheques or other instruments

[Repealed]

Section 21: repealed, on 1 July 2009, by section 9 of the Māori Trustee Amendment Act 2009 (2009 No 12).

22 Other accounts

- (1) The Māori Trustee may, as and when he thinks fit to do so, open and keep at any bank or banks approved by the Minister of Finance, or at any branches or agencies of any such bank or banks, such other accounts (including imprest and subsidiary accounts) as he considers necessary or desirable for the exercise of his functions and powers.
- (2) Sections 19 and 21, with any necessary modifications, shall apply in respect of any account opened and kept under this section.

Section 22: replaced, on 4 December 1982, by section 18 of the Maori Purposes Act 1982 (1982 No 124).

Section 22(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Separate funds within Māori Trustee's Account

Heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

23 Accounts within the Māori Trustee's Account

- (1) The Māori Trustee's Account shall comprise the following separate funds or accounts, namely:

- (a) such Special Investment Accounts as may be required for the purposes of section 24:
 - (b) the Common Fund:
 - (c) the General Purposes Fund:
 - (d) *[Repealed]*
 - (e) *[Repealed]*
 - (f) *[Repealed]*
 - (g) *[Repealed]*
 - (h) the Appropriation Account.
- (2) All moneys received by the Māori Trustee for investment pursuant to section 24 shall be credited to a Special Investment Account in the name of the person or body for whose benefit the moneys are received for investment.
- (3) All moneys held by the Māori Trustee in trust for any person or persons, whether defined or not, or for any special purpose, not being moneys required as hereinbefore provided to be credited to a Special Investment Account, shall be credited to the Common Fund.
- (4) *[Repealed]*
- (4A) *[Repealed]*
- (5) All other moneys for the time being in the Māori Trustee's Account shall be credited to the General Purposes Fund.
- (5A) All money received by way of Crown appropriation must be credited to the Appropriation Account in the Māori Trustee's Account.
- (6) The Māori Trustee shall, as at the commencement of this Act, apportion to the several separate funds or accounts to be kept in accordance with the foregoing provisions of this section the existing assets and liabilities of the Māori Trustee's Account.

Section 23 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 23(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 23(1)(d): repealed, on 14 April 1987, by section 3(2)(a) of the Maori Affairs Amendment Act 1987 (1987 No 73).

Section 23(1)(e): repealed, on 1 December 1961, by section 16(2) of the Maori Purposes Act 1961 (1961 No 129).

Section 23(1)(f): repealed, on 1 December 1961, by section 16(2) of the Maori Purposes Act 1961 (1961 No 129).

Section 23(1)(g): repealed, on 14 December 1976, by section 24(4)(b) of the Maori Purposes Act 1976 (1976 No 148).

Section 23(1)(h): inserted, on 1 July 2009, by section 10(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 23(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 23(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 23(3): amended, on 14 April 1987, by section 3(2)(b) of the Maori Affairs Amendment Act 1987 (1987 No 73).

Section 23(4): repealed, on 14 April 1987, by section 3(2)(c) of the Maori Affairs Amendment Act 1987 (1987 No 73).

Section 23(4A): repealed, on 14 December 1976, by section 24(4)(b) of the Maori Purposes Act 1976 (1976 No 148).

Section 23(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 23(5A): inserted, on 1 July 2009, by section 10(2) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 23(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Special investment accounts

24 Māori Trustee may receive moneys for investment otherwise than in Common Fund

- (1) The Māori Trustee may in his discretion receive moneys for investment on behalf of any Maori or any descendant of a Maori or on behalf of the owners of any Maori land incorporated under Part 22 of the Maori Affairs Act 1953, subject to an express direction given by or on behalf of the depositor that it shall be invested otherwise than in the Common Fund.
- (2) If directions are given by or on behalf of the depositor that any moneys received by the Māori Trustee under this section be invested in any specified securities or in securities of a specified kind, the Māori Trustee shall forthwith endeavour to invest those moneys in accordance with those directions.
- (3) If no directions are given as to the kind of investments in which any such moneys shall be invested, the Māori Trustee may invest the same in such manner as in the circumstances he thinks proper, otherwise than in the Common Fund.
- (4) If the said moneys or any part thereof cannot be invested as aforesaid within 1 month after the date of the receipt thereof by the Māori Trustee he shall, until the moneys can be so invested, temporarily invest those moneys in the Common Fund.

Compare: 1930 No 33 s 53

Section 24 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 24(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 24(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 24(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 24(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

24A Māori Trustee may borrow money

- (1) The Māori Trustee may from time to time, with the prior approval of the Minister, borrow money (whether by way of overdraft or otherwise), and may pledge any securities held by him in respect of the investments of the Common Fund or the General Purposes Fund.
- (2) Where accommodation by way of overdraft is approved under this section in any financial year of the Māori Trustee, the Māori Trustee's Account, or any other account kept by the Māori Trustee pursuant to section 22, may be in overdraft at the end of that financial year.

Section 24A: replaced, on 4 December 1982, by section 19(1) of the Maori Purposes Act 1982 (1982 No 124).

Section 24A heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 24A(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 24A(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 24A(2): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Common Fund

25 Deposits in Common Fund

- (1) The Māori Trustee may at any time accept from any Maori or any descendant of a Maori any moneys for deposit in the Common Fund.
- (2) Any such moneys shall be held by the Māori Trustee on fixed deposit for such period as may be agreed on between the Māori Trustee and the depositor. If no period is so agreed on, or on the expiration of an agreed period, moneys deposited in the Common Fund shall be repayable to the depositor at call.

Compare: 1930 No 33 s 16(1)

Section 25(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 25(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

26 Money held in Common Fund invested in Fund

- (1) All money held in trust in the Common Fund is invested in that fund, and any income derived from investment of the money forms part of the Common Fund.
- (2) Unless an exception is provided for in regulations made under section 52(a)(i), the Māori Trustee must pay distributable income at least annually on that

money, in accordance with subsection (3) and as provided for in regulations made under section 52(a)(ii).

- (3) Distributable income payable under subsection (2) must be calculated in accordance with the following formula:

$$a - b = c$$

where—

- a is the total amount of money received by the Māori Trustee as income, including amounts properly determined to be realised capital gains less capital losses, from the money held by the Māori Trustee in trust in the Common Fund
 - b is the total amount of the management fees that the Māori Trustee is entitled to charge or retain under section 26A
 - c is the amount of distributable income that must be paid annually under subsection (2), which must be apportioned in accordance with regulations made under section 52(b).
- (4) The Māori Trustee must review, on a quarterly basis, the extent to which the distributable income payable under subsection (2) is commensurate with fair market distributable income paid for the relevant quarter, relative to funds that are—
- (a) comparable in size to those held in trust in the Common Fund; and
 - (b) subject to conditions comparable to the conditions applying to the Common Fund.
- (5) On and from the date that is 6 months after the commencement of the Māori Trustee Amendment Act 2009, distributable income on investments in the Common Fund must be paid out of the Common Fund.

Section 26: replaced, on 1 July 2009, by section 11 of the Māori Trustee Amendment Act 2009 (2009 No 12).

26A Management fees

The Māori Trustee may charge or retain a management fee, calculated in accordance with regulations made under section 52(c), for the management of money held in trust in the Common Fund.

Section 26A: inserted, on 1 July 2009, by section 11 of the Māori Trustee Amendment Act 2009 (2009 No 12).

26B Disclosure requirements

- (1) The Māori Trustee must report to account holders on the matters and in the manner prescribed by regulations made under section 52(d), including—
- (a) the amount of distributable income payable in respect of each account; and
 - (b) the management fee charged or retained under section 26A; and

- (c) the net amount of distributable income to be paid; and
 - (d) such other matters that the Māori Trustee considers necessary or desirable.
- (2) The annual report of the Māori Trustee must include a report on the total amount of distributable income, less management fees charged or retained, paid on money held in trust in the Common Fund.

Section 26B: inserted, on 1 July 2009, by section 11 of the Māori Trustee Amendment Act 2009 (2009 No 12).

27 Guarantee of Common Fund

- (1) If at any time the moneys in the Common Fund are insufficient to meet the lawful claims thereon, and if sufficient other moneys in the Māori Trustee's Account are not available to meet the deficiency, the Minister of Finance shall, without further appropriation than this Act, pay into the Common Fund out of a Crown Bank Account such sums as may be necessary to meet the deficiency.
- (2) If at any time after payment to the Common Fund out of a Crown Bank Account of any moneys pursuant to this section the moneys standing to the credit of the Common Fund or otherwise available in the Māori Trustee's Account are more than sufficient to meet all outstanding claims on the Common Fund, the Minister of Finance, by writing under his hand directed to the Māori Trustee, may require the repayment, in whole or in part, of any moneys so paid by him into the Common Fund, without interest or with interest at a rate to be fixed by the said Minister.

Compare: 1930 No 33 s 42

Section 27(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 27(1): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 27(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 27(2): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

28 Investment of Common Fund

- (1) Any moneys in the Common Fund may be invested in accordance with the Trusts Act 2019 or in accordance with any other statutory authority:
- provided that no moneys shall be invested under the authority of this section on the security of an undivided interest in Maori freehold land.
- (2) No investment made pursuant to this section shall be deemed to be an investment on behalf of any particular person or persons, and no person having a beneficial interest in moneys held in trust in the Common Fund shall have any interest in any such investment.

- (3) On and from the date that is 6 months after the commencement of the Māori Trustee Amendment Act 2009, all income (including realised capital gains and capital losses) received from the investment of money in the Common Fund must be paid into the Common Fund.

Compare: 1930 No 33 s 47

Section 28(1): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 28(1): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 28(3): replaced, on 1 July 2009, by section 12 of the Māori Trustee Amendment Act 2009 (2009 No 12).

29 Margin of security

No moneys in the Common Fund shall be invested on the security of a freehold interest in land in excess of an amount equal to three-fifths of the estimated value of the security as approved for the purposes of the investment by the Māori Trustee.

Compare: 1930 No 33 s 47(c)

Section 29: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 29: amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

30 Unclaimed moneys in Common Fund

- (1) For the purposes of this section any moneys in the Common Fund at the commencement of this Act shall be deemed to be unclaimed moneys if:
- (a) they have been in the possession or under the control of the Māori Trustee for 10 years or upwards; and
 - (b) no claim in respect thereof has been established by or on behalf of the person beneficially entitled thereto within the period of 10 years immediately prior to the commencement of this Act.
- (2) *[Repealed]*
- (3) Any moneys for the time being in the Common Fund (not being unclaimed moneys as defined in subsection (1)), shall become unclaimed moneys for the purposes of this section on the expiration of any period of 10 years during which no claim in respect thereof has been established by or on behalf of the person beneficially entitled thereto.
- (4) Notwithstanding anything in the foregoing provisions of this section no moneys in the Common Fund shall be deemed to be unclaimed moneys before the expiration of 10 years from the date when it has been allocated or credited to the account of the person beneficially entitled thereto.
- (5) The Māori Trustee may at any time compile for any Maori Land Court district a list of any unclaimed moneys that has been derived from that district, showing in respect of each amount specified therein:

- (a) the name of the beneficiary, as appearing in the records of the Māori Trustee:
 - (b) the amount held on account of each beneficiary:
 - (c) the source or the principal source from which the moneys were derived:
 - (d) any other relevant particulars that he thinks fit.
- (6) Where the total amount held on behalf of any beneficiary is less than \$2, it shall be sufficient compliance with the requirements of paragraph (b) of subsection (5), if the list discloses that fact and in any such case it shall not be necessary to disclose the source from which such moneys were derived.
- (7) On the compilation of a list of unclaimed moneys for any Maori Land Court district, a copy of that list shall be filed in the office of every Registrar of the Maori Land Court and shall be open for inspection during office hours without payment of any fee.
- (8) Notice of the filing of a list of unclaimed moneys for any district shall be published in the *Gazette* and shall also be given in such other manner as the Māori Trustee thinks adequate in the circumstances.
- (9) Except as provided in section 30A, any unclaimed money in respect of which claims are not established within 12 months after the date of the publication in the *Gazette* of a notice of the filing of a list of that unclaimed money shall remain within the Common Fund.
- (10) The Māori Trustee may, without complying with any of the foregoing provisions of this section, dispose of any money of the classes specified in subsection (11) as if it were unclaimed money, whether or not it is unclaimed money within the meaning of this section.
- (11) The money to which subsection (10) relates is:
 - (a) any money credited to the account of any beneficiary from which money has been previously disposed of as unclaimed:
 - (b) any money held by the Māori Trustee in a separate account in the Common Fund in respect of which the records of the Māori Trustee do not disclose the persons on whose behalf the money was paid or is held:
 - (c) any money held by the Māori Trustee as aforesaid which, by reason of the smallness of the amount, cannot, in the Māori Trustee's opinion, be distributed to the persons beneficially entitled thereto without undue expense or trouble.
- (12) *[Repealed]*
- (13) *[Repealed]*
- (14) *[Repealed]*
- (15) If in respect of any unclaimed moneys disposed of in accordance with the foregoing provisions of this section, a claim is lawfully established, the amount of

that claim shall be paid out of the General Purposes Fund which may at any time thereafter be reimbursed out of other unclaimed moneys.

Section 30(1)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(2): repealed, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 30(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(5)(a): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(8): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(9): replaced, on 24 June 1996, by section 2(1) of the Maori Trustee Amendment Act 1996 (1996 No 34).

Section 30(10): replaced, on 1 December 1961, by section 16(1) of the Maori Purposes Act 1961 (1961 No 129).

Section 30(10): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(11): replaced, on 1 December 1961, by section 16(1) of the Maori Purposes Act 1961 (1961 No 129).

Section 30(11)(a): amended, on 1 April 1968, by section 149 of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 30(11)(b): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(11)(b): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(11)(c): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30(12): repealed, on 1 April 1968, by section 73(2)(a) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 30(13): repealed, on 1 April 1968, by section 73(2)(a) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 30(14): repealed, on 28 October 1960, by section 21(1) of the Maori Purposes Act 1960 (1960 No 120).

30A Unclaimed agency money

- (1) In this section **unclaimed agency money** means unclaimed money within the meaning of section 30 that is held by the Māori Trustee as agent for—
 - (a) any trust constituted under the Maori Affairs Act 1953; or
 - (b) any Maori incorporation; or
 - (c) any Maori Trust Board.
- (2) In respect of any unclaimed agency money, the provisions of subsection (3) of this section shall apply instead of the provisions of subsection (9) of section 30; but, except in that regard, the provisions of that section shall apply to all unclaimed agency money as they apply to any other unclaimed money within the meaning of that section.

- (3) Any unclaimed agency money in respect of which claims are not established within 12 months after the date of the publication in the *Gazette* of the notice required by subsection (8) of section 30, shall be paid by the Māori Trustee to the trust or the Maori incorporation or the Maori Trust Board, as the case may require.

Section 30A: inserted, on 20 June 1991, by section 4(1) of the Maori Trustee Amendment Act 1991 (1991 No 41).

Section 30A(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 30A(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

General Purposes Fund

31 Investment of moneys in General Purposes Fund

Any moneys in the General Purposes Fund may be invested in the same manner and subject to the same conditions as moneys in the Common Fund may be invested.

Section 31: amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

32 Special purposes for which moneys in General Purposes Fund may be used

- (1) The Māori Trustee may use any moneys in the General Purposes Fund for the purposes and subject to the conditions herein prescribed, that is to say:
- (a) he may advance moneys for the benefit of Maoris or descendants of Maoris upon such terms as to repayment as he sees fit; and upon such security (if any) as he sees fit:
 - (b) he may advance moneys secured by way of a floating charge or otherwise in respect of the undertaking of any co-operative dairy company or other co-operative company of which a majority of the shares is held by Maoris or descendants of Maoris:
 - (ba) he may purchase, acquire, hold, sell, dispose of, or otherwise turn to account shares in any body corporate.
 - (c) *[Repealed]*
- (1A) *[Repealed]*
- (1B) *[Repealed]*
- (2) Interest on advances made pursuant to this section shall be charged at such rate as the Māori Trustee may determine.
- (3) All moneys advanced or expended by the Māori Trustee pursuant to this section in respect of any freehold interest in land shall be a charge on that land in favour of the Māori Trustee.

Compare: 1930 No 33 s 47(g); 1931 No 31 s 95

Section 32(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 32(1): amended, on 1 October 1989, by section 13(1) of Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 32(1)(a): replaced, on 24 October 1969, by section 11(1) of the Maori Purposes Act 1969 (1969 No 127).

Section 32(1)(ba): inserted, on 30 July 1985, by section 3 of the Maori Trustee Amendment Act 1985 (1985 No 116).

Section 32(1)(c): repealed, on 24 June 1996, by section 3(1)(a) of the Maori Trustee Amendment Act 1996 (1996 No 34).

Section 32(1A): repealed, on 24 June 1996, by section 3(1)(b) of the Maori Trustee Amendment Act 1996 (1996 No 34).

Section 32(1B): repealed, on 24 June 1996, by section 3(1)(c) of the Maori Trustee Amendment Act 1996 (1996 No 34).

Section 32(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 32(2): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 32(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

32A Guarantees and indemnities

- (1) Subject to this section, the Māori Trustee may in writing, on any conditions that the Māori Trustee thinks fit, give for any purposes such guarantees or indemnities as the Māori Trustee thinks fit in respect of the whole or any part of any money that is payable or that is to become payable or that may become payable by any person (in this section called **the debtor**) to any other person (in this section called **the creditor**).
- (2) Without prejudice to subsection (1), the Māori Trustee may require as a condition of any such guarantee or indemnity that the debtor pay a specified amount to the Māori Trustee determined in accordance with a formula approved from time to time by the Māori Trustee.
- (3) Any amount payable to the Māori Trustee under subsection (2) may be paid by the debtor at the time of the giving of the guarantee or indemnity, or it may be added to the amount of any loan by the creditor to the debtor and included in the guarantee or indemnity; and in the latter case it may be secured by any security instrument given by the debtor in favour of the creditor in respect of the loan as if it formed part of the loan, and shall be paid by the creditor to the Māori Trustee.
- (4) Out of the money paid under subsection (2), the Māori Trustee shall appropriate a fee at a rate from time to time fixed by the Māori Trustee to meet the costs of administration of guarantees and indemnities given under this section, and shall credit the remainder to the General Purposes Fund.
- (5) Notwithstanding any rule of law or other provision to the contrary, any person may advance money (including trust funds) on the security of a mortgage of

land if the repayment of the money advanced, or of the excess above the amount that might otherwise be advanced, is directly or indirectly secured by a guarantee or indemnity under this section that is expressed to be a guarantee or indemnity to which this subsection applies.

- (6) Any loss that may be incurred by the Māori Trustee by reason of the operation of this section shall be a charge against the General Purposes Fund.

Section 32A: inserted, on 20 June 1991, by section 5 of the Maori Trustee Amendment Act 1991 (1991 No 41).

Section 32A(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 32A(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 32A(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 32A(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 32A(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

33 Authorising establishment and maintenance of Maori hostels out of General Purposes Fund

- (1) All moneys which on the commencement of this Act are standing to the credit of the Maori Hostels Fund established by section 7 of the Maori Purposes Act 1946 shall thereupon be transferred to the General Purposes Fund.
- (2) The Māori Trustee, with the approval of the Minister, may from time to time—
- (a) purchase, take on lease, or otherwise acquire any land or premises for the purpose of providing or maintaining hostels for the accommodation of Maoris or the descendants of Maoris:
 - (b) establish and maintain training centres or farms for the care and instruction of Maoris or the descendants of Maoris and, for any such purpose, purchase, take on lease, or otherwise acquire any real or personal property:
 - (c) do all things necessary for the erection, replacement, repair, upkeep, improvement, maintenance, operation, furnishing, and equipment of any building or premises on any land to which paragraph (a) or paragraph (b) applies:
 - (d) employ such persons and pay such remuneration or wages as the Māori Trustee thinks fit to any person employed at any such hostel, training centre, or farm:
 - (e) make grants or loans, with or without interest, to any person for the purpose of providing residential accommodation for Maoris or the descendants of Maoris who, in the opinion of the Māori Trustee, are in need of

special care or instruction, whether at a training centre, farm, or otherwise.

- (2A) Notwithstanding the provisions of subsection (2), the approval of the Minister shall not be required under that subsection in respect of any item of expenditure that does not exceed \$2,500 or in respect of the employment of or the payment of remuneration or wages to any person.
- (3) Any land or premises acquired by the Māori Trustee under this section may be sold, leased, or otherwise disposed of by him upon such terms and conditions as he thinks fit:
provided that no such land or premises shall be sold without the consent of the Minister.
- (4) In respect of any accommodation provided by the Māori Trustee in pursuance of this section, he may from time to time impose such charges as he thinks fit and may from time to time prescribe such rules as he thinks necessary for regulating the management and control of any hostel or the conduct of the inmates thereof.
- (5) All expenditure incurred by the Māori Trustee under this section shall be defrayed out of moneys in the General Purposes Fund, and all income derived by him under this section shall be paid into the General Purposes Fund.

Compare: 1946 No 37 s 7

Section 33(2): replaced, on 25 October 1963, by section 16 of the Maori Purposes Act 1963 (1963 No 123).

Section 33(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 33(2)(d): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 33(2)(e): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 33(2A): inserted, on 25 October 1963, by section 16 of the Maori Purposes Act 1963 (1963 No 123).

Section 33(2A): amended, on 17 December 1971, by section 7 of the Maori Purposes Act 1971 (1971 No 151).

Section 33(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 33(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 33(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

34 Assurance Fund

[Repealed]

Section 34: repealed, on 10 October 1975, by section 12(1) of the Maori Purposes Act 1975 (1975 No 135).

35 Limited authority to make donations out of General Purposes Fund for philanthropic or other purposes

[Repealed]

Section 35: repealed, on 24 June 1996, by section 4(1) of the Maori Trustee Amendment Act 1996 (1996 No 34).

36 Acquisition, use, and disposal of buildings

- (1) The Māori Trustee may from time to time, with money out of the General Purposes Fund,—
- (a) purchase or otherwise acquire any land or any interest in land, with or without buildings and whether or not subject to any mortgage, charge, lease, easement, restrictive covenant, or other encumbrance; or
 - (b) become the lessee or tenant (whether by taking a lease or tenancy from a person entitled to grant it or by assignment from a lessee or tenant) of any land, with or without buildings, and whether or not subject to any mortgage, charge, easement, restrictive covenant, or other encumbrance; or
 - (c) erect, maintain, alter, add to, repair, subdivide, improve, demolish, or rebuild any building on land in respect of which he is sole or part owner or lessee.
- (2) The Māori Trustee may from time to time—
- (a) sell, exchange, or otherwise dispose of any real or personal property acquired or in respect of which he has an interest under this section, by any mode of disposition and subject to such conditions as the Māori Trustee thinks fit; or
 - (b) grant options to purchase or to take on lease any such land or buildings or any part thereof but no such grant of option shall enure for a period exceeding 6 months from the date of the grant.
- (3) The Māori Trustee may from time to time—
- (a) grant leases or tenancies of the whole or part of any land or buildings acquired under this section, and create easements and restrictive covenants thereover, and accept surrenders and partial surrenders of any such leases or tenancies and releases of any such easements and restrictive covenants; or
 - (b) use land or buildings of which he is the sole or part owner or lessee or tenant, for the purpose of making suitable provision for the transaction of the business of the Māori Trustee, or for any other purpose, including that of investment, which, in the opinion of the Māori Trustee, will be conducive to the more effectual administration of this Act; or
 - (c) expend such money as may be necessary for the furnishing and equipping of any building acquired under this section.

- (4) Nothing in this section shall derogate from the terms of any lease of which the Māori Trustee is lessee.

Section 36: replaced, on 30 July 1985, by section 4(1) of the Maori Trustee Amendment Act 1985 (1985 No 116).

Section 36(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 36(1): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 36(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 36(2): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 36(2)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 36(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 36(3)(b): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 36(3)(b): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 36(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

37 Māori Trustee may provide housing accommodation for officers of department

- (1) In order that suitable residential accommodation may be made available for officers of the department, the Māori Trustee may from time to time expend moneys out of the General Purposes Fund for all or any of the following purposes:
- (a) the acquisition by purchase or otherwise of any land having a dwelling thereon:
 - (b) the acquisition by purchase or otherwise of any land and the erection of a dwelling thereon:
 - (c) the alteration, repair, improvement, rebuilding, or maintenance of any such dwelling:
 - (d) the improvement of any such land.
- (2) The Māori Trustee may let any dwelling so purchased or erected, or any part thereof, to any officer of the department for such term and at such rent and otherwise upon such terms and conditions as he thinks fit.
- (3) If any person to whom any dwelling is let under the foregoing provisions of this section ceases to be an officer of the department his tenancy of the dwelling shall thereupon be deemed to have been determined, but nothing in this subsection shall be construed to prevent the Māori Trustee from granting him a new tenancy under subsection (4).

- (4) The Māori Trustee may sell or otherwise dispose of any dwelling acquired or erected under this section in such manner and on such terms as the Māori Trustee thinks fit.

Compare: 1950 No 98 s 4

Section 37 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 37(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 37(1): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 37(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 37(2): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 37(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 37(4): replaced, on 1 April 1963, by section 4 of the Maori Trustee Amendment Act 1962 (1962 No 46).

Section 37(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 37(4): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

38 Māori Trustee may apply money in General Purposes Fund for purposes of property vested in or controlled by him

- (1) If in respect of any land or other property that is vested in or is otherwise under the control of the Māori Trustee, whether as the statutory or appointed agent of the owners or otherwise howsoever, there are not available in the hands of the Māori Trustee the moneys for the time being required for the development, improvement, maintenance, or protection of that property, or for any purpose incidental thereto or incidental to any purpose for which the ownership or control of the property has been vested in the Māori Trustee, he may expend out of the General Purposes Fund such moneys as may be required for any of the specified or incidental purposes aforesaid.
- (2) All moneys expended under this section shall be deemed to be an advance made by the Māori Trustee on the security of the property in respect of which the payment is made, and may bear interest at a rate to be fixed by the Māori Trustee, not exceeding the rate for the time being chargeable on advances made from the Common Fund on the security of Maori land.
- (3) Every such advance shall be a charge on the land or other property in respect of which it is made.
- (4) The foregoing provisions of this section shall apply, with any necessary modifications, to empower the Māori Trustee to make advances out of the General Purposes Fund for purposes relating to the due administration by him of any

estate and for the purposes of exercising any rights under section 239 of the Maori Affairs Act 1953 or under section 104 of the Public Works Act 1928.

Compare: 1930 No 33 s 50

Section 38 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 38(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 38(1): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 38(1) proviso: repealed, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 38(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 38(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 38(4): amended, on 1 April 1963, by section 5 of the Maori Trustee Amendment Act 1962 (1962 No 46).

Section 38(4): amended, on 28 October 1955, by section 10 of the Maori Purposes Act 1955 (1955 No 106).

39 Māori Trustee may acquire land on behalf of Maoris

- (1) The Māori Trustee may, on the application by or on behalf of any Maoris or of a body corporate of owners incorporated under Part 22 of the Maori Affairs Act 1953, acquire by purchase or otherwise any land or interest in land for and on behalf of any such Maoris or body corporate.
- (2) The purchase money or other costs of or incidental to the acquisition of any land or interest in land pursuant to this section shall be paid out of the General Purposes Fund.
- (3) Notwithstanding anything in Part 19 of the Maori Affairs Act 1953, no instrument of alienation for the acquisition by the Māori Trustee of any Maori land or interest therein pursuant to this section shall require to be confirmed by the court.
- (4) All land acquired by the Māori Trustee under this section shall be held by him in trust for the persons or body corporate on whose behalf the land was acquired.
- (5) On application by the Māori Trustee the Maori Land Court may make a vesting order vesting any land or interest in land acquired under this section in the persons or body corporate beneficially interested therein, subject to any lease, licence, mortgage, charge, or other encumbrance affecting the same. Every such vesting order shall constitute, without any transfer or other instrument of assurance, the title to the land included therein.
- (6) If any land to which a vesting order under this section relates is not Maori land, it shall, on the taking effect of the vesting order, become and be deemed for all purposes to be Maori freehold land.

- (7) The costs and charges incurred by the Māori Trustee in respect of the acquisition of any land or interest in land under this section and all costs of or incidental to the administration thereof by the Māori Trustee shall be a charge on the land or interest in land so acquired.

Compare: 1931 No 31 s 106

Section 39 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 39(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 39(1): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 39(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 39(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 39(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 39(7): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

40 Māori Trustee may acquire land to provide sites for Maori dwellings

- (1) The Māori Trustee may acquire, by purchase or otherwise, any land in order to provide sites for dwellings for occupation by Maoris or descendants of Maoris.
- (2) Any land acquired by the Māori Trustee under this section may be disposed of by him by sale for cash or on deferred payments, or by way of lease for a term of 33 years (with a perpetual right of renewal for the same term and with a right to acquire the fee simple at any time during the currency of the lease) to any Maori or descendant of a Maori who satisfies the Māori Trustee that he intends to erect thereon a dwelling for occupation by him or by any other Maori or descendant of a Maori.
- (3) Any land acquired by the Māori Trustee and disposed of under the foregoing provisions of this section shall be disposed of, as nearly as may be, as if it was Crown land disposed of in accordance with section 63, section 64, or section 65 of the Land Act 1948, and the provisions of those sections, as far as they are applicable, shall apply with respect thereto accordingly.
- (4) If it is found that any land acquired by the Māori Trustee under this section is not required or is not immediately required for the purpose for which it was so acquired, the Māori Trustee may dispose of the same by sale or lease or in such other manner as he thinks fit.
- (5) All moneys expended by the Māori Trustee for the purposes of this section shall be paid out of the General Purposes Fund of the Māori Trustee's Account, and all purchase money, rents, or other moneys received by him in respect of any land acquired under this section shall be paid into that Fund.

Section 40 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 40(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 40(1): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 40(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 40(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 40(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 40(4): amended, on 1 October 1989, by section 13(1) of the Maori Affairs Restructuring Act 1989 (1989 No 68).

Section 40(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

41 Contribution to Crown Bank Account towards expenses of Maori Trust Office

[Repealed]

Section 41: repealed, on 1 July 2009, by section 13 of the Māori Trustee Amendment Act 2009 (2009 No 12).

41A Reserved and Vested Land Purchase Fund

[Repealed]

Section 41A: repealed, on 14 December 1976, by section 24(4)(a) of the Maori Purposes Act 1976 (1976 No 148).

41B Payments out of Purchase Fund

[Repealed]

Section 41B: repealed, on 14 December 1976, by section 24(4)(a) of the Maori Purposes Act 1976 (1976 No 148).

41C Maori Trustee may purchase interests in reserved land and vested land

[Repealed]

Section 41C: repealed, on 14 December 1976, by section 24(4)(a) of the Maori Purposes Act 1976 (1976 No 148).

41D Maori Trustee may acquire uneconomic interests in reserved land and vested land

[Repealed]

Section 41D: repealed, on 14 December 1976, by section 24(4)(a) of the Maori Purposes Act 1976 (1976 No 148).

41E Disposition of interests acquired

[Repealed]

Section 41E: repealed, on 14 December 1976, by section 24(4)(a) of the Maori Purposes Act 1976 (1976 No 148).

41F Exemption from stamp duty

[Repealed]

Section 41F: repealed, on 14 December 1976, by section 24(4)(a) of the Maori Purposes Act 1976 (1976 No 148).

Miscellaneous provisions

42 Māori Trustee may accept chattel security, etc

- (1) As security or collateral security for any moneys advanced by or payable to the Māori Trustee, he may, if he thinks fit, accept any mortgage, submortgage, assignment of rent or purchase money, chattel security, promissory note, or bill of exchange, and in respect thereof may exercise all the powers, authorities, and remedies conferred thereby on the person for the time being entitled to the benefit of any such security.
- (2) Nothing in the foregoing provisions of this section shall be construed to limit the requirements of this Act or any other Act as to the kinds of security to be given in respect of any moneys invested or advanced by the Māori Trustee, or to extend the authority of the Māori Trustee to make advances to any person or for any purpose.

Compare: 1930 No 33 s 51

Section 42 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 42(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 42(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

43 Assignment of rents to Māori Trustee

Nothing in this or any other Act shall prevent the making or giving of or shall invalidate any assignment, charge, or other disposition in favour of the Māori Trustee (whether by way of anticipation or otherwise) of any rent, purchase money, or compensation or other money which is, or may become, receivable in respect of any interest, legal or equitable, in any Maori reserve or other Maori land, or in respect of any alienation thereof.

Compare: 1930 No 33 s 52

Section 43 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 43: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

44 Māori Trustee may apply moneys held by him on behalf of Maori in satisfaction of moneys payable to Māori Trustee by that Maori

- (1) If any Maori or any descendant of a Maori (hereinafter referred to as the **debtor**) has made default in the payment of any moneys payable by him to the Māori Trustee, the Māori Trustee may, if he thinks fit, apply any moneys then or thereafter standing to the credit of the debtor in the Māori Trustee's Account in satisfaction to the extent thereof of the moneys so payable by the debtor to the Māori Trustee.
- (2) For the purposes of this section the Māori Trustee may convert into money any securities held by him on behalf of the debtor.

Compare: 1931 No 31 s 98

Section 44 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 44(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 44(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

45 Māori Trustee may accept payment and give discharge for moneys payable to Maoris

- (1) The Māori Trustee may, if he thinks fit, accept payment of any moneys for the time being held by any person on behalf of or for the time being owing by any person to any Maori or any descendant of a Maori or the owners of any Maori freehold land.
- (2) Before accepting payment of any moneys under this section the Māori Trustee may require payment of any commission chargeable by him in respect of the receipt and distribution of such moneys.
- (3) A receipt given by the Māori Trustee for any moneys paid to him under this section shall to the extent thereof be a good discharge.

Compare: 1931 No 31 s 110

Section 45 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

45A Payment to Māori Trustee of proceeds of Maori land held for 6 years or more

- (1) This section shall apply to any money deriving from the alienation of Maori land and which is held, subject to an obligation to pay the same to any owner or former owner of the land, by any solicitor, or by any person practising as a

public accountant, or engaged in business as an agent under the Real Estate Agents Act 2008.

- (2) Any solicitor, public accountant, or real estate agent who has held any money to which this section applies for a period of 6 years or more, whether the money was received by him before or after the commencement of this section, shall within the period of 6 months after the commencement of this section or, as the case may require, after the expiration of the said period of 6 years, pay the money, together with any other money to which this section applies held by him for the same person, to the Māori Trustee.
- (3) Any person paying money to the Māori Trustee under this section shall supply to the Māori Trustee all information in his possession as to the origin of the money, the date of its receipt by him, the person beneficially entitled to the money and, in the case of money payable as rent, or as any other periodic payment, the period in respect of which the money has been paid by the alienee.
- (4) Any money paid to the Māori Trustee under this section shall be received by him subject to an obligation to pay it, after the making of all appropriate deductions, to the person who, in accordance with the information supplied to him under subsection (3), is entitled to receive payment thereof. The receipt of the Māori Trustee for any such money shall, to the extent thereof, be a good discharge to the person making the payment to the Māori Trustee.
- (5) For the purposes of section 30 (relating to the disposal of unclaimed money), any money received by the Māori Trustee under this section shall be deemed to have been in his possession since it first came into the possession of the solicitor or other person by whom it was paid to the Māori Trustee.
- (6) Nothing in this section shall be construed to require payment to the Māori Trustee of money which is retained by any person with the express authority of the person beneficially entitled to the money or which is held subject to any trust or obligation other than a trust or obligation to pay it to that person.
- (7) The provisions of this section shall apply notwithstanding any provision of the Unclaimed Money Act 1971, the Lawyers and Conveyancers Act 2006, the Trusts Act 2019, the Real Estate Agents Act 2008, or of any other enactment.

Section 45A: inserted, on 1 April 1968, by section 5(1) of the Maori Purposes Act 1967 (1967 No 145).

Section 45A heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45A(1): amended, on 16 November 2009, by section 173 of the Real Estate Agents Act 2008 (2008 No 66).

Section 45A(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45A(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45A(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45A(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45A(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 45A(7): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 45A(7): amended, on 16 November 2009, by section 173 of the Real Estate Agents Act 2008 (2008 No 66).

Section 45A(7): amended, on 1 August 2008, pursuant to section 349 of the Lawyers and Conveyancers Act 2006 (2006 No 1).

Section 45A(7): amended (with effect on 1 June 1971), on 16 October 1971, pursuant to section 15(1)(a) of the Unclaimed Money Act 1971 (1971 No 28).

46 Court may direct that rents in respect of Maori land be paid to Māori Trustee

- (1) Where the rent payable under any lease or other tenancy of Maori freehold land is not required otherwise than by this section to be paid to the Māori Trustee the court, on application by the Registrar or by the lessee or other person by whom the rent is payable, or by any other person interested, may make an order directing the payment of the rent to the Māori Trustee for distribution to the persons entitled thereto.
- (2) A receipt given by the Māori Trustee for any rent paid to him under this section shall to the extent thereof be a good discharge.
- (3) All rent payable to the Māori Trustee pursuant to an order made under this section shall, as it becomes due and payable in terms of the lease or other tenancy, constitute a debt due to the Māori Trustee by the lessee or tenant, recoverable in the same manner as if it were rent due to the Māori Trustee for land demised by him.

Compare: 1931 No 31 s 530(3)

Section 46 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

46A Māori Trustee not obliged to act on orders for payment

Notwithstanding any enactment or rule of law to the contrary, the Māori Trustee shall not be under any duty or obligation to act upon any order or authority for payment given by any person in respect of any of the proceeds of the alienation of Maori land held or receivable by the Māori Trustee on behalf of that person.

Section 46A: inserted, on 1 April 1963, by section 6 of the Maori Trustee Amendment Act 1962 (1962 No 46).

Section 46A heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46A: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

46B Assignment of money in hands of Māori Trustee

- (1) Except as provided in this section, no assignment of money in the hands of the Māori Trustee or receivable by him on behalf of any person, or payable or to become payable by him to any person, shall be enforceable as against the Māori Trustee, notwithstanding anything in any enactment or any rule of law or equity to the contrary.
- (2) Any assignment, to be enforceable as against the Māori Trustee, shall—
 - (a) be in writing signed by the assignor personally and not by any trustee, attorney, or agent for him:
 - (b) be absolute, and not by way of charge or security:
 - (c) be expressed to be given for valuable consideration:
 - (d) stipulate the sum to be paid under it:
 - (e) stipulate that the sum to be paid under it is assigned, transferred, or set over unto the assignee:
 - (f) stipulate the source or sources from which the money is to be paid:
 - (g) *[Repealed]*
 - (h) as to the original document, together with a copy certified by the assignee as being a true copy of the original, be produced at the office of the Māori Trustee at which the money affected by the assignment is held or will be received.
- (3) An assignment which in its substance complies with the requirements of subsection (2) shall be enforceable as against the Māori Trustee only—
 - (a) so far as it relates to money credited or to be credited to a personal account in the name of the assignor as it appears in the assignment and not in any other name by which the assignor might be known:
 - (b) so far as it relates to money credited or to be credited to an account as aforesaid in the office of the Māori Trustee at which the assignment is delivered, and not to money held or receivable in any other office of the Māori Trustee.
- (4) A form of assignment may be prescribed under this Act, and if any such form is so prescribed, no assignment otherwise than in that form shall be enforceable as against the Māori Trustee.
- (5) Nothing in this section shall apply to any assignment in favour of the Crown, or a State Loan Department, or any notice of such an assignment.

Section 46B: inserted, on 1 April 1968, by section 148(4) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 46B heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46B(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46B(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46B(2)(g): repealed, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

Section 46B(2)(h): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46B(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46B(3)(b): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46B(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

46C Power of Māori Trustee to make small payments without order

- (1) Where under this or any other Act the Māori Trustee is directed, empowered, or entitled to make any payment of money, held by him as trustee or otherwise, upon the order of any court or Judge being obtained, to any person legally or beneficially entitled thereto, he may, in his discretion and notwithstanding any enactment or rule of law or equity to the contrary, make a payment of any such money to that person without such an order if the amount so paid does not exceed \$400; and any payment so made shall be as valid as if it had been authorised by an order of the court or a Judge thereof.
- (2) The provisions of subsection (1) shall extend to enable the Māori Trustee, without the order of any court or Judge, to make a payment to any minor in respect of whose property, or any of it, the Māori Trustee has been appointed trustee pursuant to Part 10 of the Maori Affairs Act 1953, and the receipt of the minor shall be a good and effectual discharge to the Māori Trustee for the amount so paid by him. A payment may be made by the Māori Trustee under this subsection notwithstanding the terms of any order by which the Māori Trustee was appointed trustee in respect of any property of the minor.

Section 46C: inserted, on 1 April 1968, by section 148(5) of the Maori Affairs Amendment Act 1967 (1967 No 124).

Section 46C heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46C(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 46C(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

46D Disposition of small sums held for beneficiaries

[Repealed]

Section 46D: repealed, on 30 July 1985, by section 5(1) of the Maori Trustee Amendment Act 1985 (1985 No 116).

47 Court may direct payment to Maori Trustee of compensation for land taken under Part 4 of Public Works Act 1928

[Repealed]

Section 47: repealed, on 1 April 1963, by section 6(4) of the Public Works Amendment Act 1962 (1962 No 41).

48 Māori Trustee may charge commission in respect of his services

- (1) The Māori Trustee, in accordance with regulations made under this Act, shall be entitled in respect of services rendered by him in the administration of any property or otherwise in the course of his official duties, whether under this Act or any other Act, to charge such commission or fees as may be prescribed in addition to any expenses actually incurred by him in the course of his duties.
- (2) Where in respect of any services rendered by the Māori Trustee as aforesaid no commission or fees are prescribed, he may make a reasonable charge therefor.
- (3) Where, for the purposes of this Act or any other Act, any professional services are rendered by an officer of the Māori Trustee, the Māori Trustee may, subject to any regulations made for the purposes of this Act, make the same charges in respect thereof as if they had been rendered by any other person.
- (4) The Māori Trustee may, in his discretion, remit or reduce any commission or fees to which he would be entitled in accordance with this section.

Section 48 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48(3): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

48A Māori Trustee may bar small claims

- (1) Where any person claims, or the Māori Trustee believes a person may claim, to recover from the Māori Trustee any money, chattels, or things under \$1,000 in value, as estimated by the Māori Trustee, and the Māori Trustee rejects the claim or desires to reject the claim, the Māori Trustee may serve upon the person by whom or on whose behalf the claim is made, or may be made, a notice

in writing calling upon such person to take legal proceedings within a period of 3 months to establish or enforce the claim and also to prosecute the proceedings with all due diligence.

- (2) If the proceedings are not commenced by such person within the said period, the claim shall thereupon be barred, and the money, chattels, or things shall become irrecoverable, and the Māori Trustee may proceed to administer and distribute the estate disregarding the claim.
- (3) This section shall apply to every such claim, whether arising or made before or after the commencement of this section, and whether the claim is or may be made by any person as creditor or next of kin or beneficiary or otherwise.
- (4) The powers given by this section shall be in addition to the powers conferred by section 135 of the Trusts Act 2019.

Section 48A: inserted, on 17 December 1971, by section 6 of the Maori Purposes Act 1971 (1971 No 151).

Section 48A heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48A(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48A(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 48A(4): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

49 Māori Trustee may register memorial of charge against land

- (1) Where by this or any other Act any moneys advanced by the Māori Trustee out of the General Purposes Fund or any other moneys are created a charge in favour of the Māori Trustee on any land, the Māori Trustee may sign and seal a memorial of charge against the land affected.
- (2) Any such memorial of charge may be registered against the title to that land by the District Land Registrar or Registrar of Deeds, as the case may be, of the Land Registration District in which the land is situated; and when so registered the memorial of charge shall have the same force and effect as if it were a valid mortgage to the Māori Trustee of all the land therein described to secure the repayment of the principal moneys and the payment of interest thereon; and the power of sale and all other powers implied in mortgages over land by the Property Law Act 2007 shall be implied in the memorial.
- (2A) The principal moneys secured under any such memorial of charge shall be due upon a date to be named therein in that behalf, and interest shall be payable thereon at a rate to be specified therein, being not more than the rate chargeable under this Act in respect of moneys advanced from the Common Fund of the Māori Trustee's Account on the security of freehold lands.
- (2B) Interest on the principal moneys secured as aforesaid shall be payable on dates to be specified in the memorial.

- (3) The foregoing provisions of this section shall apply notwithstanding that the land in respect of which any charge is created may be vested in the Māori Trustee.

Section 49 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 49(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 49(2): replaced, on 24 October 1969, by section 12 of the Maori Purposes Act 1969 (1969 No 127).

Section 49(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 49(2): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 49(2A): inserted, on 24 October 1969, by section 12 of the Maori Purposes Act 1969 (1969 No 127).

Section 49(2A): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 49(2B): inserted, on 24 October 1969, by section 12 of the Maori Purposes Act 1969 (1969 No 127).

Section 49(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

50 Memorandum of extension of lease

- (1) In this section, unless the context otherwise requires, **lessee** includes the successors, executors, administrators, and assigns of the lessee.
- (2) Where any lessee is entitled to a renewal of his lease (whether by way of the grant of a new lease, or by way of the extension of an existing lease, or otherwise) and the lease is one in respect of which the Māori Trustee is for the time being authorised to grant a renewal or execute an extension, the Māori Trustee and the lessee may, notwithstanding anything contained in any other Act, execute a memorandum of extension of the lease in accordance with the provisions of this section.
- (3) The memorandum of extension shall be in form L of Schedule 2 of the Land Transfer Act 1952, and the provisions of section 116 of that Act shall, as far as applicable and with any necessary modifications, apply to any memorandum of extension executed as aforesaid.
- (4) The provisions of this section shall extend and apply to any such lease notwithstanding that the lease has expired, whether before or after the commencement of this Act, before the execution of any such memorandum of extension and notwithstanding that the lease was not originally granted by the Māori Trustee.

Section 50(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 50(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

51 Maori Trustee to furnish annual balance sheet*[Repealed]*

Section 51: repealed, on 28 October 1965, by section 10(1)(c) of the Maori Purposes Act 1965 (1965 No 121).

52 Regulations

- (1) The Governor-General may, by Order in Council, on the recommendation of the Minister of Māori Affairs, make regulations—
- (a) for the purpose of section 26(2),—
 - (i) defining any special circumstances or cases in which the Māori Trustee, though required to credit distributable income to an account, is not required to pay distributable income under that section, including, without limitation, prescribing the sum of money below which the Māori Trustee is not required to make a distributable income payment:
 - (ii) setting out how and to whom distributable income is to be paid:
 - (b) for the purpose of section 26(3), providing for the apportionment of distributable income:
 - (c) for the purpose of section 26A, prescribing the basis on which the management fee must be calculated and charged or retained:
 - (d) for the purpose of section 26B(1), prescribing how, when, and to whom, in each financial year, the Māori Trustee must make the required disclosures:
 - (e) for other purposes expressly provided for in this Act:
 - (f) prescribing any other matters contemplated by this Act or necessary for its administration or to give it full effect.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 52: replaced, on 1 July 2009, by section 14 of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 52(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

53 Repeals and savings

[Repealed]

Section 53: repealed, on 1 July 2009, by section 15 of the Māori Trustee Amendment Act 2009 (2009 No 12).

Schedule

Enactments repealed

s 53(1)

Maori Purposes Act 1931 (1931 No 32) (Reprint of Statutes, Vol VI, p 419)*Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1933 (1933 No 50)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1945 (1945 No 42)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1946 (1946 No 37)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1947 (1947 No 59)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1948 (1948 No 69)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1950 (1950 No 98)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1951 (1951 No 75)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1952 (1952 No 70)***Amendment(s) incorporated in the Act(s).***Maori Trustee Act 1930 (1930 No 33) (Reprint of Statutes, Vol VI, p 373)***Amendment(s) incorporated in the Act(s).***Maori Trust Leases Renewal Act 1953 (1953 No 34)**

Māori Trustee Amendment Act 2009

Public Act	2009 No 12
Date of assent	12 May 2009
Commencement	see section 2

1 Title

This Act is the Māori Trustee Amendment Act 2009.

2 Commencement

This Act comes into force on 1 July 2009.

3 Principal Act amended

This Act amends the Maori Trustee Act 1953.

Part 2

Transitional provisions and consequential amendments

Transitional matters

16 Interpretation

In this section and sections 17 to 30, unless the context otherwise requires,—

document has the meaning given to it by section 4(1) of the Evidence Act 2006

existing undertaking—

(a) means—

(i) all property and estates administered, held, managed, or controlled by the Maori Trustee or the Maori Trust Office before the commencement of this Act, including the funds and accounts within the Māori Trustee's Account, as provided for in section 23, before the commencement of this Act; and

(ii) all rights and liabilities of the Maori Trustee and the Maori Trust Office before the commencement of this Act; and

(b) includes any reserves of the Maori Trustee or Maori Trust Office in existence before the commencement of this Act

fiduciary rights and liabilities includes all rights, capacities, authorities, discretions, duties, and liabilities of the Maori Trustee as a fiduciary

liabilities means liabilities, debts, charges, duties, and obligations (whether present or future, actual or contingent, or payable or to be observed or performed in New Zealand or elsewhere)

Maori Trust Office has the meaning it had immediately before the commencement of this Act

new Māori Trustee means the office established by section 3 of the principal Act

old Maori Trustee means the Maori Trustee within the meaning of the principal Act immediately before the commencement of this Act.

17 New Māori Trustee succeeds to existing undertaking

On and from the commencement of this Act, the new Māori Trustee succeeds to—

- (a) the existing undertaking, which is binding on the new Māori Trustee; and
- (b) the fiduciary rights and liabilities, which bind the new Māori Trustee.

18 Dissolution of Maori Trust Office

On and from the commencement of this Act, the Maori Trust Office is dissolved.

19 Contracts and other instruments

- (1) A reference (express or implied) to the old Maori Trustee or the Maori Trust Office in any instrument, register, record, notice, security, document, or communication made, given, passed, or executed before or on the commencement of this Act must be read as a reference to the new Māori Trustee.
- (2) A reference (express or implied) to an officer of the Maori Trust Office in any instrument, register, record, notice, security, document, or communication made, given, passed, or executed before or on the commencement of this Act must be read as a reference to the corresponding employee of the new Māori Trustee, or if there is no corresponding employee, to another appropriate employee of the new Māori Trustee.
- (3) Contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices (whether in writing or not), entered into by, made with, given to or by, or addressed to the old Maori Trustee or the Maori Trust Office (whether alone or with another person) before the commencement of this Act and having effect immediately before that date (**contracts and other instruments**) are subject to subsection (4).
- (4) The contracts and other instruments referred to in subsection (3) are binding on, and enforceable by, against, or in favour of, the new Māori Trustee as if the new Māori Trustee, rather than the old Maori Trustee, the Maori Trust Office, or the chief executive of Te Puni Kōkiri had been the person or entity by whom they were entered into, with whom they were made, or to or by whom they were given or addressed.

20 Status of existing securities

- (1) A security held by the old Maori Trustee or the Maori Trust Office as security for a debt or other liability to the old Maori Trustee or the Maori Trust Office incurred before the commencement of this Act—
 - (a) is available to the new Māori Trustee as security for the discharge of that debt or liability; and
 - (b) if the security extends to future or prospective debts or liabilities, is available as security for the discharge of debts or liabilities to the new Māori Trustee incurred on or after the commencement of this Act.
- (2) The new Māori Trustee is entitled to the same rights and priorities, and is subject to the same liabilities, in relation to the security as the old Maori Trustee or the Maori Trust Office would be if this Act had not been passed.

21 Continuation of proceedings

- (1) An action, arbitration, proceeding, or cause of action that was pending or that existed by, against, or in favour of the old Maori Trustee or the Maori Trust Office, or to which the old Maori Trustee or the Maori Trust Office was a party, before the commencement of this Act may be continued and enforced by, against, or in favour of the new Māori Trustee.
- (2) It is not necessary to amend a pleading, writ, or other document to continue the action, arbitration, proceeding, or other cause of action.

22 Effect of Act

- (1) Nothing done or authorised by this Act—
 - (a) places the old Maori Trustee, the Maori Trust Office, the new Māori Trustee, or any other person in breach of contract or confidence, or makes any of them liable for a civil wrong; or
 - (b) entitles a person to terminate or cancel a contract or arrangement, or to accelerate the performance of an obligation, or to impose a penalty or increased charge; or
 - (c) places the old Maori Trustee, the Maori Trust Office, the new Māori Trustee, or any other person in breach of an enactment, a rule of law, or a provision of a contract that prohibits, restricts, or regulates the assignment or transfer of property or the disclosure of information; or
 - (d) releases a surety from an obligation; or
 - (e) invalidates or discharges a contract or surety.
- (2) A document, matter, or thing that would have been admissible in evidence for or against the old Maori Trustee or the Maori Trust Office is, on and after the commencement of this Act, admissible in evidence for or against the new Māori Trustee.

23 Registers

- (1) A Registrar of Deeds, the Registrar-General of Land, or any other person charged with keeping books or registers is not required to change the name of the old Maori Trustee or the Maori Trust Office to the new Māori Trustee in the books or registers, or in a document, solely because of the provisions of this Act.
- (2) If the new Māori Trustee presents an instrument referred to in subsection (3) to a registrar or other person, the presentation of that instrument by the new Māori Trustee is, in the absence of proof to the contrary, sufficient evidence that the property is vested in the new Māori Trustee.
- (3) For the purposes of this section, the instrument need not be an instrument of transfer, but must—
 - (a) be executed, or purport to be executed, by the new Māori Trustee; and
 - (b) relate to property held by the old Maori Trustee or the Maori Trust Office immediately before the commencement of this Act; and
 - (c) be accompanied by a certificate by the new Māori Trustee that the property became vested in the new Māori Trustee by virtue of the provisions of this Act.

24 Transfer of employees

- (1) On and from the commencement of this Act, every person employed in the Maori Trust Office immediately before that date ceases to be employed in the Maori Trust Office and becomes an employee of the new Māori Trustee (**transferred employee**).
- (2) However, subsection (1) does not apply to the old Maori Trustee in his capacity as the general manager of the Maori Trust Office immediately before the commencement of this Act and the old Maori Trustee is not entitled to compensation or other payment or benefit relating to his ceasing to be the general manager of the Maori Trust Office.

25 Protection of employment conditions

- (1) In the case of a transferred employee who, immediately before the commencement of this Act, is employed on an individual employment agreement, the transferred employee must be employed by the new Māori Trustee on terms and conditions no less favourable than those applying to that employee immediately before the commencement of this Act.
- (2) Transferred employees who, immediately before the commencement of this Act, are employed under a collective employment agreement are, on and after the commencement of this Act, employed by the new Māori Trustee on a collective employment agreement with terms and conditions no less favourable than those on which those employees were employed immediately before the commencement of this Act.

- (3) Subsections (1) and (2)—
- (a) continue to apply to the terms and conditions of employment of a transferred employee until those terms and conditions are varied by agreement between the transferred employee (or his or her representative) and the new Māori Trustee; but
 - (b) do not apply to a transferred employee who receives any subsequent appointment with the new Māori Trustee.

26 Continuity of employment

For the purposes of every enactment, law, contract, and agreement relating to the employment of a transferred employee,—

- (a) the contract of employment of that person applying immediately before the commencement of this Act in respect of that person's employment in the Maori Trust Office is to be treated as having been unbroken; and
- (b) a reference to the chief executive of Te Puni Kōkiri in the contract of employment of a transferred employee must be read as a reference to the new Māori Trustee; and
- (c) the person's period of service in the Maori Trust Office is to be treated as a period of service with the new Māori Trustee under this Act.

27 No compensation for redundancy

A transferred employee is not entitled to compensation for redundancy by reason only of the person ceasing to be an employee in the Maori Trust Office.

28 Membership of Government Superannuation Fund

- (1) If a transferred employee was a contributor to the Government Superannuation Fund under the Government Superannuation Fund Act 1956 immediately before the commencement of this Act,—
- (a) that person is to be regarded, for the purposes of the Government Superannuation Fund Act 1956, as being employed in the Government service for so long as the person continues to be employed by the new Māori Trustee under the principal Act; and
 - (b) the Government Superannuation Fund Act 1956 is deemed to apply to the person in all respects as if the person's service with the Government service were continuous.
- (2) For the purposes of this section, subsection (1) applies to the new Māori Trustee as if the new Māori Trustee were a transferred employee.

*Taxation and other duties***29 Taxes and duties**

- (1) This section applies for the purposes of the Inland Revenue Acts and any other enactment that imposes or provides for the collection of any tax, duty, levy, rate, or other charge.
- (2) On and from the commencement of this Act,—
 - (a) the old Maori Trustee and the new Māori Trustee are to be treated as the same person; and
 - (b) all transactions entered into by, and all acts of, the old Maori Trustee before the commencement of this Act are to be treated as having been entered into or performed by the new Māori Trustee on the date on which they were entered into or performed by the old Maori Trustee.
- (3) In this section, **Inland Revenue Acts** has the same meaning as in section 3(1) of the Tax Administration Act 1994.

Section 29(3): amended (with effect on 1 July 2009), on 8 December 2009, by section 165 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Notes

1 *General*

This is a consolidation of the Māori Trustee Act 1953 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Trusts Act 2019 (2019 No 38): section 161

Māori Trustee Amendment Act 2009 (2009 No 12)

Real Estate Agents Act 2008 (2008 No 66): section 173

Property Law Act 2007 (2007 No 91): section 364(1)

Wills Act 2007 (2007 No 36): section 41

Lawyers and Conveyancers Act 2006 (2006 No 1): section 349

Public Trust Act 2001 (2001 No 100): section 152(1)

Stamp Duty Abolition Act 1999 (1999 No 61): section 7

Maori Trustee Amendment Act 1996 (1996 No 34)

Maori Trustee Amendment Act 1991 (1991 No 41)

Maori Affairs Restructuring Act 1989 (1989 No 68): section 13(1)

Public Finance Act 1989 (1989 No 44): sections 83(7), 86(1)

Maori Affairs Amendment Act 1987 (1987 No 73): section 3(2)

Maori Trustee Amendment Act 1985 (1985 No 116)

Maori Purposes Act 1982 (1982 No 124): Part 2

Judicature Amendment Act 1979 (1979 No 124): section 12

Maori Purposes Act 1976 (1976 No 148): sections 22, 24(4)(a), (b)

Maori Purposes Act 1975 (1975 No 135): sections 12(1), 16(1)

Maori Purposes Act 1971 (1971 No 151): sections 6, 7
Unclaimed Money Act 1971 (1971 No 28): section 15(1)(a)
Maori Purposes Act 1970 (1970 No 120): section 16
Maori Purposes Act 1969 (1969 No 127): sections 10, 11(1), 12
Administration Act 1969 (1969 No 52): section 84(1)
Maori Purposes Act 1967 (1967 No 145): section 5
Maori Affairs Amendment Act 1967 (1967 No 124): sections 73(2)(a), 89(2), 148(1), (2), (4), (5),
149
Maori Purposes Act 1965 (1965 No 121): section 10(1)(c)
Maori Purposes Act 1963 (1963 No 123): section 16
Maori Trustee Amendment Act 1962 (1962 No 46)
Public Works Amendment Act 1962 (1962 No 41): section 6(4)
Maori Purposes Act 1961 (1961 No 129): section 16(1)–(3)
Maori Purposes Act 1960 (1960 No 120): section 21(1)
Maori Purposes Act 1955 (1955 No 106): section 10