

[AS REPORTED FROM THE MAORI AFFAIRS COMMITTEE]

House of Representatives, 28 November 1989.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 6 June 1991.

Words struck out are shown with double black rule at beginning and after last line; words inserted are shown with double rule before first line and after last line.

[Clauses 5 to 12A of this Bill were formerly clauses 5 to 12A of the Maori Purposes Bill 1989: 121–2]

Hon. Winston Peters

MAORI AFFAIRS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Maori Affairs Act 1953

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title**—This Act may be cited as the Maori Affairs Amendment Act **1991**, and shall be read together with and deemed part of the Maori Affairs Act 1953 (hereinafter referred to as the principal Act).

No. 121—3A

*Price
incl. GST \$2.30*

5. Deputy Chief Judge—(1) The principal Act is hereby amended by repealing section 17, and substituting the following section:

“17. (1) The Governor-General may from time to time, by warrant, appoint a Judge as Deputy Chief Judge. 5

“(2) Subject to subsection (3) of this section, every person appointed as Deputy Chief Judge shall hold that office so long as that person holds office as a Judge.

“(3) With the prior approval of the Governor-General, the Deputy Chief Judge may resign that office without resigning the office of Judge. 10

“(4) Whenever by reason of illness, absence from New Zealand, or any other cause the Chief Judge is prevented from exercising the duties of office, or during any vacancy in the office of Chief Judge, the Deputy Chief Judge shall, until the Chief Judge resumes or takes up the duties of office, have and may perform and exercise all the functions, duties, and powers of the Chief Judge.” 15

New

(2) Section 21 of the principal Act (as substituted by section 2 of the Maori Affairs Amendment Act (No. 2) 1985) is hereby amended by inserting in subsection (1), after the words “Chief Judge”, the words “, to the Deputy Chief Judge,”. 20

(3) Section 16A of the principal Act (as inserted by section 3 of the Maori Purposes Act 1966) is hereby amended by inserting, after the words “Chief Judge”, the words “and the Deputy Chief Judge”. 25

6. Orders as to costs—Section 57 (2) of the principal Act is hereby amended by inserting, after the words “the Court may stay”, the words “or dismiss”. 30

7. Constitution of Rules Committee—(1) Section 70A of the principal Act (as inserted by section 3 (1) of the Maori Purposes Act 1980) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) For the purposes of sections 25 and 40 of this Act there shall be a Rules Committee, to consist of— 35

“(a) The Chief Judge:

“(b) One other Judge appointed by the Chief Judge:

“(c) A person nominated by the New Zealand Maori Council and appointed by the Chief Judge: 40

Struck Out

“(d) The Secretary for Maori Affairs or a person nominated by the Secretary:

New

5 “(d) The Secretary for Justice or a person nominated by the Secretary for Justice:
“(da) A person nominated jointly by the Minister of Maori Affairs and the Minister of Justice:

10 “(e) A barrister or solicitor of the High Court nominated by the Council of the New Zealand Law Society and appointed by the Chief Judge:

“(f) Not more than 2 other persons appointed by the Minister.

15 “(2) Each appointed member shall hold office for such term, not exceeding 3 years, as may be specified in his or her instrument of appointment, but may from time to time be reappointed.

“(2A) Any appointed member may resign by notice in writing to the Chief Judge or the Minister, as the case may require.

20 “(2B) Without limiting section 17 (4) of this Act, whenever the Chief Judge is unable to attend any meeting of the Rules Committee or to perform any other function of a member of that Committee, the Deputy Chief Judge may attend that meeting or perform that function in place of the Chief Judge.”

25 *New*

(2) Section 9 of the Maori Affairs Restructuring Act 1989 is hereby consequentially amended by repealing subsections (2) and (3).

30 **8. Fees**—(1) The principal Act is hereby amended by inserting in Part VI, after section 70A (as inserted by section 3 (1) of the Maori Purposes Act 1980), the following section:

“70B. Notwithstanding anything in sections 25 and 40 of this Act, the Governor-General may from time to time, by Order in

Council, make regulations for all or any of the following purposes:

- “(a) Prescribing the matters in respect of which fees are payable under this Act:
 - “(b) Prescribing scales of fees for the purposes of this Act and for the purposes of any proceedings before the Maori Land Court or the Maori Appellate Court, whether under this Act or any other enactment: 5
 - “(c) Prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which this Act applies: 10
 - “(d) Conferring on a Registrar, a Deputy Registrar, or any other person the power to determine the amount of the fee payable in a particular case and whether any fees should be refunded, remitted, or reduced.” 15
- (2) Section 25 of the principal Act is hereby amended—
- (a) By omitting from subsection (1) the words “, and prescribing the fees payable in respect of the proceedings of the Court”:
 - (b) By repealing subsection (2). 20
- (3) Section 40 of the principal Act is hereby amended—
- (a) By omitting the words “, and prescribing the fees payable in respect of the proceedings of that Court”:
 - (b) By repealing subsection (3).

9. Execution of renewals of leases—Section 237 of the principal Act is hereby amended by repealing subsection (2A) (as substituted by section 21 of the Maori Affairs Amendment Act 1962), and substituting the following subsection: 25

“(2A) If not satisfied that the lessee is entitled to a renewal of the lease, the Maori Trustee shall apply to the Court for a meeting of assembled owners under Part XXIII of this Act, and shall comply with the decision of the owners at that meeting.” 30

10. New rent payable pending objections—The principal Act is hereby amended by inserting, after section 249A (as inserted by section 21 of the Maori Purposes Act 1959), the following section: 35

“249B. In any case to which section 249A of this Act applies, the following provisions shall also apply:

- “(a) The revised rent or the rent for the renewed period shall be computed on the basis of the special Government valuation, and shall be payable by the lessee from the date provided in the lease (in the case of a revised rent) or the day after the date on which the 40

current term expires (in the case of a renewal), whether or not the lessee or any owner files an objection to the valuation:

5 “(b) If such an objection is filed, when it has been finally determined there shall be an accounting between the parties as to any shortfall or excess in the rent already paid; and where any objection is filed, the Maori Trustee may retain so much of the rent paid to the Maori Trustee, without distributing it to the beneficiaries, as the Maori Trustee considers necessary to ensure that such accounting between the parties can occur on the final determination of the objection.”

Struck Out

15 **11. Sinking fund to provide compensation for lessees of Maori land**—Section 353 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

20 “(1A) Notwithstanding anything in subsection (1) of this section, the Board may from time to time, if it is satisfied that it is prudent to do so, direct the Maori Trustee to place the whole or any part of any sum referred to in that subsection in any other account or investment instead of the Common Fund of the Maori Trustee’s Account.”

25 **12. Vesting of land in trustees includes rights and remedies**—Section 438 (4) of the principal Act is hereby amended by inserting, after the words “instrument of assurance,”, the words “together with all rights and remedies (if any) to which the owners were entitled in respect of the land immediately before the vesting”.

New

35 **12A. Validation of acts, and remuneration and allowances, of deputy for Chief Judge**—(1) The actions of His Honour Judge Ashley George McHugh in exercising or in purporting to exercise, as the deputy of the Chief Judge, at any time in the period beginning on the 1st day of June 1987 and ending with the date of the commencement of this section, any

New

power, authority, or jurisdiction of the Chief Judge, whether in the Chief Judge's capacity as Chief Judge or in the Chief Judge's capacity as chairman of the Waitangi Tribunal, are hereby declared to be, and to have always been, as valid as they would have been if His Honour had been entitled to act as the deputy of the Chief Judge throughout that period. 5

(2) Notwithstanding anything in the Higher Salaries Commission Act 1977, the Higher Salaries Commission may—

(a) Make a determination under section 21 (1) (a) of the principal Act increasing the salary payable to His Honour Judge Ashley George McHugh in respect of the whole or any part of the period beginning on the 1st day of June 1987 and ending with the date of the commencement of this section: 10 15

(b) Make a determination under section 21 (1) (b) of the principal Act increasing the allowances payable to His Honour Ashley George McHugh in respect of the whole or any part of the period beginning on the 1st day of June 1987 and ending with the date of the commencement of this section. 20

(3) In making a determination under **subsection (2)** of this section, the Higher Salaries Commission shall take account of the extra duties occasioned by His Honour Judge Ashley George McHugh acting in the period specified in that subsection as the deputy of the Chief Judge. 25