

MAORI PURPOSES BILL

EXPLANATORY NOTE

Clause 2: Section 21 of the Maori Affairs Act 1953 deals with the salaries and allowances of Judges and Commissioners of the Maori Land Court. The Judges are at present paid such salaries as are annually appropriated for the purpose.

This clause proposes the repeal of the present section 21 and its replacement by an amended section, fixing in the statute itself the salaries of the Judges, in the same manner as the salaries of Judges of the Supreme Court and salaries of Magistrates are fixed.

A further amendment comprised in the clause is that travelling and other allowances are to be fixed by regulation (as in the case of Magistrates) rather than by a determination by the Governor-General.

The proposed provision repeats the present proviso that persons holding office as Commissioners of the Court concurrently with any office in the Public Service, receive salaries and allowances by reference to their office in the Public Service. All existing Commissioners are also officers of the Public Service and receive pay and allowances accordingly.

Clause 3: This clause repeals section 136 of the Maori Affairs Act 1953, and substitutes a new section restating, with amendments and additions, provisions relating to the disposal by the Maori Land Court of the interests of a deceased owner in Maori land. The purpose of the clause is to avoid excessive division of interests on succession.

The amendments in the proposed new section are as follows:

Subsection (2) (b) is new in terms but not in effect, being declaratory of a long subsisting power to give effect to the wish of a person entitled to succeed to give his interest to someone else (e.g., a child):

Subsection (2) (d) is entirely new and empowers the Court to dispose of an interest to one or some only of the persons entitled, provided that no person thereby gains or loses more than £10 in value:

Subsection (2) (e) follows, with substantial amendments, the present subsection (3B). This paragraph empowers the Court, where an interest is not worth more than £10, and more than one person is entitled to succeed, to vest the whole interest in other owners of the land without consent or payment. The present provision requires payment for any interest valued at more than five shillings.

Clause 4: Part XIII of the Maori Affairs Act 1953 sets up a Conversion Fund for the purchase of uneconomic interests in Maori land by the Maori Trustee. It has been found that there are cases where land owned by many Maoris, in respect of which the title is in an unsatisfactory position, is technically European land. The purpose of this clause is to enable the Maori Trustee to exercise his powers under Part XIII with respect to European land owned by Maoris.

Clause 5: There is some doubt as to whether any report by the auditor of a body corporate's accounts is necessarily to be included with the statement of accounts, etc., submitted to an annual general meeting of the owners and filed in the Court. The purpose of this clause is to make it clear that any such report must be included in the material so submitted and filed.

Clause 6: The purpose of this clause is to provide penalties for failures by bodies corporate of owners of Maori land under Part XXII of the Maori Affairs Act 1953 to comply with the provisions of the Act and the regulations thereunder as to the matters set out in subsection two of the section proposed to be inserted in the Act. Many of these bodies corporate control land, stock, and other assets of considerable value for the benefit of a large number of owners, and it is in the interests of the individual owners that the proper administration of incorporation assets be enforced.

Clause 7: Section 445 of the Maori Affairs Act 1953 empowers the Maori Land Court to make an order showing in respect of a piece of Maori land a complete up-to-date list of the ownership. During the process the Court has power to vest uneconomic interests in the Maori Trustee, at a price fixed by the Court. The purpose of this clause, amending section 445, is to reduce from three months to two months the period during which a draft order of this kind is required to be available for public inspection, and to make a slight change in the procedure for vesting interests in the Maori Trustee, so that the vesting is effected before the issue of the order, and its results are incorporated therein.

Clause 8: Section 454 of the Maori Affairs Act 1953 states the basis of apportionment of profits and losses or assets and liabilities between the areas of land comprised in any joint undertaking of two or more areas of land for farming purposes. This clause is designed to empower the Court, on the dissolution of a joint undertaking, to make charging orders for the purpose of securing the payment of any amounts due as between the different pieces of land.

Clause 9: The purpose of this clause is to enable the making of effective decisions by the Maori Purposes Fund Board, without the necessity of an actual meeting of the members, some of whom reside at widely separated places. The clause provides that a written resolution signed or assented to in writing by a quorum of the members shall be as effective as a resolution passed at a duly constituted meeting. Notice in writing of each proposed resolution must be given to each member of the Board.

Clause 10: This clause empowers the Maori Purposes Fund Board to invest in trustee investments any part of the money in the Maori Purposes Fund, at present required to be deposited with the Maori Trustee and held in his Common Fund.

Clause 11: This clause amends the Maori Housing Act 1935 by inserting in it a new section, setting out in detail provisions relating to the keeping of savings accounts for Maoris desirous of improving their housing conditions. Formal authority for the keeping of any such accounts does not at present exist, although authority was given in section 6 of the Maori Purposes Act 1944 for the crediting of interest in these cases. The provisions of the said section 6 are repeated in subsections (3) and (4) of the proposed new section.

Subsection (2) provides that any money received to be held for a particular person, are to be deemed to be held for that person exclusively and must be paid to him or as he directs.

Clause 12: The Special Maori Housing Fund was set up by section 18 of the Maori Housing Amendment Act 1938 for the purpose of providing financial assistance for the housing of Maoris who have insufficient means to take advantage of the housing assistance available under general provisions of the Maori Housing Act 1925 and its amendments.

The Fund has hitherto been utilised for the direct financing of housing for Maoris in the circumstances mentioned, with provision for the repayment of such amounts only as the Board of Maori Affairs, the controlling authority, considers the people concerned can afford.

In order to conserve the remaining cash resources of the Fund, it is proposed that housing advances to Maoris in poor circumstances should in future be made under the general provisions of the Maori Housing Act, from money annually appropriated, and that the Fund be used as a reserve against which, in proper cases, any deficits may be written off.

The purpose of this clause is to make it clear that the Fund may be used in the manner set out above.

Clause 13: If for any reason a Tribal Committee or Tribal Executive under the Maori Social and Economic Advancement Act 1945 becomes defunct, or if as a result of boundary changes the area with which any such body is concerned changes, the position can arise that there is difficulty in dealing with the assets of the body. These assets are normally confined to money but on occasion include land.

This clause inserts in the Maori Social and Economic Advancement Act 1945 a new section empowering the Minister to give a written determination as to the disposal of the assets. The determination will take effect to transfer all rights in the assets to the person or body in whose favour it is given, subject, in the case of land, to the making of a vesting order by the Maori Land Court.

Clause 14: Section 20 of the Maori Trust Boards Act 1955 deals with the appointment by Boards of committees and the delegation to those committees of various powers. At present power cannot be delegated to a committee to expend more than £25 in any one matter. The purpose of this clause is to increase that limit to £100.

Clause 15: The Maori Trust Boards Act 1955 authorises the payment of money to various Maori Trust Boards in settlement of tribal claims against the Crown. The purpose of this clause is to make it clear that these moneys, which are utilised by the Boards concerned for the general welfare of their beneficiaries, are not to be treated as income for taxation purposes.

Right Hon. Mr. Holyoake

MAORI PURPOSES

ANALYSIS

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A BILL INTITULED

An Act to amend the law relating to Maoris and Maori land, and for other purposes

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Maori Purposes Act 1957.

2. Salaries and travelling allowances of Judges and Commissioners—The Maori Affairs Act 1953 is hereby amended by repealing section twenty-one, and substituting the following section: 5

“21. (1) There shall be paid out of the Consolidated Fund, without further appropriation than this Act, the annual salaries following, that is to say:

“(a) To the Chief Judge of the Maori Land Court, the sum of two thousand pounds; and 10

“(b) To every other Judge of the Maori Land Court, the sum of nineteen hundred pounds.

“(2) The Chief Judge and every other Judge of the Court shall be entitled to such travelling and other allowances as may be prescribed. 15

“(3) Such salaries shall be paid to the several Commissioners of the Court as are from time to time appropriated by Parliament for that purpose, and every Commissioner shall be entitled to such travelling and other allowances as may be prescribed: 20

“Provided that while any person holds office as a Commissioner concurrently with any office in the Public Service his salary and travelling allowances and other allowances shall be fixed exclusively by reference to his office in the Public Service.” 25

3. Disposition of interests of deceased owners of Maori land—(1) The Maori Affairs Act 1953 is hereby amended by repealing section one hundred and thirty-six, and substituting the following section: 30

“136. (1) When the Court has ascertained the beneficiaries and has defined their several shares and interests in accordance with section one hundred and thirty-five of this Act, it shall, without further application, proceed to dispose of the beneficial freehold interests of the deceased owner in accordance with the provisions of this section or in accordance with section one hundred and thirty-seven of this Act, as the case may require. 35

“(2) In disposing of any beneficial freehold interest of a deceased owner as aforesaid, the Court may, in its discretion, exercise any of the following powers, that is to say: 40

5 “(a) The Court may exercise with respect to the whole or any part of the interest any jurisdiction which it would have authority to exercise under any of the provisions of this Act, if application had been duly made in accordance with this Act and with Rules of Court:

“(b) The Court may, with the consent of a beneficiary, vest the whole or any part of the share of that beneficiary in any other person or persons:

10 “(c) The Court may give effect to any arrangement or agreement whereby the share of any beneficiary is to be vested in any other person who is beneficially interested in any land in which the deceased had a beneficial freehold interest:

15 “Provided that, if the Court is satisfied that any projected arrangement or agreement is fair and equitable and is not contrary to the interests of the beneficiaries or other persons concerned, it may give effect to the projected arrangement or agreement, notwithstanding that any of the persons concerned has not consented thereto or objects thereto:

20 “(d) The Court may vest the whole of the interest in any one or more of the beneficiaries to the exclusion of all or any of the other beneficiaries, without the consent of any person so excluded, and without payment being required therefor:

25 “Provided that no beneficiary shall be excluded as aforesaid if the value of the share to which he is legally entitled to succeed, in the opinion of the Court, exceeds ten pounds:

30 Provided also that the Court, in the exercise of its powers under this paragraph, shall have regard to the disposition of all the interests of the deceased owner of which it is made aware, and shall not vest in any beneficiary shares or interests of which the aggregate value, in its opinion, exceeds by more than ten pounds the value of the interests which the beneficiary would, but for the
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40 exercise of those powers, have received:

“(e) The Court may vest any interest of which the value does not, in the opinion of the Court, exceed ten pounds and to which more than one person is entitled to succeed, in any other persons beneficially interested in the land, to the exclusion of the beneficiaries, without the consent of the persons so excluded, and without payment being required therefor: 5

“(3) For the purposes of paragraph (c) of subsection two of this section, any agreement or arrangement may, in the case of a person under disability, be entered into or made on his behalf by his trustee appointed under Part X of this Act, or if no such trustee is appointed, by any other responsible person. 10

“(4) After making such dispositions (if any) as in its discretion it sees fit to make pursuant to the provisions of subsection two of this section, the Court, subject to the provisions of section one hundred and thirty-seven of this Act, shall vest the remaining beneficial freehold interests of the deceased owner in the persons severally entitled to succeed thereto. 15 20

“(5) All dispositions made by the Court pursuant to the foregoing provisions of this section shall be given effect to by vesting orders. 20

“(6) Where any beneficial freehold interest in land has been devised by the will of the deceased owner to a trustee other than a bare trustee, the trustee shall, for the purposes of this section, be deemed to be the beneficiary. In any case to which this subsection applies, the existence of the trust shall be set forth on the face of the relevant vesting order.” 25

(2) Section five of the Maori Purposes Act 1955 is hereby amended by repealing subsection one. 30

4. Acquisition of interests in European land owned by Maoris—The Maori Affairs Act 1953 is hereby amended, as from the commencement thereof, by inserting, after section one hundred and fifty-four, the following section: 35

“154A. The provisions of this Part of this Act shall, with any necessary modifications, apply to European land owned by Maoris.”

5. Auditor's report on accounts of Maori incorporations to be submitted to general meeting of owners—Section two hundred and ninety-eight of the Maori Affairs Act 1953 is hereby amended by adding the following subsection: 40

“(6) For the purposes of subsections two and five of this section, the expression ‘statement of accounts’ shall be deemed to include any report made by the auditor in respect of the accounts of the body corporate or of the operations to which those accounts relate.”

6. Penalties for non-compliance with statutory provisions relating to bodies corporate of Maori owners—The Maori Affairs Act 1953 is hereby amended by inserting, after section three hundred and three, the following section:

10 “303A. (1) Every body corporate which commits any offence referred to in subsection two of this section, and every officer of a body corporate who knowingly or wilfully authorises or permits the commission of any such offence, shall be liable on summary conviction to a fine not exceeding
15 ten pounds and, if the offence is a continuing one, to a further fine not exceeding two pounds for every day during which the offence continues.

“(2) The following acts or omissions are hereby constituted offences to which the provisions of subsection one of this section apply:

“(a) Failure to keep accounts as required by subsection one of section two hundred and ninety-eight of this Act:

25 “(b) Failure to have accounts duly audited as required by subsection two of the said section two hundred and ninety-eight:

“(c) Failure to submit to a general meeting of owners a statement of accounts and statement of the value of certain assets as required by subsections two and three of the said section two hundred and
30 ninety-eight:

“(d) Failure to keep, in the prescribed manner, a register of incorporated owners:

35 “(e) Failure to hold, as prescribed, an annual general meeting of the incorporated owners:

“(f) The making of any payment from the funds of the body corporate which is not authorised by or pursuant to this Part of this Act.

“(3) For the purposes of this section the expression “officer of a body corporate” shall include a member of the committee of management of a body corporate, and the secretary of a body corporate.

“(4) Notwithstanding anything to the contrary in the Justices of the Peace Act 1927, any information for an offence under this section may be laid at any time within three years after the date of the commission of the act in respect of which the proceedings are taken.”

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7. Amendment of section 445 of the Maori Affairs Act 1953 enabling the making of consolidated title orders—(1) Section four hundred and forty-five of the Maori Affairs Act 1953 is hereby amended as follows:

(a) By omitting from subsection three the words “three months”, and substituting the words “two months”:

(b) By adding to subsection eight the words “, and notice in writing of each such recommendation shall be given by the Registrar to the Maori Trustee.”

(2) Section four hundred and forty-five of the Maori Affairs Act 1953 is hereby further amended by repealing subsections nine and ten and substituting the following subsections:

“(9) Within the time fixed by subsection three of this section for public inspection of the draft consolidated order, the Maori Trustee may file in the Court his consent to the acquisition of the interests in terms of any recommendation made by the Court pursuant to subsection eight of this section, or his objection to the acquisition.

“(10) Upon the expiration of the time fixed by subsection three of this section for public inspection of the draft consolidated order, and before the making of the consolidated order, the Court may make an order vesting in the Maori Trustee any interest in respect of which a recommendation has been made under subsection eight of this section and to the acquisition of which the Maori Trustee has filed his consent or has not filed an objection.

“(11) The consolidated order shall be made to incorporate the effect of any order made under subsection ten of this section and of any other order affecting the ownership of any interest made by the Court subsequent to the drawing up of the draft consolidated order.”

8. Court may make charging orders on dissolution of joint undertaking—Section four hundred and fifty-four of the Maori Affairs Act 1953 is hereby amended by adding the following subsection:

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“**(9)** On the dissolution of a joint undertaking the Court may make an order or orders charging any area of land formerly comprised in the joint undertaking with payment to the owners of any other area of any such land, of such sum as is established to the satisfaction of the Court to be so payable in respect of the settlement of accounts between the respective owners of the said areas.”

9. Resolutions of Maori Purposes Fund Board—Section nine of the Maori Purposes Fund Act 1934–35 is hereby amended by adding the following subsection:

“**(8)** Notwithstanding the provisions of subsection one of this section, a resolution in writing, signed or assented to by letter or telegram by such number of members of the Board as constitutes a quorum thereof, shall be as valid and effectual as if it had been passed at a duly called and constituted meeting:

“Provided that no such resolution shall have effect unless notice in writing of the proposed resolution has been given to each member of the Board at least fourteen days before the resolution is to become effective and that each resolution passed in accordance with this subsection shall be laid before the Board at the annual meeting next following the date of the passing of the resolution.”

10. Investment of Maori Purposes Fund—The Maori Purposes Fund Act 1934–35 is hereby amended by inserting, after section ten, the following section:

“**10A.** The Board may, from time to time, invest any money of the Fund in any investments for the time being authorised by law for the investment of trust funds.”

11. Savings accounts for Maori housing purposes—**(1)** The Maori Housing Act 1935 is hereby amended by inserting, after section thirteen, the following section:

“**13A. (1)** For the purpose of providing funds to be used, in conjunction with any advance under this Act, or otherwise for the improvement of the housing conditions of any Maori, money may from time to time be received into the Public Account from or on behalf of that Maori, to be held in an account in his name.

“(2) All money received and held under subsection one of this section in the name of any person shall be deemed to be held by the Crown as the property of that person exclusively, and shall be disposed of to or by direction of that person exclusively.

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“(3) Interest, at such rate and computed in such manner as the Minister of Finance may from time to time determine, on any money held under subsection one of this section shall from time to time be credited to the account in which the money is held:

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“Provided that the rate of interest shall not exceed the rate for the time being fixed in respect of ordinary deposits in the Post Office Savings Bank.

“(4) Any determination by the Minister of Finance under subsection three of this section may be made either generally or with respect to any particular account or class of accounts.

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“(5) Any money heretofore received into the Public Account and held in the name of any person for the purposes set out in subsection one of this section shall be deemed to have been received and held pursuant to the said subsection one and all the provisions of this section shall extend and apply to any such money accordingly.”

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(2) The Maori Purposes Act 1944 is hereby repealed.

12. Use of the Special Maori Housing Fund—Section eighteen of the Maori Housing Amendment Act 1938 is hereby amended by repealing subsection two, and substituting the following subsection:

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“(2) The money in the Fund shall be held as a reserve against which the Board may from time to time and as often as the occasion may require authorise to be written off such sum or sums as it thinks appropriate in any case where, because of indigency or other circumstances, the person to whom an advance has been made under the principal Act, or to whom a dwelling has been disposed of under this Act, is unable to meet the payments, whether of principal or interest, required to be made by him.”

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13. Disposal of assets of former Tribal Committee or Tribal Executive—The Maori Social and Economic Advancement Act 1945 is hereby amended by inserting, after section twenty-nine, the following section:

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“29A. (1) Where any tribal district or Tribal Committee area constituted under this Act is abolished or included in one or more other districts or areas and for that reason or for any other reason doubt arises as to the proper disposition
5 of any assets of the Tribal Executive or Tribal Committee for the district or area, the Minister shall determine, in accordance with this section, the person or body by whom and the conditions upon which the assets shall thereafter be held:

“Provided that no such determination shall authorise the
10 application of any funds in any manner other than that authorised by section twenty-six of this Act.

“(2) A determination by the Minister under subsection one of this section shall be in writing, and, subject to the provisions of the determination, shall take effect according to
15 its tenor to transfer to the person or body referred to in the determination, all the rights and interests in any personal property to which it relates, of the Tribal Executive or Tribal Committee of which any such property was an asset, and shall be a sufficient authority for the payment or delivery of that
20 property to the person or body named therein, and for the alteration of any register book or other document recording the ownership of any such property.

“(3) Where a determination relates to any land or interest in land, the Maori Land Court, on application by the person
25 or body by whom, in accordance with the determination, the land or interest is to be held, shall make an order vesting the land or interest in that person or body, and the District Land Registrar shall, upon application and payment of the appropriate fee, register the order against the title to the land
30 affected.

“(4) The person or body acquiring any assets or interests pursuant to a determination under this section shall thereafter hold and deal with the assets and interests in accordance with the terms and conditions of the determination.”

35 **14. Extension of limits of delegation of Maori Trust Boards**—Subsection three of section twenty of the Maori Trust Boards Act 1955 is hereby amended by omitting the words “twenty-five pounds” wherever they occur in that subsection, and substituting in each case the words “one hundred
40 pounds”.

15. Payments to Maori Trust Boards by Crown not to constitute income for taxation purposes—The Maori Trust Boards Act 1955 is hereby amended by inserting, after section forty-one, the following section:

“41A. (1) No money paid to a Maori Trust Board from the Consolidated Fund pursuant to any provision contained in Part I of this Act, and no money so paid under the corresponding provisions of any Act repealed by this Act, shall, for the purposes of the Land and Income Tax Act 1954, or the Social Security Act 1938, or any other enactment, be deemed to be income of that Board. 5 10

“(2) The provisions of subsection one of this section shall apply to all money paid or payable to the Tuwharetoa Maori Trust Board pursuant to section ten of this Act.”