

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 22 October 1957

Words (clause 2) struck out by the Committee are shown in roman enclosed in panel.

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
5 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.

Struck out

<p>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:</p> <p>“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:</p> <p>“(a) To the Chief Judge of the Maori Land Court, the sum of two thousand pounds; and</p> <p>“(b) To every other Judge of the Maori Land Court, the sum of nineteen hundred pounds.</p> <p>“(2) The Chief Judge and every other Judge of the Court shall be entitled to such travelling and other allowances as may be prescribed.</p> <p>“(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:</p> <p>“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.”</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p>
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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:

“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.

“(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:

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 exercise of those powers, have received:

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“(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.

“(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
20 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
30 and three of the said section two hundred and 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
40 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
5 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
10 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
15 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
20 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
25 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
35 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. 5

“(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: 10

“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 15 or with respect to any particular account or class of accounts.

“(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 20 the provisions of this section shall extend and apply to any such money accordingly.”

(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 25 amended by repealing subsection two, and substituting the following subsection:

“(2) The money in the Fund shall be held as a reserve against which the Board may from time to time and as often 30 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 35 unable to meet the payments, whether of principal or interest, required to be made by him.”

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- 40 nine, the following section:

“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 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:

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

10 “(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 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 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.

15 “(3) Where a determination relates to any land or interest in land, the Maori Land Court, on application by the person 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 affected.

20 “(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 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.”