

MAORI AFFAIRS

[AS REPORTED FROM THE COMMITTEE OF ~~THE WHOLE~~]

House of Representatives, 26 October 1960

Words inserted by the Committee of ~~the Whole~~ are shown in roman with double rule down side.

Right Hon. Mr Nash

MAORI PURPOSES

ANALYSIS

Title	11. Development of land by Land Settlement Board
1. Short Title	12. Interest payments in respect of Maori land development
2. Provisions of Maori Affairs Act 1953 to apply to this Act	13. Relief from interest payment
<i>Amendments to Principal Act</i>	14. Roding certificates
3. Status of land	15. Building line restrictions
4. Salaries of Judges	16. Joint farm undertakings
5. Easements in gross	17. Succession to trust funds
6. Interpretation of Maori wills	<i>Amendments to Other Acts Relating to Maoris</i>
7. Payment of certain revenues to administrator	18. South Island landless Maoris
8. Committee of management of body corporate	19. Maori housing
9. Advances to sole owners	20. Sale of land for Maori housing
10. Water supplies	21. Removal of restrictions on alienation

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 1960.

2. Provisions of Maori Affairs Act 1953 to apply to this Act—Words and expressions used in this Act shall, unless a contrary intention appears, have the same meaning as in the Maori Affairs Act 1953 (hereinafter referred to as the principal Act), and the provisions of the principal Act, as far as they are applicable, shall extend and apply to the cases provided for in this Act in as full and ample a manner as if this Act had been incorporated with and formed part of the principal Act. 5

Amendments to Principal Act 10

3. Status of land—Subsection (2) of section 2 of the principal Act is hereby amended by adding the following paragraphs:

“(e) Maori freehold land which has been vested in any person by an order of the Court for a beneficial freehold interest shall, except where it appears on the face of the order that the land has become European land, be deemed to remain Maori freehold land until either— 15

“(i) An order is made by the Court under paragraph (i) of subsection (1) of section 30 of this Act determining that the land is European land; 20
or

“(ii) Any other order is made by the Court as a consequence of which the land becomes or is deemed to have become European land: 25

“(f) Maori freehold land the legal fee simple in which has been transferred otherwise than by an order of the Court shall, except where it appears on the face of the instrument of transfer that the land has remained Maori freehold land, be deemed to be European land until either— 30

“(i) An order is made by the Court under paragraph (i) of subsection (1) of section 30 of this Act determining that the land is Maori freehold land; or 35

“(ii) Any other order is made by the Court as a consequence of which the land becomes or is deemed to have become Maori freehold land.”

4. Salaries of Judges—(1) Section 21 of the principal Act, as substituted by section 18 of the Maori Purposes Act 1959, is hereby amended as follows:

5 (a) By omitting from subsection (1) the words “two thousand two hundred pounds”, and substituting the words “three thousand pounds”:

(b) By omitting from subsection (2) the words “two thousand pounds”, and substituting the words “two thousand eight hundred pounds”.

10 (2) This section shall be deemed to have come into force on the first day of April, nineteen hundred and sixty.

5. Easements in gross—(1) Subsection (1) of section 30 of the principal Act is hereby amended by adding the following paragraph:

15 “(k) To create easements in gross over Maori freehold land or European land owned by Maoris.”

(2) Subsection (5) of section 30 of the principal Act is hereby amended by inserting, after the words “paragraph (j)”, the words “or paragraph (k)”.

20 **6. Interpretation of Maori wills**—(1) Section 115 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

25 “(2A) Where a Maori by his will devises Maori freehold land to an executor upon trust for sale and conversion into money, the interest of every beneficiary under any such devise shall, notwithstanding any rule of law to the contrary, be deemed to be and to remain a beneficial interest in Maori freehold land until the trust for sale is carried into effect by a transfer of the fee simple of the land, confirmed, where confirmation is required by this Act, by the Court.”

30 (2) Nothing in subsection (2A) of section 115 of the principal Act, as inserted by subsection (1) of this section shall be construed to alter the effect of any order made by a Court of competent jurisdiction before the commencement of this section in respect of the estate of any Maori.

7. Payment of certain revenues to administrator—The principal Act is hereby amended by inserting, after section 132, the following section:

40 “132A. (1) For the purposes of this section, the term ‘administrator’ means any person to whom administration is granted; and includes an executor.

“(2) Where, immediately before his death, any deceased person was entitled to any interest in personal property by reason of his interest in any land vested in a body corporate of owners under Part XXII of this Act or subject to the provisions of Part XXIV of this Act, the provisions of this section shall apply, notwithstanding anything elsewhere contained in this Act. 5

“(3) Where there is insufficient money available in the hands of the administrator to discharge the estate of the deceased from liability for estate or other duty, funeral or testamentary expenses, or debts, the revenues payable under paragraph (f) of subsection (1) of section 285 or section 378 of this Act to the person legally entitled to succeed to the interest of the deceased shall be payable to the administrator in accordance with subsection (4) of this section: 10 15

“Provided that no greater amount shall be payable to the administrator under this subsection in respect of any such deficiency than the amount of the value at which the interest of the deceased in any such personal property was assessed for estate duty purposes. 20

“(4) Upon production of a certificate by the administrator showing the amount required to discharge the estate from liability as aforesaid and the assessed value of the personal property to which subsection (3) of this section relates, and upon proof of the right of the administrator to administer the estate, the body corporate or the Board of Maori Affairs, as the case may be, shall, subject to any prior assignment, pay to the administrator the revenues referred to in subsection (3) of this section until the administrator has received the amount required to discharge the estate from liability, or an amount equal to the assessed value of the personal property, whichever amount is the less, notwithstanding that any order may have been made under section 136 of this Act vesting the deceased's interests in the persons entitled to succeed thereto. 25 30

“(5) Nothing in this section shall affect the incidence of the liability of any other assets of the deceased person for estate or other duty, funeral or testamentary expenses, or debts.” 35

8. Committee of management of body corporate—(1) Section 292 of the principal Act is hereby amended by repealing subsection (1) and substituting the following subsections: 40

“(1) Upon the making of an order of incorporation under section 271 of this Act, the Court shall, having regard to but not being bound by any nominations of members which may be made by or on behalf of the owners who have applied for 45

incorporation, appoint a committee of management consisting of not less than three and not more than eleven persons.

“(1A) The Court may from time to time, on the application of the incorporated owners, appoint additional members to a committee of management:

“Provided that at no time shall the number of members exceed eleven.

“(1B) The incorporated owners (or their trustees in the case of owners under disability) of any body corporate shall from time to time as may be required and in the manner prescribed elect members to fill vacancies on the committee of management.”

(2) Section 300 of the principal Act is hereby amended by repealing subsection (7), and substituting the following subsection:

“(7) No person shall be competent to act as the proxy for any owner at a meeting of incorporated owners if that person is either a member of the committee of management or has consented, before or at that meeting, to be nominated as a member of the committee of management.”

9. Advances to sole owners—(1) Subsection (1) of section 335 of the principal Act is hereby amended by adding the following paragraph:

“(d) Any such land which is owned by a sole owner may, with the approval of the Board, be occupied by that owner under the control and supervision of the Board.”

(2) The principal Act is hereby amended by inserting, after section 369, the following section:

“369A. The Board may from time to time make advances to and take security from a sole owner who is in occupation of land under paragraph (d) of subsection (1) of section 335 of this Act in the same manner and to the same extent as if that owner were a lessee to whom sections 368 and 369 of this Act apply, and the provisions of those sections, except paragraph (d) of subsection (1) of section 368, and subsection (4) of section 369, shall, with the necessary modifications, apply to any such advances.”

10. Water supplies—The principal Act is hereby amended by inserting, after section 371, the following section:

“371A. (1) The Board may construct such waterworks as it thinks necessary for the supply of water to any land subject to this Part of this Act, or may purchase any existing waterworks, and may supply water therefrom for any farming,

industrial, commercial or domestic purposes to any land which is being developed, farmed, used, or occupied under this Part and to any other land which by reason of its proximity to the waterworks may conveniently be supplied with water therefrom.

“(2) For the purposes of this section the term ‘waterworks’ shall be deemed to include reservoirs, wells, bores, dams, tanks, water mains, pipes, buildings, machinery, works, and appliances of every kind for collecting, holding, conveying, or regulating the supply of water, and shall also be deemed to include land or interests in land acquired for catchment areas or for any other purpose connected with the construction or maintenance of waterworks and all water impounded, diverted, or conveyed during the construction or operation of waterworks.

“(3) For the purposes of this section the term ‘occupier’, in respect of land subject to this Part of this Act, means the person whose occupation of the land has been approved by the Board and, in respect of any other land, means the owner or lessee or other lawful occupier of the land.

“(4) The Board, by its officers, workmen, and others by its direction, may enter on any land for the purpose of examining or repairing any waterworks under its control. In exercising the powers under this subsection the Board and any person acting under the direction of the Board shall do as little damage as possible and, whenever practicable, shall give notice to the occupier of the land before any such entry. Any loss or damage suffered by the owner or occupier of any land by reason of any such damage shall be compensated by the payment of such amount as may be agreed upon between the Board and the owner or occupier or, in default of agreement, as may be determined by arbitration under the Arbitration Act 1908.

“(5) The Board may from time to time by notice in the *Gazette* declare any area to be a water area for the purposes of this section (being land on which waterworks are erected or are intended to be erected for the supply of water to that land), and the area so declared may from time to time be added to or reduced by an amending notice. The provisions of section 333 of this Act shall apply to any notice under this subsection.

“(6) The occupier of any land in a water area shall pay in respect of the cost of waterworks and the water supplied or available to him such amounts by way of levy as the Board from time to time determines. Any levy so made shall be
5 recoverable as a debt in any Court of competent jurisdiction, but without prejudice to any other remedy which may be available against the occupier.

“(7) The levies shall be of such amounts as appear to the Board to make adequate provision for meeting repayment of
10 the capital outlay, or so much thereof as the Board thinks fit, together with interest thereon, running expenses, and the cost of maintenance of the waterworks. In fixing the amount of any levies the Board may have regard to the stock-carrying capacity of the land, the amount of water actually supplied
15 or available, and any other relevant factor which will enable it to fix equitable or reasonable amounts.

“(8) Any waterworks constructed or purchased by the Board under this section may be disposed of by the Board to a local authority or Department of State on the payment
20 of such amount and subject to such conditions as the Board in each case determines.

“(9) Any local authority or Department of State to which any waterworks are disposed of under subsection (8) of this section or any subsequent disposal shall have the same power
25 to enter on land to examine or repair waterworks as the Board has under subsection (4) of this section and the same power to make and recover levies as the Board has under subsections (6) and (7) of this section, and all the provisions of those subsections shall, with the necessary modifications, apply
30 accordingly to any waterworks so disposed of. The Board may subject to such terms and conditions as it thinks fit from time to time advance or readvance money to any local authority to which it has disposed of any waterworks.

“(10) Notwithstanding anything to the contrary in any
35 Act or rule of law, any waterworks constructed or purchased by the Board under this section shall remain the property of the Board or, as the case may be, of the local authority or Department of State for the time being entitled thereto under any disposal thereof under this section or under any subse-
40 quent disposal, and may be at any time removed by the Board or other owner without liability for payment of compensation

to the owner of the land on which the waterworks are erected or to any other person, notwithstanding that the waterworks may have been so attached to the land as to form part thereof.

“(11) The Board may from time to time appoint a committee of management in respect of any water area and may delegate to any such committee any powers or functions conferred on the Board by this section subject to such terms and conditions as the Board thinks fit. Any such committee shall consist of such number of persons occupying land in the water area as the Board thinks fit and not more than two other persons. The provisions of section 10 of this Act shall, with the necessary modifications, apply to any delegation under this section.”

“(12) Any committee of management may be at any time discharged or reconstituted by the Board.”

11. Development of land by Land Settlement Board—Section 380 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where it is agreed between the Board of Maori Affairs and the Land Settlement Board that the development and improvement of any land subject to this Part of this Act should be carried out under the control of the Land Settlement Board, the Land Settlement Board, subject to such terms and conditions as may be agreed between that Board and the Board of Maori Affairs, may develop and improve any land subject to this Part of this Act, and for that purpose may expend out of the Land Settlement Account such amounts as the Land Settlement Board or the Minister of Lands may think expedient.”

12. Interest payments in respect of Maori land development—(1) The principal Act is hereby amended by inserting, after section 383, the following section:

“383A. All money expended or advanced by the Board under this Part shall bear interest at such rate or rates as the Minister of Finance may from time to time determine, and any such interest shall be included in the amount of any charge which may be imposed under section 363 or section 364 of this Act.”

(2) Section 365 of the principal Act is hereby repealed.

13. Relief from interest payment—The principal Act is hereby amended by inserting, after section 383A, the following section.

“383B. Where—

- 5 “(a) Any money expended by the Board in respect of the development of any land under this Part of this Act for the purposes of subdivision and settlement is in excess of the value, as assessed by the Board, of the improvements effected and of the other
10 assets provided by the Board in respect of the land; or
- “(b) Any person owing money to the Board in respect of advances made to him under section 368 or section 369A of this Act establishes a case of hardship to
15 the satisfaction of the Board,—
- the Board, subject to such terms and conditions as it thinks fit, may postpone or remit the payment of interest payable in respect of the money owed or, in the case of money repayable by instalments, may postpone the payment of any instalment, and may also remit the interest portion of any instalment.”
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14. Roading certificates—Section 428 of the principal Act (as substituted by section 24 of the Maori Purposes Act 1959) is hereby amended by inserting, after subsection (1), the
25 following subsection:

- “(1A) Any roading certificate issued under this section may authorise any survey work necessary for the construction of the road, the provision of water reticulation, drainage, and sewerage, the construction of kerbing, channelling, and foot-
30 paths, and the provision of such other works or services as the Court thinks necessary in the circumstances of each case, and the term ‘road’, when used in this section, shall be deemed to include any works or services which may be authorised by a roading certificate.”

15. Building line restrictions—Section 430 of the principal Act is hereby amended by adding the following subsections:

- “(9) Where the local authority having control of any road or street less than sixty-six feet wide, by resolution, imposes a condition as to building in respect of which a memorandum
40 of acceptance may be deposited under the said section 128, and a partition order is made in respect of any land affected

by the condition, the Court may embody the condition in the partition order, and in any such case the partition order shall have the same force and effect as a duly registered memorandum of acceptance.

“(10) The inclusion under this section of a condition as to building in a partition order shall, in the absence of proof to the contrary, be sufficient evidence that the condition was duly imposed by resolution of the local authority.” 5

16. Joint farm undertakings—(1) Section 454 of the principal Act is hereby amended by inserting, after subsection (6), the following subsections: 10

“(6A) The Court, on the application of any authority or persons controlling the use of any land in a joint undertaking, may order that any portion of the land shall be excluded from the undertaking on the grounds that the contribution which the land proposed to be excluded has made to the income earned by the undertaking would result in an inequitable apportionment of profits or losses and the assets and liabilities of the undertaking and, on the making of any such order, the land shall be deemed to be excluded from the joint undertaking: 15 20

“Provided that the exclusion of land under this subsection shall not dissolve the joint undertaking under subsection (7) of this section.

“(6B) Where any land is excluded from a joint undertaking as aforesaid, the Court may fix an appropriate fee (not exceeding seven pounds ten shillings per cent per annum of the capital value of the land excluded) in respect of the use of the land, and the fee so paid shall be taken into account when apportioning the profits or losses and assets and liabilities of the undertaking.” 25 30

(2) Where the apportionment in respect of the dissolution of a joint undertaking has not been concluded at the commencement of this Act, the apportionment shall be subject to section 454 of the principal Act as amended by this section. 35

17. Succession to trust funds—(1) Subsection (4) of section 456 of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The interest of the beneficiary shall not pass to the executor or administrator of the beneficiary on his death, but the Court may make orders under sections 135 and 136 of this Act in respect of the trust fund in the same manner as if the trust fund were a beneficial freehold interest in land:” 40

(2) Section 456 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

5 “(4A) Notwithstanding anything to the contrary in section 134 of this Act, all money to which the beneficiary would have been entitled if he had not died and which comes into the hands of the Public Trustee or the Maori Trustee after the death of the beneficiary and before the disposition of the trust fund shall be deemed to form part of the trust fund.”

Amendments to Other Acts Relating to Maoris

10 **18. South Island landless Maoris**—(1) Subsection (4) of section 110 of the Maori Purposes Act 1931 is hereby amended by omitting the words “and so far as their interest in such land is concerned the beneficial owners, if descendants of Maoris, shall be deemed to be Maoris within the meaning of the principal Act, and all the provisions of the principal Act as modified hereby shall apply accordingly.”

15 (2) Any grant of probate or letters of administration made before the commencement of this section which would have been valid if this section had been in force at the date of the grant is hereby validated:

20 Provided that nothing in this subsection shall affect the validity of any disposition of any interest in land by any vesting or succession order of the Maori Land Court made before the commencement of this section.

25 **19. Maori housing**—Section 3 of the Maori Housing Act 1935 is hereby amended by adding the following paragraph:

30 “(g) For the payment of any insurance premium payable by a mortgagor to an insurer approved by the Board in that behalf in respect of a single premium mortgage repayment insurance policy.”

20. Sale of land for Maori Housing—The Maori Housing Amendment Act 1938 is hereby amended by inserting, after section 12, the following section:

35 “12A. (1) Notwithstanding the provisions of this Act, the Board may sell, subject to such terms and conditions as it thinks fit, any land set apart for the purposes of the principal Act to any person qualified to acquire a dwelling under this Act before the erection or completion of a dwelling on the land.

“(2) Where any land is sold under this section, the provisions of section 12 of this Act, as far as they are applicable and with the necessary modifications, shall apply in all respects as if the purchaser had purchased a dwelling.”

New

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20A. Unclaimed money in Common Fund—(1) Section 30 of the Maori Trustee Act 1953 is hereby amended by repealing subsections (9) to (14), and substituting the following subsections:

“(9) Any unclaimed money in respect of which claims are not established within twelve months after the date of the publication in the *Gazette* of a notice of the filing of a list thereof shall be disposed of as follows: 10

“(a) An amount equal to ten per cent thereof shall be paid to the credit of the Maori Purposes Fund Account established under the Maori Purposes Fund Act 1934–35: 15

“(b) Half the residue shall be transferred to a separate fund within the Maori Trustee’s Account to be known as the Education Trust Fund: 20

“(c) The remaining half of the residue shall be transferred to a separate fund within the Maori Trustee’s Account to be known as the Welfare Fund.

“(10) The following provisions shall apply to the Education Trust Fund: 25

“(a) Any money in the fund may, with the approval of the Board of Maori Affairs, be invested in the same manner and subject to the same conditions as money in the Common Fund may be invested:

“(b) All income received from the investment of money in the fund may be applied by the Maori Trustee for purposes having for their object the furtherance of the education of Maoris or the descendants of Maoris and in accordance with such provisions as may be prescribed in that behalf by regulations under this Act. 30 35

“(11) The following provisions shall apply to the Welfare Fund:

“(a) The Minister may from time to time appoint for each Maori Land Court District an advisory committee to make recommendations to the Minister as to the disposition of that part of the unclaimed money derived from that District which has been transferred to the Welfare Fund: 40

- 5 “(b) Any such recommendation may provide for the making of payments by way of loan or grant—
- “ (i) To a Tribal Executive or Tribal Committee appointed under the Maori Social and Economic Advancement Act 1945 to be expended for community development:
- 10 “ (ii) To any organisation to be expended for community development or for the education, training, recreation, social and moral welfare, or otherwise for the benefit of Maoris or the descendants of Maoris:
- 15 “ (iii) To any organisation to be expended for the construction, establishment, maintenance, repair, or improvement of Maori meeting houses, villages, maraes, or places of historical significance to Maoris or the descendants of Maoris:
- 20 “ (iv) To any Maori or descendant of a Maori for the education or advancement of himself or his family or dependants:
- “ (c) On receipt by the Minister of any recommendation made in accordance with this subsection, he may approve the same in whole or in part or in such altered form or subject to such terms and conditions as he thinks fit:
- 25 “ (d) On receipt by the Maori Trustee of the Minister’s approval as aforesaid, the Maori Trustee shall make payments by way of grant or loan in accordance therewith:
- 30 “ (e) All principal repayments and any interest received by the Maori Trustee in respect of any such loan shall be paid into the Welfare Fund.
- “ (12) The Maori Trustee may, without complying with any of the provisions of subsection (5) of this section, dispose of any money of the classes specified in subsection (13) of this section as if it were unclaimed money and whether or not it is unclaimed money within the meaning of this section.
- 35 “ (13) The money to which subsection (12) of this section relates is:
- 40 “ (a) Any money held by the Maori Trustee in a separate account in the Common Fund in respect of which the records of the Maori Trust Office do not disclose the persons on whose behalf the money was paid or is held;

“(b) Any money held as aforesaid which by reason of the smallness of the amount cannot, in the Maori Trustee’s opinion, be distributed to the persons beneficially entitled thereto without undue expense or trouble.”

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(2) Subsection (3) of section 17 of the Maori Trustee Act 1953 is hereby amended by adding the following paragraph:

“(e) For the purposes of section 30 of this Act.”

(3) Subsection (1) of section 23 of the Maori Trustee Act 1953 is hereby amended by adding the following paragraphs: 10

“(e) The Education Trust Fund established under section 30 of this Act:

“(f) The Welfare Fund established under section 30 of this Act.”

(4) Nothing in this section shall affect any scheme of 15 distribution approved by the Minister and confirmed by the Court before the commencement of this section.

20B. Disposition of interests in reserved land—(1) Section 10 of the Maori Reserved Land Act 1955 is hereby amended by inserting, after subsection (1), the following subsections: 20

“(1A) Notwithstanding the provisions of subsection (1) of this section, the owner of any beneficial freehold interest in any Maori reserve or settlement reserve may dispose of that interest—

“(a) By will to the wife or husband of the testator, or to 25 the children of the testator, or to any other person who would, if he were living at the date of the death of the testator, be entitled to take any part of the interest by way of intestate succession, or to any person owning a beneficial freehold interest in 30 the Maori reserve or settlement reserve:

“(b) By sale or gift, during his lifetime, to any person to whom an interest could be disposed of by will in accordance with paragraph (a) hereof.

“(1B) No disposition made pursuant to paragraph (b) 35 of subsection (1A) of this section shall be given effect to otherwise than by a vesting order of the Court, and the provisions of section 213 of the Maori Affairs Act 1953 shall, with the necessary modifications, apply to any such vesting order.” 40

(2) Section 20 of the Maori Reserved Land Act 1955 is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) On any proceedings for an order vesting an interest in the beneficiary, the Court may exercise any of the powers conferred on it by section 136 of the Maori Affairs Act 1953.”

- 5 **21. Removal of restrictions on alienation**—(1) Subsection (1) of section 30 of the Maori Purposes Act 1959 is hereby amended as follows:
- (a) By inserting, after the words “imposed by any”, the words “Order in Council”;
- 10 (b) By omitting the words “or of section 527 of the Maori Land Act 1931”, and substituting the words “or of section 118 of the Native Land Amendment Act 1913 or of section 474, section 475, or section 527 of the Maori Land Act 1931”.
- 15 (2) Every alienation of land made before the commencement of this section which would have been lawful if section 30 of the Maori Purposes Act 1959, as amended by this section, had been in force at the date of the alienation is hereby validated and declared to have been lawful.