

MAORI PURPOSES BILL

EXPLANATORY NOTE

Clause 3: This clause provides that Maori Land Court Judges will, by virtue of their office, be Justices of the Peace. It is convenient, on occasions, for Judges to have that office. A similar provision already applies to Magistrates.

Clause 4: This clause extends, from 14 days to 28 days, the time within which applications for rehearings may be made. Experience has shown that the 14-day period is too short.

Clause 5: Section 34 (3) of the principal Act requires a Registrar, when signing a Court Order, to make a reference to the authority by which he acts. *Subclause (1)* removes this requirement.

Subclause (2) permits the cancellation or amendment of an order in cases where the order has been made subject to conditions and the conditions have not been complied with.

Clause 6 provides that where an order granting letters of administration is made subject to the giving of a bond or other security, the order shall have no effect until the bond or security is given.

Clause 7: Section 136 of the principal Act provides for the disposition of interests of deceased owners of Maori land. Subsection (2) of that section gives power to the Court to give effect to arrangements whereby the interests of a deceased owner can be disposed of otherwise than in accordance with the strict rights of the successors. The expression "person who is beneficially interested in any land" is used in the subsection, but that expression does not include a person who has been designated by the Court as a person who is entitled to succeed on the death of the beneficial owner. The amendment remedies this defect.

Clause 8: Section 180 of the principal Act provides that the Court may partition land into parcels held by single owners or into parcels held by owners as tenants in common. It does not provide for joint tenants. A recent amendment empowers the Court to vest dwelling sites in a husband and wife as joint tenants and a joint tenancy may also be created in other circumstances. This clause permits partition orders to be made in respect of joint tenants as well as the other classes of owners.

Clause 9: Section 438 of the principal Act empowers the Court to vest land in trustees to be held for the benefit of Maoris. The section is mainly used to create trusts for the benefit of the several owners of properties. Occasionally an undivided share in the land is owned by a European and he does not come within the class of persons for whom the Court may create a trust. *Subclause (1)* remedies the position.

All vesting orders under the said section 438, and variations and cancellations of those orders, require to be approved by the Minister. It is not considered necessary for the Minister to approve of variations and cancellations and *subclause (2)* omits the provisions requiring that approval.

Clause 10: Section 452 of the principal Act empowers the Chief Judge to make orders correcting errors and omissions in Court orders. This clause provides that an application for any such order shall not prevent the distribution of money pursuant to the order sought to be corrected unless an injunction is obtained against the trustee or other person holding the money for distribution. It also authorises the Chief Judge to make an order determining those persons to whom any money held for distribution, and to which the injunction relates, shall be paid.

Clause 11 makes an amendment consequential on an amendment made in 1959. The words omitted by the subclause are not now appropriate.

Clause 12: Certain sections of the principal Act provide for the creation of funds for the payment of compensation for improvements effected by lessees. The funds are held by the Maori Trustee. The effect of the clause is that where the owner sells his interest in any land in respect of which the fund is created, that part of the fund which attaches to the interest in the land shall pass with the sale and be held for the benefit of the new owner.

Clause 13: Doubt has arisen with respect to the validity of certain instruments executed by former Maori Land Boards or by the Maori Trustee as agent of assembled owners. This clause validates the instruments which have been executed before the commencement of the proposed Act.

Clause 14 makes miscellaneous amendments to the Maori Housing Amendment Act 1938.

Subclause (1) permits land subject to the Housing Act 1955 to be declared subject to the Maori Housing Act 1935.

Subclause (2) authorises Crown land subject to the Land Act 1948 to be used for Maori housing with the consent of the Land Settlement Board, notwithstanding that the land may not have been set aside under the Maori Housing Act 1935:

Subclause (3) applies section 18 of the Housing Act 1955 to agreements in respect of the sale of land for Maori housing. That section provides for the registration of agreements:

Subclause (4) repeats, with appropriate modifications, the provisions of the Housing Act 1955 relating to the revocation of agreements for sale and purchase by reason of default under the agreements:

Subclause (5): The effect of the amendment proposed by this subclause is that the disposition by a Maori owner of a house bought by him under the Maori Housing Act to another Maori before a certificate of title is issued for the land is invalid unless consented to by the Board of Maori Affairs. At present any such disposition does not require consent:

Subclause (6): At present all land comprised in a certificate of title issued under section 12 of the Maori Housing Amendment Act 1938 to a Maori is deemed to be Maori freehold land. This subclause repeals that provision and provides that any such land will be European land.

Clause 15 replaces a provision relating to the Special Maori Housing Fund. The clause effects several fundamental changes. The present purpose of the Fund is to provide a reserve against which losses brought about by the indigency of a Maori borrower can be written off. The Fund has grown considerably and is not called on to any large extent for its present purpose. The present clause, in addition to retaining the original purpose of the Fund, states new purposes for which the Fund may be used. These include the provision of accommodation for Maoris. Provision is also made for the grant of assistance to Maoris leaving their ordinary place of residence and moving to localities where they may have greater opportunity of employment.

Clause 16 rewrites the provisions of section 30 of the Maori Trustee Act 1953 relating to the disposition of unclaimed money in the Common Fund of the Maori Trustee. The clause proposes that all unclaimed money exceeding 10 per cent of the total thereof be paid to the Maori Education Foundation established by the Maori Education Foundation Act 1961.

Clause 17 authorises the payment of £10,000 to the Maori Education Foundation out of the General Purposes Fund of the Maori Trustee. It also requires the payment by the Maori Trustee to the Foundation in each year of a sum equal to 10 per cent of the net profits of the Maori Trust Office and permits the payment of a further sum (not exceeding 40 per cent of those profits) to that Foundation.

Clause 18, which is similar to the amendment proposed by *clause 12*, but relates to Maori vested land, and is included in the Bill for the same purpose, provides that where an interest in land in respect of which a compensation fund has been created is sold, the part of the fund relating to the interest shall pass with the sale.

Clause 19: Subclause (1) authorises Maori Trust Boards to make grants to the Maori Education Foundation and payments, not exceeding £200, for any purpose not otherwise specially authorised by the principal Act, whether or not any such grants or payments are of direct or indirect benefit to beneficiaries of the Board. Boards already have power to make grants for educational purposes but all such grants have to be for the general benefit of their beneficiaries.

Subclause (2) authorises Trust Boards to invest their funds in trustee securities.

Clause 20: This clause authorises Maori Trust Boards to appoint agents for the purpose of conducting farming operations. In particular it authorises the appointment of the Marginal Lands Board as agent with power to delegate.

Hon. Mr Hanan

MAORI PURPOSES

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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 1961.

No. 126—1

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. Judges to be Justices of the Peace—Section 16 of the principal Act is hereby amended by adding the following subsection:

“(3) The Chief Judge and every other Judge shall, by virtue of his office, be a Justice of the Peace for New Zealand.” 15

4. Rehearings—Subsection (1) of section 28 of the principal Act is hereby amended by omitting the word “fourteen”, and substituting the word “twenty-eight”.

5. Maori Land Court Orders—(1) Subsection (3) of section 34 of the principal Act is hereby amended by omitting the words “and a reference to the authority by which he so acts”.

(2) Section 34 of the principal Act is hereby amended by inserting, after subsection (8), the following subsection:

“(8A) Any order may be made subject to the performance of conditions within such time as may be limited in that behalf in the order and, in any such case, the Court, without further application but subject to the giving of such notices (if any) as the Court may direct, may amend or cancel the order on the failure to comply with the conditions within the time limited as aforesaid.” 25 30

6. Grant of letters of administration subject to bond—Section 125 of the principal Act is hereby amended by adding the following subsection:

“(4) Notwithstanding the provisions of this Act, where the grant of letters of administration is made subject to the giving of a bond or other security, the order making the grant shall have no effect until the bond or security is given in accordance with the order.” 35

7. **Disposition of interests of deceased owner of Maori land**—Paragraph (c) of subsection (2) of section 136 of the principal Act (as substituted by section 2 of the Maori Purposes Act 1957) is hereby amended by inserting, after the
5 word “vested”, the words “in any other beneficiary or”.

8. **Modes of partition**—The principal Act is hereby amended by repealing section 180, and substituting the following section:

“180. The Court may partition land—

10 “(a) Into parcels held by single owners in severalty:

“ (b) Into parcels held by two or more owners as joint tenants:

15 “ (c) Into parcels held by any number of owners as tenants in common together with owners holding as joint tenants:

“ (d) Into parcels held by two or more owners as tenants in common,—

or may partition the land in all of those ways or in any combination of two or more of those ways.”

20 9. **Vesting of land in trustees**—(1) Subsection (1) of section 438 of the principal Act is hereby amended by inserting, after the word “benefit”, the words “of the owners of the land or”.

25 (2) Subsection (8) of section 438 of the principal Act is hereby amended as follows:

(a) By omitting the words “with the approval of the Minister”:

(b) By omitting the words “with the like approval”.

30 10. **Amendment to orders by Chief Judge**—Section 452 of the principal Act (as amended by section 8 of the Maori Purposes Act 1958) is hereby further amended by adding the following subsections:

35 “(14) Notwithstanding the provisions of paragraph (f) of subsection (1) of section 30 of this Act, the Court may grant an injunction under that paragraph prohibiting the distribution by any trustee or agent of rent, purchase money, royalties or other proceeds of the distribution of land, or of any compensation payable in respect of the land, affected by any order to which an application under this section
40 relates.

“(15) Notwithstanding that an application has been made under this section, any trustee or agent holding any money for distribution as aforesaid may, unless an injunction under subsection (14) of this section has been obtained and served on him, distribute the money to the person entitled thereto in accordance with the terms of the order to which the application relates. 5

“(16) Where an injunction is obtained as aforesaid, the Chief Judge may, in the order made pursuant to the application before him or by a separate order determine the persons to whom any money to which the injunction relates shall be paid and their relative shares or interests in the money.” 10

11. Trust funds held by Maori Trustee—Paragraph (c) of subsection (4) of section 456 of the principal Act (as substituted by subsection (1) of section 29 of the Maori Purposes Act 1959) is hereby amended by omitting the words “grant of probate or other”. 15

12. Funds to meet compensation—The principal Act is hereby further amended by inserting, after section 456, the following section: 20

“456A. The disposition, by operation of law or otherwise, of the interest of the owner of any undivided share in the land in respect of which a fund to provide for the payment to the lessee of compensation for improvements is held by the Maori Trustee under section 247, section 353, or section 402 of this Act shall, notwithstanding anything to the contrary in any instrument of disposition, be and be deemed to be a disposition of his corresponding interest in the fund, and no such owner shall dispose of his interest in the fund otherwise than in accordance with this section.” 25 30

13. Validity of instruments executed on behalf of owners—
 (1) Where, before the commencement of this Act, a Maori Land Board or the Maori Trustee has executed an instrument which purports to be an instrument of alienation executed as agent of the owners pursuant to a resolution passed by the owners under Part XVIII of the Maori Land Act 1931 or Part XXIII of the principal Act, the instrument of alienation shall be deemed for all purposes to have been validly executed, notwithstanding that the resolution of the assembled owners has not been confirmed by the Court. 35 40

(2) Nothing in this section shall apply to any instrument of alienation heretofore declared by the Supreme Court to be invalid.

Amendments to Other Acts Relating to Maoris

5 **14. Maori Housing**—(1) Subsection (1) of section 2 of the Maori Housing Amendment Act 1938 is hereby amended by omitting the words “the Land Act 1924 or the Land for Settlements Act 1925”, and substituting the words “the Land Act 1948 or is State housing land within the meaning of the
10 Housing Act 1955”.

(2) Section 4 of the Maori Housing Amendment Act 1938 is hereby amended by adding the following subsections:

15 “(3) The Board, with the consent of the Land Settlement Board, given either generally or in respect of any particular area of land, may exercise any powers conferred on it by this section in respect of any land vested in Her Majesty the Queen and subject to the Land Act 1948, notwithstanding that the land has not been set apart for the purposes of the principal Act.

20 “(4) Where any expenditure has been incurred by the Board under subsection (3) of this section in respect of any land, the land shall not, without the consent of the Board, be disposed of under the Land Act 1948 to any person other than a person nominated in that behalf by the Board.”

25 (3) Section 8 of the Maori Housing Amendment Act 1938 is hereby amended by adding the following subsection:

30 “(5) The provisions of section 18 of the Housing Act 1955 shall apply to agreements under this section in all respects as if references in the said section 18 to the Corporation were references to the Board or to the Crown, as the case may require, the reference in subsection (5) of that section to regulations were a reference to regulations under this Act, and the reference in that subsection to section 37 of the Housing Act 1955 were a reference to section 11 of this Act.”

35 (4) Section 10 of the Maori Housing Amendment Act 1938 is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

40 “(2) Where any notice revoking an agreement for sale and purchase has been given upon default under the agreement—

 “(a) The acceptance by or on behalf of the Board of any money payable under the agreement shall not of itself constitute evidence of a new agreement or operate as a waiver of the notice; and

“(b) It shall not be necessary for the Board to wait any further period or give any other notice or make any further demand, any rule of law or equity to the contrary notwithstanding.

“(3) Notwithstanding anything to the contrary in section 63 of the Land Transfer Act 1952 or in any other Act, where the Board lawfully revokes an agreement for sale and purchase under this Act, the purchaser and all persons claiming through the purchaser shall forthwith vacate the land and yield up possession thereof to the Board:

“Provided that this subsection shall not apply to persons who claim by virtue of an instrument approved by the Board and who have complied with all the terms and conditions of the approval.”

(5) Subsection (3) of section 11 of the Maori Housing Amendment Act 1938 is hereby amended by omitting the words “or in favour of a Maori”.

(6) Section 12 of the Maori Housing Amendment Act 1938 is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) All land comprised in any certificate of title issued under this section shall be deemed to be European land.”

(7) Any land comprised in any certificate of title issued under section 12 of the Maori Housing Amendment Act 1938 which, immediately before the commencement of this subsection, was deemed to be Maori freehold land shall, on the commencement of this subsection, be deemed to be European land and the District Land Registrar shall, on request by any person interested, make such entries in his registers or on any certificate of title or other relevant document as may be necessary to give effect to the provisions of this subsection.

15. Special Maori Housing Fund—(1) The Maori Housing Amendment Act 1938 is hereby amended by repealing section 18, and substituting the following section:

“18. (1) There is hereby established a fund to be called the Special Maori Housing Fund (hereinafter referred to as the Fund).

“(2) The Fund shall consist of—

“(a) All money held by the Maori Trustee at the commencement of this section in the separate account in his books called the Special Maori Housing Fund Account:

“(b) All accumulations of money belonging to the Fund:

“(c) All principal, interest, purchase money, rent, or other money received in respect of advances made or dwellings provided out of money in the Fund, or otherwise received in respect of expenditure from the Fund, whether before or after the commencement of this section:

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“(d) All other money lawfully payable into the Fund.

“(3) All money belonging to the Fund shall be paid into the Maori Trustee's Account to the credit of a separate account called the Special Maori Housing Fund Account.

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“(4) The Board may apply or use the money in the Fund for all or any of the following purposes:

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“(a) The acquisition by purchase, lease, or otherwise on behalf of the Crown of land, with or without buildings, for the purpose of providing accommodation for Maoris:

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“(b) The erection on land owned or leased by the Crown of buildings suitable for use for accommodation for Maoris:

“(c) The making of any alterations, extensions, or renovations to any such buildings which the Board considers necessary or desirable:

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“(d) The purchase, repair, or replacement of furniture, fittings, or equipment for any such buildings:

“(e) The payment of charges in respect of the upkeep, rent, running expenses, insurance, rates, maintenance, repair, supervision, and the payment of all other outgoings in respect of any such land or property:

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“(f) The making of grants or loans for the purpose of assisting Maoris to purchase essential furniture or clothing, or to pay household living expenses or removal expenses, in cases where Maoris who, with the approval of the Board, are being settled in localities where work is more readily available for them than in the localities in which they formerly lived:

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“(g) The making good of any loss in any case where, because of indigency or other circumstances, the person to whom an advance has been made, or to whom a dwelling has been disposed of, under the principal Act is unable to meet the payments, whether of principal or interest, required to be made by him.

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“(5) The Board may enter into tenancy agreements with the occupiers of any premises under its control pursuant to this section and no such tenancy agreement shall be invalid by reason of the fact that the occupier with whom the agreement is made is under the age of twenty-one years, notwithstanding anything to the contrary in any Act or rule of law. 5

“(6) Any tenancy granted under this section shall be on such terms and conditions and shall be at such rental as the Board thinks fit, and no tenancy agreement entered into in respect of any such tenancy shall have any effect unless it is in writing signed by or on behalf of the Board and by the tenant. 10

“(7) Notwithstanding anything to the contrary in the Rating Act 1925 or in any other Act, no tenant under a tenancy under this section shall be deemed, for the purposes of any such Act, to be the occupier of the property subject to the tenancy. 15

“(8) At the close of each financial year the Board shall cause to be prepared in respect of the Fund a revenue account for that year, together with a balance sheet showing the assets and liabilities of the Board in respect of the Fund.” 20

(2) Subsection (2) of section 3 of the Maori Purposes Act 1954 and section 11 of the Maori Purposes Act 1957 are hereby repealed.

16. Unclaimed money in Common Fund—(1) Section 30 of the Maori Trustee Act 1953 is hereby amended by repealing subsections (9) to (13) (as substituted by subsection (1) of section 21 of the Maori Purposes Act 1960) and substituting the following subsections: 25

“(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: 30

“(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: 35

“(b) The residue shall be paid to the Maori Education Foundation established under the Maori Education Foundation Act 1961. 40

“(10) The Maori Trustee may, without complying with any of the foregoing provisions of this section, dispose of any money of the classes specified in subsection (11) of this section as if it were unclaimed money, whether or not it is unclaimed money within the meaning of this section. 45

“(11) The money to which subsection (10) of this section relates is:

5 “(a) Any money (other than capital money in excess of ten pounds) credited to the account of any beneficiary from which money has been previously disposed of as unclaimed:

10 “(b) 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:

15 “(c) Any money held by the Maori Trustee 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.”

20 (2) Paragraphs (e) and (f) of subsection (1) of section 23 of the Maori Trustee Act 1953 (as added by subsection (3) of section 21 of the Maori Purposes Act 1960) are hereby repealed.

(3) Subsections (1), (3), and (4) of section 21 of the Maori Purposes Act 1960 are hereby repealed.

17. Contributions by Maori Trustee to Maori Education Foundation—(1) There may be paid by the Maori Trustee 25 from the General Purposes Fund established by section 23 of the Maori Trustee Act 1953, without further appropriation than this section, the sum of ten thousand pounds to the Maori Education Foundation established under the Maori Education Foundation Act 1961.

30 (2) Section 32 of the Maori Trustee Act 1953 is hereby amended by inserting, after subsection (1), the following subsection:

35 “(1A) The Maori Trustee shall in every financial year pay out of the General Purposes Fund to the Maori Education Foundation established by the Maori Education Foundation Act 1961 a sum equal to ten per cent of the net profits of the Maori Trust Office for the last preceding financial year and he may pay in any financial year a further sum, not exceeding forty per cent of the aforesaid net profits, to 40 that Foundation.”

(3) Subsection (2) of this section shall come into force on the first day of April, nineteen hundred and sixty-two.

18. Compensation fund for vested land leases—Section 55 of the Maori Vested Lands Administration Act 1954 is hereby amended by adding the following subsection:

“(3) The disposition, by operation of law or otherwise, of the interest of the owner of any undivided share in the land in respect of which a fund to provide for the payment to the lessee of compensation for improvements is held by the Maori Trustee under this section shall, notwithstanding anything to the contrary in any instrument of disposition, be and be deemed to be a disposition of his corresponding interest in the fund, and no such owner shall dispose of his interest in the fund otherwise than in accordance with this subsection.”

19. Powers of Maori Trust Boards—(1) The Maori Trust Boards Act 1955 is hereby amended by inserting, after section 24, the following section:

“24A. Any Board may from time to time, in its discretion—

“(a) Make grants to the Maori Education Foundation established by the Maori Education Foundation Act 1961:

“(b) Make payments, not exceeding in the aggregate the sum of two hundred pounds in any financial year, for any purposes not otherwise specifically authorised by this Act,—

whether or not any such grants or payments are of direct or indirect benefit to the beneficiaries of the Board, or any of them.”

(2) The Maori Trust Boards Act 1955 is hereby further amended by inserting, after section 25, the following section:

“25A Any Board may from time to time, in its discretion, invest any of its funds not required for other purposes in any securities in which trust funds may be invested by trustees in accordance with the Trustee Act 1956.”

20. Maori Trust Board may appoint agent to farm—

(1) Section 26 of the Maori Trust Boards Act 1955 is hereby amended by adding the following subsections:

“(4) A Board may appoint an agent to exercise on its behalf the powers conferred on it by paragraph (a) of subsection (2) of this section to occupy and manage land for farming, reclamation, or other purposes, and the Board may authorise any such agent—

“(a) To exercise such of the powers of the Board as the Board may from time to time in writing direct; and

5 “(b) To receive, notwithstanding anything to the contrary in this or any other Act, money otherwise payable to the Board into an account kept by the agent, and, without further authority, to disburse any such money in the course of and for the purposes of the operations conducted by the agent.

10 “(5) Without limiting the authority of a Board to appoint an agent, it is hereby declared that the Board may, with the consent of the Marginal Lands Board established under the Marginal Lands Act 1950, appoint that Board as its agent, and the Marginal Lands Board if so appointed—

15 “(a) May, in the performance of its functions as agent of a Board, exercise the same powers of delegation as are conferred on it by section 6 of the Marginal Lands Act 1950 in respect of its functions under that Act, and the provisions of that section shall, with the necessary modifications, apply accordingly:

20 “(b) May direct any officer or officers to whom it has delegated any powers under paragraph (a) hereof to establish a separate banking account at any trading bank for the purposes of such operations as are conducted by it as agent of a Board.”

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