

[AS REPORTED FROM THE MAORI AFFAIRS COMMITTEE]

House of Representatives, 23 November 1961

Words struck out by the Maori Affairs Committee are shown with black rule at beginning and after last line of struck out matter; words inserted are shown with double rule before first line and after last line of new matter.

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.

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”. 20

(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.” 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”.

Struck Out

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
40 any compensation payable in respect of the land, affected by any order to which an application under this section 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,

New

5 nor to any instrument of alienation in respect of which proceedings in the Supreme Court have been commenced before the passing of this Act.

Amendments to Other Acts Relating to Maoris

10 **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 Housing Act 1955”.

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

20 “(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.

25 “(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.”

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

35 “(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.”

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

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

45 “(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:

5 “(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:

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

10 “(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.

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

15 “(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:

20 “(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:

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

30 “(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:

35 “(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:

40 “(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.

Struck Out

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

New

25 (3) Paragraph (e) of subsection (3) of section 17 of the Maori Trustee Act 1953 (as added by subsection (2) of section 21 of the Maori Purposes Act 1960) is hereby repealed.

30 (4) Section 21 of the Maori Purposes Act 1960 is hereby repealed.

35 (5) Notwithstanding the foregoing provisions of this section or the provisions of any other enactment, and notwithstanding the repeal by section 21 of the Maori Purposes Act 1960 of subsections (11), (12), and (13) of section 30 of the Maori Trustee Act 1953, the provisions of the said subsections as originally enacted shall be deemed to enure for the purpose of enabling one scheme of distribution to be prepared in respect of unclaimed money derived from the South Island Maori Land Court district, and the provisions of the said subsections (11), (12), and (13) as originally enacted shall apply to any scheme of distribution prepared in accordance with this subsection as if those subsections had never been repealed:

New

Provided that no such scheme of distribution shall have any application in respect of any sum in excess of two thousand five hundred pounds:

Provided also that it shall not be necessary to have any such scheme confirmed by the Court. 5

17. Contributions by Maori Trustee to Maori Education Foundation—(1) There may be paid by the Maori Trustee 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. 10

(2) Section 32 of the Maori Trustee Act 1953 is hereby amended by inserting, after subsection (1), the following subsection: 15

“(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 that Foundation.” 20

(3) Subsection (2) of this section shall come into force on the first day of April, nineteen hundred and sixty-two. 25

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.” 30 35

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—

5 “(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,
10 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.”

15 (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
20 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:

25 “(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—

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

“ (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,
35 and, without further authority, to disburse any such money in the course of and for the purposes of the operations conducted by the agent.

“ (5) Without limiting the authority of a Board to appoint an agent, it is hereby declared that the Board may, with the
40 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—

“(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: 5

“(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.” 10

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

New

Miscellaneous Provisions 15

21. Validating devise under will of Tiki Taimona Hurae—
Notwithstanding the provisions of section 114 of the principal Act, the devise of an interest in land to Hungahunga Richard Hurae under the will of the late Tiki Taimona Hurae, of Tapairu, carpenter, shall be deemed to be a good and valid devise and shall take effect according to its tenor. 20

22. Distribution of proceeds from Tarawera 5B Block—
The money referred to in the prayer of the petition to the House of Representatives of Ngateru Mohi and others, dated the thirtieth day of October, nineteen hundred and sixty-one, being money arising under an agreement for the sale of timber on the land known as Tarawera 5B Block, shall, together with any interest that may have accrued thereon, be paid, as soon as practicable after the commencement of this section, to the Maori Trustee, and the Maori Trustee shall, after deducting therefrom all sums properly deductible, whether for costs, charges, commission, or otherwise, distribute the money to the persons named in the provisional list of owners of the Tarawera Block declared by the Court on the seventh day of May, nineteen hundred and fifty-three, under paragraph (b) of subsection (2) of section 13 of the Maori Purposes Act 1952, in accordance with their relative shares expressed in that list, or to the successors of those persons in their relative shares. 30 35
