

MAORI PURPOSES BILL

EXPLANATORY NOTE

PART I

AMENDMENTS TO MAORI AFFAIRS ACT 1953

Clause 3: Section 114 of the principal Act prohibits the disposition by a Maori of Maori land by will to a European. The term "European" at present includes the descendant of a Maori who is less than half blood. The clause will enlarge the rights of Maoris to dispose of property by will to any person who is the descendant of a Maori.

Clause 4: Subsection (4) of section 116 of the principal Act provides that the persons entitled on a complete or partial intestacy of a Maori or descendant of a Maori to succeed to his intestate estate so far as it consists of an interest in a trust fund to which section 456 applies shall be determined in accordance with that section. By section 34 of the Maori Affairs Amendment Act 1962, the destination of trust funds was altered in that the fund now passes to the executor or administrator in the estate or it goes to those in whose favour a personalty order is made by the Court. Subsection (4) of section 116 is now redundant.

Clause 5: The provisions of section 136 of the principal Act which are being repealed give to the Court discretionary power to dispose of interests worth not more than £10 to one or other of the successors to the exclusion of others, or to another owner in the same land. This clause takes away the discretion and makes the rule mandatory.

Clause 6: This clause corrects an omission made in a previous amendment.

Clause 7: Sections 222 and 464 make special provisions as to the execution by Maoris of instruments of alienation and of instruments by way of security. The effect of the amendments in this clause is to remove all special rules as to the attestation of any such documents when they are signed by Maoris.

Clause 8: Under section 231 of the principal Act, the Court can direct that, where the proceeds of the sale of Maori land due to any one owner exceeds £1,000, the money shall be held by the Maori Trustee on trust for specific purposes of benefit to the owner. This clause takes away that power and dissolves trusts of the sort subsisting at the commencement of the Act.

Clause 9 ensures the right of incorporated owners to appoint proxies for meetings.

Clause 10: Section 433 of the principal Act authorises the Maori Appellate Court to declare Maori land owned by a single owner to be European land. This clause transfers that authority to the Maori Land Court.

Clause 11 transfers from the Maori Appellate Court to the Maori Land Court the authority to make an order exempting any Maori from complying with special formalities relating to the execution of certain documents.

Clause 12: Section 438 of the Maori Affairs Act 1953 enables the Maori Land Court, with the consent of the Minister, to vest Maori land in trustees upon trust for some purpose such as development for subdivision or for farming or the like for the financial benefit of the beneficial owners. This amendment authorises the Maori Land Court to lay down adequate accounting requirements for the protection of the owners and to exercise in relation to the trusts which it has created the general powers of supervision over trusts which are contained in section 83B of the Trustee Act 1956.

Clause 13 makes an amendment relating to encroachments on Maori land corresponding to that proposed by the Property Law Amendment Act 1963.

Clause 14 provides that Maori freehold land less than half an acre in area owned by a single owner or by joint tenants and occupied by the owner as a family home shall become European land.

Clause 15: The purpose of this clause is to make it clear that the authority of the Board of Maori Affairs to make advances to assist Maoris in the farming, improvement, and development of their lands which are not subject to the development provisions contained in Part XXIV of the Maori Affairs Act 1953 extends to enable the Board to assist Maori Incorporations.

PART II

AMENDMENTS TO OTHER ACTS AND MISCELLANEOUS PROVISIONS

Clause 16 authorises the Maori Trustee to establish training centres for the tuition of Maoris and to make grants to persons for the purpose of providing residential accommodation to Maoris in need of special care or tuition.

Clause 17: This clause provides that the value of an uneconomic interest in a West Coast Settlement Reserve shall not exceed £10. This is to correct an omission in the existing legislation. It also enables family arrangements to be made on succession to prevent interests passing as uneconomic.

Clause 18: In the early days of Maori land development, notices were issued declaring virtually all the Maori lands in North Auckland to be subject to the appropriate statutory provisions. No development money was spent on many of the blocks affected by the notices, and the continued existence of them, so far as they have not been superseded by later notices, has imposed a clog on the titles which ought to be removed. This clause revokes the notices.

Clause 19: This clause gives effect to a most favourable recommendation on a petition touching the Pukepuke Tangiora estate. The land affected by it comprises the site of a meeting house and other buildings and was, really through inadvertence, vested in the life tenants of the estate. The clause revests the area in the trustees of the estate, and authorises the trustees to spend money on the upkeep of the buildings.

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:

No. 90—1

1. Short Title—This Act may be cited as the Maori Purposes Act 1963.

PART I

AMENDMENTS TO MAORI AFFAIRS ACT 1953

2. This Part to form part of Maori Affairs Act 1953—This Part of this Act shall be read together with and deemed part of the Maori Affairs Act 1953 (in this Part referred to as the principal Act). 5

3. Dispositions by will of Maori land—Section 114 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 10

“(1A) For the purposes of subsection (1) of this section, no descendant of a Maori shall be deemed to be a European.”

4. Succession on intestacy—Subsection (4) of section 116 of the principal Act is hereby repealed. 15

5. Disposition of interests of deceased owners of Maori land—Subsection (2) of section 136 of the principal Act (as substituted by section 2 of the Maori Purposes Act 1957) is hereby amended by repealing paragraphs (d) and (e), and substituting the following paragraphs: 20

“(d) Where the value of the interest of a deceased owner in any land does not, in the opinion of the Court, exceed ten pounds, the Court shall, if the Maori Trustee has, pursuant to section 137 of this Act, declined to accept the interest, vest the interest without any payment being required therefor in one of the beneficiaries or in any other person beneficially interested in the land: 25

“(e) Where the value of the interest of a deceased owner in any land, in the opinion of the Court, exceeds ten pounds, but the value of the share or shares to which any one or more of the beneficiaries would be entitled is less than ten pounds, the Court shall not vest those shares in the beneficiaries who would be entitled but shall, if the Maori Trustee has, pursuant to section 137 of this Act, declined to accept the interests, distribute those shares, without any payment being required therefor, amongst the other beneficiaries who are otherwise entitled to shares of a value of ten pounds or more. If none of the beneficiaries is entitled to an interest of the 30 35 40

5 value of ten pounds or more, the Court may, without any payment being required therefor, vest the interest of the deceased in one or more of the beneficiaries to the exclusion of the others in such a manner that no beneficiary in whom an interest is so vested shall receive an interest of a value of less than ten pounds."

10 **6. Assignment of proceeds of Maori land**—Subsection (2) of section 217 of the principal Act, as amended by section 16 of the Maori Affairs Amendment Act 1962, is hereby further amended by omitting the words "such alienation", and substituting "such alienation, assignment".

15 **7. Attestation of signatures**—(1) Subsections (2), (3), (4), and (5) of section 222 of the principal Act are hereby repealed.

(2) Section 464 of the principal Act is hereby repealed.

(3) Paragraph (c) of regulation 15 of the Family Benefit (Home Ownership) Regulations 1959 is hereby revoked.

20 **8. Trusts for proceeds of alienation**—(1) Subsections (3), (4), and (7) of section 231 of the principal Act are hereby repealed.

(2) Subsection (5) of section 231 of the principal Act is hereby amended by omitting the words "Except as provided in the foregoing provisions of this section".

25 (3) Section 20 of the Maori Purposes Act 1959 is hereby repealed.

(4) All property held at the commencement of this Act by the Maori Trustee in trust pursuant to any enactment repealed by subsection (1) of this section is hereby freed, 30 released, and discharged from the provisions of the trust and any money so held in trust by the Maori Trustee shall be paid to the persons entitled thereto.

9. Meetings of incorporated owners—Section 300 of the principal Act is hereby amended by inserting, after subsection 35 (3), the following subsections—

"(3A) Subject to any regulations under this Act, any owner may attend and vote at any meeting of the incorporated owners either personally or by a proxy appointed by him in writing.

“(3B) Any owner who is under disability and for whom a trustee is in office under Part X of this Act shall, for the purposes of this section, be represented by his trustee, who may attend, vote, and act at any meeting either personally or by a proxy, in the same manner and on the same conditions as if the trustee were an owner.” 5

10. Declarations as to Maori land—Section 433 of the principal Act is hereby amended by omitting the words “the Appellate Court”, and substituting the words “the Maori Land Court”. 10

11. Exemption orders—Subsection (1) of section 433A of the principal Act (as inserted by section 7 of the Maori Purposes Act 1955) is hereby amended by omitting the words “The Maori Appellate Court”, and substituting the words “The Maori Land Court”. 15

12. Court orders in respect of trustees—(1) Section 438 of the principal Act is hereby amended by repealing subsection (7), and substituting the following subsections:

“(7) Any order under this section may confer on the trustees such powers, and make such provisions as to the keeping, filing, inspection, and auditing of the accounts of the trustees, as the Court deems necessary or desirable for the proper administration of the property. 20

“(7A) In any such order the Court may apply the provisions of section 83B of the Trustee Act 1956 (as inserted by section 10 of the Trustee Amendment Act 1957) and any regulations thereunder to the trustees and, in any such case, the said section 83B and the said regulations shall apply accordingly and shall be read and construed as if references therein to the Supreme Court or the Public Trustee were references to the Maori Land Court or the Maori Trustee, as the case may require.” 25 30

(2) Any order made under section 438 of the principal Act and subsisting at the commencement of this section may from time to time be amended by the Court in accordance with subsections (7) and (7A) of that section (as substituted by this section) and no such amendment shall require the approval of the Minister. 35

13. Relief in cases of mistake as to boundaries or identity of land—(1) Subsection (1) of section 453A of the principal Act (as inserted by section 27 of the Maori Purposes Act 1959) is hereby amended by adding the words “or by section 129A of the Property Law Act 1952 (as inserted by section 3 of the Property Law Amendment Act 1963) excepting subsection (7) of that section”.

(2) Section 453A of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) Instead of awarding damages to the owner of the land encroached or wrongly built upon, the Court may, in its discretion, award to the owner such portion of the encroaching owner’s land or of the original land as in the Court’s opinion will be reasonable recompense to the owner whose land has been encroached or wrongly built upon, and the Court may make a vesting order accordingly.”

(3) Subsections (2) and (3) of section 453A of the principal Act are hereby repealed.

14. Certain Maori land to become European land—The principal Act is hereby amended by inserting, after section 454, the following section:

“454A. (1) This section applies to any Maori freehold land which—

“(a) Is beneficially owned in severalty or by two or more persons as joint tenants for a legal estate in fee simple; and

“(b) Is half an acre or less in area; and

“(c) Has erected thereon a dwelling house used as a home by the owner or one of the owners; and

“(d) Is not used by the owner or one of the owners in conjunction with other land owned by him in such a way as to form part of a farm.

“(2) Notwithstanding the provisions of this Act, any land to which this section applies shall be deemed for all purposes to be European land upon the issue of a certificate under the hand of a Judge or Registrar and the seal of the Court certifying that the land is land to which this section applies and that the land is European land.

“(3) Any such certificate may be issued on the application of the owner or owners of the land or may be issued by the Court or the Registrar without application, and shall be conclusive evidence that the land to which the certificate relates is European land.

“(4) Any such certificate may be registered under the Land Transfer Act 1952.”

15. Advances to Maori Incorporations—Section 460 of the principal Act is hereby amended by adding the following subsection: 5

“(6) The authority conferred on the Board of Maori Affairs under this section to make advances may be exercised by it in respect of any body corporate constituted under Part XXII of this Act, and all the provisions of this section shall, with the necessary modifications, extend and apply to any advance so made.” 10

PART II

AMENDMENTS TO OTHER ACTS AND MISCELLANEOUS PROVISIONS

16. Expenditure by Maori Trustee from General Purposes Fund—Section 33 of the Maori Trustee Act 1953 is hereby amended by repealing subsection (2), and substituting the following subsections: 15

“(2) The Maori Trustee, with the approval of the Minister, may from time to time— 20

“(a) Purchase, take on lease, or otherwise acquire any land or premises for the purpose of providing or maintaining hostels for the accommodation of Maoris or the descendants of Maoris:

“(b) Establish and maintain training centres or farms for the care and instruction of Maoris or the descendants of Maoris and, for any such purpose, purchase, take on lease, or otherwise acquire any real or personal property: 25

“(c) Do all things necessary for the erection, replacement, repair, upkeep, improvement, maintenance, operation, furnishing, and equipment of any building or premises on any land to which paragraph (a) or paragraph (b) of this subsection applies: 30

“(d) Employ such persons and pay such remuneration or wages as the Maori Trustee thinks fit to any person employed at any such hostel, training centre, or farm: 35

“(e) Make grants or loans, with or without interest, to any person for the purpose of providing residential accommodation for Maoris or the descendants of Maoris who, in the opinion of the Maori Trustee, are in need of special care or instruction, whether at a training centre, farm, or otherwise. 40

“(2A) Notwithstanding the provisions of subsection (2) of this section, the approval of the Minister shall not be required under that subsection in respect of any item of expenditure that does not exceed two hundred and fifty pounds or in
5 respect of the employment of or the payment of remuneration or wages to any person.”

17. Uneconomic interest in West Coast Settlement Reserves—(1) Subsection (1) of section 4 of the Maori Purposes Act 1962 is hereby amended by omitting the words
10 “the value of an uneconomic interest in the reserve shall be ten pounds”, and substituting the words “an uneconomic interest in the reserve shall be an interest the value of which does not exceed ten pounds”.

(2) Section 4 of the Maori Purposes Act 1962 is hereby
15 further amended by repealing subsection (2), and substituting the following subsections:

“(2) The Court may, notwithstanding anything in the principal Act, give effect to any arrangement or agreement made between or on behalf of the beneficiaries and which the
20 Court considers to be sufficient for the purpose of the disposition of the interest of any deceased owner in the reserve:

“Provided that no person shall take under any such arrangement or agreement any interest which, by itself, is an uneconomic interest.

25 “(3) Except so far as any uneconomic interest to which a beneficiary is legally entitled has not been disposed of pursuant to an arrangement or agreement as aforesaid, any such interest shall be vested in the Taranaki Maori Trust Board.”

(3) This section shall be deemed to have come into force
30 on the fourteenth day of December, nineteen hundred and sixty-two.

Miscellaneous Provisions

18. Maori land development scheme notices revoked—
35 (1) The notices specified in the Schedule to this Act whereby the Minister of Maori Affairs gave notice of an intention to apply the provisions of section 23 of the Maori Land Amendment and Maori Land Claims Adjustment Act 1929 or of section 522 of the Maori Land Act 1931 to the lands mentioned
40 in any such notice, or whereby the lands mentioned in any such notice were notified as being subject to the said section 522, or whereby any such notice was varied, are hereby revoked.

(2) The revocation of any notice by subsection (1) of this section shall not affect any other notice whereby any of the lands mentioned in any notice so revoked became subject to any of the enactments specified in the said subsection (1), or to Part I of the Maori Land Amendment Act 1936, or to Part XXIV of the Maori Affairs Act 1953. 5

(3) The District Land Registrar is hereby authorised and directed to make all such amendments to the register as are necessary to give effect to this section.

(4) This section shall come into force on the first day of 10 January, nineteen hundred and sixty-four.

19. Pukepuke Tangiora Estate—For the purpose of giving effect to the recommendation of the Maori Affairs Committee of the House of Representatives on Petition numbered 42 of 1962 of Tahatera Tomlins and others: Be it enacted as follows: 15

(1) Upon the commencement of this Act, the land known as Kakiraawa 2B 2F 3 balance, situated in Block III, Te Mata Survey District, containing one acre two roods twenty-nine perches and two-tenths of a perch, more or less, and being the whole of the land comprised and described in certificate of title, Volume 127, folio 230, Hawke's Bay Registry, shall, without any transfer or other instrument of assurance, vest in the trustees of the estate of Pukepuke Tangiora, deceased, appointed pursuant to section 17 of the Maori Purposes Act 1943 free from the right, title, estate or interest of any other person. 20 25

(2) The District Land Registrar shall, on the application of the aforesaid trustees, make such amendments to the register as are necessary to give effect to this section. 30

(3) The aforesaid trustees may use any money coming into their hands in the course of administration of the said estate for the purpose of repairing, restoring, and maintaining any of the buildings on the said land, and may apportion the money so spent as between capital and income as in their absolute discretion they see fit. 35

(4) Nothing in subsection (7) of section 17 of the Maori Purposes Act 1943 shall apply to the land to which this section relates.

SCHEDULE

Section 18

NOTICES RELATING TO MAORI LAND DEVELOPMENT REVOKED

Development Scheme	No.	Date	<i>Gazette</i>	Page
Mangonui	48	26 June 1930		2053
	66	25 September 1930		2850
	62	22 September 1932		2046
Bay of Islands	48	26 June 1930		2054
	66	25 September 1930		2851
	72	19 October 1933		2563
Hokianga	66	25 September 1930		2850
	67	17 September 1931		2822
	62	22 September 1932		2046
	42	8 June 1933		1538
	54	13 August 1936		1586
North Hokianga	48	26 June 1930		2054
South Hokianga	48	26 June 1930		2055
Kaipara	45	19 June 1930		1983
	62	22 September 1932		2046
	30	4 April 1940		656