

## MAORI PURPOSES BILL

### EXPLANATORY NOTE

*Clause 3:* This clause increases, as from 1 April 1964, the salary of the Chief Judge of the Maori Land Court to £3,500 per annum, and the salaries of other Judges to £3,300 per annum.

*Clause 4:* Under section 32 of the principal Act, the Court has power to order money held by the Maori Trustee or Department in trust for a Maori to be paid to the person entitled or to any other person whom the Court may direct. The Maori incorporations hold money in the same way, and the amendment extends the power of the Court to the incorporations.

*Clause 5:* There is no present express power for the Court to discharge a receiver and since the Court derives its powers from statutory provisions it is considered desirable to give this power by statute.

*Clause 6:* Section 116 of the principal Act which deals with succession to a Maori on intestacy contains a reference to a trust fund to which section 456 of the Act applies. Section 456 was repealed by section 8 of the Maori Purposes Act 1963, and the amendment merely omits the reference to the section in section 116.

*Clause 7:* Section 8 of the Maori Affairs Amendment Act 1962 repealed the earlier provisions for family protection for Maoris and gave the Court jurisdiction to apply the provisions of the Family Protection Act 1955 to Maori estates. It was overlooked, however, that the jurisdiction given to the Court by section 19 of the Maori Purposes Act 1959 to amend certain vesting orders made on applications to succeed before the Family Protection proceedings were heard would still be needed in some cases and this clause adds these provisions to the substituted section 118 of the Maori Affairs Act 1953. It is also made clear that appeals from orders made by the Maori Land Court in the exercise of the family protection jurisdiction shall lie to the Maori Appellate Court.

*Clause 8:* Section 124 of the principal Act provides that a will made by a Maori shall be void if application is not made for a grant of administration within two years from the death of the testator, subject to certain extensions which can be granted by the Court. The amendment being made applies to

Maori wills the same law as is applicable to other wills. It also makes provision for the adjustment of succession orders in the case where orders have erroneously been made on the footing that no will existed.

*Clause 9:* Section 239A of the Maori Affairs Act 1953 enables the Maori Trustee where he is collecting the rent to consent on behalf of the owners to an assignment of a lease. This clause extends the authority to meet the case where the lessee applies for approval to sublet or otherwise to part with possession of the land or any part thereof.

*Clause 10:* This clause makes some amendments to the procedure for the execution of instruments of alienation on behalf of a body corporate. At present such documents require to be signed in the presence of a majority of the members of the committee of management which, in many cases, means six or more signatures. This clause permits an alternative method whereby if the committee of management passes the necessary resolution and the substance of the resolution and its date are recited in the instrument, the instrument may be signed on behalf of the committee by any two members.

*Clause 11:* This clause authorises a local authority to apply to the Court to vest a road which it has stopped in the Maori owners of adjoining land. At present all such applications have to be made by the Minister of Works.

*Clause 12:* Under section 435 of the principal Act, the Maori Land Court can amalgamate the titles of Maori land and European land owned by Maoris. Commonly, the land development schemes include areas of Crown land under the control of the Board of Maori Affairs. This clause authorises the Court, with the consent of the Board of Maori Affairs, to bring the Crown land within the scope of an amalgamation order.

*Clause 13:* Section 447A of the Maori Affairs Act 1953 enables finance for roading and other development of Maori Land Court subdivisions to be provided by the Maori Trustee or local authorities. This clause enables other persons interested to find the money for the work. The Court is authorised to make orders charging the expenditure on the appropriate land and provides for the enforcement of the charges by a receiver.

*Clause 14:* Section 6 of the Maori Purposes Act 1963 removed the special requirements as to the attestation of signatures of Maoris to instruments of alienation of Maori land, and Maoris can now sign such documents in the same manner as Europeans. This section has made redundant certain other statutory provisions about execution of instruments of alienation by attorneys, by bodies corporate, and by certain trustees and this clause repeals those provisions.

*Clause 15:* The Hatepe settlement, on the eastern shore of Lake Taupo, was laid out in its present form many years ago when there were no provisions corresponding to the present requirements of the Counties Amendment Act 1961, but the formalities of subdivision had never been attended to. In order to give the occupiers a proper title the Maori owners have been incorporated and wish to give confirmed leases but are now faced with the obstacle that under the present legislation they cannot get the necessary plans approved. This clause gives the Taupo County Council a discretion to approve the subdivision notwithstanding certain departures from the general requirements as to roading.

*Clause 16:* This clause makes an amendment to section 20 of the Maori Purposes Act 1963, providing for the disposal of the beneficial owners' interests in the Palmerston North Maori Reserve to the lessees. The clause provides an alternative means by which sales may be effected, the substance being that the Maori Trustee, upon an offer being made by the lessee to purchase at a price not less than that fixed in the clause, may purchase the owners' interests from moneys in the Maori Trustee's Conversion Fund, and then convey the freehold to the lessee.

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*Hon. Mr Hanan*

## MAORI PURPOSES

### ANALYSIS

Title	9. Maori Trustee may consent to assignment of lease	
1. Short Title	10. Form, custody, and use of seal of body corporate	
PART I		
AMENDMENTS TO MAORI AFFAIRS ACT 1953	11. Vesting orders for stopped roads	
2. This Part to form part of Maori Affairs Act 1953	12. Amalgamation of titles	
3. Salaries of Judges	13. Provision of finance for roading and other services	
4. Orders for payment of moneys held in trust	14. Attestation of signatures	
5. Discharge of receiver	PART II	
6. Provision relating to trust funds repealed	AMENDMENTS OF OTHER ACTS AND MISCELLANEOUS PROVISIONS	
7. Family protection	15. Subdivision of Opawa Rangitoto No. 2c Block	
8. Probate of Maori wills	16. Disposition of equitable interests in Palmerston North Maori Reserve	

### A BILL INTITULED

**An Act to amend the law relating to Maoris and Maori land, and for other purposes**

5 **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 1964.

## 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. Salaries of Judges—**(1) Section 21 of the principal Act  
(as substituted by section 18 of the Maori Purposes Act  
1959, and as amended by section 4 of the Maori Purposes  
Act 1960) is hereby further amended as follows: 10

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

(b) By omitting from subsection (2) the words “two thou-  
sand eight hundred pounds”, and substituting the  
words “three thousand three hundred pounds”. 15

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

(3) This section shall be deemed to have come into force  
on the first day of April, nineteen hundred and sixty-four. 20

**4. Orders for payment of moneys held in trust—**Subsec-  
tion (1) of section 32 of the principal Act is hereby amended  
by inserting, after the words “Public Service”, the words “or  
any body corporate under Part XXII of this Act”.

**5. Discharge of receiver—**Section 33 of the principal Act is 25  
hereby amended by adding the following subsections:

“(6) Where a receiver has performed the functions for  
which he was appointed or where the Court is satisfied for  
any other reason that the receiver should be discharged, the  
Court may make an order for his discharge and may, if 30  
necessary, appoint some other person to be a receiver in his  
place.

“(7) Where an application for discharge is made by the  
receiver, he shall file his final accounts therewith and, except  
where the receiver is the Maori Trustee, shall pay into Court 35  
any money held by him in respect of the receivership.”

**6. Provision relating to trust funds repealed—**Subsection  
(1) of section 116 of the principal Act is hereby amended by  
omitting the words “or other than an interest in a trust fund  
to which section four hundred and fifty-six hereof applies”. 40

**7. Family protection**—Section 118 of the principal Act (as substituted by section 8 of the Maori Affairs Amendment Act 1962) is hereby amended by adding the following subsections:

5 “(6) For the purposes of this section the power to appoint an interest in any property of the deceased shall be deemed to include a power to appoint an interest in any real property which has ceased to be part of the real estate of the deceased by reason of the making of an order under section 136 or section 145 of this Act.

10 “(7) In any case to which subsection (6) of this section applies, the Court may, without further application, but with such notice to any person who may be affected as the Court deems necessary, either amend its earlier order or cancel the earlier order and substitute therefor such other order under  
15 the appropriate section as may be necessary.

“**(8)** Notwithstanding anything in the Family Protection Act 1955, an appeal shall lie to the Appellate Court in respect of any order made by the Court under this section.”

**8. Probate of Maori wills**—(1) Section 124 of the principal Act is hereby repealed.

20 (2) Section 125 of the principal Act (as amended by section 6 of the Maori Purposes Act 1961) is hereby further amended by adding the following subsections:

25 “(5) The Court shall not grant probate of the will or letters of administration with will annexed of the estate of a deceased Maori upon an application lodged more than one year after the death of the deceased unless proper and sufficient reasons for the delay are adduced to the satisfaction of the Court.

30 “(6) Where an order under section 136 of this Act has been made in respect of the interests in land of any deceased Maori on the assumption that he had died intestate and subsequently thereto the existence of a will becomes known to the Court and the Court grants probate of the will or letters of administration with will annexed, the Court may, on such  
35 conditions as it thinks fit, cancel or amend the order made under the said section 136 and if necessary make another order in substitution therefor.

40 “(7) No order made under subsection (6) of this section shall affect any alienation or disposition made in good faith after the making of the order under the said section 136 and before the making of the order under subsection (6) of this section, and any such alienation or disposition may be completed as if no such subsequent order had been made.”

**9. Maori Trustee may consent to assignment of lease—** Section 239A of the principal Act, as inserted by section 23 of the Maori Affairs Amendment Act 1962, is hereby amended as from the commencement thereof by inserting, after the words “any lease”, the words “or to any subletting or other parting with the possession of the land or any part thereof”.

**10. Form, custody, and use of seal of body corporate—** Section 274 of the principal Act is hereby amended by repealing subsection (2), and by substituting the following subsections:

“(2) Subject to the provisions of subsection (3) of this section, the seal may be affixed to any instrument in the presence of a majority of the members of the committee of management and all the members of the committee present when the seal is affixed shall sign the instrument.

“(3) Pursuant to a resolution passed by the committee of management in that behalf, given either in specific or general terms, the seal may be affixed to any instrument in the presence of any two members of the committee. In any such case, the two members of the committee shall sign the instrument and there shall be an endorsement on the instrument stipulating the date and substance of the resolution passed by the committee of management as aforesaid.

“(4) Except as provided by this section the seal shall not be affixed to any instrument.”

**11. Vesting orders for stopped roads—** Subsection (1) of section 426 of the principal Act is hereby amended by inserting, after the words “Minister of Works”, the words “or of the local authority having control of the road or street at the time of closure”.

**12. Amalgamation of titles—** Section 435 of the principal Act, as heretofore amended, is hereby further amended by adding the following subsection:

“(8) With the consent of the Board of Maori Affairs, the Court may exercise the powers conferred on it by this section so as to include in its order any Crown land which is for the time being subject to Part XXIV of this Act.”

**13. Provision of finance for roading and other services—** Section 447A of the principal Act, as inserted by section 33 of the Maori Affairs Amendment Act 1962, is hereby amended as follows:

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(a) By inserting in subsection (6), after the words "Rating Act 1925", the words "or any other body or person":

(b) By adding thereto the following subsection—

5 " (8) Where the Court has issued an order under sub-  
section (6) of this section, it may make such orders as it  
thinks necessary charging the whole or any portion of the  
money expended, together with interest thereon at such rate  
as the Court determines, on the land in respect of which the  
10 expenditure has been applied. Any such charge may be en-  
forced by the appointment of a receiver under section 33 of  
this Act and the receiver so appointed may, if he is authorised  
so to do by the Court, sell the land for the purpose of satisfy-  
ing the charge."

15 **14. Attestation of signatures**—The following enactments  
are hereby repealed:

(a) Sections 223, subsection (5) of section 286, and sub-  
section (11) of section 438 of the principal Act:

(b) Paragraph (d) of subsection (3) of section 59 of the  
Maori Purposes Act 1931:

20 (c) Paragraph (d) of subsection (5) of section 49 of the  
Maori Purposes Act 1947:

(d) Subsection (4) of section 16 of the Maori Purposes  
Act 1948.

## PART II

25 **AMENDMENTS OF OTHER ACTS AND MISCELLANEOUS  
PROVISIONS**

30 **15. Subdivision of Opawa Rangitoto No. 2c Block**—Where-  
as the land firstly described in subsection (3) of this section is  
owned by the proprietors of Opawa Rangitoto No. 2c Block (a  
body incorporated under Part XXII of the Maori Affairs  
Act 1953); And whereas the said body corporate proposes to  
purchase the land secondly described in subsection (3) of  
this section from the Crown: And whereas the body corporate  
35 has authorised certain persons to enter into possession of por-  
tions of the said lands and dwellinghouses and other structures  
have been erected on those portions and roadways have been  
constructed to provide access thereto: And whereas the said  
body corporate desires to subdivide the said lands and has  
prepared a scheme of subdivision in substantial conformity  
40 with the present occupation thereof: And whereas the scheme  
of subdivision cannot be approved by the local authority



or be otherwise proceeded with as it does not comply with the provision of section 24 of the Counties Amendment Act 1961 as to widths of roads in subdivisions: And whereas it is expedient to make special provision for the laying off of underwidth roads within the said lands as hereinafter provided: Be it therefore enacted as follows: 5

(1) Notwithstanding the provisions of subsection (4) of section 24 of the Counties Amendment Act 1961 or any other Act, it shall be lawful for the Taupo County Council to approve a scheme plan of subdivision of the lands described in subsection (3) of this section, or any part or parts of those lands, notwithstanding that any new or proposed road shown on the scheme plan is of a width less than sixty-six feet measured at right angles to its course, or does not conform with any other requirement of the said section 24: 10 15

Provided that no such new or proposed road shall be of a width less than forty feet measured as aforesaid.

(2) Any approval given by the Taupo County Council under subsection (1) of this section shall be deemed for all purposes to have been given under the provisions of Part II of the Counties Amendment Act 1961. 20

(3) The lands to which this section relates are particularly described as follows:

Firstly, all that area in the South Auckland Land District containing twenty-nine acres and eleven perches, more or less, being the Opawa Rangitoto No. 2c Block situated in Block I, Waitahanui Survey District, and being all the land comprised and described in provisional register Volume 243, folio 82, South Auckland Registry (S.O. Plan 42783). 25

Secondly, all that area in the South Auckland Land District containing one acre three roods five perches, more or less, being part of Opawa Rangitoto No. 1 Block and being part of the land comprised and described in provisional register Volume 185, folio 6, South Auckland Registry (S.O. Plan 42783). 30 35

**16. Disposition of equitable interests in Palmerston North Maori Reserve**—Section 20 of the Maori Purposes Act 1963 is hereby amended by adding the following subsections:

“(7) Notwithstanding anything in the foregoing provisions of this section, the Maori Trustee may sell any land to the lessee thereof in accordance with the following requirements, that is to say— 40

- 5 “(a) A lessee may give notice to the Maori Trustee that he  
desires to acquire the freehold of the land com-  
prised in his lease at a price to be stated in the  
notice, being a sum not less than the amount of the  
unimproved value of the land as determined by a  
special valuation to be made for the purposes of this  
subsection by the Valuer-General, at the expense of  
the lessee, not earlier than six months before the  
date of the notice, with the addition of ten per cent  
thereof:
- 10 “(b) Any such notice shall be deemed to be an offer open  
for acceptance by the Maori Trustee for a period  
of one year and shall be accompanied by a deposit  
equal to ten per cent of the price offered by the  
lessee; but any such deposit shall be refunded to the  
lessee if the Maori Trustee is, for any reason, unable  
to accept his offer:
- 15 “(c) Where any such notice has been given, the Maori  
Trustee may, out of the Conversion Fund estab-  
lished by Part XIII of the Maori Affairs Act 1953  
and in accordance with that Part, purchase  
from one or more of the beneficial owners in  
the land shares equivalent to the proportion of the  
total shares in the land which the unimproved value  
of the land referred to in the notice, as appearing  
in the district valuation roll then in force under the  
Valuation of Land Act 1951, bears to the total of  
all unimproved values of all the lots comprised in  
the land as appearing in that roll:
- 20 “(d) The price to be paid to the beneficial owners shall be  
equal to their proper proportion of the sum offered  
by the lessee less the Maori Trustee’s commission  
which shall be fixed by him at not more than five  
per cent of the price offered by the lessee:
- 25 “(e) If at any time while the lessee’s offer remains open for  
acceptance, the Maori Trustee is satisfied that he  
is unable to purchase sufficient interests from the  
beneficial owners to enable him to sell the freehold  
to the lessee under this subsection, he may reject the  
offer made by the lessee:
- 30 “(f) Nothing in this subsection shall apply to any lessee  
whose lease does not contain a provision under  
which he is entitled to a perpetual right of renewal.
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“(8) Upon the registration of any memorandum of transfer to a lessee under this section, the District Land Registrar shall, unless the person entitled to the benefit of the encumbrance otherwise requests, register against the freehold title of the purchasing lessee all encumbrances which were registered against his lease prior to the registration of the memorandum of transfer. 5

“(9) Upon the purchase by the Maori Trustee of the shares of any beneficial owners in the land, the Maori Trustee shall reduce the total number of shares of the beneficial owners in the land by the number of shares so purchased and shall remove the names of the beneficial owners whose shares have been purchased from the list of beneficial owners. The Registrar shall make corresponding entries in the records of the Court. 10 15