

MAORI PURPOSES BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to various enactments relating to Maoris and Maori land.

Clause 1 relates to the Short Title.

PART I

AMENDMENTS TO MAORI AFFAIRS ACT 1953

Clause 2 provides that this Part is to be read with the Maori Affairs Act 1953.

Clause 3 empowers the Judges of the Maori Land Court to issue practice notes on matters of procedure and practice.

Clause 4 amends section 29 (2) of the principal Act which requires the dates of the commencement of the ordinary sittings of the Court in each district for the period of 12 months commencing with the 1st day of April in each year to be published in the *Gazette*. This clause changes the period from that commencing on 1 April to that commencing on 1 January.

Clause 5 repeals the second proviso to section 30 (i) (1) of the principal Act which provides that an order made by the Maori Land Court recording the determination of any life or other limited estate in any Maori freehold land or General land owned by Maoris, or recording the fact of survivorship upon the death of a person holding any freehold estate in any such land, cannot be registered under the Land Transfer Act 1952, or, as the case may require, the Deeds Registration Act 1908.

The effect of the amendment is to allow any such order to be registered in accordance with section 36 of the principal Act.

Clause 6 makes it clear that no appeal lies to the Maori Appellate Court against orders made by Registrars of the Maori Land Court, and that no such order can be reviewed by the Chief Judge under section 452 of the principal Act.

Clause 7 provides, in effect, that where any affidavit, declaration, or affirmation to be used in any proceedings in the Maori Land Court is sworn or made outside New Zealand the procedure to be followed is the same as that prescribed by the rules of the Supreme Court in respect of such documents for use in any proceedings in that Court.

Clause 8 formally repeals a number of provisions of the principal Act that conferred on the Maori Land Court jurisdiction in respect of family protection matters, probate and related matters, and the administration of estates under Part XVII of the Insolvency Act 1967. By virtue of section 87 of the Maori Affairs Amendment Act 1967 (as amended by section 13 (1) of the Maori Purposes Act 1972) the Court ceased to have any such jurisdiction on 1 April 1975.

Clause 9 amends section 225 (1) of the principal Act. Section 224 of that Act provides that, in general, no alienation of Maori land by way of transfer by a Maori shall have effect unless it is confirmed by the Maori Land Court. Section 225 (1) requires applications for confirmation to be made within 6 months (or, where the land is in the Chatham Islands, 12 months) after the date of the execution of the instrument of transfer. The amendment reduces this period to 3 months (or, in the case of the Chatham Islands, 4 months).

Clause 10 relates to alienation of land by the assembled owners under Part XXIII of the principal Act. Resolutions by assembled owners to alienate land require confirmation by the Maori Land Court. Section 318 (3) requires an application for confirmation, in general, to be supported by a special valuation of the land to which the application relates, except where the land is to be alienated to the Crown. The amendment removes this exception.

Clause 11 is an interpretative provision, and relates to Part XXIV of the principal Act.

Subclause (1) defines the term "ownership" for the purposes of that Part.

Subclause (2) provides that, for the purposes of that Part, where land is owned by a man and his wife jointly and one of them is a Maori, the land shall be deemed to be owned by a Maori.

Clause 12 adds to the class of land that may be declared by the Maori Land Board to be subject to Part XXIV of the principal Act land acquired by the Board under section 370A of that Act.

Clause 13 substitutes a new provision for section 346 (3) of the principal Act relating to reviews of rentals during the currency of leases of land under Part XXIV, and on the renewal of any such lease. The present provision requires the Maori Land Board to stipulate in the lease that the new rent will be calculated as a specified percentage of the unimproved value of the land as at the date of the review or renewal, with or without any extra amount for improvements.

Under the new provision the Board is required only to stipulate the manner in which the new rent is to be calculated.

Clause 14 authorises the Maori Land Board to make advances to people to purchase freehold land, or leasehold land that is subject to Part XXIV of the principal Act.

Clause 15 makes 2 amendments to section 460 of the principal Act relating to advances to Maori occupiers of land that is not subject to Part XXIV of that Act.

Subclause (1) authorises the Maori Land Board to make advances for the purchase of such land.

Subclause (2) provides that, for the purposes of that section, where land is owned by a man and his wife jointly and one of them is a Maori the land shall be deemed to be owned by a Maori.

Clause 16 amends section 29 of the Maori Affairs Amendment Act 1967 which relates to the making of orders by the Maori Land Court constituting the owners of land a Maori incorporation under Part IV of that Act. The amendment empowers the Court to specify in the order the date on which the order is to take effect.

Clause 17 makes 2 drafting amendments to section 76A (2) of the Maori Affairs Amendment Act 1967 to make it clear that the right of the surviving spouse of a deceased Maori to a life or widowhood interest in any interest in Maori freehold land in respect of which the Maori died intestate is available to widowers as well as widows.

Clause 18 amends section 78A of the Maori Affairs Amendment Act 1967 which empowers the Maori Land Court to vest interests in Maori freehold land belonging to an estate in the persons beneficially entitled to those interests notwithstanding that administration of the estate has not been granted. Subsection (5) provides that, except in certain circumstances, the Court cannot make such an order in respect of an interest that is of a value less than \$50. The amendment removes this limitation.

Clause 19 empowers an administrator of an estate in whom beneficial freehold interests in Maori freehold land have been vested under section 81 of the Maori Affairs Amendment Act 1967 to apply to the Registrar for an order vesting them in the persons beneficially entitled to them.

Clause 20 amends section 68 (2) of the Maori Affairs Amendment Act 1974 relating to applications for the reversion of the status of land that was changed from Maori freehold land to General land by the registration of a status declaration under Part I of the Maori Affairs Amendment Act 1967. Under the present provision an application for reversion can only be made within 2 years after the registration of the status declaration.

Subclause (1) removes this limitation.

Subclause (2) authorises the making of an application for reversion on the ground that at the time when the status declaration was made the land was not in fact land to which Part I of the Maori Affairs Amendment Act 1967 applied (in which case the declaration should not have been made).

PART II

MISCELLANEOUS AMENDMENTS TO MAORI LEGISLATION

Clause 21 empowers an officer of the Maori Trust Office to whom the power to attend, vote, and act at a meeting of assembled owners under Part XXIII of the Maori Affairs Act 1953 has been delegated by the Maori Trustee pursuant to section 9 of the Maori Trustee Act 1953 to exercise that power by a proxy appointed by him.

Clause 22 provides that out of unclaimed money held by the Maori Trustee under section 30 of the Maori Trustee Act 1953 there shall be paid to the credit of the New Zealand Maori Council an amount equal to 90 percent of all such money or the sum of \$10,000, whichever is the lesser.

Clause 23 abolishes the Reserved and Vested Land Purchase Fund established by section 41A of the Maori Trustee Act 1953, and provides for the transfer of the assets of that Fund to the Conversion Fund established by Part XIII of the Maori Affairs Act 1953.

Clause 24 abolishes the Special Maori Housing Fund Account established by section 18 of the Maori Housing Amendment Act 1938, and provides for the transfer of the assets of that Fund to the Works and Trading Account of the Public Account constituted by section 38 of the Public Revenues Act 1953.

Clause 25 empowers the trustees of the Estate of Pukepuke Tangiora to expend estate funds, and to borrow further funds, for the erection of a dining and meeting hall on the land known as Kakiraawa 2B2F3 Block.

Hon. Mr MacIntyre

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. 100—1

1. Short Title—This Act may be cited as the Maori Purposes Act 1976.

PART I

AMENDMENTS TO MAORI AFFAIRS ACT 1953

2. This Part to form part of the Maori Affairs Act 1953— 5
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).

3. Judges may issue practice notes—The principal Act is hereby amended by inserting, after section 25, the following 10 section:

“25A. The Judges of the Court may from time to time, for the guidance of parties to any class or classes of proceedings and their advisers, issue such instructions or suggestions (not being inconsistent with this Act or any Rules of Court) by 15 way of practice notes as they think necessary or expedient for the proper conduct of such proceedings.”

4. Sittings of Court—Section 29 (2) of the principal Act is hereby amended by omitting the expression “first day of April”, and substituting the expression “1st day of January”. 20

5. Jurisdiction of Court in respect of termination of life interests—Section 30 (1) (1) of the principal Act (as added by section 2 (2) of the Maori Affairs Amendment Act 1962) is hereby amended by repealing the second proviso.

6. No review of Registrar’s orders—(1) The principal Act 25 is hereby amended by inserting, after section 43, the following section:

“43A. **No appeal against Registrar’s orders**—No appeal shall lie to the Appellate Court against any order made by a Registrar under this Act or any other enactment.” 30

(2) Section 452 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The Chief Judge shall not have jurisdiction under this section in respect of any order made by a Registrar.”

*Reprinted, 1968, Vol 3, p. 2199
Amendment: 1974, No. 73

7. Swearing of affidavits outside New Zealand—(1) Section 55 of the principal Act is hereby amended by inserting, after the words “sworn or made”, the words “in New Zealand”.

5 (2) The said section 55 is hereby further amended by adding, as subsection (2), the following subsection:

“(2) Affidavits, declarations, or affirmations to be used in any proceeding before the Court may be sworn or made outside New Zealand in the manner for the time being prescribed
10 by rules of the Supreme Court in relation to affidavits, declarations, or affirmations to be sworn or made outside New Zealand for use in any proceeding in that Court.”

8. Court’s jurisdiction in respect of probate, family protection, and insolvent estates abolished—(1) Sections 118, 125,
15 126, and 128 to 130 of the principal Act are hereby repealed.

(2) Section 80 (1) of the Maori Affairs Amendment Act 1967 is hereby amended by omitting the words “who dies after the commencement of this Act”.

(3) The following enactments are hereby consequentially
20 repealed:

(a) Section 6 of the Maori Purposes Act 1961:

(b) Section 8 (1) of the Maori Affairs Amendment Act 1962:

(c) Sections 7 and 8 (2) of the Maori Purposes Act 1964:

25 (d) Subsections (5) to (10) of section 88 of the Maori Affairs Amendment Act 1967.

9. Time limits in respect of applications for confirmation—Section 225 (1) of the principal Act is hereby amended—

30 (a) By omitting the word “six”, and substituting the expression “3”:

(b) By omitting the word “twelve”, and substituting the expression “4”.

10. Confirmation of resolutions for alienation of land—Section 318 of the principal Act (as substituted by section 116
35 of the Maori Affairs Amendment Act 1967) is hereby amended by omitting from subsection (3) the words “other than the Crown”.

11. Interpretation for purposes of Part XXIV—(1) Section 326 of the principal Act (as amended by section 2 (3) of the Maori Affairs Amendment Act 1974) is hereby amended by adding the following definition:

“‘Ownership’, in relation to any land or any interest in land, includes the equitable ownership of that land or interest.” 5

(2) The said section 326 is hereby further amended by adding, as subsection (2), the following subsection:

“(2) For the purposes of this Part of this Act any land and any interest in land that is owned as joint tenants by 2 persons who are married to one another and of whom 1 is a Maori shall be deemed to be owned by a Maori.” 10

12. Land that may be declared subject to Part XXIV—Section 330 (2) (d) is hereby amended by inserting, after the expression “section 370”, the expression “or section 370A”. 15

13. Provisions as to review of rent during currency of lease and on renewal—(1) Section 346 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection: 20

“(3) In every lease that makes provision for the review of the rent during the currency of the lease, and in every lease that provides a right of renewal, the Board shall stipulate the formula by which the rent payable on the review or on the renewal is to be calculated.” 25

(2) No lease entered into by the Board under Part XXIV of the principal Act before the commencement of this section shall be held invalid or ineffectual by reason only of the fact that, at the time when it was entered into by the Board, it did not comply with subsection (3) of section 346 of the principal Act (as repealed by subsection (1) of this section) if it complies with subsection (3) of that section (as substituted by subsection (1) of this section). 30

14. Advances for purchase of land—The principal Act is hereby amended by inserting, after section 369A (as substituted by section 5 (2) of the Maori Purposes Act 1966), the following heading and sections: 35

“Advances to Purchasers

“369B. **Advances to purchasers of freehold interests—**
Without prejudice to any provision of this Part of this
Act, the Board may from time to time make advances to
5 and take security from any person or persons for the purpose
of assisting him or them to purchase any freehold estate or
interest in any land in the same manner and to the same
extent as it may make advances to and take security from
any lessee under this Part, and the provisions of sections 368
10 and 369 of this Act shall, as far as applicable and with the
necessary modifications, extend and apply to any such
advances and the securities taken therefor.

“369C. **Advances to purchasers of leasehold interests—**
Without prejudice to any provision of this Part of this Act,
15 the Board may from time to time make advances to and take
security from any person or persons for the purpose of assist-
ing him or them to purchase any leasehold estate or interest
in any land that is subject to this Part in the same manner
and to the same extent as it may make advances to and take
20 security from any lessee under this Part, and the provisions
of sections 368 and 369 of this Act shall, as far as applicable
and with the necessary modifications, extend and apply to
any such advances and the securities taken therefor.”

15 **15. Advances to Maori occupiers of land that is not subject
to Part XXIV—**(1) Section 460 (1) of the principal Act is
hereby amended by inserting, after the words “any such
lands,” the words “or to assist in the purchase of any estate
or interest in any such lands,”.

30 (2) Section 460 of the principal Act (as amended by
section 4 of the Maori Purposes Act 1974) is hereby further
amended by adding the following subsection:

35 “(8) For the purposes of this section any land and any
interest in land that is owned as joint tenants by 2 persons
who are married to one another and of whom 1 is a Maori
shall be deemed to be owned by a Maori.”

16. Court may incorporate owners as from specified date—
Section 29 of the Maori Affairs Amendment Act 1967 is
hereby amended by adding the following subsection:

“(4) Notwithstanding anything to the contrary in section 34 of the principal Act, an order of incorporation may be made to take effect on a date specified by the Court, which may be a date later than the date of the minute thereof entered in the records of the Court.”

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17. Succession to undivided interests in Maori land on intestacy—Section 76A of the Maori Affairs Amendment Act 1967 (as substituted by section 25 of the Maori Affairs Amendment Act 1974) is hereby amended—

(a) By omitting from subsection (2) the word “she” where it first occurs, and substituting the words “the spouse”:

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(b) By omitting from that subsection the word “she” where it secondly occurs, and substituting the words “he or she”.

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18. Removal of limitation on value of land included in an order vesting Maori land in successors without grant of administration—Section 78A of the Maori Affairs Amendment Act 1967 (as inserted by section 17 of the Maori Purposes Act (No. 2) 1973) is hereby amended by repealing subsection (5).

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19. Transfer of interest in Maori land from administrator to persons beneficially entitled—(1) The Maori Affairs Amendment Act 1967 is hereby amended by inserting, after section 81, the following section:

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“81A. (1) Where any beneficial freehold interest in Maori freehold land is held by any person as the administrator of any estate by virtue of an order made under section 81 of this Act that person may apply to the Registrar for, and the Registrar may make, an order vesting the interest in the person or persons beneficially entitled thereto.

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“(2) The provisions of subsections (3) and (4) of section 81 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to applications and orders made under subsection (1) of this section.

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“(3) Nothing in this section shall limit or affect any right or remedy to which any person may be entitled in respect of any act done by any other person as administrator of any estate.”

(2) Section 213A of the principal Act (as substituted by section 28 (1) of the Maori Affairs Amendment Act 1974) is hereby amended by inserting in subsection (1), after the words "this Act", the words " , other than as administrator of an estate,".

20. Certain General land may again become Maori land—

(1) Section 68 (2) of the Maori Affairs Amendment Act 1974 is hereby amended by omitting the words "made within 2 years after the date of the commencement of this Act,".

(2) Section 68 of the Maori Affairs Amendment Act 1974 is hereby further amended by adding the following subsections:

"(5) Notwithstanding any of the foregoing provisions of this section, the Court may, on the application of an owner or the Registrar, exercise the jurisdiction conferred on it by subsection (2) of this section in respect of any land to which this section applies if it is satisfied that at the time when the status declaration was made the land was not land to which Part I of the Maori Affairs Amendment Act 1967 applied.

"(6) For the purposes of subsection (5) of this section the term "owner" includes any person claiming to be entitled to any interest in the land under the will or on the intestacy of a deceased owner."

PART II

25 MISCELLANEOUS AMENDMENTS TO MAORI LEGISLATION

21. Delegation of powers of Maori Trustee—Section 9 of the Maori Trustee Act 1953 is hereby amended by adding the following subsection:

"(7) Notwithstanding any rule of law to the contrary, where an officer of the Maori Trust Office is empowered, by virtue of a delegation made under this section, to attend, vote, and act at a meeting of assembled owners held pursuant to Part XXIII of the Maori Affairs Act 1953 he may, instead of exercising those powers personally, appoint a proxy to exercise them at the meeting on his behalf."

22. Grant to New Zealand Maori Council out of unclaimed moneys—Section 30 (9) of the Maori Trustee Act 1953 (as substituted by section 16 (1) of the Maori Purposes Act 1961) is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) An amount equal to 90 percent thereof or the sum of \$10,000, whichever is the lesser, shall be paid to the credit of the New Zealand Maori Council constituted by section 17 of the Maori Welfare Act 1962:”.

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23. Reserved and Vested Land Purchase Fund abolished—

(1) The Fund established by section 41A of the Maori Trustee Act 1953 (as inserted by section 128 of the Maori Affairs Amendment Act 1967) and known as the Reserved and Vested Land Purchase Fund is hereby abolished.

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(2) All interests in reserved land and vested land purchased by the Maori Trustee out of the Reserved and Vested Land Purchase Fund and held by him at the date of the commencement of this section shall, as from that date, be held by the Maori Trustee as assets of and for the purposes of the Conversion Fund established by Part XIII of the Maori Affairs Act 1953, and, for the purposes of that Part of that Act, shall be deemed to have been acquired by the Maori Trustee and paid for out of the said Conversion Fund.

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(3) A sum equal to the aggregate value of all interests in land to which subsection (2) of this section applies, as shown in the books of the Maori Trustee at the date of the commencement of this section, together with all money standing to the credit of the Reserved and Vested Land Purchase Fund at that date, shall, on that date, be paid by the Maori Trustee to the credit of the General Purposes Fund established by section 23 (1) (c) of the Maori Trustee Act 1953.

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(4) The following enactments are hereby consequentially repealed:

(a) Sections 41A to 41F of the Maori Trustee Act 1953 (as inserted by section 128 of the Maori Affairs Amendment Act 1967):

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(b) Sections 17 (3) (f) (as added by section 129 (1) of the Maori Affairs Amendment Act 1967), 23 (1)

(g) (as added by section 129 (2) of that Act), and

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23 (4A) (as inserted by section 129 (3) of that Act) of the Maori Trustee Act 1953:

(c) Section 23 of the Maori Reserved Land Act 1955:

(d) Sections 128, 129, and 130 (3) of the Maori Affairs Amendment Act 1967.

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(5) Section 10 of the Maori Reserved Land Act 1955 (as inserted by section 153 (1) of the Maori Affairs Amendment Act 1967) is hereby consequentially amended by repealing paragraph (b) of subsection (1).

24. Special Maori Housing Fund abolished—(1) The Fund established by section 18 of the Maori Housing Amendment Act 1938 (as substituted by section 15 of the Maori Purposes Act 1961) and known as the Special Maori Housing Fund is hereby abolished.

(2) All money standing to the credit of the Special Maori Housing Fund Account at the date of the commencement of this section shall, on that date, be transferred to the credit of the Works and Trading Account constituted by section 38 of the Public Revenues Act 1953 (as substituted by section 3 of the Public Revenues Amendment Act 1963).

(3) All money hereafter received by the Maori Land Board on account of principal or interest owing to the Board in respect of any advance made by the Board before the commencement of this section out of the Special Maori Housing Fund Account shall be paid to the credit of the said Works and Trading Account.

(4) The following enactments are hereby consequentially repealed:

(a) Section 18 of the Maori Housing Amendment Act 1938:

(b) Section 15 of the Maori Purposes Act 1961:

(c) Section 9 of the Maori Purposes Act 1968.

(5) This section shall come into force on the 31st day of March 1977.

25. Pukepuke Tangiora Estate—For the purpose of giving effect (with some modifications) to the recommendation of the Maori Affairs Committee of the House of Representatives on Petition numbered 44 of 1974 of Allan Gerald Sievers and Brian Grossman concerning the estate of Pukepuke Tangiora, of Pakipaki, deceased: Be it enacted as follows:

(1) In addition to the powers conferred upon them by section 17 of the Maori Purposes Act 1943, section 16 of the Maori Purposes Act 1946, section 19 of the Maori Purposes Act 1948, section 37 of the Maori Purposes Act 1951, and section 19 of the Maori Purposes Act 1963, the trustees of the said estate of Pukepuke Tangiora, of Pakipaki, deceased, may, for the purpose of erecting a dining and meeting hall on the piece of land owned by the Estate and known as Kakiraawa 2B2F3 Block,—

(a) Expend any money held by the trustees on behalf of the Estate:

(b) Borrow any further amount of money that may be necessary for the purpose.

(2) Without limiting subsection (1) of this section, the trustees may expend any such money for the purposes of site investigations, surveys, the preparation of plans, the supervision of construction, the purchase and installation of fittings and fixtures, and any other purposes ancillary to the erection and completion of the hall. 5

(3) The trustees may give such security, whether by way of mortgage, pledge, or otherwise, in respect of any money borrowed by them under this section, and upon such terms and subject to such conditions, as they think fit. 10

(4) The provisions of this section shall apply notwithstanding any of the provisions of the enactments referred to in subsection (1) of this section and notwithstanding anything in the will of the said deceased.