

MAORI PURPOSES BILL

EXPLANATORY NOTE

THIS Bill makes various provisions relating to Maori and Maori land.

Clause 2 repeals and replaces section 15 of the Maori Purposes Act 1938, relating to the Wi Pere Trust. The history and background of the trust is set out in the preamble to the clause. What follows in this note is a summary of the changes to the present provisions made by this clause.

Subclause (2) provides for 5 trustees. There are presently 3. The 3 in office at the passing of the Bill will remain, and 2 new trustees will be appointed: *subclause (3)*. The present power to appoint the Maori Trustee is dropped.

All trustees will be appointed by the Minister of Maori Affairs on the recommendation of the retiring trustees, and will be appointed for a term of 3 years: *subclause (5)*. At present, trustees are appointed at the discretion of the Governor-General, and no term of appointment is fixed.

By *subclause (7)*, the Governor-General's present power to remove a trustee from office is vested in the Minister.

Subclause (10) gives the trustees the same rights and powers that they would have had if they had been appointed by the Maori Land Court. The equivalent provision in the present section is *subsection (3)*, which refers to the High Court.

Subclause (11) relates to the remuneration of the trustees. At present, it is fixed by the Minister on the recommendation of the Court. Under this subclause, it will be determined by the trustees themselves with the approval of the Court.

The specific powers set out in *subsection (6)* of the present section are replaced by the more general provisions of *subclause (12)*. This applies the provisions of Part III of the Trustee Act 1956.

Subclause (13) makes it clear that the sale of any land forming part of the trust property requires confirmation by the Court under the Maori Affairs Act 1953.

Subclause (16) is, in effect, an extension of *subsection (10)* of the present section. That subsection empowers the Court to set aside part of the trust land as a residential building site for any beneficiary. Any land set aside in this way is freed from the trust. This subclause allows the trustees to do much the same thing, but in this case any land set aside remains subject to the trust.

Subclause (18) allows the trustees to purchase the interest of a beneficiary who wishes to sell, and resell it to another beneficiary.

Subclause (20) imposes restrictions on a beneficiary's present right to leave his or her interest by will to any person. A beneficiary may leave such an interest only to a person who belongs to any of the classes described in *paragraph (a)*.

Clause 3 is consequential upon *clause 00*.

Maori Affairs

Clause 5 replaces section 17 of the principal Act. That section provides for the appointment of a Judge or of some other qualified person to act as deputy for the Chief Judge during the absence of the Chief Judge or any vacancy in the office of Chief Judge. This clause provides for the appointment of a Judge as Deputy Chief Judge. See *clause 37* of the Maori Affairs Bill.

Clause 6 amends section 57 (2) of the principal Act, relating to security for costs. That provision empowers the Court to require any party to any proceedings to deposit in the Court any sum of money as security for costs, and, in the event of default, empowers the Court to stay the proceedings. This amendment takes the Court's powers one step further by empowering the Court to dismiss the proceedings, not merely to stay them. See *clause 91 (4)* of the Maori Affairs Bill.

Clause 7 adds to the membership of the Rules Committee. At present, the Committee consists of the Chief Judge, 1 other Judge, the nominee of the New Zealand Maori Council, the Secretary for Maori Affairs or his or her nominee, and the nominee of the Council of the New Zealand Law Society. This clause provides for up to 2 further members to be appointed by the Minister. See *clause 104 (1) (e)* of the Maori Affairs Bill. It also provides that the Deputy Chief Judge may act whenever the Chief Judge is unable to do so.

Clause 8 takes away from the Rules Committee any involvement in the setting of court fees. These will now be prescribed by regulations. The new provision is based on section 100A of the Judicature Act 1908 (as substituted in 1985).

Clause 9 relates to the execution of renewals of leases by the Maori Trustee as agent for the owners. Section 237 of the principal Act is silent as to what the Maori Trustee should do if in doubt as to whether or not the lessee is entitled to a renewal of the lease. Instead, the section gives the Maori Trustee a discretion to grant or refuse a renewal. This clause provides that, if not satisfied that the lessee is entitled to a renewal of the lease, the Maori Trustee shall apply to the Court for a meeting of owners to consider the matter under Part XXIII of the principal Act and abide by the owner's decision. See *clause 217 (3)* of the Maori Affairs Bill.

Clause 10 relates to reviews of rent during the term of a lease, or on the grant of a renewal. The clause provides for the payment of rent at the new rate notwithstanding any objections to the special Government valuation on which that new rate is computed. If, on the final determination of any such objection, the rate of rent is changed, there is to be an appropriate accounting between the parties in respect of any shortfall or excess in the rent already paid. This approach differs from that adopted in *clause 222 (6)* of the Maori Affairs Bill. That provision requires the lessee to pay rent at the old rate until the objection is determined.

Clause 11 amends section 353 of the principal Act. This provides for the Maori Trustee to deduct a sum from rent paid in respect of land under Part XXIV of the Act, and hold the money as a sinking fund from which compensation for lessee's improvements may be paid in due course. All such money must be held

in the Common Fund of the Maori Trustee's Account. This clause empowers the Board to direct the Maori Trustee to place the money in any other fund or investment, if it thinks it prudent to do so.

Clause 12 makes it clear that, on the constitution of a trust under section 438 of the principal Act, all rights and remedies the owners had in respect of the land may thereafter be exercised by the trustee. See clause 238 (2) of the Maori Affairs Bill.

Maori Language

Clause 14 changes the name of the Commission established under the Maori Language Act 1987 from "Te Komihana Mo Te Reo Maori" to "Te Taura Whiri I Te Reo Maori".

Clause 15 extends the class of proceedings in which Maori may be spoken as of right to include proceedings before the Tenancy Tribunal, Children and Young Persons Courts, and Commissions of Inquiry that are inquiring into matters of particular interest to Maori.

Clause 16 increases from \$200 to \$500 the maximum fine that may be imposed on a person who fails to surrender a certificate of competency in the Maori language after the Commission has decided to cancel, suspend, or endorse the certificate.

Clause 17 widens the present power to prescribe fees under section 20 of the Maori Language Act 1987. At present, fees may be prescribed only in respect of applications for certificates of competency in the Maori language. Under the amendment, fees may also be prescribed in respect of the conduct of examinations for such certificates, the issue of such certificates, and for any other service provided by the Commission.

Clause 18 relates to the payment of money from bank accounts belonging to the Commission. At present, all payments must be made by cheque. The amendment allows the use of direct debit orders and direct credit orders.

Maori Trustee

Clause 20 empowers executors, administrators, and trustees to appoint the Maori Trustee to act in their place. The clause is based on section 44 of the Public Trust Office Act 1957. The clause allows for the appointment of the Maori Trustee as a sole executor, administrator, or trustee, or as a co-executor, administrator, or trustee with others.

Clause 21 empowers the Maori Trustee, with the approval of the Board of Maori Affairs, to enter into partnerships, joint ventures, or other arrangements with the owners of any Maori freehold land, or any general land owned by or on behalf of any Maori, or to accept any lease or licence of any such land, for the purpose of co-operating with the owners in the use and development of the land or any enterprise conducted on or from the land. The clause is based on clause 294 of the Maori Affairs Bill, currently before Parliament.

Clause 22 relates to unclaimed money held by the Maori Trustee. Under section 30 (9) of the Maori Trustee Act 1953, unclaimed money held in the Common Fund within the Maori Trustee's Account is paid to the Maori Purposes Fund Account (10 percent), and the New Zealand Maori Council (90 percent, or \$10,000, whichever is the lesser). Any remainder is paid to the Maori Education Foundation.

Under this clause, different provision is made where the money is held by the Maori Trustee as agent for any trust, Maori incorporation, or Maori Trust Board. In those cases, any unclaimed money is paid to the trust, incorporation, or Board.

Clause 23 empowers the Maori Trustee, with the approval of the Board of Maori Affairs, to give guarantees and indemnities in respect of money advanced by one person to another. The obvious example would be a mortgage repayment guarantee. The clause is based on section 23 of the Housing Corporation of New Zealand Act 1974.

Hon. K. T. Wetere

MAORI PURPOSES

ANALYSIS

Title	14. Change of name of Commission
1. Short Title	15. Proceedings to which right to speak Maori extends
2. Wi Pere Trust	16. Offence
3. Repeals	17. New heading and section inserted
<i>Maori Affairs</i>	
4. Sections to be read with Maori Affairs Act 1953	<i>Miscellaneous Provisions</i>
5. Deputy Chief Judge	21A. Rules
6. Orders as to costs	18. Bank Accounts
7. Constitution of Rules Committee	
8. Fees	<i>Maori Trustee</i>
9. Execution of renewals of leases	19. Sections to be read with Maori Trustee Act 1953
10. New rent payable pending objections	20. Appointment of Maori Trustee by executors, administrators, and trustees
11. Sinking fund to provide compensation for lessees of Maori land	21. Maori Trustee may enter into joint ventures
12. Vesting of land in trustees includes rights and remedies	22. Unclaimed agency money
<i>Maori Language</i>	23. Guarantees and indemnities
13. Sections to be read with Maori Language Act 1987	

A BILL INTITUTLED

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

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title**—This Act may be cited as the Maori Purposes Act 1988.

10 **2. Wi Pere Trust**—Whereas by deed dated the 14th day of April 1899 (in this section called the trust deed), made between Wi Pere, Arapera Pere, Hetekia Pere, Moanaroa Pere, Riria Mauaranui, and Riripeti Rangikohera (together in the trust deed and in this section referred to as the assignors) of the one part and Walter George Foster of the other part, certain real and personal property in the Poverty Bay District was

transferred to Walter George Foster upon the trusts declared in the trust deed: And whereas by Order in Council dated the 9th day of January 1909 His Excellency the Governor, by virtue of the powers vested in him by section 47 of the Maori Land Claims Adjustment and Laws Amendment Act 1907, removed 5
Walter George Foster as trustee under the trust deed, appointed in his place Henry Cheetham Jackson and Hetekia te Kani Pere as trustees, and declared fresh trusts in respect of the residue of the real and personal property then remaining subject to the trust: And whereas Hetekia te Kani Pere died on 10
or about the 21st day of March 1925, and Henry Cheetham Jackson died on or about the 7th day of April 1925: And whereas by deed dated the 1st day of August 1925 Moanaroa Pere, the then sole survivor of the assignors, in exercise of the powers conferred upon him by the trust deed, appointed 15
himself and Charles Alfred Smith and Heathcote Beetham Williams (together in this section referred to as the former trustees) to be trustees in place of Henry Cheetham Jackson and Hetekia te Kani Pere, and that appointment was approved by His Excellency the Governor-General by writing endorsed 20
upon the deed of appointment: And whereas Moanaroa Pere died on or about the 3rd day of February 1935: And whereas, each of the other two former trustees having expressed a desire to resign as trustee, His Excellency the Governor-General, by Order in Council dated the 2nd day of March 1938, removed 25
them from office and appointed Owen Neil Campbell, Rongowhakaata Halbert, and Harold Walter Symes to be trustees of the trust: And whereas, by section 15 of the Maori Purposes Act 1938, new trusts were declared in respect of the real and personal property then remaining subject to the trust, 30
further powers were conferred upon the trustees, and certain provision was made for the administration of the trusts and the release and discharge of certain former trustees: And whereas, since the passing of that Act, various people have been appointed from time to time as trustees of the trust, the holders 35
of that office at the time of the enactment of this section being Thomas Smiler Junior, Nonoi Haronga (otherwise known as Te Nonoikura or Hinemanuhiri Haronga), and Anthony Logan Halbert: And whereas Nonoi Haronga wishes to retire from the office of trustee and it has been agreed that she should do so 40
and be replaced by her son Alan Parekura Torohina Haronga: And whereas it is expedient, having regard to the intentions express or implied and contained in the trust deed, that new trusts should be declared in respect of the residue of the real and personal property now remaining subject to the trust, and 45

that further powers should be conferred on the trustees, and that provision should be made for the administration of the trusts and the release and discharge of the former trustees as follows: Be it therefore enacted as follows:

- 5 (1) The trust created as recited in the preamble to this section and known as the Wi Pere Trust shall continue to exist, and the trust property shall comprise all the real and personal property that, at the passing of this Act, is vested in the trustees for the time being, and shall include any real or personal property that
10 may, after the commencement of this Act, be acquired by the trustees for the purposes of the trust.
- (2) There shall be 5 trustees of the trust.
- (3) The first trustees of the trust after the passing of this Act shall be—
- 15 (a) Thomas Smiler Junior and Anthony Logan Halbert; and
(b) Alan Parekura Torohina Haronga; and
(c) Two other trustees appointed by the Minister of Maori Affairs on the recommendation of the persons named in paragraphs (a) and (b) of this subsection.
- 20 (4) The first trustees shall hold office for a period of 3 years beginning with the date of the commencement of this Act.
- (5) The trustees of the trust (other than the first trustees) shall be appointed by the Minister on the recommendation of the retiring trustees, and shall hold office for a term of 3 years
25 beginning with the date of their appointments.
- (6) Every trustee shall be eligible, on the expiry of his or her term of office, to be reappointed.
- (7) The Minister may at any time, by notice in writing signed by the Minister and addressed to the trustee, remove a trustee
30 from office for misconduct or neglect of duty proved to the satisfaction of the Minister.
- (8) Any trustee may at any time resign by notice in writing signed by the trustee and addressed to the Minister.
- (9) Where, because of the death, resignation, or removal of
35 any trustee, there are for the time being less than 5 trustees, the remaining trustees may exercise all the powers conferred on the trustees by this section as if there were no such vacancy in the office of trustee.
- (10) Every trustee shall have the same rights and powers as
40 he or she would have had if he or she had been appointed by order of the Maori Land Court and not under this section.
- (11) There shall be paid to each trustee, out of the trust estate, such salary or other remuneration, and such travelling expenses and allowances as shall be determined by the trustees
45 with the approval of the Maori Land Court.

(12) Subject to **subsection (13)** of this section, the trustees shall have all such powers as are conferred on trustees generally by Part III of the Trustee Act 1956 and as are reasonably necessary to enable the trustees to carry out their duties.

(13) Any sale of land for the time being forming part of the trust property shall require confirmation by the Maori Land Court; and for that purpose sections 224 to 232 of the Maori Affairs Act 1953 shall apply with any necessary modifications.

(14) No person lending money on the security of the trust property shall be concerned to inquire as to the necessity for the loan, or as to the application by the trustees of the money raised by the loan; and every such security executed by the trustees shall be as valid and effectual for the protection of the mortgagee and his or her assigns as if the trustees had been entitled in their own right to the land or other property comprised in the security; and in any such security, a power of sale on default may be granted.

(15) In respect of the trust property vested in the trustees, the Maori Land Court may from time to time, on the application of the trustees or of the beneficiaries,—

- (a) Settle the lists of the beneficiaries in the trust property or any part of the trust property; and
- (b) Determine the relative interests of the beneficiaries; and
- (c) Appoint successors to any deceased beneficiaries; and
- (d) Appoint trustees for any beneficiary under disability; and
- (e) Generally exercise jurisdiction so far as the equitable estate of the beneficiaries is concerned.

(16) The trustees may from time to time set aside any part of the land comprised in the trust property and allow any beneficiary or beneficiaries of the trust to use it, whether for the purpose of papakainga or otherwise, upon such terms and subject to such conditions as the trustees think fit.

(17) The Maori Land Court may from time to time, upon application by all the trustees, order that any part of the land comprised in the trust property and not for the time being subject to any mortgage be transferred to any beneficiary or beneficiaries or the trust, upon such terms and subject to such conditions as the Court thinks fit, for the purpose of providing a residential building site or sites for the beneficiary or beneficiaries freed and discharged from the trust.

(18) The trustees may from time to time, out of the trust estate, purchase the interest of any beneficiary who wishes to dispose of it, and resell that interest to any other beneficiary.

(19) Subject to **subsections (18) and (20)** of this section, no beneficiary of the trust shall be capable of disposing of his or

her interest in the trust property (whether by way of sale, mortgage, assignment, or otherwise), or in the rents, profits, or other income derived from that property, or in any money borrowed upon the security of that property.

5 (20) Notwithstanding the other provisions of this section or of any other Act,—

(a) A beneficiary of the trust may dispose of his or her interest by will to any person who belongs to any one or more of the following classes:

10 (i) Children and remoter issue of the beneficiary:

(ii) Any other persons who would be entitled to succeed to the interest if the beneficiary died intestate:

15 (iii) Any other persons who are related by blood to the beneficiary and are members of the hapu associated with the land:

(iv) Other beneficiaries who are members of the hapu associated with the land:

(v) Whangai of the beneficiary:

20 (vi) Trustees of persons referred to in any of subparagraphs (i) to (v) of this paragraph:

(b) The Maori Land Court may, in accordance with the provisions of section 213 of the Maori Affairs Act 1953, make orders under that section vesting the whole or any part of the interest of any beneficiary in any person who belongs to any class of persons described in paragraph (a) of this subsection; and the provisions of sections 213 and 214 of that Act shall apply with any necessary modifications.

25 (21) The disposition whether by operation of law or otherwise of the interest of a beneficiary in any land comprised in the trust property, whether so expressed or not, shall be deemed to include a disposition of that beneficiary's corresponding interest in all other property comprised in the trust; but no beneficiary shall be capable of disposing of that other property separately.

30 (22) The trustees shall cause to be made up to the 30th day of June in each year a balance-sheet and a statement of accounts setting forth all receipts and payments and income and expenditure of the trustees.

35 (23) The balance-sheet and statement shall be audited by a person to be approved by the Minister, and shall be submitted to the Minister as soon as possible after the audit is completed.

40 (24) Every beneficiary shall be entitled at all reasonable times to inspect and take copies of the accounts, and, at the

beneficiary's own expense, to be supplied with copies of the accounts or extracts from them.

(25) The former trustees and their respective estates and effects are hereby released and discharged from all actions, claims, and demands for or in respect of any act, matter, or thing done, omitted, or suffered by them or any of them as trustees in good faith under the trust deed, or arising out of the administration of the trust property. 5

3. Repeals—The following enactments are hereby repealed: 10

(a) Section 15 of the Maori Purposes Act 1938:

(b) Section 22 of the Maori Purposes Act 1973.

Maori Affairs

4. Sections to be read with Maori Affairs Act 1953—

This section and the next 8 succeeding sections shall be read together with and deemed part of the Maori Affairs Act 1953* (in those sections referred to as the principal Act). 15

*R.S. Vol. 8, p. 13

Amendments: 1985, No. 114; 1985, No. 139; 1987, No. 73; 1988, No. 73

5. Deputy Chief Judge—The principal Act is hereby amended by repealing section 17, and substituting the following section:

“17. (1) The Governor-General may from time to time, by warrant, appoint a Judge as Deputy Chief Judge. 20

“(2) Subject to subsection (3) of this section, every person appointed as Deputy Chief Judge shall hold that office so long as that person holds office as a Judge.

“(3) With the prior approval of the Governor-General, the Deputy Chief Judge may resign that office without resigning the office of Judge. 25

“(4) Whenever by reason of illness, absence from New Zealand, or any other cause the Chief Judge is prevented from exercising the duties of office, or during any vacancy in the office of Chief Judge, the Deputy Chief Judge shall, until the Chief Judge resumes or takes up the duties of office, have and may perform and exercise all the functions, duties, and powers of the Chief Judge.” 30

6. Orders as to costs—Section 57 (2) of the principal Act is hereby amended by inserting, after the words “the Court may stay”, the words “or dismiss”. 35

7. Constitution of Rules Committee—Section 70A of the principal Act (as inserted by section 3 (1) of the Maori Purposes

Act 1980) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) For the purposes of sections 25 and 40 of this Act there shall be a Rules Committee, to consist of—

5 “(a) The Chief Judge:

“(b) One other Judge appointed by the Chief Judge:

“(c) A person nominated by the New Zealand Maori Council and appointed by the Chief Judge:

10 “(d) The Secretary for Maori Affairs or a person nominated by the Secretary:

“(e) A barrister or solicitor of the High Court nominated by the Council of the New Zealand Law Society and appointed by the Chief Judge:

15 “(f) Not more than 2 other persons appointed by the Minister.

“(2) Each appointed member shall hold office for such term, not exceeding 3 years, as may be specified in his or her instrument of appointment, but may from time to time be reappointed.

20 “(2A) Any appointed member may resign by notice in writing to the Chief Judge or the Minister, as the case may require.

“(2B) Without limiting section 17 (4) of this Act, whenever the Chief Judge is unable to attend any meeting of the Rules Committee or to perform any other function of a member of that Committee, the Deputy Chief Judge may attend that meeting or perform that function in place of the Chief Judge.”

8. Fees—(1) The principal Act is hereby amended by inserting in Part VI, after section 70A (as inserted by section 3 (1) of the Maori Purposes Act 1980), the following section:

30 “70B. Notwithstanding anything in sections 25 and 40 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

35 “(a) Prescribing the matters in respect of which fees are payable under this Act:

“(b) Prescribing scales of fees for the purposes of this Act and for the purposes of any proceedings before the Maori Land Court or the Maori Appellate Court, whether under this Act or any other enactment:

40 “(c) Prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which this Act applies:

“(d) Conferring on a Registrar, a Deputy Registrar, or any other person the power to determine the amount of

the fee payable in a particular case and whether any fees should be refunded, remitted, or reduced.”

- (2) Section 25 of the principal Act is hereby amended—
- (a) By omitting from subsection (1) the words “, and prescribing the fees payable in respect of the proceedings of the Court”:
- (b) By repealing subsection (2).
- (3) Section 40 of the principal Act is hereby amended—
- (a) By omitting the words “, and prescribing the fees payable in respect of the proceedings of that Court”:
- (b) By repealing subsection (3).

9. Execution of renewals of leases—Section 237 of the principal Act is hereby amended by repealing subsection (2A) (as substituted by section 21 of the Maori Affairs Amendment Act 1962), and substituting the following subsection:

“(2A) If not satisfied that the lessee is entitled to a renewal of the lease, the Maori Trustee shall apply to the Court for a meeting of assembled owners under Part XXIII of this Act, and shall comply with the decision of the owners at that meeting.”

10. New rent payable pending objections—The principal Act is hereby amended by inserting, after section 249A (as inserted by section 21 of the Maori Purposes Act 1959), the following section:

“249B. In any case to which section 249A of this Act applies, the following provisions shall also apply:

“(a) The revised rent or the rent for the renewed period shall be computed on the basis of the special Government valuation, and shall be payable by the lessee from the date provided in the lease (in the case of a revised rent) or the day after the date on which the current term expires (in the case of a renewal), whether or not the lessee or any owner files an objection to the valuation:

“(b) If such an objection is filed, when it has been finally determined there shall be an accounting between the parties as to any shortfall or excess in the rent already paid; and where any objection is filed, the Maori Trustee may retain so much of the rent paid to the Maori Trustee, without distributing it to the beneficiaries, as the Maori Trustee considers necessary to ensure that such accounting between the parties can occur on the final determination of the objection.”

11. Sinking fund to provide compensation for lessees of Maori land—Section 353 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

- 5 “(1A) Notwithstanding anything in subsection (1) of this section, the Board may from time to time, if it is satisfied that it is prudent to do so, direct the Maori Trustee to place the whole or any part of any sum referred to in that subsection in any other account or investment instead of the Common Fund of
10 the Maori Trustee’s Account.”

12. Vesting of land in trustees includes rights and remedies—Section 438 (4) of the principal Act is hereby amended by inserting, after the words “instrument of assurance,” the words “together with all rights and remedies
15 (if any) to which the owners were entitled in respect of the land immediately before the vesting”.

Maori Language

13. Sections to be read with Maori Language Act 1987—This section and the next 5 succeeding sections shall be
20 read together with and deemed part of the Maori Language Act 1987* (in those sections referred to as the principal Act).

*1987, No. 176

14. Change of name of Commission—(1) Section 6 (1) of the principal Act is hereby amended by omitting the words “Te Komihana Mo Te Reo Maori”, and substituting the words “Te
25 Taura Whiri I Te Reo Maori”.

(2) The Title of the principal Act is hereby amended by omitting the words “Te Komihana Mo Te Reo Maori”, and substituting the words “Te Taura Whiri I Te Reo Maori”.

30 (3) Section 2 of the principal Act is hereby amended by repealing the definition of the term “Commission”, and substituting the following definition:

“‘Commission’ means Te Taura Whiri I Te Reo Maori established by section 6 of this Act.”

(4) Section 22 of the principal Act is hereby repealed.

35 (5) The heading to the Second Schedule to the principal Act is hereby amended by omitting the words “TE KOMIHANA MO TE REO MAORI”, and substituting the words “TE TAURA WHIRI I TE REO MAORI”.

40 (6) The First Schedule to the Ombudsmen Act 1975 is hereby amended—

(a) By inserting, after the item “The State Services Commission”, the item “Te Taura Whiri I Te Reo Maori”:

(b) By omitting the item “Te Komihana Mo Te Reo Maori”
(as inserted by section 22 of the principal Act). 5

(7) The Fourth Schedule to the Higher Salaries Commission Act 1977 (as substituted by section 14 of the Higher Salaries Commission Act 1988) is hereby amended by omitting the item “Mema o Te Komihana Mo Te Reo Maori”, and substituting the item “Mema o Te Taura Whiri I Te Reo Maori”. 10

15. Proceedings to which right to speak Maori extends—(1) Section 2 of the principal Act is hereby amended by repealing paragraph (c) of the definition of the term “legal proceedings”, and substituting the following paragraph: 15

“(c) Proceedings before—

“(i) Any Commission of Inquiry under the Commissions of Inquiry Act 1908; or

“(ii) Any tribunal or other body having, by or pursuant to any enactment, the powers or any of the powers of such a Commission of Inquiry, — 20
that is required to inquire into and report upon any matter of particular interest to the Maori people or to any tribe or group of Maori people:”.

(2) Part A of the First Schedule to the principal Act is hereby amended by inserting, after the item “Family Courts”, the item “Children and Young Persons Courts”. 25

(3) Part B of the First Schedule to the principal Act is hereby amended by inserting, after the item “The Equal Opportunities Tribunal”, the item “The Tenancy Tribunal”.

16. Offence—Section 21 of the principal Act is hereby amended by omitting the expression “\$200”, and substituting the expression “\$500”. 30

17. New heading and section inserted—(1) The principal Act is hereby amended by inserting, after section 21, the following heading and section: 35

“Miscellaneous Provisions

“21A. **Rules**—The Governor-General may from time to time, by Order in Council made on the advice of the Minister tendered on the recommendation of the Commission, make rules for any of the following purposes: 40

“(a) Prescribing fees in respect of—

- “(i) The conducting of examinations for certificates of competency in the Maori language; and
5 “(ii) Applications for, and the issuing of, certificates of competency in the Maori language; and
“(iii) Any other service provided by the Commission:
10 “(b) Prescribing the procedures to be followed in respect of such applications.”
(2) Section 20 of the principal Act is hereby consequentially repealed.

18. Bank Accounts—Clause 12 of the Second Schedule to the principal Act is hereby amended by adding the following
15 subclause:

- “5) Notwithstanding anything in subclause (4) of this clause, the Commission may from time to time authorise, either generally or in particular cases, the payment of any money by
20 means of an appropriate direct debit order or direct credit order addressed to any bank.”

Maori Trustee

19. Sections to be read with Maori Trustee Act 1953—This section and the next 5 succeeding sections shall be read together with and deemed part of the Maori Trustee Act 1953*
25 (in those sections referred to as the principal Act).

*R.S. Vol. 3, p. 393
Amendment: 1985, No. 116

20. Appointment of Maori Trustee by executors, administrators, and trustees—The principal Act is hereby amended by inserting, after section 12D (as inserted by section 148 (1) of the Maori Affairs Amendment Act 1967), the
30 following section:

- “12DA. (1) With the consent of the High Court, and subject to the agreement of the Maori Trustee,—
35 “(a) Executors, whether appointed before or after the commencement of this Act, may, unless expressly prohibited, before or after taking out probate, appoint the Maori Trustee as sole executor or appoint as co-executor the Maori Trustee and any other person or persons, whether or not the other person or persons include all or any of the executors
40 making the appointment; and

“(b) Other administrators under a grant of administration with or without a will annexed, whether appointed before or after the commencement of this Act, may, unless expressly prohibited, appoint the Maori Trustee as sole administrator or appoint as co-administrators the Maori Trustee and any other person or persons, whether or not the other person or persons include all or any of the administrators making the appointment. 5

“(2) Where, pursuant to subsection (1) of this section, any executor or administrator with a will annexed appoints the Maori Trustee as executor or administrator, or appoints the Maori Trustee and any other person or persons as co-executors or co-administrators, the appointee or appointees shall, by virtue of the appointment, be also the sole trustee or co-trustees (as the case may be) in all cases where the executor or administrator was trustee, or where there was no trustee appointed by the trust instrument or in existence at the date of the appointment under this section. The provisions of this subsection shall apply to all appointments made under this Act before or after the commencement of this section, or made before the commencement of this Act under any Act repealed by this Act. 10 15 20

“(3) Where there are more executors or administrators or trustees or persons having power to appoint a trustee than one, any one executor (whether before or after proving a will), any one administrator, or any one trustee, or any one of those persons having power to appoint a trustee, may, with the consent of the proposed appointee or appointees apply to the High Court to have the Maori Trustee appointed as sole executor, administrator, or trustee or to have appointed as co-executors, co-administrators, or co-trustees the Public Trustee and any other person or persons, whether or not the other person or persons include all or any of the executors or administrators or trustees or persons having power to appoint a trustee. 25 30 35

“(4) On any application to the High Court under this section, the Court shall have power to make such order as it thinks fit.”

21. Maori Trustee may enter into joint ventures—The principal Act is hereby amended by inserting, after section 13A (as inserted by section 148 (2) of the Maori Affairs Amendment Act 1967), the following section: 40

“13B. (1) In the performance and exercise of the Maori Trustee’s functions, duties, and powers, and in pursuit of the

Maori Trustee's objectives, the Maori Trustee may, with the approval of the Board of Maori Affairs, enter into any partnership, joint venture, or other arrangement with the owners of any Maori freehold land or any General land owned
5 by Maori or any General land owned on behalf of Maori, or accept any lease or licence of any such land, for the purpose of co-operating with the owners in the use and development of the land or any enterprise conducted on or from the land.

“(2) Without limiting or being limited by **subsection (1)** of this
10 section, the Maori Trustee may, with the approval of the Board, do all or any of the following things:

“(a) Establish or promote, or concur in or support the establishment or promotion of, any body corporate having power to carry on business of any kind
15 related to the Maori Trustee's operations:

“(b) Subscribe for or otherwise acquire shares in any company incorporated in New Zealand that carries on or proposes to carry on business of any kind related to the Maori Trustee's operations, and
20 exercise, in respect of any such shares acquired by the Maori Trustee, all rights and powers to which the Maori Trustee may be entitled as the holder of the shares:

“(c) Otherwise participate in any body corporate, firm, partnership, or joint venture (whether established before or after the commencement of this Act) having power to carry on business of any kind
25 related to the Maori Trustee's operations.”

22. Unclaimed agency money—(1) The principal Act is
30 hereby amended by inserting, after section 30, the following section:

“30A. (1) In this section ‘unclaimed agency money’ means unclaimed money within the meaning of section 30 of this Act that is held by the Maori Trustee as agent for—

35 “(a) Any trust constituted under the Maori Affairs Act 1953;
or

“(b) Any Maori incorporation; or

“(c) Any Maori Trust Board.

“(2) In respect of any unclaimed agency money, the
40 provisions of **subsection (3)** of this section shall apply instead of the provisions of subsection (9) of section 30 of this Act; but, except in that regard, the provisions of that section shall apply to all unclaimed agency money as they apply to any other unclaimed money within the meaning of that section.

“(3) Any unclaimed agency money in respect of which claims are not established within 12 months after the date of the publication in the *Gazette* of the notice required by subsection (8) of section 30 of this Act, shall be paid by the Maori Trustee to the trust or the Maori incorporation or the Maori Trust Board, as the case may require.” 5

(2) Section 30 (9) of the principal Act (as substituted by section 16 (1) of the Maori Purposes Act 1961) is hereby amended by inserting, before the words “Any unclaimed money”, the words “Except as provided in section 30A of this Act,”. 10

23. Guarantees and indemnities—The principal Act is hereby amended by inserting, after section 32, the following section:

“32A. (1) Subject to this section, the Maori Trustee may in writing, on any conditions that the Maori Trustee thinks fit, give for any purposes for the time being approved by the Board of Maori Affairs such guarantees or indemnities as the Maori Trustee thinks fit in respect of the whole or any part of any money that is payable or that is to become payable or that may become payable by any person (in this section called “the debtor”) to any other person (in this section called “the creditor”). 15 20

“(2) Without prejudice to subsection (1) of this section, the Board may specify as a condition of any such guarantee or indemnity that the debtor pay a specified amount to the Maori Trustee, and in any such case the amount shall be fixed by the Maori Trustee in accordance with a formula approved from time to time by the Board. 25

“(3) Any amount payable to the Maori Trustee under subsection (2) of this section may be paid by the debtor at the time of the giving of the guarantee or indemnity, or it may be added to the amount of any loan by the creditor to the debtor and included in the guarantee or indemnity; and in the latter case it may be secured by any security instrument given by the debtor in favour of the creditor in respect of the loan as if it formed part of the loan, and shall be paid by the creditor to the Maori Trustee. 30 35

“(4) Out of the money paid under subsection (2) of this section, the Maori Trustee shall appropriate a fee at a rate from time to time fixed by the Maori Trustee to meet the costs of administration of guarantees and indemnities given under this section, and shall credit the remainder to the General Purposes Fund. 40

“(5) Notwithstanding any rule of law or other provision to the contrary, any person may advance money (including trust funds) on the security of a mortgage of land if the repayment of the money advanced, or of the excess above the amount that
5 might otherwise be advanced, is directly or indirectly secured by a guarantee or indemnity under this section that is expressed to be a guarantee or indemnity to which this subsection applies.

“(6) Any loss that may be incurred by the Maori Trustee by
10 reason of the operation of this section shall be a charge against the General Purposes Fund.”