

MAORI PURPOSES BILL

EXPLANATORY NOTE

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

Maori Affairs Restructuring

Clause 3: Subclause (1) repeals section 86 of the Maori Affairs Restructuring Act 1989 (which authorises the chief executive of the Ministry of Maori Development to make advances and provide other assistance, in that chief executive's discretion, to or for the benefit of any Maori for the purposes of assisting him or her to engage in any enterprise).

Subclauses (2) and (3) are transitional provisions designed to ensure that the chief executive of the Ministry of Maori Development may administer, after the repeal of section 86 of the Maori Affairs Restructuring Act 1989, money advanced under that section before its repeal.

Maori Community Development

Clause 5 repeals section 5 of the Maori Community Development Act 1962 (which section provides for the appointment of honorary Community Officers).

Maori Trustee

Clause 7 amends section 30 of the Maori Trustee Act 1953 to provide that, subject to section 30A of the Maori Trustee Act 1953, unclaimed money held in the Common Fund by the Maori Trustee may be paid into the General Purposes Fund if no claim is made within 12 months after the date of the publication in the *Gazette* of the notice required by section 30 (8) of the Maori Trustee Act 1953.

Section 30 of the Maori Trustee Act 1953 provides at present that such unclaimed money is to be disposed of by paying—

- (a) An amount equal to 10 percent thereof to the credit of the Maori Purposes Fund Account established under the Maori Purposes Fund Act 1934-35;
- (b) An amount equal to 90 percent thereof or the sum of \$10,000, whichever is the lesser, to the credit of the New Zealand Maori Council constituted by section 17 of the Maori Welfare Act 1962;
- (c) The residue to the Maori Education Foundation established under the Maori Education Foundation Act 1961 (the successor to which Foundation is the Maori Education Trust).

Clause 8 repeals the provisions of section 32 of the Maori Trustee Act 1953 under which the Maori Trustee—

- (a) May make grants from the General Purposes Fund to the Maori Purposes Fund Account; and
- (b) Is required, in each financial year, to make payments from the General Purposes Fund to—
 - (i) The Maori Education Foundation (the successor to which is the Maori Education Trust); and
 - (ii) The New Zealand Maori Council.

Clause 9 repeals section 35 of the Maori Trustee Act 1953 (the section under which the Maori Trustee may expend or apply money from the General Purposes Fund for certain philanthropic purposes).

*Te Ture Whenua Maori
Maori Land*

The principal effect of the proposed amendments to Te Ture Whenua Maori Act 1993 is to make provision for forestry rights (within the meaning of section 2 of the Forestry Rights Registration Act 1983).

Section 4 of Te Ture Whenua Maori Act 1993 provides that the grant of a profit in relation to Maori land is an alienation. Alienations of Maori land generally require the confirmation of the Maori Land Court.

The amendments propose that the granting of forestry rights should—

- (a) Not require confirmation by the Court if granted by a Maori incorporation or by the trustees of any trust constituted under Part XII;
- (b) Require a special resolution of shareholders if for a term of more than 21 years (if granted by a Maori incorporation);
- (c) Be noted by the Registrar in the records of the Court if for a term of more than 21 years.

Clause 11 amends section 150 of the principal Act.

Section 150 (3) provides that no interest in Maori freehold land (other than an undivided interest) may be alienated otherwise than by—

- (a) An instrument of alienation confirmed by the Court; or
- (b) A vesting order made by the Court.

Section 150 (4) contains exemptions in respect of alienations (other than by way of sale or gift) of interests in Maori freehold land if the alienation is—

- (a) Effected by a Maori incorporation, or by the trustees of any trust constituted under Part XII; or
- (b) Effected by way of the assignment of a lease or the granting of a sublease in respect of land owned by such an incorporation or trustees.

The amendment proposes an additional exemption, namely the granting, renewal, variation, or transfer of a forestry right over or in respect of Maori freehold land that is owned by a Maori incorporation or by the trustees of any trust constituted under Part XII.

Clause 12: The amendments propose that a certificate of confirmation by the Registrar be required for an instrument of alienation which is granted by any person (other than a Maori incorporation or a trust constituted under Part XII) and which is—

- (a) An instrument of alienation by way of renewal, variation, assignment, or transfer of a forestry right; or
- (b) An instrument of alienation by way of variation or transfer of a lease, sublease, or licence.

Clause 13 corrects an error.

Clause 14 relates to special resolutions by the shareholders of Maori incorporations.

Currently, special resolutions are required for any transfer of Maori freehold land and the granting of a lease or licence for a term of more than 21 years.

The amendment proposes that a special resolution be required for—

- (a) The granting of a forestry right for a term of more than 21 years; or
- (b) The variation of any such lease, licence, or forestry right.

Clause 15 provides that a lease, licence, or forestry right for a term of more than 21 years, or a variation, renewal, assignment, or transfer of any such lease, licence, or forestry right, is required to be noted by the Registrar.

Hon. John Luxton

MAORI PURPOSES

ANALYSIS

Title	
1. Short Title	8. Special purposes for which money in General Purposes Fund may be used
<i>Maori Affairs Restructuring</i>	9. Limited authority to make donations out of General Purposes Fund for philanthropic or other purposes
2. Sections to be read with Maori Affairs Restructuring Act 1989	<i>Te Ture Whenua Maori</i>
3. Advances and other assistance to Maori	<i>Maori Land</i>
<i>Maori Community Development</i>	10. Sections to be read with Te Ture Whenua Maori Act 1993
4. Sections to be read with Maori Community Development Act 1962	11. Manner of alienation of interests in Maori freehold land
5. Honorary Community Officers	12. Certain instruments require only certificate of confirmation by Registrar
<i>Maori Trustee</i>	13. Certain instruments require only noting by Registrar
6. Sections to be read with Maori Trustee Act 1953	14. Incorporation's powers of alienation
7. Unclaimed money in Common Fund	15. Certain instruments require noting by Registrar

A BILL INTITULED

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 1995.

Maori Affairs Restructuring

- 10 **2. Sections to be read with Maori Affairs Restructuring Act 1989**—This section and the next succeeding section shall be read together with and deemed part of the Maori Affairs Restructuring Act 1989* (in that section referred to as the principal Act).

*1989, No. 68

Amendment: 1991, No. 42

3. Advances and other assistance to Maori—(1) The principal Act is hereby amended by repealing section 86.

(2) Notwithstanding the repeal effected by **subsection (1)** of this section, but subject to **subsection (3)** of this section, subsections (2) and (3) of section 86 of the principal Act and subsections (5) to (7) and (10) of section 85 of the principal Act shall continue to apply (as if **subsection (1)** of this section had not been enacted) in relation to any money advanced under section 86 of the principal Act before the commencement of this Act.

(3) Notwithstanding **subsection (2)** of this section, no money advanced before the commencement of this Act under section 86 of the principal Act shall, after the commencement of this Act, be readvanced under section 85 (6) of the principal Act.

Maori Community Development

4. Sections to be read with Maori Community Development Act 1962—This section and the next succeeding section shall be read together with and deemed part of the Maori Community Development Act 1962*.

*R.S. Vol. 8, p. 361

5. Honorary Community Officers—The Maori Community Development Act 1962 is hereby amended by repealing section 5.

Maori Trustee

6. Sections to be read with Maori Trustee Act 1953—This section and the next 3 succeeding sections shall be read together with and deemed part of the Maori Trustee Act 1953* (in those sections referred to as the principal Act).

*R.S. Vol. 3, p. 393

Amendment: 1985, No. 116; 1991, No. 41

7. Unclaimed money in Common Fund—(1) Section 30 of the principal Act is hereby amended by repealing subsection (9) (as substituted by section 16 (1) of the Maori Purposes Act 1961), and substituting the following subsection:

“(9) Except as provided in section 30A of this Act, any unclaimed money in respect of which claims are not established within 12 months after the date of the publication in the *Gazette* of a notice of the filing of a list of that unclaimed money shall be paid by the Maori Trustee into the General Purposes Fund.”

(2) Section 30 (15) of the principal Act is hereby amended by omitting the words “which may at any time thereafter be reimbursed out of other unclaimed money”.

(3) The following enactments are hereby consequentially repealed:

(a) Section 23 of the Maori Purposes Act 1976:

(b) Section 4 (2) of the Maori Trustee Amendment Act 1991.

5 **8. Special purposes for which money in General Purposes Fund may be used**—(1) Section 32 of the principal Act is hereby amended by repealing—

(a) Paragraph (c) of subsection (1) (as amended by section 11 (2) of the Maori Purposes Act 1969); and

10 (b) Subsection (1A) (as inserted by section 17 (2) of the Maori Purposes Act 1961); and

(c) Subsection (1B) (as inserted by section 5 of the Maori Purposes Act 1971).

(2) The following enactments are hereby consequentially repealed:

(a) Section 17 (2) of the Maori Purposes Act 1961:

(b) Section 11 (2) of the Maori Purposes Act 1969:

(c) Section 5 of the Maori Purposes Act 1971.

20 **9. Limited authority to make donations out of General Purposes Fund for philanthropic or other purposes**—

(1) The principal Act is hereby amended by repealing section 35 (as amended by section 2 of the Maori Trustee Amendment Act 1979).

(2) The Maori Trustee Amendment Act 1979 is hereby consequentially repealed.

Te Ture Whenua Maori

Maori Land

30 **10. Sections to be read with Te Ture Whenua Maori Act 1993**—This section and the next 5 succeeding sections shall be read together with and deemed part of Te Ture Whenua Maori Act 1993* (in those sections referred to as the principal Act).

*1993, No. 4

Amendments: 1993, No. 70; 1993, No. 104; 1994, No. 69

35 **11. Manner of alienation of interests in Maori freehold land**—Section 150 of the principal Act is hereby amended by adding, after subsection (4) (as substituted by section 6 of the Te Ture Whenua Maori Amendment Act (No. 2) 1993), the following subsection:

40 “(5) Notwithstanding sections 228 (3) and 254 (2) of this Act, nothing in subsection (3) of this section applies in relation to an alienation that is the granting, renewal, variation, or transfer of

a forestry right (within the meaning of section 2 of the Forestry Rights Registration Act 1983) over or in respect of Maori freehold land (being Maori freehold land owned by a Maori incorporation or the trustees of any trust constituted under Part XII of this Act).”

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12. Certain instruments require only certificate of confirmation by Registrar—Section 160 (1) of the principal Act is hereby amended by repealing paragraph (ba) (as enacted by section 8 (1) of Te Ture Whenua Maori Amendment Act 1994), and substituting the following paragraph:

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“(ba) An instrument of alienation by way of renewal, variation, assignment, or transfer of a lease, sublease, licence, or forestry right (within the meaning of section 2 of the Forestry Rights Registration Act 1983):”.

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13. Certain instruments require only noting by Registrar—Section 161 of the principal Act is hereby amended by omitting from subsection (3) (as added by section 9 of Te Ture Whenua Maori Amendment Act 1994) the word “mortgagor”, and substituting the word “mortgagee”.

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14. Incorporation’s powers of alienation—Section 254 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

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“(a) A Maori incorporation may—

“(i) Transfer any Maori freehold land vested in it; or

“(ii) Grant, in respect of any Maori freehold land vested in it, a lease, licence, or forestry right (within the meaning of section 2 of the Forestry Rights Registration Act 1983) for a term of more than 21 years or vary any such lease, licence, or forestry right—

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only pursuant to a special resolution authorising the transfer or the grant or variation of the lease, licence, or forestry right; and”.

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15. Certain instruments require noting by Registrar—Section 255 (b) of the principal Act is hereby amended by repealing subparagraph (i), and substituting the following subparagraph:

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5 “(i) A lease, licence, or forestry right (within the meaning of section 2 of the Forestry Rights Registration Act 1983) for a term of more than 21 years, or a variation, renewal, assignment, or transfer of any such lease, licence, or forestry right; or”.