

## MAORI PURPOSES BILL

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AS FURTHER REPORTED FROM THE MĀORI AFFAIRS COMMITTEE

### COMMENTARY

#### **Recommendation**

The Māori Affairs Committee has examined further the Maori Purposes Bill and recommends that it be passed with the amendments shown.

#### **Conduct of the examination**

On 18 April 1996 the House referred the Maori Purposes Bill back to the committee to consider further amendments to the bill in relation to Te Ture Whenua Maori Act 1993.

#### **Amendments considered**

Clause 11 of the bill is further amended to accommodate secondary transactions (that is, transactions concerning land owned by Māori incorporations or trusts and effected not by the incorporation or trust, but by third parties such as lessees or assignees). Clause 15 is amended to correct a cross-reference in section 255 of that Act. These amendments are small and technical and we recommend their inclusion in the bill.

Section 123 of Te Ture Whenua Maori Act 1993 requires all orders affecting or relating to the title to Māori freehold land to be registered by the Māori Land Court against the title to that land. The amendment in relation to section 123 of the Act allows for the final consolidated order to be registered in place of the preceding orders leading to it. We believe this amendment will reduce the backlog of orders waiting to be registered in the Land Transfer Office by the Māori Land Court and we therefore support it.

A new section 193 of Te Ture Whenua Maori Act 1993 is recommended. This Act was reviewed and amended in September 1993 to exclude any land vested in Māori incorporations and trusts from the provisions in Part XI of that Act because Part XI of the Act was only considered to be designed to apply to assembled land owners. However section 201 contains a mechanism that enables Māori incorporations, trusts, and lessees to review lease rental on freehold land. We support the amendment, which allows Māori incorporations, trusts, and lessees to undertake rent reviews using the mechanism agreed to by the parties to the lease document.

AS REPORTED FROM THE MĀORI AFFAIRS COMMITTEE  
ON 2 APRIL 1996

**COMMENTARY**

**Recommendation**

The Māori Affairs Committee has examined the Maori Purposes Bill and recommends that it be passed with the amendments shown.

**Conduct of the examination**

The Maori Purposes Bill was introduced and referred to the Māori Affairs Committee on 23 March 1995. The closing date for submissions was 26 April 1995. The committee received and considered 19 submissions from interested parties. Advice was received from Te Puni Kōkiri.

This commentary sets out the details of the committee's consideration of the bill and the major issues addressed by the committee.

**Purpose**

The bill aims to amend the law relating to Māori, Māori land and other Māori purposes. It removes the power of the Chief Executive of Te Puni Kōkiri to provide financial assistance to Māori enterprises, removes the power to appoint honorary community officers, removes the power of the Māori Trustee to make certain grants, and amends Te Ture Whenua Maori Act 1993 in order to clarify the position of forestry rights under that Act. This bill also makes certain amendments to the Maori Trust Boards Act 1955 to do away with certain restrictions on the powers of Māori Trust Boards.

**Maori Affairs Restructuring Act 1989**

This bill repeals section 86 of the Maori Affairs Restructuring Act 1989, which authorises the Chief Executive of Te Puni Kōkiri to provide advances and assistance to Māori enterprises. However, provision for the continued administration of existing loan agreements and security instruments is retained in clause 3 (2).

One submission made specific reference to clause 3 of the bill, stating that the repeal of section 86 was in conflict the Government's publication *He Tirohanga Rangapu Partnership Perspectives 1988*. We were informed that as financial assistance is now available to Māori through the Business Development Boards, and no appropriation is made to Te Puni Kōkiri for section 86 loans, the repeal of section 86 is appropriate. We therefore have made no amendments to this clause.

**Maori Community Development Act 1962**

Section 5 of the Maori Community Development Act 1962 empowers the Minister of Māori Affairs to appoint honorary community officers (HCOs). Clause 5 of the bill repeals section 5.

Submissions opposed to this clause of the bill alleged that the statutory recognition of HCOs was essential for their work in the community.

Te Puni Kōkiri no longer receives an appropriation for HCOs as the appropriation has been mainstreamed to the Department of Social Welfare. We were advised that HCOs were no longer administered by Te Puni Kōkiri and have to compete for funding from the Community Funding Group along with other groups which perform similar services. We heard that Māori have their own structures and committees internally organised and mandated for such services. We were told that through these structures Māori communities can deal with welfare issues

whilst maintaining a measure of autonomy, a measure we support. We acknowledge the outstanding contribution provided by these officers to their communities, however we believe it is now time to move on and have made no amendments to this clause.

### **Maori Trustee Act 1953**

This bill amends the Maori Trustee Act 1953. The amendments remove the powers and obligations of the Māori Trustee to make grants from the Common Fund and General Purposes Fund to the Māori Purposes Fund Board, New Zealand Māori Council and the Māori Education Trust. The amendments also remove the power of the Māori Trustee to make philanthropic grants out of the General Purposes Fund.

Submissions opposed this function of the bill on the grounds that the Māori Education Trust and New Zealand Māori Council are not receiving and have not secured alternative sources of funding. We consider this is not the case and have no recommendations to make.

Originally clause 7 of the bill amended section 30 of the Maori Trustee Act 1953 to provide that unclaimed beneficiary monies held by the Māori Trustee in the Common Fund must be paid into the General Purposes Fund if no claim is made within 12 months after notification in the *Gazette*.

Many submissions objected to the proposed transfer of unclaimed money under clause 7. The submissions allege that the transfer allows the money to be used by the Government or the Trustee for their own purposes, and that the Trustee would no longer be able to meet the needs of beneficiaries. We were informed by our officials that the General Purposes Fund could be used to meet established claims and would therefore meet the needs of beneficiaries. However, we recognise the other concern of submissioners and have amended clause 7 so that unclaimed money remains in the Common Fund.

### **Te Ture Whenua Maori Act 1993**

This bill amends Te Ture Whenua Maori Act 1993 so that Māori incorporations wishing to grant forestry rights do not require confirmation of the Māori Land Court, but do need to obtain a special resolution of shareholders, and noting by the Registrar, if the grant is for a term of more than 21 years.

Clauses 14 and 15 of the bill amend sections 254 and 255 of Te Ture Whenua Maori Act 1993 requiring shareholders of Māori incorporations, in relation to Māori freehold land, to pass a special resolution for the grant of a lease, licence or forestry right for a term of more than 21 years, and for variations in such grants, and for such transactions to be noted by the Registrar of the Māori Land Court.

Submissions received on these clauses were divided. Of the seven submissions received, four supported the amendments, two opposed the amendments to the clauses unless changes were made, and one submissioner opposed them unreservedly. Submissioners opposed to the clauses were concerned that incorporations would have to obtain a special resolution from shareholders and forward it to the Registrar every time it wished to vary a lease or licence having a term of more than 21 years. Incorporations are not currently required to comply with these requirements. We considered the concerns expressed by submissioners and recommend that clauses 14 and 15 be amended to allow incorporations to vary such leases, licences or forestry rights without a special resolution or noting by the Registrar.

**Maori Trust Boards Act 1955**

On 26 March 1996 the House gave leave to the committee, in its consideration of the Maori Purposes Bill, to consider and, if it thought fit, to adopt amendments to the Maori Trust Boards Act 1955. The amendments, which affect sections 20 (3), 26 (1), 27, 28, and 32 (3) and which repeal section 29 of the Act, remove the involvement of the Minister of Māori Affairs in certain aspects of the day to day business of the boards. We note that, while the boards are primarily accountable to their beneficiaries, the Act does retain provisions that require the Minister to approve annual reports and appointment procedures. We further note that these amendments are an interim measure only. A more comprehensive reform, aimed at replacing the accountability of the boards to the Minister with accountability to their beneficiaries, is currently being developed. We support these amendments.

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## KEY TO SYMBOLS USED IN REPRINTED BILL

AS FURTHER REPORTED FROM THE MĀORI AFFAIRS COMMITTEE ON  
2 APRIL 1996

### *Struck Out (Unanimous)*

Subject to this Act,

Text struck out unanimously

### *New (Unanimous)*

Subject to this Act,

Text inserted unanimously

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

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Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon. John Luxton

## MAORI PURPOSES

### ANALYSIS

Title	
1. Short Title	10A. Orders affecting title to Maori freehold land to be registered
<i>Maori Affairs Restructuring</i>	11. Manner of alienation of interests in Maori freehold land
2. Sections to be read with Maori Affairs Restructuring Act 1989	12. Certain instruments require only certificate of confirmation by Registrar
3. Advances and other assistance to Maori	13. Certain instruments require only noting by Registrar
<i>Maori Community Development</i>	13A. Application of provisions of Part XI
4. Sections to be read with Maori Community Development Act 1962	14. Incorporation's powers of alienation
5. Honorary Community Officers	15. Certain instruments require noting by Registrar
<i>Maori Trustee</i>	<i>Maori Trust Boards</i>
6. Sections to be read with Maori Trustee Act 1953	16. Sections to be read with Maori Trust Boards Act 1955
7. Unclaimed money in Common Fund	17. Board may appoint committees
8. Special purposes for which money in General Purposes Fund may be used	18. Power to acquire lands and to farm
9. Limited authority to make donations out of General Purposes Fund for philanthropic or other purposes	19. Power to borrow money and guarantee loans
<i>Te Ture Whenua Maori</i>	20. Bank accounts
<i>Maori Land</i>	21. Minister may authorise countersigning officer
10. Sections to be read with Te Ture Whenua Maori Act 1993	22. Statement of estimated receipts and of proposed payments of Board to be furnished to Minister

### 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*

- 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. 5

(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. 10

(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. 15

#### *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\*. 20

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

**5. Honorary Community Officers**—The Maori Community Development Act 1962 is hereby amended by repealing section 5. 25

#### *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). 30

\*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: 35  
 “(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)* remain within the Common Fund."

*Struck Out (Unanimous)*

5 (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:

- 10 (a) Section 23 of the Maori Purposes Act 1976:  
(b) Section 4 (2) of the Maori Trustee Amendment Act 1991.

**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—

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

20 (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.

25 **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).

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

*Te Ture Whenua Maori*

*Maori Land*

35 **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



*New (Unanimous)*

**10A. Orders affecting title to Maori freehold land to be registered**—(1) Section 123 (1) of the principal Act is hereby amended by inserting, before the words “Every order to which this Part of this Act applies”, the words “Subject to **subsection (7A)** of this section,” 5

(2) Section 123 of the principal Act is hereby amended by inserting, after subsection (7), the following subsection:

“(7A) Where an order to which this Part of this Act applies has not been registered in accordance with subsection (1) of this section, the registration of that order against the title to the land may, if its effect has been incorporated into a consolidated order made under section 128 of this Act, be effected by registering the consolidated order against the title to the land; and subsections (2) to (4) of this section shall, with all necessary modifications, apply in relation to the registration of the consolidated order.” 10 15

*Struck Out (Unanimous)*

**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: 20

“(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).” 25 30

*New (Unanimous)*

**11. Manner of alienation of interests in Maori freehold land**—(1) Section 150 of the principal Act (as amended by section 6 of Te Ture Whenua Maori Amendment Act (No. 2) 1993) is hereby amended by repealing subsections (4) and (5), and substituting the following subsections:

“(4) Nothing in subsection (3) of this section applies in relation to an alienation (other than by way of sale or gift) of any interest in Maori freehold land if that alienation—

10 “(a) Is effected—

“(i) By a Maori incorporation; or

“(ii) By the trustees of any trust constituted under Part XII of this Act; or

“(b) Is effected by way of—

15 “(i) The assignment of a lease of an interest in 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); or

20 “(ii) The granting of a sublease of an interest in Maori freehold land of the kind described in **paragraph (b)** of this subsection; or

“(iii) The granting of a mortgage of a lease or sublease of an interest in Maori freehold land of the kind described in **paragraph (b)** of this subsection.

25 “(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, transfer, assignment, or mortgage of a forestry right (within the meaning of section 2 of the Forestry Rights Registration Act 30 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).”

(2) Section 6 of Te Ture Whenua Maori Amendment Act (No. 2) 1993 is hereby consequentially repealed.

35 **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:

“(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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*New (Unanimous)*

**13A. Application of provisions of Part XI**—(1) The principal Act is hereby amended, as from its commencement, by repealing section 193, and substituting the following section:

“193. (1) Nothing in sections 195 to 199 of this Act shall apply in respect of any lease of land while that land is vested in trustees under Part XII of this Act or in a Maori incorporation (whether the vesting took place before or after the commencement of this Act).

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“(2) Where a special valuation is made under section 207 of this Act of any land that is vested in trustees under Part XII of this Act or in a Maori incorporation (not being a special valuation made at the request of the Maori Trustee), section 208 of this section shall have effect as if—

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“(a) Subsection (1) of that section did not require the certificate in relation to that valuation to be served on the Maori Trustee but required instead that the Valuer-General serve that certificate on those trustees or on that Maori incorporation, as the case may require; and

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“(b) Subsection (2) of that section did not impose any obligations on the Maori Trustee in relation to the service of copies of the certificate in relation to that valuation but required instead that those trustees or that Maori incorporation, as the case may require, serve a copy of that certificate on the lessee; and

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“(c) Subsection (6) of that section did not require the Registrar of the Court to give to the Maori Trustee notice of the filing by the lessee of any objection to that valuation but required instead that the

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*New (Unanimous)*

Registrar of the Court give to those trustees or that Maori incorporation, as the case may require, notice of the filing by the lessee of any such objection.

5 “(3) Where section 209 of this Act applies in respect of any lease of any land while that land is vested in trustees under Part XII of this Act or in a Maori incorporation (whether that vesting took place before or after the commencement of this Act), that section shall, with any necessary modifications, apply

10 in relation to that lease as if every reference in that section to the Maori Trustee were in each case a reference to those trustees or that Maori incorporation, as the case may require.

“(4) Section 50 of the Maori Trustee Act 1953 shall be read subject to the provisions of this Part of this Act.”

15 (2) Te Ture Whenua Maori Amendment Act (No. 2) 1993 is hereby consequentially amended as from its commencement by repealing section 9.

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

*Struck Out (Unanimous)*

“(a) A Maori incorporation may—

25 “(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

30 21 years or vary any such lease, licence, or forestry right—

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

*New (Unanimous)*

“(a) A Maori incorporation may—

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

“(ii) Grant, in respect of any Maori freehold land 5  
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—

only pursuant to a special resolution authorising the 10  
transfer or the grant; and”.

**15. Certain instruments require noting by Registrar—***New (Unanimous)*

(1) Section 255 (a) of the principal Act is hereby amended, as 15  
from its commencement, by omitting the words “this Part”,  
and substituting the words “Part VIII”.

(2) Section 255 (b) of the principal Act is hereby amended by  
repealing subparagraph (i), and substituting the following  
subparagraph:

*Struck Out (Unanimous)*

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“(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; 25  
or”.

*New (Unanimous)*

“(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 30  
years; or”.

*New (Unanimous)*

*Maori Trust Boards*

5 **16. Sections to be read with Maori Trust Boards Act 1955**—This section and the next 6 succeeding sections shall be read together with and deemed part of the Maori Trust Boards Act 1955\* (in those sections referred to as the principal Act).

\*R.S. Vol. 8, p. 683

Amendments: 1983, No. 19; 1988, No. 226

10 **17. Board may appoint committees**—(1) Section 20 of the principal Act is hereby amended by repealing subsection (3) (as amended by section 13 of the Maori Purposes Act 1957).

(2) Section 13 of the Maori Purposes Act 1957 is hereby consequentially repealed.

**18. Power to acquire lands and to farm**—Section 26 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

15 “(1) Each Board may acquire any land or any interest in land, whether by way of purchase, lease, or otherwise and may sell, lease, sublease, or otherwise dispose of any such land or interest.”

20 **19. Power to borrow money and guarantee loans**—Section 27 of the principal Act is hereby amended by omitting the words “With the prior consent in writing of the Minister and”.

25 **20. Bank accounts**—(1) Section 28 (1) of the principal Act is hereby amended by omitting the words “an account at such bank as may from time to time be approved by the Minister,” and substituting the words “a bank account”.

(2) Section 28 of the principal Act is hereby further amended by repealing the proviso to subsection (2).

30 **21. Minister may authorise countersigning officer**—(1) The principal Act is hereby amended by repealing section 29.

(2) The following enactments are hereby consequentially repealed:

(a) Section 6 of the Maori Purposes Act 1978:

35 (b) Section 8 of the Maori Purposes Act 1981.

*New (Unanimous)***22. Statement of estimated receipts and of proposed payments of Board to be furnished to Minister—**

Section 32 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) No Board shall, in any year, without the prior approval of the Minister, make aggregate payments exceeding by more than 10 percent the aggregate of payments provided for in the statements submitted and approved under subsections (1) and (2) of this section in respect of that year.”

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