

Reprint  
as at 12 November 2018



**Te Ture Whenua Māori Act 1993**  
**Māori Land Act 1993**

Public Act      1993 No 4  
Date of assent    21 March 1993  
Commencement    see section 1(2)

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by Te Puni Kōkiri.**

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**An Act to reform the laws relating to Maori land in accordance with the principles set out in the Preamble**

**Preamble**

Nā te mea i riro nā te Tiriti o Waitangi i motuhake ai te noho a te iwi me te Karauna: ā, nā te mea e tika ana kia whakaūtia anō te wairua o te wā i riro atu ai te kāwanatanga kia riro mai ai te mau tonu o te rangatiratanga e takoto nei i roto i te Tiriti o Waitangi: ā, nā te mea e tika ana kia mārama ko te whenua he taonga tuku iho e tino whakaaro nuitia ana e te iwi Māori, ā, nā tērā he whakahau kia mau tonu taua whenua ki te iwi nōna, ki ō rātou whānau, hapū hoki, a, a ki te whakangungu i ngā wāhi tapu hei whakamāmā i te nohotanga, i te whakahaeretanga, i te whakamahitanga o taua whenua hei painga mō te hunga nōna, mō ō rātou whānau, hapū hoki: ā, nā te mea e tika ana kia tū tonu he Te Kooti, ā, kia whakatakototia he tikanga hei āwhina i te iwi Māori kia taea ai ēnei kaupapa te whakatinana.

Whereas the Treaty of Waitangi established the special relationship between the Maori people and the Crown: And whereas it is desirable that the spirit of the exchange of kawanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi be reaffirmed: And whereas it is desirable to recognise that land is a taonga tuku iho of special significance to Maori people and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to protect wahi tapu: and to facilitate the occupation, development, and util-

isation of that land for the benefit of its owners, their whanau, and their hapu: And whereas it is desirable to maintain a court and to establish mechanisms to assist the Maori people to achieve the implementation of these principles.

Preamble: amended, on 1 July 2002, by section 3(1)(a) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Preamble: amended, on 1 July 2002, by section 3(1)(b) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Preamble: amended, on 1 July 2002, by section 3(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## 1 Short Title and commencement

- (1) This Act may be cited as—
  - (a) Te Ture Whenua Maori Act 1993; or
  - (b) the Maori Land Act 1993.
- (2) This Act shall come into force on 1 July 1993.

## 2 Interpretation of Act generally

- (1) It is the intention of Parliament that the provisions of this Act shall be interpreted in a manner that best furthers the principles set out in the Preamble.
- (2) Without limiting the generality of subsection (1), it is the intention of Parliament that powers, duties, and discretions conferred by this Act shall be exercised, as far as possible, in a manner that facilitates and promotes the retention, use, development, and control of Maori land as taonga tuku iho by Maori owners, their whanau, their hapu, and their descendants, and that protects wahi tapu.
- (3) In the event of any conflict in meaning between the Maori and the English versions of the Preamble, the Maori version shall prevail.

Section 2(2): amended, on 1 July 2002, by section 4 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## 3 Interpretation of Maori terms

*[Repealed]*

Section 3: repealed, on 1 July 2002, by section 58(a) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## 4 Interpretation

In this Act, unless the context otherwise requires,—

**ahi ka** means fires of occupation

**alienation**, in relation to Maori land,—

- (a) includes, subject to paragraph (c),—
  - (i) every form of disposition of Maori land or of any legal or equitable interest in Maori land, whether divided or undivided; and



- (ii) the making or grant of any lease, licence, easement, profit, mortgage, charge, encumbrance, or trust over or in respect of Maori land; and
  - (iii) any contract or arrangement to dispose of Maori land or of any interest in Maori land; and
  - (iv) the transfer or variation of a lease or licence, and the variation of the terms of any other disposition of Maori land or of any interest in Maori land; and
  - (v) a deed of family arrangement relating to succession to Maori land or any interest in Maori land on the death of an owner; and
  - (vi) an agreement to the taking under the Public Works Act 1981 of Maori land or any interest in Maori land; and
  - (vii) the granting, renewal, variation, transfer, assignment, or mortgage of a forestry right over Maori land; and
- (b) includes, subject to paragraph (c), any disposition of Maori land or of any interest in Maori land which is effected by the Māori trustee or any other trustee; but
- (c) does not include—
- (i) a disposition by will of Maori land or of any interest in Maori land; or
  - (ii) a disposition of a kind described in paragraph (a) that is effected by order of the court; or
  - (iii) a surrender of a lease or licence over or in respect of Maori land or any interest in Maori land; or
  - (iv) the granting, for a term of not more than 3 years (including any term or terms of renewal), of a lease or licence over or in respect of Maori land or any interest in Maori land; or
  - (v) a contract or arrangement for the granting of a lease or licence of a kind described in subparagraph (iv); or
  - (vi) the transfer or variation of a lease or licence of a kind described in subparagraph (iv) (other than a variation extending the term of such a lease or licence); or
  - (vii) a disposition by way of sale by a mortgagee pursuant to a power expressed or implied in any instrument of mortgage

**applicable auditing and assurance standard** has the same meaning as in section 5 of the Financial Reporting Act 2013

**applicable financial reporting standard** has the same meaning as in section 5 of the Financial Reporting Act 2013

**beneficial estate** or **beneficial interest** does not include an estate or interest vested in any person by way of trust, mortgage, or charge

**block**, in relation to any Maori freehold land, means the whole parcel of land comprised and described in an instrument of title

**chief executive** means the chief executive of the Ministry

**Chief Judge** means the Chief Judge of the Maori Land Court

**Chief Justice** has the meaning given by section 4(1) of the Senior Courts Act 2016

**Chief Surveyor** has the meaning given to that term by section 2 of the Survey Act 1986

**common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**court** means, as the case may require, the Maori Land Court or the Maori Appellate Court or both

**Crown land** means land that, in terms of Part 6, has the status of Crown land

**financial statements**,—

- (a) in relation to a large Maori incorporation, has the same meaning as in section 6 of the Financial Reporting Act 2013; and
- (b) in the case of any other Maori incorporation, means financial statements that at least comply with the minimum requirements prescribed for companies under section 21C of the Tax Administration Act 1994 (regardless of whether the incorporation is exempt from those requirements)

**forestry right** has the same meaning as in section 2 of the Forestry Rights Registration Act 1983

**General land** means land that, in terms of Part 6, has the status of General land

**General land owned by Maori** means General land that is owned for a beneficial estate in fee simple by a Maori or by a group of persons of whom a majority are Maori

**generally accepted accounting practice** has the same meaning as in section 8 of the Financial Reporting Act 2013

**Judge** means a Judge of the Maori Land Court; and includes the Chief Judge and the Deputy Chief Judge

**kaitiaki** means guardian

**land**—

- (a) means—
  - (i) Māori land, General land, and Crown land that is on the landward side of mean high water springs; and
  - (ii) Māori freehold land that is on the seaward side of mean high water springs; but
- (b) does not include the common marine and coastal area

**large**, in relation to a Maori incorporation, has the meaning set out in section 276A(5)

**lawyer** has the meaning given by section 6 of the Lawyers and Conveyancers Act 2006

**lease** includes a tenancy at will, and any other tenancy that confers a leasehold interest upon the tenant, whether at law or in equity; and the terms **sublease**, **lessee**, and **sublessee** have corresponding meanings

**long-term lease** means a lease—

- (a) for a term of more than 52 years; or
- (b) for a term that would be more than 52 years if 1 or more rights of renewal were exercised

**Maori** means a person of the Maori race of New Zealand; and includes a descendant of any such person

**Maori customary land** means land that, in terms of Part 6, has the status of Maori customary land

**Maori freehold land** means land that, in terms of Part 6, has the status of Maori freehold land

**Maori incorporation** or **incorporation** means a body corporate that is established under Part 13 of this Act, or that was established under or continued in existence by the provisions of Part 4 of the Maori Affairs Amendment Act 1967 and is still in existence

**Maori land** means Maori customary land and Maori freehold land

**Maori reserve** means any lands that are for the time being vested in the Māori Trustee as or for the purposes of a Maori reserve; and, in particular, includes all lands that are for the time being subject to the provisions of the Maori Reserved Land Act 1955

**Māori Trustee** means the Māori Trustee appointed under the Maori Trustee Act 1953

**Minister** means the Minister of Maori Affairs

**Ministry** means Te Puni Kōkiri

**occupation order** means an order made under section 328

**order**, in relation to the court,—

- (a) means—
  - (i) an order, judgment, decision, or determination of the Maori Land Court or the Maori Appellate Court; and
  - (ii) an order made by a Registrar in the exercise of a jurisdiction or power pursuant to section 39(1); and
  - (iii) an order made by the Chief Judge under section 44; and

- (iv) an order or decision made by a Judge, the Chief Judge, or the court under sections 26B to 26ZB; and
- (b) includes a refusal to make an order, judgment, decision, or determination of a kind referred to in paragraph (a)(i) or paragraph (a)(ii) or paragraph (a)(iii)

**person under disability** means a person under disability within the meaning of Part 12

**preferred classes of alienees**, in relation to any alienation (other than an alienation of shares in a Maori incorporation), comprise the following:

- (a) children and remoter issue of the alienating owner:
- (b) whanaunga of the alienating owner who are associated in accordance with tikanga Maori with the land:
- (c) other beneficial owners of the land who are members of the hapu associated with the land:
- (d) trustees of persons referred to in any of paragraphs (a) to (c):
- (e) descendants of any former owner who is or was a member of the hapu associated with the land

**preferred classes of alienees**, in relation to any alienation of shares in a Maori incorporation, comprise the following:

- (a) children and remoter issue of the alienating owner:
- (b) whanaunga of the alienating owner who are associated in accordance with tikanga Maori with the land vested in the incorporation:
- (c) other beneficial owners of the land who are members of the hapu associated with the land vested in the incorporation:
- (d) trustees of persons referred to in any of paragraphs (a) to (c):
- (e) descendants of any former owner who is or was a member of the hapu associated with the land vested in the incorporation:
- (f) the Maori incorporation, in any case where no person, who is, by virtue of paragraphs (a) to (e), a member of a preferred class of alienees in relation to the alienation, accepts the owner's offer of an alienation of the shares to that member

**prescribed** means prescribed by this Act or by regulations made for the purposes of this Act or by the rules of court

**Registrar** means a Registrar of the Maori Land Court; and includes the Chief Registrar and a Deputy Registrar

**road** has the same meaning as in section 315 of the Local Government Act 1974

**State Loan Department** means—

- (a) Public Trust:

- (b) Housing New Zealand Corporation:
- (c) the Māori Trustee

**subdivision consent** has the same meaning as in section 2(1) of the Resource Management Act 1991 and includes a certificate of compliance as defined in that Act

**Surveyor-General** has the meaning given to that term by section 2 of the Survey Act 1986

**territorial authority** means a territorial authority within the meaning of the Local Government Act 2002

**tikanga Maori** means Maori customary values and practices

**tipuna** means ancestor

**wahi tapu** means land set apart under section 338(1)(b)

**whanaunga** means a person related by blood

**whangai** means a person adopted in accordance with tikanga Maori

**will** includes any testamentary instrument.

Compare: 1953 No 94 ss 2(1), 432(15); 1967 No 124 ss 25, 132, 133(1); 1974 No 3 s 50; 1974 No 19 s 50(1); 1974 No 73 ss 2, 5; 1978 No 43 s 3(4); 1991 No 69 s 362

Section 4 heading: amended, on 1 July 2002, by section 5(4) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **ahi ka**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **alienation** paragraph (a)(vii): added, on 1 July 2002, by section 5(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **alienation** paragraph (b): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 4 **alienation** paragraph (c)(iv): amended, on 11 April 2001, by section 3(1) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 4 **applicable auditing and assurance standard**: inserted, on 1 April 2014, by section 119 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 4 **applicable financial reporting standard**: inserted, on 1 April 2014, by section 119 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 4 **Chief Justice**: inserted, on 1 March 2017, by section 4 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

Section 4 **common marine and coastal area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 4 **District Land Registrar**: repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 4 **financial statements**: replaced, on 12 May 2017, by section 19(1) of the Māori Purposes Act 2017 (2017 No 18).

Section 4 **forestry right**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **General land owned by Maori**: amended, on 1 July 2002, by section 5(3) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **generally accepted accounting practice**: inserted, on 1 April 2014, by section 119 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 4 **kaitiaki**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **land**: substituted, on 25 November 2004, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).

Section 4 **land** paragraph (b): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 4 **large**: inserted, on 12 May 2017, by section 19(4) of the Māori Purposes Act 2017 (2017 No 18).

Section 4 **lawyer**: inserted, on 1 March 2017, by section 4 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

Section 4 **long-term lease**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **Maori reserve**: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 4 **Māori Trustee**: substituted, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 4 **non-GAAP standard**: repealed, on 12 May 2017, by section 19(2) of the Māori Purposes Act 2017 (2017 No 18).

Section 4 **order**: substituted, on 11 April 2001, by section 3(2) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 4 **order** paragraph (a)(iv): added, on 26 September 2004, by section 5(1) of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

Section 4 **order** paragraph (a)(iv): amended, on 1 January 2005, by section 5(1) of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

Section 4 **Registrar**: amended, on 25 November 2004, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).

Section 4 **specified not-for-profit entity**: repealed, on 12 May 2017, by section 19(3) of the Māori Purposes Act 2017 (2017 No 18).

Section 4 **State Loan Department** paragraph (a): substituted, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 4 **State Loan Department** paragraph (b): amended, on 1 July 2001, by section 24(1) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Section 4 **State Loan Department** paragraph (c): amended, on 1 July 2009, pursuant to section 30(2)(b) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 4 **territorial authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 4 **tikanga Maori**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **tipuna**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **wahi tapu**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **whanaunga**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 4 **whangai**: inserted, on 1 July 2002, by section 5(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**4A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 4A: inserted, on 12 May 2017, by section 20 of the Māori Purposes Act 2017 (2017 No 18).

**5 Act to bind the Crown**

This Act shall bind the Crown.

**Part 1**  
**The Maori Land Court**

*Constitution of court*

**6 Maori Land Court to continue**

- (1) There shall continue to be a court of record called the Maori Land Court, which shall be the same court as that existing under the same name immediately before the commencement of this Act.
- (2) In addition to the jurisdiction and powers expressly conferred on it by this or any other Act, the Maori Land Court shall have all the powers that are inherent in a court of record.

Compare: 1953 No 94 s 15

**7 Appointment of Judges**

- (1) The Governor-General may from time to time, by warrant, appoint fit and proper persons to be Judges of the Maori Land Court.
- (2) The number of Judges appointed under this section must not at any time exceed 14.
- (2AA) For the purposes of subsection (2),—
  - (a) a Judge who is acting on a full-time basis counts as 1:
  - (b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1:
  - (c) the aggregate number (for example, 7.5) must not exceed the maximum number of Judges that is for the time being permitted.
- (2A) A person must not be appointed a Judge unless the person is suitable, having regard to the person's knowledge and experience of te reo Maori, tikanga Maori, and the Treaty of Waitangi.
- (3) A person may be appointed a Judge only if—
  - (a) that person has for at least 7 years held a New Zealand practising certificate as a barrister or as a barrister and solicitor; or
  - (b) that person—

- (i) holds a degree in law granted or issued by any university within New Zealand; and
  - (ii) has been admitted as a barrister and solicitor of the High Court; and
  - (iii) has held a practising certificate in a jurisdiction specified by Order in Council—
    - (A) for at least 7 years; or
    - (B) for a lesser number of years but when that number of years is added to the number of years the person has held a New Zealand practising certificate the total number of years is at least 7.
- (4) No person shall be appointed a Judge after attaining the age of 70 years.
- (5) Every Judge shall, by virtue of that office, be a Justice of the Peace for New Zealand.
- (6) The Attorney-General must publish information explaining his or her process for—
- (a) seeking expressions of interest for the appointment of Judges of the court; and
  - (b) nominating a person for appointment as a Judge of the court.
- (7) If the Attorney-General is not for the time being responsible for recommending the appointment of Judges of the court, he or she must publish information explaining the responsible Minister's process for doing the things referred to in subsection (6).
- (8) A Judge must not practise as a lawyer.
- Compare: 1953 No 94 s 16; 1974 No 73 s 43(1)
- Section 7(2): substituted, on 25 November 2004, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).
- Section 7(2): amended, on 13 December 2006, by section 4 of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).
- Section 7(2AA): inserted, on 20 May 2004, by section 3(1) of Te Ture Whenua Maori Amendment Act 2004 (2004 No 48).
- Section 7(2A): inserted, on 1 July 2002, by section 6 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).
- Section 7(3): replaced, on 1 March 2017, by section 5(1) of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).
- Section 7(4): amended, on 6 March 2007, by section 4 of Te Ture Whenua Maori Amendment Act 2007 (2007 No 4).
- Section 7(6): replaced, on 1 March 2017, by section 5(2) of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).
- Section 7(7): replaced, on 1 March 2017, by section 5(2) of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).
- Section 7(8): inserted, on 1 March 2017, by section 5(2) of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).



**7AA Judge not to undertake other employment or hold other office**

- (1) A Judge of the court must not undertake any other paid employment or hold any other office (whether paid or not) without the approval of the Chief Judge.
- (2) An approval under subsection (1) may be given only if the Chief Judge is satisfied that undertaking the employment or holding the office is consistent with the Judge's judicial office.
- (3) However, subsection (1) does not apply to another office if an enactment permits or requires the office to be held by a Judge.

Section 7AA: inserted, on 1 March 2017, by section 6 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

**7AB Protocol relating to activities of Judges**

- (1) The Chief Justice must develop and publish a protocol containing guidance on—
  - (a) the employment, or types of employment, that he or she considers may be undertaken consistent with being a Judge; and
  - (b) the offices, or types of offices, that he or she considers may be held consistent with being a Judge.
- (2) The Chief Justice may develop and publish a protocol under subsection (1) only after consultation with the Chief Judge.

Section 7AB: inserted, on 1 March 2017, by section 6 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

**7A Judges act on full-time basis but may be authorised to act part-time**

- (1) A person acts as a Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
- (2) The Attorney-General may, in accordance with subsection (4), authorise a Judge appointed under section 7 or section 8 to act on a part-time basis for any specified period.
- (3) To avoid doubt, an authorisation under subsection (2) may take effect as from a Judge's appointment or at any other time, and may be made more than once in respect of the same Judge.
- (4) The Attorney-General may authorise a Judge to act on a part-time basis only—
  - (a) on the request of the Judge; and
  - (b) with the concurrence of the Chief Judge.
- (5) In considering whether to concur under subsection (4), the Chief Judge must have regard to the ability of the court to discharge its obligations in an orderly and expeditious way.
- (6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.

- (7) The basis on which a Judge acts must not be altered during the term of the Judge's appointment without the Judge's consent, but consent under this subsection is not necessary if the alteration is required by subsection (6).

Section 7A: inserted, on 20 May 2004, by section 4 of Te Ture Whenua Maori Amendment Act 2004 (2004 No 48).

## **8 Chief Judge and deputy**

- (1) The Governor-General shall from time to time, by warrant, appoint a Chief Judge of the Maori Land Court and a Deputy Chief Judge of the Maori Land Court.
- (2) Subject to subsection (3), every person appointed as Chief Judge or 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 Chief Judge and the Deputy Chief Judge may resign that office without resigning the office of Judge.
- (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.

Compare: 1953 No 94 ss 16, 17; 1974 No 73 s 43(1)

## **8A Delegation to Deputy Chief Judge**

- (1) The Chief Judge may delegate to the Deputy Chief Judge, either generally or particularly, any power, function, or duty conferred on the Chief Judge by or under this Act.
- (2) Subject to general or particular directions given by the Chief Judge, the Deputy Chief Judge has and may exercise and perform all the powers, functions, or duties delegated by the Chief Judge in the same manner and with the same effect as if they had been conferred on the Deputy Chief Judge directly by this Act and not by delegation.
- (3) A delegation—
- (a) must be in writing; and
  - (b) is revocable in writing at any time; and
  - (c) may be made subject to any restrictions or conditions that the Chief Judge thinks fit; and
  - (d) does not prevent the exercise or performance of a power, function, or duty by the Chief Judge; but
  - (e) must not include a power of delegation.

- (4) In the absence of proof to the contrary, the Deputy Chief Judge, when purporting to act under a delegation, is presumed to be acting in accordance with the terms of the delegation.
- (5) Powers exercised, functions performed, or decisions made by the Deputy Chief Judge acting as the Chief Judge may not be questioned in any proceeding on the ground that the occasion for the Deputy Chief Judge so acting had not arisen or had ceased.

Section 8A: inserted, on 13 December 2006, by section 5 of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

## **9 Appointment of temporary Judges**

- (1) Subject to section 11, the Governor-General may, whenever in his or her opinion it is necessary or expedient to make a temporary appointment, appoint 1 or more temporary Judges of the Māori Land Court to hold office for such period as is specified in the warrant of appointment.
- (2) The period specified must not exceed 2 years.
- (3) However, a person appointed under this section may be reappointed.
- (4) A person may not be appointed as a temporary Judge under this section unless that person is eligible for appointment as a Judge under section 7.
- (5) However, a person otherwise qualified who has attained the age of 70 years (including a Judge who has retired after attaining that age) may be appointed as a temporary Judge under this section.
- (6) Subsection (2) applies to an appointment made under subsection (5).
- (7) The power conferred by this section may be exercised at any time, even though there may be 1 or more persons holding the office of Judge under section 7 or section 10.
- (8) A person appointed under this section is to be paid, during the term of the appointment, the salary and allowances payable under section 13 to a Judge other than the Chief Judge and the Deputy Chief Judge.
- (9) A superannuation subsidy must not be paid to a person who is appointed as a temporary Judge under this section.
- (10) Subsection (9) does not apply to a compulsory employer contribution within the meaning of section 101A of the KiwiSaver Act 2006.

Section 9: substituted, on 25 November 2004, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).

Section 9(5): amended, on 6 March 2007, by section 5 of Te Ture Whenua Maori Amendment Act 2007 (2007 No 4).

Section 9(9): inserted, on 1 March 2017, by section 7 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

Section 9(10): inserted, on 1 March 2017, by section 7 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

## 10 Former Judges

- (1) Subject to section 11, the Governor-General may, by warrant, appoint any former Judge to be an acting Judge for such term not exceeding 2 years or, if the former Judge has attained the age of 72 years, not exceeding one year, as the Governor-General may specify.
- (2) During the term of the appointment, the former Judge may act as a Judge during such period or periods only, and in such place or places only, as the Chief Judge may determine.
- (3) Every former Judge appointed under this section shall, during each period when the former Judge acts as a Judge, but not otherwise, be paid a salary at the rate for the time being payable by law to a Judge other than the Chief Judge and the Deputy Chief Judge, and shall also be paid such travelling allowances or other incidental or minor allowances as may be fixed from time to time by the Governor-General.
- (3A) A superannuation subsidy must not be paid to a person who is appointed as an acting Judge under this section.
- (3B) Subsection (3A) does not apply to a compulsory employer contribution within the meaning of section 101A of the KiwiSaver Act 2006.
- (4) Every former Judge appointed under this section shall, during each period when the former Judge acts as a Judge, have all the jurisdiction, powers, protections, privileges, and immunities of a Judge.

Compare: 1908 No 89 s 11A; 1981 No 40 s 2(1)

Section 10(3A): inserted, on 1 March 2017, by section 8 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

Section 10(3B): inserted, on 1 March 2017, by section 8 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

## 11 Certificate by Chief Judge and 1 other Judge prerequisite

No appointment may be made under section 9 or section 10 otherwise than on a certificate signed by the Chief Judge and at least 1 other permanent Judge to the effect that, in their opinion, it is necessary for the due conduct of the business of the court that 1 or more temporary Judges, or (as the case may require) 1 or more acting Judges, be appointed.

Compare: 1908 No 89 s 11B; 1981 No 40 s 2(1)

## 12 Tenure of office

- (1) The Governor-General may remove a Judge for inability or misbehaviour.
- (2) Every Judge shall retire from office on attaining the age of 70 years.

Compare: 1953 No 94 s 19; 1982 No 124 s 5(2)

Section 12(2): amended, on 6 March 2007, by section 6 of Te Ture Whenua Maori Amendment Act 2007 (2007 No 4).

## **12A Judges to have immunities of High Court Judges**

The Judges have all the immunities of a Judge of the High Court.

Section 12A: inserted, on 20 May 2004, by section 5 of Te Ture Whenua Maori Amendment Act 2004 (2004 No 48).

## **13 Salaries and allowances of Judges**

- (1) There shall be paid to the Chief Judge, to the Deputy Chief Judge, and to the other Judges, out of public money, without further appropriation than this section,—
  - (a) salaries at such rates as the Remuneration Authority from time to time determines; and
  - (b) such allowances as are from time to time determined by the Remuneration Authority; and
  - (c) such additional allowances, being travelling allowances or other incidental or minor allowances, as may be determined from time to time by the Governor-General.
- (2) The salary of a Judge shall not be diminished during the continuance of the Judge's appointment.
- (2A) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position.
- (2B) For the purpose of subsection (2), the payment of salary and allowances on a pro-rata basis under subsection (2A) is not a diminution of salary.
- (3) Subject to the Remuneration Authority Act 1977, any determination made under subsection (1), and any provision of any such determination, may be made so as to come into force on a date to be specified in that behalf in the determination, being the date of the making of the determination or any other date, whether before or after the date of the making of the determination or the date of the commencement of this section.
- (4) Every such determination, and every provision of any such determination, in respect of which no date is so specified shall come into force on the date of the making of the determination.

Compare: 1953 No 94 s 21; 1985 No 139 s 2

Section 13(1)(a): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 13(1)(b): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 13(2A): inserted, on 20 May 2004, by section 6 of Te Ture Whenua Maori Amendment Act 2004 (2004 No 48).

Section 13(2B): inserted, on 20 May 2004, by section 6 of Te Ture Whenua Maori Amendment Act 2004 (2004 No 48).

Section 13(3): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

**14 Administration of court**

The Ministry of Justice shall be responsible for all matters relating to the administration of the court, including the appointment of a Chief Registrar and such other Registrars, Deputy Registrars, and officers of the court (being officers of the Ministry of Justice) as may from time to time be required.

Compare: 1953 No 94 s 22

Section 14: amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

**15 Court districts**

- (1) The Governor-General may from time to time, by Order in Council,—
  - (a) divide New Zealand into Maori Land Court districts, and declare the name by which each such district shall be designated; or
  - (b) abolish any such district, or alter the limits or the designation of any such district, as the Governor-General thinks fit.
- (2) The Chief Judge shall from time to time assign a Judge to each district, or to 2 or more districts, as the Chief Judge thinks fit.
- (3) There shall be a Registrar for each district, but the same person may hold office as Registrar for any 2 or more districts.

Compare: 1953 No 94 s 23

**16 Seal of court**

- (1) The court shall have, in the custody of each Judge and each Registrar, a seal, which shall be the seal of the court and shall be used for sealing documents that require to be sealed.
- (2) The form of the seal shall be such as the Governor-General from time to time determines.
- (3) The seal in use at the commencement of this Act shall continue to be the seal of the court unless and until a new seal is duly prescribed by the Governor-General.

Compare: 1953 No 94 s 24

*Objectives, jurisdiction, and powers***17 General objectives**

- (1) In exercising its jurisdiction and powers under this Act, the primary objective of the court shall be to promote and assist in—
  - (a) the retention of Maori land and General land owned by Maori in the hands of the owners; and
  - (b) the effective use, management, and development, by or on behalf of the owners, of Maori land and General land owned by Maori.

- (2) In applying subsection (1), the court shall seek to achieve the following further objectives:
- (a) to ascertain and give effect to the wishes of the owners of any land to which the proceedings relate:
  - (b) to provide a means whereby the owners may be kept informed of any proposals relating to any land, and a forum in which the owners might discuss any such proposal:
  - (c) to determine or facilitate the settlement of disputes and other matters among the owners of any land:
  - (d) to protect minority interests in any land against an oppressive majority, and to protect majority interests in the land against an unreasonable minority:
  - (e) to ensure fairness in dealings with the owners of any land in multiple ownership:
  - (f) to promote practical solutions to problems arising in the use or management of any land.

## **18 General jurisdiction of court**

- (1) In addition to any jurisdiction specifically conferred on the court otherwise than by this section, the court shall have the following jurisdiction:
- (a) to hear and determine any claim, whether at law or in equity, to the ownership or possession of Maori freehold land, or to any right, title, estate, or interest in any such land or in the proceeds of the alienation of any such right, title, estate, or interest:
  - (b) to determine the relative interests of the owners in common, whether at law or in equity, of any Maori freehold land:
  - (c) to hear and determine any claim to recover damages for trespass or any other injury to Maori freehold land:
  - (d) to hear and determine any proceeding founded on contract or on tort where the debt, demand, or damage relates to Maori freehold land:
  - (e) to determine for the purposes of any proceedings in the court or for any other purpose whether any specified person is a Maori or the descendant of a Maori:
  - (f) to determine for the purposes of this Act whether any person is a member of any of the preferred classes of alienees specified in section 4:
  - (g) to determine whether any land or interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies should, under section 338 of this Act, be set aside as a reservation:
  - (h) to determine for the purposes of any proceedings in the court or for any other purpose whether any specified land is or is not Maori customary

land or Maori freehold land or General land owned by Maori or General land or Crown land:

- (i) to determine for the purposes of any proceedings in the court or for any other purpose whether any specified land is or is not held by any person in a fiduciary capacity, and, where it is, to make any appropriate vesting order.
- (2) Any proceedings commenced in the Maori Land Court may, if the Judge thinks fit, be removed for hearing into any other court of competent jurisdiction.

Compare: 1953 No 94 s 30(1), (3); 1956 No 61 s 89(1); 1960 No 120 s 5; 1962 No 45 s 2; 1974 No 73 s 47; 1976 No 148 s 5

## 19 Jurisdiction in respect of injunctions

- (1) The court, on application made by any person interested or by the Registrar of the court, or of its own motion, may at any time issue an order by way of injunction—
- (a) against any person in respect of any actual or threatened trespass or other injury to any Maori freehold land, Maori reservation, or wahi tapu; or
  - (b) prohibiting any person, where proceedings are pending before the court or the Chief Judge, from dealing with or doing any injury to any property that is the subject matter of the proceedings or that may be affected by any order that may be made in the proceedings; or
  - (c) prohibiting any owner or any other person or persons without lawful authority from cutting or removing, or authorising the cutting or removal, or otherwise making any disposition, of any timber trees, timber, or other wood, or any flax, tree ferns, sand, topsoil, metal, minerals, or other substances whether usually quarried or mined or not, on or from any Maori freehold land; or
  - (d) prohibiting the distribution, by any trustee or agent, of rent, purchase money, royalties, or other proceeds of the alienation of land, or of any compensation payable in respect of other revenue derived from the land, affected by any order to which an application under section 45 or an appeal under Part 2 relates.
- (2) Notwithstanding anything in the Crown Proceedings Act 1950, any injunction made by the court under this section may be expressed to be binding on the Māori Trustee.
- (3) Any injunction made by the court under this section may be expressed to be of interim effect only.
- (4) Every injunction made by the court under this section that is not expressed to be of interim effect only shall be of final effect.

Compare: 1953 No 94 ss 30(1)(d), (f), 449, 452(14); 1961 No 129 s 10; 1974 No 73 s 62; 1982 No 124 s 6(3)



Section 19(1)(a): amended, on 1 July 2002, by section 7 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 19(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

## **20 Jurisdiction in actions for recovery of land**

Notwithstanding anything to the contrary in the District Court Act 2016, the court shall have jurisdiction to hear and determine any proceeding for the recovery of Maori freehold land in the following cases:

- (a) where—
  - (i) the term and interest of the lessee of any Maori freehold land has ended or been terminated, either by the lessor or by the lessee, and whether the lessee is or is not liable for the payment of any rent; and
  - (ii) the lessee or any other person in occupation of the land or part of the land neglects or refuses to quit and deliver up possession of the land:
- (b) where the occupier of any Maori freehold land under a lease or licence, either written or verbal, is in arrear in the payment of rent for such period that the lessor or licensor is entitled to exercise a right of re-entry under the terms of the lease or licence:
- (c) where the occupier of any Maori freehold land under a lease or licence, either written or verbal, is in arrear in the payment of rent, and deserts the land leaving it uncultivated or unoccupied so that no remedy of forfeiture is available:
- (d) where any person without right, title, or licence is in possession of any Maori freehold land.

Section 20: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

## **21 Power of court to grant relief against forfeiture**

The court may exercise with respect to Maori freehold land all of the powers conferred on the High Court by sections 253 to 260 of the Property Law Act 2007.

Section 21: amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

## **22 Power of court to grant relief against refusal to grant renewal**

The court may exercise with respect to Maori freehold land all of the powers conferred on the High Court by section 264 of the Property Law Act 2007.

Section 22: amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

**22A Power of court to grant specific performance of leases of Maori freehold land**

The court has the same jurisdiction as that of the High Court to grant and enforce specific performance or to award damages in addition to, or in substitution for, specific performance, in respect of leases of Maori freehold land or leases of General land owned by Maori that ceased to be Maori land under Part 1 of the Maori Affairs Amendment Act 1967.

Section 22A: inserted, on 1 July 2002, by section 8 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**23 Power of court to authorise entry for erecting or repairing buildings, etc**

The court may exercise with respect to Maori freehold land all of the powers conferred on a court by subpart 1 of Part 6 of the Property Law Act 2007.

Section 23: amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

**24 Power of court to grant relief if building is on wrong land or encroachment exists**

The court may exercise with respect to Māori freehold land all of the powers conferred on a court by subpart 2 of Part 6 of the Property Law Act 2007.

Section 24: substituted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

**24A Powers of court relating to contracts privity and contractual remedies**

- (1) The court may exercise any power conferred on the High Court—
  - (a) by subpart 1 of Part 2 of the Contract and Commercial Law Act 2017; or
  - (b) by any of the provisions of sections 39, 43 to 48, and 50 to 52 of that Act.
- (2) However, a power conferred on the court by subsection (1) may be exercised only if the occasion for the exercise of that power arises in the course of proceedings (other than an application made for the purposes of section 16(2), 39, or any of sections 43 to 48 of the Contract and Commercial Law Act 2017) properly before the court under section 18(1)(d) of this Act.

Section 24A: replaced, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

**24B Power to award interest on debt or damages**

The court, in its proceedings, has the same powers to award interest on any debt or damages as the District Court has under Part 1 of the Interest on Money Claims Act 2016 in its own proceedings.

Section 24B: inserted, on 16 September 2011, by section 4 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 24B: amended, on 1 January 2018, by section 29 of the Interest on Money Claims Act 2016 (2016 No 51).

**25 Power of court to make order to restore effect of lost instruments of alienation**

- (1) On proof to the satisfaction of the court that any instrument of alienation of Maori freehold land, whether executed before or after the commencement of this Act, has been lost or destroyed, it may make an order under this section if it is satisfied—
  - (a) that the instrument was duly executed by or on behalf of the alienor; and
  - (b) in the case of an instrument requiring confirmation, that it was duly confirmed, or if not so confirmed, that the court or other competent authority had made a pronouncement in favour of confirmation.
  - (c) *[Repealed]*
- (2) By an order under this section, the court may declare the nature and effect of the instrument to which the order relates, and the instrument shall be deemed to have been of the nature and to have had effect according to its tenor, as declared in the order.
- (3) Instead of or in addition to making an order declaring the nature and effect of the instrument, the court may, on an application under this section, make an order vesting land or an interest in land to which the instrument related in—
  - (a) any person or persons claiming under the instrument; or
  - (b) any other person or persons claiming under or through the person or persons specified in paragraph (a).

Compare: 1953 No 94 s 446

Section 25(1)(b): amended, on 1 July 2002, by section 9(a) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 25(1)(c): repealed, on 1 July 2002, by section 9(b) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 25(3): substituted, on 11 April 2001, by section 5 of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

**26 Jurisdiction of court under Fencing Act 1978**

- (1) Notwithstanding anything to the contrary in the Fencing Act 1978, the court shall have exclusive jurisdiction to hear and determine all claims, disputes, and questions arising under that Act where every parcel of land to which the claim, dispute, or question relates is Maori freehold land or General land owned by Maori.
- (2) In addition to the exclusive jurisdiction conferred on the court by subsection (1), the court shall have jurisdiction, concurrent with that of any other court of competent jurisdiction, to hear and determine any claim, dispute, or question arising under that Act where any parcel of land to which the claim, dispute, or question relates is Maori freehold land or General land owned by Maori.
- (3) In the exercise of its jurisdiction under this section, the court may make an order for the payment of any sum in respect of any claim, dispute, or question

under the Fencing Act 1978, and by the same or a subsequent order may direct by whom and to whom respectively any such sum shall be paid.

- (4) In the exercise of its jurisdiction under this section, the court may order payment to be made in respect of the erection or repair of any fence, notwithstanding that any notice required by the Fencing Act 1978 to be given or served has not been so given or served if the court is satisfied that all reasonable attempts were made to give or serve such notice.

Compare: 1953 No 94 s 441; 1975 No 135 s 16

*Jurisdiction of court under Maori Fisheries Act 2004*

Heading: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

## 26A Interpretation

In sections 26B to 26N, unless the context otherwise requires,—

**Aotearoa Fisheries Limited** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**constitutional documents** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**income share** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**mandated iwi organisation** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**settlement assets** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**Te Ohu Kai Moana Trustee Limited** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**Te Putea Whakatupu Trustee Limited** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**Te Wai Maori Trustee Limited** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**trust income** has the meaning given to it in section 78 of the Maori Fisheries Act 2004.

Section 26A: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

## 26B Advisory jurisdiction of court

The court has exclusive jurisdiction to advise on disputes referred to it—

- (a) under a dispute resolution process referred to in section 181(1) of the Maori Fisheries Act 2004:

- (b) by a party to a dispute under section 182(2) of the Maori Fisheries Act 2004.

Section 26B: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

### **26C Jurisdiction of court to make determinations**

The court has exclusive jurisdiction to hear and determine, and make orders accordingly, in relation to—

- (a) disputes referred to it under section 182 of the Maori Fisheries Act 2004:
- (b) applications by Te Ohu Kai Moana Trustee Limited under section 185(1) of the Maori Fisheries Act 2004:
- (c) action taken by Te Ohu Kai Moana Trustee Limited in reliance on section 186 of the Maori Fisheries Act 2004:
- (d) disputes referred to it by any party under section 187 of the Maori Fisheries Act 2004.

Section 26C: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

### **26D Principles applying to exercise of jurisdiction in relation to Maori Fisheries Act 2004**

- (1) Any person who is a party to a matter referred to in section 26B or section 26C has standing in relation to the powers provided for in sections 26B to 26N.
- (2) A request for advice under section 26B, or an application for a determination under section 26C, is—
  - (a) a proceeding for the purposes of this Act; and
  - (b) an application within the ordinary jurisdiction of the court.
- (3) The court has the power and authority to give advice or make determinations as it thinks proper.
- (4) The court must determine an application or matter referred to it for advice or determination under section 26B or section 26C by applying the same considerations as would be relevant under the Maori Fisheries Act 2004.
- (5) Sections 26B and 26C do not limit the right of any person to appeal against any decision of the court.
- (6) The court does not have jurisdiction under section 26B or section 26C unless it is satisfied that section 181(1) of the Maori Fisheries Act 2004 has been complied with by the parties.
- (7) Subsection (6) does not limit section 182 or section 185 or section 186 of the Maori Fisheries Act 2004.
- (8) Where a dispute resolution process contemplated by section 181(1) of the Maori Fisheries Act 2004 has not been agreed or has not been complied with, the court must order the parties to engage in a dispute resolution process on

terms it prescribes unless it believes, for specified reasons, that such a process is inappropriate.

- (9) Nothing in this section or in section 26B or section 26C restricts any other right of a person to bring proceedings in the court.

Section 26D: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

#### **26E Procedure of court in its advisory jurisdiction**

- (1) The jurisdiction conferred by section 26B is exercised by written request to the Chief Judge by a party seeking advice.
- (2) Within 20 working days of receiving a request under section 26B, the Chief Judge must allocate the request either to him or herself or to another Judge to address.
- (3) Before supplying the advice sought, the Judge addressing a request for advice may (but is not obliged to)—
- (a) exercise the powers in section 67 for the purpose stated there:
  - (b) consult with the requestor and parties affected by the advice:
  - (c) refer some or all of the issues arising from the request to a mediator for mediation.
- (4) The Chief Judge may appoint 1 or more additional members (not being Judges of the Maori Land Court) who have knowledge of relevant tikanga Maori or other expertise for the purpose of assisting the Judge with the request for advice.

Section 26E: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

#### **26F Procedure of court in making determinations**

- (1) The jurisdiction conferred by section 26C is exercised on written application to the Chief Judge by a party seeking the determination.
- (2) Within 20 working days of receiving an application under section 26C, the Chief Judge must allocate the application either to him or herself or to another Judge to address.
- (3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following:
- (a) if subsection (5) applies, determine the issue without a full or any hearing and make an order accordingly:
  - (b) refer the application to the court for hearing and determination:
  - (c) exercise the powers in section 67 for the purpose stated there:
  - (d) refer issues arising from the application to a mediator for mediation:
  - (e) if subsection (6) applies, dismiss or defer consideration of the application.

- (4) The Chief Judge may appoint 1 or more additional members (not being Judges of the Maori Land Court) who have knowledge of relevant tikanga Maori or other expertise for the purpose of providing advice on the application.
- (5) The Judge may make a determination under subsection (3)(a) if the Judge is satisfied that—
  - (a) the applicant has taken reasonable steps to notify affected parties of the application and those parties do not oppose the application; or
  - (b) the parties have taken reasonable steps to resolve their dispute, as provided for in section 182(3) of the Maori Fisheries Act 2004.
- (6) The Judge may dismiss or defer consideration of an application under subsection (3)(e) if—
  - (a) it is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) it does not present serious issues for determination; or
  - (c) the Judge considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (7) The Judge may choose not to address an application if the Judge is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.

Section 26F: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

Section 26F(3)(a): amended, on 13 December 2006, by section 6 of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

**26G Powers of court if application referred under section 26F(3)(b)**

- (1) If a matter is referred to the court for hearing and determination under section 26F(3)(b), the court must proceed to hear and determine the application.
- (1A) However, despite subsection (1), the court may (but is not obliged to) do 1 or more of the following:
  - (a) if subsection (2) applies, determine the issue without a full or any hearing and make an order accordingly;
  - (b) exercise the powers in section 67 for the purpose stated there;
  - (c) if subsection (3) applies, dismiss or defer consideration of the application;
  - (d) request a report from Te Ohu Kai Moana Trustee Limited on any matter the court considers appropriate.
- (2) The court may make a determination under subsection (1A)(a) if it is satisfied that—
  - (a) the applicant has taken reasonable steps to notify affected parties of the application; and

- (b) those parties do not oppose the application.
- (3) The court may dismiss or defer consideration of an application under subsection (1)(c) if—
  - (a) it is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) it does not present serious issues for determination; or
  - (c) the court considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (4) The court may choose not to address an application if it is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.
- (5) The court may, of its own motion or at the request of any party to the proceeding, appoint 1 or more additional members (not being Judges of the Maori Land Court) who have knowledge of relevant tikanga Maori or other expertise to assist the court.

Section 26G: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

Section 26G heading: substituted, on 13 December 2006, by section 7(1) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

Section 26G(1): substituted, on 13 December 2006, by section 7(2) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

Section 26G(1A): inserted, on 13 December 2006, by section 7(2) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

## **26H Appointment of mediator**

- (1) A Judge who decides to refer issues to a mediator under section 26E(3)(c) or section 26F(3)(d) or section 26L(3)(a) must consult the parties affected by the application about who to appoint as mediator.
- (2) The parties affected by the application may, by agreement among them, appoint as the mediator 1 or more persons with the skills and experience to undertake mediation on issues arising under the Maori Fisheries Act 2004.
- (3) If a mediator is not appointed by agreement under subsection (2), the Judge must—
  - (a) appoint a mediator; and
  - (b) before doing so, be satisfied that the mediator has the skills and experience to undertake mediation on issues arising under the Maori Fisheries Act 2004.

Section 26H: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

## **26I Judge appointed as mediator**

- (1) A Judge other than the Judge addressing an application may be a mediator.



- (2) However, a Judge acting as a mediator is to be treated as acting judicially and retains the same immunities as he or she has when acting as a Judge.
- (3) Despite subsection (2), a Judge who acts as a mediator must not sit as a Judge of the court on any of the same issues.

Section 26I: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

#### **26J Conduct of mediation**

- (1) A Judge may advise a mediator of the issues that need to be addressed at mediation.
- (2) The following persons are entitled to attend and participate in a mediation:
  - (a) parties affected and their representatives; and
  - (b) any other person with the leave of the Judge addressing the application.
- (3) A mediator may—
  - (a) follow those procedures (structured or unstructured) and do those things the mediator considers appropriate to resolve the issues referred to the mediator promptly and effectively; and
  - (b) receive any information, statement, admission, document, or other material in any way or form the mediator thinks fit, whether or not it would be admissible in judicial proceedings.
- (4) Written and oral material presented at or for the mediation must be kept confidential by the mediator and those participating in the mediation, unless the party who produces the material consents to its disclosure.
- (5) No person may be sued for defamation for statements made in mediation.
- (6) Statements made and material presented at a mediation are admissible in a subsequent mediation of the same issues but are not admissible in other proceedings before a person acting judicially, unless the parties participating in the mediation consent to the admission of the statement or material.

Section 26J: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

#### **26K Successful mediation**

- (1) If some or all of the issues referred to mediation are resolved at mediation, the mediator must—
  - (a) record the terms of that resolution; and
  - (b) deliver them to the Judge.
- (2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the court.

Section 26K: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

**26L Unsuccessful mediation**

- (1) If some or all of the issues referred to mediation are not resolved by mediation, and the mediator believes that those issues are unlikely to be resolved, the mediator must—
  - (a) report that lack of resolution to the Judge; and
  - (b) state the issues that are unresolved and any issues that have been resolved.
- (2) Affected parties who participate in the mediation may, if mediation fails and they all agree, withdraw and discontinue the application.
- (3) Subject to subsection (2), the Judge must, on receiving a report under subsection (1), either—
  - (a) refer some or all of the unresolved issues to a mediator for mediation; or
  - (b) refer the unresolved issues to the court for hearing and determination or for the provision of advice, as the case may be.
- (4) A Judge who refers unresolved issues to the court under subsection (3)(b) may be the Judge who hears the matter or provides advice.

Section 26L: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

**26M Orders and interim orders**

- (1) In making orders under sections 26B to 26L, the Judge or the court, as the case may be, may do 1 or more of the following:
  - (a) incorporate or restate the terms of an agreement reached by the persons participating in an application:
  - (b) incorporate the terms that express the outcome of mediation:
  - (c) specify that the order applies for general or specific purposes:
  - (d) specify the purpose or purposes for which the order is made:
  - (e) specify a date after which the order ceases to have effect:
  - (f) in relation to a mandated iwi organisation,—
    - (i) require new elections or the appointment of office holders in accordance with the constitutional documents of the mandated iwi organisation:
    - (ii) require Te Ohu Kai Moana Trustee Limited to suspend recognition of a mandated iwi organisation until specified changes are made to its constitutional documents:
    - (iii) until the Judge or the court is satisfied that the dispute has been satisfactorily resolved, prevent an action—
      - (A) to allocate and transfer settlement assets under section 130 or section 135 of the Maori Fisheries Act 2004:

- (B) to pay income under section 76 of the Maori Fisheries Act 2004:
  - (C) to distribute trust income under section 83 or section 98 of the Maori Fisheries Act 2004:
  - (iv) specify additional conditions or requirements necessary—
    - (A) to assist in the timely resolution of the dispute; or
    - (B) to prevent prejudice to the interests of the mandated iwi organisation or the members of its iwi:
  - (g) make orders as to costs under section 79:
  - (h) make other orders not inconsistent with the Maori Fisheries Act 2004, as the Judge or court considers appropriate.
- (2) The Judge or the court, at the request of any party, may also order, as considered appropriate, that an action referred to in subsection (1)(f)(iii) be subject to an interim injunction until—
- (a) the date specified in the order; or
  - (b) the conditions specified in the order are met; or
  - (c) a further order is made by the court; or
  - (d) the order ceases to have effect.
- (3) If the court makes an order under subsection (1)(f)(iii) or subsection (2) that an action be prevented or be subject to an interim injunction, as the case may be, the affected assets must be held in trust by Te Ohu Kai Moana Trustee Limited in accordance with section 118A.

Section 26M: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

## **26N Proceedings where additional members appointed**

If additional members are appointed under section 26E(4) or section 26F(4) or section 26G(5), the proceedings and processes of the court cannot be challenged on appeal or in any other proceedings on the grounds that an additional member had a tribal affiliation or other relationship with any of the parties unless it is shown that the additional member acted in bad faith.

Section 26N: inserted, on 26 September 2004, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

## *Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004*

Heading: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

## **26O Interpretation**

In sections 26P to 26ZB, unless the context otherwise requires, **iwi aquaculture organisation**, **settlement assets**, and **trustee** have the same meaning as in

sections 4 and 5 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Section 26O: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

### **26P Advisory jurisdiction of court**

The court has exclusive jurisdiction to advise on disputes referred to it under a dispute resolution process referred to in section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Section 26P: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

### **26Q Jurisdiction of court to make determinations**

The court has exclusive jurisdiction to hear and determine, and make orders accordingly, in relation to disputes referred to it under section 54 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Section 26Q: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

### **26R Principles applying to exercise of jurisdiction in relation to Maori Commercial Aquaculture Claims Settlement Act 2004**

- (1) Any person who is a party to a matter referred to in section 26P or section 26Q has standing in relation to the powers provided for in sections 26P to 26ZB.
- (2) A request for advice under section 26P, or an application for a determination under section 26Q, is—
  - (a) a proceeding for the purposes of this Act; and
  - (b) an application within the ordinary jurisdiction of the court.
- (3) The court has the power and authority to give advice or make determinations as it thinks proper.
- (4) The court must determine an application or matter referred to it for advice or determination under section 26P or section 26Q by applying the same criteria as would be applied under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (5) Sections 26P and 26Q do not limit the right of any person to appeal against any decision of the court.
- (6) The court does not have jurisdiction under this section unless it is satisfied that section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004 has been complied with by the parties.
- (7) Where a dispute resolution process contemplated by section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004 has not been agreed or has not been complied with, the court must order the parties to engage in a dispute resolution process on terms it prescribes unless it believes, for specified reasons, that such a process is inappropriate.

- (8) Nothing in this section or in section 26P or section 26Q restricts any other right of a person to bring proceedings in the court.

Section 26R: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

**26S Procedure of court in its advisory jurisdiction**

- (1) The jurisdiction conferred by section 26P is exercised by written request to the Chief Judge by a party seeking advice.
- (2) Within 20 working days of receiving a request under section 26P, the Chief Judge must allocate the request either to himself or herself or to another Judge to address.
- (3) Before supplying the advice sought, the Judge addressing a request for advice may (but is not obliged to)—
- (a) exercise the powers in section 67 for the purpose stated there:
  - (b) consult with the requestor and parties affected by the advice:
  - (c) refer some or all of the issues arising from the request to a mediator for mediation.
- (4) The Chief Judge may appoint 1 or more additional members (not being Judges of the Maori Land Court) who have knowledge of relevant tikanga Maori or other expertise for the purpose of assisting the Judge with the request for advice.

Section 26S: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

**26T Procedure of court in making determinations**

- (1) The jurisdiction conferred by section 26Q is exercised on written application to the Chief Judge by a party seeking the determination.
- (2) Within 20 working days of receiving an application under section 26Q, the Chief Judge must allocate the application either to himself or herself or to another Judge to address.
- (3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following:
- (a) if subsection (5) applies, determine the issue without a full or any hearing and make an order accordingly:
  - (b) refer the application to the court for hearing and determination:
  - (c) exercise the powers in section 67 for the purpose stated there:
  - (d) refer issues arising from the application to a mediator for mediation:
  - (e) if subsection (6) applies, dismiss or defer consideration of the application.

- (4) The Chief Judge may appoint 1 or more additional members (not being Judges of the Maori Land Court) who have knowledge of relevant tikanga Maori or other expertise for the purpose of providing advice on the application.
- (5) The Judge may make a determination under subsection (3)(a) if the Judge is satisfied that—
  - (a) the applicant has taken reasonable steps to notify affected parties of the application, and those parties do not oppose the application; or
  - (b) the parties have taken reasonable steps to resolve their dispute, as provided for in section 54(3) of the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (6) The Judge may dismiss or defer consideration of an application under subsection (3)(e) if—
  - (a) it is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) it does not present serious issues for determination; or
  - (c) the Judge considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (7) The Judge may choose not to address an application if the Judge is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.

Section 26T: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

Section 26T(3)(a): amended, on 13 December 2006, by section 8 of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

**26U Powers of court if application referred under section 26T(3)(b)**

- (1) If a matter is referred to the court for hearing and determination under section 26T(3)(b), the court must proceed to hear and determine the application.
- (1A) However, despite subsection (1), the court may (but is not obliged to) do 1 or more of the following:
  - (a) if subsection (2) applies, determine the issue without a full or any hearing and make an order accordingly;
  - (b) exercise the powers in section 67 for the purpose stated there;
  - (c) if subsection (3) applies, dismiss or defer consideration of the application;
  - (d) request a report from Te Ohu Kai Moana Trustee Limited on any matter the court considers appropriate.
- (2) The court may make a determination under subsection (1A)(a) if it is satisfied that—

- (a) the applicant has taken reasonable steps to notify affected parties of the application; and
  - (b) those parties do not oppose the application.
- (3) The court may dismiss or defer consideration of an application under subsection (1)(c) if—
- (a) it is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) it does not present serious issues for determination; or
  - (c) the court considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (4) The court may choose not to address an application if it is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.
- (5) The court may, of its own motion or at the request of any party to the proceeding, appoint 1 or more additional members (not being Judges of the Maori Land Court) who have knowledge of relevant tikanga Maori or other expertise to assist the court.

Section 26U: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

Section 26U heading: substituted, on 13 December 2006, by section 9(1) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

Section 26U(1): substituted, on 13 December 2006, by section 9(2) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

Section 26U(1A): inserted, on 13 December 2006, by section 9(2) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

## **26V Appointment of mediator**

- (1) A Judge who decides to refer issues to a mediator under section 26S(3)(c) or section 26T(3)(d) or section 26Z(3)(a) must consult the parties affected by the application about who to appoint as mediator.
- (2) The parties affected by the application may, by agreement among them, appoint as the mediator 1 or more persons with the skills and experience to undertake mediation on issues arising under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (3) If a mediator is not appointed by agreement under subsection (2), the Judge must—
- (a) appoint a mediator; and
  - (b) before doing so, be satisfied that the mediator has the skills and experience to undertake mediation on issues arising under the Maori Commercial Aquaculture Claims Settlement Act 2004.

Section 26V: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

### **26W Judge appointed as mediator**

- (1) A Judge other than the Judge addressing an application may be a mediator.
- (2) However, a Judge acting as a mediator is to be treated as acting judicially and retains the same immunities as he or she has when acting as a Judge.
- (3) Despite subsection (2), a Judge who acts as a mediator must not sit as a Judge of the court on any of the same issues.

Section 26W: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

### **26X Conduct of mediation**

- (1) A Judge may advise a mediator of the issues that need to be addressed at mediation.
- (2) The following persons are entitled to attend and participate in a mediation:
  - (a) parties affected and their representatives; and
  - (b) any other person with the leave of the Judge addressing the application.
- (3) A mediator may—
  - (a) follow those procedures (structured or unstructured) and do those things the mediator considers appropriate to resolve the issues referred to the mediator promptly and effectively; and
  - (b) receive any information, statement, admission, document, or other material in any way or form the mediator thinks fit, whether or not it would be admissible in judicial proceedings.
- (4) Written and oral material presented at or for the mediation must be kept confidential by the mediator and those participating in the mediation, unless the party who produces the material consents to its disclosure.
- (5) No person may be sued for defamation for statements made in mediation.
- (6) Statements made and material presented at a mediation are admissible in a subsequent mediation of the same issues, but are not admissible in other proceedings before a person acting judicially, unless the parties participating in the mediation consent to the admission of the statement or material.

Section 26X: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

### **26Y Successful mediation**

- (1) If some or all of the issues referred to mediation are resolved at mediation, the mediator must—
  - (a) record the terms of that resolution; and
  - (b) deliver them to the Judge.
- (2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the court.



Section 26Y: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

**26Z Unsuccessful mediation**

- (1) If some or all of the issues referred to mediation are not resolved by mediation, and the mediator believes that those issues are unlikely to be resolved, the mediator must—
  - (a) report that lack of resolution to the Judge; and
  - (b) state the issues that are unresolved and any issues that have been resolved.
- (2) Affected parties who participate in the mediation may, if mediation fails and they all agree, withdraw and discontinue the application.
- (3) Subject to subsection (2), the Judge must, on receiving a report under subsection (1), either—
  - (a) refer some or all of the unresolved issues to a mediator for mediation; or
  - (b) refer the unresolved issues to the court for hearing and determination or for the provision of advice, as the case may be.
- (4) A Judge who refers unresolved issues to the court under subsection (3)(b) may be the Judge who hears the matter or provides advice.

Section 26Z: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

**26ZA Orders and interim orders**

- (1) In making orders under sections 26P to 26Z, the Judge or the court, as the case may be, may do 1 or more of the following:
  - (a) incorporate or restate the terms of an agreement reached by the persons participating in an application:
  - (b) incorporate the terms that express the outcome of mediation:
  - (c) specify that the order applies for general or specific purposes:
  - (d) specify the purpose or purposes for which the order is made:
  - (e) specify a date after which the order ceases to have effect:
  - (f) in relation to an iwi aquaculture organisation,—
    - (i) require new elections or the appointment of office holders in accordance with the constitutional documents of the iwi aquaculture organisation:
    - (ii) require the trustee to suspend recognition of an iwi aquaculture organisation until specified changes are made to its constitutional documents:
    - (iii) until the Judge or the court is satisfied that the dispute has been satisfactorily resolved, prevent an action to allocate and transfer

settlement assets under the Maori Commercial Aquaculture Claims Settlement Act 2004:

- (iv) specify additional conditions or requirements necessary—
    - (A) to assist in the timely resolution of the dispute; or
    - (B) to prevent prejudice to the interests of the iwi aquaculture organisation or the members of its iwi:
  - (g) make orders as to costs under section 79:
  - (h) make other orders not inconsistent with the Maori Commercial Aquaculture Claims Settlement Act 2004, or as the Judge or court considers appropriate.
- (2) The Judge or the court, at the request of any party, may also order, as it considers appropriate, that an action referred to in subsection (1)(f)(iii) be subject to an interim injunction until—
- (a) the date specified in the order; or
  - (b) the conditions specified in the order are met; or
  - (c) a further order is made by the court; or
  - (d) the order ceases to have effect.
- (3) If the court makes an order under subsection (1)(f)(iii) or subsection (2) that an action be prevented or be subject to an interim injunction, as the case may be, the affected assets must be held in trust by the trustee in accordance with section 118B.

Section 26ZA: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

### **26ZB Proceedings where additional members appointed**

If additional members are appointed under section 26S(4) or section 26T(4) or section 26U(5), the proceedings and processes of the court cannot be challenged on appeal or in any other proceedings on the ground that an additional member had a tribal affiliation or other relationship with any of the parties unless it is shown that the additional member acted in bad faith.

Section 26ZB: inserted, on 1 January 2005, by section 3 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

#### *Other provisions about jurisdiction and powers*

Heading: inserted, on 16 September 2011, by section 5 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

### **27 Governor-General may confer special jurisdiction**

- (1) The Governor-General may, by Order in Council, confer upon the court jurisdiction to determine any claim, dispute, issue, question, or other matter affecting the rights of Maori in any real or personal property, or any other matter

that, in the opinion of the Governor-General, properly falls within the field of the special expertise of the court.

- (2) Any order made by the court in any case referred to it under this section shall have the same effect and shall be dealt with as nearly as may be in the same manner as an order or determination of similar nature made by the court in the exercise of the jurisdiction expressly conferred upon it by this Act.
- (3) Nothing in this section shall authorise such an extension of the jurisdiction of the court as would remove or modify any statutory restriction or limitation of the jurisdiction of the court, or to confer on the court authority to vary or annul any order or decision of the Maori Appellate Court.

Compare: 1953 No 94 s 31(1), (2)

## **28 Additional members for purposes of court's special jurisdiction**

- (1) An Order in Council made under section 27(1) may provide that, for the purpose of any claim, dispute, issue, question, or other matter to which the Order in Council relates, there shall be 1 or 2 additional members of the Maori Land Court or the Maori Appellate Court, as the case may require.
- (2) Each additional member shall possess knowledge and experience relevant to the claim, dispute, issue, question, or other matter to which the Order in Council relates.
- (3) No additional member shall be a Judge of the Maori Land Court.
- (4) The Order in Council may appoint the additional member or additional members or authorise the Chief Judge to appoint the additional member or additional members.
- (5) The Chief Judge shall, before appointing any person pursuant to an Order in Council made under section 27(1) for the purposes of any claim, dispute, issue, question, or other matter, consult with the parties to the proceedings about the knowledge and experience that any such person should possess.

## **29 Reference to court for inquiry**

- (1) The Minister, the chief executive, or the Chief Judge may at any time refer to the court for inquiry and report any matter as to which, in the opinion of the Minister, the chief executive, or the Chief Judge, it may be necessary or expedient that any such inquiry should be made.
- (2) A reference under this section shall be deemed to be an application within the ordinary jurisdiction of the Maori Land Court, and the Maori Land Court shall have full power and authority accordingly to hear the matter and to make such report and recommendations on the matter to the Minister, the chief executive, or the Chief Judge as the Maori Land Court thinks proper.

Compare: 1953 No 94 s 453

**30 Maori Land Court's jurisdiction to advise on or determine representation of Maori groups**

- (1) The Maori Land Court may do either of the following things:
  - (a) advise other courts, commissions, or tribunals as to who are the most appropriate representatives of a class or group of Maori:
  - (b) determine, by order, who are the most appropriate representatives of a class or group of Maori.
- (2) The jurisdiction of the Maori Land Court in subsection (1) applies to representation of a class or group of Maori in or for the purpose of (current or intended) proceedings, negotiations, consultations, allocations of property, or other matters.
- (3) A request for advice or an application for an order under subsection (1) is an application within the ordinary jurisdiction of the Maori Land Court, and the Maori Land Court has the power and authority to give advice and make determinations as the court thinks proper.

Section 30: substituted, on 1 July 2002, by section 10 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**30A Intent of sections**

The intent of section 30 and sections 30B to 30I is—

- (a) to enable and encourage applicants and persons affected by an application under section 30 to resolve their differences concerning representation, without adjudication; and
- (b) to enable the Chief Judge to facilitate, as far as possible, successful resolution of differences surrounding an application by the persons affected, without adjudication.

First section 30A: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**30A Review of representatives**

*[Repealed]*

Second section 30A: repealed, on 26 September 2004, by section 5(2) of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

**30B Powers of Judge in addressing requests for advice**

- (1) The jurisdiction in section 30(1)(a) (to advise other courts, commissions, or tribunals) is exercised by written request to the Chief Judge by the court, commission, or tribunal seeking the advice.
- (2) Within 20 working days of receiving a request under subsection (1), the Chief Judge must allocate the request either to him or herself or to another Judge to address.

- (3) The Judge addressing a request for advice may (but is not obliged to) do 1 or more of the following things, before supplying the advice sought:
- (a) exercise the powers in section 67 for the purpose expressed in that section:
  - (b) consult with the requestor and persons affected by the advice:
  - (c) refer some or all of the issues arising from the request to a mediator for mediation.

Section 30B: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 30B(2): substituted, on 26 September 2004, by section 5(3) of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

### **30C Powers of Judge in addressing applications for determination**

- (1) The jurisdiction in section 30(1)(b) is exercised on written application to the Chief Judge.
- (2) Within 20 working days of receiving an application under subsection (1), the Chief Judge must allocate the application either to him or herself or to another Judge to address.
- (3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following things:
  - (a) determine the most appropriate representatives of a class or group of Maori, and order accordingly, if subsection (5) applies:
  - (b) refer the application to the Maori Land Court for hearing and determination:
  - (c) exercise the powers in section 67 for the purpose expressed in that section:
  - (d) refer some or all of the issues arising from the application to a mediator for mediation:
  - (e) dismiss or defer consideration of the application, if subsection (6) applies.
- (4) The Judge may choose not to address an application if the Judge is satisfied that the issues it presents are governed by another enactment, or another part of this Act, or are more appropriately addressed in another forum.
- (5) The Judge may make a determination under subsection (3)(a) if the Judge is satisfied that—
  - (a) the applicant has taken reasonable steps to notify those persons affected by the application of the application; and
  - (b) those persons do not oppose the application.
- (6) The Judge may dismiss or defer consideration of an application under subsection (3)(e) if—

- (a) it is vexatious, frivolous or an abuse of the Maori Land Court, or fails to satisfy rules of court; or
- (b) it does not present serious issues for determination; or
- (c) the Judge considers it appropriate to dismiss or defer consideration of the application for another reason.

Section 30C: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 30C(2): substituted, on 26 September 2004, by section 5(4) of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

### **30D Appointment of mediator**

- (1) A Judge who decides to refer issues to a mediator under section 30B(3)(c), section 30C(3)(d), section 30G(3)(a), or section 30I(2) must consult the persons affected by the application about who to appoint as mediator.
- (2) The persons affected by the application may, by agreement among them, appoint as mediator a person or persons with the skills and experience to undertake mediation on issues of representation for a class or group of Maori.
- (3) The Judge must appoint a mediator if a mediator is not appointed by agreement under subsection (2).
- (4) The Judge must be satisfied, before appointing a mediator, that the mediator has the skills and experience to undertake mediation on issues of representation for a class or group of Maori.
- (5) A Judge other than the Judge addressing an application may be a mediator; a Judge acting as a mediator is, however, to be treated as acting judicially, and retains the same immunities as when acting as a Judge.
- (6) Despite subsection (5), a Judge who acts as a mediator must not sit as a Judge of a Maori Land Court on some or all of the same issues.

Section 30D: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **30E Conduct of mediation**

- (1) A Judge may advise a mediator of the issues that need to be addressed at mediation.
- (1A) The following persons are entitled to attend and participate in a mediation:
  - (a) persons affected and their representatives;
  - (b) any other person with the leave of the Judge addressing the application.
- (2) A mediator may—
  - (a) follow those procedures (structured or unstructured) and do those things the mediator considers appropriate to resolve the issues referred to the mediator promptly and effectively; and

- (b) receive any information, statement, admission, document, or other material, in any way or form the mediator thinks fit, whether or not it would be admissible in judicial proceedings.
- (3) Written and oral material presented at or for the mediation must be kept confidential by the mediator and those participating in the mediation unless the person who produces the material consents to its disclosure.
- (4) A person may not be sued for defamation for statements made in mediation.
- (5) Statements made and material presented at mediation are admissible in a subsequent mediation of the same issues but are not admissible in other proceedings before a person acting judicially unless the parties participating in the mediation consent to the admission of the statement or material.

Section 30E: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **30F Successful mediation**

- (1) If some or all of the issues referred to mediation are resolved at mediation, the mediator must—
  - (a) record the terms of that resolution; and
  - (b) deliver them to the Judge.
- (2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the Maori Land Court.

Section 30F: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **30G Unsuccessful mediation**

- (1) If some or all of the issues referred to mediation are not resolved by mediation and the mediator believes that those issues are unlikely to be resolved, the mediator must—
  - (a) report that lack of resolution to the Judge; and
  - (b) state the issues that are unresolved and any issues that have been resolved.
- (2) The persons affected participating in the mediation may, if mediation fails and they all agree, withdraw and discontinue the application.
- (3) Subject to subsection (2), the Judge must, on receiving a report under subsection (1), either—
  - (a) refer some or all of the unresolved issues to a mediator for mediation; or
  - (b) refer the unresolved issues to the Maori Land Court for hearing and determination or for the provision of advice, as the case may be.
- (4) A Judge referring unresolved issues to the Maori Land Court under subsection (3)(b) may be the Judge of the Maori Land Court that hears the matter or provides advice.

Section 30G: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **30H Orders**

- (1) In making orders under section 30 and sections 30B to 30I, the Judge or the court, as the case may be, may do 1 or more of the following:
  - (a) specify the duties and powers of the representatives of a class or group of Maori and impose conditions on the exercise of those powers:
  - (b) incorporate or restate the terms of an agreement reached by the persons participating in an application:
  - (c) incorporate the terms that express the outcome of mediation:
  - (d) specify that the order applies for general or specific purposes:
  - (e) specify the purpose or purposes for which the order is made:
  - (f) specify a date after which the order ceases to have effect.
- (2) Neither a Judge nor the court has jurisdiction to make an order that binds the Crown in relation to applications concerning Treaty settlement negotiations unless the Crown agrees to be bound.

Section 30H: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **30I Review of advice or determination**

- (1) The Maori Land Court may review any advice or determination supplied by it under section 30(1) if,—
  - (a) in the case of advice, it is requested to do so by the court, commission, or tribunal at whose request that advice was supplied; and
  - (b) in other cases, the Chief Judge is satisfied, on receipt of a written application, that a review is necessary.
- (2) The court may refer some or all of the issues arising on a review of advice or a determination under subsection (1) to a mediator for mediation.
- (3) Sections 30D to 30G apply, with necessary changes, to mediation under subsection (2).
- (4) The court may, on any review under subsection (1), change any advice supplied by it under section 30(1)(a) or amend an order made by it under section 30(1)(b) to reflect changes of circumstances or fact.
- (5) A review under subsection (1) must be completed within 3 months of receipt of the request or application for review.
- (6) This section applies to advice given and determinations made under section 30 before Te Ture Whenua Maori Amendment Act 2002 (the Maori Land Amendment Act 2002) was passed.



Section 30I: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 30I(6): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

### **30J Definition of persons affected**

In sections 30A to 30G, **persons affected** by, or in relation to, a request for advice or an application for an order under section 30 are the members of the class or group of Maori to which the request or application relates.

Section 30J: inserted, on 1 July 2002, by section 11 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **31 Additional members for purposes of inquiry**

- (1) Where any matter is referred to the court for inquiry under section 29, the Chief Judge may, for the purposes of that inquiry, appoint 1 or 2 additional members (not being Judges of the Maori Land Court) to the Maori Land Court.
- (2) Each person appointed under subsection (1) shall possess knowledge and experience relevant to the subject matter of the inquiry.
- (3) The Chief Judge shall, before appointing any person under subsection (1) for the purpose of any inquiry, consult with the parties to the inquiry about the knowledge and experience that any such person should possess.

### **32 Additional members in relation to matter of tikanga Maori**

- (1) Where a matter of tikanga Maori is referred to the Maori Land Court under section 29, the Chief Judge shall, under section 31(1), appoint 2 or more additional members to the Maori Land Court.
- (2) Where subsection (1) applies in relation to any matter of tikanga Maori, every person appointed under section 31 in relation to that matter shall possess knowledge and experience of tikanga Maori.

### **33 Additional members in relation to matter of representation**

- (1) If the Maori Land Court exercises its jurisdiction under section 30(1) or section 30I(1), and unless the Judge determines an application under section 30C(3)(a), the Chief Judge must appoint 2 or more additional members (not being Judges of the Maori Land Court) to the Maori Land Court.
- (2) Each person appointed under subsection (1) shall possess knowledge and experience relevant to the subject matter of the request.
- (3) The Chief Judge shall, before appointing any person under subsection (1) for the purpose of any request, consult, as the case may require, with the parties to the proceedings or with persons involved in the negotiations, consultations, allocation, or other matter about the knowledge and experience that any such person should possess.

Section 33(1): substituted, on 1 July 2002, by section 12(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**34 Oath to be taken by additional member**

Before entering upon the exercise of the duties of his or her office, any additional member of the Maori Land Court or Maori Appellate Court appointed under section 26E(4) or section 26F(4) or section 26G(5) or section 26S(4) or section 26T(4) or section 26U(5) or section 28(1) or section 31(1) or section 33(1) or by an Order in Council made under section 27(1) shall take an oath before a Judge of the Maori Land Court that he or she will faithfully and impartially perform the duties of his or her office.

Section 34: amended, on 1 January 2005, by section 5(2) of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

Section 34: amended, on 26 September 2004, by section 5(5) of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

**35 Fees and allowances**

There shall be paid to any additional member of the Maori Land Court or Maori Appellate Court appointed under section 26E(4) or section 26F(4) or section 26G(5) or section 26S(4) or section 26T(4) or section 26U(5) or section 28(1) or section 31(1) or section 33(1) or by an Order in Council made under section 27(1), out of public money, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Maori Land Court or the Maori Appellate Court, as the case may require, were a statutory board within the meaning of that Act.

Section 35: amended, on 1 January 2005, by section 5(3) of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

Section 35: amended, on 26 September 2004, by section 5(6) of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

**36 Quorum and decisions**

- (1) Where, for the purposes of any proceedings or matter, an additional member or additional members are appointed to the Maori Land Court under section 26E(4) or section 26F(4) or section 26G(5) or section 26S(4) or section 26T(4) or section 26U(5) or section 28(1) or section 31(1) or section 33(1) or pursuant to an Order in Council made under section 27(1), the presence of a Judge and of at least 1 additional member shall be necessary to constitute a sitting of the Maori Land Court.
- (2) Where the matter before the court is a matter of tikanga Maori, or a matter arising on a request made under section 30(1), or where the court is constituted under section 33 the decision of a majority of the members present at a sitting of the Maori Land Court shall be the decision of the Maori Land Court.
- (3) Where the matter before the court is not a matter to which subsection (2) applies, the decision of a majority (including the Judge) of the members present at a sitting of the Maori Land Court shall be the decision of the Maori

Land Court. If the members present are equally divided in opinion, the decision of the Judge shall be the decision of the Maori Land Court.

- (4) If any question before the Maori Land Court cannot be decided in accordance with subsection (2) or subsection (3), the question shall be referred to the Maori Appellate Court for decision in accordance with the practice and procedure of that court, which for that purpose shall have all the powers of the Maori Land Court under this Act. The decision of the Maori Appellate Court in any proceedings under this subsection shall be final and shall take effect and be enforced as if it were a decision of the Maori Land Court under this Act.
- (5) Where, for the purposes of any proceedings or matter, an additional member or additional members are appointed to the Maori Appellate Court under section 28(1) or pursuant to an Order in Council made under section 27(1), section 63 shall apply in relation to the proceedings or matter as if the Maori Appellate Court were constituted, for the purposes of the proceedings or matter, under section 62.

Section 36(1): amended, on 1 January 2005, by section 5(4) of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

Section 36(1): amended, on 26 September 2004, by section 5(7) of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

Section 36(2): amended, on 1 July 2002, by section 12(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **37 Exercise of jurisdiction generally**

- (1) Subject to any express provisions of this Act or of the rules of court relating to the making of applications, the jurisdiction of the court may be exercised on the application of—
  - (a) any person claiming to have an interest in the matter; or
  - (b) the Minister or the chief executive or a Registrar.
- (2) Notwithstanding subsection (1), the court may grant to any person, body, or association leave to make an application to the court for the exercise of its jurisdiction where the court is satisfied—
  - (a) that a question of importance to the Maori people or any tribe or group of the Maori people is involved; and
  - (b) that, because of the standing of the proposed applicant among the Maori people concerned and the proposed applicant's relationship to or connection with any land to which the application relates, it is appropriate that leave be granted to the proposed applicant.
- (3) In the course of the proceedings on any application, the court may, subject to the rules of court, without further application, and upon such terms as to notice to parties and otherwise as the court thinks fit, proceed to exercise any other part of its jurisdiction the exercise of which in those proceedings the court considers necessary or desirable.

Compare: 1953 No 94 s 27; 1974 No 73 s 45; 1979 No 136 s 19(3)

**38 Powers of court may be exercised by any Judge**

- (1) Any Judge sitting alone, or any 2 or more Judges sitting together, may exercise all the powers of the court.
- (2) With the consent of the parties, proceedings may be continued before a Judge or Judges other than the Judge or Judges before whom they were commenced.

Compare: 1953 No 94 s 26

**39 Powers of Registrars**

- (1) Without limiting section 38, the jurisdiction and powers conferred on the court by this or any other Act may be exercised by any Registrar of the court especially designated for the purposes of this section by the Chief Judge with the concurrence of the Chief Registrar, in all or any of the classes of case specified by the rules of court, as the Chief Judge may determine.
- (2) Every order made by a Registrar in the exercise of any jurisdiction or power pursuant to subsection (1) shall be deemed for all purposes to be an order of the court.

**40 Power of Judge to refer matter to Registrar**

- (1) Subject to the rules of court, a Judge may refer to a Registrar for inquiry and report—
  - (a) any proceedings that require the preparation of any whakapapa; or
  - (b) any proceedings that require any prolonged examination of documents or any scientific or local investigation that cannot, in the opinion of the Judge, conveniently be made before the Judge;
  - (c) any proceedings where the question in dispute consists wholly or in part of matters of account;
  - (d) with the consent of the parties, any other proceedings;
  - (e) any question arising in any proceedings.
- (2) Where any proceedings or questions are referred to a Registrar under this section, a Judge may direct how the reference shall be conducted, and may remit any report for further inquiry and report, and, on consideration of any report or further report, may give such judgment or make such order in the proceedings as may be just.
- (3) A Judge may, after deciding or reserving any question of liability, refer to the Registrar or to the Registrar and an accountant any mere matter of account that is in dispute between the parties, and, after deciding the question of liability, may give judgment on the Registrar's report.

Compare: 1947 No 16 s 62

*Orders and rehearings*

**41 Orders to be pronounced in open court, and minute recorded**

- (1) The substance of every final order of the court shall be pronounced orally in open court.
- (2) Subject to section 42, every such order shall take effect according to its tenor as from the commencement of the day on which it is so pronounced.
- (3) A minute of the order shall forthwith be entered in the records of the court.

Compare: 1953 No 94 s 34(1)

**42 Commencement of orders**

- (1) Except as may be provided by the rules of court, every order of the court shall be drawn up, sealed, and signed in accordance with the rules of court.
- (2) Every such order shall be dated as of the date of the minute of the order, and shall relate back to that date.

Compare: 1953 No 94 s 34(7)

**43 Rehearings**

- (1) Subject to subsection (2), on an application made in accordance with the rules of court by any person interested in any matter in respect of which the court has made an order, the Judge by whom the order was made or any other Judge may order a rehearing upon such terms as the Judge thinks reasonable, and in the meantime may stay the proceedings.
- (2) A rehearing under this section shall not be granted on an application made more than 28 days after the order, unless the Judge is satisfied that the application could not reasonably have been made sooner.
- (3) An application under this section shall not operate as a stay of proceedings unless the Judge so orders.
- (4) The rehearing need not take place before the Judge by whom the proceedings were originally heard.
- (5) On any rehearing, the court may affirm its former determination, or may vary or annul that determination, and may exercise any jurisdiction that it could have exercised on the original hearing.
- (6) When a rehearing has been granted, the period allowed for an appeal to the Maori Appellate Court shall not commence to run until the rehearing has been disposed of by a final order of the court.

(7) *[Repealed]*

Compare: SR 1948/197 r 230(1), (3), (8); 1953 No 94 s 28; 1961 No 129 s 4; 1974 No 73 s 46

Section 43(1): amended, on 17 January 2005, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).

Section 43(7): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

*Special powers of Chief Judge*

**44 Chief Judge may correct mistakes and omissions**

- (1) On any application made under section 45, the Chief Judge may, if satisfied that an order made by the court or a Registrar (including an order made by a Registrar before the commencement of this Act), or a certificate of confirmation issued by a Registrar under section 160, was erroneous in fact or in law because of any mistake or omission on the part of the court or the Registrar or in the presentation of the facts of the case to the court or the Registrar, cancel or amend the order or certificate of confirmation or make such other order or issue such certificate of confirmation as, in the opinion of the Chief Judge, is necessary in the interests of justice to remedy the mistake or omission.
- (2) Subject to section 48 but notwithstanding any other provision of this Act, any order under this section may be made to take effect retrospectively to such extent as the Chief Judge thinks necessary for the purpose of giving full effect to that order.
- (3) Notwithstanding anything to the contrary in this Act, the powers conferred on the Chief Judge by this section may be exercised in respect of orders to which the provisions of section 77 would otherwise be applicable.
- (4) The powers conferred on the Chief Judge by this section shall not apply with respect to any vesting order made under Part 6 in respect of Maori customary land.
- (5) The Chief Judge may decline to exercise jurisdiction under this section in respect of any application, and no appeal shall lie to the Maori Appellate Court from the dismissal by the Chief Judge of an application under this section.

Compare: 1953 No 94 s 452(1), (5), (11), (12); 1967 No 124 s 144(a); 1974 No 73 s 64(1); 1981 No 112 s 6(1)

Section 44(1): amended, on 11 April 2001, by section 7(1) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 44(4): amended, on 11 April 2001, by section 7(2) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

**45 Applications for exercise of special powers**

- (1) The jurisdiction conferred on the Chief Judge by section 44 shall be exercised only on application in writing made by or on behalf of a person who claims to have been adversely affected by the order to which the application relates, or by the Registrar.
- (2) On any application under this section, the Chief Judge may require the applicant to deposit in an office of the court such sum as the Chief Judge thinks fit as security for costs, and may summarily dismiss the application if the amount so fixed is not so deposited within the time allowed.

Compare: 1953 No 94 s 452(1), (2)

**46 Powers of Chief Judge in respect of applications**

- (1) The Chief Judge may refer any application under section 45 to the court or the Maori Appellate Court for inquiry and report, and may deal with any such application without holding formal sittings or hearing the parties in open court.
- (2) The Chief Judge may state a case for the opinion of the High Court on any point of law that arises in relation to any application made under section 45; and the provisions of section 72 shall, with all necessary modifications, extend and apply to any case so stated.
- (3) The Chief Judge shall have and may exercise in respect of any application under section 45 the same power as the court possesses under section 79 to make such order as it thinks just as to the payment of costs; and the provisions of that section shall, with any necessary modifications, apply accordingly.

Compare: 1953 No 94 s 452(2), (3), (4); 1965 No 121 s 7

**47 Administrative and consequential matters**

- (1) Every order made by the Chief Judge under section 44 shall be signed by the Chief Judge and sealed with the seal of the Maori Land Court.
- (2) The Chief Judge may at any time cause duplicates of any order made by the Chief Judge or by any former Chief Judge, or by the Deputy Chief Judge or any former Deputy Chief Judge, under section 44 or the corresponding provisions of any former enactment, to be signed and sealed.
- (3) Every such duplicate shall have the word “Duplicate” written or stamped on it, and shall have the same evidentiary value as the order of which it is a duplicate.
- (4) All consequential amendments required to be made in any order, record, or document made, issued, or kept by the court, because of any order made by the Chief Judge under section 44, or made by the Maori Appellate Court on appeal from any such order, may be made by any Judge of the court; and where it becomes necessary to correct the Land Transfer Register, a copy of the order and a note of the consequential amendments made pursuant to this subsection shall be transmitted by the Registrar of the court to the Registrar-General of Land, who shall thereupon make all necessary amendments in the register of the title to the land affected.
- (5) No fee shall be payable under this Act or the Land Transfer Act 2017 in respect of the making of any necessary amendments in the register of the title to any land under subsection (4).

Compare: 1953 No 92 s 452(10), (13); 1958 No 41 s 8

Section 47(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 47(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

#### **48 Matters already finalised or pending**

- (1) No order made by the Chief Judge under section 44, or made by the Appellate Court on appeal from any such order, shall take away or affect any right or interest acquired for value and in good faith under any instrument of alienation registered before the making of any such order.
- (2) No payment made in good faith pursuant to or for the purposes of the original order shall be deemed to have been made without lawful authority merely because that order has been cancelled or amended by an order made under section 44.
- (3) Notwithstanding that an application has been made under section 45, any trustee or agent holding any money for distribution may, unless an injunction under section 19(1)(d) has been obtained and served on the trustee, distribute the money to the person entitled to it in accordance with the terms of the order to which the application relates.
- (4) Where such an injunction is obtained, the Chief Judge may, in the order made pursuant to the application or by a separate order, determine the persons to whom any money to which the injunction relates shall be paid and their relative shares or interests in the money.

Compare: 1953 No 94 s 452(8), (9), (15), (16)

#### *Exercise of powers by Deputy Chief Judge*

Heading: inserted, on 13 December 2006, by section 10 of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

#### **48A Deputy Chief Judge may exercise special powers of Chief Judge**

The Deputy Chief Judge has and may exercise, subject to the direction of the Chief Judge, the powers, functions, and duties of the Chief Judge under sections 44 to 48.

Section 48A: inserted, on 13 December 2006, by section 10 of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

#### *Right of appeal against exercise of special powers*

Heading: inserted, on 13 December 2006, by section 11 of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

#### **49 Appeals**

- (1) Every order made by the Chief Judge or the Deputy Chief Judge under section 44 shall be subject to appeal to the Maori Appellate Court.
- (2) On the determination of any such appeal by the Maori Appellate Court, no further application in respect of the same matter shall be made under section 45.

Compare: 1953 No 94 s 452(6)



Section 49(1): amended, on 13 December 2006, by section 12(1) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

Section 49(2): amended, on 13 December 2006, by section 12(2) of Te Ture Whenua Maori Amendment Act 2006 (2006 No 76).

## **Part 2**

### **The Maori Appellate Court**

#### *Constitution of court*

#### **50 Maori Appellate Court to continue**

There shall continue to be a court of record called the Maori Appellate Court, which shall be the same court as that existing under the same name immediately before the commencement of this Part.

Compare: 1953 No 94 s 37

#### **51 Constitution of court**

- (1) The Judges of the Maori Land Court for the time being shall be the Judges of the Maori Appellate Court.
- (2) Any 3 or more Judges shall have power to act as the Maori Appellate Court.
- (3) The Maori Appellate Court may sit in 2 or more divisions at the same time, and each division shall have all the powers and jurisdiction of the Maori Appellate Court.
- (4) The Chief Judge, or (in the absence of the Chief Judge) the Deputy Chief Judge, or (in the absence of the Chief Judge and the Deputy Chief Judge) either the senior Judge present or another Judge to be appointed in that behalf by the Chief Judge, shall preside in the Maori Appellate Court.
- (5) Proceedings in the Maori Appellate Court may be continued before Judges other than those before whom they were commenced.

Compare: 1953 No 94 s 38; 1974 No 73 s 48

#### **52 Officers of Maori Land Court to be officers of Maori Appellate Court**

The Registrars, Deputy Registrars, and other officers of the Maori Land Court shall, without further appointment, act in the same capacity in the Maori Appellate Court.

Compare: 1953 No 94 s 51

#### **53 Seal**

- (1) The Maori Appellate Court shall have, in the custody of each Registrar, a seal, which shall be the seal of the court and shall be used for sealing documents that require to be sealed.
- (2) The form of the seal shall be such as the Governor-General from time to time determines.

- (3) The seal in use at the commencement of this Act shall continue to be the seal of the Maori Appellate Court unless and until a new seal is duly prescribed by the Governor-General.

Compare: 1953 No 94 s 52

*Procedural provisions*

**54 Successive appeals in respect of same matter**

Successive appeals to the Maori Appellate Court may be brought in respect of the same order at the suit of different persons, but no matter determined on appeal shall be again brought in question in any other appeal.

Compare: 1953 No 94 s 44

**55 Appeals to be by way of rehearing**

- (1) Every appeal to the Maori Appellate Court shall be by way of rehearing.
- (2) No party, at the hearing of an appeal, shall be entitled to adduce any evidence that was not adduced at the earlier hearing, but the Maori Appellate Court may allow any such further evidence to be adduced if, in its opinion, it is necessary to enable it to reach a just decision in the case.
- (3) Nothing in subsection (2) shall prevent the Maori Appellate Court from referring to any record or other document filed or held in the records of the court although that record or document may not have been produced or referred to at the earlier hearing.
- (4) The evidence adduced at the earlier hearing shall be proved by the records of the Maori Land Court, and no other proof of that evidence shall be admitted except by leave of the Maori Appellate Court.

Compare: 1953 No 94 s 44A; 1962 No 45 s 4

**56 Powers of court on appeal**

- (1) On any appeal, the Maori Appellate Court may, by order, do such 1 or more of the following things as it thinks fit:
- (a) it may affirm the order appealed from:
  - (b) it may annul or revoke that order, with or without the substitution of any other order:
  - (c) it may vary that order:
  - (d) it may direct the Maori Land Court to make such other or additional order as the Maori Appellate Court thinks fit:
  - (e) it may direct a rehearing by the Maori Land Court of the whole or any specified part of the matter to which the order relates:
  - (f) it may make any order that the Maori Land Court could have made in the proceedings:
  - (g) it may dismiss the appeal.

- (2) The Maori Appellate Court, in the exercise of the jurisdiction conferred on it by this section, may exercise, as though it were the Maori Land Court, any of the discretionary powers conferred upon that court.

Compare: 1953 No 94 s 45; 1962 No 45 s 5

**57 Decision of majority to be decision of court**

- (1) The decision of the Maori Appellate Court shall be in accordance with the opinion of the majority of the Judges present.
- (2) If the Judges present are equally divided in opinion, the order appealed from or under review shall be deemed to be affirmed.

Compare: 1953 No 94 s 39

*Jurisdiction and orders*

**58 Appeals from Maori Land Court**

- (1) Except as expressly provided to the contrary in this Act or any other enactment, the Maori Appellate Court shall have jurisdiction to hear and determine appeals from any final order of the Maori Land Court, whether made under this Act or otherwise.
- (2) Any such appeal may be brought by or on behalf of any party to the proceedings in which the order is made, or any other person bound by the order or materially affected by it.
- (3) Every such appeal shall be commenced by notice of appeal given in the form and manner prescribed by the rules of court within 2 months after the date of the minute of the order appealed from or within such further period as the Maori Appellate Court may allow.

Compare: 1953 No 94 s 42

**58A Further appeal to Court of Appeal from Maori Appellate Court**

- (1) A party to an appeal under section 58 may appeal to the Court of Appeal against all or part of the determination of the Maori Appellate Court on the appeal.
- (2) On an appeal under subsection (1), the Court of Appeal may make any order or determination it thinks fit.

Section 58A: inserted, on 1 January 2004, by section 46 of the Supreme Court Act 2003 (2003 No 53).

**58B Direct appeal to Supreme Court from Maori Appellate Court in exceptional circumstances**

- (1) A party to an appeal under section 58 may, with the leave of the Supreme Court, appeal to the Supreme Court against all or part of the determination of the Maori Appellate Court on the appeal.

- (2) On an appeal under subsection (1), the Supreme Court may make any order or determination it thinks fit.
- (3) This section is subject to section 75 of the Senior Courts Act 2016 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court).

Section 58B: inserted, on 1 January 2004, by section 46 of the Supreme Court Act 2003 (2003 No 53).

Section 58B(3): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

### **59 Appeals from provisional determinations**

- (1) By leave of the Maori Land Court, but not otherwise, an appeal shall lie to the Maori Appellate Court from any provisional or preliminary determination of the Maori Land Court made in the course of any proceedings.
- (2) Any such appeal may be brought by or on behalf of any person who is materially affected by the determination appealed from, or who would be bound by an order made in pursuance of it.
- (3) The Maori Land Court may decline leave where it is satisfied that the interests of justice and of the parties would best be served by completing the proceedings before any appeal is made to the Maori Appellate Court.
- (4) When leave to appeal is so given, the Maori Land Court may either stay further proceedings in the matter or continue the same, but no final order shall be made until the appeal has been finally disposed of or dismissed.
- (5) When any such appeal has been determined by the Maori Appellate Court, no further appeal shall lie at the suit of any person from any final order made in those proceedings by the Maori Land Court, so far as the order conforms to the determination of the Maori Appellate Court.
- (6) Where no leave to appeal is sought against any provisional or preliminary determination by the Maori Land Court in any proceedings, the Maori Appellate Court may decline to hear any appeal against the final order of the Maori Land Court made in those proceedings if it is satisfied that the appellant had a reasonable opportunity to appeal against the provisional or preliminary determination and that the point that would be in issue on the appeal is substantially the same as that to which the provisional or preliminary determination related.

Compare: 1953 No 94 s 43

### **60 Maori Land Court may state case for Maori Appellate Court**

- (1) The Maori Land Court may, in any proceedings before it, state a case for the opinion of the Maori Appellate Court on any point of law that arises in those proceedings.

- (2) Any case stated under this section may be removed into the High Court under section 72.
- (3) Subject to removal or appeal under section 72, the decision of the Maori Appellate Court on any case stated under this section shall be binding on the Maori Land Court.

#### **61 High Court may state case for Maori Appellate Court**

- (1) Where—
  - (a) any question of fact relating to the interests or rights of Maori in any land or in any personal property arises in the High Court; or
  - (b) any question of tikanga Maori arises in the High Court,—  
that court may state a case and refer the same to the Maori Appellate Court.
- (2) The Maori Appellate Court shall—
  - (a) consider any case referred to it under subsection (1); and
  - (b) transmit a certificate of its opinion on the matter to the High Court.
- (3) The High Court may refer back any case to the Maori Appellate Court for further consideration.
- (4) Subject to subsection (3), where the High Court has stated a case for the opinion of the Maori Appellate Court on any question of tikanga Maori, the opinion of the Maori Appellate Court on that question shall be binding on the High Court.

#### **62 Additional members with knowledge and experience in tikanga Maori**

- (1) Notwithstanding anything in any other provision of this Act, where any case is stated under section 61(1)(b), for the opinion of the Maori Appellate Court, the Chief Judge may, if any party to the proceeding so requests, direct that, for the purpose of the hearing of that case, the Maori Appellate Court shall consist of—
  - (a) 3 Judges of the Maori Land Court; and
  - (b) 1 or 2 other members (not being Judges of the Maori Land Court) to be appointed by the Chief Judge.
- (2) Each person appointed under subsection (1)(b) shall possess knowledge and experience of tikanga Maori.
- (3) The Chief Judge shall, before appointing any person under subsection (1)(b) for the purpose of any hearing, consult with the parties to the proceedings about the knowledge and experience of tikanga Maori that any such person should possess.
- (4) Before entering upon the exercise of the duties of his or her office, any member of the Maori Appellate Court appointed under subsection (1)(b) shall take an

oath before a Judge of the Maori Land Court that he or she will faithfully and impartially perform the duties of his or her office.

- (5) There shall be paid to any member of the Maori Appellate Court appointed under subsection (1)(b), out of public money, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Maori Appellate Court were a statutory board within the meaning of that Act.

### **63 Quorum and decision of court**

- (1) Where, in relation to any proceedings, the Maori Appellate Court is constituted under section 62, the presence of all 4 members or all 5 members, as the case may require, shall be necessary to constitute a sitting of the Maori Appellate Court for the purposes of those proceedings.
- (2) The decision of a majority of the members shall be the decision of the Maori Appellate Court.
- (3) The decision of the Maori Appellate Court in every case shall be signed by the presiding member, and may be issued by the presiding member or by any other member of the Maori Appellate Court or by the Registrar of the Maori Appellate Court.

### **64 Commencement of orders**

- (1) Every order made by the Maori Appellate Court shall, subject to the provisions of this section, take effect or be deemed to have taken effect on a date to be specified in the order.
- (2) Different dates may be fixed by the Maori Appellate Court as the dates for the commencement of different provisions of any order.
- (3) In so far as an order of the Maori Appellate Court varies an order of the Maori Land Court, the order of the Maori Appellate Court may be made to take effect on a date not earlier than the date on which the order so varied would have taken effect if there had been no appeal.
- (4) Any order made by the Maori Land Court by direction of the Maori Appellate Court pursuant to section 56(1)(d) shall, in accordance with the terms of the order of the Maori Appellate Court, take effect on the date fixed by section 42 for the taking effect of the order appealed from, or from the date fixed by that section for the taking effect of orders of the court, or from a date to be specified by the Maori Appellate Court.
- (5) If in any case the Maori Appellate Court fails to specify the date on which the order of the court shall take effect, it shall take effect on the commencement of the day of the date of the minute of the order entered in the records of the Maori Appellate Court.

Compare: 1953 No 94 s 47

### Part 3

#### Provisions relating to both courts

#### 65 Application

The provisions of this Part apply in respect of the Maori Land Court and the Maori Appellate Court unless they are expressly excluded by another enactment.

Compare: 1953 No 94 s 53

Section 65: amended, on 25 November 2004, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).

#### *Procedural provisions*

#### 66 Conduct of proceedings generally

- (1) Any Judge conducting or presiding over any hearing may—
  - (a) apply to the hearing such rules of marae kawa as the Judge considers appropriate;
  - (b) make any ruling on the use of te reo Maori during the hearing, additional to the rights provided by section 68.
- (2) Proceedings before the court shall be conducted in such a way as, in the opinion of the Judge conducting or presiding over the proceedings, will best avoid unnecessary formality.
- (3) Nothing in subsection (1) or subsection (2) shall derogate from any of the powers a Judge has to ensure that the proceedings of the court are conducted in a proper manner.
- (4) No appeal shall lie against any decision of a Judge made for the purposes of this section.

#### 67 Powers of Judge to call conference and give directions

- (1) For the purpose of ensuring that any application or intended application may be determined in a convenient and expeditious manner, and that all matters in dispute may be effectively and completely determined, a Judge may at any time, either on the application of any party or intended party or without any such application, and on such terms as the Judge thinks fit, direct the holding of a conference of parties or intended parties or their counsel presided over by a Judge.
- (2) At any such conference, the Judge presiding may do all or any of the following things:
  - (a) with the consent of the applicant, amend the application to give better effect to the applicant's intention;
  - (b) settle the issues to be determined;

- (c) give directions as to service, and as to the public notification of the application and any hearing:
  - (d) direct by whom and by what time any notice of intention to appear, or any statement in reply, shall be filed:
  - (e) direct the filing of further particulars by any party:
  - (f) direct further research by any party, or by the Registrar from the court records:
  - (g) direct the filing by any party of any valuation, land use, or other report that may assist the court in determining any matter in issue:
  - (h) fix a time by which affidavits or other documents shall be filed:
  - (i) exercise any powers of direction or appointment vested in the court or a Judge by the rules of court in respect of applications of the class with which the Judge is dealing:
  - (j) give such consequential directions as may be necessary:
  - (k) fix a time and place for the hearing of the application.
- (3) Notwithstanding any of the foregoing provisions of this section, a Judge may, at any time before the hearing of an application has been commenced, exercise any of the powers specified in subsection (2) without holding a conference under subsection (1).

Compare: 1972 No 130 s 10; 1977 No 32 s 14

### **68 Parties and witnesses may use Maori language**

Without limiting anything in Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016, any party or witness in any proceedings before the court may give evidence or address the court in Maori.

Compare: 1975 No 147 Schedule 2 cl 6

Section 68: amended, on 30 April 2016, by section 50 of Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 (2016 No 17).

### **69 Evidence in proceedings**

- (1) The court may act on any testimony, sworn or unsworn, and may receive as evidence any statement, document, information, or matter that, in the opinion of the court, may assist it to deal effectively with the matters before it, whether the same would, apart from this section, be legally admissible in evidence or not.
- (2) The court may itself cause such inquiries to be made, call such witnesses (including expert witnesses), and seek and receive such evidence, as it considers may assist it to deal effectively with the matters before it, but shall ensure that the parties are kept fully informed of all such matters and, where appropriate, given an opportunity to reply.



- (3) Subject to the foregoing provisions of this section, the Evidence Act 2006 shall apply to the court, and to the Judges of the court, and to all proceedings in the court, in the same manner as if the court were a court within the meaning of that Act.

Compare: 1953 No 94 s 54

Section 69(3): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

#### **70 Representation of parties, etc**

- (1) Any party or other person entitled to appear in any proceedings in the court may appear—
- (a) personally; or
  - (b) by a barrister or solicitor of the High Court; or
  - (c) with the leave of the court, by any other agent or representative.
- (2) Any leave under subsection (1)(c) may be given on such terms as the court thinks fit, and may at any time be withdrawn.
- (3) In any proceedings under this Act, the court may appoint a barrister or solicitor—
- (a) to assist the court, where any application before the court is unopposed and the court considers that it should hear argument on any point; or
  - (b) to represent any person or class of person, where the court considers that the interests of that person or class of person could be affected by any order that may be made in the proceedings.
- (4) A barrister or solicitor appointed under subsection (3) may call any person as a witness in the proceedings, and may cross-examine witnesses called by any party to the proceedings or by the court.

Compare: 1953 No 94 s 58

#### **71 Court may amend proceedings**

- (1) In the course of any proceedings, the court may, on the application of any party or of its own motion, amend any defects or errors in the proceedings.
- (2) All such amendments may be made on such terms as the court thinks fit.

Compare: 1953 No 94 s 59

#### **72 Case may be stated for High Court**

- (1) The Maori Appellate Court or, with the leave of the Chief Judge, the Maori Land Court, may, in any proceedings before it, state a case for the opinion of the High Court on any point of law that arises in those proceedings.
- (2) The Chief Judge may withdraw any such case at any time before it has been considered by the High Court.

- (3) The decision of the High Court on any case stated under this section shall be subject to appeal to the Court of Appeal, and any case so stated for the opinion of the High Court may be removed into the Court of Appeal for hearing.

- (4) *[Repealed]*

Compare: 1953 No 94 s 67

Section 72(1): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 72(4): repealed, on 1 January 2004, by section 48(2) of the Supreme Court Act 2003 (2003 No 53).

### *General provisions as to orders*

#### **73 Orders may be made subject to conditions**

- (1) Any order may be made subject to the performance of any condition within such period as may be specified in the order.
- (2) Notwithstanding anything in section 42 or the rules of court, no such order shall be sealed while it remains subject to a condition that has not yet been fulfilled.
- (3) Where an order has been made subject to the performance of any conditions, the court may, without further application but subject to the giving of such notices (if any) as the court may direct,—
- (a) amend or cancel the order on the failure to comply with the condition within the specified period; or
- (b) extend that period for such further time as the court thinks fit.

Compare: 1953 No 94 s 34(8A); 1961 No 129 s 5(2)

#### **74 Orders not invalid for want of form, etc**

- (1) No order made by the court shall be invalid merely because of any error, irregularity, or defect in its form, or in the practice or procedure of the court.
- (2) No order shall be questioned or invalidated on the ground of any variance between the order as drawn up, sealed, and signed and the minute of the order; and, in the case of any such variance, the order shall prevail.

Compare: 1953 No 94 ss 34(8), 64(2)

#### **75 Orders nominally in favour of deceased persons**

- (1) No order shall be invalid merely because it is made in favour or otherwise in respect of any person who is deceased at the time of the making, sealing, or date of the order.
- (2) In any such case, the order may, except as otherwise provided in this Act, at any time be amended by the court so as to conform to the facts of the case as existing at the date of the order, and any such amendment shall take effect from the date of the amended order.

Compare: 1953 No 94 s 35

**76 Persons bound by orders affecting land**

Every order of the court affecting the title to Maori land or any interest in any such land shall bind all persons having any estate or interest in that land, whether or not they were parties to or had notice of the proceedings in which the order was made, and whether or not they are subject to any disability.

Compare: 1953 No 94 s 63

**77 Orders affecting Maori land conclusive after 10 years**

- (1) No order made by the court with respect to Maori land shall, whether on the ground of want of jurisdiction or on any other ground whatever, be annulled or quashed, or declared or held to be invalid, by any court in any proceedings instituted more than 10 years after the date of the order.
- (2) Where there is any repugnancy between 2 orders each of which would otherwise, by reason of the lapse of time, be within the protection of this section, then, to the extent of any such repugnancy, the order that bears the earlier date shall prevail, whether those orders were made by the same or different courts.
- (3) Nothing in this section shall limit or affect the authority of the Chief Judge to cancel or amend any order under section 44.

Compare: 1953 No 94 s 68; 1967 No 124 s 144(2); 1974 No 73 s 64(2)

**78 Exemptions from stamp duty**

*[Repealed]*

Section 78: repealed, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

**79 Orders as to costs**

- (1) In any proceedings, the court may make such order as it thinks just as to the payment of the costs of those proceedings, or of any proceedings or matters incidental or preliminary to them, by or to any person who is or was a party to those proceedings or to whom leave has been granted by the court to be heard.
- (2) The court may make an order under subsection (1) for the payment of costs by or to any person notwithstanding that that person is then deceased.
- (3) Where the court is satisfied that any party to the proceedings has acted, not only on his or her own behalf, but on behalf of other persons having a similar interest in the proceedings, the court shall have the same power to make an order for the payment of the costs of those proceedings by those other persons as it has under subsection (1) in respect of that party.
- (4) At any stage of any proceedings, the court may require any party to deposit any sum of money as security for costs, and, in default of that deposit being made, the court may stay or dismiss the proceedings either wholly or in respect of the party so in default.

- (5) When any sum has been so deposited as security for costs, it shall be disposed of in such manner as the court directs.
- (6) In any proceedings, the court may make an order charging the whole or any part of the costs of the proceedings, and of any charges, fees, or expenses that, in the opinion of the court, were reasonably and properly incurred by any party to the proceedings or by any other person for the purposes of or in relation to the proceedings, upon any land or interest in land or any revenues derived from any land or interest in land to which the proceedings relate, whether or not any other order is made in the proceedings in relation to the land.
- (7) Any order made under this section for the payment of costs or imposing a charge for costs may, when made in open court, either specify the sum or sums so payable or charged, or leave the amount to be determined by taxation in accordance with the rules of court; but, in the latter case, the order as drawn up and sealed shall specify the sum or sums so determined by taxation.

Compare: 1953 No 94 s 57; 1962 No 45 s 6; 1974 No 73 s 49

## **80 Taxation of costs**

- (1) All costs, charges, or expenses charged or chargeable to any party in connection with or incidental to the prosecution of or opposition to any claim or application to the court shall be subject to taxation in accordance with this section.
- (2) On application by or on behalf of the person chargeable, the court may either tax any such costs, charges, or expenses or refer the same to the Registrar or other officer of the court for taxation.
- (3) The court may order a bill of items to be supplied for the purpose of any such taxation, or the taxing officer may require the production of such a bill.
- (4) Any such costs, charges, or expenses shall be subject to taxation although the person chargeable may have entered into an agreement as to the amount to be paid, and, if the court or taxing officer thinks the agreement to be unfair or unreasonable, the court or taxing officer may reduce the amount payable under the agreement.
- (5) The court or taxing officer shall certify in writing the amount that should, in fairness to the parties, be paid in respect of any such costs, charges, or expenses, and the amount so certified shall be deemed to be the amount properly payable by the person chargeable.
- (6) This section shall not apply to any costs, charges, or expenses that are liable to taxation and review in accordance with the provisions of Part 8 of the Law Practitioners Act 1982.

Compare: 1953 No 94 s 451

## **81 Enforcement of orders for payment of money**

- (1) For the purpose of enforcing any order made by the court for the payment of money, a Judge may, on the application of any party or of the Judge's own

motion, transmit a copy of the order, under the Judge's hand and the seal of the court by which the order was made, to the District Court, where it shall be filed as of record in that court.

- (2) On the filing of a copy of any such order, the order shall, so long as it remains in force, be deemed to be a judgment of the District Court in an action for the recovery of a debt, and may be enforced accordingly as if the order had been made in a proceeding of the District Court.
- (3) For the purposes of this section, a certificate under the hand of a Judge of the Maori Land Court, with reference to any proceedings of that court or of the Maori Appellate Court in the matter in which the order to be enforced was made, or setting forth any particulars relating to the performance or non-performance by any person of the requirements of that order, shall, unless the contrary is proved, be accepted by the District Court, and by all officers of that court, as sufficient evidence of the facts so certified.
- (4) The filing in the District Court under this section of a copy of an order made by the Maori Land Court or the Maori Appellate Court shall not limit or affect any right or power of rehearing, appeal, amendment, or cancellation existing in respect of that order.

Compare: 1953 No 94 s 65

Section 81(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 81(2): amended, on 16 September 2011, by section 6 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

## **82 Charging orders**

- (1) Without limiting anything in section 81, for the purpose of enforcing any order made by the court for the payment of money, a Judge may, on the application of any party or of the Judge's own motion, order that the money payable or to become payable under the order shall be a charge on—
  - (a) any Maori land; or
  - (b) any legal or equitable interest in any Maori land; or
  - (c) any revenues derived from any Maori land; or
  - (d) the proceeds of the alienation of any Maori land,—  
to which the person liable to pay the money is entitled.
- (2) Subject in the case of any interest in land to registration under subsection (6), the property shall become subject to a charge accordingly in favour of the person to whom for the time being and from time to time the money is or becomes payable.
- (3) A charging order shall specify, in such manner as to identify it, the property on which the charge is imposed.
- (4) A charging order may at any time be varied or discharged by the court.

- (5) Nothing in section 123 of the Accident Compensation Act 2001 applies to any charge constituted under this section.
- (6) Where a charging order is made in respect of a registered estate or interest in any land, a duplicate or copy of the order under the seal of the court may be delivered for registration to the Registrar-General of Land if the title to the land is under the Land Transfer Act 2017, or to the Registrar of Deeds if the title to the land is not under that Act, or, in the case of a mining privilege within the meaning of the Mining Act 1971, may be delivered for recording to the Registrar-General of Land.
- (7) The Registrar to whom the duplicate or copy is delivered shall, without fee, record it in the register against the appropriate record of title, or in the Deeds Register Office, or record it and note its particulars on the filed copy of the mining privilege to which it relates, as the case may require.
- (8) An order discharging or varying a charging order may be registered or recorded in the same manner as the charging order.

Section 82(5): substituted, on 1 April 2002, by section 337(1) of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49).

Section 82(5): amended, on 3 March 2010, pursuant to section 5(1)(b) of the Accident Compensation Amendment Act 2010 (2010 No 1).

Section 82(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 82(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **83 Appointment of receiver to enforce charges, etc**

- (1) When, by or pursuant to this Act or any other enactment, any charge has been imposed upon—
  - (a) any Maori land; or
  - (b) any legal or equitable interest in any Maori land; or
  - (c) the revenue derived from any Maori land; or
  - (d) the proceeds of the alienation of any Maori land,—
 

the court may at any time and from time to time, for the purpose of enforcing that charge, appoint the Māori Trustee or any other fit person to be a receiver in respect of the property so charged.
- (2) The court shall not appoint the Māori Trustee as a receiver under subsection (1) unless it is satisfied that the Māori Trustee consents to the appointment.
- (3) If, in any proceeding before the court, the title to any property that is the subject matter of that proceeding is in dispute, the court may, pending the determination by it of the dispute, appoint the Māori Trustee or any other fit person to be a receiver in respect of that property.
- (4) Subject to subsection (5), a receiver appointed under this section shall have all such rights, powers, duties, and liabilities as may be expressly conferred or

imposed on the receiver by the court, and such other incidental powers as may be reasonably necessary for the exercise of the powers so conferred.

- (5) No receiver appointed under this section shall have power to sell any Maori land, or to lease any such land otherwise than as provided in subsection (6).
- (6) Notwithstanding any of the provisions of this Act as to the alienation of Maori land, a receiver appointed under this section for the purpose of enforcing a charge may, in the receiver's own name and with the leave of the court, grant leases of any land so charged, or licences to remove timber, flax, kauri gum, minerals, or other substances from the land, for any term not exceeding 21 years (including any term or terms of renewal), on such conditions and for such rent or other consideration as the receiver thinks fit.
- (7) Any lease or licence so granted in respect of land subject to the Land Transfer Act 2017 may be registered under that Act.
- (8) Where a receiver has performed the functions for which he or she was appointed, or where the court is satisfied for any other reason that the receiver should be discharged, the court may make an order for the discharge of the receiver, and may, if necessary, appoint some other person to be a receiver in place of the receiver so discharged.
- (9) Where the receiver applies for discharge, the receiver shall file final accounts with the application, and, except where the receiver is the Māori Trustee, shall pay into court any money held by the receiver in respect of the receivership.

Compare: 1953 No 94 s 33; 1964 No 46 s 5

Section 83(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 83(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 83(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 83(6): amended, on 11 April 2001, by section 8 of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 83(7): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 83(9): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

#### **84 Court may order repayment out of money held by trustee, etc**

If, in any case to which paragraph (a) or paragraph (b) of subsection (1) of section 83 applies, the Māori Trustee or any other person is holding or is entitled to receive, on trust for the owners or any of the owners of the land upon which the charge has been imposed, any money derived from the land, the court may, whether or not it appoints a receiver under that section, cause notice of the charge to be given to the Māori Trustee or that other person, and, by order, may require the Māori Trustee or that other person to apply that money, in accord-

ance with the terms of the order, in or towards the repayment of the amount secured by the charge.

Section 84: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### **85 Enforcement by High Court of injunctions**

- (1) For the purpose of enforcing any injunction issued by the court, the Chief Judge may, on the application of any party or of the Chief Judge's own motion, transmit a copy of the injunction, under the hand of the Chief Judge and the seal of the court by which the injunction was issued, to any Registrar of the High Court, who shall file it as of record in that court.
- (2) On the filing of a copy of any such injunction, the injunction shall be deemed to have been issued by the High Court, and may be enforced by writ of attachment or otherwise in accordance with the practice of that court.
- (3) For the purposes of this section, a certificate under the hand of a Judge of the Maori Land Court, with reference to any proceedings of that court or of the Maori Appellate Court in the matter in which the injunction was issued, or setting forth any particulars relating to the performance or non-performance by any person of the requirements of that injunction, shall, unless the contrary is proved, be accepted by the High Court and by all officers of that court as sufficient evidence of the facts so certified.
- (4) The filing in the High Court under this section of a copy of an injunction issued by the Maori Land Court or the Maori Appellate Court shall not limit or affect any right or power of rehearing, appeal, amendment, or cancellation existing in respect of that order.

Compare: 1953 No 94 s 66(1)–(4)

#### *Amendment of orders, warrants, and records*

### **86 Amendment of orders, warrants, etc**

- (1) The court or any Judge of the court may at any time make or authorise to be made in any order, warrant, record, or other document made, issued, or kept by the court all such amendments as are considered necessary to give effect to the true intention of any decision or determination of the court, or to record the actual course and nature of any proceedings in the court.
- (2) Every such amendment shall take effect as of the date of commencement of the order, warrant, record, or other document so amended.
- (3) Without limiting the foregoing provisions of this section, the court may at any time during any proceedings direct the Registrar to make any amendment of any entry in the records of the court that the Registrar is authorised to make under section 87.

Compare: 1953 No 94 s 60



**87 Amendment of names of land owners in court records and titles**

On the application of an owner of Maori freehold land, the Registrar may by order amend any entry in the records of the court, or in any certificate or other instrument of title relating to the interest of the applicant in the land, if the Registrar is satisfied that an amendment is necessary to show correctly the name or description of the applicant, or the name by which the applicant is or desires to be commonly known, including, where the applicant is a married woman, her married name, or to distinguish between 2 or more persons having the same or similar names.

Compare: 1953 No 94 s 60A; 1974 No 144 s 3

**88 Amendment or cancellation of orders not to affect acquired rights**

- (1) Where, whether pursuant to any provision of section 86 or section 87 or otherwise, any order, warrant, record, or other document is amended or cancelled, the amendment or cancellation shall not take away or affect any right or interest acquired in good faith and for value before the making of the amendment or cancellation.
- (2) If any order or other document so amended or cancelled has previously been registered by the Registrar-General of Land, the order of amendment or cancellation shall be transmitted to the Registrar-General of Land, who shall make all necessary consequential amendments in the registration of the title to any land affected by the amendment or cancellation.

Compare: 1953 No 94 s 61

Section 88(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

*Contempt of court*

**89 Failure to comply with summons, etc**

- (1) Every person commits an offence who, after being summoned to attend to give evidence before the court or to produce to the court any papers, documents, records, or things, without sufficient cause—
  - (a) fails to attend in accordance with the summons; or
  - (b) refuses to be sworn or to give evidence, or, having been sworn, refuses to answer any question that the person is lawfully required by the court to answer; or
  - (c) fails to produce any such paper, document, record, or thing.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$300.
- (3) No person summoned to attend the court shall be convicted of an offence against subsection (1) unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required

to attend, there was made to that person a payment or tender of the amount fixed by the rules of court.

Compare: 1908 No 25 s 9; 1980 No 2 s 4

Section 89(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **90 Contempt of court**

- (1) This section applies if any person—
- (a) wilfully insults a judicial officer, Registrar, officer of the court, or any witness, during his or her sitting or attendance in court, or in going to or returning from the court; or
  - (b) wilfully interrupts the proceedings of a court or otherwise misbehaves in court; or
  - (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of the hearing of any proceedings.
- (2) If this section applies,—
- (a) any constable or officer of the court, with or without the assistance of any other person, may, by order of a Judge, take the person into custody and detain him or her until the rising of the court; and
  - (b) the Judge may, if he or she thinks fit, sentence the person to—
    - (i) imprisonment for a period not exceeding 3 months; or
    - (ii) a fine not exceeding \$1,000 for each offence.
- (3) Nothing in this section limits or affects any power or authority of the court to punish any person for contempt of court in any case to which this section does not apply.

Compare: 2011 No 81 s 365

Section 90: replaced, on 1 March 2017, by section 9 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

## **91 Obstructing officers of court**

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who wilfully obstructs or interferes with any Judge, Registrar, Receiver, or other officer of the court in the execution of his or her powers or duties.

Compare: 1953 No 94 s 70

Section 91: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

*Rules of court*

**92 Constitution of Rules Committee**

- (1) For the purposes of section 95, there shall be a Rules Committee, to consist of—
  - (a) the Chief Judge;
  - (b) 1 other Judge appointed by the Chief Judge;
  - (c) a person nominated by the New Zealand Maori Council and appointed by the Chief Judge;
  - (d) the chief executive of the Ministry of Justice or a person nominated by that chief executive;
  - (e) the chief executive or a person nominated by the chief executive;
  - (f) a person appointed by the Minister of Maori Affairs and the Minister of the Crown who is responsible for the Ministry of Justice;
  - (g) a barrister or solicitor of the High Court nominated by the Council of the New Zealand Law Society and appointed by the Chief Judge;
  - (h) 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.
- (3) Any appointed member may resign by notice in writing to the Chief Judge or the Minister, as the case may require.
- (4) Without limiting section 8(4), 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.

Compare: 1953 No 94 s 70A(1)–(2); 1980 No 67 s 3(1); 1991 No 39 s 4(1)

Section 92(1)(d): substituted, on 1 October 1995, by section 10(3) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 92(1)(d): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

Section 92(1)(f): substituted, on 1 October 1995, by section 10(3) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 92(1)(f): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

**93 Fees and travelling allowances**

- (1) The Rules Committee is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.
- (2) There shall be paid out of money appropriated by Parliament for the purpose to the members of the Rules Committee such fees, allowances, travelling allow-

ances, and expenses as may be fixed in accordance with the Fees and Traveling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Compare: 1953 No 94 s 70A(3), (4); 1980 No 67 s 3(1)

#### **94 Principal function of Rules Committee**

The principal function of the Rules Committee shall be to review and keep under review the rules of court, and from time to time to make such recommendations to the Minister as it thinks fit for the amendment or revocation of any rules or the making of any new rules, to ensure that the rules are such as to facilitate the prompt, inexpensive, and just dispatch of the business of the court and the administration of justice in the court.

Compare: 1953 No 94 s 70A(5); 1980 No 67 s 3(1)

#### **95 Rules of court**

- (1) The Governor-General, with the concurrence of the Chief Judge and any 2 or more of the other members of the Rules Committee, may from time to time, by Order in Council, make rules of court for the purposes of facilitating the prompt, inexpensive, and just dispatch of the business of the court.
- (2) The power of making rules under this section shall extend to all matters of practice or procedure and matters relating to or concerning the effect or operation in law of any practice or procedure in any case within the jurisdiction of the court; but shall not extend to the prescribing of fees.
- (3) Without limiting the generality of the foregoing provisions of this section, rules of court may be made in respect of all or any of the following matters:
  - (a) prescribing forms to be used for the purposes of any proceedings before the court:
  - (b) prescribing the district or office in which proceedings are to be commenced, and the procedure to be adopted where proceedings are commenced in one district or office but should, under this Act or any other enactment or the rules, have been commenced in another district or office:
  - (c) prescribing the circumstances in which proceedings may be transferred from one district to another, and the procedure consequent on such transfer:
  - (d) prescribing the form of the records of the court and providing for the custody of such records:
  - (e) providing for the receipt of and accounts for all money paid into or out of court:
  - (f) providing for the appointment and public notification of sitting days of the court, empowering any Judge to appoint special sittings of the court at such places and times as the Judge thinks fit, and authorising any

Judge to hold a sitting of the court at any place where the court does not usually sit:

- (g) providing for the public notification of applications to the court, and prescribing the circumstances in which any application or class of applications may be disposed of without public notification and without a hearing:
- (h) prescribing the manner in which and the procedure by which witnesses are to be summoned to appear before the court:
- (i) prescribing the circumstances and manner in which and the procedure by which any Registrar may take evidence for use in any proceedings before the court:
- (j) authorising a Registrar to hear and determine any uncontested proceedings, or to conduct and report upon any inquiry:
- (k) prescribing the class or classes of proceedings in which the jurisdiction and powers of the court may be exercised by a Registrar in accordance with section 39:
- (l) prescribing, according to the nature of the proceedings and the amount involved, the costs and charges to be paid by any party in any proceedings before the court to any other party, in addition to the money paid out of pocket:
- (m) providing for the drawing up in writing, sealing, and signing of orders of the court, or the minuting and other evidencing of any such orders or class of order, and the issuing of duplicate orders for evidentiary and registration purposes; and prohibiting the formal issuing of any order until the time for appeal has expired and any conditions attached to the order have been fulfilled or security for the performance of any such conditions has been given to the satisfaction of the court, or until any necessary plan sufficient for the purposes of registration under the Land Transfer Act 2017 has been prepared:
- (n) prescribing the terms and conditions on which appeals to the Maori Appellate Court may be brought, prosecuted, or withdrawn:
- (o) requiring any appellant to give security for the costs of the appeal, and providing for the dismissal of an appeal by the Maori Land Court or by a Judge of that court on the ground of the failure of the appellant to conform to any such requirement, or to prosecute the appeal in accordance with the rules:
- (p) prescribing the classes of person before whom affidavits, declarations, or affirmations to be used in any proceedings before the court may be sworn or made within or outside New Zealand.

- (4) Rules of court made under this section shall take effect from the date specified in that behalf by the Order in Council by which the rules are made.

Compare: 1953 No 94 ss 25, 40; 1980 No 67 s 3(2), (3)

Section 95(3)(b): substituted, on 25 November 2004, by section 103(1) of the Foreshore and Seabed Act 2004 (2004 No 93).

Section 95(3)(b): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 95(3)(m): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 95(3)(m): amended, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

### *Fees*

## **96 Regulations**

Notwithstanding anything in section 95, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (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:
- (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 Judge, 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.

Compare: 1953 No 94 s 70B; 1991 No 39 s 5(1)

### *Miscellaneous provisions*

## **97 Practice notes**

The Chief Judge, with the concurrence of at least 2 other Judges, 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 the rules of court) by way of practice notes as may be necessary or desirable for the proper conduct of such proceedings.

Compare: 1953 No 94 s 25A; 1976 No 148 s 3

**98 Māori Land Court Special Aid Fund**

- (1) There shall be paid out of public money into a fund to be known as the Māori Land Court Special Aid Fund (in this section referred to as the **Fund**) such amounts as are from time to time appropriated by Parliament for the purpose.
- (2) The Fund shall be held by the Chief Registrar of the Māori Land Court.
- (3) The court may from time to time make orders for the payment from the Fund of the reasonable legal costs or the reasonable out-of-pocket expenses or both of—
  - (a) any person or class of person heard or represented in any proceedings before the court;
  - (b) any barrister or solicitor appointed to assist the court under section 70(3)(a).
  - (c) *[Repealed]*
- (3A) *[Repealed]*
- (4) A duplicate of any order made by the court under subsection (3) shall be forwarded by post to the Legal Services Commissioner as soon as practicable after the making of the order.
- (5) No person in whose favour an order has been made under subsection (3) may apply for or be granted assistance under the Legal Services Act 2000 in respect of the same matter.
- (6) Where an order is made under subsection (3), the court may also make an order charging any real or personal property of the person or class of person in whose favour the first order is made, or of any other owners whose interests are or could have been affected by any order made in the proceedings to which the grant of aid relates, with the whole or any part of the amount so ordered to be paid out of the Fund, and fixing the terms and conditions on which the amount charged is to be repaid.
- (7) Every charge created by an order of the court under subsection (6) shall be in favour of the Māori Trustee on behalf of the Crown.
- (8) Any such charge may be registered against any interest in land to which it relates in accordance with Part 5.
- (9) Except as the court may otherwise order, there shall also be paid out of the Fund—
  - (a) the reasonable fees and reasonable expenses of any accountant to whom a Judge refers a matter under section 40(3); and
  - (aa) the reasonable fees and reasonable expenses of any person the Registrar is directed, by the Judge, to engage to assist with an inquiry and report under section 40; and

- (ab) the reasonable fees and reasonable expenses of a mediator to whom a Judge refers matters under section 30B(3)(c), section 30C(3)(d), section 30G(3)(a), or section 30I(2); and
- (b) all reasonable costs and reasonable out-of-pocket expenses of any person called by the court as a witness under section 69(2); and
- (c) the reasonable fees and reasonable expenses of any barrister or solicitor appointed under section 70(3); and
- (d) the reasonable fees and reasonable expenses of any person appointed as a receiver under section 83; and
- (e) the reasonable fees and reasonable expenses of any person appointed as an examining officer under section 280 to investigate the affairs of a Maori incorporation.

Compare: 1953 No 94 s 57A; 1974 No 73 s 50

Section 98(3)(c): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 98(3A): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 98(4): amended, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Section 98(5): amended, on 1 February 2001, by section 128 of the Legal Services Act 2000 (2000 No 42).

Section 98(7): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 98(9)(aa): inserted, on 1 July 2002, by section 13 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 98(9)(ab): inserted, on 1 July 2002, by section 13 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## 98A Information regarding reserved judgments

The Chief Judge must, in consultation with the Chief Justice,—

- (a) publish information about the process by which parties to proceedings before the court may obtain information about the status of any reserved judgment in those proceedings; and
- (b) periodically publish information about the number of judgments of the court that he or she considers are outstanding beyond a reasonable time for delivery; and
- (c) publish information about reserved judgments that he or she considers is useful.

Section 98A: inserted, on 1 March 2017, by section 10 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).



**98B Recusal guidelines**

The Chief Judge must, in consultation with the Chief Justice, develop and publish guidelines to assist Judges to decide if they should recuse themselves from a proceeding.

Section 98B: inserted, on 1 March 2017, by section 10 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

**98C Judge may make order restricting commencement or continuation of proceeding**

- (1) A Judge may make an order restricting a person from commencing or continuing proceedings in the court.
- (2) The order may have—
  - (a) a limited effect (a **limited order**); or
  - (b) an extended effect (an **extended order**).
- (3) A limited order restrains a party from commencing or continuing proceedings on a particular matter in the court.
- (4) An extended order restrains a party from commencing or continuing proceedings on a particular or related matter in the court.
- (5) Nothing in this section limits the court's inherent power to control its own proceedings.

Section 98C: inserted, on 1 March 2017, by section 10 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

**98D Grounds for making section 98C order**

- (1) A Judge may make a limited order under section 98C if, in proceedings about the same matter in the court, the Judge considers that at least 2 or more of the proceedings are or were totally without merit.
- (2) A Judge may make an extended order under section 98C if, in at least 2 proceedings about any matter considered by the court, the Judge considers that the proceedings are or were totally without merit.
- (3) In determining whether the proceedings are or were totally without merit, the Judge may take into account the nature of any other interlocutory application or appeal involving the party to be restrained, but is not limited to those considerations.
- (4) The proceedings concerned must be proceedings commenced or continued by the party to be restrained, whether against the same person or different persons.
- (5) For the purpose of this section and sections 98E and 98F, an appeal in a proceeding must be treated as part of that proceeding and not as a distinct proceeding.

Section 98D: inserted, on 1 March 2017, by section 10 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

**98E Terms of section 98C order**

- (1) An order made under section 98C may restrain a party from commencing or continuing any proceeding (whether generally or against any particular person or persons) of any type specified in the order without first obtaining the leave of the court.
- (2) An order made under section 98C, whether limited or extended, has effect for a period of up to 3 years as specified by the Judge, but the Judge making it may specify a longer period (which must not exceed 5 years) if he or she is satisfied that there are exceptional circumstances justifying the longer period.

Section 98E: inserted, on 1 March 2017, by section 10 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

**98F Procedure and appeals relating to section 98C orders**

- (1) A party to any proceeding may apply for a limited order or an extended order.
- (2) A Judge may make an order under section 98C (a **section 98C order**) either on an application under subsection (1) or on his or her own initiative.
- (3) An application for leave to continue or commence a civil proceeding by a party subject to a section 98C order may be made without notice, but the court may direct that the application for leave be served on any specified person.
- (4) An application for leave must be determined on the papers, unless the Judge considers that an oral hearing should be conducted because there are exceptional circumstances and it is appropriate to do so in the interests of justice.
- (5) A Judge's determination of an application under subsection (3) for leave is final.
- (6) The party against whom a section 98C order is made may appeal against the order to the Maori Appellate Court.
- (7) The appellant in an appeal under subsection (6) or the applicant for the section 98C order concerned may, with the leave of the Maori Appellate Court, appeal against the determination of that appeal to the Court of Appeal.
- (8) A court determining an appeal under this section has the same powers as the court appealed from has to determine an application or appeal, as the case may be.

Section 98F: inserted, on 1 March 2017, by section 10 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

**98G References to Judge in sections 98C to 98F**

The functions and powers of a Judge under sections 98C to 98F are exercisable by individual Judges of the Maori Land Court, and are exercisable also by the Judges acting as the Maori Appellate Court as if references in those sections to a Judge were references to the Judges acting as that court.

Section 98G: inserted, on 1 March 2017, by section 10 of the Te Ture Whenua Maori Amendment Act 2016 (2016 No 69).

## Part 4 Administration of estates

### 99 Interpretation

- (1) In this Part, unless the context otherwise requires,—

**administration** means probate of the will of a deceased person; and includes letters of administration of the estate of a deceased person, granted with or without the will annexed, for general, special, or limited purposes; and, in the case of the Māori Trustee or Public Trust or a trustee company, also includes an order to administer and an election to administer

**administrator** means any person to whom administration is granted; and includes the Māori Trustee or Public Trust or a trustee company where that official or company is deemed to be an executor or administrator by reason of having filed an election to administer

**Maori freehold land** includes land that is vested in the Māori Trustee under the Maori Vested Lands Administration Act 1954 or the Maori Reserved Land Act 1955

**trustee company** means a trustee company within the meaning of the Trustee Companies Act 1967.

- (2) For the purposes of this Part, a beneficial interest in Maori freehold land shall be deemed to include the interest of the freehold owner in all buildings and other fixtures attached to the land, and all things growing on the land.
- (3) For the purposes of this Part, a beneficial interest in Maori freehold land shall be deemed to include a leasehold interest in Maori freehold land arising from the registration of a cross lease as defined in section 2 of the Resource Management Act 1991.

Compare: 1953 No 94 ss 132A(1), 146; 1967 No 124 s 74

Section 99(1) **administration**: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 99(1) **administration**: amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 99(1) **administrator**: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 99(1) **administrator**: amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 99(1) **Maori freehold land**: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 99(3): added, on 1 July 1994, by section 2 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

**100 Application of this Part**

- (1) Subject to subsection (2), this Part applies to all estates of deceased persons (whether or not Maori) comprising in whole or in part any beneficial interest in Maori freehold land.
- (2) This Part does not apply—
- (a) where administration of the estate of the deceased owner has been granted before the commencement of this Act; or
  - (b) in respect of any beneficial interest in Maori freehold land, owned by the deceased person at his or her death, that has been vested in the person or persons entitled to the interest before the commencement of this Act; or
  - (c) to the estate of a person who dies before 1 July 1994 leaving a will executed before the commencement of this Act;—

and in any such case the law applying immediately before the commencement of this Act shall continue to apply as if—

- (d) this Act had not been passed; and
- (e) the Maori Land Court may make an order vesting in the persons entitled thereto the undivided beneficial freehold interests in common in Maori freehold land regardless of the value of the interests in land affected by the application.

Compare: 1953 No 94 ss 113(1), (2), (8), 116(5); 1967 No 124 ss 86(1), 88(14)

Section 100(2): amended, on 1 July 1994, by section 3 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 100(2)(d): added, on 1 July 1994, by section 3 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 100(2)(e): added, on 1 July 1994, by section 3 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

**101 General law to apply subject to this Part**

All other enactments and rules of law relating to—

- (a) applications for and grant of administration of estates of deceased persons; and
- (b) the administration of such estates; and
- (c) the bringing and settling of claims against such estates; and
- (d) succession to property owned by deceased persons at their death,—

shall, in relation to estates to which this Part applies, be read subject to this Part.

Compare: 1953 No 94 ss 110, 132(4); 1962 No 45 s 34(2); 1967 No 124 ss 75, 76(1), 79, 80(1); 1974 No 73 s 25; 1976 No 148 s 7(2)

*Grant of administration and settlement of claims*

**102 Jurisdiction of High Court continued**

The High Court shall continue to have jurisdiction and authority in relation to—

- (a) the granting of administration of estates to which this Part applies; and
- (b) the hearing and determining of proceedings in respect of testamentary and other matters relating to such estates.

Compare: 1969 No 52 s 5

**103 Jurisdiction of High Court where administration granted by Maori Land Court**

The High Court may, in respect of any estate of which a grant of administration has previously been made by the Maori Land Court, exercise any jurisdiction that it could have exercised if the grant of administration had been made by the High Court.

Compare: 1967 No 124 s 87(4); 1972 No 135 s 13(1)

**104 Liability of Maori land for payment of debts of estate**

- (1) No Maori freehold land, and no beneficial interest in any Maori freehold land or in a Maori reserve or in any Maori customary land, owned by any person who died before 1 April 1968 shall be available for the payment of any of that person's debts or liabilities.
- (2) Except as provided in subsection (3), no Maori freehold land, and no beneficial interest in any Maori freehold land or in a Maori reserve or in any Maori customary land, owned by any person who has died or dies on or after 1 April 1968 shall be available for the payment of any of that person's debts or liabilities.
- (3) Where the owner of any Maori freehold land or any beneficial interest in Maori freehold land has died or dies on or after 1 April 1968, all revenue derived from that land or interest in land shall be available for the payment of that person's debts and liabilities.
- (4) Subject to subsection (5), nothing in subsection (3) shall prevent—
  - (a) the vesting of any such interest in Maori freehold land in the persons beneficially entitled to the interest; or
  - (b) the making of an assignment vesting in the administrator of the estate of the deceased owner the right to receive revenue from the deceased owner's Maori freehold land or the deceased owner's beneficial interest in Maori freehold land.
- (5) Where any person is beneficially entitled to a deceased owner's beneficial interest in Maori freehold land, the vesting of that beneficial interest in that

person shall not entitle that person to receive, in priority to any creditor of the deceased person, revenue from that beneficial interest.

- (6) When any person has died before 1 April 1968 possessed of a freehold interest in Maori land that is subject to a contract of sale or to any lease or other alienation, the freehold interest of the deceased shall, for the purposes of this section, be deemed to include the deceased's interest in all purchase money, rent, and other money payable in respect of that alienation and not actually paid before the deceased's death, whether such money became due and payable before or after that death.
- (7) Nothing in subsection (1) or subsection (2) shall limit or affect—
- (a) any mortgage or charge to which any such land is subject at the death of the owner; or
  - (b) any liability for the payment of rates or taxes; or
  - (c) any provision in any will by which any Maori freehold land or any beneficial interest in it is expressly devised in trust for, or charged with, the payment of debts or liabilities, so long as that provision does not authorise or require the sale of that land or interest in land to meet payment of any debts or liabilities; or
  - (d) any valid assignment or charge of any money arising out of the alienation of Maori freehold land or any beneficial interest in Maori freehold land, or the revenue derived from that money, made in favour of a State Loan Department or of the Crown.
- (8) For the purposes of this section, an interest in Maori land shall be deemed to include an interest in personal property to which any person is entitled by virtue of an interest in any land that is subject to Part 2 of the Maori Affairs Restructuring Act 1989.

Compare: 1953 No 94 s 132; 1962 No 45 s 34(2); 1963 No 123 s 8(2); 1967 No 124 ss 73(3), 77, 88(12)

Section 104(3): amended, on 1 July 2002, by section 14 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## **105 Duty payable on succession to Maori land**

*[Repealed]*

Section 105: repealed, on 24 May 1999, by section 15(1) of the Estate Duty Repeal Act 1999 (1999 No 64).

## **106 Special provisions relating to testamentary promises and family protection**

- (1) Notwithstanding anything in the Law Reform (Testamentary Promises) Act 1949 but subject to subsection (3), no order may be made under that Act in respect of any estate to which this Part applies having the effect of alienating any beneficial interest in Maori freehold land belonging to the estate to any person to whom that interest could not have been left by the deceased owner by will.

- (2) Notwithstanding anything in the Family Protection Act 1955 but subject to subsection (3), no order may be made under that Act in respect of any estate to which this Part applies having the effect of alienating any beneficial interest in Maori freehold land belonging to the estate to any person other than a child or grandchild of the deceased owner.
- (3) Nothing in subsection (1) or subsection (2) shall limit the power of the High Court to make an order conferring the right to reside in any dwelling or affecting any income derived from any beneficial interest in Maori freehold land.
- (4) For the purposes of the Family Protection Act 1955, a Maori who, before 1 April 1952, was married to another Maori in accordance with tikanga Maori, and whose marriage to the deceased was subsisting at the time of the death of the deceased, shall be deemed to have been the widower or widow of the deceased unless at the time of the death of the deceased either party was legally married to some other person.

Compare: 1953 No 94 s 118(4), (5); 1962 No 45 s 8(1); 1964 No 46 s 7; 1967 No 124 s 80(2), (3)

Section 106(1): amended, on 16 September 2011, by section 7 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 106(2): amended, on 16 September 2011, by section 7 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

#### **107 Special provisions relating to status of children, etc**

- (1) In any will of a Maori that was made before 1 January 1970 (being the date of the commencement of the Status of Children Act 1969),—
  - (a) the term **child**, in relation to the person who made the will or any other person referred to in the will, or any term of the same meaning, shall, unless a contrary intention appears from the will, be construed as including any child of that person, whether legitimate or illegitimate, who is capable in accordance with tikanga Maori of taking Maori freehold land by way of intestate succession from that person:
  - (b) the term **heir**, or **next of kin**, or any similar term used in relation to the person who made the will with reference to any specific property, shall, unless it is expressly stated to the contrary in the will, be construed as referring to the person or persons who, in accordance with the provisions of this Part, would be entitled to succeed to that property on the death of the person who made the will if that person had died intestate with respect to that property.
- (2) Where any term referred to in paragraph (a) or paragraph (b) of subsection (1) appears in a will of a Maori who died on or after 1 April 1968 but before 24 October 1969 (being the date of the commencement of subsections (1) to (3) of section 4 of the Maori Purposes Act 1969), that term shall be construed in the same manner as it would have been had the person who made the will not been Maori.

- (3) Section 65 of the Property Law Act 2007 shall be read subject to the provisions of this section.

Compare: 1953 No 94 s 115(1), (2), (3); 1967 No 124 ss 87(2), 88(2); 1969 No 127 s 4

Section 107(3): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

### *Distribution of estates*

#### **108 Disposition by will**

- (1) Except as provided by subsections (2) and (3), no owner of any beneficial interest in any Maori freehold land has the capacity to dispose of that interest by will.
- (2) An owner of a beneficial interest in Maori freehold land may leave that interest by will to any person who belongs to any 1 or more of the following classes:
- (a) children and remoter issue of the testator:
  - (b) any other persons who would be entitled under section 109(1) to succeed to the interest if the testator died intestate:
  - (c) any other persons who are related by blood to the testator and are members of the hapu associated with the land:
  - (d) other owners of the land who are members of the hapu associated with the land:
  - (e) whangai of the testator:
  - (f) trustees of persons referred to in any of paragraphs (a) to (e).
- (2A) A person in whom an occupation order has been vested may leave the occupation order by will to any 1 or more persons who come within subsection (2).
- (2B) A person is entitled to succeed to an occupation order by will—
- (a) if the person owns a beneficial interest in the land to which the occupation order applies; and
  - (b) if the court is satisfied, in the circumstances, that the extent of the person's beneficial interest in the land justifies that person succeeding to the occupation order.
- (2C) An occupation order that passes by will is cancelled automatically on the date of expiry or termination of the occupation order.
- (3) Subsection (2)(e) shall have effect notwithstanding anything in section 19 of the Adoption Act 1955.
- (4) Any owner of a beneficial interest in Maori freehold land may by will leave that interest to the owner's spouse, civil union partner, or de facto partner for life or for any shorter period.
- (5) Any provision in a will purporting to leave a beneficial interest in Maori freehold land to any person otherwise than in accordance with subsection (2) or



subsection (4) shall be void and of no effect; and that interest shall, unless disposed of in accordance with either of those subsections by some other provision of the will, pass to the persons entitled on intestacy.

- (6) Where any beneficial interest in Maori freehold land is left by will to any trustee, the trustee shall not have power under the will or under any Act to sell the interest; and any provision in the will purporting to confer such power shall be void and of no effect.

Section 108(2A): inserted, on 1 July 2002, by section 15 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 108(2B): inserted, on 1 July 2002, by section 15 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 108(2C): inserted, on 1 July 2002, by section 15 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 108(4): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

#### **109 Succession to Maori freehold land on intestacy**

- (1) Subject to subsection (2), on the death intestate of the owner of any beneficial interest in Maori freehold land, the persons primarily entitled to succeed to that interest, and the proportions in which they are so entitled, shall be determined in accordance with the following provisions:
- (a) where the deceased leaves issue, the persons entitled shall be the child or children of the deceased living at his or her death, in equal portions if more than 1, together with the issue living at the death of the deceased of any child of the deceased who died before the deceased, that issue to take through all degrees, according to their stocks, in equal portions if more than 1, the portion to which their parent would have been entitled if living at the death of the deceased:
  - (b) where the deceased leaves no issue, but leaves brothers and sisters, the persons entitled shall be the deceased's brothers and sisters living at the death of the deceased (including brothers and sisters of the half blood descended from the parent or other ascendant through whom the deceased received his or her entitlement to that interest), in equal portions if more than 1, together with the issue living at the death of the deceased of any such brother or sister of the deceased who died before the deceased, that issue to take through all degrees, according to their stocks, in equal portions if more than 1, the portion to which their parent would have been entitled if living at the death of the deceased:
  - (c) where the deceased leaves no issue and no brothers and sisters, the persons entitled to succeed shall be ascertained always by reference to the derivation of entitlement by the deceased and shall be the issue, living at the deceased's death, of the person nearest in the chain of title to the deceased who has issue living at the deceased's death, that issue to take

through all degrees, according to their stocks, in equal shares if more than 1.

- (2) Where the owner of a beneficial interest in any Maori freehold land dies intestate leaving a person who is the owner's surviving spouse or civil union partner, that person is, subject to subsection (4), entitled as of right to an interest in that interest for life, or until he or she remarries or enters into a civil union or a de facto relationship.
- (3) Such a surviving spouse or civil union partner may, on the death of the deceased or at any time thereafter, surrender in writing his or her entitlement under subsection (2), whereupon the court shall vest the interest absolutely in the persons entitled to succeed to the interest.
- (4) A surviving spouse or civil union partner shall not be entitled under subsection (2) if, at the date of the death of the owner, a separation order, or a separation agreement made by deed or other writing, is in force in respect of the marriage or civil union between the surviving spouse or civil union partner and the owner.

Compare: 1967 No 124 s 76A(2); 1974 No 73 s 25; 1976 No 148 s 18; 1978 No 70 s 9

Section 109(2): substituted, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 109(3): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 109(4): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

#### **109A Succession to ota whakanoho on intestacy**

- (1) Subject to subsection (2), section 109 applies, with all necessary modifications, to an occupation order as if it were a beneficial interest in Maori freehold land.
- (2) A person is entitled to succeed to an occupation order—
  - (a) if the person owns a beneficial interest in the land to which the occupation order applies; and
  - (b) if the court is satisfied, in the circumstances, that the extent of the person's beneficial interest in the land justifies that person succeeding to the occupation order.
- (3) An occupation order that passes by succession is cancelled automatically on the date of expiry or termination of the occupation order.

Section 109A: inserted, on 1 July 2002, by section 16 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

#### **110 Succession on intestacy to property other than Maori land**

- (1) Except as otherwise expressly provided in this Act, the persons entitled on the complete or partial intestacy of a Maori to succeed to that person's estate, so far as it comprises property that is not a beneficial interest in Maori freehold

land, shall be determined in accordance with the law governing succession to the estates of persons who are not Maori.

- (2) The right of any person to succeed to any property in accordance with subsection (1) shall not be affected by the fact that the claimant or any person through whom his or her claim is derived is or was illegitimate.

Compare: 1953 No 94 s 116(1); 1964 No 46 s 6; 1967 No 124 s 88(3)

### **111 Interests in General land of deceased Maori**

- (1) On application by the administrator of any Maori who has died possessed of any freehold interest in General land, the court may make an order vesting that interest in the administrator or in the person entitled to succeed to the interest under the will or on the intestacy of the deceased.
- (2) For the purposes of an application under subsection (1), the court may, without further inquiry, accept the certificate of the applicant that the person named in the certificate is entitled to succeed to the interest.
- (3) The making of a vesting order under this section shall not absolve the administrator from any liability incurred by the administrator in respect of his or her duties; and, for the purposes of determining any such liability, the making of the vesting order shall be regarded as if it had been a conveyance of the interest by the administrator to the person in whom the interest is vested by the court.

Compare: 1953 No 94 s 145; 1974 No 73 s 24

### **112 Transmission of Maori land to administrator**

- (1) On application by the administrator of any estate to which this Part applies, the Maori Land Court may make an order vesting any beneficial interest in Maori freehold land belonging to the estate in the administrator.
- (2) An application under subsection (1) may be dealt with by the court on such conditions as to notice as the court thinks fit, and the court may dispense with the appearance of any party.
- (3) An order made by the court under subsection (1) may be registered under the Land Transfer Act 2017.

Compare: 1953 No 94 s 134; 1967 No 124 s 81

Section 112(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **113 Maori Land Court to determine beneficial entitlements to Maori land**

- (1) On an application by the administrator or by any person interested or by the Registrar, the court shall determine the persons (in this section referred to as the **beneficiaries**) who are legally entitled to succeed to any beneficial freehold interest in Maori freehold land belonging to any estate to which this Part applies, and shall define the proportions of the several beneficiaries.

- (2) Every determination made for the purposes of this section shall be recorded in the minutes of the court, but it shall not be necessary for the court to draw up in writing any order with respect to its determination.
- (3) Where any freehold interest in land has been devised by will to a trustee other than a bare trustee, the trustee shall be deemed for the purposes of this section to be the beneficiary.
- (4) In considering any application under this section, the court may require such evidence as it thinks fit, but may, without further inquiry, accept the certificate of the administrator that the person named in the certificate is entitled to succeed to the interest to which the application relates.
- (5) Until the court has made a determination under this section in respect of any beneficial freehold interest in Maori freehold land belonging to any estate, no vesting order may be made in respect of that interest under section 117 or section 118.
- (6) The making of a determination under this section shall not absolve the executor or administrator from any liability incurred by the executor or administrator in respect of his or her duties.

Compare: 1953 No 94 ss 135, 145(2); 1974 No 73 s 24

#### **114 Succession to Maori land on intestacy where no person primarily entitled**

- (1) If, in respect of any estate to which this Part applies, the court is of the opinion that no person is primarily entitled to succeed to any beneficial freehold interest in Maori freehold land in accordance with section 109, it shall determine the persons entitled to succeed in accordance with tikanga Maori.
- (2) In any case where customary links with the land have been severed or cannot for any reason be ascertained, the court may determine who is entitled to succeed by taking into account tikanga Maori applicable to the situation, and, in doing so, the court may consider—
  - (a) the means by which the interest was acquired; and
  - (b) the origin and nature of the interest; and
  - (c) the persons entitled to succeed to any other interest owned by the deceased at his or her death, and the nature of that interest; and
  - (d) the nature of any other property owned by the deceased at his or her death.
- (3) If, in any case, the court is of the opinion that no person is entitled to succeed in accordance with section 109 or with tikanga Maori, it may, by order, vest the interest or shares—
  - (a) in the trustees of a putea trust constituted under section 212; or
  - (b) in the other owners.

Compare: 1967 No 124 s 76A(1); 1974 No 73 s 25

**115 Court may make provision for whangai**

- (1) In the exercise of its powers under this Part in respect of any estate, the court may determine whether a person is or is not to be recognised for the purposes of this Part as having been a whangai of the deceased owner.
- (2) Where, in any such case, the court determines that a person is to be recognised for the purposes of this Part as having been a whangai of the deceased owner, it may make either or both of the following orders:
  - (a) an order that the whangai shall be entitled to succeed to any beneficial interest in any Maori freehold land belonging to the estate to the same extent, or to any specified lesser extent, as that person would have been so entitled if that person had been the child of the deceased owner:
  - (b) an order that the whangai shall not be entitled to succeed, or shall be entitled to succeed only to a specified lesser extent, to any beneficial interest in Maori freehold land to, or than that, which that person would otherwise be entitled to succeed on the death of that person's parents or either of them.
- (3) Every order under subsection (2) shall have effect notwithstanding anything in section 19 of the Adoption Act 1955.

Section 115(1): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 115(2): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

**116 Court may make special provision relating to income**

- (1) Subject to subsection (2), in the exercise of its powers under this Part in respect of any estate, the court may make an order conferring on any person the right to the whole or any part of the income derived from any beneficial interest in Maori freehold land, or to the whole or any part of the proceeds of sale of any such interest, belonging to the estate, for life or for any shorter period.
- (2) The court shall not make an order under this section in favour of any person whose claim, in the opinion of the court, fell or falls within the jurisdiction of the High Court under the Law Reform (Testamentary Promises) Act 1949 or the Family Protection Act 1955.
- (3) In enacting this provision, Parliament has in mind particularly the possibility of injustice arising in individual cases from the prohibitions enacted by this Act against the alienation of beneficial interests in Maori freehold land to persons outside defined classes, and is therefore desirous of conferring on the court some flexible, if limited, powers to ameliorate any such injustice.

**117 Vesting in persons beneficially entitled following grant of administration**

- (1) Subject to section 119, where administration of any estate to which this Part applies has been granted, the court may, on the application of the administrator or of any person interested, make an order vesting any beneficial interest in

- Maori freehold land belonging to the estate in the persons (in this section referred to as the **beneficiaries**) who are legally entitled to succeed to the interest.
- (2) An administrator may make an application under this section notwithstanding that the interest to which it relates has not been vested in the administrator under section 112.
  - (3) In disposing of any interest of a deceased owner under this section, the court may exercise all or any of the following powers:
    - (a) the court may exercise with respect to the whole or any part of the interest any jurisdiction that it would have had authority to exercise under any of the provisions of this Act, if application had been duly made in accordance with this Act and with the rules of court:
    - (b) the court may, with the consent of a beneficiary, vest the whole or any part of the interest of that beneficiary in any other person who is entitled to acquire or succeed to that interest:
    - (c) the court may give effect to any arrangement or agreement whereby the interest of any beneficiary is to be vested in any other beneficiary or in any other person who is entitled to acquire or succeed to that interest, but no person shall be excluded from any interest to which that person is entitled without that person's consent.
  - (4) For the purposes of subsection (3)(c), any agreement or arrangement may, in the case of a person under disability, be entered into or made on behalf of that person by a trustee appointed under Part 12, or, if no such trustee is appointed, by any other responsible person.
  - (5) Where any beneficial freehold interest in land has been devised by the will of the deceased owner to a trustee other than a bare trustee, the trustee shall, for the purposes of this section, be deemed to be the beneficiary.
  - (6) In any case to which subsection (5) applies, the existence of the trust shall be stated on the face of the relevant vesting order.
  - (7) 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.
  - (8) Any money held by the Māori Trustee or any other agent for any person at the date of that person's death, being the proceeds of the alienation of any Maori freehold land, shall be deemed for the purposes of subsection (3)(c) to be interests in Maori freehold land; and the court may dispose of that money accordingly by making an order for payment of it under section 242.
  - (9) Nothing in subsection (8) shall impose any liability on the Māori Trustee or other agent in respect of any payment out of the proceeds of sale after the death

of the deceased if the payment was made by the Māori Trustee or other agent without knowledge of the owner's death.

Compare: 1953 No 94 s 136; 1957 No 81 s 2(1); 1961 No 129 s 7; 1963 No 123 s 4; 1967 No 124 ss 78A(8), 81A(3); 1973 No 106 s 17; 1974 No 73 ss 22, 26; 1976 No 148 ss 19, 20(1)

Section 117(8): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 117(9): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### **118 Vesting in persons beneficially entitled where no grant of administration**

(1) Subject to section 119, where—

- (a) administration of any estate to which this Part applies has not been granted; or
- (b) the administrator of any estate to which this Part applies has died after a grant of administration has been made,—

the court may make an order vesting any beneficial interest in Maori freehold land belonging to the estate in the persons entitled to the interest.

- (2) An application for an order under this section shall be made by or on behalf of the person or one of the persons claiming to be entitled to the interest under the will or on the intestacy of the deceased person.
- (3) No order shall be made under this section unless the court is satisfied—
  - (a) that the person or persons entitled to obtain a grant of administration of the estate of the deceased person does not or do not intend to seek any such grant; and
  - (b) that there is no apparent reason why the estate of the deceased person should be formally administered.
- (4) In making an order under this section, the court shall proceed as if all the persons living at the death of the deceased person who, if they had then attained full age, would have taken an absolutely vested interest in any part of the estate, had then attained full age.
- (5) The provisions of subsections (2) to (9) of section 117, with any necessary modifications, shall apply to the exercise of the court's powers under this section.
- (6) Where the known estate of a deceased person has previously been administered and additional interests of the deceased in Maori freehold land are discovered, the court, notwithstanding any other provisions of this section, may deal with those interests under this section if it is satisfied that any other course would be unduly expensive or difficult having regard to the value of the interests.

Compare: 1967 No 124 s 78A; 1973 No 106 s 17; 1974 No 73 s 26; 1976 No 148 s 19

**118A Circumstances when certain assets and payments must be held in trust**

- (1) If the court makes an order under section 26M(1)(f)(iii) or (2) that an action be prevented or be subject to an interim injunction, as the case may be,—
- (a) Te Ohu Kai Moana Trustee Limited must hold the assets that are subject to the order in trust for that mandated iwi organisation until—
- (i) the date specified in the order; or
  - (ii) the conditions specified in the order are met; or
  - (iii) the order ceases to have effect; and
- (b) the mandated iwi organisation is entitled to receive any income earned from those assets for the period that they are held in trust, except that Te Ohu Kai Moana Trustee Limited is entitled to deduct the reasonable costs of administering the assets.
- (2) In this section, **mandated iwi organisation** and **Te Ohu Kai Moana Trustee Limited** have the meaning set out in section 26A.

Section 118A: inserted, on 26 September 2004, by section 4 of Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79).

**118B Circumstances when certain transfers and payments must be held in trust**

- (1) If the court makes an order under section 26ZA(1)(f)(iii) or (2) that an action be prevented or be subject to an interim injunction, as the case may be,—
- (a) the trustee must hold the assets that are subject to the order in trust for that iwi aquaculture organisation until—
- (i) the date specified in the order; or
  - (ii) the conditions specified in the order are met; or
  - (iii) the order ceases to have effect; and
- (b) the iwi aquaculture organisation is entitled to receive any income earned from those assets for the period that they are held in trust, except that the trustee is entitled to deduct the reasonable costs of administering the assets.
- (2) In this section, **iwi aquaculture organisation** and **trustee** have the meaning set out in section 26O.

Section 118B: inserted, on 1 January 2005, by section 4 of Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108).

**119 Court's powers in relation to whanau and putea trusts**

- (1) The court shall not exercise the powers conferred by section 117 or section 118 to vest any interest in Maori freehold land in the administrator of the estate of the deceased owner or in any person beneficially entitled to that interest if—
- (a) there is, in respect of any interests in that land, a putea trust constituted under section 212 or a whanau trust constituted under section 214; and



- (b) the court has fixed a minimum value in respect of interests in that land below which any interest may be transferred to the trustees for the purposes of the putea trust or whanau trust so constituted; and
- (c) the value of the interest before the court is less than the minimum value so fixed,—

unless the trustees of the putea trust or the whanau trust so constituted consent to the exercise of those powers by the court.

- (2) Nothing in section 117 or section 118 shall limit or affect the powers of the court to constitute a putea trust under section 212 or a whanau trust under section 214 in respect of any interest in any Maori freehold land belonging to an estate to which this Part applies.

#### **119A Vesting of ota whakanoho**

Sections 117 to 119 apply, with all necessary modifications, to an occupation order as if it were a beneficial interest in Maori freehold land.

Section 119A: inserted, on 1 July 2002, by section 17 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

#### **120 Special succession fee where death occurred before 1 April 1968**

- (1) This section applies to interests in Maori land of a person who died before 1 April 1968.
- (2) Upon the making of a vesting order under this Part in respect of any interest to which this section applies, the court shall determine the value of the interest as at the date of the owner's death, and the value so determined shall be final and conclusive for the purposes of this section.
- (3) Where the value of the interest is not less than \$2,000, there shall be payable in respect of the order, in addition to any fee prescribed by regulations made under this Act, a special succession fee equal to 2% of the value of the interest; but in no case shall the amount of the succession fee exceed the amount by which the value of the interest exceeds \$2,000.
- (4) No vesting order in respect of which a special succession fee is payable under subsection (3) shall issue from the court until the fee has been paid.

Compare: 1953 No 94 s 131; 1955 No 106 s 3; 1967 No 124 ss 78(4), 88(13); 1968 No 35 s 13; 1974 No 73 s 21; 1979 No 136 s 13

#### **121 Special provisions relating to succession to shares in Maori incorporations**

- (1) Notwithstanding anything in section 113 or section 117(1), where administration of any estate to which this Part applies has been granted, a Maori incorporation may, on the application of the administrator or of any person interested, direct that any shares in the incorporation belonging to the estate be registered in the names of the persons legally entitled to succeed to the shares.

- (2) Where the administrator or the incorporation is uncertain as to who is so legally entitled, the administrator or incorporation may apply to the court for a determination under section 113.
- (3) An appeal shall lie to the Maori Land Court against any decision of the Maori incorporation made under subsection (1).
- (4) Where the court makes a determination under section 113, or a vesting order under section 117 or section 118, in respect of any shares in a Maori incorporation, section 119 shall apply with any necessary modifications.

## Part 5

### Recording of ownership

#### 122 Application of Part

This Part applies to every order made by the Maori Land Court or the Maori Appellate Court, or by the Chief Judge acting under section 44, or by a Registrar exercising any jurisdiction conferred on Registrars by any of the provisions of this Act, affecting or relating to the title in any Maori freehold land, except—

- (a) an order vesting the beneficial ownership of the land or any interest in the land in any person other than a person in whom the legal ownership is vested; or
- (b) an order amending or cancelling any order to which paragraph (a) applies.

#### 123 Orders affecting title to Maori freehold land to be registered

- (1) Subject to subsection (7A), every order to which this Part applies shall, in accordance with the succeeding provisions of this Part, be registered against the title to that land under the Land Transfer Act 2017 or (as the case may require) the Deeds Registration Act 1908.
- (2) For the purposes of registration, the order shall be transmitted by the Registrar of the court to the Registrar-General of Land or (as the case may require) the Registrar of Deeds; and the Registrar-General of Land or the Registrar of Deeds shall, except as otherwise provided in this Act, register the same accordingly.
- (3) *[Repealed]*
- (4) No fee shall be payable under this Act or the Land Transfer Act 2017 in respect of any order to which this Part applies.
- (5) Until registration has been effected, an order of the court in respect of land subject to the Land Transfer Act 2017 shall affect only the equitable title to the land.

- (6) Notwithstanding anything in this section or in the Land Transfer Act 2017, no separate record of title shall be issued under that Act in respect of any undivided interest in any Maori freehold land.
- (6A) Nothing in subsection (6) shall prevent the issue of a separate record of title in respect of any cross lease within the meaning of section 2 of the Resource Management Act 1991.
- (7) In the case of an aggregation order made under section 308, the Registrar-General of Land shall enter on each instrument of title affected by the order a memorial to the effect that alienation of the interests comprised in that instrument is restricted by section 148(4).
- (7A) Where an order to which this Part applies has not been registered in accordance with subsection (1), the registration of that order against the title to the land may, if its effect has been incorporated into a consolidated order, be effected by registering the consolidated order against the title to the land; and subsections (2) to (4) shall, with all necessary modifications, apply in relation to the registration of the consolidated order.
- (8) Nothing in this section shall limit or affect any special provisions made elsewhere in this Act or in any other Act for the registration of any such order.

Compare: 1953 No 94 s 36; 1983 No 146 s 3(1)

Section 123(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(1): amended, on 24 June 1996, by section 2(1) of Te Ture Whenua Maori Amendment Act 1996 (1996 No 35).

Section 123(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(3): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(6A): inserted, on 1 July 1994, by section 4 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 123(6A): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 123(7A): inserted, on 24 June 1996, by section 2(2) of Te Ture Whenua Maori Amendment Act 1996 (1996 No 35).

Section 123(7A): amended, on 2 September 1996, by section 2 of Te Ture Whenua Maori Amendment Act (No 2) 1996 (1996 No 153).

**124 Special provisions where insufficient survey plan**

- (1) If any order to which this Part applies is presented for registration under the Land Transfer Act 2017, the Registrar-General of Land must, if the order is not supported by a plan that defines the land affected by the order and that is sufficient for the purposes of the registration of that order under that Act, register the order by issuing a qualified record of title for the land.
- (2) If any order to which this Part applies is registered in accordance with subsection (1), any person in whom the beneficial ownership of land or any interest in land is vested by that order may, in accordance with section 224 of the Land Transfer Act 2017, deposit a plan in relation to the land or interest in land to which the order relates, which plan must define the pieces of land affected.

Section 124: replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**125 Alterations in registration of title**

If any order that is annulled or revoked or varied, or if any other order or any instrument affected by the annulment or variation, has been registered by the Registrar-General of Land in respect of the title to any land, the later order shall be transmitted to the Registrar-General of Land for registration, and all necessary consequential amendments in the registration of any title shall be made by the Registrar-General of Land accordingly.

Compare: 1953 No 49 s 67

Section 125: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**125A Alteration to land appellation**

- (1) The court may, on application under subsection (2), make an order amending the name given to the whole or part of a block of Maori freehold land in—
  - (a) the title to that land; and
  - (b) if necessary, the cadastral record map, produced under section 11(1)(c) of the Survey Act 1986, of the relevant land district.
- (2) A legal or beneficial owner of Maori freehold land may apply to the court for an order under subsection (1) for Maori freehold land in which the legal or beneficial owner has an interest and must pay, with the application, the amount necessary (if any) to enable the Registrar to make the payment (if any) required by subsection (7)(c).
- (3) On receiving an application under subsection (1), the Registrar must, as soon as practicable,—
  - (a) notify every person with a beneficial interest in the Maori freehold land, whose identity and address is known to the court, of the application; and
  - (b) notify the Registrar-General of Land and Chief Surveyor of the application; and

- (c) invite submissions on the application from the persons notified.
- (4) The Registrar must specify a date by which submissions on the application must be received.
- (5) The court must not make an order under this section affecting the whole or part of a block of Maori freehold land unless it is satisfied—
  - (a) that the owners of the land have had sufficient notice of the application and sufficient opportunity to discuss and consider it; and
  - (b) that there is a sufficient degree of support for the application among the owners; and
  - (c) that the format of the appellation, as amended, conforms with the requirements specified by the Surveyor-General under section 11(1)(g) of the Survey Act 1986.
- (6) The court must not make an order under this section affecting the whole or part of a block of Maori freehold land vested in a Maori incorporation unless it is satisfied—
  - (a) that the shareholders of the incorporation have been given sufficient notice of the application; and
  - (b) that the shareholders have passed a special resolution supporting the application.
- (7) If the court makes an order under subsection (1), the Registrar must forward—
  - (a) a copy of the order to the land registry office for the land registration district in which the land is situated, and the Registrar-General of Land must register the order; and
  - (b) any documentation required by the Surveyor-General, to the Surveyor-General, for updating the cadastral record map of the relevant land district; and
  - (c) payment of a fee (if any) prescribed, for registration or updating under paragraphs (a) and (b).

Section 125A: inserted, on 1 July 2002, by section 18 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## **126 No registration without prior confirmation**

The Registrar-General of Land shall not register any instrument affecting Maori land (other than an instrument not required to be confirmed or an order of the court or of the Registrar) unless the instrument has been confirmed by the court, or the Registrar of the court has issued a certificate of confirmation in respect of the instrument, in accordance with the relevant provisions of Part 8.

Section 126: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 126: amended, on 28 September 1993, by section 3 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

### **127 Registrar of court to record ownership**

- (1) The Registrar of the court shall establish and maintain a record (in subsections (2) and (4) referred to as an ownership list) of the legal and beneficial ownership of all Maori freehold land in the district and of any trusts affecting the land or any individual interest in the land.
- (2) Without limiting subsection (1), it is hereby declared that where the Registrar of the court is satisfied that any interest for life or until remarriage in respect of any beneficial interest in Maori freehold land (including any such interest created by section 109(2)) has been extinguished or surrendered, the Registrar of the court shall note the extinction or surrender of that interest in the ownership list.
- (3) On the making of an aggregation order under section 308, the Registrar shall establish a common list of owners of all the land affected by the order.
- (4) In all proceedings, an ownership list under the signature of the Registrar and the seal of the court shall be prima facie evidence of the legal and beneficial ownership of the land to which the list relates, and of all trusts affecting the land or any interest in the land recorded in the list, without production of any relevant order of the court or of any relevant instrument of alienation.
- (5) Nothing in subsection (1) requires the Registrar to record the ownership of beneficial interests in land that, by virtue of this Act, remain vested in the several owners of that land despite the vesting of the legal estate in fee simple in that land in a Maori incorporation.

Section 127(5): added, on 28 September 1993, by section 4 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

### **128 Court may issue declaratory consolidated order**

- (1) This section applies to any case where any instrument of title (whether or not registered under the Land Transfer Act 2017) issued with respect to any Maori freehold land does not fully disclose the names of the several persons for the time being entitled to any estate or interest in that land and the several shares and interests to which they are so entitled as a result of changes of ownership effected or evidenced by subsequent orders of the court or of a Registrar, or certificates or other documents recorded in the records of the court or in the Land Transfer Office.
- (2) In any case to which this section applies, the court may, in accordance with the provisions of this section, make a consolidated order declaring, as at the date of the order, the names of the persons who, by virtue of the instrument of title or the subsequent orders, certificates, or other documents referred to in subsection

- (1), are then entitled to any estate or interest in the land and the several shares and interests to which they are so entitled.
- (3) Where a beneficial owner named in the original instrument of title or in any subsequent order has died, whether before or after the commencement of this Act, and in respect of the beneficial interest of that owner a succession order has been made under any former Act or a vesting order has been made under section 136 of the Maori Affairs Act 1953 or under section 117 or section 118 of this Act, vesting the interest of the deceased owner in a trustee pursuant to the will of the deceased, the trustee shall be deemed to be the beneficial owner of that interest for the purposes of the consolidated order, and the existence of the trust shall be disclosed in the order by reference to the will of the deceased owner.
- (4) The consolidated order shall be made to incorporate the effect of any order affecting the ownership of any interest made by the court subsequent to the drawing up of the draft consolidated order.

Compare: 1953 No 94 s 445(1), (4), (11); 1957 No 81 s 6(2); 1967 No 124 s 126(3)(b); 1982 No 124 s 9

Section 128(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## **Part 6**

### **Status of land**

#### **129 All land to have particular status for purposes of Act**

- (1) For the purposes of this Act, all land in New Zealand shall have one of the following statuses:
- (a) Maori customary land:
  - (b) Maori freehold land:
  - (c) General land owned by Maori:
  - (d) General land:
  - (e) Crown land:
  - (f) Crown land reserved for Maori.
- (2) For the purposes of this Act,—
- (a) land that is held by Maori in accordance with tikanga Maori shall have the status of Maori customary land:
  - (b) land, the beneficial ownership of which has been determined by the Maori Land Court by freehold order, shall have the status of Maori freehold land:
  - (c) land (other than Maori freehold land) that has been alienated from the Crown for a subsisting estate in fee simple shall, while that estate is

beneficially owned by a Maori or by a group of persons of whom a majority are Maori, have the status of General land owned by Maori:

- (d) land (other than Maori freehold land and General land owned by Maori) that has been alienated from the Crown for a subsisting estate in fee simple shall have the status of General land:
  - (e) land (other than Maori customary land and Crown land reserved for Maori) that has not been alienated from the Crown for a subsisting estate in fee simple shall have the status of Crown land:
  - (f) land (other than Maori customary land) that has not been alienated from the Crown for a subsisting estate in fee simple but is set aside or reserved for the use or benefit of Maori shall have the status of Crown land reserved for Maori.
- (3) Notwithstanding anything in subsection (2), where any land had, immediately before the commencement of this Act, any particular status (being a status referred to in subsection (1)) by virtue of any provision of any enactment or of any order made or any thing done in accordance with any such provision, that land shall continue to have that particular status unless and until it is changed in accordance with this Act.

Compare: 1953 No 94 s 2(1)

Section 129(2)(c): amended, on 1 July 2002, by section 19 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **130 Certain status not to change except in limited circumstances**

No land shall acquire or lose the status of Maori customary land or of Maori freehold land otherwise than in accordance with this Act, or as expressly provided in any other Act.

Compare: 1953 No 94 s 2(2); 1960 No 120 s 3; 1982 No 124 s 3

Section 130 heading: amended, on 1 July 1994, by section 5 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 130: amended, on 1 July 1994, by section 5 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

### **131 Court may determine status of land**

- (1) The Maori Land Court shall have jurisdiction to determine and declare, by a status order, the particular status of any parcel of land, whether or not that matter may involve a question of law.
- (2) Without limiting the classes of person who may apply to the court for the exercise of its jurisdiction, the Registrar-General of Land may apply to the court for the exercise of its jurisdiction under this section in respect of that land.
- (3) Nothing in subsection (1) shall limit or affect the jurisdiction of the High Court to determine any question relating to the particular status of any land.

Compare: 1953 No 94 s 30(1)(h), (2)



Section 131(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**132 Change from Maori customary land to Maori freehold land by vesting order**

- (1) The Maori Land Court shall continue to have exclusive jurisdiction to investigate the title to Maori customary land, and to determine the relative interests of the owners of the land.
- (2) Every title to and interest in Maori customary land shall be determined according to tikanga Maori.
- (3) In any application for the exercise of the court's jurisdiction under this section, the applicant may specify—
  - (a) the person or persons in whom it is proposed the land shall be vested; and
  - (b) any trusts, restrictions, or conditions to which it is proposed the land shall be subject.
- (4) On any investigation of title and determination of relative interests under this section, the court may make an order defining the area dealt with and vesting the land in—
  - (a) such person or persons as the court may find to be entitled to the land in such relative shares as the court thinks fit, or otherwise in accordance with the terms of the application; or
  - (b) a Maori incorporation or a Maori Trust Board or trustees for or on behalf of such persons, and on such terms of trust, and in such relative shares, as the court thinks fit.

Compare: 1953 No 94 s 161

**133 Change from General land or General land owned by Maori to Maori freehold land by status order**

- (1) The Maori Land Court shall have jurisdiction in accordance with the succeeding provisions of this section to make a status order declaring that any land shall cease to be General land or General land owned by Maori and shall become Maori freehold land.
- (2) Without limiting the classes of person who may apply to the court for the exercise of its jurisdiction, the Registrar-General of Land may apply to the court for the exercise of its jurisdiction under this section in respect of any land that is beneficially owned by more than 10 Māori.
- (3) The court shall not make a status order under this section unless it is satisfied that—
  - (a) the land is beneficially owned by 1 or more Maori; and
  - (b) the owners have had adequate opportunity to consider the proposed change of status; and

- (c) either—
  - (i) all the owners agree to the proposed change of status; or
  - (ii) the land can be managed or utilised effectively as Maori freehold land and a sufficient proportion of the owners agree to the proposed change of status; and
- (d) it is desirable that the land become Maori freehold land having regard to the history of the land, and to the identity of the owners and their personal association with the land.

Compare: 1953 No 94 s 433A; 1974 No 73 s 57

Section 133 heading: amended, on 1 July 2002, by section 20(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 133(1): amended, on 1 July 2002, by section 20(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 133(2): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **134 Change to Maori freehold land by vesting order on change of ownership**

- (1) This section applies to—
  - (a) any land (other than Maori freehold land) that the beneficial owner wishes to have vested in or held in trust for any Maori or any group or class of Maori, or any Maori incorporation; and
  - (b) any land (other than Maori freehold land) acquired for or on behalf of any Maori or any group or class of Maori or any Maori incorporation; and
  - (c) any Maori land or General land owned by Maori that has at any time been acquired by the Crown or by any local authority or public body for a public work or other public purpose and is no longer required for that public work or other public purpose; and
  - (d) any Crown land reserved for Maori; or
  - (e) any Crown land (other than Crown land reserved for Maori).
- (2) The Maori Land Court shall have jurisdiction in accordance with the succeeding provisions of this section to make a vesting order in respect of any land to which this section applies and to declare in that order that the land shall become Maori freehold land.
- (3) An application to the court for the exercise of its jurisdiction under this section shall be made,—
  - (a) in any case to which subsection (1)(a) applies, by or on behalf of the beneficial owner of the land; or
  - (b) in any case to which subsection (1)(b) applies, by or on behalf of the person who has acquired the land; or
  - (c) in any case to which subsection (1)(c) applies, by or on behalf of—

- (i) the Minister of the Crown under whose control the land is held or administered; or
  - (ii) the chief executive of the department within the meaning of section 2 of the Survey Act 1986; or
  - (iii) the local authority or public body by which the land was acquired; or
  - (d) in any case to which subsection (1)(d) applies, the Minister of Maori Affairs; or
  - (e) in any case to which subsection (1)(e) applies, any Minister of the Crown.
- (4) Notwithstanding anything in subsections (1) to (3), any Minister of the Crown having responsibility in regard to the matter may apply to the court for the exercise of its jurisdiction, and on such an application the court may exercise its jurisdiction, under this section in respect of any Crown land that has not been formally set aside for the benefit of Maori.
- (5) An application may be made to the court, and the court may exercise its jurisdiction, under this section notwithstanding the provisions of any Act to which the land is subject, and notwithstanding any terms and conditions imposed by the Act on the sale or other disposition of the land.
- (6) In any application under this section, the applicant may specify—
- (a) the person or persons in whom it is proposed the land shall be vested; and
  - (b) the price to be paid for the land, and the terms and conditions of payment; and
  - (c) any other conditions to which it is proposed the order shall be subject.
- (7) On an application under this section, the court may make an order vesting the land in—
- (a) such person or persons as the court may find to be entitled to the land or otherwise in accordance with the terms of the application, in such shares as may be specified in the order; or
  - (b) a Maori incorporation or a Maori Trust Board or trustees for or on behalf of such person or persons, and on such terms of trust, as the court may specify in the order.

Compare: 1953 No 94 ss 436(1)–(3), 437(1), (4)

Section 134(3)(c)(ii): substituted, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

### **135 Change from Maori land to General land by status order**

- (1) The Maori Land Court shall have jurisdiction to make, in accordance with section 136 or section 137, a status order declaring that any land shall cease to be Maori customary land or Maori freehold land and shall become General land.

- (2) The court shall not make a status order under subsection (1) unless it is satisfied that the order may be made in accordance with section 136 or section 137.
- (3) A status order under subsection (1) may be made conditional upon the registration of any instrument, order, or notice effecting a conveyance of the fee simple estate in the land to any person or persons specified in the order.

### **136 Power to change status of Maori land owned by not more than 10 persons**

The Maori Land Court may make a status order under section 135 where it is satisfied that—

- (a) the land is beneficially owned by not more than 10 persons as tenants in common; and
- (b) neither the land nor any interest is subject to any trust (other than a trust imposed by section 250(4)); and
- (c) the title to the land is registered under the Land Transfer Act 2017 or is capable of being so registered; and
- (d) the land can be managed or utilised more effectively as General land; and
- (e) the owners have had adequate opportunity to consider the proposed change of status and a sufficient proportion of the owners agree to it.

Section 136: amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 136(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **137 Power to change status of Maori land**

- (1) The Maori Land Court may make a status order under section 135(1) where it is satisfied that—
  - (a) the legal estate in fee simple in the land is vested in a Maori incorporation or the trustees of a trust constituted under Part 12; and
  - (b) the title to the land is registered under the Land Transfer Act 2017 or is capable of being so registered; and
  - (c) the alienation of the land is clearly desirable for the purpose of a rationalisation of the land base or of any commercial operation of the Maori incorporation in which or the trustees in whom the legal estate in fee simple in the land is vested; and
  - (d) the rationalisation referred to in paragraph (c) will involve the acquisition of other land by the Maori incorporation in which or the trustees in whom the legal estate in fee simple in the land is vested; and
  - (e) the quorum and voting requirements imposed by regulations made under this Act in relation to the resolution necessary to authorise the alienation referred to in paragraph (c) are impractical.

- (2) Where the Maori Land Court makes, in accordance with subsection (1), a status order under section 135(1), the status order may be made conditional on the net proceeds of the alienation of the land—
- (a) being applied towards—
    - (i) the purchase of a specified piece of land; or
    - (ii) the improvement of any specified piece of land owned or to be purchased by the Maori incorporation or the trustees; or
    - (iii) both; or
  - (b) being held in trust for the purposes of the acquisition of other land pursuant to a land acquisition plan approved by the court or for the purposes of the improvement of land pursuant to a land improvement plan approved by the court; or
  - (c) both.

Section 137(1)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **138 Alternative or additional power of court**

Instead of making a vesting order under this Part, or in addition to any such order, the court may, if it thinks it necessary or convenient to do so, amend any existing instrument of title so as to include the land or any part of the land to which the application relates, and the land so included shall thereupon become subject to all reservations, trusts, rights, titles, interests, and encumbrances affecting the other land comprised in that instrument of title.

Compare: 1953 No 94 s 436(4)

### **139 Registration of vesting orders where land formerly Maori customary land**

- (1) The land to which any vesting order made under section 132 applies shall, on the making of the order, become subject to the Land Transfer Act 2017.
- (2) Every such order, when sealed, shall be transmitted to the Registrar-General of Land.
- (3) *[Repealed]*
- (4) On receipt of the order, the Registrar-General of Land must issue a qualified record of title for the land, and all the provisions of the Land Transfer Act 2017 as to qualified records of title, subject to this Act, apply accordingly.

Compare: 1953 No 94 ss 164, 165(1)

Section 139(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 139(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 139(3): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 139(4): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

#### **140 Registration of other orders**

Every status order made under this Part, and every vesting order made under section 134, shall be registered under the Land Transfer Act 2017 in accordance with Part 5 of this Act.

Compare: 1953 No 94 ss 433(4), 433A(3), 436(6), 437(6); 1973 No 106 s 13(1); 1974 No 73 s 57

Section 140: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

#### **141 Effect of vesting orders upon registration**

- (1) Every vesting order made under this Part shall, upon registration, have the effect of—
- (a) freeing the land, and every part of the land, from any trusts, restrictions, or conditions to which the land was subject immediately before the making of the order; and
  - (b) vesting the land in the persons named in the order, and (where more than 1 are so named) as tenants in common in the shares specified in the order, for a legal estate in fee simple in the same manner as if the land had been granted to those persons by the Crown; and
  - (c) giving to the land the status of Maori freehold land.
- (2) Neither the making nor the registration of a vesting order under this Part shall affect any lease, licence, mortgage, charge, or other encumbrance over the land unless the court expressly orders otherwise.

Compare: 1953 No 94 ss 162, 163, 436(3), (5), 437(2), (3)

#### **142 Effect of status orders upon registration**

Every status order made under this Part shall, upon registration, or upon noting under section 124, have the effect of giving to the land the particular status specified in the order.

Compare: 1953 No 94 ss 433(5), 433A(4); 1973 No 106 s 13(1); 1974 No 73 s 57

#### **143 Other land deemed Maori freehold land for succession purposes in certain circumstances**

Where—

- (a) any land becomes Maori freehold land by virtue of any order made under this Part; and
- (b) the owner of any interest in the land has died before the date of the order; and
- (c) that owner's interest in the land has not, at that date, been vested in the persons entitled to succeed to it or otherwise disposed of,—

the land shall be deemed for the purposes of succession to that owner's interest in the land to have been Maori freehold land at the death of the owner.

Compare: 1953 No 94 ss 167, 433A(5); 1974 No 73 s 57

**144 Maori customary land deemed Crown land for certain purposes**

- (1) Notwithstanding any of the foregoing provisions of this Part, but subject to subsection (4), Maori customary land shall be deemed to be Crown land within the meaning of the Land Act 1948 for the purposes of—
  - (a) recovering possession of the land from any person in wrongful occupation of the land; or
  - (b) preventing any trespass or other injury to the land or recovering damages for any such trespass or injury.
- (2) Subject to subsection (4), no proceedings, other than proceedings by or on behalf of the Crown, shall be brought in any court by any person for recovery of the possession of Maori customary land, or for damages or an injunction in respect of any trespass or injury to any such land.
- (3) Where proceedings are brought by or on behalf of the Crown pursuant to subsection (2), the Crown shall be deemed to be acting in the place of the beneficial owners of the Maori customary land to which the proceedings relate and for the benefit of those owners.
- (4) Notwithstanding any of the foregoing provisions of this Part, proceedings—
  - (a) for the recovery from the Crown of the possession of Maori customary land; or
  - (b) for damages from the Crown in respect of any trespass or injury to Maori customary land,—

may be brought in any court by the Māori Trustee on behalf of the beneficial owners of that land and, for the purposes of any such proceedings, the Māori Trustee shall be presumed, in the absence of evidence to the contrary, to be authorised to represent the beneficial owners of that land.

Compare: 1953 No 94 s 159

Section 144(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

**Part 7**  
**Alienation of Maori land**

**145 Maori customary land inalienable**

No person has the capacity to alienate any interest in Maori customary land or to dispose by will of any such interest.

Compare: 1953 No 94 s 160

**146 Alienation of Maori freehold land**

No person has the capacity to alienate any interest in Maori freehold land otherwise than in accordance with this Act.

Compare: 1953 No 94 s 211; 1975 No 135 s 16

**147 Alienation of whole or part of block**

(1) Subject to this Act,—

- (a) the sole owner of a block of Maori freehold land has the capacity to alienate the whole or any part of the land; and
- (b) the joint tenants of a block of Maori freehold land acting together have the capacity to alienate the whole or any part of the land; and
- (c) the owners in common of a block of Maori freehold land have the capacity to alienate the whole or any part of the land in accordance with section 150C; and
- (d) the trustees of a trust constituted under Part 12 have the capacity to alienate the whole or any part of Maori freehold land vested in them, in accordance with section 150A; and
- (e) a Maori incorporation has the capacity to alienate the whole or any part of Maori freehold land vested in it, in accordance with section 150B.

(2) *[Repealed]*

(3) *[Repealed]*

Section 147(1)(c): substituted, on 1 July 2002, by section 21 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 147(1)(d): added, on 1 July 2002, by section 21 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 147(1)(e): added, on 1 July 2002, by section 21 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 147(2): repealed, on 1 July 2002, by section 58(b) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 147(3): repealed, on 1 July 2002, by section 58(b) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**147A Right of first refusal for sale or gift**

A person referred to in section 147 who seeks to alienate any Maori freehold land by sale or gift must give the right of first refusal to prospective purchasers or donees who belong to 1 or more of the preferred classes of alienees, ahead of those who do not belong to any of those classes.

Section 147A: inserted, on 1 July 2002, by section 22 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).



**148 Alienation of undivided interests**

- (1) An owner of an undivided interest in any Maori freehold land may alienate that interest to any person who belongs to 1 or more of the preferred classes of alienee.
- (2) An owner of an undivided interest in any Maori freehold land may grant a mortgage in respect of that interest to a State Loan Department.
- (3) Except as provided in subsections (1) and (2), no owner of an undivided interest in any Maori freehold land has the capacity to alienate that interest separately.
- (4) Without limiting any of the foregoing provisions of this section, no owner of an undivided interest in any 2 or more areas of Maori freehold land pursuant to an aggregation order made under section 308 has the capacity to alienate that owner's interest in any of those areas separately; and where any such owner alienates less than the whole of that owner's interest in those areas, the alienation shall affect that owner's interests in each of those areas proportionately.

Compare: 1953 No 94 s 215; 1967 No 124 s 92; 1973 No 106 s 4; 1974 No 73 s 28(1)

**149 Alienation of equitable interests**

In the case of any Maori freehold land that is vested in a trustee, every person who is absolutely entitled to any beneficial interest in the land has the same capacity to alienate that interest as that person would have if the legal interest were vested in that person.

Compare: 1953 No 94 s 216; 1967 No 124 s 93

**150 Manner of alienation of interests in Maori freehold land**

- (1) No undivided interest in any Maori freehold land may be alienated otherwise than by a vesting order made by the court under Part 8, unless the court is of the opinion that the arrangement or agreement of the parties should be given effect to by memorandum of transfer, and so orders.
- (2) Nothing in subsection (1) applies in relation to the alienation of—
  - (a) shares in a Maori incorporation:
  - (b) interests in shares in a Maori incorporation:
  - (c) beneficial interests in land that, by virtue of section 250(2), remain vested in the several owners of that land despite the vesting of the legal estate in fee simple in that land in a Maori incorporation.
- (3) *[Repealed]*
- (4) *[Repealed]*
- (5) *[Repealed]*

Compare: 1953 No 94 ss 222, 224(1); 1967 No 124 ss 97, 98(1); 1974 No 73 s 30

Section 150 heading: substituted, on 28 September 1993, by section 6 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

Section 150(3): repealed, on 1 July 2002, by section 23 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 150(4): repealed, on 1 July 2002, by section 23 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 150(5): repealed, on 1 July 2002, by section 23 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **150A Alienation by trustees**

- (1) The trustees of a trust constituted under Part 12 must not alienate Maori freehold land vested in them as trustees—
  - (a) by sale or gift, unless the sale or gift has the consent of—
    - (i) at least three-quarters of the owners, if no owner has a defined share in the land; or
    - (ii) the persons who together own at least 75% of the beneficial freehold interest in the land:
  - (b) by long-term lease, unless the court, in its discretion, approves and the long-term lease has the consent of—
    - (i) at least half of the owners, if no owner has a defined share in the land; or
    - (ii) the persons who together own at least 50% of the beneficial freehold interest in the land.
- (2) Subsection (1) and section 147A do not apply if the court is satisfied that it is necessary for the trustees to sell part of the Maori freehold land to make minor boundary adjustments.
- (3) The trustees of a trust constituted under Part 12 who execute an instrument of alienation of Maori freehold land must,—
  - (a) if the alienation is by way of sale or gift, get the instrument confirmed by the court under Part 8; and
  - (b) if the alienation is by way of any of the following things, send a copy of the instrument to the Registrar for noting; and the Registrar must note the contents of that instrument:
    - (i) a mortgage:
    - (ii) an alienation other than a sale, gift, or mortgage (for example, a lease, licence, forestry right, easement, profit, or any other charge or encumbrance), for a term of more than 21 years, including any term or terms of renewal, or without a limited term.
- (4) The trustees of a trust constituted under Part 12 who execute or obtain a transfer, variation, discharge, or surrender of anything to which subsection (3)(b) applies must send a copy of the instrument to the Registrar for noting, and the Registrar must note the contents of the instrument.

Section 150A: inserted, on 1 July 2002, by section 24 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 150A(3)(b): amended, on 16 September 2011, by section 8(1) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 150A(3)(b)(i): added, on 16 September 2011, by section 8(2) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 150A(3)(b)(ii): added, on 16 September 2011, by section 8(2) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 150A(4): added, on 16 September 2011, by section 8(3) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

### **150B Alienation by Maori incorporation**

- (1) A Maori incorporation must not alienate Maori freehold land vested in it—
  - (a) by sale or gift, unless the sale or gift is authorised by a special resolution passed by shareholders holding 75% or more of the total shares in the incorporation:
  - (b) by long-term lease, unless the court, in its discretion, approves and the long-term lease is authorised by a resolution passed by shareholders holding 50% or more of the total shares in the incorporation.
- (2) Subsection (1) and section 147A do not apply if the court is satisfied that it is necessary for the Maori incorporation to sell part of the Maori freehold land to make minor boundary adjustments.
- (3) A Maori incorporation that executes an instrument of alienation of Maori freehold land must,—
  - (a) if the alienation is by way of sale or gift, get the instrument confirmed by the court under Part 8; and
  - (b) if the alienation is by way of any of the following things, send a copy of the instrument to the Registrar for noting; and the Registrar must note the contents of that instrument:
    - (i) a mortgage:
    - (ii) an alienation other than a sale, gift, or mortgage (for example, a lease, licence, forestry right, easement, profit, or any other charge or encumbrance), for a term of more than 21 years, including any term or terms of renewal, or without a limited term.
- (4) A Maori incorporation that executes or obtains a transfer, variation, discharge, or surrender of anything to which subsection (3)(b) applies must send a copy of the instrument to the Registrar for noting, and the Registrar must note the contents of the instrument.

Section 150B: inserted, on 1 July 2002, by section 24 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 150B(3)(b): amended, on 16 September 2011, by section 9(1) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 150B(3)(b)(i): added, on 16 September 2011, by section 9(2) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 150B(3)(b)(ii): added, on 16 September 2011, by section 9(2) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 150B(4): added, on 16 September 2011, by section 9(3) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

### 150C Alienation by other owners

- (1) The owners in common of a block of Maori freehold land must not alienate Maori freehold land owned by them—
  - (a) by sale or gift, unless the sale or gift has the consent of—
    - (i) at least three-quarters of the owners, if no owner has a defined share in the land; or
    - (ii) the persons who together own at least 75% of the beneficial freehold interest in the land; and
  - (b) by long-term lease, unless the court, in its discretion, approves and the long-term lease has the consent of—
    - (i) at least half of the owners, if no owner has a defined share in the land; or
    - (ii) the persons who together own at least 50% of the beneficial freehold interest in the land; and
  - (c) in any other way except—
    - (i) by agreement of all the owners; or
    - (ii) pursuant to a resolution carried at a meeting of assembled owners held under and in accordance with Part 9.
- (2) Subsection (1) and section 147A do not apply if the court is satisfied that it is necessary for the owners to sell part of the Maori freehold land to make minor boundary adjustments.
- (3) A person referred to in section 147(1)(a), (b), or (c) who executes an instrument of alienation of Maori freehold land must,—
  - (a) if the alienation is by way of sale or gift, get the instrument confirmed by the court under Part 8; and
  - (b) for any other alienation (for example, a lease, licence, forestry right, easement, profit, mortgage, charge, or encumbrance, or a transfer or variation of any of those things), get a certificate of confirmation issued and noted by the Registrar under section 160.
- (4) A person referred to in section 147(1)(a), (b), or (c) who executes or obtains any of the following instruments must send a copy of the instrument to the Registrar for noting, and the Registrar must note the contents of the instrument:
  - (a) a transfer of anything to which subsection (3)(b) applies, if the transfer is not itself an instrument of alienation:

(b) a discharge or surrender of anything to which subsection (3)(b) applies.

Section 150C: inserted, on 1 July 2002, by section 24 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 150C(3)(b): amended, on 16 September 2011, by section 10(1) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 150C(4): added, on 16 September 2011, by section 10(2) of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

### **150D Life interests**

A person with a life interest or a determinable life interest in Maori freehold land—

(a) is not capable of alienating the Maori freehold land in which the life interest is held without the consent of all persons entitled in remainder; and

(b) holds that interest as a kaitiaki in accordance with tikanga Maori.

Section 150D: inserted, on 1 July 2002, by section 24 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## **Part 8**

### **Duties and powers of court in relation to alienations of Maori freehold land**

#### *Confirmation*

#### **151 Application for confirmation**

- (1) An application to the court for confirmation of an alienation of any interest in Maori freehold land may be made,—
  - (a) in the case of an instrument of alienation, by or on behalf of any party to the instrument; or
  - (b) in the case of a resolution of assembled owners, by or on behalf of any person interested or by the Recording Officer.
- (2) The court may decline to consider an application for confirmation if it is made,—
  - (a) in the case of an instrument of alienation, later than 3 months after the date on which the instrument was executed by the alienor or, where the land is situated in the Chatham Islands, later than 4 months after that date; or
  - (b) in the case of a resolution of assembled owners, earlier than 14 days or later than 12 months after the date on which the resolution was passed.
- (3) Notwithstanding subsection (2)(a), where an instrument of alienation is executed at different times by different parties alienating, successive applications

for confirmation may be made in respect of the successive executions of the instrument, and the alienation may be confirmed from time to time accordingly.

Compare: 1953 No 94 ss 225(1), 317, 321; 1967 No 124 s 99(a); 1976 No 148 s 8

Section 151(3): amended, on 1 July 1994, by section 6 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

## **152 Court to grant confirmation if satisfied of certain matters**

- (1) The court must grant confirmation of an alienation of Maori freehold land if it is satisfied—
  - (a) that,—
    - (i) in the case of an instrument of alienation, the instrument has been executed and attested in the manner required by the rules of court; or
    - (ii) in the case of a resolution of assembled owners, the resolution was passed in accordance with this Act or regulations made under this Act; and
  - (b) that the alienation is not in breach of any trust to which the land is subject; and
  - (c) that the value of all buildings, all fixtures attached to the land, all things growing on the land, all minerals in the land, and all other assets or funds relating to the land, has been properly taken into account in assessing the consideration payable; and
  - (d) that, having regard to the relationship (if any) of the parties and to any other special circumstances of the case, the consideration (if any) is adequate; and
  - (e) that the purchase money (if any) has been paid to, or secured to the satisfaction of, the Māori Trustee or court appointed agent or trustees in accordance with section 159; and
  - (f) that, if section 147A applies to the alienation, the alienating owners have discharged the obligation in that section.
- (2) Before granting confirmation, the court may, with the consent of the parties, vary the terms of the instrument of alienation or resolution.
- (3) The Maori Land Court may confirm an alienation to a person of any Maori freehold land that is, or is part of, an overseas investment in sensitive land within the meaning of the Overseas Investment Act 2005 only if consent to that investment has been obtained, or an exemption from consent applies, under that Act.

Section 152: substituted, on 1 July 2002, by section 25 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 152(1)(e): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 152(3): substituted, on 25 August 2005, by section 74 of the Overseas Investment Act 2005 (2005 No 82).

### **153 Court's general discretion**

*[Repealed]*

Section 153: repealed, on 1 July 2002, by section 58(c) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **154 Grounds on which court may refuse confirmation**

*[Repealed]*

Section 154: repealed, on 1 July 2002, by section 58(d) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **155 Manner of confirmation**

- (1) If the court is satisfied that it should grant confirmation, it must,—
  - (a) for an instrument of alienation, endorse the instrument with an appropriate certificate of confirmation; or
  - (b) for a resolution of owners, make an order accordingly.
- (2) A certificate or order under subsection (1) has full force and effect even though there has been a minor error or irregularity in the procedure followed in making or granting the application for confirmation.

Section 155: substituted, on 1 July 2002, by section 26 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **156 Effect of confirmation**

- (1) No instrument of alienation that is required to be confirmed under this Part shall have any force or effect until it is confirmed by the court under this Part.
- (2) Subject to subsection (3), on confirmation being granted, an instrument of alienation shall (if otherwise valid) take effect according to its terms, subject to the requirements (if any) of registration under the Land Transfer Act 2017, as from the date on which it would have taken effect had confirmation not been required.
- (3) The confirmation of a resolution of assembled owners shall not—
  - (a) constitute a contract between the owners and any other persons; or
  - (b) impose any obligations or confer any rights upon the owners, or upon an intending alienee or other person.
- (4) For the purposes of the Stamp and Cheque Duties Act 1971, the date of the certificate or of each successive certificate of confirmation shall be deemed to be the date of the execution of the instrument of alienation.

Compare: 1953 No 94 ss 224(1), 226(2), (3), 322; 1967 No 124 s 98(1)

Section 156(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**157 Execution of instrument of alienation to give effect to resolution**

- (1) On the confirmation of any resolution of assembled owners for the alienation of any interest in Maori freehold land, the Māori Trustee or the court appointed agent shall become the agent of the owners to execute all instruments and to do on their behalf all such other things as may be necessary to give effect to the resolution.
- (2) Where the resolution relates to an alienation by way of lease with a right of renewal, nothing in this section shall authorise or require the Māori Trustee or the court appointed agent to execute any renewal of the lease otherwise than in accordance with section 196.
- (3) Every instrument of alienation executed by the Māori Trustee or the court appointed agent as the agent of the owners shall, without further confirmation under this Part, have the same force and effect, and may be registered in like manner, as if it had been lawfully executed by all of the owners or their trustees, and as if those owners or trustees had been fully competent to execute it.
- (4) The production of any record of title issued in respect of the land affected by the instrument of alienation shall not be necessary for the registration of that instrument.
- (5) Every instrument of alienation so executed by the Māori Trustee or the court appointed agent shall contain a statement or recital that the Māori Trustee or agent is duly authorised under this section to execute the instrument as the agent of the owners; and every such statement or recital shall be accepted by the Registrar-General of Land and by all courts as prima facie evidence of the facts so stated or recited.
- (6) The foregoing provisions of this section shall extend and apply with all necessary modifications to any case in which the land to be alienated is vested in the Māori Trustee otherwise than as administrator or executor.
- (7) The owners shall not be competent to revoke the authority of the Māori Trustee or the court appointed agent to act as their agent under this section.

Compare: 1953 No 94 s 323

Section 157(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 157(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 157(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 157(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 157(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 157(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).



Section 157(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 157(7): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

**158 Special valuation required except in special cases**

- (1) Except as may be otherwise provided by the rules of court or unless the court otherwise orders, every application for confirmation of an alienation of any interest in Maori freehold land shall be supported by a special valuation of the land or any interest in land to which the application relates.
- (2) Every special valuation required for the purposes of this section is to be made by a registered valuer and to be transmitted by the registered valuer to the court.
- (3) In making a special valuation for the purposes of this section, the registered valuer shall have regard to any special circumstances relating to the land that the court may direct shall be taken into account.
- (4) For every valuation made by the registered valuer for the purposes of this section, there shall be paid, by the applicant for confirmation, a fee to be fixed by the registered valuer.
- (5) In determining in any case the adequacy of the consideration for the alienation, the court shall have regard to the valuation made by the registered valuer, but shall not be bound to determine the adequacy of the consideration in conformity with that valuation.

Compare: 1953 No 94 s 228; 1967 No 124 s 101; 1974 No 73 s 32

Section 158(2): substituted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 158(3): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 158(4): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 158(5): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

**159 Proceeds of alienation to be paid to Māori Trustee, court appointed agent, or trustees**

- (1) Subject to the succeeding provisions of this section, all proceeds derived from the alienation of any interest in Maori freehold land shall be paid to the Māori Trustee or the court appointed agent or to trustees appointed under this Act; and the receipt of the Māori Trustee or the court appointed agent or the trustees shall be a sufficient discharge for all such proceeds received by the Māori Trustee or the court appointed agent or the trustees.
- (2) Nothing in this section shall apply to the proceeds of any alienation that—
  - (a) is effected by a vesting order under this Part; or

- (b) relates to an equitable interest in Maori land that is vested in the Māori Trustee under the Maori Vested Lands Administration Act 1954 or the Maori Reserved Land Act 1955; or
  - (c) is effected by the Official Assignee or by any person as the trustee, executor, or administrator of an owner, otherwise than by an instrument separately executed by more than 1 person in respect of the several interests in the same land of more than 1 owner in common; or
  - (d) is effected by a Maori incorporation; or
  - (e) is effected by the trustees of a trust constituted under Part 12; or
  - (ea) is effected by the sole owner of the interest in the land; or
  - (eb) is an alienation by way of sublease or by way of assignment of a lease, sublease, licence, or easement; or
  - (f) is an alienation by way of mortgage.
- (3) When all money payable in respect of an alienation has been paid to, or secured to the satisfaction of, the Māori Trustee or court appointed agent or trustees, the Māori Trustee or court appointed agent or trustees shall file in the court a certificate to that effect.
  - (4) All money received by the Māori Trustee or the court appointed agent or the trustees under this section shall, after the making of all proper deductions, be distributed by the Māori Trustee or the court appointed agent or the trustees to the persons entitled to it.
  - (5) All money payable to the Māori Trustee or the court appointed agent or the trustees under this section shall, as it becomes due and payable, constitute a debt due to the Māori Trustee or the court appointed agent or the trustees and shall be recoverable accordingly.
  - (6) For services rendered by the Māori Trustee in respect of money received under this section, the Māori Trustee shall be entitled to commission at a rate determined in accordance with the provisions of the Maori Trustee Act 1953; and any such commission shall be payable by the alienee and shall be recoverable by the Māori Trustee as a debt due by the alienee.
  - (7) For services rendered by a court appointed agent in respect of money received under this section, the agent shall likewise be entitled to commission at the rate payable to the Māori Trustee; and any such commission shall be payable by the alienee and shall be recoverable by the agent as a debt due by the alienee.

Compare: 1953 No 94 s 231; 1967 No 124 s 104; 1982 No 124 s 7

Section 159 heading: amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 159(1): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 159(2)(b): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 159(2)(ea): inserted, on 1 July 1994, by section 7 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 159(2)(eb): inserted, on 1 July 1994, by section 7 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 159(3): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 159(4): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 159(5): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 159(6): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 159(7): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

**160 Certain instruments require only certificate of confirmation by Registrar**

- (1) This section applies to the instruments of alienation specified in section 150C(3)(b).
- (2) An instrument of alienation to which this section applies has no force or effect (unless confirmed by the court under subsection (6)) until a certificate of confirmation—
  - (a) has been issued by the Registrar under this section; and
  - (b) has been noted by the Registrar in the records of the court.
- (3) On production to the Registrar of any instrument of alienation to which this section applies, the Registrar shall issue and seal a certificate of confirmation in respect of that instrument if the Registrar is satisfied—
  - (a) that the instrument is one to which this section applies; and
  - (b) that the instrument is properly executed; and
  - (c) that the alienation to be effected by the instrument—
    - (i) does not contravene any of the provisions of this Act; and
    - (ii) is not in breach of any trust to which the land is subject; and
  - (d) that, in the case of an instrument of alienation giving effect to a resolution of assembled owners, the resolution was duly passed with the degree of support required by this Act or regulations made under this Act at a meeting held in accordance with this Act or regulations made under this Act.
- (4) For the purposes of subsection (3), the Registrar may require a written certificate as to any of the matters specified in paragraph (c) of that subsection.
- (5) If the Registrar is not satisfied of any of the matters referred to in subsection (3), the Registrar shall refuse to issue a certificate of confirmation.
- (6) In any case where the Registrar refuses to issue a certificate of confirmation, the Registrar shall, if requested to do so by the applicant, refer the matter to the

court; and, in such a case, the application shall be dealt with by the court as if it were an application for confirmation made under section 151.

- (7) Where the Registrar seals a certificate of confirmation under subsection (3), any person interested or the Registrar may, within 1 month after the day on which the certificate was sealed, apply to the court to review the sealing of that certificate; and, in such a case, the application shall be dealt with by the court as if it were an application for confirmation made under section 151.
- (8) Where a certificate is sealed under subsection (3), that certificate shall not be issued and shall not have effect—
- (a) before the expiration of the period of 1 month specified in subsection (7); and
  - (b) where an application in relation to the sealing of that certificate is made under subsection (7) during the period specified in that subsection, before the date on which that application is disposed of.
- (9) For the purposes of the Stamp and Cheque Duties Act 1971, the date of the certificate of confirmation issued and sealed under this section shall be deemed to be the date of the instrument of alienation.
- (10) The Registrar may correct accidental clerical errors made in certificates of confirmation under this section, whether or not the relevant certificate of confirmation has become effective.

Compare: 1953 No 94 s 233; 1976 No 124 s 106

Section 160(1): substituted, on 1 July 2002, by section 27(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 160(2): substituted, on 1 July 2002, by section 27(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 160(3)(d): amended, on 1 July 2002, by section 27(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 160(10): added, on 1 July 2002, by section 27(3) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## **161 Certain instruments require only noting by Registrar**

*[Repealed]*

Section 161: repealed, on 1 July 2002, by section 58(e) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## **162 Failure to act on resolution**

- (1) If any resolution of assembled owners is not carried into effect—
- (a) within 6 months after the date on which it is confirmed under this Part or, if an appeal is brought against the court's decision, within 6 months after the date on which the appeal is determined by the Maori Appellate Court; or

- (b) within such further period as the Maori Land Court may allow on application made to it within the period of 6 months commencing with the date of confirmation,—

the Maori Land Court may, without further application, but subject to the giving of such notices (if any) as the court may direct, by order annul the confirmation, and thereupon the resolution shall be deemed to have been rescinded.

- (2) No appeal to the Maori Appellate Court shall lie from any order made under subsection (1).

Compare: 1953 No 94 s 325; 1974 No 73 s 42

### **163 Jurisdiction of High Court to rectify instruments**

The High Court shall continue to have jurisdiction to order, in respect of any instrument of alienation that has been duly confirmed (whether by the court or by a certificate of the Registrar) or noted in the records of the Maori Land Court, the rectification of that instrument in accordance with the true intent of the parties, and, where it does so, no further confirmation shall be required.

Compare: 1953 No 94 s 222A; 1967 No 124 s 97

#### *Vesting orders*

### **164 Transfer of land or undivided interest by court vesting orders**

- (1) The court may, in accordance with this section, make a vesting order for the transfer of any Maori freehold land or any undivided interest in any such land to and in favour of any person or persons to whom that land or interest may be alienated in accordance with the provisions of Part 7.
- (2) An application for a vesting order may be made by—
- (a) a party to a contract or arrangement relating to the proposed transfer; or
  - (b) a donor of the land or interest; or
  - (c) a trustee for a person entitled to the land or interest.
- (3) The provisions of sections 152 and 158, so far as they are applicable and with any necessary modifications, shall apply to an application for a vesting order as if it were an application for confirmation of an instrument of alienation.
- (4) Every contract or arrangement entered into for the purposes of this section shall be executed and attested, and proven in writing, in accordance with the rules of court, but shall not be enforceable as a contract.
- (5) Where any money is payable by way of consideration for the proposed transfer, the court shall not sign or seal a vesting order unless and until it is satisfied that the money has been paid to the Māori Trustee or the court appointed agent or trustees appointed under this Act, or to the alienor.
- (6) Where a vesting order is sought to effect a gift of any land or share having a value in excess of \$2,000, the court may decline to make the order without evi-

dence in support of the application from the alienor, either in person or in any other manner authorised by the rules of court.

- (7) Where a vesting order is sought to give effect to a proposed transfer and one of the parties to the transfer has died, the court may make the order if it is satisfied that proper agreement had been reached before the death of that party.
- (8) A person who is entitled to a beneficial interest in the land, or who will be entitled to such an interest if the order is made, shall be entitled to appear and be heard on an application for a vesting order, whether or not that person is a party to any contract or arrangement to which the application relates.
- (9) This section shall be read subject to section 165 of this Act, section 4A of the Maori Vested Lands Administration Act 1954, and section 10 of the Maori Reserved Land Act 1955.

Compare: 1953 No 94 s 213; 1974 No 73 s 28(1); 1975 No 135 s 3

Section 164(3): amended, on 1 July 2002, by section 28 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 164(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

#### **165 Vesting of interest held in representative capacity**

- (1) Subject to subsection (2), where any Maori freehold land or any undivided interest in any such land is held by any person acting in a representative capacity, the court may, by order, vest the land or interest in the person or persons beneficially entitled to it, or in some other person acting in a representative capacity for those persons or the person through whom they claim.
- (2) Where a vesting order is sought by any person acting in a representative capacity, the court shall decline to make the order unless it is satisfied that each of the persons who would be beneficially entitled to the land or interest if the order were made, has the capacity under this Act to acquire the land or interest.
- (3) Where more than 1 person is entitled to the land or interest covered by any application under this section, the court, in making orders, may give effect to any arrangement or agreement whereby the interest of any one person entitled is to be vested in any other person entitled; but no person entitled shall be deprived of an interest without that person's consent.

Compare: 1953 No 94 s 213A; 1974 No 73 s 28(1); 1976 No 148 s 20(2)

#### **166 Other powers of court to make vesting orders preserved**

Nothing in sections 164 and 165 shall limit or affect the powers to make vesting orders conferred on the court by any other provisions of this Act.

#### **167 Interests to remain subject to existing charges after vesting**

All land and interests in land that are vested in any person by means of a vesting order (whether made under this Part or any other Part) shall remain subject

to the same charges or other encumbrances (if any) as they were subject to in the hands of the previous owner, unless they have been duly discharged.

Compare: 1953 No 94 s 140

### **168 Liability of vesting orders to conveyance duty**

*[Repealed]*

Section 168: repealed, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

## **Part 9**

### **Powers of assembled owners**

#### **169 Application of this Part**

- (1) This Part applies with respect to Maori freehold land, and to General land owned by Maori.
- (2) Except so far as may be otherwise expressly provided, this Part shall extend and apply to land that is vested in a trustee in the same way as it applies to land vested in the beneficial owners.
- (3) *[Repealed]*

Compare: 1953 No 94 s 304; 1967 No 124 s 114; 1975 No 135 s 16

Section 169(3): repealed, on 1 July 1994, by section 10(1) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

#### **170 Owners and assembled owners defined**

- (1) In this Part, the term **owners**, in relation to any area of land, means the persons who are beneficially entitled to that land in fee simple as tenants in common, whether legal or equitable or, in the case of any such persons who are deceased, their administrators; and includes, but not to the exclusion of the persons entitled in remainder, the owner of a beneficial freehold interest for life, or any other beneficial freehold interest less than the fee simple, in any land or in any share in land.
- (2) In this Part, the term **assembled owners**, in relation to any land, means the owners of the land assembled together in a meeting called and held in accordance with this Part.

Compare: 1953 No 94 s 305; 1981 No 112 s 4(1)

#### **171 Sale of timber, etc, to constitute alienation for purposes of this Part**

For the purposes of this Part, a contract of sale of any timber, flax, minerals, or other valuable thing attached to or forming part of any land, or any contract, licence, or grant conferring upon any person (whether by way of agency or otherwise) the right to enter upon any land for the purpose of removing from it any such timber, flax, minerals, or other valuable thing, shall be deemed to be an alienation of that land, unless the thing so sold or agreed to be sold or

authorised to be removed has been severed from the land before the contract, licence, or grant is made or granted.

Compare: 1953 No 94 s 305A; 1956 No 43 s 3

## **172 Matters that may be dealt with by assembled owners**

The assembled owners of any land may consider, and, where appropriate, pass resolutions concerning, any 1 or more of the following matters:

- (a) a proposal that the owners of the land or of any part of it shall, either by themselves or together with the owners of any other land, become incorporated under Part 13:
- (b) a proposal that any defined land of the owners be included in an existing order of incorporation pursuant to section 251:
- (c) a proposal that the Māori Trustee or some other named person be appointed or reappointed, or appointed to replace any other person previously appointed pursuant to this paragraph, to act as the agent of the owners to investigate, consider, and report to the owners on any suggestion for the utilisation or alienation of the land or any part of it owned by the assembled owners, or to carry into effect any resolution of the owners relating to any such suggestion:
- (d) a proposal that any money presently held on behalf of the owners, or any money that may in the future be held on behalf of the owners, in respect of the land be applied for any specified purpose:
- (e) a proposal that the land or any defined part of it be alienated to any named person on such terms and conditions as are specified in the proposal:
- (f) a proposal that the land or any defined part of it be vested in a nominated tipuna:
- (g) a proposal that—
  - (i) the lessee under any lease to which the land is subject be permitted to surrender the lease; or
  - (ii) any rent then due and payable under a lease be remitted in whole or in part or payment of it be postponed; or
  - (iii) the rent under a lease be reduced; or
  - (iv) the terms and conditions of a lease be varied, with the consent of the lessee, in the manner set out in the proposal:
- (h) any other matter of common interest to the owners or any of them, or on which the opinion of the owners is sought by the court.

Compare: 1953 No 94 s 315(1); 1967 No 124 s 115; 1974 No 73 s 38

Section 172(c): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).



### **173 Calling of meetings**

- (1) The court may call, or direct the Registrar to call, a meeting of owners—
  - (a) on formal application by any person interested, where it is intended to put 1 or more specific resolutions to the meeting; or
  - (b) of its own motion or at the request of any owners, where it is proposed to discuss any matter referred to in section 172(h).
- (2) Every application made for the purposes of this section shall specify the purpose or the several purposes for which a meeting of owners is sought; and, where appropriate, shall be accompanied by a copy of the resolution or the several resolutions, whether alternative or concurrent, proposed to be submitted to the meeting.
- (3) Notwithstanding anything in subsection (1), in any case to which paragraph (e) or paragraph (g) of section 172 applies, the application to the court shall be made by or on behalf of the alienee.
- (4) Subject to subsection (5), every application under this section shall be accompanied by the prescribed fee.
- (5) Where a meeting is sought otherwise than to consider a resolution for alienation, the court may waive the prescribed fee, in whole or in part.
- (6) In the course of determining any such application, the court, subject to any regulations made under this Act, and without further application, and upon such terms as to notice to parties and otherwise as the court thinks fit, may require the applicant to deposit with the Registrar within a specified time such sum of money by way of security as it thinks reasonable to meet the expenses of owners who may attend the meeting.
- (7) In the event of any such meeting failing for want of a quorum, any sum so deposited or any part of the sum may, upon application to the Registrar, be paid by the Registrar to such of the owners or their proxies as, in the Registrar's opinion, have been put to undue expense or inconvenience in attending such meeting, and any balance shall be refunded to the person who deposited it.
- (8) No appeal shall lie against an order made under subsection (6) or subsection (7).

Compare: 1953 No 94 s 307; 1974 No 73 s 35

### **174 Notice of meetings**

- (1) Every meeting to be called under section 173 shall be held at such time and place as the court appoints, and the court shall summon the owners to the meeting by notice given in the prescribed manner.
- (2) Every notice summoning a meeting of the assembled owners shall have incorporated in, or attached to, it a statement of the terms of every proposed resolution that is to be submitted to the meeting.

- (3) No meeting duly summoned in the prescribed manner, and no resolution passed at any such meeting, shall be invalidated or otherwise affected merely because any owner has not in fact received notice of the holding of that meeting.

Compare: 1953 No 94 ss 307(7), (8), 308(1); 1974 No 73 s 35

### **175 Confirmation required**

- (1) No resolution passed by the assembled owners under this Part shall have any force or effect unless and until it is confirmed by the court in accordance with Part 8.
- (2) A resolution relating to the appointment of any person under section 172(c) shall not be submitted to the court for confirmation unless that person has consented to be appointed.

Compare: 1953 No 94 s 315(1), (2)

### **176 Court may confirm resolution passed at informal family gathering**

- (1) This section applies where—
- (a) the owners of any land to which this Part applies are sufficiently interrelated as to be properly considered members of the same family; and
  - (b) the owners take the opportunity afforded by a family gathering (such as a tangi, a wedding, or a reunion) to discuss any matter of mutual interest relating to the land; and
  - (c) as a result of their discussions, the owners pass a resolution of a kind that, having regard to the specified percentage of the beneficial freehold interest in the land that those owners owned or represented and to the provisions of this Act, those owners could have passed at a duly constituted meeting of assembled owners.
- (2) In any case to which this section applies, application may be made to the court for the confirmation of the resolution; and the provisions of Part 8, with any necessary modifications, shall apply accordingly as if the resolution had been passed at a duly constituted meeting of assembled owners.
- (3) Notwithstanding anything in subsection (2), the court may, before considering the application for confirmation, direct that further notice of the application be given to the owners or any of them.

### **177 Security for calling meeting to reconsider rejected proposal**

- (1) Where a proposed resolution for the alienation of land to any person has been rejected by the assembled owners, no further meeting of the owners to consider a resolution to the same or substantially the same effect shall be summoned within the period of 12 months thereafter, unless there is deposited with the Registrar of the court such sum as the Registrar thinks reasonable to meet the expenses of owners attending the meeting.

- (2) Any sum so deposited or any part of it may be paid by the Registrar to such of the owners or their proxies as, in the Registrar's opinion, have been put to undue expense or inconvenience in attending the meeting, and any balance shall be refunded to the person who has deposited it.

Compare: 1953 No 94 s 316

### **178 Court may review meeting**

- (1) The court may, on the application of any owner or the Recording Officer or the Registrar, review the calling or conduct of any meeting of assembled owners; and, if it is satisfied that the meeting was called or conducted in a manner that was unfair to any owner or group of owners, the court may set aside any resolution that was passed at the meeting and direct that the meeting be recalled to reconsider the resolution.
- (2) Without limiting anything in subsection (1), the court may, of its own motion, direct the recall of the meeting if it is satisfied that incorrect information was given at the meeting, or that new information is now available that should be considered by the owners, or if for any other special reason the court considers that it would be in the best interests of the owners to recall the meeting.

### **179 Regulations**

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) regulating the manner in which notice of meetings is to be given to owners under this Part, whether by personal service, post, or publication in a newspaper or otherwise:
  - (b) providing for the manner in which any voting is to be carried out by any person present at a meeting of owners under this Part:
  - (c) providing for the appointment of proxies (who shall not be prospective alienees) for owners who are unable to attend a meeting, and prescribing the circumstances in which such proxies may or may not act at any meeting:
  - (d) providing for the carrying out of voting by postal vote or other method:
  - (e) prescribing the procedure for and generally regulating the conduct of meetings of assembled owners, including the circumstances in which any person may be required to withdraw:
  - (f) prescribing those persons who may attend and vote at a meeting:
  - (g) prescribing the quorum necessary for a particular resolution:
  - (h) prescribing the required majority to carry any particular resolution:
  - (i) providing for the appointment of and prescribing the powers and duties of recording officers:

- (j) providing for such other matters as are contemplated by or necessary for the administration of this Part.
- (2) The provisions of any regulations made under this section that prescribe quorum and voting requirements in relation to resolutions authorising the sale or lease of Maori freehold land shall not apply where the land to which the resolution relates is vested in a Maori incorporation within the meaning of section 4.

Section 179(2): added, on 1 July 1994, by section 10(2) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

## Part 10

### Representation of owners of Maori land

#### 180 Purpose of this Part

The principal purpose of this Part is to provide for more effective and direct representation of the owners of Maori land in multiple ownership.

Compare: 1974 No 73 s 70

#### 181 Notice to owners of Maori land may be given to Registrar in certain cases

- (1) This section applies to Maori freehold land beneficially owned by more than 10 persons and not vested in any trustee or trustees.
- (2) Notwithstanding anything in subsection (1), the Registrar may, on any application made to the Registrar, certify that this section shall apply to any Maori land beneficially owned by not more than 10 persons and not vested in any trustee or trustees where the Registrar is satisfied that, because any owner is dead and that owner's interests have not been vested in successors, or because the whereabouts of any owner is unknown, the giving of notice to, and the representation of, the owners in the ordinary way is impractical; and where the Registrar gives such a certificate in respect of any land, this section shall apply to that land accordingly.
- (3) Where it is required, under any Act, bylaw, or other enactment, that notice be given to the owners of land and no express provision is made in that enactment relating to the manner in which such notice is to be given in the case of Maori land, notice may be given to the owners of any land to which this section applies by serving it on the Registrar of the Maori Land Court for the district in which the land is situated.
- (4) Notwithstanding the provisions of the enactment under which notice is so given in any such case, any period fixed by or under the enactment for anything to be done by the owners by way of lodging an objection, a claim, or an appeal shall—

- (a) not begin to run until the court has appointed an agent to represent the owners under section 183 or, where no agent is appointed, until the date of the court's decision under that section; and
- (b) be extended by 14 days.

Compare: 1974 No 73 ss 71, 76

**182 Action of court on receipt of notice**

- (1) On receiving any notice in accordance with section 181, the Registrar shall, as soon as practicable,—
  - (a) notify every owner whose address is known to the court; and
  - (b) bring the matter to the attention of the court, together with such relevant information as to the land concerned and the ownership of the land as is available.
- (2) Subject to subsection (3), the court, after considering all the circumstances of the case, shall direct the summoning of a meeting of owners to consider the matter to which the notice relates.
- (3) The court shall not direct the summoning of a meeting of owners if it is satisfied—
  - (a) that the matter is of such urgency that it must be dealt with and completed before a meeting could be held; or
  - (b) that—
    - (i) the matter does not involve any possibility of the land or any part of the land, or any interest in or over the land, being alienated, granted, or charged in any way; and
    - (ii) the matter is of insufficient importance to warrant the expense and inconvenience involved in calling a meeting of owners; and
    - (iii) the interests of the owners can be protected adequately by an agent or agents appointed under section 183.

Compare: 1974 No 73 s 72

**183 Court may appoint agent of owners for purposes of notices, etc**

- (1) This section applies to any land to which section 181 applies.
- (2) Notwithstanding anything in subsection (1), the court may, on application made to it, certify that this section shall apply to any Maori land beneficially owned by not more than 10 persons and not vested in any trustee or trustees where it is satisfied that, because any owner is dead and that owner's interests have not been vested in successors, or because the whereabouts of any owner is unknown, the giving of notice to, and the representation of, the owners in the ordinary way is impractical; and where the court gives such a certificate in respect of any land, this section shall apply to that land accordingly.
- (3) The powers of the court under this section may be exercised—

- (a) following the giving of notice to the Registrar under section 181; or
  - (b) on the application of the person entitled to give any such notice; or
  - (c) on the application of any of the owners; or
  - (d) of the court's own motion.
- (4) The court may, in respect of any land to which this section applies, appoint an owner, or 2 or more persons of whom at least 1 is an owner, or the Māori Trustee, or a body corporate constituted by or under any enactment, to be the agent or agents of the owners for 1 or more of the purposes specified in subsection (6) and subject to such limitations and conditions as are specified in the order.
- (5) The court shall not appoint any individual or body to be an agent of the owners under this section unless it is satisfied—
- (a) that the individual or body has sufficient ability, experience, and knowledge to carry out the duties involved satisfactorily; and
  - (b) that the appointment of that individual or body would be broadly acceptable to the owners; and
  - (c) that the individual or body consents to the appointment.
- (6) An agent may be appointed for any 1 or more of the following purposes:
- (a) to receive notices of a specified nature or concerning a specified matter:
  - (b) to protest, appeal, or make representations, in relation to any entry or proposed entry on the land, or the actual or proposed carrying out of any works on the land, or any proposed acquisition of the land by the Crown or a local authority or any other person or body for any purpose:
  - (c) to negotiate with the Crown or a local authority the terms of entry upon the land, or of the carrying out of works on the land, or the proposed acquisition of the land, and, subject to any conditions or restrictions imposed by the court, to enter into any agreement thereon:
  - (d) to negotiate for the settlement of compensation for land taken by the Crown or a local authority for a public work and, subject to any conditions or restrictions imposed by the court, to enter into any agreement thereon:
  - (e) to commence, defend, resist, or take part in proceedings of any nature relating to the land:
  - (f) to engage solicitors, valuers, engineers, or other professional or technical advisers to assist in carrying out any of the purposes for which the agents are appointed:
  - (g) to borrow money for the carrying out of any purposes for which the agents are appointed and give security for the repayment of such loans over the land or any proceeds of the land:
  - (h) to do any other specified thing in relation to the land.

- (7) Subject to the terms of the order appointing the agent under this section, no agent shall be personally liable for anything done by the agent in good faith in pursuance of the agent's functions, duties, and powers under this section.
- (8) Without limiting anything in section 182(2), in any case where the court appoints an agent under this section it may direct the summoning of a meeting of owners to consider the matter for which the agent has been appointed.

Compare: 1974 No 73 s 73(1)–(3)

Section 183(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

#### **184 Provisions applicable where meeting of owners to be summoned**

- (1) Where the court directs under section 182(2) or section 183(8) that a meeting of owners be summoned, the Registrar shall, as soon as practicable, summon such a meeting accordingly, and the provisions of Part 9 shall apply in respect of the meeting.
- (2) At that meeting—
  - (a) the agent or one of the agents shall report to the owners on the matter in respect of which the agent or agents has or have been appointed, and shall set out the steps that the agent or agents has or have taken to date, together with all such other particulars as may be reasonably necessary to ensure that the owners attending the meeting are fully informed on the matter:
  - (b) the owners present at the meeting may do one or both of the following things:
    - (i) consider whether to apply to the court for the appointment of some other individual or body or individuals or bodies to be their agent or agents, either instead of or in addition to any individual or body already so appointed:
    - (ii) give to the agent or agents such directions or advice in relation to the duties of the agent or agents and the manner in which the agent or agents is or are to exercise the agent's or agents' powers, as the owners think fit.
- (3) Where, in pursuance of subsection (2)(b)(i), an application is made to the court for the appointment of any individual or body to be the agent or one of the agents of the owners, the court shall make the order sought unless it is satisfied that the individual or body to whom the application relates does not have sufficient ability, experience, and knowledge to carry out the duties involved satisfactorily, or that it would not be practicable for that person to act as the agent of the owners in the particular case.

Section 184(3): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

**185 Appointment of agents for purposes of alienation, etc**

- (1) Subject to the succeeding provisions of this section, the court may, on the application of any owner or group of owners of Maori land, or on the application of the Registrar, appoint any body or person referred to in paragraphs (b) to (f) of section 222(1), to be the agent or agents of the owners for 1 or more of the purposes specified in subsection (2) of this section and subject to such limitations and conditions as are specified in the order.
- (2) An agent may be appointed under this section for any 1 or more of the following purposes:
  - (a) to receive the proceeds of any alienation of the land, not being an alienation by way of mortgage;
  - (b) to carry into effect a resolution of the assembled owners;
  - (c) to act on behalf of the owners of the reversion where a lease of the land is granted, and, in particular,—
    - (i) where the lease provides for a renewal, to execute a renewal of the lease; and
    - (ii) where the lease provides for the appointment of an arbitrator or an umpire or a valuer, to make any such appointment; and
    - (iii) to accept a surrender of the lease; and
    - (iv) to consent to an assignment, subletting, mortgage, or other parting with possession of the land; and
    - (v) to enforce the covenants of the lease and to exercise in the agent's own name the rights and remedies that the owners of the reversion would be entitled to exercise under the lease.
- (3) The court shall not make any appointment under this section unless it is satisfied—
  - (a) that the proposed appointment is necessary or desirable in the interests of the owners; and
  - (b) that the proposed appointee has sufficient ability, experience, and knowledge to carry out satisfactorily the duties involved; and
  - (c) that the appointment of that body or person would be broadly acceptable to the owners; and
  - (d) that the proposed appointee consents to the appointment.
- (4) No person other than the Māori Trustee may be appointed under this section in respect of any alienation by way of a lease if the lease contains provision for the payment of compensation for lessee's improvements.
- (5) An agent appointed for any of the purposes specified in subsection (2)(c) shall not be responsible to any alienee in respect of the default of the owners to perform or observe a covenant in the lease.



Section 185(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### **186 Order of appointment**

- (1) Every order for the appointment of an agent under this Part shall specify—
  - (a) the purpose or purposes for which the agent is appointed:
  - (b) the duties and powers of the agent:
  - (c) the conditions (if any) imposed by the court on the exercise of those powers.
- (2) A copy of every such order shall be served on the Māori Trustee, who shall not be competent to exercise any corresponding powers held by the Māori Trustee in respect of the land while the order remains in force.

Section 186(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### **187 Powers of agents**

- (1) On the appointment by the court of any agent under this Part, the person so appointed shall become the statutory agent of the owners for the purposes specified in the order of appointment and, subject to any conditions or limitations imposed in the order, shall have all the powers necessary to carry out that purpose.
- (2) Any notice, application, deed, instrument, or other document executed by an agent so appointed shall recite the appointment and shall have the same effect as if it had been lawfully executed by all of the owners or their trustees and as if those owners or trustees had been fully competent in that behalf.
- (3) An agent so appointed shall employ such reasonable means as may be practicable to inform the owners of the land of the agent's actions and to ascertain their views, but the court may at any time direct the summoning of a meeting of all the owners to consider any matters at issue.

Compare: 1974 No 73 s 74

Section 187(3): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

### **188 Service of notice on agents**

The service of any notice concerning Maori land on the agents of the owners of the land appointed under this Part for the purposes of receiving such notices shall be as effective as if notice had been given to all the owners or their trustees.

Compare: 1974 No 73 s 75

### **189 Court may call for account**

The court may at any time, either on the application of a person interested or of its own motion, require any agent appointed under this Part to report to it on

any matter specified by the court in relation to the duties and powers of the agent.

### **190 Costs of agents**

The court may, on application made to it, make an order in relation to the costs of any agent (other than the Māori Trustee) appointed under section 183(4) or section 185(1), as if those costs were incurred in any proceedings of the court, and the provisions of sections 79 to 82 shall, with any necessary modifications, apply accordingly.

Section 190: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### **191 Termination of agency**

- (1) The appointment of an agent under this Part shall cease in each of the following circumstances:
- (a) where the purpose for which the agent was appointed has been fulfilled:
  - (b) where the agent has died, or has become incapable for any other reason of acting:
  - (c) where the agent applies to the court to be discharged:
  - (d) where the court terminates the appointment.
- (1A) The court may at any time terminate the appointment of an agent under this Part—
- (a) where an application is made to the court under section 184(3) for the appointment of some other individual or body to be the agent or one of the agents of the owners; or
  - (b) on the ground that the agent has failed to perform the functions, duties, and powers of the agent satisfactorily, whether or not a successor is appointed,—

and may at any time amend the purposes for which an agent has been appointed.

- (2) On the termination of the appointment, an agent or (as the case may require) the agent's legal representative shall deliver all money, books of account, and records held by the agent as agent of the owners to the court.

Section 191(1)(d): substituted, on 1 July 1994, by section 11 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 191(1A): inserted, on 1 July 1994, by section 11 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

## Part 11 Leases

### 192 Interpretation

In this Part, unless the context otherwise requires,—

**improvements effected by a lessee**, or any expression to the like effect, means improvements made by a lessee during the currency of the lease; and includes improvements purchased or otherwise acquired by the lessee for value and in existence on the land at the commencement of the lease

**lease**, in relation to any Maori freehold land, includes any sublease, licence, grant, or other alienation conferring upon any person a right at law or in equity to the use or occupation of the land for any purpose, or a right to enter on land for the purpose of removing timber, minerals, flax, or any other valuable thing attached to or forming part of the land, whether that alienation confers a right of exclusive possession or not, and the terms **lessor**, **lessee**, and **rent** shall be construed accordingly.

Compare: 1953 No 94 s 234

### 193 Application of provisions of Part 11

- (1) Nothing in sections 195 to 199 shall apply in respect of any lease of land while that land is vested in trustees under Part 12 or in a Maori incorporation (whether the vesting took place before or after the commencement of this Act).
- (2) Where a special valuation is made under section 207 of any land that is vested in trustees under Part 12 or in a Maori incorporation (not being a special valuation made at the request of the Māori Trustee), section 208 shall have effect as if—
  - (a) subsection (1) of that section did not require the certificate in relation to that valuation to be served on the Māori Trustee but required instead that it be served on those trustees or on that Maori incorporation, as the case may require; and
  - (b) subsection (2) of that section did not impose any obligations on the Māori 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
  - (c) subsection (6) of that section did not require the Registrar of the court to give to the Māori Trustee notice of the filing by the lessee of any objection to that valuation but required instead that the 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.
- (3) Where section 209 applies in respect of any lease of any land while that land is vested in trustees under Part 12 or in a Maori incorporation (whether that vest-

ing took place before or after the commencement of this Act), that section shall, with any necessary modifications, apply in relation to that lease as if every reference in that section to the Māori 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.

Section 193: substituted, on 24 June 1996, by section 6(1) of Te Ture Whenua Maori Amendment Act 1996 (1996 No 35).

Section 193(2): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 193(2)(a): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 193(2)(a): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 193(2)(b): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 193(2)(c): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 193(3): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

#### **194 Leases not to contain option to purchase**

- (1) No lease or agreement to lease any Maori freehold land shall contain a provision conferring on the lessee a right to purchase the freehold of the land.
- (2) No such provision contained in any lease or agreement to lease of any Maori freehold land executed at any time on or after 8 November 1974 (being the date of the commencement of Part 7 of the Maori Affairs Amendment Act 1974) shall be, or be capable of becoming, of any force or effect.

Compare: 1953 No 94 s 234B; 1974 No 73 s 33

#### **195 Māori Trustee to exercise certain powers and duties if no other agent appointed**

The powers and duties conferred by sections 196 to 199 shall be exercised or performed by the Māori Trustee if, but only if, the court has not appointed some other person to be the agent of the owners for the purpose pursuant to section 185.

Section 195 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 195: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

#### **196 Execution of renewals**

- (1) The lessee under any lease of Maori freehold land (whether granted before or after the commencement of this Act) who claims to be entitled to a renewal of the lease may apply—

- (a) to the Māori Trustee, if no other person has been appointed by the court under section 185 to represent the owners in such matters; or
  - (b) if some other person has been so appointed, to that other person—  
to execute an instrument of renewal in accordance with the terms of the lease.
- (2) If satisfied that the lessee is entitled to a renewal, the Māori Trustee or the court appointed agent shall execute a renewal of the lease on behalf of the owners.
- (3) If not satisfied that the lessee is entitled to a renewal of the lease, the Māori Trustee or the court appointed agent shall apply to the court for a meeting of assembled owners under Part 9 to consider the matter, and shall comply with the decision of the owners at that meeting.
- (4) Nothing in this section shall limit or affect the authority of the High Court to make an order for specific performance, or to grant to a lessee any other relief in respect of the failure of the owners, or the Māori Trustee or the court appointed agent following a meeting of assembled owners under subsection (3), to renew any lease.

Compare: 1953 No 94 s 237; 1962 No 45 s 21

Section 196(1)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 196(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 196(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 196(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

## **197 Appointment of valuers for purposes of lease**

- (1) If any lease of Maori freehold land contains provision for the appointment by the lessor of a valuer, an arbitrator, or an umpire for any purpose connected with the lease and the lessor has failed to comply with that provision, the Māori Trustee or the court appointed agent may, on application by the lessee, appoint any person to be a valuer, an arbitrator, or an umpire on behalf of the lessor; and the person so appointed shall be as competent to act and bind the lessor as if that person has been personally appointed by the lessor.
- (2) Before making an appointment under this section, the Māori Trustee or the court appointed agent may require the lessee to deposit with the Māori Trustee or the court appointed agent a sum sufficient, in the opinion of the Māori Trustee or the court appointed agent, to defray the costs and charges of the valuer, arbitrator, or umpire.

Compare: 1953 No 94 s 238; 1962 No 45 s 22

Section 197(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 197(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

**198 Enforcement of covenants of lease**

- (1) On application by or on behalf of the owners of any Maori freehold land held under lease, or without requiring any such application in any case where the Māori Trustee or the court appointed agent thinks fit to do so, the Māori Trustee or the other agent of the owners appointed by the court for the purposes specified in section 185(2)(c)(v) may, in his or her own name or in the name of the owners, exercise all rights of action, distress, or re-entry or other rights of the owners in respect of the land as if the Māori Trustee or the court appointed agent were the owner of it, and may exercise any such rights whether or not the lease has expired or has been otherwise determined.
- (2) In the course of exercising his or her rights under this section, the Māori Trustee or the court appointed agent may, where the lease has not expired or been otherwise determined, agree to the surrender of the lease.
- (3) Before exercising any rights under this section or in the course of exercising any such rights, the Māori Trustee or the court appointed agent may require that any costs, charges, or expenses incurred or likely to be incurred by the Māori Trustee or the court appointed agent shall be paid by the owners or that payment be satisfactorily secured, and may apply any money received under this section or otherwise held by the Māori Trustee or the court appointed agent on behalf of the owners or any of them in payment of any costs, charges, or expenses incurred by the Māori Trustee or the court appointed agent in the exercise of his or her powers under this section.

Compare: 1953 No 94 s 239; 1974 No 73 s 34

Section 198(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 198(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 198(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

**199 Assignment or sublease of lease**

- (1) The consent of the Māori Trustee or the court appointed agent shall be required for—
  - (a) the assignment of any lease of Maori freehold land executed after the date of the commencement of this Act; or
  - (b) the sublease of any lease to which paragraph (a) applies.
- (2) Any consent given under subsection (1) may be subject to—
  - (a) such conditions as the Māori Trustee or the court appointed agent thinks fit; and
  - (b) the payment of such fees as may be prescribed.
- (3) *[Repealed]*

(4) *[Repealed]*

Compare: 1953 No 94 s 239A; 1962 No 45 s 23; 1964 No 46 s 9

Section 199(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 199(2)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 199(3): repealed, on 1 July 2002, by section 58(f) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 199(4): repealed, on 1 July 2002, by section 58(f) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**200 Execution of instruments**

(1) Every instrument executed for the purposes of this Part by the Māori Trustee or the court appointed agent shall have the same force and effect, and may be registered in like manner, as if it had been lawfully executed by all the owners or their trustees, and as if those owners or trustees had been fully competent to execute it.

(2) *[Repealed]*

(3) Every instrument so executed by the Māori Trustee or the court appointed agent shall contain a statement or recital that the Māori Trustee or the court appointed agent is duly authorised to execute the same as the agent of the owners under this Part, and every such statement or recital shall be accepted by the Registrar-General of Land and by all courts as prima facie evidence of the facts so stated or recited.

Compare: 1953 No 94 s 240

Section 200(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 200(2): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 200(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 200(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

**201 Valuations for revision of rent**

(1) Where any lease of Maori freehold land or of General land owned by Maori contains a provision for the revision of the rent during the term of the lease or for a right of renewal for a further period of years and the basis for the computation of the revised rent or the rent for the renewed period is expressed to be a special Government valuation of the land comprised in the lease, the provisions of this section shall apply to the making of any such valuation.

(2) The Māori Trustee, the lessor, or a person acting on behalf of the lessor must, whether of their own motion or at the request of the lessee,—

- (a) nominate a registered valuer to conduct a valuation for the purposes of this section; and
  - (b) notify the lessee in writing of the name of the valuer.
- (2A) If the lessee does not object to the registered valuer within 14 days after being notified of the nomination, that valuer may conduct the valuation.
- (2B) If the lessee does object within 14 days after the notification, and no agreement as to who should conduct the valuation can be reached, the valuation is to be conducted by a registered valuer nominated by the President of the New Zealand Institute of Valuers.
- (3) A person who requests a valuation for the purposes of this section must supply to the registered valuer either an original or counterpart copy of the lease, or a copy verified by statutory declaration as being a true copy of the clauses of the lease relating to the revision of the rent, or the renewal of the lease, as the case may require, the area of the land, the term of the lease, the original rent, and any record contained in the lease identifying improvements existing on the land at the commencement of the lease and in respect of which no capital payment has been made by the lessee at the commencement of the lease.
- (4) Where the lease provides that improvements effected by the lessee during the term of the lease or any class of any such improvements shall not be taken into account for the purpose of revising the rent or renewing the lease, as the case may require, the value of any such improvements shall be shown separately in the valuation made for the purposes of this section.
- (5) Subsections (2) to (7) of section 207 and section 208 shall, as far as they are applicable and with the necessary modifications, apply to valuations made for the purpose of this section.
- (6) Until the revised rent has been determined, the lessee shall remain liable to continue paying rent at the then current rate, with an appropriate adjustment to be made between the parties when the revised rent is determined.

Compare: 1953 No 94 s 249A; 1959 No 90 s 21; 1975 No 135 s 4

Section 201(2): substituted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 201(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 201(2A): inserted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 201(2B): inserted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 201(3): substituted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 201 compare note: substituted, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).



## **202 New rent payable pending objections**

In any case to which section 201 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 an objection to the valuation is filed,—
  - (i) there shall, when that objection has been finally determined, be an accounting between the parties as to any shortfall or excess in the rent already paid; and
  - (ii) the Māori Trustee or the court appointed agent may retain so much of the rent paid to the Māori Trustee or the court appointed agent, without distributing it to the beneficiaries, as the Māori Trustee or the court appointed agent considers necessary to ensure that the accounting required by subparagraph (i) to take place between the parties can occur on the final determination of the objection.

Section 202(b)(ii): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

## **203 Apportionment of rent**

Where any Maori freehold land or General land owned by Maori is held under 2 or more separate titles but relates to the same lease, the rent received in respect of that land shall be apportioned to the separate areas in such manner as may be fixed by the lease or, where the proportions are not fixed by the lease, in such manner as the Māori Trustee or the court appointed agent considers equitable.

Section 203: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

## **204 Service of notices**

- (1) Any notice that may be required to be given to any person for the purposes of this Part may be given by delivering the same to that person personally, or may be given by sending the same to that person by registered letter addressed to that person at his or her last known place of residence or business in New Zealand.
- (2) Notice given by registered letter shall be deemed to have been received when, in the ordinary course of post, it would be delivered.
- (3) Where any such notice has been given by the agent of a person required to give that notice, service of any subsequent notice required to be given by the person

on whom the original notice was served may be effected by serving the same in accordance with subsection (1) on the agent.

- (4) Service of any notice may be effected in accordance with subsection (1) on the personal representative of any deceased person.

Compare: 1953 No 94 s 250

#### **205 Special savings provision**

- (1) Notwithstanding the repeal of section 286 of the Maori Land Act 1931 by section 30 of the Maori Purposes Act 1950, the succeeding provisions of this section shall apply with respect to all leases to which the said section 286 applied, whether or not the right to compensation for improvements had matured before the commencement of Part 2 of the Maori Purposes Act 1950 on 1 February 1951, or has matured or hereafter matures at any time after that date.
- (2) All money payable to a lessee as compensation for improvements under any lease referred to in subsection (1) shall constitute a charge upon the land comprised in the lease, and when the compensation becomes payable in accordance with the provisions of the lease, the charge may be enforced by the court by the appointment of a receiver.
- (3) Every such charge shall cease and determine on the expiration of 6 months after the date when the compensation becomes payable unless the lessee, before the expiration of the said period of 6 months or within such extended time as the court may allow pursuant to the provisions of subsection (4), has taken all necessary steps required of the lessee to have the amount of compensation determined in the manner provided by the lease, and has applied to the court for the appointment of a receiver for the enforcement of the charge.
- (4) On an application made by the lessee before the expiration of the said period of 6 months, the court may, subject to such terms and conditions as it thinks just, extend the said period for a further period not exceeding 6 months.

Compare: 1953 No 94 s 251

#### **206 Application of sections 207 to 209**

- (1) Subject to subsection (2), the provisions of sections 207 to 209 shall apply to every lease of Maori freehold land granted pursuant to this Act or any corresponding former Act by which provision is made for or in respect of the payment of compensation for improvements effected by the lessee.
- (2) The provisions of sections 207 to 209 shall not apply to any lease granted—
- (a) under Part 25 of the Maori Affairs Act 1953 (before the repeal of that Part by section 6 of the Maori Purposes Act 1970); or
  - (b) under Part 2 of the Maori Affairs Restructuring Act 1989 or any corresponding former enactment,—

except so far as they are expressly incorporated in or applied by the lease.

Compare: 1953 No 94 s 241

**207 Compensation to be ascertained by valuation**

- (1) For the purpose of ascertaining the amount of compensation to which the lessee under any lease to which this section applies is entitled in accordance with the terms of the lease and this Part, the Māori Trustee, the lessor, or a person acting on behalf of the lessor must, whether of their own motion or at the request of the lessee,—
  - (a) nominate a registered valuer to make a valuation of the land comprised in the lease as at the date of the termination of the lease, or as at such other date as the lease provides; and
  - (b) notify the lessee in writing of the name of the registered valuer.
- (1A) If the lessee does not object to the registered valuer within 14 days after being notified of the nomination, that valuer may conduct the valuation.
- (1B) If the lessee does object within 14 days after the notification, and no agreement as to who should conduct the valuation can be reached, the valuation is to be conducted by a registered valuer nominated by the President of the New Zealand Institute of Valuers.
- (2) On the completion of a special valuation under this section, the registered valuer shall cause to be prepared a certificate setting forth the following particulars:
  - (a) the name of the lessee;
  - (b) the area of the land comprised in the lease, and the name by which the land is commonly known or other description of the land sufficient to identify it;
  - (c) a list of the improvements and the value of those improvements either separately or in classes;
  - (d) the unimproved value of the land;
  - (e) the capital value of the land.
- (3) For the purposes of this section, the expressions **capital value** and **value of improvements** shall have the meanings given to them respectively by the Valuation of Land Act 1951 (as in force before its repeal by section 53 of the Rating Valuations Act 1998), and, subject to subsections (5) and (6) of this section, every valuation made under this section shall be made in the same manner as if it were a valuation under that Act.
- (4) Notwithstanding that the meaning of the expressions **capital value** and **value of improvements** or either of them may be amended during the currency of any lease, those expressions shall, for the purposes of valuations to be made under this section in respect of that lease, continue to have the meanings assigned to them by the Valuation of Land Act 1951 as at the commencement of the lease.

- (5) For the purposes of any determination by a registered valuer under this section, the Valuation of Land Act 1951 shall be read as if, for the definition of the term **improvements** set out in section 2 of that Act, there were substituted the following definition:

**improvements** means all work done or material used at any time on the land by the expenditure of capital or labour by any owner or occupier of the land so far as the effect of the work done or material used is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation:

provided that the reclamation of land from the sea shall not in any case be deemed to be improvements either of the land reclaimed or of any other land:

provided also that work done or material used on or for the benefit of any land by the expenditure of capital or labour by any owner or occupier of the land in the provision of roads or in the provision of water, drainage, or other amenities in connection with the subdivision of the land for building purposes shall not, after the land has been sold or another person has taken actual occupation of the land (whether by virtue of a tenancy for not less than 6 months or not), be deemed to be improvements on that land.

- (6) For the purposes of any determination by a registered valuer under this section, the term **unimproved value**, in relation to any land, means the sum that the owner's estate or interest in the land, if unencumbered by any mortgage or other charge, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a bone fide seller might be expected to impose, and if no improvements had been made on the land.
- (7) Every certificate given by a registered valuer for the purposes of this section shall have attached to it, or written or printed on it in prominent characters, a notice to the effect that the valuation to which the certificate relates is subject to objection in the manner prescribed by, and within the time limited in accordance with, section 208.

Compare: 1953 No 94 s 244; 1967 No 124 s 110

Section 207(1): substituted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 207(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 207(1A): inserted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 207(1B): inserted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 207(2): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 207(3): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 207(5): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 207(6): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 207(7): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

## **208 Notice of valuation and right of objection**

- (1) As soon as practicable after making any special valuation under section 207, the registered valuer shall serve not less than 2 copies of the certificate on the Māori Trustee or the court appointed agent.
- (2) The Māori Trustee or the court appointed agent shall serve a copy of the certificate on the lessee and on the owner or owners, together in each case with a notice that objections to the valuation to which the certificate relates may be lodged in the manner and within the time specified in the notice.
- (3) Every notice given under subsection (2) shall state the date before which objections to the valuation may be made, being in each case a period not less than 2 months after the date of service, and shall specify the office of the District Court in which objections shall be filed.
- (4) If the lessee or any owner objects to any of the values as appearing in the certificate, the lessee or owner may, within the time specified in that behalf in the notice given under subsection (2), file an objection to the valuation in the appropriate office of the District Court.
- (5) Every objection shall specify the several items to which the objection relates, and with respect to each item shall specify the grounds of the objection.
- (6) On the filing of any such objection, the Registrar of the court shall forthwith give to the Māori Trustee or the court appointed agent and to the registered valuer notice of the filing of the objection and of the terms of it, and, where the objection is filed by or on behalf of the owners, shall give a like notice to the lessee.
- (7) For the purposes of the foregoing provisions of this section, the expression **the appropriate office of the District Court** has the same meaning as in section 2 of the Land Valuation Proceedings Act 1948.
- (8) All objections made in the manner prescribed by this section are to be heard and determined in similar manner to objections made to valuations under the Rating Valuations Act 1998, and sections 34, 35, 36, and 38 of that Act (and any regulations made under that Act relating to reviews and objections), as far as they are applicable and with all necessary modifications, are to apply to the objection as if—
  - (a) the registered valuer had been appointed by a territorial authority to review the objection; and
  - (b) the review had been made under section 34 of that Act; and
  - (c) the references to a territorial authority in sections 34(4), 35, and 36 of that Act were references to the registered valuer.

- (9) If, on the hearing of any objection, any alteration in the valuation is made, the registered valuer shall amend the certificate of valuation accordingly.

Compare: 1953 No 94 s 245; 1968 No 42 s 15; 1977 No 15 s 6(6)

Section 208(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 208(1): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 208(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 208(6): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 208(6): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 208(8): substituted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 208(9): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

## **209 Record of improvements, etc**

- (1) Any lease providing for the payment of compensation for improvements effected by the lessee may stipulate that a record of the state and condition of the land and of any improvements existing on it as at the commencement of the lease, and a valuation of the land, shall be made in accordance with this section.
- (2) On the request of any party to any such lease made within 2 months after the grant of the lease, the Māori Trustee or the court appointed agent shall cause to be made, in such manner as he or she thinks fit, the record referred to in subsection (1), and a valuation under subsection (3).
- (3) The Māori Trustee or the court appointed agent may request a registered valuer to make a special valuation of the land comprised in the lease as at the date of the commencement of the lease, and the provisions of sections 207 and 208, as far as they are applicable and with the necessary modifications, apply to any such valuation.
- (4) The cost of making any such record and valuation shall be deemed to be an expense properly deductible, by instalments or otherwise, from any rent received from the lease of the land in respect of which the record is made.
- (5) Where the lessee under a farm lease makes, or proposes to make, any improvements in respect of which the lessee will be entitled to compensation, the lessee shall be entitled, on application to the Māori Trustee, to have a record made by the Māori Trustee of particulars of the nature of those improvements and of the state and condition of the land before the making of the improvements.
- (6) Every such record shall be made at the cost in all things of the lessee.
- (7) Every record made under this section shall be retained by the Māori Trustee, and shall at all times be receivable as sufficient evidence of the facts so recor-

ded in all matters and proceedings relating to the value of the improvements effected by the lessee.

Compare: 1953 No 94 s 249; 1967 No 124 s 112

Section 209(3): substituted, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 209(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 209(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 209(7): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

## Part 12 Trusts

### 210 Interpretation

In this Part, unless the context otherwise requires,—

**advisory trustee**, in relation to any trust constituted under this Part, means a trustee—

- (a) who is appointed to advise the responsible trustee, whether on the administration of the trust generally or on any particular matter or matters relating to the trust; and
- (b) who is not responsible for the administration of the trust; and
- (c) in whom the trust property is not vested

**custodian trustee**, in relation to any trust constituted under this Part, means a trustee—

- (a) in whom the trust property is vested; and
- (b) who is not responsible for the administration of the trust

**Māori community purposes**, in relation to any trust constituted under this Part, means the purposes specified or authorised by section 218

**person under disability** means any person (not being a patient within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992)—

- (a) who is a minor; or
- (b) *[Repealed]*
- (c) who is detained in a prison; or
- (d) who by reason of age or of physical or mental disablement, lacks, wholly or partly, in the opinion of the court, the competence to manage his or her own affairs in relation to his or her property

**responsible trustee**, in relation to any trust constituted under this Part, means a trustee who is responsible for the administration of the trust, whether or not the trust property is vested in that trustee.

Section 210 **person under disability** paragraph (b): repealed, on 10 September 2008, by section 21(2) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

Section 210 **person under disability** paragraph (c): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

### *Constitution of trusts*

#### **211 Maori Land Court to have exclusive jurisdiction**

- (1) The Maori Land Court shall have exclusive jurisdiction to constitute putea trusts, whanau trusts, ahu whenua trusts, whenua topu trusts, and kai tiaki trusts in accordance with this Part.
- (2) Nothing in this section prevents any person or body constituting under any other Act or by any instrument any trust of a kind specified in subsection (1).

#### **212 Putea trusts in respect of land interests**

- (1) The court may, in accordance with this section, constitute a putea trust in respect of any interests in Maori land or General land owned by Maori or, subject to any minimum share unit fixed in accordance with its constitution, any shares in a Maori incorporation.
- (2) A putea trust may be constituted under this section where—
  - (a) it is impractical, or otherwise undesirable, because of the minimal value of the interests or share, or because any person beneficially entitled, or the present whereabouts of any such person, is unknown,—
    - (i) to continue to pay the income derived from the interests to the persons beneficially entitled to that income; or
    - (ii) to allow further succession to the interests; or
  - (b) all the persons beneficially entitled to the interests or shares agree to the constitution of the trust.
- (3) Subject to subsection (4), an application for the constitution of a putea trust under this section may be made—
  - (a) by or on behalf of—
    - (i) the person or persons beneficially entitled to the interests to which the application relates; or
    - (ii) any trustees in whom are vested the interests to which the application relates; or
    - (iii) where the application relates in whole or in part to shares in a Maori incorporation, the Secretary of the incorporation; and



- (b) in respect of any interests in 1 block of land or in any 2 or more blocks of land, or in respect of any shares in 1 incorporation or in 2 or more incorporations, or in respect of any such interest and any such shares.
- (4) Where a putea trust has been or is to be constituted under this section in respect of any interests in land that is vested in the trustees of some other trust, or in respect of any shares in a Maori incorporation, the court may, on application by or on behalf of the trustees or the incorporation, fix a minimum value in respect of the other interests in that land or the other shares in that incorporation, or in respect of the income derived from those other interests or shares, below which the trustees or the incorporation shall be entitled to transfer those interests or shares to the trustees of the putea trust for the purposes of that trust.
- (5) The court shall not grant an application made under this section by or on behalf of the trustees of the land or the incorporation unless it is satisfied—
  - (a) that, before proceeding with the application, the applicant or applicants took sufficient steps to inform the owners of the interests to which the application relates of the intention to make the application; and
  - (b) that the owners have had a sufficient opportunity to consider the matter.
- (6) The land, money, and other assets of a putea trust constituted under this section shall be held for Maori community purposes, or for such Maori community purposes as the court may specify either on the constitution of the trust or on application at any time thereafter, and the income derived from those assets shall be applied by the trustees in accordance with section 218.
- (7) The beneficiaries of a putea trust constituted under this section shall be,—
  - (a) where the trust is constituted in respect of any interests in any block or blocks of land, the persons beneficially entitled to those interests at the time the trust is constituted, and their descendants; or
  - (b) where a trust is constituted in respect of any shares in a Maori incorporation, the persons entitled to those shares at the time the trust is constituted, and their descendants.
- (8) While a putea trust constituted under this section remains in existence, no person shall be entitled to succeed to any interests vested in the trustees for the purposes of the trust.

**213 Interests of beneficiaries of putea trust**

- (1) Notwithstanding the constitution of a putea trust under section 212, the beneficial interests in the land or the shares in respect of which the putea trust is constituted shall remain vested in the persons entitled to those interests when the putea trust was constituted.
- (2) Where a putea trust is constituted in respect of shares in a Maori incorporation,—

- (a) the shareholders and not the trustees of the putea trust shall be entitled to exercise the voting powers conferred by the shareholding; but
- (b) the Maori incorporation shall give to the trustees of the putea trust and not to the shareholders any notices issued by the Maori incorporation to shareholders.

#### **214 Whanau trusts**

- (1) The court may, in accordance with this section, constitute a whanau trust in respect of any beneficial interests in Maori land or General land owned by Maori or, subject to any minimum share unit fixed by its constitution, any shares in a Maori incorporation.
- (2) An application for the constitution of a whanau trust under this section—
  - (a) shall be made—
    - (i) by or with the consent of the owner or all of the owners of the interests or shares to which the application relates; or
    - (ii) by the administrator of an estate to give effect to a testamentary disposition purporting to constitute a whanau trust; or
    - (iii) by the administrator of an estate acting by and with the consent of the persons entitled to succeed to the interests or shares to which the application relates; and
  - (b) may be made in respect of any interests in 1 block of land, or in any 2 or more blocks of land, or in respect of any shares in 1 incorporation or in 2 or more incorporations, or in respect of any such interests and any such shares; and
  - (c) may be made notwithstanding that the land or any part of it or the shares or any of them is or are already held for the purposes of any other kind of trust constituted under this Part.
- (3) The land, money, and other assets of a whanau trust shall be held, and the income derived from those assets shall be applied, for the purposes of promoting the health, social, cultural and economic welfare, education and vocational training, and general advancement in life of the descendants of any tipuna (whether living or dead) named in the order.
- (4) Notwithstanding anything in subsection (3), the court may, either on the constitution of a whanau trust or on application at any time thereafter, empower the trustees to apply any part of the trust income that is not required for the purposes of the trust (as described in that subsection), for Maori community purposes generally or for such Maori community purposes as the court may specify; and, in such a case, the trustees may apply any such part of the trust income in accordance with section 218.
- (5) In any case to which subsection (4) applies, the beneficiaries shall be,—

- (a) where the trust is constituted in respect of any interests in any block or blocks of land, the persons beneficially entitled to those interests at the time the trust is constituted, and their descendants; or
  - (b) where the trust is constituted in respect of any shares in a Maori incorporation, the persons who are for the time being the beneficial owners of those shares, and their descendants.
- (6) While a whanau trust constituted under this section remains in existence, no person shall be entitled to succeed to any interests or shares vested in the trustees for the purposes of the trust.

**215 Ahu whenua trusts**

- (1) The court may, in accordance with this section, constitute an ahu whenua trust in respect of any Maori land or General land owned by Maori.
- (2) An ahu whenua trust may be constituted where the court is satisfied that the constitution of the trust would promote and facilitate the use and administration of the land in the interests of the persons beneficially entitled to the land.
- (3) An application for the constitution of an ahu whenua trust under this section—
  - (a) shall be made in respect of all the beneficial interests in 1 block or in 2 or more blocks of land; and
  - (b) may be made by or on behalf of any of the owners or the Registrar of the court.
- (4) The court shall not grant an application made under this section unless it is satisfied—
  - (a) that the owners of the land to which the application relates have had sufficient notice of the application and sufficient opportunity to discuss and consider it; and
  - (b) that there is no meritorious objection to the application among the owners, having regard to the nature and importance of the matter.
- (5) The land, money, and other assets of an ahu whenua trust shall be held in trust for the persons beneficially entitled to the land in proportion to their several interests in the land.
- (6) Notwithstanding anything in subsection (5), the court may, either on the constitution of an ahu whenua trust or on application at any time thereafter, empower the trustees to apply the whole or any part of any specified portion of the trust income for Maori community purposes or for such Maori community purposes as the court may specify, and, in such a case, the trustees may apply any part of such specified portion of the trust income in accordance with section 218.
- (7) In any case to which subsection (6) applies, the beneficiaries shall be the beneficial owners of the block or blocks of land vested or to be vested in the trustees for the purposes of the trust.

- (8) The constitution of an ahu whenua trust shall not affect any person's entitlement to succeed to any beneficial interest in any land vested in the trustees for the purposes of the trust.

Section 215(5): amended, on 1 July 1994, by section 12 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

### **216 Whenua topu trusts**

- (1) The court may, in accordance with this section, constitute a whenua topu trust in respect of any Maori land or General land owned by Maori.
- (2) A whenua topu trust may be constituted where the court is satisfied that the constitution of the trust would promote and facilitate the use and administration of the land in the interests of the iwi or hapu.
- (3) An application for the constitution of a whenua topu trust under this section—
- (a) shall be made in respect of all the beneficial interests in 1 block or in 2 or more blocks of land; and
  - (b) may be made by or on behalf of any of the owners or the Registrar of the court.
- (4) The court shall not grant an application made under this section unless it is satisfied—
- (a) that the owners of the land to which the application relates have had sufficient notice of the application and sufficient opportunity to discuss and consider it; and
  - (b) that there is no meritorious objection to the application among the owners, having regard to the nature and importance of the matter.
- (5) The land, money, and other assets of a whenua topu trust shall be held for Maori community purposes, or for such Maori community purposes as the court may specify either on the constitution of the trust or on application at any time thereafter, and shall be applied by the trustees in accordance with section 218 or as otherwise ordered by the court for the general benefit of the members of the iwi or hapu named in the order.
- (6) Except as provided in subsection (7), while a whenua topu trust constituted under this section remains in existence, no person shall be entitled to succeed to any interests vested in the trustees for the purposes of the trust.
- (7) Notwithstanding anything in subsection (5), but subject to subsection (8), the court may, either on the constitution of a whenua topu trust or on application at any time thereafter, order in respect of any specified interests vested in the trustees for the purposes of the trust that the interests shall be deemed to be held for the persons named or described in the order, and the income arising from those interests shall thereafter be paid to those persons and their successors accordingly.

- (8) The court shall not make an order under subsection (7) unless it is satisfied that the order is necessary to protect the interests of any owner of a large interest in the land vested or to be vested in the trustees for the purposes of the trust.

Section 216(2): amended, on 1 July 2002, by section 29 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **217 Kai tiaki trusts**

- (1) The court may, in accordance with this section, constitute a kai tiaki trust in respect of any interests in Maori land or General land, or any shares in a Maori incorporation, or any personal property, to which any person under disability is beneficially entitled.
- (2) In determining whether or not it should exercise its jurisdiction under this section in relation to any person, the court may have regard to the degree to which the person is subject, or is liable to be subjected, to undue influence in the management of his or her own affairs in relation to his or her property.
- (3) The court shall not constitute a kai tiaki trust in respect of any interests in Maori land or General land or any shares in a Maori incorporation or any personal property in respect of which a property order is in force under the Protection of Personal and Property Rights Act 1988.
- (4) The court shall not constitute a kai tiaki trust in respect of any interests in General land to which a person under disability is beneficially entitled unless that person is Maori.
- (5) A kai tiaki trust may be constituted where the court is satisfied that the constitution of the trust would best protect and promote the interests of the person under disability.
- (6) Every order constituting a kai tiaki trust under this section shall state the nature of the disability for which the trust is constituted.
- (7) Where that disability is the minority of the person concerned, the following provisions shall apply:
- (a) the order shall state the date of birth of that person:
  - (b) subject to paragraph (c), the powers of the trustees shall cease and determine, without any order in that behalf, on the expiry of the day before the date on which that person attains the age of 20 years:
  - (c) if it appears to the court, on application made to it before that person attains that age, that, on attaining that age, that person will still be under disability (of some other nature), the court may, by order, continue the trust in existence beyond the date on which that person will attain that age.
- (8) The land, money, and other assets of a kai tiaki trust shall be held in trust for the person under disability.

- (9) While a kai tiaki trust constituted under this section remains in force, the beneficiary shall not be capable of exercising any powers in respect of the alienation of the trust property, other than an alienation by will if that person has testamentary capacity.
- (10) The constitution of a kai tiaki trust shall not affect any person's entitlement to succeed to any beneficial interest in any land or shares vested in the trustees for the purposes of the trust.

### **218 Maori community purposes**

- (1) Where any income of a trust constituted under this Part is to be applied for Maori community purposes, the trustees may provide money for the benefit or advancement of any specified beneficiary, any class or classes of beneficiaries, or the interests of any hapu associated with any land belonging to the trust, and its members, whether directly or indirectly.
- (2) Without limiting the generality of subsection (1), in any such case the trustees may from time to time, subject to the terms of the trust order, apply money towards all or any of the following purposes:
- (a) the promotion of health—
    - (i) by installing or making grants or loans towards the cost of installing water supplies, sanitation works, and drainage in Maori settlements; or
    - (ii) by promoting, carrying out, or subsidising housing schemes, or by making grants or loans for any such schemes; or
    - (iii) by providing, subsidising, or making grants for medical, nursing, or dental services:
  - (b) the promotion of social, cultural, and economic welfare—
    - (i) by making grants or loans for the relief of poverty or distress; or
    - (ii) by developing, subsidising, or making grants or loans for farming or other industries; or
    - (iii) by making grants or loans towards the cost of the construction, establishment, management, maintenance, repair, or improvement of Maori meeting houses, halls, churches and church halls, kohanga reo, villages, marae, or cemeteries; or
    - (iv) by establishing, maintaining, and equipping hostels for the purpose of providing either permanent or temporary accommodation; or
    - (v) by making grants or loans towards the establishment of recreational centres for the common use of any Maori community and for such other uses as the trustees think fit; or

- (vi) by promoting, carrying out, or subsidising roading schemes, power schemes, or such other schemes as the trustees think fit, or by making grants or loans for any such schemes; or
  - (vii) by purchasing, acquiring, holding, selling, disposing of, or otherwise turning to account shares in any body corporate that has as one of its principal objects the economic or social advancement of Maori, or the development of land; or
  - (viii) by the promotion of schemes to encourage the practice of Maori arts and crafts, the study of Maori lore and history, and the speaking of the Maori language:
- (c) the promotion of education and vocational training—
- (i) by assisting in the establishment, equipping, managing, and conducting of schools and other educational or training institutions, including kohanga reo, by making grants of money, equipment, or material to schools and other educational or training institutions, including kohanga reo; or by making grants to the Maori Education Foundation established by the Maori Education Foundation Act 1961, or to any other funds established or bodies formed for the promotion of the education of Maori or for assisting Maori to obtain training or practical experience necessary or desirable for any trade or occupation; or
  - (ii) by providing scholarships, exhibitions, bursaries, or other methods of enabling individuals to secure the benefits of education or training, or by making grants to Education Boards or other educational bodies for scholarships, exhibitions, or bursaries; or
  - (iii) by providing books, clothing, or other equipment for the holders of scholarships or other individuals, or by making grants generally for the purpose of assisting the parents or guardians of children to provide for their education or training for any employment or occupation; or
  - (iv) by providing, maintaining, or contributing towards the cost of residential accommodation for children in relation to their education or training:
- (d) such other or additional purposes as the trustees with the approval of the court from time to time determine.
- (3) Nothing in this section shall prevent the trustees from applying money for the general benefit of a group or class of persons, notwithstanding that the group or class of persons includes persons other than beneficiaries; but no grant or loan shall be made to any individual for that individual's exclusive benefit unless that individual is a beneficiary or a descendant of a beneficiary.

Section 218(2)(b)(iii): amended, on 1 July 2002, by section 30 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**219 Trust order**

- (1) The court shall, by order, set out the terms of any trust constituted under this Part.
- (2) Notwithstanding anything in this Act or the Land Transfer Act 2017, no trust order made under this Part shall be capable of registration under that Act.

Section 219(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**220 Vesting order**

- (1) On constituting any trust under this Part, the court may, by order, vest the land and other assets in respect of which the trust is constituted in the responsible trustees or a custodian trustee upon and subject to the trusts declared by the court in a separate trust order.
- (2) The vesting order shall take effect according to its terms to vest the land or other assets in the person or persons named in the order, solely or as joint tenants, as the case may require, without any conveyance, transfer, or other instrument of assurance, together with all rights and remedies (if any) to which the owners were entitled in respect of the land immediately before the vesting but subject to any lease, licence, mortgage, charge, or other encumbrance to which the land or assets may be subject at the date of the making of the order, and the fact that the land or other assets is or are held by that person or those persons on trust shall be stated in the vesting order.
- (3) When a vesting order is made under this section in respect of any customary land, the land included in the order shall, on the making of the order, become subject to the Land Transfer Act 2017; and thereupon the provisions of section 139 of this Act shall apply as if the vesting order were made under section 132 of this Act.
- (4) Where the court is satisfied, on the application of the person or persons in whom any land or other assets are vested by an order made under subsection (1), that the whole or part of that land or the whole or part of those assets is to be sold, the court may, if it thinks fit, by order revoke all or any of the trusts in respect of the land or assets to be sold.
- (5) The Registrar-General of Land must—
  - (a) adjust the register as necessary to give effect to any vesting order or order of revocation made by the court under this section; and
  - (b) note in the register that the land is vested in the persons named as trustees or that the trust on which the land was vested in the persons named as trustees has been revoked.

Section 220(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 220(5): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).



**220A Registration of land in name of trust or tipuna**

- (1) This section applies to land or an interest in land that constitutes the whole or part of the property of a trust.
- (2) The trustees of a trust may give a direction that land that is registered or registrable under the Land Transfer Act 2017—
  - (a) be registered in the name of—
    - (i) the trust applying to that land; or
    - (ii) a tipuna; or
  - (b) no longer be registered in the name of the trust applying to that land, or a tipuna, and instead be registered in the names of the trustees.
- (3) The Registrar-General of Land must implement a direction under subsection (2) if the Registrar-General of Land receives—
  - (a) a copy of the direction from the Registrar; and
  - (b) a certificate of the Registrar confirming the direction.
- (4) To give a direction under subsection (2), the trustees must present to the Registrar—
  - (a) a direction in writing, addressed to the Registrar-General of Land, executed by the trustees, saying whether the direction is given under paragraph (a) or (b) of subsection (2); and
  - (b) a certificate executed by the trustees identifying the beneficiaries of the trust; and
  - (c) evidence of a resolution of beneficiaries approving the direction.
- (5) Subsections (2) and (3) apply despite anything in the Land Transfer Act 2017 or any other Act or rule of law.
- (6) If the documents received under subsection (4) comply with that subsection, the Registrar must—
  - (a) issue a certificate to the Registrar-General of Land confirming the direction; and
  - (b) forward a copy of the direction and that certificate to the Registrar-General of Land.
- (7) Trustees who give a direction under subsection (2)—
  - (a) retain the rights, duties, and powers of the registered proprietor of the land even though the land may not be registered in their name; and
  - (b) must exercise those rights, duties, and powers in their own names.
- (8) The Registrar-General of Land—
  - (a) is entitled to rely on the Registrar's certificate issued under subsection (6)(a) as sufficient evidence that the direction has been given properly, unless there is evidence to the contrary; and

- (b) must have regard to subsection (7).
- (9) The Registrar may issue a certificate stating the names of the trustees of land registered in the name of a trust or a tipuna, and the Registrar-General of Land is entitled to rely on that certificate as sufficient evidence that the persons named are those trustees.
- (10) A certificate under subsection (9) must accompany an instrument that is—
- (a) executed by the trustees of land registered in the name of a trust or a tipuna; and
  - (b) lodged for registration with the Registrar-General of Land.

Section 220A: inserted, on 1 July 2002, by section 31 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 220A(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 220A(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## 221 Power of court to amalgamate trusts

- (1) The court may order the amalgamation of 2 or more trusts (other than kai tiaki trusts) constituted under this Part, if—
- (a) all trustees of the trusts to be amalgamated apply for the order; and
  - (b) the court is satisfied that—
    - (i) the beneficiaries of the trusts to be amalgamated have had sufficient notice of the proposal to amalgamate and sufficient opportunity to discuss and consider it; and
    - (ii) there is a sufficient degree of support for the application among the beneficiaries of the trusts to be amalgamated.
- (2) Where any 2 or more ahu whenua or whenua topu trust are amalgamated, the income shall be held for such purposes as are specified in the order for the amalgamation of the trusts.

Section 221(1): substituted, on 1 July 2002, by section 32 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### *Appointment and powers of trustees*

## 222 Appointment of trustees

- (1) Subject to subsections (2) and (3), the court may appoint as trustee of any trust constituted under this Part—
- (a) an individual; or
  - (b) a Maori Trust Board constituted under the Maori Trust Boards Act 1955 or any other enactment, or any body corporate constituted by or under any enactment; or
  - (c) a Maori incorporation; or

- (d) the Māori Trustee; or
  - (e) Public Trust; or
  - (f) a trustee company within the meaning of the Trustee Companies Act 1967.
- (2) The court, in deciding whether to appoint any individual or body to be a trustee of a trust constituted under this Part,—
- (a) shall have regard to the ability, experience, and knowledge of the individual or body; and
  - (b) shall not appoint an individual or body unless it is satisfied that the appointment of that individual or body would be broadly acceptable to the beneficiaries.
- (3) The court shall not appoint any individual or body to be a trustee of any trust constituted under this Part unless it is satisfied that the proposed appointee consents to the appointment.
- (4) Subject to subsection (5), the court may appoint any such individual or body as a responsible trustee, or an advisory trustee, or a custodian trustee.
- (5) For every trust constituted under this Part the court shall appoint 1 or more responsible trustees, and may appoint 1 or more advisory trustees and 1 or more custodian trustees.

Section 222(1)(d): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 222(1)(e): substituted, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 222(1)(e): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

### **223 General functions of responsible trustees**

Every person who is appointed as a responsible trustee of a trust constituted under this Part shall be responsible for—

- (a) carrying out the terms of the trust:
- (b) the proper administration and management of the business of the trust:
- (c) the preservation of the assets of the trust:
- (d) the collection and distribution of the income of the trust.

### **224 Special provisions where advisory trustee appointed**

Where any individual or body is appointed as an advisory trustee of a trust constituted under this Part, the following provisions shall apply:

- (a) the responsible trustees may consult the advisory trustee on any matter relating to the trust:
- (b) the advisory trustee may advise the responsible trustees on any matter relating to the trust:

- (c) where any advice or direction is tendered or given by the advisory trustee, the responsible trustees may follow that advice or direction and act on it, and they shall not be liable for anything done or omitted by them in reliance on that advice or direction:
- (d) in any case where the responsible trustees consider that any such advice or direction conflicts with the terms of the trust, or is contrary to law, or exposes them to any liability, or is otherwise objectionable, they may apply to the court for directions in the matter; and, in such a case,—
  - (i) the decision and order of the court shall be final and shall bind the responsible trustees and the advisory trustee; and
  - (ii) the court may make such order as to costs as appears proper:
- (e) nothing in paragraph (d) shall oblige the responsible trustees to apply to the court for directions in respect of any matter:
- (f) where 2 or more advisory trustees have been appointed in respect of a trust and they are not unanimous in respect of any advice or direction tendered to the responsible trustees, the trustees may similarly apply to the court for directions:
- (g) no person dealing with the responsible trustees in relation to any trust property shall be concerned to inquire as to the concurrence or otherwise of the advisory trustee, or be affected by notice of the fact that the advisory trustee has not concurred:
- (h) subject to the order creating the trust and to any further order of the court, in any case where remuneration is payable to the responsible trustees, remuneration or commission may be paid to both the responsible trustees and the advisory trustee, the amount to be determined—
  - (i) where one of the responsible trustees is the Māori Trustee, by or under regulations made under the Maori Trustee Act 1953; or
  - (ia) where one of the responsible trustees is Public Trust, in accordance with Public Trust's scale of charges; or
  - (ii) where one of the responsible trustees is a trustee company within the meaning of the Trustee Companies Act 1967, in accordance with that company's scale of charges; or
  - (iii) in any other case, by the court.

Section 224(h)(i): substituted, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 224(h)(i): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 224(h)(ia): inserted, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

## **225 Special provisions where custodian trustee appointed**

Where any individual or body is appointed as a custodian trustee of a trust constituted under this Part, the following provisions shall apply:

- (a) the trust property shall be vested in the custodian trustee as if the custodian trustee were sole trustee, and for that purpose vesting orders may, where necessary, be made under this Act:
- (b) the management of the trust property and the exercise of all powers and discretions exercisable by the trustees under the trust shall remain vested in the responsible trustees as fully and effectively as if there were no custodian trustee:
- (c) the sole function of the custodian trustee shall be to get in and hold the trust property, invest its funds, and dispose of its assets, as the responsible trustees in writing direct, for which purpose the custodian trustee shall execute all such documents and perform all such acts as the responsible trustees in writing direct:
- (d) for the purposes of paragraph (c), a direction given by the majority of the responsible trustees shall be deemed to be given by all the responsible trustees:
- (e) subject to paragraph (f), the custodian trustee shall not be liable for acting on any such direction:
- (f) if the custodian trustee considers that any such direction conflicts with the terms of the trust, or is contrary to law, or exposes the custodian trustee to any liability, or is otherwise objectionable, the custodian trustee may apply to the court for directions in the matter, and, in such a case,—
  - (i) the decision and order of the court shall be final and shall bind the responsible trustees and the custodian trustee; and
  - (ii) the court may make such order as to costs as appears proper:
- (g) the custodian trustee shall not be liable for any act or default on the part of any of the responsible trustees:
- (h) all actions and proceedings touching or concerning the trust property shall be brought or defended in the name of the custodian trustee at the written direction of the responsible trustees, and the custodian trustee shall not be liable for the costs of any such action or proceedings apart from the trust property:
- (i) no person dealing with the custodian trustee shall be concerned to inquire as to the concurrence or otherwise of the responsible trustees, or be affected by notice of the fact that the responsible trustees have not concurred:
- (j) on the application of the custodian trustee, or of any of the responsible trustees, or of any beneficiary, and on satisfactory proof that it is the

general wish of the beneficiaries, or that on other grounds it is expedient, to terminate the custodian trusteeship, the court may make an order for that purpose, and may also make such vesting orders and give such directions as in the circumstances seem to the court to be necessary or expedient:

- (k) subject to the order creating the trust and to any further order of the court, in any case where remuneration is payable to the responsible trustees, remuneration or commission may be paid to both the responsible trustees and the custodian trustee, the amount to be determined—
  - (i) where the custodian trustee is the Māori Trustee, by or under regulations made under the Maori Trustee Act 1953; or
  - (ia) where the custodian trustee is Public Trust, in accordance with Public Trust's scale of charges; or
  - (ii) where the custodian trustee is a trustee company within the meaning of the Trustee Companies Act 1967, in accordance with that company's scale of charges; or
  - (iii) in any other case, by the court.

Section 225(k)(i): substituted, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 225(k)(i): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 225(k)(ia): inserted, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

## 226 General powers of trustees

- (1) The court may, in the trust order, confer on the trustees such powers, whether absolute or conditional, as the court thinks appropriate having regard to the nature and purposes of the trust.
- (2) Subject to any express limitations or restrictions imposed by the court in the trust order, the trustees shall have all such powers and authorities as may be necessary for the effective management of the trust and the achievement of its purposes.

## 227 Trustees may act by majority

- (1) Subject to any express provision in the trust order and except as provided in subsections (2) and (3), in any case where there are 3 or more responsible trustees of a trust constituted under this Part, a majority of the trustees shall have sufficient authority to exercise any powers conferred on the trustees.
- (1A) *[Repealed]*
- (2) Subject to subsection (3), every instrument to be registered under the Land Transfer Act 2017 shall be executed by all the trustees.

- (3) Where the court has, under section 237, made an order or given directions in relation to the execution of any instrument (including an instrument to be registered under the Land Transfer Act 2017) that instrument shall be executed in accordance with that order or those directions, as the case may require, and the Registrar shall send a copy of every such order and of all such directions to the Registrar-General of Land or the Registrar of Deeds for registration against the title to that land under the Land Transfer Act 2017 or (as the case may require) the Deeds Registration Act 1908.
- (4) The Registrar-General of Land or the Registrar of Deeds shall register the same accordingly.
- (5) *[Repealed]*
- (6) Where any trustee dissents in writing from the majority decision of the trustees before the decision is implemented, that trustee shall be absolved from any personal liability arising out of the implementation of that decision.

Section 227(1A): repealed, on 23 May 2008, by section 4 of Te Ture Whenua Maori Amendment Act 2008 (2008 No 35).

Section 227(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 227(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 227(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 227(5): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **227A Interested trustees**

- (1) A person is not disqualified from being elected or from holding office as a trustee because of that person's employment as a servant or officer of the trust, or interest or concern in any contract made by the trust.
- (2) A trustee must not vote or participate in the discussion on any matter before the trust that directly or indirectly affects that person's remuneration or the terms of that person's employment as a servant or officer of the trust, or that directly or indirectly affects any contract in which that person may be interested or concerned other than as a trustee of another trust.

Section 227A: inserted, on 1 July 2002, by section 33 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **228 Trustees' powers of alienation**

*[Repealed]*

Section 228: repealed, on 1 July 2002, by section 58(g) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

*Miscellaneous provisions relating to trusts constituted under this Part***229 Court may authorise new ventures**

- (1) Subject to subsection (2), the court may approve an extension of the activities of any trust constituted under this Part, whether by the trustees alone or in concert with any other person or body, and whether or not the proposed activities relate directly to the property of the trust.
- (2) The court shall not exercise its powers under subsection (1) unless it is satisfied that the beneficial owners have had sufficient opportunity to consider the proposal and that there is a sufficient degree of support among the owners.

**230 Keeping of accounts**

The court shall, in the trust order constituting any trust under this Part, make such provisions as to the keeping, filing, inspection, and auditing of the accounts of the trust as it considers necessary or desirable.

**231 Review of trusts**

- (1) The trustees or a beneficiary of a trust (other than a kai tiaki trust) constituted under this Part may apply to the court to review the terms, operation, or other aspect of the trust.
- (2) There can be no more than 1 review of a trust within a period of 24 consecutive months.
- (3) The court may, on any review,—
  - (a) confirm the trust order for the trust without variation; or
  - (b) exercise its powers under section 244; or
  - (c) terminate the trust if the court is satisfied that there is a sufficient degree of support for termination among the beneficiaries.

Section 231: substituted, on 1 July 2002, by section 34 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**232 Reports of trustees of kai tiaki trusts**

Unless the trust order or any other order of the court requires the trustees of a kai tiaki trust to file reports at shorter intervals, the trustees for the time being of any kai tiaki trust constituted under this Act shall, within 3 months after the end of the period of 12 months beginning with the date on which the trust was constituted, and within 3 months after each subsequent anniversary of that date, file with the Registrar of the court, a report on the operations of the trust during the immediately preceding period of 12 months ending with that date or the anniversary of that date, as the case may require.

**233 Reports required where Māori Trustee trustee of kai tiaki trust**

- (1) Where the Māori Trustee is the trustee of a kai tiaki trust, the Māori Trustee shall, notwithstanding anything in section 232, but subject to subsection (2),—



- (a) within 3 months after the end of the period of 12 months beginning with the date on which the Māori Trustee was appointed as the trustee of the kai tiaki trust, file with the Registrar of the court, a report on the operations of the trust during that period of 12 months; and
  - (b) within 3 months after the end of each subsequent period of 3 years, file with the Registrar of the court a report on the operations of the trust during that period of 3 years.
- (2) Subsection (1) is subject to any trust order or other order of the court requiring the Māori Trustee in the Māori Trustee's capacity as the trustee of a kai tiaki trust, to file reports on the operations of that trust at intervals shorter than those specified in subsection (1).

Section 233 heading: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 233(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 233(1)(a): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 233(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

#### **234 Kai tiaki trusts to be reviewed periodically**

- (1) The trustees for the time being of any kai tiaki trust constituted under this Act shall apply to the court within 5 years after the constitution of the trust or within such shorter period as the court may specify in the trust order, and thereafter at intervals of 5 years or such shorter intervals as the court may specify either in the trust order or at any time thereafter, for a review of the trust.
- (2) On any such review the court may, by order, confirm the trust order without variation, or vary the terms of the order in such manner as it thinks fit, or make an order terminating the trust.

#### **235 Trusts not subject to rule against perpetuities**

No trust constituted under this Part shall be subject to any enactment or rule of law restricting the period for which a trust may run.

#### *Provisions relating to trusts generally*

#### **236 Application of sections 237 to 245**

- (1) Subject to subsection (2), sections 237 to 245 shall apply to the following trusts:
  - (a) every trust constituted under this Part:
  - (b) every other trust constituted in respect of any Maori land:
  - (c) every other trust constituted in respect of any General land owned by Maori.

- (2) Nothing in sections 237 to 245 applies to any trust created by section 250(4).

### **237 Jurisdiction of court generally**

- (1) Subject to the express provisions of this Part, in respect of any trust to which this Part applies, the Maori Land Court shall have and may exercise all the same powers and authorities as the High Court has (whether by statute or by any rule of law or by virtue of its inherent jurisdiction) in respect of trusts generally.
- (2) Nothing in subsection (1) shall limit or affect the jurisdiction of the High Court.

Section 237(1): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

### **238 Enforcement of obligations of trust**

- (1) The court may at any time require any trustee of a trust to file in the court a written report, and to appear before the court for questioning on the report, or on any matter relating to the administration of the trust or the performance of his or her duties as a trustee.
- (2) The court may at any time, in respect of any trustee of a trust to which this section applies, enforce the obligations of his or her trust (whether by way of injunction or otherwise).

### **239 Addition, reduction, and replacement of trustees**

- (1) The court may at any time, on application, in respect of any trust to which this Part applies, add to or reduce the number of trustees or replace 1 or more of the trustees.
- (2) The court may amend the court's records for a trust if a trustee dies and the court receives a death certificate for the deceased trustee.
- (3) In exercising the powers in subsections (1) and (2), the court may order the vesting of land or other assets of the trust in any person or persons (with the consent of that person or those persons) upon the terms of the trust, whether or not that person was previously a trustee.

Section 239: substituted, on 1 July 2002, by section 35 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **240 Removal of trustee**

The court may at any time, in respect of any trustee of a trust to which this Part applies, make an order for the removal of the trustee, if it is satisfied—

- (a) that the trustee has failed to carry out the duties of a trustee satisfactorily; or
- (b) because of lack of competence or prolonged absence, the trustee is or will be incapable of carrying out those duties satisfactorily.

Section 240: amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

#### **241 Termination of trust**

- (1) The court may at any time, in respect of any trust to which this Part applies, terminate the trust in respect of—
  - (a) the whole or any part of the land; or
  - (b) the whole or any part of any interest in land subject to the trust,—  
by making an order vesting that land or that part of that interest in land in the persons entitled to it in their respective shares, whether at law or in equity, or in such other persons as the beneficial owners may direct.
- (2) Where a trust terminated under subsection (1) is a whanau trust, the court shall, notwithstanding anything in subsection (1), make an order vesting the land or the part of the land or the interest in the land in the persons entitled to it in their respective shares, whether at law or in equity, which persons are—
  - (a) the persons who were, at the creation of the trust and are at the date of the order, the beneficial owners of the land or the part of the land or the interest in the land; and
  - (b) any persons who, at the date of the order, are successors of any of the persons who were, at the creation of the trust, the beneficial owners of the land or the part of the land or the interest in the land.

Section 241(1): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

#### **242 Orders for payment of money held in trust**

- (1) The court, on the application of any person interested or of its own motion, may order that any money held in trust for any Maori, or any money derived from any Maori land and held in trust, by any trustee, government department, officer of the Public Service, corporation, solicitor, or accountant be paid to the person or persons beneficially entitled to the money, or to any other person, as the court may direct, on behalf of the person or persons so entitled.
- (2) Notwithstanding anything in subsection (1), in respect of any money to which that subsection applies, the court may direct that it be applied wholly or partly in or towards any of the following purposes:
  - (a) the maintenance, education, or advancement of any person beneficially entitled to the money;
  - (b) the payment of rates or charges in respect of any land;
  - (c) the payment of any legal costs, survey costs, funeral expenses, tangi expenses, costs of headstones, or other disbursements, or the reimbursement of any person who has already paid any such costs, expenses, or disbursements.

- (3) The court may exercise any powers conferred on it by this section in respect of any money to which subsection (1) will apply when it is received by any person or body specified in that subsection; but no such order shall have effect until that money is so received.

### **243 Acquisition of land by trustees**

- (1) Where the trustees of a trust to which this Part applies acquire any land out of revenues derived from the operations of the trust, they shall determine whether—
- (a) to retain the land as an investment; or
  - (b) to apply to the court under subsection (2) for an order that the land shall form part of, and follow the destination of, the corpus of the trust.
- (2) Where the trustees apply to the court for an order that the land shall form part of, and follow the destination of, the corpus of the trust, the court may make an order to that effect if it is satisfied that the land can be properly used and managed as part of the undertaking of the trust and that it is in the best interests of the beneficiaries to make such an order.
- (3) Every order under subsection (2) shall constitute, without any transfer or other instrument of assurance, the title to the land included in the order.
- (4) On the taking of effect of an order under subsection (2) in respect of any General land, the land shall become and be deemed to be Maori freehold land.
- (5) On the taking of effect of an order under subsection (2), the land shall be held in trust for the beneficiaries in proportion to their interests in the trust's other land assets.
- (6) Any land that becomes part of the corpus of the trust by virtue of an order under subsection (2) shall remain subject to the same charges or other encumbrances (if any) as it was previously subject to, unless they have been duly discharged.
- (7) No restrictions on alienation imposed by any of the provisions of this Act shall apply in respect of any land (other than Maori freehold land or land that ceased to be Maori land by reason of the registration of a status declaration issued under section 6 of the Maori Affairs Amendment Act 1967) acquired by the trustees and retained by them as an investment.
- (8) Where the trustees of a trust constituted under this Part acquire any land out of the original assets of the trust (whether in substitution or by way of exchange for any other land belonging to the trust or otherwise), that land shall, unless the court otherwise orders, form part of, and follow the destination of, the corpus of the trust.

Section 243(1): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 243(7): amended, on 11 April 2001, by section 11 of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

**244 Variation of trust**

- (1) The trustees of a trust to which this Part applies may apply to the court to vary the trust.
- (2) The court may vary the trust by varying or replacing the order constituting the trust, or in any other manner the court considers appropriate.
- (3) The court may not exercise its powers under this section unless it is satisfied—
  - (a) that the beneficiaries of the trust have had sufficient notice of the application by the trustees to vary the trust and sufficient opportunity to discuss and consider it; and
  - (b) that there is a sufficient degree of support for the variation among the beneficiaries.

Section 244: substituted, on 1 July 2002, by section 36 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**245 Power of court to approve charitable trust**

- (1) The trustees of any trust to which this Part applies may from time to time apply to the court for an order that they shall stand possessed of any income derived from any specified part of the trust property upon trust for such charitable purposes as may be specified in the order.
- (2) The court shall not make an order under subsection (1) unless it is satisfied—
  - (a) that the beneficiaries of the trust have had sufficient notice of the proposal to apply for the order and sufficient opportunity to discuss and consider it; and
  - (b) that there is a sufficient degree of support for the proposal among the beneficiaries.

Section 245(1): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

**Part 13**  
**Maori incorporations**

**246 Interpretation**

In this Part, unless the context otherwise requires,—

**equity value**, in relation to a Maori incorporation, means the sum remaining after deducting from the total value of all assets of the incorporation the amount of all liabilities, claims, and debts to which the incorporation is subject or that it owes

**shareholder**, in relation to a Maori incorporation, means every person who is registered as the holder of any shares in the incorporation, whether as beneficial owner, trustee, administrator, or otherwise

**special resolution**, in relation to a Maori incorporation, means a resolution that has been passed at a general meeting of shareholders of the Maori incorporation, being a general meeting of which not less than 21 clear days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given.

Compare: 1967 No 124 s 25

### *Constitution and powers*

#### **247 Owners may be incorporated**

- (1) In accordance with the succeeding provisions of this Part, the court may, if it considers it is in the interests of the owners to do so, make an order incorporating as a Maori incorporation the owners of any 1 or more areas of Maori freehold land, of which at least 1 area is owned for a legal estate in fee simple by 2 or more owners (whether any such owner is entitled beneficially or as trustee).
- (2) The court shall not make an order incorporating the owners under this section unless—
  - (a) the assembled owners of the land have, in accordance with Part 9, passed a resolution for their incorporation under this Part; or
  - (b) in any case to which paragraph (a) does not apply, the court is satisfied that the owners of not less than 15% of the aggregate shares in each area of land (or their trustees in the case of disability) consent to the making of the order.
- (3) An order incorporating any owners under this Part may be made in respect of the whole area of the land owned in common by the owners or in respect of any defined part of it.
- (4) The court may include in any Maori incorporation to be constituted under this section the owners of any other Maori freehold land (to which the application does not relate) if the court is satisfied that the owners of that other land have consented to their inclusion in the manner prescribed by paragraph (a) or paragraph (b) of subsection (2).
- (5) Where an application is made for the incorporation of the owners of 2 or more areas of land that are not held in common ownership, the court may, in order to facilitate the incorporation of the owners, exercise any jurisdiction conferred on it under section 306 or section 307 or section 308.
- (6) Notwithstanding anything to the contrary in section 42, 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 of the order entered in the records of the court.

Compare: 1953 No 94 s 269; 1967 No 124 s 29; 1976 No 148 s 15

**248 Terms of order**

- (1) Every order incorporating the owners of any land under this Part shall specify the following matters:
  - (a) the name of the Maori incorporation, with the addition of the word “Incorporation” as the last word in that name:
  - (b) the description of the land or the several areas of land to which the order relates, and the value of each such area:
  - (c) any other assets, being the property of the owners of the land to which the order relates, that are to be vested in the incorporation, and the value of those assets.
- (2) Every such order shall have annexed to it (in addition to the matters referred to in section 268) a list of the persons who are the initial shareholders in the incorporation (being the persons who, immediately before the making of the order, were the holders of the legal estate in fee simple in the land specified in the order), together with their addresses (where known), and the extent of their respective shares in the incorporation.
- (3) Every such list of initial shareholders shall comply with the following requirements:
  - (a) where any freehold interest in the land specified in the order is held in the name of any person for life or other limited period, with remainder over to named persons, the list shall show the holder for the time being of the shares attributable to the entire interest, and the names of the persons entitled in remainder:
  - (b) where any freehold interest in the land specified in the order is owned by a minor or by any other person under disability, whether or not a kai tiaki trust has been constituted for that person under section 217, the list shall—
    - (i) show that person as a shareholder in respect of the appropriate number of shares; and
    - (ii) indicate that that person is a person under disability; and
    - (iii) record any trustee appointed in respect of any kai tiaki trust constituted under section 217; and
    - (iv) if the person is a minor, show the date on which that person will attain the age of 20 years.

Compare: 1967 No 124 ss 30, 32(1), 38(7), (8)

**249 Court to fix total number of shares**

- (1) Upon the making of an order incorporating any owners under this Part, the court shall fix the total number of shares in the Maori incorporation, which shall be conveniently related to the total value of the land and other assets, less liabilities (if any), specified in the order.

- (2) Subject to subsection (3), there shall be allocated to each shareholder a number of shares, being that proportion of the total shares that his or her share in the value of any land or other assets of the Maori incorporation bears to the total value of those assets, less liabilities (if any), as disclosed in the order.
- (3) In any case where the order incorporating the owners relates to 2 or more areas of land held under separate titles, the court may allocate the total shares in the incorporation in accordance with any agreement or understanding between the groups of owners of the several areas as to the basis of association of those groups otherwise than as specified in subsection (2), if it is satisfied that the agreement or understanding is, in all the circumstances, fair and equitable.

Compare: 1967 No 124 s 32(2), (3)

Section 249(3): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

## **250 Effect of order**

- (1) On the making of an order incorporating the owners of any land under this Part, the owners shall become a body corporate, with perpetual succession and a common seal, under the name specified in the order, with power to do and suffer all that bodies corporate may lawfully do and suffer, and with all the powers expressly conferred upon it by or under this Act.
- (2) On making any such order, the court shall vest the legal estate in fee simple in the land specified in the order in the Maori incorporation, but no such vesting shall affect the beneficial interests in that land which shall remain vested in the several owners.
- (3) The estate of the incorporation shall be subject to all leases, mortgages, charges, or other interests to which the title of the owners or any of them was subject at the date of incorporation, and shall also be subject to the right of any person to procure the confirmation of any alienation under an instrument of alienation executed before the making of the order.
- (4) From and after its constitution, every Maori incorporation shall hold the land and other assets vested in it on trust for the incorporated owners in proportion to their several interests in the land.
- (5) No Maori incorporation acting in accordance with its powers and in compliance with this Act or any other Act shall be in breach of trust.
- (6) Subject to any determination made in accordance with section 256 and to any order made in accordance with section 358, all land vested in an incorporation, whether by virtue of the order of incorporation or by virtue of section 357 or otherwise, shall, while so vested, continue to be or be deemed to be Maori freehold land.



- (7) The Registrar-General of Land shall cancel or amend any existing record of title that may be necessary to give effect to any order incorporating the owners of any land under this Part.

Compare: 1953 No 94 ss 275(2), 276(1); 1967 No 124 s 31; 1975 No 135 s 17(2)

Section 250(6): substituted, on 1 July 1994, by section 14 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 250(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **251 Inclusion in incorporation of owners of additional Maori land**

- (1) For the purpose of including in any Maori incorporation the owners of any Maori freehold land who have, in the manner prescribed by section 247(2), agreed to such inclusion, the court may make an order amending the subsisting order of incorporation.
- (2) The amending order shall specify the land of which the owners are to be included, and any other property of the owners that is intended to pass to the incorporation, and shall set out the value of the land and other property, and particulars of liabilities (if any), together with the equity value of the incorporation immediately before the amending order.
- (3) By the amending order, the court shall vest in the incorporation the land and other property specified in the order, and the owners of the land shall become new shareholders in the incorporation, and their names and addresses and the numbers of their shares shall be shown in a list annexed to the amending order.
- (4) The amending order shall set forth the number of additional shares in the incorporation, to be allocated among the new shareholders, proportionately to their former share of the value of the land and other assets passing to the incorporation.
- (5) Subject to subsection (6), the additional number of shares shall be fixed by the court and shall bear the same relation to the total shares of the incorporation immediately before the amending order as the value of the land and other assets contributed by the new shareholders, less liabilities (if any), bears to the equity value of the incorporation immediately before the amending order.
- (6) The court, in fixing the additional number of shares, may give effect to any understanding or agreement between the original incorporation and the owners of the additional land to be included as to a basis of inclusion otherwise than as specified in subsection (5), if it is satisfied that the understanding or agreement is, in all the circumstances, fair and equitable.
- (7) Notwithstanding anything to the contrary in section 42, an amending order may be made to take effect on a date specified by the court, which may be a date earlier than the date of the minute of the order entered in the records of the court.

Compare: 1967 No 124 s 45; 1970 No 120 s 9(2); 1975 No 135 s 16

**252 Incorporations may be amalgamated**

- (1) If 2 or more Maori incorporations consent in writing under their respective seals to their amalgamation under this section, the court may amalgamate those incorporations by making, in respect of the shareholders of those incorporations, an order of incorporation in substitution for the several orders of incorporation previously made.
- (2) Upon an order of incorporation being made under this section, the former incorporations shall be deemed to have been dissolved and the lands owned by them shall vest in the new incorporation thereby established.
- (3) All other property and all rights, powers, and privileges appertaining to the former incorporations shall thereupon pass to the new incorporation, which shall also become subject to and liable for all claims and liabilities to which the former incorporations were respectively subject.
- (4) Every order of incorporation under this section shall comply with the provisions of section 248.
- (5) The court shall, in respect of an incorporation constituted under this section, fix a total number of shares, and the number of shares to be allocated among the shareholders of each former incorporation.
- (6) Subject to subsection (7), the number of shares to be allocated under subsection (5) shall be fixed on the basis of the equity value of the former incorporations.
- (7) The court may, in making any such allocation, give effect to any understanding or agreement between the former incorporations as to a basis of amalgamation, or otherwise than as specified in subsection (6), if it is satisfied that the understanding or agreement is, in all the circumstances, fair and equitable.
- (8) The shareholders of the new incorporation shall consist of all the shareholders of the former incorporations, and each shareholder shall be credited with the number of shares properly apportionable to him or her on the basis of his or her shares in any former incorporation.
- (9) On making an order under this section, the court may appoint an interim committee of management for the new incorporation to act pending elections to the committee, and the several committees of management previously elected in respect of the former incorporations shall be deemed to have been abolished and the members of those committees shall cease to hold office accordingly.
- (10) Notwithstanding anything to the contrary in section 42, an order of incorporation under this section may be made to take effect on a date specified by the court, which may be a date earlier than the date of the minute of the order entered in the records of the court.

Compare: 1967 No 124 s 44; 1970 No 120 s 9(1)

### **253 Capacity and powers of incorporation**

Subject to this Act, and any other enactment, and the general law, and to any express limitations or restrictions imposed by the court in the order of incorporation or included in its constitution pursuant to section 253A, every Maori incorporation has, both within and outside New Zealand, in addition to the powers expressly conferred on it by this Part,—

- (a) full capacity in the discharge of the obligations of the trust in the best interests of the shareholders, to carry on or undertake any business or activity, do any act, or enter into any transaction; and
- (b) for the purposes of paragraph (a), full rights, powers, and privileges.

Section 253: amended, on 28 September 1993, by section 10 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

### **253A Power to impose limitations or restrictions on powers of incorporation**

The shareholders of a Maori incorporation may from time to time, at a general meeting of the incorporation, by resolution passed in such manner as may be prescribed by the constitution of the incorporation,—

- (a) include in that constitution provisions imposing limitations or restrictions or both on the powers conferred on the incorporation by section 253;
- (b) omit from that constitution, or vary, any provisions included in that constitution pursuant to paragraph (a).

Section 253A: inserted, on 28 September 1993, by section 11 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

### **254 Incorporation's powers of alienation**

*[Repealed]*

Section 254: repealed, on 1 July 2002, by section 58(h) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **255 Certain instruments require noting by Registrar**

*[Repealed]*

Section 255: repealed, on 1 July 2002, by section 58(i) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **256 Acquisition of land by incorporation**

- (1) Where a Maori incorporation acquires any land, the incorporation shall determine whether—
  - (a) to retain the land as an investment; or
  - (b) to apply to the court for an order declaring that the land shall form part of the corpus of the incorporation.

- (2) Where the Maori incorporation applies to the court for an order that the land shall form part of the corpus of the incorporation, the court may make an order to that effect.
- (3) On the taking of effect of an order under subsection (2) in respect of any General land, the land shall be deemed to be Maori freehold land.
- (4) Where the Maori incorporation determines that land shall be retained as an investment, the court may, on application made by that incorporation, make an order—
- (a) authorising the Maori incorporation to hold the whole or any part of that land as an investment; and
  - (b) declaring that any land authorised pursuant to paragraph (a) to be held as an investment—
    - (i) shall not form part of the corpus of the incorporation; and
    - (ii) shall cease to be Maori freehold land; and
  - (c) declaring that the beneficial interests in any land authorised pursuant to paragraph (a) to be held as an investment shall cease to be vested in the shareholders and shall vest in the incorporation; and
  - (d) making such other provision in relation to the change in the status of the whole or any part of that land as the court thinks just.
- (4A) No restrictions on alienation imposed by any of the provisions of this Act shall apply in respect of any land acquired by the incorporation and retained by it as an investment pursuant to an order made under subsection (4).
- (4B) The Registrar of the Maori Land Court shall note the effect of every order on the records held in that court in relation to the incorporation of every Maori incorporation to which the order relates.
- (4C) The Registrar-General of Land is hereby authorised and directed to cancel or amend any existing record of title and to issue any new record of title that may be necessary to give effect to an order made under subsection (4).
- (5) Where a Maori incorporation acquires any land out of the original land of the incorporation (whether in substitution or by way of exchange for any other land belonging to the incorporation or otherwise), the land so acquired shall, unless the court otherwise orders, form part of the corpus of the incorporation.

Section 256(4): substituted, on 1 July 1994, by section 15(1) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 256(4A): inserted, on 1 July 1994, by section 15(1) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 256(4B): inserted, on 1 July 1994, by section 15(1) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 256(4C): inserted, on 1 July 1994, by section 15(1) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 256(4C): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 256(5): amended, on 1 July 1994, by section 15(2) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

**257 Allocation of land to shareholders**

The court, on making pursuant to subsection (2) or subsection (5) of section 256 an order that any land shall form part of the corpus of the incorporation, shall make a further order vesting the beneficial interests in that land in the shareholders of the incorporation in proportion to their several interests in the other land forming part of the corpus of the incorporation immediately before the making of the order so vesting those beneficial interests.

**258 Power to declare charitable trust**

Notwithstanding its status as a trustee, a Maori incorporation may, by special resolution, declare that it shall stand possessed of any part of its property or of any income derived from any specified part of its property on trust for such charitable purposes as may be specified in the declaration.

**259 Application of revenues**

- (1) The revenues derived from its operations by any Maori incorporation may be applied as follows:
  - (a) generally towards the costs and outgoings involved in doing anything that the incorporation is empowered to do, including any capital works or capital investments, and expenditure of any other kind that would usually be charged in the administration of a trust to capital rather than income;
  - (b) in setting aside reserves for contingencies or for capital expenditure or for expansion in accordance with the objects of the incorporation, or in retaining in an accumulated profit account any portion of the profits that the committee of management thinks it prudent not to distribute to shareholders;
  - (c) in payment, in accordance with subsection (2), of an amount by way of dividend to the shareholders;
  - (d) as authorised by a resolution of the shareholders for such purposes (not being purposes for which money may otherwise be applied under this subsection) as are specified in the resolution.
- (2) No payment made under paragraph (c) or paragraph (d) of subsection (1) shall be made otherwise than from profits (including accumulated profits and realised capital profits), and in accordance with an express resolution or resolutions passed at a general meeting of shareholders.
- (3) The payments made under paragraph (c) or paragraph (d) of subsection (1) in any financial year shall not exceed the amount determined by the committee of management as being available in that financial year for the purposes of that paragraph, after prudent and adequate provision has been made for the payment

or reservation of other amounts that are properly to be paid or reserved from the revenues of the incorporation, including the reservation of an adequate amount for the meeting of claims established in respect of unclaimed dividends that have become the absolute property of the incorporation under section 267.

- (4) Upon the passing by a general meeting of shareholders of any lawful resolution authorising the payment of any amount under paragraph (c) or paragraph (d) of subsection (1), the amount specified in the resolution shall be deemed to be appropriated to the purpose or purposes specified, and shall be deemed to be held by the incorporation in trust to make payments accordingly to the shareholders in their respective shares or to such other persons as may be entitled to receive payment, and the necessary entries shall be made in the incorporation's books of account.

Compare: 1967 No 124 s 46(1)–(3)

### *Shares and dividends*

#### **260 Nature of shares in incorporation**

The shares in a Maori incorporation shall be deemed for all purposes to be undivided interests in Maori freehold land; and, except as expressly provided, all the provisions of this Act relating to the alienation of or succession to interests in Maori freehold land shall apply to the alienation of or succession to interests in such shares.

Compare: 1974 No 124 s 38(1)

#### **261 Equitable interests not to be separately dealt with**

- (1) The alienation, whether by operation of law or otherwise, of the shares of any shareholder in a Maori incorporation shall, whether so expressed or not in any instrument of alienation or vesting order, be deemed to be an alienation of that shareholder's equitable interest in the land and other assets for the time being vested in the incorporation.
- (2) No shareholder in a Maori incorporation has the capacity to dispose of any such equitable interest otherwise than by means of a disposition of his or her shares.
- (3) Nothing in this section shall empower any shareholder in a Maori incorporation to alienate his or her shares otherwise than in accordance with Part 7.

Compare: 1953 No 94 s 276(2)

#### **262 Shareholders not personally liable**

No shareholder in a Maori incorporation shall have any personal liability, whether to the incorporation or to any other person, in respect of any debts or liabilities of or claims made upon the incorporation, or in respect of any deficiency in the assets of the incorporation in the event of its being wound up.

Compare: 1969 No 124 s 32(7)

**263 Incorporation to have share register**

- (1) Every Maori incorporation shall, forthwith upon its constitution, establish a register (referred to as the **share register**), which shall constitute the official record of the shareholders, together with the number of shares held by each, and the address of each (where known).
- (2) The share register shall be opened with the list of shareholders annexed to the order of incorporation.
- (3) Every Maori incorporation having more than 50 shareholders shall, unless the share register is in such form as to constitute in itself an index, keep an accurate index of the names of the shareholders, containing a sufficient indication to enable the location of the entry in the share register relating to each shareholder.
- (4) A Maori incorporation may, at the request of any shareholder, issue to that shareholder a certificate under seal in the prescribed form showing the extent of the shares held by that shareholder in the incorporation at the date of issue of the certificate.
- (5) Any such certificate shall not be construed as evidence of title otherwise than at the time specified in the certificate, and shall so state on the face of the certificate.
- (6) The share register, which shall be maintained by the incorporation, shall, during office hours, be open to public inspection on payment of the fee (if any) prescribed in respect of such inspection.

Compare: 1967 No 124 s 32(4)–(6)

**264 Method of transfer of shares**

- (1) Subject to the provisions of this section, the transfer of the property in shares in a Maori incorporation shall be effected only by registration in the share register made on application in accordance with this section.
- (2) On application in the prescribed manner, the committee of management of a Maori incorporation shall direct the registration of a transfer of any shares in the incorporation if it is satisfied that—
  - (a) the transferor is the registered holder of the shares; and
  - (b) the transferee is a person to whom the shares may be alienated in accordance with Part 4 or Part 7; and
  - (c) the transfer is in accordance with any regulations made under this Act relating to the number of shares that shall be the minimum share unit.
- (3) The trustees of a putea trust or a whanau trust to which any shares in a Maori incorporation belong may have their names entered in the share register as the owners of the shares if they satisfy the committee of management that—
  - (a) the shares belong to the trust; and
  - (b) they are duly appointed as trustees of the trust.

- (4) Where any person holds shares in a representative capacity, that fact shall be recorded beside that person's name in the share register, but it shall not be necessary for the incorporation or any officer of the incorporation or any other person to go behind that entry in respect of any matter relating to the shares.

Compare: 1967 No 124 s 38(2)

Section 264(2)(b): substituted, on 1 July 1994, by section 16 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 264(2)(c): added, on 1 July 1994, by section 16 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

### **265 Special rules relating to share registration in certain cases**

- (1) Except as required by law, no person shall be recognised by a Maori incorporation as holding any share in the incorporation upon any trust, and, subject to the provisions of subsections (2) and (3), the incorporation shall not be bound by or be compelled to recognise (even when having notice thereof) any equitable, contingent, future, or partial interest in any share or, except as otherwise provided by law, any other rights in respect of any share except an absolute right as to the entirety of the share in the registered shareholder.
- (2) Where any freehold interest in Maori freehold land of which the owners are incorporated under this Part is held in the name of any person for life or other limited period, with remainder over to named persons, the following provisions shall apply:
- (a) the shares attributable to the entire interest may be transferred by the holder of the limited interest and the persons entitled in remainder acting together:
  - (b) on production to the incorporation of satisfactory evidence of the termination of the limited interest and on written application by the persons entitled in remainder or any of them, the register shall be amended to show those persons as shareholders.
- (3) A trustee of a kai tiaki trust constituted under Part 12 for a person under disability in respect of a freehold interest in Maori freehold land shall be deemed to have been appointed and shall, so long as the person remains under disability, be and have all the powers of a trustee for that person in respect of his or her shares in any incorporation in which the Maori freehold land has, by virtue of the provisions of this Part, become vested.

Compare: 1967 No 124 s 38(6), (7), (9)

### **266 Procedure where court makes order relating to ownership of shares**

- (1) Where the court makes an order for the vesting in any person of any shares in a Maori incorporation, the Registrar of the court shall send a copy of the order to the secretary of the incorporation.
- (2) In any such case, the following provisions shall apply:



- (a) the secretary shall, as soon as practicable, amend the share register in accordance with the terms of the order:
- (b) the title to the shares, and the right to any dividend, or to attend or vote at any meeting, shall not pass until the share register is so amended:
- (c) neither the incorporation nor any officer of the incorporation shall be liable for anything done or omitted to be done in reliance on the share register before receipt of the copy of the order.

## **267 Unclaimed dividends**

- (1) In this section, unless the context otherwise requires,—

**dividends** means money payable to any shareholder of a Maori incorporation by way of dividend; and includes any money that is, by this Part, required to be treated as an amount payable to a shareholder by way of dividend; and also includes any money that, pursuant to section 15A(6) of the Maori Reserved Land Act 1955, has been paid to the incorporation by the Māori Trustee on behalf of an individual beneficial owner to whom it has been allocated

**unclaimed dividends** means dividends in the hands of an incorporation that have been held by it or by a preceding incorporation or body corporate (including the Māori Trustee) for at least 10 years without payment to the shareholder or other person entitled.

- (2) Every Maori incorporation holding dividends that, at any time after the commencement of this Act, become unclaimed dividends, shall, within 12 months after the dividends have become unclaimed dividends, compile a list of the shareholders to whom those dividends are payable, setting out the amount of unclaimed dividends held for each shareholder, and shall transmit the list to the Registrar of the Maori Land Court district who maintains, under section 279, the Register of Maori Incorporations in which particulars of that Maori incorporation are included.
- (3) The Registrar of the Maori Land Court district shall include the list transmitted to that Registrar under subsection (2) in the Register of Maori Incorporations in such a manner as to show, in relation to the Maori incorporation by which the list was transmitted, the particulars contained in that list.
- (4) Notwithstanding anything in subsection (2), it shall not be necessary to include in any such list the name of any shareholder that has been included in any previous list of unclaimed dividends.
- (5) If, within 12 months after the date of the inclusion in the Register of Maori Incorporations of a list of unclaimed dividends, no claim has been established in respect of the dividends shown in the list as payable to any shareholder, the committee of management may authorise the transfer of those dividends (together with any other dividends held for the same shareholder) to the incorporation absolutely; and, subject to subsection (6), those dividends shall thereupon become the absolute property of the incorporation, freed of all interests of

the shareholder, and may be applied as if they were revenues derived from its operation by the incorporation; and the books of account of the incorporation shall be amended accordingly.

- (6) If, at any time after the expiry of the said period of 12 months, a claim in respect of any unclaimed dividends is lawfully established by the shareholder or by any person claiming through the shareholder, the amount of the claim shall be payable by the incorporation as a debt due to the claimant accordingly.
- (7) If any unclaimed dividends held for a shareholder have been dealt with in the manner provided by subsection (5) and have become the property of the incorporation, any future dividends payable to that shareholder may be similarly dealt with without the necessity of inclusion in a further list of unclaimed dividends, and the provisions of that subsection shall apply accordingly.

Compare: 1967 No 124 s 47(1), (3), (4), (5); 1977 No 103 s 6

Section 267(1) **dividends**: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 267(1) **unclaimed dividends**: amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### *Internal management*

#### **268 Maori incorporations to have constitution**

- (1) Every Maori incorporation shall have a constitution governing its internal management.
- (2) Subject to subsection (3) and to section 253A, the constitution of every Maori incorporation shall be that prescribed by regulations made under this Act.
- (3) A Maori incorporation may, by special resolution of the shareholders, alter, add to, or replace its constitution in any way that is not inconsistent with any provision of this Act or any regulations made under this Act.
- (4) Any alteration or addition so made to the constitution, and the provisions of any replacement constitution, shall, subject to the provisions of this Act and the regulations, be as valid as if originally contained in the constitution and be subject in like manner to alteration by special resolution.
- (5) Every Maori incorporation shall transmit to the Registrar of the Maori Land Court district who maintains, under section 279, the register of Maori incorporations in which particulars of that Maori incorporation are kept a copy of every special resolution made under subsection (3) of this section, together with—
  - (a) particulars of the date on which and the place at which the meeting of shareholders was held; and
  - (b) a copy of the constitution or alteration or addition to the constitution or other document to which the special resolution relates.
- (6) Every special resolution, constitution, alteration or addition to a constitution, or other document transmitted to the Registrar under subsection (5) shall be—

- (a) annexed to the order incorporating the owners; and
- (b) noted in the incorporation register by the Registrar; and
- (c) noted in the register of the incorporation concerned by the secretary of that incorporation.

Section 268: substituted, on 1 July 1994, by section 17 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 268(3): amended, on 16 September 2011, by section 11 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

Section 268(5): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

## **269 Committee of management**

- (1) Upon the making of an order incorporating the owners of any land under this Part, the court shall, having regard to but not being bound by any nominations of members that may be made by or on behalf of the owners who have applied for incorporation, appoint an interim committee of management consisting of not less than 3 nor more than 7 persons; and the persons so appointed shall hold office as members of the committee of management until the first annual general meeting of the incorporation.
- (2) At the first annual general meeting of shareholders of a Maori incorporation, the shareholders shall elect a committee of management in accordance with the constitution of the incorporation; and thereafter the members of the committee shall hold office in accordance with the constitution.
- (3) Every member of the committee of management of a Maori incorporation shall be responsible for the proper administration and management of the affairs of the incorporation.
- (4) Any shareholder may at any time apply to the court for the removal from office of any member of the committee of management on the ground that—
  - (a) the member has failed to carry out his or her duties satisfactorily; or
  - (b) the member has contravened any of the provisions of this Part or of the constitution of the incorporation, or has otherwise acted in a manner that is incompatible with membership of the committee; or
  - (c) it is otherwise in the best interests of the incorporation that the member be removed from office,—and the court, on being satisfied that sufficient cause has been shown, may remove that member from office accordingly.
- (5) The court may appoint any qualified person to be a member of the committee of management of a Maori incorporation, notwithstanding that that person has not been elected as a member pursuant to subsection (2), in any case where the shareholders have failed to fill a vacancy in the committee.

- (6) The court may, on the application of any shareholder or officer of the incorporation, investigate the conduct of any election of a member or members to the committee of management, and may either—
- (a) confirm the appointment of the person or persons elected; or
  - (b) declare the election invalid and order a new election to be held.
- (7) Except as may be provided by the incorporation's constitution, and subject to any conditions that may be imposed on the committee by resolution passed at a general meeting of shareholders, the committee may regulate its procedures as it thinks fit.

Compare: 1967 No 124 ss 52(1), (6)(b), (c), 53(4), 57(4)

### **270 Manner in which powers are to be exercised**

- (1) Except as provided in this Part or in its constitution, a Maori incorporation shall act by and through its committee of management.
- (2) The powers of the committee of management may be exercised by a majority of the members for the time being in office, but no decision of the committee shall be effective unless at least 3 members concur in it.
- (3) The common seal of the incorporation may be affixed to any instrument in the presence of any 2 members of the committee of management.
- (4) The 2 members of the committee of management shall sign the instrument to which the seal is affixed.
- (5) The provisions of section 180 of the Companies Act 1993 as to the method of contracting apply to a Maori incorporation as if the incorporation were a limited liability company duly incorporated under the provisions of that Act.
- (6) The committee of management of a Maori incorporation shall comply with the terms and conditions of any resolution relating to the powers and functions of the incorporation passed at a general meeting of the shareholders of the incorporation.
- (7) No loan shall be granted by a Maori incorporation to any person who is a member of its committee of management.

Compare: 1967 No 124 ss 42(2), (3), 46(5), 48(3), 57(1), (3)

Section 270(5): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

### **271 Effect of exercise of powers**

- (1) A Maori incorporation shall be bound by every act of its committee of management, and no person dealing with the incorporation shall be concerned to inquire in relation to any such act whether the committee is authorised or restricted by any resolution of the shareholders, or as to the terms and conditions of any such resolution.
- (2) No act of a committee of management of a Maori incorporation, or of any member of the committee, shall be questioned or invalidated on the ground of

any error or irregularity in the mode of election of any member of the committee, or on the ground of any vacancy in the membership of the committee.

- (3) No person lending money to a Maori incorporation shall be concerned to inquire as to the necessity for the loan or as to the application of the proceeds of it.
- (4) Where any instrument of alienation purporting to be executed on behalf of a Maori incorporation is presented for registration under the Land Transfer Act 2017, the Registrar shall not be concerned to inquire whether the alienation has been authorised by a resolution of the shareholders duly passed and confirmed by the court in accordance with this Act.

Compare: 1967 No 124 ss 48(2), 49(2), 56, 57(2)

Section 271(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## **272 Qualification, disqualification, and removal of members**

- (1) It shall not be necessary in the case of any person elected or appointed to a committee of management of a Maori incorporation that the person be a shareholder in the incorporation.
- (2) Without limiting the powers of the court under section 269(4), no person shall be appointed or elected or shall continue to hold office as a member of a committee of management who is or becomes—
  - (a) a person who is subject to a personal order or a property order made under the Protection of Personal and Property Rights Act 1988 or for whom a trustee corporation is acting as manager under section 32 or 33 of that Act; or
  - (b) a bankrupt who has not obtained an order of discharge, or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled; or
  - (c) a person convicted of any offence punishable by imprisonment for a term of 6 months or more, unless that person has served the sentence or otherwise suffered the penalty imposed upon that person.
- (3) However, if a property order is made in respect of a member of a committee of management under section 30 of the Protection of Personal and Property Rights Act 1988,—
  - (a) the member does not cease to hold office as a member of the committee by virtue only of the making of that order; but
  - (b) while that order remains in force, the member is suspended from office.
- (4) A member who is suspended from office under subsection (3)—
  - (a) is deemed to have been granted leave of absence; and

- (b) is not capable of acting as a member of the committee during the period of suspension.

Compare: 1967 No 124 s 53(1)–(3)

Section 272(2)(a): substituted, on 10 September 2008, by section 21(3) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

Section 272(2)(b): amended, on 1 July 2002, by section 37 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 272(3): added, on 10 September 2008, by section 21(4) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

Section 272(4): added, on 10 September 2008, by section 21(4) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

### **273 Election of chairman of committee and appointment of secretary**

- (1) The committee of management of a newly constituted Maori incorporation shall hold its first meeting within 1 month after the date of its appointment, and the members shall elect one of their number to be chairman and shall determine the period for which that person is to hold office.
- (2) The committee shall, at the same meeting, appoint some person to be secretary of the incorporation, and shall appoint some place to be the registered office of the incorporation.
- (3) The members of the committee shall be jointly and severally responsible to report to the Registrar, not later than 2 weeks after the meeting, for inclusion in the register of Maori incorporations, the following information:
  - (a) the name, occupation, and address of the elected chairman and the period for which that person is to hold office:
  - (b) the name, occupation, and address of the appointed secretary:
  - (c) the place appointed as the registered office of the incorporation.
- (4) The members of the committee shall be jointly and severally responsible to advise the Registrar from time to time of any change in the particulars mentioned in subsection (3), within 2 weeks after the date of election or appointment of a new chairman, secretary, or registered office, as the case may be.

Compare: 1967 No 124 s 55

### **274 Expenses and remuneration of members of committee**

Members of the committee of management of a Maori incorporation shall be entitled to receive reasonable travelling allowances, at a rate to be fixed at a general meeting of shareholders, or a refund of the expenses actually and reasonably incurred by them in attending or returning from meetings of the committee, and shall, in addition, be entitled to receive such fees (if any) in respect of their services as may be authorised at a general meeting of shareholders.

Compare: 1967 No 124 s 62

**274A Interested members**

- (1) A person is not disqualified from being elected or from holding office as a member of the committee of management because of that person's employment as a servant or officer of the incorporation, or interest or concern in any contract made by the incorporation.
- (2) A member of a committee of management must not vote or participate in the discussion on any matter before the committee that directly or indirectly affects that person's remuneration or the terms of that person's employment as a servant or officer of the incorporation, or that directly or indirectly affects any contract in which that person may be interested or concerned other than as a member of another committee of management.

Section 274A: inserted, on 1 July 2002, by section 38 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**275 Conduct of meetings of shareholders**

- (1) General meetings of the shareholders of a Maori incorporation shall from time to time be held as required by this Act or by the constitution of the incorporation.
- (2) The court may at any time by order direct the holding of a special general meeting of shareholders.
- (3) All general meetings shall be summoned in the manner prescribed by the constitution of the incorporation.
- (4) Subject to the constitution of the incorporation, any shareholder may attend and vote at any meeting of the shareholders either personally or by a proxy appointed by the shareholder in writing.
- (5) Unless, on any question submitted at a general meeting to a vote of the shareholders, a poll is demanded by not less than 5 persons present in person at the meeting, or by any person or persons entitled to exercise not less than one-tenth of the total votes of those present in person or by proxy at the meeting, every shareholder present in person or by proxy shall have 1 vote only, and a resolution shall be carried if a majority of the votes is in favour of it.
- (6) If, on any question submitted to a vote of the shareholders, a poll is demanded in accordance with subsection (5), the voting powers of the shareholders shall be determined by the number of shares held by each shareholder.
- (7) A person acting as proxy for more than 1 shareholder shall be entitled to vote separately for each person for whom that person so acts.
- (8) No person shall be competent to act as the proxy for any shareholder at a meeting of shareholders if that person is either a member of the committee of management or has consented, before or at that meeting, to be nominated for election as a member of the committee of management.
- (9) The quorum for a general meeting of shareholders shall be fixed by the constitution of the incorporation.

- (10) Unless and until a quorum is so fixed, the quorum for any such meeting shall be 20 shareholders or a number of shareholders equal to two-thirds of the number of shareholders (whichever is the less), and whether in either case the shareholders attend personally or by proxy.
- (11) No general meeting shall be deemed to be properly constituted unless at least 3 shareholders are present in person throughout the meeting.
- (12) Except as otherwise provided in this section or by the constitution of the incorporation, the shareholders present, either personally or by proxy at a general meeting, may regulate the procedure of that meeting.

Compare: 1967 No 124 s 63

### **276 Accounting records to be kept**

- (1) Every Maori incorporation must ensure that there are kept at all times accounting records that—
  - (a) correctly record the transactions of the incorporation; and
  - (b) will enable the incorporation to ensure that the financial statements of the incorporation comply with this Act; and
  - (c) will enable the financial statements of the incorporation to be readily and properly audited (if those statements are required to be audited).
- (2) Every Maori incorporation must establish and maintain a satisfactory system of control of its accounting records.

Section 276: replaced, on 1 April 2014, by section 120 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 276(1)(c): replaced on 12 May 2017, by section 21 of the Māori Purposes Act 2017 (2017 No 18).

### **276A Financial statements must be prepared**

- (1) The committee of management of every Maori incorporation must, within 18 months after the making of the order of incorporation, and subsequently at least once in every calendar year, submit to a general meeting of shareholders financial statements for a period ending on a date not earlier than 6 months before the meeting.
- (2) The financial statements must,—
  - (a) in the case of a large Maori incorporation, be prepared in accordance with generally accepted accounting practice; and
  - (b) in any other case, include a statement signed by the secretary of the incorporation to the effect that the secretary is satisfied that the financial statements give a reasonable representation of the financial position and financial performance of the incorporation.
- (3) The financial statements must be accompanied by—
  - (a) the auditor's report made under section 277 (if any); and



- (b) a report by the committee of management in respect of the state of the incorporation's affairs and the amount, if any, that the committee has determined is available for the purposes of section 259(1)(c); and
  - (c) in respect of the assets of the incorporation, a statement setting out the estimated current market value of the assets, together with a statement of the liabilities, if any, of the body corporate charged on or relating particularly to those assets (unless this information is already included in the financial statements).
- (4) If the assets of the incorporation include any interest in land, the current market value of that interest for the purposes of subsection (3)(c) must, if it is separately valued in the district valuation roll, be treated as the capital value of the interest as appearing on that roll.
- (5) In this Act, a Maori incorporation is **large** in respect of a financial year if, in each of the 2 preceding financial years, the total revenue of the Maori incorporation and its subsidiaries (if any) exceeds \$10 million.

Section 276A: inserted, on 1 April 2014, by section 120 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 276A(2): replaced on 12 May 2017, by section 22(1) of the Māori Purposes Act 2017 (2017 No 18).

Section 276A(5): inserted, on 12 May 2017, by section 22(2) of the Māori Purposes Act 2017 (2017 No 18).

#### **276B Financial statements must be filed**

- (1) The committee of management of a Maori incorporation must ensure that copies of the financial statements and other documents referred to in section 276A are filed with the Registrar in whose court district the land is situated, for the purpose of public inspection, within 14 days after their submission to a general meeting of shareholders.
- (2) Copies filed under this section must be available for inspection by the public during the office hours of the court on payment of the fee (if any) prescribed for that purpose.

Section 276B: inserted, on 1 April 2014, by section 120 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

#### **277 Appointment and duties of auditor**

- (1) The shareholders of a large Maori incorporation shall, at each annual general meeting, appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.
- (1A) *[Repealed]*
- (2) At any annual general meeting of a large Maori incorporation a retiring auditor, however appointed, shall be reappointed without any resolution being passed unless—
- (a) he or she is not qualified for reappointment; or

- (b) a resolution has been passed at that meeting appointing somebody instead of him or her, or providing expressly that he or she shall not be reappointed; or
  - (c) he or she has given the incorporation notice in writing of his or her unwillingness to be reappointed.
- (3) Notwithstanding subsection (2), where notice is given of an intended resolution to appoint some person or persons in place of a retiring auditor, and by reason of the death, incapacity, or disqualification of that person or of all those persons, as the case may be, the resolution cannot be proceeded with, the retiring auditor shall not be automatically reappointed.
- (4) No person may be appointed as auditor of a large Maori incorporation unless that person is a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).
- (5) *See* sections 37 to 39 of the Financial Reporting Act 2013 (which provide for the appointment of a partnership and access to information in relation to a Maori incorporation).
- (6) The auditor must—
  - (a) audit the financial statements that are to be submitted to the shareholders in a general meeting during the auditor’s tenure of office; and
  - (b) in carrying out the audit, comply with all applicable auditing and assurance standards.
- (6A) *[Repealed]*
- (6B) The auditor’s report on the financial statements must—
  - (a) comply with the requirements of all applicable auditing and assurance standards; and
  - (b) state whether or not, in the auditor’s opinion, according to the best of the auditor’s information and the explanations given to the auditor, and as shown by the accounting records of the incorporation, any statement required by section 276A(3)(c) is properly drawn up so as to give a true and fair view of the state of the incorporation’s affairs as at the end of its financial year; and
  - (c) state whether or not the share register and index of shareholders required by section 263 to be kept by the incorporation have been duly and correctly kept.
- (7) The auditor’s report shall be read before the general meeting of the shareholders and shall be open to inspection by any shareholder.
- (8) *[Repealed]*
- (9) The auditor of a large Maori incorporation shall be entitled to attend any general meeting of the shareholders, and to receive all notices of and other communications relating to any general meeting that any shareholder is entitled

to receive, and to be heard at any general meeting that the auditor attends on any part of the business of the meeting that concerns him or her as an auditor.

Compare: 1967 No 124 s 59

Section 277(1): amended on 12 May 2017, by section 23(1) of the Māori Purposes Act 2017 (2017 No 18).

Section 277(1A): repealed, on 12 May 2017, by section 23(2) of the Māori Purposes Act 2017 (2017 No 18).

Section 277(2): amended on 12 May 2017, by section 23(3) of the Māori Purposes Act 2017 (2017 No 18).

Section 277(4): replaced, on 1 April 2014, by section 121(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 277(4): amended on 12 May 2017, by section 23(4) of the Māori Purposes Act 2017 (2017 No 18).

Section 277(5): replaced, on 1 April 2014, by section 121(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 277(6): replaced, on 1 April 2014, by section 121(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 277(6A): repealed, on 12 May 2017, by section 23(2) of the Māori Purposes Act 2017 (2017 No 18).

Section 277(6B): inserted, on 1 April 2014, by section 121(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 277(8): repealed, on 1 April 2014, by section 121(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 277(9): amended on 12 May 2017, by section 23(4) of the Māori Purposes Act 2017 (2017 No 18).

## **278 Appointment of share valuer**

- (1) The shareholders of a Maori incorporation shall, at each annual general meeting, appoint a share valuer for the purpose of this section to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.
- (2) No person may be appointed as the share valuer unless that person would be qualified to be appointed or to act as the auditor of the Maori incorporation under section 36 of the Financial Reporting Act 2013 (which applies with all necessary modifications as if the incorporation were a specified entity).
- (3) The same person may be appointed in respect of any incorporation to the offices of auditor and share valuer.
- (4) When, by any provision of this Act, the value of any shares in an incorporation is required to be assessed, fixed, or ascertained by the share valuer under this section, the share valuer shall assess the value of the shares in relation to the equity value of the incorporation at the date of the last published financial statements (as disclosed by those statements and the accompanying statement of the estimated current market value of assets), with such adjustments (if any) as, in the share valuer's opinion, are necessary to arrive at a fair and reasonable equity value at the date of the share valuer's valuation, having regard to—

- (a) any material change in the current market value of the livestock or other assets of the incorporation since the date of the last published financial statements; and
- (b) any appropriations of money to be paid to the shareholders or otherwise under section 259(1)(c), since the date of the last published financial statements; and
- (c) the estimated financial results of the operations of the incorporation for the current financial year; and
- (d) any other matter or circumstance that, in the opinion of the share valuer, materially affects the equity value of the incorporation.

Compare: 1967 No 124 s 60

Section 278(2): replaced on 12 May 2017, by section 24(1) of the Māori Purposes Act 2017 (2017 No 18).

Section 278(4): amended on 12 May 2017, by section 24(2) of the Māori Purposes Act 2017 (2017 No 18).

Section 278(4)(a): amended on 12 May 2017, by section 24(3) of the Māori Purposes Act 2017 (2017 No 18).

Section 278(4)(b): amended on 12 May 2017, by section 24(3) of the Māori Purposes Act 2017 (2017 No 18).

### **278A Adjustment of shareholding**

- (1) The shareholders of a Maori incorporation may from time to time, by special resolution, amend the total number of shares in the incorporation to a specified number, and correspondingly amend the number of shares held by each shareholder so as to represent the same proportion of the total shares as was represented by his or her shareholding before the amendment.
- (2) The incorporation shall amend the share register in accordance with the terms of the resolution passed under subsection (1), by altering the total number of shares to the number specified in the resolution, and by altering the number of shares held by each shareholder to the proper proportion of the new total of shares.

Compare: 1967 No 124 ss 33(1)(d), 37

Section 278A: inserted, on 1 July 1994, by section 18 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

### *Duties and powers of court*

### **279 Register of Maori incorporations**

- (1) The Registrar of every Maori Land Court district shall keep in the office of the court a register of Maori incorporations existing on the commencement of this Act, or thereafter established under this Part, in respect of land situated in that district.
- (2) The register shall, in respect of every Maori incorporation registered in it, disclose the following particulars:

- (a) the name of the incorporation and the date of the order of incorporation:
  - (b) the name or other description and the area of the land vested in the incorporation:
  - (c) the names, occupations, and addresses of the members for the time being of the committee of management, and of the duly elected chairman, and the appointed secretary of the committee:
  - (d) the location of the office of the incorporation:
  - (e) particulars of all orders made by the court in relation to the incorporation (other than orders vesting the shares of any shareholder in any other person or persons):
  - (f) the date of the filing in the court of the annual statement of accounts of the incorporation:
  - (g) every list of unclaimed dividends compiled by the incorporation under section 267 and transmitted to the Registrar for inclusion in the register:
  - (h) every special resolution.
- (3) Where a special resolution is made at a meeting of the shareholders of a Maori incorporation, the Secretary of the incorporation shall, within 21 days after the date of the meeting, transmit to the Registrar of the Maori Land Court district, for inclusion in the register of Maori incorporations, a copy of the special resolution, together with particulars of the date and place of the meeting.
- (4) Every register kept pursuant to this section shall, during office hours, be open to public inspection on payment of the fee (if any) prescribed in respect of such inspection.

Compare: 1967 No 124 s 64

### **280 Investigation of incorporation's affairs**

- (1) The court may appoint 1 or more persons (in this section referred to as **examining officers**) to investigate the affairs of a Maori incorporation and to report to the court in such manner as the court directs.
- (2) The person or persons so appointed may (with the consent of the chief executive) be officers of the Ministry.
- (3) The court's jurisdiction under subsection (1) may be exercised—
  - (a) on the application of shareholders together owning not less than one-tenth of the shares; or
  - (b) pursuant to a declaration by special resolution passed by a general meeting of shareholders that the affairs of the incorporation should be investigated.
  - (c) *[Repealed]*

- (4) It shall be the duty of the members of the committee of management of the incorporation, and the secretary, and other officers or servants of the incorporation (whether past or present),—
- (a) to produce to the examining officers all books and papers of or relating to the incorporation, and otherwise to give to the examining officers all assistance that they are reasonably able to give; and
  - (b) to furnish any explanation required, pursuant to any direction of the court, on any matter or question referred to in any report of the examining officers.
- (5) If any person fails in any duty imposed on that person by subsection (4), the court may inquire into the failure and, after hearing any witnesses who may be produced against or on behalf of the alleged offender, and after hearing any statement that may be offered in defence, punish the offender in like manner as if the offender had been guilty of contempt of court.
- (6) Where, after having considered the reports of the examining officers and any explanation that has been furnished under subsection (5), the court is of the opinion that any matter or question affecting the incorporation should be the subject of inquiry at a sitting of the court, or that a prima facie case for the exercise of any of the powers conferred upon the court by subsection (7) has been established, the court may appoint a time and place for a sitting of the court and give such directions for service of notice of the sitting, and of the matters to be dealt with, as it thinks fit.
- (7) Where, as the result of any investigation or examination into the affairs of a Maori incorporation, the court thinks it necessary to do so, it may, notwithstanding any of the provisions of this Part, do all or any of the following:
- (a) remove from office any member or members of the committee of management or the secretary of the incorporation:
  - (b) appoint, for such period as it thinks fit, some person or persons to hold office as an additional member or additional members of the committee of management:
  - (c) suspend for such term as it thinks fit the powers of the members of the committee of management, and appoint 1 or more competent persons to exercise all the powers of the committee:
  - (d) impose such restrictions, conditions, or exceptions as it thinks fit on the powers of the incorporation:
  - (e) give such directions as it thinks fit for the conduct of the business of the incorporation:
  - (f) suspend for such period as the court thinks fit all or any of the provisions of the constitution of the incorporation:
  - (g) order the winding up of the incorporation:

- (h) refer any matter to the Attorney-General to consider whether any charging document should be filed or any prosecution commenced against any person or persons.
- (8) The court may, before appointing an examining officer in respect of a Maori incorporation, require security for the cost of the examination, to be given by the applicant; and may, on completion of the investigation or at any stage of it, make such order as it thinks fit for the payment, by the incorporation or by a shareholder or any other person, of a reasonable sum to defray the costs of the examination and of any inquiry before the court.
- (9) The court may, in respect of any vacancies in the membership of a committee of management of a Maori incorporation created by the exercise of its powers under subsection (7)(a),—
  - (a) order an election to fill the vacancies; or
  - (b) fill the vacancies by appointment under section 269(5); or
  - (c) order that the vacancies remain unfilled pending a further order of the court.
- (10) Any additional member appointed to a committee of management pursuant to subsection (7)(b) shall hold office in accordance with the terms of the order notwithstanding anything in the constitution of the incorporation, but for all other purposes shall have all the powers and be subject to all the provisions relating to the members of the committee.
- (11) The appointment of any such member may at any time be terminated by the court, notwithstanding that the period for which the member was appointed has not yet expired.

Compare: 1967 No 144 s 61; 1970 No 120 s 10

Section 280(3)(b): amended, on 1 July 2002, by section 41(a) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 280(3)(c): repealed, on 1 July 2002, by section 41(b) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 280(7)(h): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

## **281 Power of court to require officers to attend to explain non-compliance with statutory requirements**

- (1) The court may at any time require any officer of a Maori incorporation to attend before the court and to explain any act or omission of any of the following kinds:
  - (a) failure to compile a list of unclaimed dividends and to transmit it to the Registrar in accordance with section 267(2):
  - (aa) failure to comply with section 274A(2):
  - (b) failure to keep accounting records as required by section 276:

- (c) failure to submit to a general meeting of shareholders financial statements and such other statements and reports as are required by section 276A:
  - (d) failure to file in the court the financial statements and other documents as required by section 276B:
  - (e) failure to appoint an auditor as required by section 277:
  - (f) failure to transmit a copy of a special resolution to the Registrar in accordance with section 279(3):
  - (g) failure to keep, in the prescribed manner, a register of shareholders, and an index of shareholders:
  - (h) failure to hold, as prescribed, an annual general meeting of the shareholders:
  - (i) the making of any payment from the funds of the incorporation that is not authorised by or pursuant to this Part.
- (2) Where—
- (a) the court is not satisfied with any explanation given to it under subsection (1); or
  - (b) where the officer fails to attend as required by the court under subsection (1) and either the officer fails to give a reason for the officer's non-attendance or the court is not satisfied with the reason given by that officer for the officer's non-attendance,—
- the court may exercise any of the powers conferred on it by section 280(7).
- (3) For the purposes of this section, the expression **officer of an incorporation** shall include a member of the committee of management of the incorporation, and the secretary of the incorporation.

Compare: 1967 No 124 s 66(1)–(3)

Section 281(1)(aa): inserted, on 1 July 2002, by section 42 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 281(1)(b): replaced, on 1 April 2014, by section 122 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 281(1)(c): replaced, on 1 April 2014, by section 122 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 281(1)(d): replaced, on 1 April 2014, by section 122 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

## 282 Winding up of incorporation

- (1) The court may order the winding up of a Maori incorporation—
- (a) pursuant to section 280(7)(g); or
  - (b) if a general meeting of shareholders has by special resolution resolved that the incorporation be wound up; or



- (c) if default has been made in the submission to a general meeting of shareholders, or in the filing in the court, of the financial statements and other documents required by sections 276A and 276B to be so submitted and filed; or
  - (d) if the number of shareholders is reduced below 2; or
  - (e) if the incorporation is unable to pay its debts; or
  - (f) if the court is of the opinion that it is just and equitable that the incorporation should be wound up.
- (2) On making an order winding up a Maori incorporation under this section, the court shall appoint a suitable person to be the liquidator of the incorporation.
  - (3) On the appointment of a liquidator under this section, the authority of the committee of management of the incorporation shall cease, and the liquidator shall have power to do all acts and to execute, in the name and on behalf of the incorporation, all deeds, receipts, and other documents, and for the purposes to use, when necessary, the incorporation's seal.
  - (4) Subject to any directions of the court, the liquidator shall sell, realise, or otherwise dispose of the assets of the incorporation (other than its land), and shall hold the proceeds of any such sale, realisation, or disposal (if any) to be dealt with in accordance with orders of the court.
  - (5) When a liquidator appointed under this section has completed the winding up of the incorporation, the liquidator shall file in the court a full statement of account relating to the course and fulfilment of the winding up and, upon the court being satisfied that the incorporation has been properly wound up, the court shall make—
    - (a) an order under section 283(3) in respect of any remaining land vested in the incorporation; and
    - (b) an order dissolving the incorporation.
  - (6) Any liquidator appointed pursuant to this section may from time to time apply to the court for directions with reference to the winding up.
  - (7) No liquidator appointed under this section who acts pursuant to the rules of court or to any directions given by the court shall incur any liability to the incorporation or to any other person or persons.
  - (8) The court may, at any time during the course of the winding up of a Maori incorporation, discharge a liquidator appointed under this section, and may appoint some other person as liquidator in place of the original appointee.
  - (9) Any liquidator appointed under this section shall be entitled to be paid, out of the income and other assets of the incorporation, such remuneration as the court may order.

Compare: 1967 No 124 s 65; 1971 No 151 s 3; 1975 No 135 s 17(3)

Section 282(1)(c): replaced, on 1 April 2014, by section 123 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

**283 Disposal of land on winding up of incorporation**

- (1) Subject to any directions of the court, the liquidator may sell any land retained by the incorporation under section 256(1)(a) as an investment, and shall hold the proceeds of any such sale to be dealt with in accordance with orders of the court.
- (2) Notwithstanding any restrictions imposed by this Act on the alienation of Maori land, the liquidator may, with the leave of the court, grant a lease of any Maori freehold land vested in the incorporation, for a term not exceeding 7 years (including any term or terms of renewal), on such conditions and for such rent or other consideration as the liquidator thinks fit.
- (3) Subject to subsections (1) and (2), the court may, at any time during the course of the winding up of a Maori incorporation, make an order vesting in the persons beneficially entitled to any or all of the land vested in the incorporation, in accordance with the respective interests of those persons, and the property shall vest in those persons accordingly.

Section 283(2): amended, on 11 April 2001, by section 14 of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

**284 Regulations**

- (1) The Governor-General may from time to time, by Order in Council, make regulations—
  - (a) prescribing the form of constitution for Maori incorporations; and
  - (b) specifying matters in the constitution which may, by special resolution of the shareholders, be altered, added to, or replaced.
- (2) Without limiting the generality of subsection (1), regulations made under that subsection may provide for the following matters:
  - (a) the mode of summoning and holding general meetings of shareholders, including the circumstances in which a shareholder may be required to withdraw:
  - (b) the quorum at a general meeting of shareholders:
  - (c) the manner in which voting is to be carried out at a general meeting of shareholders:
  - (d) the appointment of proxies for the purposes of any meeting of shareholders:
  - (e) the circumstances in which proxies may or may not act at any meeting of shareholders:
  - (f) the matters that must be the subject of a special resolution and the quorum necessary for a particular resolution:
  - (g) the required majority to carry any particular special resolution:
  - (h) the carrying out of voting by postal vote or other method:

- (i) the control of the common seal of the incorporation:
- (j) the number of members of the committee of management and the manner in which those members are to be elected:
- (k) the term of office of members of the committee of management:
- (l) the filling of extraordinary vacancies in the membership of the committee of management:
- (m) the number of shares that shall be the minimum share unit for the incorporation:
- (n) the form of share transfer:
- (o) the amendment of the share register:
- (p) the suspension of registration of transfers and transmissions of shares:
- (q) the inspection by shareholders of the books and records of the incorporation:
- (r) the form of the share certificate:
- (s) the form of the common seal:
- (t) any transitional provisions required in relation to Maori incorporations in existence on the commencement of this Act, which transitional provisions may provide for the continuation in force in relation to such Maori incorporations or any of them of provisions of Part 4 of the Maori Affairs Amendment Act 1967 or of any other enactment repealed by this Act:
- (u) such other matters as are not inconsistent with this Act or with law.

Section 284(1): substituted, on 1 July 1994, by section 19 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

## **Part 14**

### **Title reconstruction and improvement**

#### **285 Interpretation**

In this Part the term **land to which this Part applies** means—

- (a) Maori land; and
- (b) General land owned by Maori; and
- (c) any other land that is for the time being subject to Part 2 of the Maori Affairs Restructuring Act 1989.

Compare: 1953 No 94 ss 173(2), 186(1)

#### **286 Purpose of this Part**

- (1) The principal purpose of this Part is to facilitate the use and occupation by the owners of land owned by Maori by rationalising particular landholdings and providing access or additional or improved access to the land.

- (2) Where it is satisfied that to do so would achieve the principal purpose of this Part, the court may make partition orders, amalgamation orders, and aggregation orders, grant easements, and lay out roadways in accordance with the provisions of this Part.

### **287 Jurisdiction of courts**

- (1) Subject to subsection (3), the Maori Land Court shall have exclusive jurisdiction to make partition orders, amalgamation orders, aggregation orders, and exchange orders in respect of Maori land, and to grant easements and lay out roadways over Maori land.
- (2) The jurisdiction conferred on the Maori Land Court by this Part shall be discretionary, and, without limiting that discretion, the court may refuse to exercise that discretion in any case if it is not satisfied that to do so in the manner sought would achieve the principal purpose of this Part.
- (3) Nothing in this section shall apply in respect of any Maori reserve.
- (4) Except as provided in subsection (1), nothing in this Part shall limit or affect the jurisdiction of the High Court.

Compare: 1953 No 94 ss 173(1), 174, 186(2)

### **288 Matters to be considered**

- (1) In addition to the requirements of subsections (2) to (4), in deciding whether or not to exercise its jurisdiction to make any partition order, amalgamation order, or aggregation order, the court shall have regard to—
- (a) the opinion of the owners or shareholders as a whole; and
  - (b) the effect of the proposal on the interests of the owners of the land or the shareholders of the incorporation, as the case may be; and
  - (c) the best overall use and development of the land.
- (2) The court shall not make any partition order, amalgamation order, or aggregation order affecting any land, other than land vested in a Maori incorporation, unless it is satisfied—
- (a) that the owners of the land to which the application relates have had sufficient notice of the application and sufficient opportunity to discuss and consider it; and
  - (b) that there is a sufficient degree of support for the application among the owners, having regard to the nature and importance of the matter.
- (3) The court shall not make any partition order, amalgamation order, or aggregation order affecting any land vested in a Maori incorporation unless it is satisfied—
- (a) that the shareholders of the incorporation to which the application relates have been given express notice of the application; and

- (b) that the shareholders have passed a special resolution supporting the application.
- (4) The court must not make a partition order unless it is satisfied that the partition order—
  - (a) is necessary to facilitate the effective operation, development, and utilisation of the land; or
  - (b) effects an alienation of land, by gift, to a member of the donor's whanau, being a member who is within the preferred classes of alienees.

Compare: 1953 No 94 ss 173(1), 174

Section 288(1): amended, on 1 July 2002, by section 43(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 288(4): substituted, on 1 July 2002, by section 43(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### *Partition*

#### **289 Partition orders**

- (1) Where the court is satisfied that it should partition any Maori freehold land in accordance with this Part, it shall make a partition order, being—
  - (a) an order for the partition of any land into 2 or more defined separate parcels; or
  - (b) an order creating or evidencing the title to any 1 or more of such defined parcels.
- (2) Every partition order shall, upon registration in accordance with section 299, constitute the title to the parcel of the several parcels of land included in it, without any transfer or other instrument of assurance being required.

Compare: 1953 No 94 s 176

#### **290 Modes of partition**

- (1) The court may partition any land under this Part in any 1 or more of the following ways:
  - (a) into parcels held by single owners in severalty;
  - (b) into parcels held by 2 or more owners as joint tenants;
  - (c) into parcels held by any number of owners as tenants in common together with owners holding as joint tenants;
  - (d) into parcels held by 2 or more owners as tenants in common.
- (2) Nothing in this Part shall prevent any such owner from retaining any interest in the residue of the land.

Compare: 1953 No 94 s 180; 1961 No 129 s 8

**291 Discretionary powers of court in making partitions**

- (1) In partitioning any land under this Part, the court may exercise its discretionary powers in accordance with the following provisions of this section:
  - (a) it may partition the land among the several owners in accordance, as nearly as may be, with their several shares; or
  - (b) in order to give effect to any agreement or arrangement made by the owners concerned, it may allot the share or any of the shares of any owner to any other owner, subject to such conditions as to payment of compensation or otherwise as may have been agreed to.
- (2) Nothing in subsection (1)(a) shall limit the powers conferred on the court by section 293, or to prevent the court from varying the shares of the several owners with their consent, or otherwise from varying their shares within reasonable limits if, in its opinion, a variation is necessary to enable the court to make an equitable partition.
- (3) The court shall make vesting orders for the purpose of giving effect to any arrangement made for the purpose of subsection (1)(b).
- (4) When any compensation is made payable by any person under subsection (1)(b), the court may, in the partition order or by a separate charging order, constitute the compensation a charge on any land or interest in land owned by the person by whom the compensation is payable.

Compare: 1953 No 94 s 181; 1967 No 124 s 126; 1974 No 73 s 52(2)

**292 Allotment of interests on partition**

- (1) Where, by reason of the smallness of the undivided shares, or for any other reason, the court is of the opinion that it would be inequitable to partition any area in strict accordance with the respective shares of the owners, the court may, in partitioning that area, allot to any owner a parcel or interest greater in value than that to which the owner would otherwise be entitled, and may allot to any other owner a parcel or interest proportionately less in value than that to which the owner would otherwise be entitled.
- (2) The excess in the value of the parcel or interest allotted by the court shall be determined by the court and shall be stated in the partition order, and shall be expressly constituted by that order a charge upon the parcel or interest bearing that excess in value in favour of the person who has received a corresponding deficiency in value, or in favour of a trustee for that person.

Compare: 1953 No 94 s 181A; 1962 No 45 s 14

**293 Power to award additional land as compensation for improvements, etc**

- (1) Where, in any proceedings for the partition of any area of Maori freehold land, it is proved to the satisfaction of the court that any owner of an undivided interest in the land—
  - (a) has paid any survey charge or rates due in respect of the land; or

- (b) has effected improvements on the land; or
- (c) has expended money for any purpose that, in the opinion of the court, is for the benefit of all the owners of the land,—

the court, on partitioning the land, may award to that owner such an area, in addition to the area to which that owner would otherwise be entitled, as in its opinion would be adequate to recompense that owner for the money so paid or expended or the improvements so effected by that owner.

- (2) Notwithstanding anything in subsection (1), instead of awarding additional land to any owner in accordance with that subsection, the court may, in the partition order or in any subsequent order, make an order for the award of compensation in respect of any such payments made, expenditure incurred, or improvements effected by the owner, and by the order shall determine by whom and the proportions in which any such compensation shall be payable.
- (3) When any compensation is awarded under this section, the court, by the same or any subsequent order, may constitute any such compensation a charge on any land or interest in land owned by the person by whom the compensation is payable.

Compare: 1953 No 94 s 183

#### **294 Saving of interests charged on partitioned land**

If, on the partition of any land, the share or interest of any person in the land is subject to any right, charge, or interest vested in any other person, that right, charge, or interest shall, subject to any apportionment or adjustment made under section 292, attach to and affect the land or interest that is allocated by the partition order to the owner of the first-mentioned share or interest.

Compare: 1953 No 94 s 185

#### **295 Court may apportion rights and obligations**

- (1) When a partition order is made, the court may, in that order or in any subsequent order made on the application of any person interested, or of its own motion, apportion or adjust, as between the several parcels into which the land has been partitioned, all rights, obligations, or liabilities arising from any lease, licence, mortgage, or charge to which the land is subject at the date of the partition.
- (2) Every such order of apportionment or adjustment shall have effect according to its tenor in the same manner in all respects as if all necessary transfers, releases, covenants, and other dispositions or agreements had been duly made in that behalf by all persons concerned, and may be registered under the Land Transfer Act 2017 accordingly.
- (3) Subject to subsection (4), the court may exercise its powers of apportionment or adjustment under this section in such manner as it thinks equitable.

- (4) In the exercise of its powers under this section with respect to any mortgage or lease, the court shall not make any apportionment or adjustment of rights, obligations, or liabilities without the consent of the mortgagee or lessee.

Compare: 1953 No 94 s 179

Section 295(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 295(2): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

## **296 Dwelling sites for Maori**

- (1) Without limiting the generality of the powers and discretions conferred on the court by the preceding provisions of this Part, but subject to section 148, the court may partition any Maori freehold land, on the application of any owner, for the purpose of providing that owner with a site for a dwelling.
- (2) The court shall make a vesting order for the purpose of giving effect to any such partition.
- (3) An order may be made under this section vesting any land or interest in land in a married couple or civil union partners or de facto partners, as joint tenants or as tenants in common in equal shares, if the parties or either of the parties to the marriage, civil union, or de facto relationship is a person to whom the land or interest in land may be alienated in accordance with the provisions of Part 7.
- (4) Where the court has made an order under this section, or under section 440 of the Maori Affairs Act 1953, and after the expiry of 5 years after the date of the order, it is shown to the satisfaction of the court that the land has not been used as a site for a dwelling, the court may, with the consent of any mortgagee or other encumbrancer, make an order cancelling the vesting order unless it is shown to the satisfaction of the court that the failure to use the land as a site for a dwelling was due to circumstances over which the person in whom the land was vested had no control, or that for any other reason that person should not be deprived of the title to that land.
- (5) On cancelling a vesting order under subsection (4), the court may order—
- (a) that the land be held again under the former instrument of title as if the vesting order had not been made; or
  - (b) that the land is vested in any other person whom the court considers to be justly entitled to it.
- (6) If an order under subsection (5)(a) is made, all orders of the court and all alienations affecting interests in the land made or effected since the date of the order cancelled are to be treated as relating to the former title and the interests under it.
- (7) On cancelling a vesting order under subsection (4), the court may, if it considers it necessary, make an order under section 128.

Compare: 1953 No 94 s 440; 1959 No 90 s 26; 1976 No 73 s 6(1)



Section 296(3): amended, on 19 August 2013, by section 9 of the Marriage (Definition of Marriage) Amendment Act 2013 (2013 No 20).

Section 296(3): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 296(5): substituted, on 1 July 2002, by section 44 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 296(6): substituted, on 1 July 2002, by section 44 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 296(7): added, on 1 July 2002, by section 44 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **297 Partition orders may be made in respect of land held in trust**

- (1) Any Maori freehold land may be partitioned by the court, whether it is owned at law by the beneficial owners of it, or is vested in trust for them or any of them in the Māori Trustee or in any other person; but, where the land is so held in trust, a partition shall affect only the equitable estate of the beneficiaries.
- (2) For the purposes of subsection (1), no land shall be deemed to be held in trust for the owners or any of them merely because any person named in the partition order holds an interest as trustee under the terms of a will.

Compare: 1953 No 94 s 177(1), (1A); 1962 No 45 s 13(1)

Section 297(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### **298 Partition of combined areas**

- (1) Subject to subsections (2) and (3), any area of land owned or partly owned by Maori (whether Maori land or General land), and any other area or areas of land, may, for the purposes of partition, be treated by the court as a single area of land owned in common by the owners of the several areas, and the court may make an order or orders of partition in respect of the areas.
- (2) No General land, other than General land owned by Maori, shall be dealt with under this section except with the consent in writing of the owner or owners and of every other person having a legal or equitable estate or interest in the land.
- (3) No Crown land shall be so dealt with without the consent of the Minister of the Crown having responsibility for the matter.
- (4) Where, by a partition order under this section, any General land is acquired by a Maori in severalty or in common with any other person or persons (whether or not Maori), it shall, unless otherwise specified in the order, become Maori freehold land.
- (5) For the purpose of giving effect to any order of partition under this section, the court may cancel or vary any existing partition order or other order, although that order has already been registered under the Land Transfer Act 2017.
- (6) The provisions of section 88 shall apply with respect to the cancellation or variation of any partition order or other order under this section, and to any

consequential amendments required to be made in the register by the Registrar-General of Land.

Compare: 1953 No 94 s 182; 1967 No 124 s 137; 1975 No 135 s 16

Section 298(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 298(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## **299 Registration of partition orders**

- (1) When a partition order affects land that is subject to the Land Transfer Act 2017, the following provisions apply in respect of the registration of the order under that Act:
  - (a) the Registrar of the court must forward the order to the Registrar-General of Land:
  - (b) if, when the order is received by the Registrar-General of Land, there is an unqualified record of title to the land so partitioned, the order must be registered against the title in accordance with that Act:
  - (c) if, when the order is received by the Registrar-General of Land, the title to the land partitioned is in a qualified record of title, the Registrar-General of Land may either register the order against that qualified record of title in accordance with that Act or as a separate qualified record of title; in which latter case—
    - (i) the partition order is, as provided in section 17 of the Land Transfer Act 2017, duly registered; and
    - (ii) the original qualified record of title relating to the land partitioned must then be cancelled so far as it relates to the parcel or any parcel included in the partition order; and
    - (iii) all entries and memorials affecting the record of title to any such parcel must be transferred to the qualified record of title:
  - (d) if, when the order is received by the Registrar-General of Land, the title to the land partitioned has not been registered, the partition order must be registered as a qualified record of title:
  - (e) the provisions of the Land Transfer Act 2017 as to qualified records of title, subject to this Act and as far as they are applicable, apply to registration as a qualified record of title under this section:
  - (f) the Registrar-General of Land may continue under this section to record in a record of title that the title is qualified, so long as the number of owners exceeds 10.
- (2) The provisions of subsection (1) shall, as far as they are applicable and with any necessary modifications, extend and apply to any partition order that affects the legal title to any land that is not subject to the Land Transfer Act 2017.

- (3) For the purposes of subsection (1), a partition order shall be deemed to affect the legal title to land notwithstanding that any other person named in the order is so named as a trustee under the terms of a will.

(4) *[Repealed]*

Compare: 1953 No 94 s 178; 1962 No 45 s 13(2)

Section 299(1): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 299(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 299(4): repealed, on 28 September 1993, by section 14(2) of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

**300 Plan approved by court prerequisite to partition of Maori land**

No partition of Maori land shall be effected (whether by the court under this Part or otherwise) except in accordance with a plan approved by the court.

**301 Compliance with provisions of Resource Management Act 1991 relating to subdivisions**

- (1) This section applies to every partition of land by the court except for a partition into parcels to be held by owners who are members of the same hapu.
- (2) Subject to the provisions of this section, the court shall not partition any land to which this section applies, otherwise than in accordance with the Resource Management Act 1991.
- (3) Without limiting subsection (2),—
- (a) a partition of land shall be deemed to be a subdivision of land within the meaning of section 218 of the Resource Management Act 1991; and
- (b) sections 120 and 121 of the Resource Management Act 1991 (relating to appeals to the Environment Court) shall apply to any decision of a territorial authority in relation to any application for a subdivision consent that is required by this section.

Compare: 1953 No 94 s 432(1)–(3); 1991 No 69 s 362

Section 301(3)(b): amended, on 1 July 2002, by section 45 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**302 Contributions for reserve purposes**

- (1) Notwithstanding anything in section 301 or in the Resource Management Act 1991, where the court partitions any land to which section 301 of this Act applies, any condition imposed by the court and requiring a contribution of land for reserve purposes or land in lieu of reserves shall only require any such land to be set aside from that part of the land that is to be alienated.
- (2) Notwithstanding anything in section 301 or in the Resource Management Act 1991, in relation to any partition of land to which section 301 of this Act applies,—

- (a) the court must not impose any condition requiring a contribution of land for reserve purposes or in lieu of reserves from land that is of special historical significance or spiritual or emotional association with the Maori people or any group or section of the Maori people, which includes all land that is a wahi tapu; and
  - (b) the Registrar-General of Land and Registrar of Deeds must not require, under Part 10 of the Resource Management Act 1991, the deposit of a survey plan for the partition.
- (3) *[Repealed]*
- Compare: 1953 No 94 s 432(4), (5); 1991 No 69 s 362
- Section 302(2)(a): substituted, on 1 July 2002, by section 46(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).
- Section 302(2)(b): substituted, on 1 July 2002, by section 46(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).
- Section 302(3): repealed, on 1 July 2002, by section 46(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### 303 Subdivision consent and conditions of subdivision consent

- (1) Subject to subsection (2), the court may make a partition order to which section 301 applies in respect of any land if a subdivision consent under the Resource Management Act 1991 has been obtained for the partition and the consent has not lapsed.
- (2) The court must—
  - (a) make such orders as it considers necessary, having regard to Part 10 of the Resource Management Act 1991, to ensure that, in respect of any conditions of the subdivision consent that have not been complied with, adequate provision is made for such compliance; and
  - (b) have regard to sections 229 to 237H of the Resource Management Act 1991 in respect of every partition of land to which section 301 applies.
- (3) Any land that would be required to be set apart, reserved, or vested in another person, because of subsection (2), must be set apart as a Maori reservation, for the common use and benefit of the people of New Zealand, despite anything in the Resource Management Act 1991.
- (4) Land to which subsection (3) applies must be treated—
  - (a) as if it were land set apart under section 338(1) and section 340(1); and
  - (b) as if the procedural requirements of those subsections had been satisfied.
- (5) The court may declare that any land set apart under subsection (3) be dedicated for the construction of roads, if the court considers that to be necessary to satisfy a condition or requirement of a subdivision consent.
- (6) No vesting order shall be made under this section in respect of any land which is subject to any lease, licence, mortgage, charge, or other encumbrance.

(7) Where any land proposed to be dedicated or set apart under this section is subject to any lease, licence, mortgage, charge, or other encumbrance, the court, with the consent of the person entitled to the benefit of the encumbrance and the vesting order, shall vest the land free from that encumbrance accordingly.

(8) *[Repealed]*

(9) On the completion of any vesting order made by the court for the purposes of this section, the Registrar must forward the order to the Registrar-General of Land who must register the order.

Compare: 1953 No 94 s 422(6)–(14); 1991 No 69 s 362

Section 303(2): substituted, on 1 July 2002, by section 47(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 303(3): substituted, on 1 July 2002, by section 47(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 303(4): substituted, on 1 July 2002, by section 47(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 303(5): substituted, on 1 July 2002, by section 47(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 303(8): repealed, on 1 July 2002, by section 47(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 303(9): substituted, on 1 July 2002, by section 47(3) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **304 Power to impose restrictions in respect of other partitions**

(1) This section applies to every partition by the court of Maori freehold land where the partition is into parcels to be held by owners who are members of the same hapu.

(2) The court shall, in respect of every partition to which this section applies, impose a restriction that the land shall not be sold under this Act otherwise than in accordance with this section.

(3) If an application is made to the court to confirm a sale of Maori land to which this section applies, to persons who are not members of the same hapu, the court—

(a) may, if it considers it appropriate, publicly notify the application and invite submissions from the territorial authority and any other person who is likely to be affected by the application; and

(b) may confirm or refuse to confirm the sale under section 152, having regard to sections 229 to 237H of the Resource Management Act 1991 and the fact that the land has previously been partitioned without a subdivision consent being obtained under that Act.

(4) If an application involves the sale of land to persons who are not members of the same hapu, and the court decides under subsection (3) that land is required to be set apart, reserved, or vested in another person, the court must set that

land apart as a Maori reservation, for the common use and benefit of the people of New Zealand, despite anything in the Resource Management Act 1991.

- (5) Land to which subsection (4) applies must be treated—
  - (a) as if it were land set apart under section 338(1) and section 340(1); and
  - (b) as if the procedural requirements of those subsections had been satisfied.
- (6) If the court confirms the sale of land to persons who are not members of the same hapu,—
  - (a) the court must not impose any condition requiring a contribution of land for reserve purposes or in lieu of reserves from land that is of special historical significance or spiritual or emotional association with the Maori people or any group or section of the Maori people, which includes all land that is a wahi tapu; and
  - (b) any condition imposed by the court requiring a contribution of land for reserve purposes or in lieu of reserves may only require any such land to be set aside from that part of the land that is to be sold.

(7) *[Repealed]*

Compare: 1953 No 94 s 432A; 1991 No 69 s 362

Section 304(2): amended, on 1 July 2002, by section 48(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 304(3): substituted, on 1 July 2002, by section 48(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 304(4): substituted, on 1 July 2002, by section 48(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 304(5): substituted, on 1 July 2002, by section 48(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 304(6): substituted, on 1 July 2002, by section 48(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 304(7): repealed, on 1 July 2002, by section 48(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**305 Reserves contributions, roads, etc**

*[Repealed]*

Section 305: repealed, on 1 July 2002, by section 58(j) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**306 Cancellation of partition orders**

- (1) Subject to the provisions of this section, the court may at any time cancel, wholly or in part, any partition order made under this Act or under the corresponding provisions of any former Act, whether or not that order has been registered under the Land Transfer Act 2017.
- (2) If the whole of the land comprised in the order has been acquired by the present owner or that owner's predecessor in title by any alienation, the court

shall not cancel an order under this section without the consent of the present owner.

- (3) Where the whole of the land comprised in any partition order is subject to any lease, licence, mortgage, charge, or other encumbrance, the order shall not be cancelled under this section without the consent of the lessee, licensee, mortgagee, or other person entitled to the benefit of the encumbrance, unless the court is satisfied that the rights and interests of that person would not be detrimentally affected by the cancellation of the order.
- (4) Upon the cancellation under this section of any partition order, the land comprised therein shall, to the extent of the cancellation, be held again under the former instrument of title as if no partition had taken place; and all orders of the court and all alienations affecting interests in the land made or affected since the date of the order cancelled shall be deemed to relate to the former title and the interests under it.
- (5) Upon the cancellation under this section of a partition order, the court shall, unless it considers such a course unnecessary, issue a declaratory order under section 128 declaring the current ownership of the land; and in such a case all the provisions of that section shall apply to the making of any such order, except that no notice of the order under subsection (3) of that section shall be necessary.

Compare: 1953 No 94 s 184; 1967 No 124 s 138

Section 306(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### *Amalgamation and aggregation*

#### **307 Amalgamation orders**

- (1) Where the court is satisfied that any land to which this Part applies, and that comprises 2 or more areas held under separate titles, can be more conveniently worked or dealt with as if it were held in common ownership under 1 title, the court may cancel the several titles under which the land is held and make an amalgamation order substituting for those titles 1 title for the whole of the land.
- (2) An amalgamation order shall not be made in respect of any land that is for the time being subject to Part 2 of the Maori Affairs Restructuring Act 1989 without the consent of the chief executive.
- (3) Where the whole of the land comprised in any separate title is subject to any lease, licence, mortgage, charge, or other encumbrance, the court shall not make an amalgamation order without the consent of the lessee, licensee, mortgagee, or other person entitled to the benefit of the encumbrance, unless it is satisfied that the rights and interests of that person would not be detrimentally affected by the making of the order.
- (4) Where an order is made in respect of land subject to any lease, licence, mortgage, or other encumbrance, the court may make such order as it thinks proper

for the apportionment or adjustment of the rights and obligations of any person under any such lease, licence, mortgage, or other encumbrance; and every order of apportionment or adjustment shall have effect according to its tenor in the same manner in all respects as if all necessary transfers, releases, covenants, and other dispositions or agreements had been duly made in that behalf by all persons concerned, and may be registered under the Land Transfer Act 2017 accordingly.

- (5) Notwithstanding anything to the contrary in section 41, an amalgamation order may be made to take effect on a date specified by the court, which may be a date earlier or later than the date of the minute of the order entered in the records of the court.
- (6) Subject to subsection (7), every amalgamation order shall, upon registration under the Land Transfer Act 2017, constitute the title to the land included in it, without any transfer or other instrument of assurance.
- (7) Where the land is vested in trust for the owners in the Māori Trustee or any other person, the order shall affect only the equitable estate of the beneficial owners.
- (8) An amalgamation order shall state upon its face the status of the land comprised in it as from the making of the order, in accordance with the following provisions:
  - (a) if any part of the land was formerly Maori freehold land, the whole of the land comprised in the order shall be Maori freehold land;
  - (b) if no part of the land was Maori freehold land, but part was General land, the whole of the land comprised in the order shall be General land;
  - (c) in any other case, the whole of the land comprised in the order shall be Crown land.
- (9) The provisions of section 299 relating to the registration of partition orders, so far as they are applicable and with any necessary modifications, shall apply to the registration of amalgamation orders made under this section.

Compare: 1953 No 94 s 435(1), (3), (6)–(10); 1967 No 124 s 141(1); 1974 No 73 s 52(3); 1975 No 135 s 16(1)

Section 307(1): amended, on 1 July 1994, by section 22 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 307(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 307(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 307(7): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### **308 Aggregation orders**

- (1) Where the court is satisfied that any 2 or more areas of land to which this Part applies could be more conveniently worked or dealt with if they were held in



common ownership, but that there is no reason to cancel the existing titles, it may make an aggregation order vesting the areas of land in the aggregate of the owners of those areas.

- (2) Upon registration under the Land Transfer Act 2017, an aggregation order made under this section shall take effect according to its tenor to vest the land described in the order in the persons and in the shares named in the order.
- (3) Any Crown land that, pursuant to this section, is vested in any Maori shall thereupon become Maori freehold land and the aggregation order shall so state.
- (4) Subject to subsection (5), the court may at any time cancel any aggregation order made under this section or under the corresponding provisions of any former enactment, whether or not that order has been registered under the Land Transfer Act 2017; and, in every such case,—
  - (a) each area of the land comprised in the order shall be deemed to be held by those persons who held it at the time of the making of the order or by their successors in title, and in the same relative shares; and
  - (b) section 306(5) shall apply, with any necessary modifications, as if the aggregation order were a partition order.
- (5) Despite subsection (4), but subject to subsections (6) and (7), the provisions of section 293 relating to the court's power to award, in a partition order, compensation for improvements effected on the land to which the order relates apply, with any necessary modifications, to the cancellation of any aggregation order under this section.
- (6) Where land that will be affected by the cancellation of an aggregation order is—
  - (a) land in respect of which a trust is constituted under Part 12; or
  - (b) land vested in a Maori incorporation,—the court may not exercise the power conferred on the court by subsection (5) unless it has first consulted the trustees or the management committee of the incorporation, as the case may require.
- (7) The court may not, under section 293(1) (as applied by subsection (5)), award additional land to any owner unless it is satisfied that the owner of the additional land has been given a reasonable opportunity of recompensing the owner who effected the improvements that would be the basis for the award of additional land.

Compare: 1953 No 94 s 434A; 1974 No 73 s 58

Section 308(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 308(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 308(4): amended, on 11 April 2001, by section 15(1) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 308(5): added, on 11 April 2001, by section 15(2) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 308(6): added, on 11 April 2001, by section 15(2) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 308(7): added, on 11 April 2001, by section 15(2) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

### **309 Orders to specify relative interests of owners**

- (1) Every amalgamation order and every aggregation order shall set forth the relative interests of the several owners of the land, which, subject to subsection (3), shall be calculated by reference to the relative values of the interests to which they were entitled before the making of the order.
- (2) For the purposes of calculating those relative values, the court may, if it thinks it equitable to do so, adopt values, whether capital or land values, other than those appearing in the district valuation roll for the time being in force under the Rating Valuations Act 1998.
- (3) Instead of calculating the relative interests of the owners by reference to the relative values of the interests to which they were entitled before the making of the order, the court may calculate the relative interests in accordance with any understanding or arrangement between the several groups of owners as to a basis of amalgamation otherwise than as specified in subsection (2), if it is satisfied that the basis is, in all the circumstances, equitable.

Compare: 1953 No 94 s 435(4), (5); 1967 No 124 s 141(1); 1982 No 124 s 4(5)

Section 309(2): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

### *Exchange orders*

### **310 Court may make exchange orders**

- (1) For the purpose of giving effect to the exchange of any land to which this Part applies, or of any interest in any such land, for any other land (whether land to which this Part applies or not), or for any other interest in land, the court may make exchange orders in accordance with sections 311 to 314.
- (2) Nothing in this section or in sections 311 to 314 shall prevent the alienation of any Maori freehold land by way of exchange in any manner in which such an alienation could be effected otherwise than under this section and those sections.
- (3) None of the provisions contained in any other Part with respect to the alienation of Maori freehold land, except section 148, shall apply to an exchange under this Part.

Compare: 1953 No 94 ss 187, 188; 1975 No 135 s 16(1)

**311 Land and interests that may be exchanged**

- (1) Any Maori freehold land, or any interest in any such land, may be exchanged by means of an exchange order for any other Maori freehold land or General land, or for any other interest in any such land.
- (2) Any General land owned by Maori, or any interest in any such land, may be exchanged under this Part for any other General land, or for any other interest in General land, whether or not owned by Maori.
- (3) Any Maori freehold land, or any interest in any such land, may be exchanged under this Part for any Crown land that is subject to Part 2 of the Maori Affairs Restructuring Act 1989, or for any interest in any such land.

Compare: 1953 No 94 s 189; 1975 No 135 s 16(1)

**312 Conditions precedent to making of exchange orders**

- (1) The court shall not make an exchange order unless it is satisfied in respect of the following matters:
  - (a) that the exchange is not detrimental to the interests of the Maori owners affected by the exchange:
  - (b) that, if the interests to be exchanged are unequal in value, a sufficient sum of money by way of equality of exchange has been actually paid or sufficient security for its payment has been given:
  - (c) that the Maori owners of the land affected by the exchange have had sufficient notice of the application for an exchange order and sufficient opportunity to discuss and consider it, and that there is a sufficient degree of support for the application among the owners, having regard to the nature and importance of the matter.
- (2) Notwithstanding anything in subsection (1)(b), in any case to which that provision applies the court may waive the requirement to pay a sum of money by way of equality of exchange if it is satisfied that the exchange is in the nature of a family arrangement and that, apart from the inequality of the exchange, no party to it is adversely affected.

Compare: 1953 No 94 s 190

**313 Effect of exchange order**

- (1) An exchange order shall operate according to its tenor to transfer and vest the respective estates and interests expressed to be exchanged in the same manner as if all necessary instruments of assurance had been lawfully executed by and between all persons interested, and as if all those persons had been fully competent to execute the instruments.
- (2) When any General land becomes vested in any Maori or in a trustee for any Maori for an estate in fee simple, whether legal or equitable, in exchange for

Maori freehold land in accordance with this Part, the General land so exchanged shall thereupon become Maori freehold land.

Compare: 1953 No 94 s 191; 1975 No 135 s 16(1)

Section 313(1): amended, on 16 September 2011, by section 12 of Te Ture Whenua Maori Amendment Act 2011 (2011 No 76).

### **314 Money payable by way of equality of exchange to be charge on land**

- (1) When any money is payable by any person by way of equality of exchange in accordance with an exchange order, the court may, in the exchange order or by a separate charging order, constitute that money a charge upon any interest owned by that person in any land, and the money so charged shall be payable in accordance with the terms of the order.
- (2) The court may allow interest at a rate not exceeding 5% per annum on any money so payable by way of equality of exchange and for the time being unpaid.
- (3) Where a charging order is made in respect of money payable by way of equality of exchange, that order shall extend to include any money payable by way of interest.

Compare: 1953 No 94 s 192

### *Easements and roadways*

### **315 Court may create easements**

- (1) The court may—
  - (a) create easements over any land to which this Part applies for the purpose of being annexed to or used or enjoyed with any other land; or
  - (b) create easements over any General land for the purpose of being annexed to or used or enjoyed with any land to which this Part applies; or
  - (c) create easements in gross over any land to which this Part applies.
- (2) The grant of an easement under this section may be made subject to a condition for the payment of compensation in respect of the grant, or to any other conditions that the court may impose.
- (3) Where an easement is granted under this section for the purpose of providing access to any other land, the grant of the easement shall be made in accordance with the succeeding provisions of this Part.

Compare: 1953 No 94 s 30(1)(j)(i), (4), (5); 1960 No 120 s 5; 1975 No 135 s 16(1)

### **315A Court may cancel or vary easements**

- (1) The court may, on application, vary or cancel an easement created under section 315 except an easement granted for the purpose stated in section 315(3).

- (2) The court may vary or cancel an easement under this section even though the land subject to the easement has ceased to be land to which this Part applies.

Section 315A: inserted, on 1 July 2002, by section 49 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **316 Court may lay out roadways**

- (1) For the purpose of providing access, or additional or improved access, the court may, by order, lay out roadways in accordance with the succeeding provisions of this section and of this Part.
- (2) For the purpose of providing access, or additional or improved access, to any land to which this Part applies, the court may lay out roadways over any other land.
- (3) For the purpose of providing access, or additional or improved access, to any land other than land to which this Part applies, the court may lay out roadways over any land to which this Part applies.
- (4) Any order laying out roadways may be a separate order, or may be incorporated in a partition order or other appropriate order of the court.

Compare: 1953 No 94 ss 415(1), (2), 418–420; 1975 No 135 s 16(1)

### **317 Required consents**

- (1) The court shall not lay out roadways over any Maori freehold land unless it is satisfied that the owners have had sufficient notice of the application to the court for an order laying out roadways and sufficient opportunity to discuss and consider it, and that there is a sufficient degree of support for the application among the owners, having regard to the nature and importance of the matter.
- (2) The court shall not lay out roadways over any customary land without the consent of an agent appointed by the court pursuant to Part 10 to represent the interests of those persons who may be entitled to apply for a freehold order in respect of the application for an order laying out roadways.
- (3) The court shall not lay out roadways over any General land without the consent of each owner.
- (4) The court shall not lay out roadways over any Crown land without the consent of the Commissioner of Crown Lands.
- (5) The court shall not lay out roadways connecting with any State highway without the consent of the New Zealand Transport Agency and the territorial authority for the district in which the connection would be effected.
- (6) The court shall not lay out roadways connecting with any public road without the consent of the territorial authority for the district in which the connection would be effected.
- (7) Notwithstanding anything in subsections (5) and (6), where a roadway is laid off as part of a partition to which section 301 applies, a separate consent to the

laying out of the roadway shall not be required from the territorial authority for the district in which the land to be partitioned is situated.

Compare: 1953 No 94 ss 415(3), 418(2), 419, 420; 1967 No 124 s 22; 1972 No 135 s 4(1); 1975 No 135 s 16(1); 1978 No 43 s 3(4)

Section 317(4): amended, on 1 July 2002, by section 50 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 317(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 317(7): substituted, on 28 September 1993, by section 15 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

### **318 Effect of laying out roadway**

- (1) Subject to the provisions of subsection (2), the laying out of a roadway over any land shall confer on all persons the same rights of user as if it were a public road.
- (2) In any order laying out a roadway or in any subsequent order, the court may define or limit the persons or classes of persons entitled to use the roadway, and may define or restrict their rights of user in such manner and to such extent as it thinks fit.
- (3) In any order laying out a roadway or in any variation of that order, the court may impose conditions as to the formation or fencing of the roadway or as to any other matter that it thinks fit, and may suspend or limit the right to use the roadway until those conditions have been complied with.
- (4) The laying out of a roadway over any land shall not affect the ownership of the land comprised in the roadway, or its description as Maori land, or Crown land, or General land (as the case may be).
- (5) Notwithstanding anything in this Part, no private road or private way shall be laid out within the district of a territorial authority otherwise than in accordance with sections 347 and 348 of the Local Government Act 1974.

Compare: 1953 No 94 s 416; 1975 No 135 s 16(1); 1978 No 43 s 3(4)

### **319 Compensation in respect of roadway**

- (1) On laying out a roadway under this Part, the court may determine that compensation shall be payable in accordance with the terms of the order laying out the roadway, and subject to such conditions (if any) as may be specified in the order.
- (2) An order for the payment of compensation shall specify the amount of compensation to be paid, the person or persons by whom the same shall be payable, and the person or persons to whom or for whose benefit the same shall be paid.
- (3) Any such person may waive that person's entitlement to compensation under the court's order.
- (4) On the variation or cancellation, pursuant to section 322 or any other authority, of any order in its relation to a roadway, the court may make such incidental

provisions in relation to compensation or any other matters as it considers equitable between the owners of the land comprised in the roadway and any other persons.

- (5) Any compensation payable pursuant to an order of the court under this section may, in whole or in part, be charged by the court on any land for the benefit of which the roadway has been laid out.

Compare: 1953 No 94 s 417

### **320 Roadways may be declared roads or streets**

- (1) The Governor-General may, by Proclamation made in accordance with this section, declare that the land comprised in any roadway laid out by the court under this Part or under any corresponding former enactment shall be a road or street.
- (2) No roadway shall be declared a road or street pursuant to this section except in accordance with a recommendation made by the court to the Minister of Transport.
- (3) In making a recommendation for the purposes of this section, the court shall describe the roadway with sufficient particularity to enable its boundaries to be accurately determined.
- (4) No roadway shall be declared a road or street pursuant to this section without the consent in writing of—
- (a) the New Zealand Transport Agency and the territorial authority for the district in which the land is situated, in the case of a State highway or a proposed State highway; or
  - (b) the territorial authority for the district in which the road or proposed road is situated.
- (5) On the date of the publication in the *Gazette* of a Proclamation issued under subsection (1), or on such later date as may be specified in that Proclamation as the date when it shall have effect, all land to which the Proclamation relates shall vest as a road in the territorial authority within whose district the land is situated, but otherwise free from all reservations, restrictions, trusts, rights, titles, estates, or interests of any kind.
- (6) The provisions of section 57 of the Public Works Act 1981 shall, as far as they are applicable and with any necessary modifications, apply to any Proclamation issued under this section.

Compare: 1953 No 94 s 421; 1953 No 118 ss 2(1), 43(3); 1954 No 76 s 413(6); 1972 No 132 s 8(1); 1972 No 135 s 10(2); 1978 No 43 s 3(4)

Section 320(4)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

**321 Land that has been used but not set apart as a road may be declared a road or street**

- (1) Where the court is satisfied that any Maori freehold land has in fact been used as a roadway though it may not have been declared to be a roadway, it may make a recommendation to the Minister of Transport that the land so used be declared to be a road.
- (2) Any such recommendation may be made subject to the condition that compensation by the Crown, or by a territorial authority, or by any person interested, be paid to or on behalf of any person or persons having an estate or interest in the land.
- (3) On compliance with the conditions (if any) imposed by the court, the land to which the recommendation relates may be declared to be a road in accordance with the provisions of section 320 as if it were a roadway laid out by the court.

Compare: 1953 No 94 s 422; 1973 No 44 s 2(4)(a); 1978 No 43 s 3(4)

**322 Court may cancel roadways**

- (1) Where any roadway that has been laid off by an order of the court, whether before or after the commencement of this Act, has not been declared to be a road, the court may, on application, vary or cancel that order in so far as it relates to the roadway.
- (2) Where application for the variation or cancellation of an order under this section is made by any person other than the Chief Surveyor of the district in which is situated the land over which the roadway has been laid off, notice of the variation or cancellation of the order shall be given to the Chief Surveyor by the Registrar.
- (3) The court may vary or cancel any order under this section notwithstanding that, after the order was made, the land over which the roadway was laid out ceased to be land to which this Part applies.

Compare: 1953 No 94 s 423; 1978 No 43 s 3(4)

**323 Powers of court on cancellation of roadway**

- (1) Where, pursuant to section 322, the court cancels an order for the laying out of any roadway for which a separate instrument of title exists, the court may cancel that instrument of title and may amend any other instrument of title so as to include in it the whole or any part of the land comprised in the roadway; and the land so included in any instrument of title shall thereupon vest in the owner or owners as if it had been originally included in it, and shall become subject to any reservations, trusts, rights, titles, interests, or encumbrances to which the land comprised in that instrument of title is then subject.
- (2) Where the land comprised in any roadway is not included in a separate instrument of title, the owners shall thereafter hold the land freed from its reservation as a roadway.



- (3) The foregoing provisions of this section as to the cancellation of orders shall, as far as they are applicable and with any necessary modifications, apply to the variation pursuant to section 322 of an order of the court as to roadways.
- (4) Any order made by the court under this section shall, upon production, be registered by the Registrar-General of Land or the Registrar of Deeds, as the case may be; and the Registrar-General of Land is hereby authorised to make such amendments in any instrument of title as may be necessary to give effect to any order under this section.

Compare: 1953 No 94 s 424

Section 323(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **324 Unused road or street over Maori land may be stopped by court**

- (1) This section applies to roads that have previously been or that may hereafter be constituted over any Maori freehold land, irrespective of the terms or descriptions used or the procedure adopted when they were constituted as roads.
- (2) With the consent in writing of the Minister of Transport and of the authority having the control of the road under section 317 of the Local Government Act 1974, the court may make an order closing the road or any defined portion of it, and every such order shall have effect according to its tenor.
- (3) By the same or a subsequent order, the court, subject to such terms and conditions as it thinks proper with respect to payment or as to any other matter, may vest the land comprised in the road or portion of the road so closed in such person or persons as it may determine, or may amend any existing title to any Maori land so as to include in it the whole or any part of the road or portion of the road that has been closed.
- (4) The land so included in any instrument of title shall thereupon vest in the owner or owners as if it had been originally included in it, and shall become subject to any reservations, trusts, rights, titles, interests, or encumbrances to which the land comprised in that instrument of title is then subject.
- (5) Any order made under this section shall, upon production, be registered by the Registrar-General of Land or the Registrar of Deeds, as the case may be, and where necessary the Registrar-General of Land shall amend any record of title so as to conform to the amendments made by the court under this section in any existing instrument of title.

Compare: 1953 No 94 s 425; 1978 No 43 s 3(4)

Section 324(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **325 Court may make vesting orders for lands comprised in roads or streets stopped otherwise than under foregoing provisions**

- (1) Where any road or portion of a road has previously been or is hereafter closed pursuant to any authority other than this Act or an Act repealed by this Act, the

court may, on the application of the Minister of Transport, or of the territorial authority having control of the road at the time of closure, make a vesting order vesting the whole or any portion of the land comprised in the road or portion of the road that has been closed in the owner for the time being of any adjoining land that, when the road was constituted, was Maori freehold land or General land owned by Maori.

- (2) Any land vested pursuant to this section shall become subject to any reservations, trusts, rights, titles, interests, or encumbrances to which the land with which it is incorporated is then subject.
- (3) The provisions of subsection (1) shall extend to apply in any case where the road was laid out over Crown land, and the land adjoining the road or portion of the road that has been closed is Maori freehold land or General land owned by Maori.
- (4) By the same or a subsequent order, the court may amend any existing title to include in it the land comprised in the road or portion of the road that has been closed, and the Registrar-General of Land is hereby authorised to make all necessary entries or amendments in any record of title.
- (5) Unless the court otherwise orders, any land that is vested in any Maori pursuant to this section shall thereupon become Maori freehold land.

Compare: 1953 No 94 s 426; 1964 No 46 s 11(1); 1975 No 135 s 16; 1978 No 43 s 3(4)

Section 325(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **326 Alienation of land to include alienation of interest in roadway giving access to that land**

- (1) Where any roadway that is comprised in a separate instrument of title has, whether before or after the commencement of this Act, been laid out by the court over any Maori freehold land, the transfer by sale or otherwise of any land to which the roadway gives access shall, unless the instrument of alienation expressly provides to the contrary, be and be deemed to have been a transfer by the alienor to the alienee of the alienor's interest (if any) in the roadway.
- (2) If any such instrument of title is registered under the Land Transfer Act 2017, the alienee may apply for registration under that Act of any interest to which the alienee has become entitled under this section, and the Registrar-General of Land may register the same accordingly.
- (3) In any case to which subsection (1) does not apply, the alienee of any land to which any roadway gives access (whether or not a separate title exists in respect of the roadway) shall have the same rights of access and be subject to the same obligations as were enjoyed by or imposed on the alienor in respect of the roadway before the transfer.

Compare: 1953 No 94 s 427

Section 326(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

*Landlocked Maori land*

Heading: inserted, on 1 July 2002, by section 51 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

**326A Meaning of certain terms**

In this section and sections 326B, 326C, and 326D, unless the context otherwise requires,—

**conservation area** has the same meaning as in section 2(1) of the Conservation Act 1987; and includes national parks, as defined in section 2 of the National Parks Act 1980; reserves, as defined in section 2(1) of the Reserves Act 1977; and wildlife management reserves, wildlife refuges, and wildlife sanctuaries, all as defined in section 2(1) of the Wildlife Act 1953

**landlocked land** means a piece of land that has no reasonable access to it and is either—

- (a) Maori freehold land; or
- (b) General land owned by Maori that ceased to be Maori land under Part 1 of the Maori Affairs Amendment Act 1967

**national park** has the same meaning as in section 2 of the National Parks Act 1980

**occupier** means the owners or occupier of the landlocked land

**owners**, in relation to any landlocked land, means the legal or beneficial owners of the land

**public reserve** has the same meaning as in section 2(1) of the Reserves Act 1977

**rail operator** has the same meaning as in section 4(1) of the Railways Act 2005

**railway line** has the same meaning as in section 4(1) of the Railways Act 2005

**reasonable access** means physical access of the nature and quality that may be reasonably necessary to enable the occupier for the time being of the landlocked land to use and enjoy that land.

Section 326A: inserted, on 1 July 2002, by section 51 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 326A **rail operator**: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 326A **rail service operator**: repealed, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 326A **railway line**: substituted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

**326B Reasonable access may be granted in cases of landlocked Maori land**

- (1) The owners of landlocked land may apply at any time to the court for an order in accordance with this section.

- (2) On an application made under this section,—
- (a) the owner of land adjoining the landlocked land that will or may be affected by the application must be joined as a party to the application; and
  - (b) every person having an estate or interest in the landlocked land, or in any other piece of land (whether or not that piece of land adjoins the landlocked land), that will or may be affected if the application is granted, or claiming to be a party to or to be entitled to any benefit under any mortgage, lease, easement, contract, or other instrument affecting or relating to any such land, and the local authority concerned, are entitled to be heard in relation to any application for, or proposal to make, any order under this section.
- (2A) The applicant must, as soon as practicable after filing an application in the court, send a copy of the application to the local authority concerned.
- (3) For the purposes of subsection (2), the court may, if in its opinion notice of the application or proposal should be given to any person mentioned in that subsection, direct that such notice as it thinks fit must be given to that person by the applicant or by any other person.
- (4) In considering an application under this section, the court must have regard to—
- (a) the nature and quality of the access (if any) to the landlocked land that existed when the applicant purchased or otherwise acquired the land; and
  - (b) the circumstances in which the landlocked land became landlocked; and
  - (c) the conduct of the applicant and the other parties, including any attempts that they may have made to negotiate reasonable access to the landlocked land; and
  - (d) the hardship that would be caused to the applicant by the refusal to make an order in relation to the hardship that would be caused to any other person by the making of the order; and
  - (e) the requirements of Part 3B of the Conservation Act 1987, if the application affects a conservation area; and
  - (f) issues of public safety raised by a rail operator, if the application affects a railway line; and
  - (g) such other matters as the court considers relevant.
- (5) If, after taking into consideration the matters specified in subsection (4), and all other matters that the court considers relevant, the court is of the opinion that the applicant should be granted reasonable access to the landlocked land, it may make an order for that purpose—
- (a) vesting in the owners of the legal estate in the landlocked land the legal estate in fee simple in any other piece of land (whether or not that piece

of land adjoins the landlocked land) except land that is a national park, public reserve or railway line; or

- (b) attaching and making appurtenant to the landlocked land an easement over any other piece of land (whether or not that piece of land adjoins the landlocked land), despite section 75 of the Railways Act 2005.

Section 326B: inserted, on 1 July 2002, by section 51 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 326B(4)(f): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 326B(5)(b): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

### **326C Conditions and other matters**

- (1) Any order under section 326B(5) may be made upon such terms and subject to such conditions as the court thinks fit in respect of—
  - (a) the payment of compensation by the applicant to any other person; and
  - (b) the exchange of any land by the applicant and any other person; and
  - (c) the fencing of any land and the upkeep and maintenance of any fence; and
  - (d) the upkeep and maintenance of any land over which an easement is to be granted; and
  - (e) the powers of the court under Part 16 as to Maori land; and
  - (f) the carrying out of any survey that may be required by the Registrar-General of Land before the Registrar-General of Land will issue, in respect of any piece of land affected by the order, a record of title that is not qualified under section 17 of the Land Transfer Act 2017; and
  - (g) the time in which any work necessary to give effect to the order is to be carried out; and
  - (h) the execution, stamping, and delivery of any instrument; and
  - (i) such other matters as the court considers relevant.
- (2) Every order made under section 326B(5) must provide that the reasonable cost of carrying out any work necessary to give effect to the order is to be borne by the applicant for the order, unless the court is satisfied, that it is just and equitable to require any other person to pay the whole or any specified share of the cost of such work.
- (3) If the court makes an order under section 326B(5), the court may, in the order,—
  - (a) declare any estate or interest in any piece of land affected by the order to be free of any mortgage, lease, easement, or other encumbrance affecting that piece of land, or vary, to such extent as it considers necessary in the

- circumstances, any mortgage, lease, easement, contract, or other instrument affecting or relating to that piece of land; and
- (b) declare that the legal estate in fee simple in any piece of land to be vested in the owners of the landlocked land is to vest subject to the same terms, conditions, liabilities, and encumbrances as those on and subject to which the owners hold the estate in the landlocked land, and is subject in all respects to any instrument of mortgage, charge, lease, sublease, or other encumbrance affecting that estate in the landlocked land as if the piece of land to be vested had been expressly included in the instrument.
- (4) If the court makes an order (in this subsection referred to as the **principal order**) under section 326B(5), it may, at the same time or at any other time on an application made to it in that behalf, make—
- (a) an order authorising any person named in the order, or the agents, employees, and contractors of the named person, with or without animals, vehicles, aircraft, hovercraft, and any mode of conveyance and any equipment, to enter upon any piece of land specified in the order for the purpose of carrying out any work necessary to give effect to the principal order; and
- (b) such other consequential order as the court may think necessary or desirable to give full effect to the principal order; and
- (c) an order requiring the applicant to maintain the land, or meet other obligations affecting the land, failing which the principal order may be revoked.

Section 326C: inserted, on 1 July 2002, by section 51 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 326C(1)(f): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **326D Additional provisions relating to orders under sections 326B or 326C**

- (1) Any order made under section 326B(5) must be registered as an instrument under the Land Transfer Act 2017, the Deeds Registration Act 1908, or the Crown Minerals Act 1991, as the case may require.
- (2) This section and sections 326A to 326C bind the Crown.
- (3) The High Court, and not the Maori Appellate Court, has jurisdiction to hear and determine appeals from any order made under sections 326B or 326C that affects General land.
- (4) Every appeal to the High Court under subsection (3) is by way of rehearing.
- (5) Nothing in Part 10 of the Resource Management Act 1991 applies to any transfer, exchange, or other disposition of any land required by an order of the court made under sections 326B or 326C.
- (6) The court's powers under this section and sections 326A to 326C are additional to, and not limited by or subject to, sections 315 to 317.

- (7) The court may appoint expert assessors or valuers, as additional members of the court, to assist it to determine issues of valuation or compensation under sections 326A to 326D.

Section 326D: inserted, on 1 July 2002, by section 51 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 326D(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 326D(1): amended, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**327 Part 21 of Local Government Act 1974 modified in its application to Maori land**

*[Repealed]*

Section 327: repealed, on 28 September 1993, by section 16 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

**Part 15**  
**Occupation orders**

**328 Occupation orders**

- (1) The Maori Land Court may, in its discretion, make, in relation to any Maori freehold land or any General land owned by Maori, an order vesting in—
- (a) the owner of any beneficial interest in that land; or
  - (b) any person who is entitled to succeed to the beneficial interests of any deceased person, in that land,—
- exclusive use and occupation of the whole or any part of that land as a site for a house (including a house that has already been built and is located on that land when the order is made).
- (2) Where the land that will be affected by the order is—
- (a) land in respect of which a trust is constituted under Part 12; or
  - (b) land vested in a Maori incorporation,—
- the court shall not make the order without the consent of the trustees or of the management committee of the incorporation, as the case may require.
- (3) Notwithstanding any rule of law, an order under subsection (1) shall not be deemed to be a partition, development, or subdivision of the land to which the order relates.
- (4) In making an order under subsection (1), the Maori Land Court may specify—
- (a) that the occupation order is for a specified period; or
  - (b) that the occupation order ends on the occurrence of a defined event.

Section 328(1): amended, on 1 July 2002, by section 52(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 328(4): added, on 1 July 2002, by section 52(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **329 Matters to be considered**

- (1) In deciding whether or not to exercise its jurisdiction to make any occupation order, the Maori Land Court shall have regard to—
  - (a) the opinions of the owners as a whole; and
  - (b) the effect of the proposal on the interests of the owners of the land; and
  - (c) the best overall use and development of the land.
- (2) Notwithstanding subsection (1), the Maori Land Court shall not make any order, unless it is satisfied—
  - (a) that the owners of the land to which the application relates have had sufficient notice of the application and sufficient opportunity to discuss and consider it; and
  - (aa) that the owners of the land to which the application relates understand that an occupation order—
    - (i) may pass by succession; and
    - (ii) may be for a specified term or until the occurrence of a defined event:
  - (b) that there is a sufficient degree of support for the application among the owners, having regard to the nature and importance of the matter:
  - (c) that, in the circumstances, the extent of the beneficial interest in the land held by the person in whose favour the occupation order is to be made, or to which that person is entitled to succeed, justifies the occupation order.

Section 329(2)(aa): inserted, on 1 July 2002, by section 53(1) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 329(2)(c): added, on 1 July 2002, by section 53(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **330 Power to amend or cancel occupation order**

The Maori Land Court may at any time, on the application of any person or of its own motion, make an order amending or cancelling any occupation order.

### **330A Review of occupation orders**

- (1) The Maori Land Court may review an occupation order made before this section comes into force, on application by an owner of a beneficial interest in the land over which the occupation order has been made, or by the person in whom the occupation order is vested.



- (2) The Maori Land Court may conduct a review under subsection (1) as if it were exercising its jurisdiction to make the initial occupation order, and must have particular regard to the fact that, after it was made, the occupation order could pass by succession.

Section 330A: inserted, on 1 July 2002, by section 54 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **331 Regulations**

The Governor-General may from time to time, by Order in Council, make such regulations as may be necessary or expedient to give effect to this Part.

## **Part 16**

### **Surveys of Maori land**

### **332 Power to require surveys**

- (1) Where—
- (a) the court is of the opinion that a survey of any Maori land is necessary or expedient for the completion of any order of the court or for the exercise of any powers or jurisdiction of the court in relation to that land; or
  - (b) the court, on the application of any owner of any Maori land, makes an order requiring a survey of any Maori land to be made for any purpose,—
- the court or the Registrar may transmit to the Chief Surveyor of the district in which the land is situated a requisition for such a survey, together with such particulars as to the nature or purpose of the survey as may be necessary.
- (2) The court shall not make an order under subsection (1)(b) unless it is satisfied that—
- (a) the owners of the land have had sufficient opportunity to discuss and consider the proposal that the survey be made; and
  - (b) there is a sufficient degree of support among the owners for the making of the survey.
- (3) In any requisition transmitted under subsection (1) the court or the Registrar may nominate a duly authorised surveyor to make the required survey.
- (4) On the receipt of any such requisition, it shall be the duty of the Chief Surveyor to take all proper steps to procure a survey of the land in accordance with the requisition.
- (5) If a surveyor is not nominated by the court or the Registrar, the Chief Surveyor shall appoint or authorise any surveyor that he or she thinks fit to make the required survey.
- (6) Notwithstanding anything in subsections (1) to (4), the Chief Surveyor shall not appoint or authorise any surveyor to make a survey under this section

unless the Chief Surveyor is satisfied that the cost of the proposed survey has been paid or has been sufficiently secured.

Compare: 1953 No 94 s 406; 1967 No 124 s 139

### **333 Power of court to make charging orders on land in respect of costs of survey**

- (1) The court, on application by any person acting on behalf of the Crown, may at any time make an order charging the land in respect of which any survey has been made under this Part with the costs incurred in respect of that survey.
- (2) Any charge under subsection (1) may be imposed on the land as a whole or may be apportioned between different parts of the land, as the court thinks fit, having regard to the relative values of those parts and to the relative benefits derived from the survey.
- (3) On or after any partition, exchange, alienation, or other disposition of the land so charged, the court may in like manner make a further order varying any former order and apportioning the charge in such manner as it thinks just, and any such subsequent order shall supersede all earlier charging orders so far as it is inconsistent with those earlier orders.
- (4) Every charging order under this section shall constitute a charge upon the land or upon the several parcels of the land, according to its tenor, and may be registered against the title to the land under the Land Transfer Act 2017.
- (5) When any charge has been apportioned under this section, each part of that charge shall be deemed to constitute a separate charge.

Compare: 1953 No 94 s 408

Section 333(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **334 Interest on survey charges**

- (1) Except as provided in section 336, the amount of any charge under this Part shall bear simple interest at the rate of 5% per annum, computed from the date of the completion of the survey.
- (2) A certificate signed by the Chief Surveyor shall be conclusive evidence of the date of the completion of the survey.

Compare: 1953 No 94 s 409

### **335 Power of Minister of Lands to remit survey charges**

- (1) The Minister of Lands may at any time, if he or she thinks fit, direct the remission and discharge, in whole or in part, of any charge imposed in favour of the Crown, whether before or after the commencement of this Act, in respect of the survey of any Maori land.
- (2) A certificate signed by the Chief Surveyor of the district in which the land affected is situated and to the effect that the Minister of Lands has directed the remission or discharge of any money under this section shall for all purposes be

accepted as sufficient evidence that the amount specified in the certificate has been duly remitted or discharged.

- (3) Any certificate given under subsection (2) shall have the effect of a discharge to the extent mentioned in the certificate and may be registered accordingly.
- (4) A certificate given under this section may include any group or class of charging orders.

Compare: 1953 No 94 s 410; 1987 No 65 s 65(1)

### **336 Contribution from owners in respect of surveys**

- (1) Where, after the commencement of this Act, a survey required for the particular purposes of any area of land has involved the survey of any Maori freehold land, the court, on application by or on behalf of the owner for the time being of the land, may make a charging order against that Maori freehold land, or any part thereof, if in its opinion it is just and equitable in the circumstances of the case that the applicant should be reimbursed to the extent specified in the charging order for the costs incurred in respect of the survey.
- (2) No interest shall be payable on any charging order made under this section.

Compare: 1953 No 94 s 411

### **337 Survey notices**

- (1) For the purpose of providing for payment of the cost of the survey of any Maori land, the Registrar may serve on the Māori Trustee a notice (in this section referred to as a **survey notice**) setting out the description of the land concerned and the amount or estimated amount of the costs of the survey, and requiring the Māori Trustee to reserve that amount or the appropriate proportion thereof from any money held by the Māori Trustee for the owners of the land or any of them, whether the money so held is derived from the alienation of that land or otherwise.
- (2) On receipt of any survey notice under subsection (1), the Māori Trustee shall, in accordance with the terms of the notice, reserve any money held for the owners of the land specified in the notice and shall, on the request of the Registrar, apply the money so reserved to the costs of survey of that land.
- (3) If at the time of service of a survey notice the Māori Trustee does not hold for the owners of the land specified in the notice or any of them sufficient money to meet the amount payable in respect of their several interests in the land, the Māori Trustee shall reserve to the extent necessary any money which may, subsequent to the service of the notice, be paid to the Māori Trustee for those owners until the requisite amount is paid.

Compare: 1953 No 94 s 411A; 1967 No 124 s 140

Section 337(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 337(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 337(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

## Part 17

### Maori reservations

#### 338 Maori reservations for communal purposes

- (1) The chief executive may, by notice in the *Gazette* issued on the recommendation of the court, set apart as Maori reservation any Maori freehold land or any General land—
  - (a) for the purposes of a village site, marae, meeting place, recreation ground, sports ground, bathing place, church site, building site, burial ground, landing place, fishing ground, spring, well, timber reserve, catchment area or other source of water supply, or place of cultural, historical, or scenic interest, or for any other specified purpose; or
  - (b) that is a wahi tapu, being a place of special significance according to tikanga Maori.
- (2) The chief executive may, by notice in the *Gazette* issued on the recommendation of the court, declare any other Maori freehold land or General land to be included in any Maori reservation, and thereupon the land shall form part of that reservation accordingly.
- (3) Except as provided in section 340, every Maori reservation under this section shall be held for the common use or benefit of the owners or of Maori of the class or classes specified in the notice.
- (4) Land may be so set apart as or included in a Maori reservation although it is vested in an incorporated body of owners or in the Māori Trustee or in any other trustees, and notwithstanding any provisions of this Act or any other Act as to the disposition or administration of that land.
- (5) On the recommendation of the court, the chief executive, by notice in the *Gazette*, may, in respect of any Maori reservation made under this section, do any 1 or more of the following things:
  - (a) exclude from the reservation any part of the land comprised in it:
  - (b) cancel the reservation:
  - (c) redefine the purposes for which the reservation is made:
  - (d) redefine the persons or class of persons for whose use or benefit the reservation is made.
- (6) No notice under this section shall affect any lease or licence, but no land shall be set apart as a Maori reservation while it is subject to any mortgage or charge.
- (7) The court may, by order, vest any Maori reservation in any body corporate or in any 2 or more persons in trust to hold and administer it for the benefit of the

persons or class of persons for whose benefit the reservation is made, and may from time to time, as and when it thinks fit, appoint a new trustee or new trustees or additional trustees.

- (8) The court may, on the appointment of trustees under subsection (7), or on application at any time thereafter, set out the terms of the trust, and subject to any such terms, the Maori reservation shall be administered in accordance with, and be subject to, any regulations made under subsection (15).
- (9) Upon the exclusion of any land from a reservation under this section or the cancellation of any such reservation, the land excluded or the land formerly comprised in the cancelled reservation shall vest, as of its former estate, in the persons in whom it was vested immediately before it was constituted as or included in the Maori reservation, or in their successors.
- (10) In any case to which subsection (9) applies, the court may make an order vesting the land or any interest in the land in the person or persons found by the court to be entitled to the land or interest.
- (11) Except as provided in subsection (12), the land comprised within a Maori reservation shall, while the reservation subsists, be inalienable, whether to the Crown or to any other person.
- (12) The trustees in whom any Maori reservation is vested may, with the consent of the court, grant a lease or occupation licence of the reservation or of any part of it for any term not exceeding 14 years (including any term or terms of renewal), upon and subject to such terms and conditions as the court thinks fit.
- (13) The revenue derived from any such lease or occupation licence shall be expended by the trustees as the court directs.
- (14) Any lease granted pursuant to subsection (12) for the purposes of education or health may, notwithstanding anything in that subsection, be for a term exceeding 7 years (including any term or terms of renewal) and may confer on the lessee or licensee a right of renewal for 1 or more terms.
- (15) The Governor-General may from time to time, by Order in Council, make all such regulations as, in the Governor-General's opinion, may be necessary or expedient for giving full effect to the provisions of this section.
- (16) Any such regulations may apply to any specified Maori reservation or to any specified class of Maori reservations, or to Maori reservations generally.
- (17) Where any Maori reservation (set apart under any Act repealed by this Act or the corresponding provisions of any former Act) is subsisting at the commencement of this Act, this Act, and any regulations made under this Act, have effect,—
  - (a) in relation to the Maori reservation, as if it were a Maori reservation set apart under this section; and
  - (b) in relation to any vesting order made in respect of the Maori reservation (under any Act repealed by this Act or the corresponding provisions of

any former Act), as if that vesting order were a vesting order made under this section.

Compare: 1953 No 94 s 439(1)–(11); 1968 No 127 s 5; 1970 No 120 s 7; 1972 No 135 s 11(1); 1973 No 106 s 15; 1975 No 135 s 16

Section 338(1): substituted, on 1 July 2002, by section 55 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 338(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 338(8): amended, on 11 April 2001, by section 17(1) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 338(12): amended, on 11 April 2001, by section 16(1) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 338(14): amended, on 11 April 2001, by section 16(2) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

Section 338(17): substituted, on 11 April 2001, by section 17(2) of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

### **338A Regulations relating to trustees of Maori reservations**

- (1) Regulations made under section 338(15) may, in relation to the trustees of Maori reservations generally or in relation to the trustees of any specified Maori reservation or of any specified class of Maori reservations,—
  - (a) specify—
    - (i) terms for which those trustees or any of them are to be appointed:
    - (ii) circumstances in which those trustees or any of them cease to hold office:
    - (iii) circumstances in which those trustees or any of them may be removed from office by the court:
    - (iv) powers, authorities, and discretions that may be exercised by those trustees (in addition to those conferred on them by this Act) and the manner in which those trustees or any of them may exercise their powers, authorities, and discretions (including those conferred on them by this Act or the Trustee Act 1956 or both):
    - (v) powers, authorities, and discretions conferred by the Trustee Act 1956 that may not be exercised by those trustees:
    - (vi) conditions that must be complied with by those trustees:
  - (b) authorise the court to exercise in relation to those trustees (but not to the exclusion of the High Court) any of the powers and authorities conferred on the High Court by the Trustee Act 1956.
- (2) Nothing in subsection (1) limits—
  - (a) the powers of the court under section 338(8); or
  - (b) the generality of section 338(15).

Section 338A: inserted, on 11 April 2001, by section 18 of Te Ture Whenua Maori Amendment Act 2001 (2001 No 11).

**339 Court may consider proposal for Maori reservation on application of Minister**

- (1) On the application of the Minister, the court may consider a proposal that any piece of land (whether Crown land, land or an interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies or Maori land) should, by reason of its historical significance or spiritual or emotional association with the Maori people or any group or section thereof, be set aside as a Maori reservation under section 338 of this Act, and make a recommendation to the chief executive or, in the case of land or an interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies, the Minister.
- (2) A recommendation of the court under this section may be to the effect—
  - (a) that the land should not be set aside as a reservation; or
  - (b) that the land should be set aside as a reservation; or
  - (c) if the land is not Crown land or Maori land, that it be acquired by the Crown for the purpose of constituting it a reservation; or
  - (d) that some other course be followed.

Compare: 1953 No 94 s 439A; 1974 No 73 s 60; 1975 No 135 s 16

**340 Maori reservation may be held for common use and benefit of people of New Zealand**

- (1) The notice constituting a Maori reservation (that is not a wahi tapu) under section 338 may, upon the express recommendation of the court, specify that the reservation (that is not a wahi tapu) shall be held for the common use and benefit of the people of New Zealand, and the reservation (that is not a wahi tapu) shall accordingly be held in that fashion.
- (2) Before issuing a recommendation that a Maori reservation (that is not a wahi tapu) be held for the common use and benefit of the people of New Zealand, the court shall be satisfied that this course is in accordance with the views of the owners, and that the local authority consents to it.
- (3) In appointing trustees for any Maori reservation (that is not a wahi tapu) that is held for the common use and benefit of the people of New Zealand, the court may, on the nomination of the local authority, appoint a person or persons to represent the local authority.

Compare: 1953 No 94 s 439(12)–(14); 1972 No 135 s 11(2)

Section 340(1): amended, on 1 July 2002, by section 56(1)(a) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 340(1): amended, on 1 July 2002, by section 56(1)(b) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 340(2): amended, on 1 July 2002, by section 56(2) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

Section 340(3): amended, on 1 July 2002, by section 56(3) of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

### **341 Further provisions relating to Maori reservation for marae or meeting place**

- (1) Notwithstanding anything in section 338, a Maori reservation for the purposes of a marae or meeting place or as wahi tapu may, in accordance with that section, be constituted over or extended to include any Crown land or other land leased on a perpetually renewable basis to any person, group of persons, body corporate, or organisation for the purpose of a marae or meeting place.
- (2) On the vesting by the court, in accordance with section 338(7), in trustees of a Maori reservation created over land leased in the manner referred to in subsection (1) of this section, the lease shall be deemed to have been assigned to the trustees, and thereafter they shall (subject to their fiduciary responsibilities and to the restrictions imposed by section 338) have all the rights and privileges and be subject to all the duties and liabilities of the lessees under the lease.
- (3) Upon proof of the determination for any reason of the lease in respect of any reservation constituted over land leased in the manner referred to in subsection (1), the chief executive shall, in the manner provided by section 338, cancel the reservation or, as the case may be, exclude from the reservation the land comprised in the lease.

Compare: 1953 No 94 s 439(15)–(17); 1973 No 106 s 15(2)

Section 341(1): amended, on 1 July 2002, by section 57 of Te Ture Whenua Maori Amendment Act 2002 (2002 No 16).

## **Part 18**

### **Miscellaneous provisions**

#### **342 Protection of Maori land against execution for debt**

- (1) Except as provided in section 343, no interest of any person in Maori customary land, and no beneficial freehold interest in Maori freehold land, shall be capable of being taken in execution or otherwise rendered available by any form of judicial process for payment of the owner's debts or liabilities, whether in favour of Her Majesty or of any other person.
- (2) Nothing in subsection (1) shall limit or affect the operation of any mortgage or charge to which any Maori land is subject, or shall apply to the recovery of rates or taxes payable in respect of Maori land.
- (3) Nothing in subsection (1) shall apply to any revenue derived by any person from any interest in land to which that subsection applies; and all such revenue shall be available for the payment of that person's debts.



- (4) For the purposes of this section, the interest of any person in Maori land shall be deemed to include that person's interest in all timber, flax and other things (other than industrial crops) so attached to the land as to form part of it as between the heir and the executor of a deceased freeholder at common law, and shall also be deemed to include, while the land remains Maori land, that person's interest in all money being the proceeds of any alienation of that land, except such money as has been actually received by that person or by any trustee for that person.

Compare: 1953 No 94 s 455; 1967 No 124 s 146; 1974 No 73 s 65(1)

### **343 Maori land available in bankruptcy**

- (1) On the application of the Official Assignee acting in respect of the estate of any person adjudged bankrupt after 1 April 1968, the court may make an order vesting in the Official Assignee the beneficial freehold interest of the bankrupt in Maori freehold land owned by the bankrupt whether solely or in severalty or jointly with any other person or persons.
- (2) Any application under this section shall be dealt with by the court without notification or appearance of any person, and, subject to the provisions of this section, the court shall make the order sought as a matter of course.
- (3) Any order made by the court pursuant to this section shall take effect and may be registered under the Land Transfer Act 2017.
- (4) Notwithstanding any provision to the contrary in the Insolvency Act 2006, no beneficial freehold interests in Maori freehold land of a bankrupt shall vest or be deemed to have vested in the Official Assignee otherwise than by an order made pursuant to this section, and the Official Assignee shall have no power to disclaim any interest vested in the Official Assignee by such an order.
- (5) Notwithstanding the provisions of the Insolvency Act 2006, the Official Assignee shall not have power to sell any such beneficial freehold interest entered in Maori freehold land to any person other than a person to whom the bankrupt could have alienated it in accordance with the provisions of Part 7 of this Act.

Compare: 1953 No 94 s 455A; 1967 No 124 s 147; 1974 No 73 s 66

Section 343(1): amended, on 1 July 1994, by section 20 of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 343(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 343(4): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 343(5): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

**344 Co-owners of Maori land not bound by Limitation Act 2010 or other limitation enactments**

- (1) Time does not run, and must not be treated as having run, against a co-owner of Maori land who neglects or has at any time neglected to exercise that co-owner's right of entering upon and using the common property while it remains in the occupation of another co-owner or someone claiming through or under that co-owner.
- (2) This section overrides the Limitation Act 2010 and all other enactments that impose on claims a limitation period or other limitation defence.

Compare: 1953 No 94 s 458

Section 344: substituted, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

**345 Presumptions as to Maori freehold land held by 2 or more owners**

- (1) Subject and without prejudice to any alienation made before the coming into operation of the Native Land Court Act 1894, all Maori land that is held by 2 or more persons beneficially entitled to it for an estate in fee simple shall, unless otherwise expressed in the instrument of title, be deemed to be held by them as tenants in common and not as joint tenants.
- (2) Where the relative interests of the several owners in common of any Maori freehold land are not defined in the instrument of title, those interests shall, on application by any of the owners, be defined by the court; and there shall be no presumption of law that the interests of the several owners are equal.

Compare: 1953 No 94 s 457

**346 Prevention of waste on Maori land**

- (1) Every person who, without lawful authority, cuts or removes or attempts to remove from any Maori freehold land any standing timber trees, or any timber or other wood, or any flax, tree ferns, sand, topsoil, metal, minerals, or other substances, whether usually quarried or mined or not, commits an offence, and shall be liable on conviction to a fine not exceeding \$5,000, and in the case of a continuing offence, a further fine not exceeding \$500 for each day on which the offence has continued.
- (2) For the purposes of this section, any leave or licence purporting to be granted to any person by 1 or more but not by all of several tenants in common shall not be deemed to be a lawful authority, except where that leave or licence is granted under an instrument duly confirmed in accordance with the provisions of Part 8.
- (3) In any proceedings under this section it shall be a good defence to any person who is a tenant in common that any timber trees, timber, or other wood, or any flax, kauri gum, or minerals cut or removed by that person were so cut or removed for that person's own use and not for the purpose of disposing of the same to any other person, whether by way of sale, gift, exchange or otherwise.

- (4) Except as provided in subsection (3), a tenant in common as such shall not be deemed to have lawful authority to do any of the acts referred to in that subsection.
- (5) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, any proceedings for an offence constituted by this section, or for the recovery of any penalty, fine, or forfeiture imposed thereunder, may be commenced at any time within 2 years after the commission of the offence.

Compare: 1953 No 94 s 459; 1955 No 106 s 8; 1974 No 73 s 67

Section 346(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 346(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### **347 Orders in Council and Proclamations affecting title to be registered**

Every Order in Council or Proclamation made under the authority of this Act and affecting the title to land that is subject to the Land Transfer Act 2017 shall, on deposit with the Registrar-General of Land of a copy of the *Gazette* containing the Order in Council or Proclamation, or a copy of the Order in Council or Proclamation certified under the hand of the chief executive, be registered by the Registrar-General of Land without fee against the title to that land.

Compare: 1953 No 94 s 465

Section 347: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### *Transitional and consequential provisions*

### **348 Savings of effect of Land Titles Protection Act 1908**

Subject to the provisions of sections 44 to 49, no order of the Maori Land Court, Crown grant, or other instrument of title that, at the commencement of the Native Land Act 1909, was within the protection of the Land Titles Protection Act 1908 shall, on any grounds whatever, be called in question in any court or in any proceedings.

Compare: 1953 No 94 s 468

### **349 Declaratory Judgments Act 1908 not affected**

Nothing in this Act shall limit or affect any jurisdiction conferred upon the High Court or the Court of Appeal by the Declaratory Judgments Act 1908.

Compare: 1953 No 94 s 469

### **350 Trustees of persons under disability**

Every order made under Part 10 of the Maori Affairs Act 1953 and in force on the commencement of this Act shall continue to have effect as if it were an order constituting, in respect of the land to which it relates, a kai tiaki trust, and

this Act shall, with all necessary modifications, apply in relation to every such order as if it were an order made under section 217.

**351 Periodic review of trusts constituted under section 438 of Maori Affairs Act 1953**

- (1) The trustees for the time being of any trust constituted under section 438 of the Maori Affairs Act 1953 shall apply to the court within 3 years after the commencement of this Act, and thereafter at intervals of 20 years or such shorter intervals as the court may specify on any review of the trust, for a review of the trust.
- (2) On any such review the court may, by order, confirm the trust order without variation, or vary the terms of the order in such manner as it thinks fit, or make an order terminating the trust.

**352 Representation of owners of Maori land**

Where, on the commencement of this Act, any person is, by virtue of an appointment under section 73 of the Maori Affairs Amendment Act 1974, the statutory agent of the owners of any Maori freehold land beneficially owned by more than 10 persons and not vested in any trustee or trustees, that person shall continue in office as the statutory agent of those owners as if that person had been appointed, under section 183 of this Act, as the statutory agent of those owners.

**353 Existing trusts of Maori land not affected**

Except so far as otherwise expressly provided by this Act, nothing in this Act shall affect the powers, rights, or duties of trustees of Maori land under any trust existing at the commencement of this Act, whether created by Act, Crown grant, or other instrument of title, or in any other manner; and those powers, rights, and duties shall continue to exist and to be exercised and performed in the same manner as if this Act had not been passed.

Compare: 1953 No 94 s 470

**354 Existing trusts to continue as ahu whenua trusts**

Notwithstanding section 353, any trust constituted under section 438(1) of the Maori Affairs Act 1953 and existing at the commencement of this Act, shall continue to exist after the commencement of this Act as an ahu whenua trust, and the provisions of Part 12 of this Act shall apply accordingly.

**355 Provision for completion of sales and subdivisions**

Where, before the commencement of this Act, an unconditional agreement has been entered into for the sale of any Maori freehold land or consent has been obtained to the subdivision of any Maori freehold land, the sale may be completed and the subdivision may take place as if this Act had not been passed and any enactment repealed by this Act shall, notwithstanding its repeal, con-

tinue and be in force for the purpose of continuing and perfecting under such repealed enactment the sale or subdivision.

**356 Part 9 not to apply to Maori reserves**

Except as provided in subsection (4) of section 10 of the Maori Reserved Land Act 1955, nothing in Part 9 of this Act shall apply to any Maori reserve.

Compare: 1953 No 94 s 471; 1970 No 120 s 14(2)

**357 Maori incorporations in existence at commencement of Act**

- (1) Where a Maori incorporation established under, or continued in existence by, the provisions of Part 4 of the Maori Affairs Amendment Act 1967 is in existence at the commencement of this Act, the beneficial interests in all Maori freehold land vested in that Maori incorporation on the commencement of this Act shall, on the commencement of this Act, vest in the persons who would have been entitled to those beneficial interests on the commencement of this Act if the order by which the Maori incorporation was established had been made under this Act.
- (2) Notwithstanding anything in subsection (1),—
  - (a) the legal estate in fee simple in all land vested in any such Maori incorporation on the commencement of this Act (including the Maori freehold land) shall, subject to the provisions of this Act, remain vested in the Maori incorporation; and
  - (b) the estate of the incorporation in all land vested in any such Maori incorporation on the commencement of this Act (including the Maori freehold land) shall be subject to all leases, mortgages, charges, or other interests to which the title of the incorporation was subject on the commencement of this Act; and
  - (c) every Maori incorporation to which subsection (1) applies shall, subject to the provisions of this Act, hold the land and other assets belonging to it in trust for the shareholders in the Maori incorporation in proportion to their several interests in the land.
- (3) Subsections (1) and (2) shall, subject to the provisions of this Act, have effect notwithstanding anything in the order by which the Maori incorporation was established or in the Act under which that order was made.
- (4) The secretary of every Maori incorporation to which subsection (1) applies shall, as soon as practicable after the commencement of this Act, note the effect of this section on the share register of the Maori incorporation and make such amendments (if any) to that share register as are required to give effect to this section.
- (5) The Registrar of the Maori Land Court shall note the effect of this section on the records held in that court in relation to the incorporation of every Maori incorporation to which subsection (1) applies.

- (6) The District Land Registrar is hereby authorised and directed to cancel or amend any existing certificate of title and to issue any new certificate of title that may be necessary to give effect to this section.

**358 Land acquired by Maori incorporation before commencement of Act**

- (1) Where a Maori incorporation to which section 357(1) applies holds, at the commencement of this Act, land that that Maori incorporation acquired after the date on which that Maori incorporation was established, the court may, on application made by that Maori incorporation at any time before 1 July 1996, make an order—
- (a) authorising the Maori incorporation to hold the whole or any part of that land as an investment; and
  - (b) declaring that, notwithstanding section 357, any land authorised pursuant to paragraph (a) to be held as an investment—
    - (i) shall not form part of the corpus of the incorporation; and
    - (ii) shall cease to be Maori freehold land; and
  - (c) declaring that, notwithstanding section 357(1), the beneficial interests in any land authorised pursuant to paragraph (a) to be held as an investment shall cease to be vested in the persons in whom those beneficial interests were vested by section 357(1); and
  - (d) making such other provision in relation to the change in the status of the whole or any part of that land as the court thinks just.
- (1A) Any reference in subsection (1) to land that a Maori incorporation acquired after the date on which that Maori incorporation was established includes, in the case of a Maori incorporation that has amalgamated, land acquired after the date on which the original, or one of the original, Maori incorporations was established.
- (2) No restrictions on alienation imposed by any of the provisions of this Act shall apply in respect of any land held by an incorporation as an investment pursuant to an order made under subsection (1).
- (3) Where a Maori incorporation to which section 357(1) applies acquired any land before the commencement of this Act out of the original land of the incorporation (whether in substitution or by way of exchange for any other land belonging to the incorporation or otherwise), the court shall not order under subsection (1) of this section that the whole or any part of that land shall be held as an investment.
- (4) Subsections (1) and (2) shall, subject to the provisions of this Act, have effect notwithstanding anything in the order by which the Maori incorporation was established or in the Act under which that order was made.
- (5) The secretary of every Maori incorporation to which subsection (1) applies shall, as soon as practicable after the making of an order under subsection (1),

note the effect of that order on the share register of the Maori incorporation and make such amendments (if any) to that share register as are required to give effect to that order.

- (6) The Registrar of the Maori Land Court shall note the effect of every order on the records held in that court in relation to the incorporation of every Maori incorporation to which the order relates.
- (7) The District Land Registrar is hereby authorised and directed to cancel or amend any existing certificate of title and to issue any new certificate of title that may be necessary to give effect to an order made under subsection (1).

Section 358(1): amended, on 1 July 1994, by section 21(1) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 358(1A): inserted, on 1 July 1994, by section 21(2) of Te Ture Whenua Maori Amendment Act 1994 (1994 No 69).

Section 358(3): amended, on 28 September 1993, by section 17 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

#### **358A Transitional provisions in relation to objects of Maori incorporations**

- (1) This section applies to every Maori incorporation established under, or continued in existence by, the provisions of Part 4 of the Maori Affairs Amendment Act 1967.
- (2) The court may from time to time, upon application made to the court by or on behalf of a Maori incorporation to which this section applies, make—
  - (a) an order redefining the objects for which the incorporation was established, or adding any other objects; or
  - (b) an order omitting from the order of incorporation the object or several objects specified in the order of incorporation as the object or the several objects for which the incorporation is established.
- (3) Subject to any order made under subsection (2)(a), and to any order made, before the commencement of this Act, under section 28 of the Maori Affairs Amendment Act 1967, where an order has not been made under subsection (2)(b) of this section in relation to a Maori incorporation to which this section applies, the object or the several objects of that incorporation shall, until the making of such an order, continue to be the object or the several objects specified in its order of incorporation.
- (4) An application under this section may be made only pursuant to a resolution passed at a general meeting of the shareholders of the incorporation by or on behalf of which the application is made.

Section 358A: inserted, on 28 September 1993, by section 18 of Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104).

**359 Provisions of certain enactments not affected by this Act**

- (1) Except as otherwise expressly provided in this Act, this Act, in its application to any land that is subject to any of the enactments specified in subsection (2), shall be read subject to that enactment.
- (2) The enactments referred to in subsection (1) are the following:
  - (a) Maori Reserved Land Act 1955:
  - (b) Kapiti Island Public Reserve Act 1897:
  - (c) Crown Minerals Act 1991:
  - (d) Part 4 of the Maori Purposes Act 1931.

Compare: 1953 No 94 s 472

**360 Application of Limitation Act 1950 to Maori customary land**

*[Repealed]*

Section 360: repealed, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

**361 Limitation of actions in relation to Maori customary land**

*[Repealed]*

Section 361: repealed, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

**362 Amendments and repeals**

- (1) The enactments specified in Schedule 1 are hereby consequentially amended in the manner indicated in that schedule.
- (2) The enactments specified in Schedule 2 are hereby consequentially repealed.



## Schedule 1AA

### Transitional, savings, and related provisions

s 4A

Schedule 1AA: inserted, on 12 May 2017, by section 25 of the Māori Purposes Act 2017 (2017 No 18).

### Part 1

#### Provisions relating to Māori Purposes Act 2017

##### 1 Application of financial reporting amendments

- (1) This Act and the Maori Incorporations Constitution Regulations 1994, as amended by sections 19 to 26 of the Māori Purposes Act 2017, apply to a Maori incorporation in relation to financial years that commence on or after the commencement of this clause.
- (2) This Act and the Maori Incorporations Constitution Regulations 1994, as in force before the commencement of this clause, continue to apply to a Maori incorporation in relation to financial years that commenced before the commencement of this clause as if the Māori Purposes Act 2017 had not been enacted.
- (3) This clause is subject to clause 2.

##### 2 Financial reporting preparation requirements must be treated as satisfied

- (1) This clause—
  - (a) applies to the financial years of a Maori incorporation that commenced on or after 1 April 2014 (which is the commencement date of amendments to this Act made by the Financial Reporting (Amendments to Other Enactments) Act 2013); but
  - (b) does not apply to the financial years of a Maori incorporation that commence on or after the commencement of this clause.
- (2) The financial statements of a Maori incorporation (other than a large Maori incorporation) for a financial year to which this clause applies must be treated as complying with section 276A(2) (as in force before the commencement of this clause) unless the financial statements are false or misleading in a material particular.
- (3) In this clause, **financial statements** has the same meaning as in section 6 of the Financial Reporting Act 2013.

**Schedule 1**  
**Enactments amended**

s 362(1)

**Age of Majority Act 1970 (1970 No 137) (RS Vol 21, p 1)***Amendment(s) incorporated in the Act(s).***Estate and Gift Duties Act 1968 (1968 No 35) (RS Vol 28, p 341)***Amendment(s) incorporated in the Act(s).***Historic Places Act 1980 (1980 No 16)***Amendment(s) incorporated in the Act(s).***Housing Corporation Act 1974 (1974 No 19) (RS Vol 24, p 281)***Amendment(s) incorporated in the Act(s).***Land Settlement Promotion and Land Acquisition Amendment Act 1968 (1968 No 152) (RS Vol 3, p 183)***Amendment(s) incorporated in the Act(s).***Land Valuation Proceedings Amendment Act 1977 (1977 No 15) (RS Vol 17, p 267)***Amendment(s) incorporated in the Act(s).***Property Law Act 1952 (1952 No 51) (RS Vol 22, p 773)***Amendment(s) incorporated in the Act(s).***Protection of Personal and Property Rights Act 1988 (1988 No 27)***Amendment(s) incorporated in the Act(s).***Public Works Act 1981 (1981 No 35)***Amendment(s) incorporated in the Act(s).***Stamp and Cheque Duties Act 1971 (1971 No 51) (RS Vol 23, p 771)***Amendment(s) incorporated in the Act(s).***Status of Children Act 1969 (1969 No 18) (RS Vol 4, p 893)***Amendment(s) incorporated in the Act(s).*

## Schedule 2 Enactments repealed

s 362(2)

**Conservation Act 1987 (1987 No 65)**

*Amendment(s) incorporated in the Act(s).*

**Crown Forests Assets Act 1989 (1989 No 99)**

*Amendment(s) incorporated in the Act(s).*

**Legal Services Act 1991 (1991 No 71)**

*Amendment(s) incorporated in the Act(s).*

**Maori Affairs Act 1953 (1953 No 94) (RS Vol 8, p 13)**

**Maori Affairs Amendment Act 1962 (1962 No 45) (RS Vol 8, p 258)**

**Maori Affairs Amendment Act 1967 (1967 No 124) (RS Vol 8, p 265)**

*Amendment(s) incorporated in the Act(s).*

**Maori Affairs Amendment Act 1974 (1974 No 73) (RS Vol 8, p 332)**

**Maori Affairs Amendment Act (No 2) 1985 (1985 No 139)**

**Maori Affairs Amendment Act 1987 (1987 No 73)**

**Maori Affairs Amendment Act 1988 (1988 No 73)**

**Maori Affairs Amendment Act 1991 (1991 No 39)**

**Maori Affairs Restructuring Act 1989 (1989 No 68)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1955 (1955 No 106) (RS Vol 8, p 250)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1956 (1956 No 43) (RS Vol 8, p 251)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1957 (1957 No 81) (RS Vol 8, p 251)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1958 (1958 No 41) (RS Vol 8, p 252)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1959 (1959 No 90) (RS Vol 8, p 253)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1960 (1960 No 120) (RS Vol 8, p 255)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1961 (1961 No 129) (RS Vol 8, p 256)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1963 (1963 No 123) (RS Vol 8, p 260)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1964 (1964 No 46) (RS Vol 8, p 262)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1965 (1965 No 121) (RS Vol 8, p 263)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1966 (1966 No 106) (RS Vol 8, p 264)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1967 (1967 No 145) (RS Vol 8, p 324)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1968 (1968 No 127) (RS Vol 8, p 325)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1969 (1969 No 127) (RS Vol 8, p 326)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1970 (1970 No 120) (RS Vol 8, p 327)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1971 (1971 No 151) (RS Vol 8, p 328)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1972 (1972 No 135) (RS Vol 8, p 329)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act (No 2) 1973 (1973 No 106) (RS Vol 8, p 331)***Amendment(s) incorporated in the Act(s).***Maori Purposes Act 1974 (1974 No 144) (RS Vol 8, p 350)***Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1975 (1975 No 135) (RS Vol 8, p 351)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1976 (1976 No 148) (RS Vol 8, p 353)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1977 (1977 No 103) (RS Vol 8, p 356)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1978 (1978 No 70) (RS Vol 8, p 356)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1979 (1979 No 136) (RS Vol 8, p 357)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1980 (1980 No 67) (RS Vol 8, p 359)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1981 (1981 No 112) (RS Vol 8, p 359)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1982 (1982 No 124)**

*Amendment(s) incorporated in the Act(s).*

**Maori Purposes Act 1983 (1983 No 146)**

*Amendment(s) incorporated in the Act(s).*

**Ministry of Maori Development Act 1991 (1991 No 145)**

*Amendment(s) incorporated in the Act(s).*

**Protection of Personal and Property Rights Act 1988 (1988 No 4)**

*Amendment(s) incorporated in the Act(s).*

**Public Finance Act 1989 (1989 No 44)**

*Amendment(s) incorporated in the Act(s).*

**Resource Management Act 1991 (1991 No 69)**

*Amendment(s) incorporated in the Act(s).*

**State-Owned Enterprises Amendment Act 1987 (1987 No 117)**

*Amendment(s) incorporated in the Act(s).*

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## Te Ture Whenua Maori Amendment Act 2006 Maori Land Amendment Act 2006

Public Act	2006 No 76
Date of assent	12 December 2006
Commencement	see section 2

### 1 Title

This Act is—

- (a) Te Ture Whenua Maori Amendment Act 2006; or
- (b) the Maori Land Amendment Act 2006.

### 2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

### 13 Validations

- (1) Subsection (2) applies to any action taken before the commencement of this Act by the Deputy Chief Judge—
  - (a) under sections 44 to 48 of the principal Act; or
  - (b) under section 452 of the Maori Affairs Act 1953, on or after 21 June 1991.
- (2) If subsection (1) applies, any action taken by the Deputy Chief Judge must be treated—
  - (a) as if it had been done by the Chief Judge; and
  - (b) as having, from the time when it was done, the same effect as if it had been done by the Chief Judge.
- (3) Any action taken by His Honour Judge Norman F Smith, in exercising or purporting to exercise his jurisdiction as an acting Judge of the Maori Land Court at any time in the period beginning on 1 November 2000 and ending on 30 November 2000, must be treated—
  - (a) as if it had been done in accordance with section 10 of the principal Act for the whole of that period; and
  - (b) as being as valid and of the same effect as if His Honour had been entitled to exercise the jurisdiction of an acting Judge throughout that period.

## **Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008**

Public Act      2008 No 64  
Date of assent      9 September 2008  
Commencement      see section 2

### **1 Title**

This Act is the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008.

### **2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

## **Part 1** **Amendments to Statutes**

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

#### **21 Amendments to Te Ture Whenua Maori Act 1993**

- (1) This section amends Te Ture Whenua Maori Act 1993.
- (2)–(4) *Amendment(s) incorporated in the Act(s).*
- (5) Subsection (2) of this section does not apply to a kai tiaki trust constituted under Part 12 of Te Ture Whenua Maori Act 1993 before the commencement of this section.

## Reprints notes

### 1 *General*

This is a reprint of Te Ture Whenua Maori Act 1993 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Land Transfer Act 2017 (2017 No 30): section 250

Māori Purposes Act 2017 (2017 No 18): Part 5

Contract and Commercial Law Act 2017 (2017 No 5): section 347

Te Ture Whenua Maori Amendment Act 2016 (2016 No 69)

Interest on Money Claims Act 2016 (2016 No 51): section 29

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b)

Te Ture mō Te Reo Māori 2016/Māori Language Act 2016 (2016 No 17): section 50

Companies Amendment Act 2013 (2013 No 111): section 14

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): sections 119–123

Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)

Marriage (Definition of Marriage) Amendment Act 2013 (2013 No 20): section 9

Crown Minerals Amendment Act 2013 (2013 No 14): section 65

Criminal Procedure Act 2011 (2011 No 81): section 413

Te Ture Whenua Maori Amendment Act 2011 (2011 No 76)

Legal Services Act 2011 (2011 No 4): section 144

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3): section 128

Limitation Act 2010 (2010 No 110): section 58

Accident Compensation Amendment Act 2010 (2010 No 1): section 5(1)(b)

Māori Trustee Amendment Act 2009 (2009 No 12): section 30

Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64): section 21(2)–(4)



Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)  
Te Ture Whenua Maori Amendment Act 2008 (2008 No 35)  
Property Law Act 2007 (2007 No 91): section 364(1)  
Te Ture Whenua Maori Amendment Act 2007 (2007 No 4)  
Te Ture Whenua Maori Amendment Act 2006 (2006 No 76)  
Evidence Act 2006 (2006 No 69): section 216  
Insolvency Act 2006 (2006 No 55): section 445  
Overseas Investment Act 2005 (2005 No 82): section 74  
Railways Act 2005 (2005 No 37): section 103(3)  
Relationships (Statutory References) Act 2005 (2005 No 3): section 7  
Te Ture Whenua Maori Amendment Act (No 3) 2004 (2004 No 108)  
Foreshore and Seabed Act 2004 (2004 No 93): section 103(1)  
Te Ture Whenua Maori Amendment Act (No 2) 2004 (2004 No 79)  
Corrections Act 2004 (2004 No 50): section 206  
Te Ture Whenua Maori Amendment Act 2004 (2004 No 48)  
Supreme Court Act 2003 (2003 No 53): sections 46, 48(2)  
State Sector Amendment Act 2003 (2003 No 41): section 14  
Local Government Act 2002 (2002 No 84): section 262  
Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54): section 4(1)  
Te Ture Whenua Maori Amendment Act 2002 (2002 No 16)  
Public Trust Act 2001 (2001 No 100): section 170(1)  
Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49): section 337(1)  
Housing Corporation Amendment Act 2001 (2001 No 37): section 24(1)  
Te Ture Whenua Maori Amendment Act 2001 (2001 No 11)  
Legal Services Act 2000 (2000 No 42): section 128  
Estate Duty Repeal Act 1999 (1999 No 64): section 15(1)  
Stamp Duty Abolition Act 1999 (1999 No 61): section 7  
Rating Valuations Act 1998 (1998 No 69): section 54(1)  
Te Ture Whenua Maori Amendment Act (No 2) 1996 (1996 No 153)  
Survey Amendment Act 1996 (1996 No 55): section 5  
Te Ture Whenua Maori Amendment Act 1996 (1996 No 35)  
Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(3)  
Te Ture Whenua Maori Amendment Act 1994 (1994 No 69)  
Te Ture Whenua Maori Amendment Act (No 2) 1993 (1993 No 104)