



ANALYSIS

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1974, No. 73

An Act to amend the Maori Affairs Act 1953, the Maori Affairs Amendment Act 1967, and certain other enactments relating to Maoris, and to make provisions for certain other matters of significance to the Maori people

[8 November 1974

WHEREAS it is desirable that official recognition be given to the significance of the Maori language as the ancestral tongue of that part of the population of New Zealand of Maori descent and that the present restriction in the legal application of the term "Maori" to persons of more than a fixed degree of Maori blood should be relaxed: And whereas it is expedient to reconstitute the Department of Maori Affairs as a separate institution and to state its functions: And whereas it is desirable that there be greater involvement and participation in, and identification of the Maori owners with, land development activities: And whereas it is desirable to abolish the Board of Maori Affairs and to constitute in its place a Maori Land Board: And whereas it is desirable that in relation to the development and settlement of Maori land, the erection of houses for Maoris, and other purposes the Minister of Maori Affairs and the Maori Land Board should have the advantage of assistance by local representatives of the Maori people: And whereas express provision is desirable for the preparation and carrying out of programmes for the training and placement in employment of young Maori people: And whereas it is expedient that some amendments be made in the provisions of law affecting succession to Maori land and the alienation of Maori land:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

PART I

INTRODUCTORY PROVISIONS

1. Short Title and commencement—(1) This Act may be cited as the Maori Affairs Amendment Act 1974, and shall be read together with and deemed part of the Maori Affairs Act 1953 (hereinafter referred to as the principal Act).

(2) Subject to the provisions of subsection (3) of this section and of sections 3 and 7 of this Act, this Act shall come into force on the 1st day of January 1975.

(3) Part VII of this Act (relating to the alienation of Maori land) shall come into force on the day of the passing of this Act.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by omitting from subsection (1) the definition of the term "Maori", and substituting the following definition:

“‘Maori’ means a person of the Maori race of New Zealand; and includes any descendant of such a person:”.

(2) Section 2 of the principal Act is hereby further amended by omitting from the definition of the term “European land owned by Maoris” in subsection (1) (as amended by section 133 (1) of the Maori Affairs Amendment Act 1967) the words “or descendants of Maoris”.

(3) Section 326 of the principal Act is hereby amended by repealing the definition of the term “Maori”.

PART II

DEPARTMENT OF MAORI AFFAIRS

3. Commencement of this Part—This Part of this Act shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

4. Reconstitution of Department—(1) The principal Act is hereby amended by inserting (in place of the Part II repealed by section 7 (6) of the Maori and Island Affairs Department Act 1968), the following Part:

“PART II

“DEPARTMENT OF MAORI AFFAIRS

“**3. Department of Maori Affairs reconstituted**—There shall be a Department of State to be called the Department of Maori Affairs.

“**4. Functions and objects of Department**—(1) The general functions of the Department shall be to give effect, under the direction of the Minister, to the provisions of this Act and of all other enactments administered by it; to carry out any other directions of the Minister for the benefit of individuals or groups of the Maori race; and to provide the clerical and administrative services necessary for the efficient functioning of the Maori Land Court.

“(2) In the exercise of its functions the Department shall always, to the extent possible, have regard to the following objects:

“(a) The retention of Maori land in the hands of its owners, and its use or administration by them or for their benefit:

“(b) The preservation, encouragement, and transmission of the Maori language, Maori customs and traditions, Maori arts and handicrafts, and other aspects of Maori culture essential to the identity of the Maori race:

“(c) The qualification of Maoris for and their entry into all trades, professions, and occupations:

“(d) The promotion of the health, education, and general social well-being of all members of the Maori race.

“4A. **Secretary and other officers**—(1) There shall from time to time be appointed under the State Services Act 1962 a Secretary for Maori Affairs who shall be the chief administrative officer of the Department.

“(2) All persons employed in the Department shall be appointed and hold office in accordance with the State Services Act 1962. In the performance of their official duties they shall be subject to the direction and control of the Secretary.

“4B. **Deputy Secretary**—(1) There shall from time to time be appointed under the State Services Act 1962 a Deputy Secretary for Maori Affairs, who, subject to the control of the Secretary, shall have and may exercise all the powers, duties, and functions of the Secretary and be his deputy.

“(2) On the occurrence from any cause of a vacancy in the office of Secretary for Maori Affairs (whether by reason of death, resignation, or otherwise), and in the case of the illness, absence, or other temporary incapacity of the Secretary for Maori Affairs, and so long as any such vacancy, illness, absence, or incapacity continues, the Deputy Secretary for Maori Affairs shall have and may exercise all the powers, duties, and functions of the Secretary for Maori Affairs.

“(3) The fact that the Deputy Secretary for Maori Affairs exercises any power, duty, or function of the Secretary for Maori Affairs shall be conclusive evidence of his authority to do so, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorising him to do so.”

(2) The Maori and Island Affairs Department Act 1968 and section 8 of the Maori Purposes Act 1969 are hereby repealed.

(3) The persons holding office at the commencement of this Part of this Act as the Secretary for Maori and Island Affairs and the Deputy Secretary for Maori and Island

Affairs shall be deemed to have been appointed as Secretary for Maori Affairs and Deputy Secretary for Maori Affairs respectively.

5. Consequential amendments—(1) The enactments mentioned in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) Every reference to the Maori and Island Affairs Department in any enactment, not specified in the second column of the First Schedule to this Act, or in any regulation, rule, or order, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever, shall, unless the context otherwise requires, be read hereafter as a reference to the Department of Maori Affairs.

(3) Every reference to the Secretary for Maori and Island Affairs in any enactment, not specified in the second column of the First Schedule to this Act, or in any regulation, rule, or order, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever, shall, unless the context otherwise requires, be read hereafter as a reference to the Secretary for Maori Affairs.

PART III

TRADE TRAINING AND EMPLOYMENT

6. Minister may authorise preparation and carrying out of schemes—(1) The Minister may from time to time authorise the preparation and carrying into effect of schemes for the training, retraining, and employment of Maoris.

(2) Without limiting the general authority contained in subsection (1) of this section, any scheme may contain provision for one or more of the following activities:

- (a) The recruitment and placement of Maoris in employment:
- (b) The training and retraining of Maoris in trades or other types of employment:
- (c) The arranging of apprenticeships for Maoris:
- (d) The provision of suitable accommodation for Maoris who are training for employment or are otherwise studying or who are employed in any trade or occupation.

(3) Any scheme may be prepared and administered in collaboration with any other Government Department, educational authority, or institution, or any other person or body of persons engaged in similar purposes.

PART IV

ABOLITION OF BOARD OF MAORI AFFAIRS AND CONSTITUTION
OF MAORI LAND BOARD

7. Commencement of this Part—This Part of this Act shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

8. Board of Maori Affairs abolished—(1) The Board of Maori Affairs continued in force by section 5 of the principal Act is hereby abolished.

(2) All rights, powers, duties, liabilities, and contracts exercisable by, vested in, or binding on the Board of Maori Affairs shall, on the commencement of this Part of the Act become exercisable by, vested in, or binding on the Maori Land Board constituted by section 5 of the principal Act (as substituted by section 9 of this Act).

(3) All documents made or things done by the Board of Maori Affairs before the commencement of this section in the exercise of any functions, powers, or duties heretofore conferred or imposed on it shall, insofar as they are subsisting or in force at the commencement of this Part of this Act enure for all purposes in all respects as if they had been made or done by the Maori Land Board and accordingly shall, where necessary, be deemed to have been so made or done.

9. Maori Land Board constituted—(1) The principal Act is hereby amended by repealing sections 5 and 6 and the heading above section 5, and substituting the following sections and heading:

“MAORI LAND BOARD

“5. Establishment of Maori Land Board—(1) For the purpose of assisting in the administration of this Act and of other Acts relating to Maoris or Maori land, there shall be a Board to be known as the Maori Land Board (in this Part referred to as the Board).

“(2) The Board shall consist of:

“(a) The Minister, who shall be the Chairman:

“(b) The Secretary for Maori and Island Affairs:

“(c) The Director-General of Lands:

“(d) The Valuer-General:

“(e) A member of Parliament representing a Maori electorate nominated in writing by the other members of Parliament representing Maori electorates:

“(f) One person to be appointed by the Minister on the nomination of the New Zealand Maori Council constituted by section 17 of the Maori Welfare Act 1962:

“(g) Three other persons, being Maoris, to be appointed by the Minister.

“(3) Every appointed member of the Board shall be appointed for a term of 3 years, but may on the expiry of any term of appointment be reappointed.

“(4) An appointed member may at any time be removed from office by the Minister for disability, insolvency, neglect of duty, or misconduct, proved to the satisfaction of the Minister, or may at any time resign his office by writing addressed to the Minister, and in any such case, or in the case of the death of an appointed member, his office shall become vacant, and the vacancy may be filled by the appointment, by the Minister, of a fit person to hold office for the unexpired portion of the term for which the person vacating office was appointed.

“(5) The powers of the Board shall not be affected by any vacancy in its membership.

“6. **Board to implement policy of Government**—In the exercise of its functions and powers under this Act or any other enactment, the Board shall give effect to the policy of the Government in relation to those functions and powers, as communicated to it from time to time by the Minister.”

(2) The following enactments are hereby consequentially repealed, namely—

(a) Subsection (3) of section 7 of the principal Act:

(b) Section 3 of the Maori Purposes Act 1958:

(c) Section 3 of the Maori Purposes Act 1972.

10. Delegation of powers—(1) Section 10 of the principal Act is hereby amended by inserting at the beginning of subsection (1), before the words “The Board”, the words “Subject to any regulations made under this Act”.

(2) Section 10 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) No delegation shall be made under this section except to a Maori Land Advisory Committee established under Part V of the Maori Affairs Amendment Act 1974, or to a Committee appointed under section 11 of this Act, or to an officer or 2 or more specified officers of the Department.”

11. Consequential amendments—(1) The enactments mentioned in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) Every reference to the Board of Maori Affairs in any enactment, not specified in the second column of the Second Schedule to this Act, or in any regulation, rule or order, or in any contract, agreement, deed, instrument, application, licence, notice, or other document whatsoever, shall, unless inconsistent with the context, be read hereafter as a reference to the Maori Land Board.

PART V

MAORI LAND ADVISORY COMMITTEES

12. Interpretation—In this Part of this Act, unless the context otherwise requires “Committee” means a Maori Land Advisory Committee established under section 13 of this Act.

13. Maori Land Advisory Committees may be established—(1) The Minister may, at any time, in respect of any Maori Land Court district or in respect of any other specified district, establish a Maori Land Advisory Committee in accordance with the provisions of this Part of this Act.

(2) The functions of each such Committee shall be:

- (a) To assist in the consideration of proposals for the improvement of the title of any Maori land under Part II of the Maori Affairs Amendment Act 1967, or under any provision of the principal Act or of any other Act:
- (b) To assist in the consideration of any proposal referred to it for a change in the use of any Maori land:
- (c) To exercise any powers that are delegated to it under Part IV of this Act by the Maori Land Board, being powers under Part XXIV of the principal Act (relating to the development and settlement of land for or by Maoris), under the Maori Housing Act 1935, or under any other Act:

(d) Such other functions as may from time to time be prescribed by any Act, or as may be required of it by the Minister.

(3) No such Committee shall have any power to make any decision authorising, directing, or involving the expenditure of any public money unless the District Officer of the Department or a person appointed to act in his place pursuant to section 14 (4) of this Act concurs in the decision:

Provided that the Committee may recommend to the Maori Land Board that it make such a decision, notwithstanding that the recommendation is not concurred in by the District Officer or a person appointed to act in his place.

14. Composition of Committees—(1) Each such Committee shall consist of not more than 7 persons of whom—

(a) One shall be the District Officer of the Department:

(b) Not more than 2 shall be officers of other Government Departments:

Provided that where 2 persons hold office under this paragraph those persons shall not be officers of the same Government Department:

(c) Not more than 4 persons shall be appointed to represent the Maori population of the district for which the Committee is appointed.

(2) The members of each Committee (other than the member who holds office under paragraph (a) of subsection (1) of this section) shall be appointed by the Minister who shall also appoint one member of the committee to be Chairman.

(3) Any member who holds office under paragraph (b) of subsection (1) of this section may be designated by name or by the office which he holds.

(4) Any member who holds office under paragraph (a) or paragraph (b) of subsection (1) of this section may from time to time appoint any other person to act in his place at any meeting of the Committee.

(5) Every appointed member of a Committee shall be appointed for a term of 3 years, but any such member may from time to time be reappointed.

(6) Any appointed member may at any time be removed from office by the Minister for disability, insolvency, neglect of duty, or misconduct, proved to the satisfaction of the Minister, or may at any time resign his office by writing

addressed to the Minister, and in any such case, or in the case of the death of an appointed member, his office shall become vacant and may be filled by the appointment by the Minister of a person who shall hold office for the unexpired portion of the term for which the person vacating office was appointed.

(7) The powers of a Committee shall not be affected by any vacancy in its membership.

(8) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason only of his being a member of a Committee.

15. Meetings of Committee—(1) All meetings of a Committee shall be summoned by its Chairman. A meeting shall be summoned if requisitioned by 3 members.

(2) The Chairman shall preside over all meetings of the Committee at which he is present. In the absence of the Chairman, the members present shall elect one of their number to be the Chairman for the purposes of the meeting.

(3) At all meetings of the Committee 3 members shall form a quorum.

(4) On all motions before the Committee, the Chairman shall have a deliberative vote, and in the case of an equality of votes, shall also have a casting vote.

(5) Subject to the provisions of this Part of this Act, a Committee may regulate its procedure in such manner as it thinks fit.

16. Department to service Committees—(1) The Department shall furnish such secretarial, recording, and other services as may be necessary to enable each Committee to exercise its functions and powers.

(2) The minutes and other records of each Committee shall be held in the custody of the Department.

17. Committee may appoint subcommittees—A Committee may, from time to time, as it thinks fit, appoint from its members one or more subcommittees to advise or assist it in the exercise of its functions and powers but, any such subcommittee shall report back to the Committee, which shall have exclusive power to make and issue a decision or a recommendation on any matter referred to it.

18. Committees may invite persons with special knowledge to attend meetings—(1) A Committee may at its discretion at any time, in respect of any particular matter before it, invite to any meeting to assist in its discussions any person who in the Committee's opinion possesses special knowledge of the matter, but no such person shall have power to vote on any motion before the Committee.

(2) The Committee may resolve that any persons attending a meeting pursuant to this section shall receive remuneration by way of fees or allowances and travelling allowances and expenses as set out in section 19 of this Act as if they were appointed members of the Committee, and payment shall be made accordingly.

19. Fees and travelling allowances—(1) Every Maori Land Advisory 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 appointed members of any such Committee 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.

PART VI

SUCCESSION TO MAORIS

20. Intestate succession to certain interests in Maori land—Section 117 of the principal Act (as amended by section 88 (4) of the Maori Affairs Amendment Act 1967) is hereby further amended by adding the following subsection:

“(5) The provisions of this section shall apply to the succession to the intestate estate of a Maori, in so far as it consists of any undivided beneficial freehold interests in common in Maori freehold land if the deceased—

“(a) Died on or after the 1st day of April 1968 and before the 1st day of January 1975 and at the latter date no grant of administration of his estate has been made and no other action taken having the effect of vesting the interest in the persons entitled thereto; or

“(b) Dies on or after the 1st day of January 1975.”

21. Payment of certain revenues to administrator—Section 132A of the principal Act (as inserted by section 7 of the Maori Purposes Act 1960 and amended by section 88 (13) of the Maori Affairs Amendment Act 1967) is hereby further amended by adding the following subsection:

“(6) The provisions of this section shall apply in any case where, immediately before his death, any deceased person was entitled to any interest in property by reason of his undivided beneficial freehold interest in common in land subject to the provisions of Part XXIV of this Act if:

“(a) The deceased died on or after the 1st day of April 1968 and before the 1st day of January 1975 and if at the latter date no grant of administration of the estate of the deceased had been made and no other action taken having the effect of vesting the interest in the persons entitled thereto; or

“(b) The deceased dies on or after the 1st day of January 1975.”

22. Disposition of interests in Maori land on death—(1) Section 136 of the principal Act (as substituted by section 2 (1) of the Maori Purposes Act 1957 and amended by section 7 of the Maori Purposes Act 1961 and by section 4 of the Maori Purposes Act 1963) is hereby further amended by omitting from subsection (1) the words “or in accordance with section 137 of this Act, as the case may require”.

(2) Section 136 of the principal Act is hereby further amended by repealing paragraphs (d) and (e) of subsection (2) and subsection (4).

23. Conversion of uneconomic interests abolished—The following enactments are hereby repealed, namely—

(a) Sections 137, 138, 139, 142, and 143 of the principal Act:

(b) Subsection (2) of section 5 of the Maori Purposes Act 1955:

(c) Section 10 of the Maori Affairs Amendment Act 1962:

(d) Sections 119 and 120 of the Maori Affairs Amendment Act 1967.

24. Vesting orders in respect of interest in European land of deceased Maori—The principal Act is hereby amended by inserting, before section 146, the following section:

“145. (1) On application by the executor or administrator of any Maori who has died possessed of any freehold interest

in European land, the Court may make an order vesting that interest in the executor or administrator or in the person entitled to succeed thereto under the will or on the intestacy of the deceased Maori.

“(2) For the purposes of an application under subsection (1) of this section the Court, without further inquiry, may accept the certificate of the executor or administrator that any person named therein is entitled to succeed to the interest to which the application relates.

“(3) The making of a vesting order under subsection (1) of this section shall not absolve the executor or administrator from any liability incurred by him in respect of his duties, and for the purpose of determining any such liability the making of the vesting order shall be regarded as if it had been a conveyance of the same estate or interest by the executor or administrator to the person in whom that estate or interest is vested by the vesting order.”

25. New sections substituted—The Maori Affairs Amendment Act 1967 is hereby amended by repealing section 76, and substituting the following sections:

“76. Succession to Maoris on intestacy generally—
(1) Except as provided by subsection (2) of this section, the persons entitled on the complete or partial intestacy of a Maori who dies on or after the 1st day of January 1975 (being the date of commencement of Part VI of the Maori Affairs Amendment Act 1974) to succeed to his intestate estate, and the shares in which they are so entitled, shall be determined in the same manner as if the deceased were a European.

“(2) The persons entitled on the intestacy or partial intestacy of a Maori who dies on or after the 1st day of January 1975 to succeed to his intestate estate so far as it consists of undivided beneficial freehold interests in common in Maori freehold land (not including any interest owned as a joint tenant) and the shares in which they are so entitled shall be determined in accordance with the provisions of section 76A of this Act.

“(3) The provisions of this section shall apply in respect of the estate and the undivided beneficial freehold interests in common in Maori freehold land of any Maori who has died on or after the 1st day of April 1968 (being the date of commencement of the Maori Affairs Amendment Act 1967) and before the 1st day of January 1975, if at the latter date no

grant of administration of his estate has been made, to the extent of any such beneficial freehold interests in common in respect of which no action has been taken having the effect of vesting them in the persons entitled thereto.

“76A. Succession to undivided interests in Maori land on intestacy—(1) Where any Maori dies intestate as to any undivided beneficial freehold interest in common in Maori freehold land, the persons entitled to succeed to the interest shall, subject to subsections (2) and (3) of this section, be ascertained 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 death in equal shares, together with the issue living at the death of the deceased, of any child of the deceased who predeceased him, the said issue to take through all degrees, according to their stocks, in equal shares if more than one, the share 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 his brothers and sisters living at his death (including brothers and sisters of the half blood descended from the parent or other ascendant through whom the deceased received his entitlement to the interest) in equal shares, together with the issue living at the death of the deceased, of any such brother or sister of the deceased who predeceased him, the said issue to take through all degrees, according to their stocks, in equal shares if more than one, the share 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 alive 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; and the issue shall take through all degrees, according to their stocks, in equal shares if more than one:

“(d) The Maori Land Court, on application, shall have jurisdiction to determine who is entitled to succeed

to any interest pursuant to the provisions of paragraphs (a) to (c) of this subsection, and, if in its opinion, no person is so entitled, to determine in accordance with Maori custom who is so entitled.

“(2) Notwithstanding the other provisions of this section, the surviving spouse of any Maori, who dies after the commencement of this Act intestate as to any undivided beneficial freehold interest in common in Maori freehold land, shall be entitled as of right to receive an interest for life or until remarriage in that interest, unless she signifies in writing that she does not wish to take the interest.

“(3) The provisions of subsection (1) of this section shall be read subject to the provisions of section 117 of the principal Act (as to interests in Maori land acquired by will, by gift, by purchase, and the like transactions).”

26. Extension of Court’s power to effect succession without administration—(1) Section 78A of the Maori Affairs Amendment Act 1967 (as inserted by section 17 of the Maori Purposes Act (No. 2) 1973) is hereby amended by omitting from subsection (1) the words “beneficial freehold interests”, and substituting the words “undivided beneficial freehold interests in common”.

(2) The said section 78A is hereby further amended by omitting from paragraph (d) of subsection (3) the expression “\$2,000”, and substituting the expression “\$4,000”.

(3) The said section 78A is hereby further amended by omitting from paragraph (e) of subsection (3) the expression “\$7,500”, and substituting the expression “\$10,000”.

27. Consequential amendments—(1) The Maori Affairs Amendment Act 1967 is hereby amended by repealing sections 84 and 85 and subsections (1) and (2) of section 87.

(2) The following enactments are hereby consequentially repealed, namely—

(a) Subsection (2) of section 13 of the Maori Purposes Act 1972:

(b) Section 2 of the Maori Purposes Act 1973.

PART VII

ALIENATION OF MAORI LAND

28. Vesting orders transferring interests in land—(1) The principal Act is hereby amended by repealing section 213 (as substituted by section 90 of the Maori Affairs Amendment

Act 1967 and amended by sections 2 (3) and 7 (1) of the Land Settlement Promotion and Land Acquisition Amendment Act 1968 and by section 5 of the Maori Purposes Act 1970), and substituting the following sections:

“213. Transfer of interests by Court vesting orders—

(1) Subject to the provisions of this section, the Court may for the purpose of giving effect to any arrangement or agreement between the parties concerned, make a vesting order for the transfer of the freehold interests, whether legal or equitable, of an owner in common of Maori freehold land to and in favour of—

“(a) Any other beneficial owner of the land:

“(b) A Maori incorporation under Part IV of the Maori Affairs Amendment Act 1967:

“(c) A trustee appointed under section 438 of this Act who is authorised by the trusts declared pursuant to that section to acquire an interest in the land from a beneficial owner for the benefit of all or some of the other beneficial owners.

“For the purposes of this subsection the term ‘owner’ includes any person holding an interest as aforesaid in a representative capacity whether as executor, administrator, or trustee, and the Official Assignee and the Maori Trustee.

“(2) No order shall be made under this section in respect of an interest which, in the opinion of the Court, is of a value less than \$50 unless—

“(a) The person in whom the interest is vested by the order already possesses a freehold interest in the same land; or

“(b) The interest vested by the order comprises the whole of the interest in the land to which the owner was entitled immediately before the making of the order.

“(3) The Court may refuse to make a vesting order under this section if it is of the opinion that the arrangement or agreement of the parties should be given effect to by memorandum of transfer. There shall be no appeal against a refusal to make an order under this section.

“(4) The provisions of subsection (1) of section 227 and of sections 228 and 229 of this Act shall apply to every application for a vesting order under this section, as if the

application were an application for confirmation of an instrument of alienation for the transfer of the same interests by the same alienor to the same alienee.

“(5) No vesting order shall be signed and sealed unless—

“(a) Where the consideration as fixed by the Court is in excess of \$100, the purchase money (if any) payable, has, pursuant to section 227B of this Act, been paid to the Maori Trustee; or

“(b) Where the consideration as fixed by the Court does not exceed \$100, the Court is satisfied that the purchase money (if any) payable, has in fact been received in full by the alienor either by payment being made in the presence of the Court or by subsequent payment.

“(6) No vesting order by way of gift shall be made where the value of the interest to be so vested in the opinion of the Court exceeds \$100 unless and until the Court has first heard the evidence of the donor in person in support of the application for the vesting order.

“(7) Any arrangement or agreement for the purposes of subsection (1) of this section shall be executed and attested in the manner provided for in section 222 of this Act but shall not in any way or for any purpose be deemed to constitute an enforceable contract.

“(8) The provisions of this section shall be subject to section 213B of this Act, to section 4A of the Maori Vested Lands Administration Act 1954, and to section 10 of the Maori Reserved Land Act 1955.

“(9) Notwithstanding anything express or implied in this or in any other Act and subject to compliance with Rules of Court, an owner of a beneficial interest in common of Maori freehold land not being a party to an arrangement or agreement under subsection (1) of this section shall be entitled to appear and be heard upon an application to the Court for the making of a vesting order in respect of the interest to which such arrangement or agreement relates, notwithstanding that save for this section he would not otherwise have been so entitled.

“213A. Vesting in persons beneficially entitled, interests held in representative capacity—(1) Where an undivided freehold interest in Maori freehold land is held by any person in a representative capacity as set out in subsection (1) of section 213 of this Act the Court may by order vest the 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. On the application of the person holding in a representative capacity the Court may proceed without notification and without hearing the parties or any of them to make an order vesting the interest in the person or persons named in the application and in the proportions therein set out.

“(2) Where more than one person is entitled to share in the interests in land covered by any application under this section, the Court, in making orders, may give effect to any arrangement or agreement whereby the share of any one person entitled is to be vested in any other person entitled:

“Provided that if the Court is satisfied that the projected arrangement or agreement is fair and equitable in the circumstances and is not contrary to the interests of the persons concerned, it may give effect to the projected arrangement notwithstanding that any of the persons concerned has not agreed thereto or objects thereto.

“213B. **Application to vesting orders of Land Settlement Promotion and Land Acquisition Act 1952**—(1) Nothing in the Land Settlement Promotion and Land Acquisition Act 1952 shall apply to the disposition of any interest in land by means of a vesting order made under section 213 or section 213A of this Act.

“(2) Notwithstanding anything in subsection (1) of this section, in determining whether it should make an order under section 213 of this Act vesting any interest in land in any person who is not a New Zealand citizen or is an overseas corporation within the meaning of Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952, the Court shall, as far as possible, act in conformity with the relevant provisions of the said Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952, and shall have regard to the several matters that a Land Valuation Committee is, by that Part of that Act, required to consider in relation to applications made thereunder.”

(2) The following enactments are hereby consequentially repealed, namely—

(a) Section 90 of the Maori Affairs Amendment Act 1967:

(b) Subsection (1) of section 7 of the Land Settlement Promotion and Land Acquisition Amendment Act 1968:

(c) Section 5 of the Maori Purposes Act 1970.

29. Alienation by Maori Trustee—The principal Act is hereby amended by repealing section 221, and substituting the following section:

“221. Except for the purposes of Part X of this Act or as may be otherwise expressly provided in this or any other Act, the provisions of this Part of this Act shall not apply to any alienation of Maori land where the instrument of alienation is executed by the Maori Trustee as trustee, but where an instrument of alienation is executed by the Maori Trustee in any capacity other than that of trustee, the application for confirmation may, in the discretion of the Court, be dealt with by the Court without notification.”

30. Attestation of execution of instruments of alienation—Section 222 of the principal Act (as substituted by section 97 of the Maori Affairs Amendment Act 1967) is hereby amended by adding the following subsection:

“(3) The signature of a Maori to any such instrument shall be attested by a notary public, or a barrister or solicitor of the Supreme Court, or a Justice of the Peace, or a Postmaster, or a licensed interpreter of the Maori language, or the Registrar or Deputy Registrar of the Supreme Court or of the Magistrate’s Court or of the Maori Land Court or a Resident Officer of the Department of Maori Affairs, or a Maori Welfare Officer of the Department. The attesting witness shall, in addition to his signature, set down the capacity in which he attests the document and his full address.”

31. Conditions of confirmation—Section 227 of the principal Act (as substituted by section 100 of the Maori Affairs Amendment Act 1967 and amended by section 7 of the Land Settlement Promotion and Land Acquisition Amendment Act 1968) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) No alienation by way of transfer of Maori land shall be confirmed unless the Court is satisfied—

“(a) That the instrument of alienation has been executed and attested in the manner required by this Act; and

“(b) That the alienation is not in breach of any trust to which the land is subject; and

“(c) That the alienation, if completed, would not result in an undue aggregation of farm land; and

“(d) That the value of any millable timber, minerals, or other valuable thing in or upon the land has been properly taken into account in assessing the consideration payable; and

“(e) 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.”

(2) Section 227A of the principal Act (as inserted by section 100 of the Maori Affairs Amendment Act 1967) is hereby consequentially repealed.

32. Special valuations required for confirmation purposes—Section 228 of the principal Act (as amended by section 101 of the Maori Affairs Amendment Act 1967) is hereby further amended by omitting from subsection (3) the words “subject to the provisions of section 227A of this Act”.

33. Leases not to contain option to purchase—The principal Act is hereby amended by inserting, after section 234A (as inserted by section 107 (1) of the Maori Affairs Amendment Act 1967), the following section:

“234B.—Where any lease or agreement to lease of Maori freehold land granted or entered into after the commencement of Part VII of the Maori Affairs Amendment Act 1974 contains a provision that purports to confer a right to purchase the freehold of the land, whether the right be absolute or conditional or contingent or otherwise howsoever, that provision shall not be of any force or effect, and shall not be capable of becoming of any force or effect.”

34. Maori Trustee may enforce covenants of lease on behalf of owners—Section 239 of the principal Act is hereby amended by adding the following subsection:

“(3) The Maori Trustee shall exercise the powers conferred on him by subsection (1) of this section in any case where he is directed by the Minister in writing to do so.”

35. Meetings of assembled owners to be summoned by Court—The principal Act is hereby amended by repealing section 307, and substituting the following section:

“307. (1) Meetings of assembled owners shall be summoned by the Registrar, by direction of the Court given on application made in accordance with this section.

“(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 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) Where the purpose of the meeting is to consider a proposed alienation to any person other than the Crown, the application shall be made by the proposed alienee.

“(4) Except as provided in the foregoing provisions of this section, application for the summoning of a meeting of assembled owners may be made by any person interested.

“(5) Every application under this section shall be accompanied by the prescribed fee.

“(6) The summoning of a meeting shall be in the discretion of the Court.

“(7) Every such meeting shall be held at such time and place as the Court or the Registrar appoints, and shall be summoned by the Registrar in the prescribed manner.

“(8) No meeting duly summoned in the prescribed manner, and no resolution passed thereat, shall be invalidated or otherwise affected by the circumstance that any owner has not in fact received notice of the holding of that meeting.

“(9) In the course of determining any such application the Court, subject to Rules of Court, 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.

“(10) In the event of any such meeting failing for want of quorum any sum so deposited or any part thereof may, upon application by the Registrar, be paid by the Court to such of the owners or their proxies as in its opinion have been put to undue expense or inconvenience in attending such meeting, and any balance shall be refunded to the person who deposited the same.

“(11) No appeal shall lie to the Appellate Court against an order made under subsection (9) or subsection (10) of this section.”

36. Proxies and quorums at meetings—(1) Section 309 of the principal Act (as amended by section 4 of the Maori Purposes Act 1967) is hereby further amended by repealing subsection (6), subsection (6A), subsection (6B), and subsection (6c), and substituting the following subsections:

“(6) No person other than an owner, or the wife or husband of an owner, or the son or daughter, or stepson or step-daughter of an owner, or the father or mother or brother or sister of an owner, or an uncle or aunt of an owner, shall be qualified to act as a proxy at any meeting of assembled owners, otherwise than as proxy of the trustee of a person under disability within the meaning of Part X of this Act.

“(6A) The quorum for a meeting of assembled owners shall include owners present in person or by proxy.

“(6B) Where the proposed resolution is for the sale of the land, the quorum shall consist of owners together owning at least 75 percent of the beneficial freehold interest in the land.

“(6c) Where the proposed resolution is for a lease of the land the quorum shall vary according to the term of the proposed lease (including any contemplated term of renewal) as follows:

“(a) Where the proposed lease is for a term of more than 42 years, the quorum shall consist of owners together owning at least 75 percent of the beneficial freehold interest in the land:

“(b) Where the proposed lease is for a term of more than 21 years but not exceeding 42 years, the quorum shall consist of owners together owning at least 50 percent of the beneficial freehold interest in the land:

“(c) Where the proposed lease is for a term of more than 15 years but not exceeding 21 years, the quorum shall consist of owners together owning not less than 40 percent of the beneficial freehold interest in the land:

“(d) Where the proposed lease is for a term of more than 7 years but not exceeding 15 years, the quorum shall consist of owners together owning not less than 30 percent of the beneficial freehold interest in the land:

“(e) Where the proposed lease is for a term not exceeding 7 years, the quorum shall consist of owners together owning not less than 20 percent of the beneficial freehold interest in the land.

“(6D) Where the proposed resolution for consideration is not for a transfer of the land nor for a lease of the land, the quorum for the meeting shall consist of owners (not being less in number than 10 or one-quarter of the total number of

owners, whether dead or alive, whichever is the less) together owning not less than 40 percent of the beneficial freehold interest in the land.

“(6E) For the purposes of subsection (6D) of this section, where the total number of owners is not a multiple of 4, one-quarter of the number of owners shall be deemed to be one-quarter of the next highest number which is a multiple of 4.

“(6F) Notwithstanding the provisions of section 308 of this Act, where a meeting has been summoned to consider a resolution to lease any land, and a quorum as required by this section is not present but the owners present would constitute a quorum to consider a lease for a lesser term than is contemplated in the proposed resolution, the meeting may pass a resolution to lease for any such lesser term accordingly.”

(2) Section 4 of the Maori Purposes Act 1967 is hereby consequentially amended by repealing subsection (4).

37. Reference to Maori Land Advisory Committee where meeting lapses—The principal Act is hereby amended by inserting, after section 315, the following section:

“315A. (1) Where any duly summoned meeting of assembled owners has not been duly constituted for want of a quorum the Recording Officer of his own motion shall adjourn the same *sine die*.

“(2) Any meeting of assembled owners so adjourned *sine die* may be recalled only upon direction of the Court to the Registrar. Such direction may be given *ex parte*.

“(3) As soon as practicable after such adjournment a report of the result of such meeting shall be laid before the Maori Land Advisory Committee (if any) of the district within which the land is situated. Such report shall be accompanied by all information in the records of the Court and of the Department relevant to the nature, ownership, value, and use of the land.

“(4) The Maori Land Advisory Committee shall, after such consultation with the owners as is reasonably practicable, forthwith consider the matter and make in writing to the Minister such recommendations as it thinks fit as to the effective future use, management, and alienation of the land.

“(5) The Minister may, after studying the recommendations of the Maori Land Advisory Committee, arrange for a

proposal in respect of the land to be submitted to the Board of Maori Affairs, or may, if he thinks it necessary, direct the lodging of an appropriate application to the Court.”

38. Resolutions of assembled owners—Section 315 of the principal Act (as amended by section 115 of the Maori Affairs Amendment Act 1967) is hereby further amended—

- (a) By repealing paragraph (b) of subsection (1); and
- (b) By omitting from paragraph (c) of subsection (1) the words “other than the Crown”.

39. Payment of money on filing of application for confirmation—The principal Act is hereby amended by inserting, after section 317, the following section:

“317A. (1) At the time of filing of an application for confirmation by the Court of a resolution the applicant shall, in the case of a resolution for the sale or lease of the land, pay to the Registrar a sum of money equivalent to 10 percent of the consideration expressed in the resolution in the case of a sale, and a sum of money equivalent to 1 year’s rent in the case of a lease.

“(2) Notwithstanding the provisions of subsection (3) of this section, money paid under subsection (1) of this section shall not be nor be deemed to be money paid by way of consideration or earnest or the like.

(3) Money paid in terms of subsection (1) of this section shall be disposed of as follows:

“(a) If the resolution is confirmed with or without modification (such modification having been consented to by the proposed alienee) the money shall be paid by the Registrar to the Maori Trustee on account of the consideration under the transaction:

“(b) If the resolution is disallowed the money shall be refunded without deduction to the applicant.”

40. Confirmation of resolutions for the alienation of land—

(1) Section 318 of the principal Act (as substituted by section 116 of the Maori Affairs Amendment Act 1967 and amended by sections 2 (3) and 7 of the Land Settlement Promotion and Land Acquisition Amendment Act 1968) is hereby further amended by repealing subsection (1), and substituting the following subsection:

“(1) No resolution for the alienation of any land shall be confirmed unless the Court is satisfied as to the following matters:

- “(a) That the alienation is not in breach of any trust to which the land is subject; and
- “(b) That the value of any millable timber, minerals or other valuable thing in or upon the land has been properly taken into account in assessing the consideration payable; and
- “(c) That having regard to the relationship (if any) of the parties or any of them, and to any other special circumstances of the case, the consideration (if any) is adequate; and
- “(d) That the alienation, if completed, will not result in the undue aggregation of farm land.”
- (2) The said section 318 is hereby further amended—
- (a) By omitting from subsection (5) the words “except as provided by subsection (6) of this section”; and
- (b) By repealing subsection (6).

41. Powers of Court on considering confirmation of resolution—(1) Section 319 of the principal Act is hereby amended by adding to subsection (1) the following paragraph:

“(c) Direct the recalling of the meeting of owners at which the resolution was passed.”

(2) The said section 319 is hereby further amended by adding the following subsection:

“(5) No appeal to the Appellate Court shall lie from a direction for the recall of a meeting made or given by the Court under paragraph (c) of subsection (1) of this section.”

(3) The said section 319 is hereby further amended by adding to paragraph (b) of subsection (1) the word “; or”.

42. Failure to act on resolution—The principal Act is hereby amended by repealing section 325, and substituting the following section:

“(1) If any resolution passed by the assembled owners and confirmed by the Court is not carried into effect within 6 months after the date of confirmation, or of the decision of the Maori Appellate Court on appeal, whichever is the later, or within such extended time (if any) as the Court on application before the expiry of the 6 months first-mentioned, may allow, the 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) In the course of the proceedings under subsection (1) of this section the Court may, subject to 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 deems necessary or advisable.

“(3) No appeal to the Appellate Court shall lie from any order made under subsection (1) of this section.”

PART VIII

MISCELLANEOUS AMENDMENTS TO MAORI AFFAIRS ACT 1953

43. Appointment of Judges—(1) The principal Act is hereby amended by repealing section 16 (as amended by section 3 of the Maori Purposes Act 1961), and substituting the following section:

“16. (1) Subject to the provisions of this section, the Governor-General may from time to time, by warrant under his hand, appoint a Chief Judge and such other Judges of the Maori Land Court as may be required for the conduct of the business of the Court.

“(2) No person other than a barrister or solicitor of the Supreme Court of at least 7 years' standing shall be qualified for appointment as a Judge of the Court.

“(3) No person who has attained the age of 68 years shall be qualified for appointment as a Judge of the Court.

“(4) The Chief Judge and every other Judge shall, by virtue of his office, be a Justice of the Peace for New Zealand.”

(2) Section 3 of the Maori Purposes Act 1961 is hereby consequentially repealed.

44. Appointment of temporary Judges—Section 16A of the principal Act (as inserted by section 3 of the Maori Purposes Act 1966 and amended by section 3 of the Maori Purposes Act 1968) is hereby further amended by omitting from subsection (2) the words, “or for two or more such periods not exceeding four years in the aggregate”.

45. Applications to Court—Section 27 of the principal Act is hereby amended by adding the following subsection:

“(3) If in any case the Court is satisfied that a question of importance to the Maori people or any section thereof is involved and that the interests of any person otherwise entitled to apply are not thereby prejudiced it may grant leave to a

Maori Trust Board under the Maori Trust Boards Act 1955 or to a District Maori Council under the Maori Welfare Act 1962 to lodge an application for the exercise of the Court's jurisdiction accordingly."

46. Rehearings—Section 28 of the principal Act (as amended by section 4 of the Maori Purposes Act 1961) is hereby further amended by adding the following subsection:
“(5) No appeal to the Appellate Court shall lie from the refusal by the Court to make an order granting a rehearing.”

47. Damages for trespass—Section 30 of the principal Act is hereby amended by omitting from paragraph (c) of subsection (1) the words “four hundred dollars”, and substituting the expression “\$3,000”.

48. Constitution of Appellate Court—Section 38 of the principal Act is hereby amended by omitting from subsection (2) the word “two”, and substituting the word “three”.

49. Orders as to costs—Section 57 of the principal Act (as amended by section 6 of the Maori Affairs Amendment Act 1962) is hereby amended by inserting in subsection (1), after the words “to those proceedings”, the words “or to whom leave has been granted by the Court to be heard”.

50. Maori Land Court Special Aid Fund—The principal Act is hereby amended by inserting, after section 57, the following section:

“57A. (1) There shall be paid out of the Consolidated Revenue Account into a fund to be known as ‘The Maori Land Court Special Aid Fund’ (which shall be held by the Maori Trustee) such amounts as are from time to time appropriated by Parliament for the purpose.

“(2) The Court may from time to time, in its absolute discretion, make orders for payment from that fund of the legal costs or the out-of-pocket expenses or both of any person or class of person heard or represented in any proceeding before the Court upon requisition under Rule 73 of Rules of Court.

“(3) Where an order is made under subsection (2) of this section in favour of any person who has been heard or represented in any matter, that person may not apply for or be granted assistance under the Legal Aid Act 1969 in respect of the same matter.

“(4) A duplicate of any order made by the Court under subsection (2) of this section shall be forwarded by post to the appropriate District Legal Aid Committee as soon as practicable after the making of the order.”

51. Recognition and encouragement of Maori language—The principal Act is hereby amended by inserting, after section 77, the following section:

“77A. (1) Official recognition is hereby given to the Maori language of New Zealand in its various dialects and idioms as the ancestral tongue of that portion of the population of New Zealand of Maori descent.

“(2) The Minister may from time to time take such steps as he deems appropriate for the encouragement of the learning and use of the Maori language (in its recognised dialects and variants), both within and without the Department and in particular for the extension to Government Departments and other institutions of information concerning and translations from or into the Maori language.”

52. Repeal of provisions providing for compulsory acquisition by Maori Trustee of uneconomic interests—(1) Section 151A of the principal Act (as inserted by section 124 of the Maori Affairs Amendment Act 1967) is hereby repealed.

(2) Section 181 of the principal Act is hereby amended by repealing subsection (8) (as added by section 126 (1) (c) of the Maori Affairs Amendment Act 1967).

(3) Section 435 of the principal Act (as substituted by section 141 (1) of the Maori Affairs Amendment Act 1967) is hereby amended by repealing subsection (2).

(4) Section 445 of the principal Act is hereby amended by repealing subsection (12) (as added by section 126 (3) (c) of the Maori Affairs Amendment Act 1967).

(5) The Maori Affairs Amendment Act 1967 is hereby consequentially amended by repealing section 124 and paragraph (c) of subsection (1) and paragraph (c) of subsection (3) of section 126.

53. Sale of interests acquired by Conversion Fund—Section 152 of the principal Act (as amended by section 125 of the Maori Affairs Amendment Act 1967) is hereby amended by repealing paragraph (d) of subsection (3) and subsection (3A).

54. Limitation of time removed from investigation of customary land—(1) Section 161A of the principal Act (as inserted by section 136 of the Maori Affairs Amendment Act 1967 and amended by section 4 of the Maori Purposes Act 1970) is hereby repealed.

(2) Section 136 of the Maori Affairs Amendment Act 1967 and section 4 of the Maori Purposes Act 1970 are hereby consequentially repealed.

55. Repeal of provision for consolidation schemes—(1) Part XVIII of the principal Act is hereby repealed.

(2) The Maori Affairs Amendment Act 1967 is hereby consequentially amended by repealing section 21, subsection (2) of section 126, and subsection (2) of section 133.

56. Survey and other charges in favour of Crown discharged—(1) Every mortgage, charge, lien, or other encumbrance, whether legal or equitable, which is continued in existence by section 412 of the principal Act (including any equitable charge converted into a legal charge pursuant thereto) and which at the commencement of this Act remains undischarged, is hereby discharged.

(2) The District Land Registrar may, on his own motion, cancel any memorial recording a mortgage, charge, lien, or encumbrance discharged by subsection (1) of this section and shall cancel any such memorial on the application of any person having an estate or interest in the land or on the registration of any dealing affecting the land.

(3) Section 412 of the principal Act is hereby repealed.

(4) The provisions of subsections (1) and (2) of this section shall extend to discharge every charge, whether legal or equitable, in favour of the Crown in respect of money paid to a local authority under any arrangement for the payment or compromise of rates under section 164 or section 537 of the Maori Land Act 1931 or under any other statutory authority; and to authorise and require the cancellation by the District Land Registrar of memorials recording such charges.

57. European land may be declared Maori land—The principal Act is hereby amended by inserting, after section 433 (as substituted by section 13 (1) of the Maori Purposes Act (No. 2) 1973), the following section:

“433A. (1) Subject to the provisions of subsection (2) of this section the Court, in respect of any parcel of European land owned by Maoris, may make an order declaring that the status of the land shall cease to be that of European land:

Provided that the parcel of land owned by Maoris has been so owned for not less than 10 years at the commencement of this section.

“(2) No order shall be made under this section unless the Court is satisfied that by reason of the number of owners or for any other reason the land cannot be satisfactorily managed or dealt with as European land.

“(3) Every order under this section may be registered in accordance with section 36 of this Act.

“(4) Upon the registration of an order under this section, the land to which it relates shall cease to be European land and shall for all purposes be and be deemed to be Maori freehold land.

“(5) For the purposes of Part XII of this Act, any land which has become Maori land by virtue of an order under this section, shall be deemed to have been Maori freehold land at the date of death of any owner who died before the date of the order and whose interest has not been transmitted to his successors or otherwise disposed of at that date.”

58. Aggregation of ownership—The principal Act is hereby amended by inserting, before section 435 (as substituted by section 141 (1) of the Maori Affairs Amendment Act 1967), the following section:

“434A. (1) The provisions of this section shall apply to land of the classes set out in subsection (1) of section 435 of this Act:

“Provided that no order shall be made under this section in respect of any land of the class set out in paragraph (c) of that subsection without the consent of the Maori Land Board.

“(2) Where the Court is satisfied that any 2 or more pieces of land to which the provisions of this section apply and which are held under separate titles could more conveniently be worked or dealt with if they were held in common ownership, but there is no reason to cancel the existing titles, it may make an order vesting the pieces of land in the aggregate of the owners thereof. The order shall set forth the relative

interests of the owners and those interests shall be calculated in accordance with subsection (4) or subsection (5) of section 435 of this Act.

“(3) Upon registration under the Land Transfer Act 1952 a vesting order made under this section shall take effect according to its tenor to vest the land described by it in the persons and in the shares named.

“(4) Any Crown land which pursuant to this section is vested in Maoris shall thereupon become Maori freehold land and the vesting order shall so state.”

59. Appointment of advisory trustees—Section 438 of the principal Act (as substituted by section 142 (1) of the Maori Affairs Amendment Act 1967) is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Upon constituting a trust under this section or at any time thereafter the Court may appoint advisory trustees to act with the trustees of the trust, and the provisions of section 49 of the Trustee Act 1956 shall apply accordingly with such modifications as are necessary.”

60. Court may consider proposals for Maori reservations—The principal Act is hereby amended by inserting, after section 439, the following section:

“439A. (1) On the application of the Minister the Court may consider a proposal that any piece of land (whether Crown land, Maori land, or European 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 439 of this Act, and make a recommendation to 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 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 constitution as a reservation; or

“(d) That some other course be followed.”

61. Vesting for housing purposes—Section 440 of the principal Act is hereby amended by adding the following subsection:

“(5) Every application under subsection (1) of this section shall be executed and attested in the manner prescribed by section 222 of this Act.”

62. Injunction against waste—Section 449 of the principal Act is hereby amended by omitting from subsection (1) the words “kauri gum, or minerals”, and substituting the words “tree ferns, sand, topsoil, metal, minerals, or other substances, whether usually quarried or mined or not,”.

63. Seizure of goods being subject-matter of waste—(1) Section 450 of the principal Act is hereby amended by omitting from subsection (1) the words “kauri gum, or minerals”, and substituting the words “tree ferns, sand, topsoil, metal, minerals, or other substances, whether usually quarried or mined or not,”.

(2) Section 450 of the principal Act is hereby further amended by omitting from subsection (2) the words “kauri gum, or minerals illegally”, and substituting the words “tree ferns, sand, topsoil, metal, minerals, or other substances”.

64. Special powers of Chief Judge to correct mistake, error, or omission—(1) Section 452 of the principal Act is hereby amended by repealing subsection (12) (as substituted by section 144 (1) (b) of the Maori Affairs Amendment Act 1967), and substituting the following subsection:

“(12) 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 68 and of section 468 of this Act would otherwise be applicable.”

(2) Section 68 of the principal Act (as amended by section 144 (2) of the Maori Affairs Amendment Act 1967) is hereby amended by adding the following subsection:

“(3) Nothing in this section shall affect the authority of the Chief Judge to cancel or amend any order pursuant to section 452 of this Act.”

(3) Section 468 of the principal Act (as amended by section 144 (3) of the Maori Affairs Amendment Act 1967) is hereby amended by inserting, before the words “No order” the words “subject to the provisions of section 452 of this Act”.

(4) Section 144 of the Maori Affairs Amendment Act 1967 is hereby consequentially amended by repealing paragraph (b) of subsection (1) and subsections (2) and (3).

65. Protection of Maori land against execution for debt—
(1) Section 455 of the principal Act (as amended by section 146 (a) of the Maori Affairs Amendment Act 1967) is hereby further amended by repealing subsection (1), and substituting the following subsection:

“(1) No interest of any person in customary land, and no undivided beneficial freehold interest in common of a Maori 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 his debts or liabilities, whether in favour of Her Majesty or of any other person.”

(2) Section 146 of the Maori Affairs Amendment Act 1967 is hereby consequentially repealed.

66. Maori land held in severalty or by joint tenants available in bankruptcy—(1) Section 455A of the principal Act (as inserted by section 147 of the Maori Affairs Amendment Act 1967) is hereby amended by omitting from subsection (1) the words “any beneficial freehold interest of the bankrupt in Maori freehold land”, and substituting the words “the beneficial freehold interest of the bankrupt in Maori freehold land owned by him in severalty or owned jointly with any other person or persons”.

(2) Section 455A of the principal Act is hereby further amended by omitting from subsection (4) the words “the beneficial freehold interests in Maori freehold land of a bankrupt shall not vest”, and substituting the words “no beneficial freehold interests in Maori freehold land of a bankrupt shall vest”.

67. Prevention of waste on Maori land—Section 459 of the principal Act (as amended by section 8 of the Maori Purposes Act 1955) is hereby amended by omitting from subsection (1) the words “kauri gum, or minerals”, and substituting the words “tree ferns, sand, topsoil, metal, minerals, or other substances, whether usually quarried or mined or not”.

68. Certain European land may again become Maori land—
(1) The provisions of this section shall apply to any parcel of European land which ceased to be Maori freehold land by reason of the registration of a status declaration under Part I of the Maori Affairs Amendment Act 1967 if the land is

owned by the person or persons who owned it at the date of issue of the status declaration (inclusive of any persons in whose favour a vesting order has been made by the Court under section 10 of the Maori Affairs Amendment Act 1967).

(2) On the application of the owner or owners of any land to which the provisions of this section apply, made within 2 years after the date of the commencement of this Act, the Court may make an order declaring that the status of the land shall cease to be that of European land.

(3) An order under this section may be registered in accordance with section 36 of the principal Act.

(4) Upon registration of the order, the land to which it relates shall cease to be European land and shall for all purposes be and be deemed to be Maori freehold land.

PART IX

REPRESENTATION OF OWNERS OF MAORI LAND

69. Interpretation—For the purposes of this Part of this Act the term “Maori land in multiple ownership” means Maori freehold land beneficially owned by more than 4 persons and not vested in any trustee or trustees.

70. Purpose of this Part—The principal purpose of this Part of this Act is to provide for more effective and direct representation of the owners of Maori land in multiple ownership.

71. Notice to owners of Maori land in multiple ownership—
(1) Where it is required, under any Act, bylaw, or other enactment, that notice be given to the owners of land, then, unless express provision is made in that enactment for the case of Maori land, notice may be given to the owners of Maori land in multiple ownership by serving it on the Registrar of the Maori Land Court for the Maori Land Court district in which the land is situated.

(2) Where notice is given in accordance with subsection (1) of this section then, notwithstanding the provisions of the enactment under which notice is required to be given, any period fixed by the enactment from the giving of the notice, or the making of objections, or the lodging of claims or appeals following the receipt of the notice shall be increased by 14 days.

72. Action of Court on receipt of notice—(1) On receiving any notice given in accordance with subsection (1) of section 71 of this Act, the Registrar shall, as soon as possible, bring the matter to the attention of the Court, together with such relevant information as to the land concerned and the ownership thereof as is available.

(2) When a notice is brought to its attention under subsection (1) of this section the Court shall, subject to subsection (3) of this section, consider the circumstances and shall—

- (a) Direct the summoning of a meeting of the owners of the land; or
- (b) Direct that arrangements to be made for consultation with readily available representative owners; or
- (c) Proceed of its own motion to vest the land in trustees upon trust under section 438 of the principal Act or to appoint agents of the owners under section 73 of this Act.

(3) The Court shall not act under paragraph (c) of subsection (2) of this section unless it is satisfied that there is a need for urgency which does not permit of consultation with the owners or representative owners.

73. Court may appoint agents of owners—(1) The powers of the Court under this section may be exercised in respect of any land following the giving of notice to the Registrar under subsection (1) of section 71 of this Act in respect of that land, or on application in accordance with section 27 of the principal Act or of the Court's own motion.

(2) The Court may, in respect of any Maori land in multiple ownership, appoint an owner or two or more persons, of whom at least one is an owner, to be the agents of the owners for one or more of the purposes specified in subsection (3) of this section and subject to such limitations and conditions as are specified in the order.

(3) An agent may be appointed for any one 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 whatsoever:

- (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 proceedings for the determination of compensation for land taken for a public work or to commence proceedings for the recovery of money for any matter in relation to the land:
- (f) To defend or resist or take part in proceedings of any other nature relating to the land:
- (g) 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:
- (h) To borrow money for the carrying out of any purposes for which the agents are appointed and give security for the repayment thereof over the land or any proceeds of the land:
- (i) To do any other specified thing in relation to the land.

(4) For the purposes of this section a person shall be deemed to be an owner of any land if the Court is satisfied he is entitled to succeed in whole or in part to the share of any deceased owner.

(5) The Court may at any time cancel the appointment of any agent under this section, with or without appointing a successor, or may amend the purposes for which an agent has been appointed.

74. Powers of agents—(1) On the appointment by the Court of any agent under section 73 of this Act, 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 his 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 means as he thinks fit to inform the other owners of the land of his 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.

75. Service of notices on agents—The service of any notice concerning Maori land in multiple ownership on the agents of the owners of the land, appointed for the purpose of receiving such notices, shall be as effective as if notice had been given to all the owners or their trustees.

76. Extension of this Part to other Maori land where the owner is deceased or his whereabouts are unknown—The provisions of this Part of this Act shall apply not only in respect of Maori land in multiple ownership but also in respect of any Maori land having not more than 4 owners and not being vested in any trustee or trustees if the Registrar, for the purposes of a notice under section 71 of this Act, and the Court, in any other case, is satisfied that, because any owner is dead and his 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.

PART X

AMENDMENTS TO MISCELLANEOUS ENACTMENTS AFFECTING MAORIS

Amendments to Maori Affairs Amendment Act 1967

77. Declaration of land owned by incorporations as Maori land—(1) Subject to the provisions of this section, the Court, on the application of an incorporation, may make an order declaring that the status of all land of the incorporation which became European land by virtue of subsection (3) of section 31 or subsection (2) of section 68 of the Maori Affairs Amendment Act 1967, shall cease to be that of European land.

(2) Any such order may be registered in accordance with section 36 of the principal Act.

(3) Upon the registration of the order the land to which it relates shall cease to be European land, and shall for all purposes be and be deemed to be Maori freehold land.

(4) Section 31 of the Maori Affairs Amendment Act 1967 is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) In the order of incorporation the Court, after ascertaining the views of the former owners of the land concerned, shall expressly declare either:

“(a) That the Maori freehold land vested in the incorporation and all other Maori freehold land subsequently vested in the incorporation by whatever means, shall continue to be Maori freehold land; or

“(b) That the Maori freehold land vested in the incorporation by the order of incorporation and any other Maori freehold land vested in the incorporation by whatever means shall on vesting become European land.”

78. Incorporation shares protected against bankruptcy and execution, etc.—(1) The Maori Affairs Amendment Act 1967 is hereby amended by inserting, after section 37, the following section:

“37A. Notwithstanding any provision to the contrary in this or any other enactment, the shares of a Maori shareholder in a Maori incorporation, shall not be capable of being taken in execution or otherwise rendered available by any form of judicial process for payment of his debts or liabilities, whether in favour of Her Majesty or of any other person nor be assets in his bankruptcy nor pass to the assignee or trustee in that bankruptcy:

“Provided that nothing in this section shall be construed to apply to any money payable by way of dividend in respect of shares in an incorporation pursuant to paragraph (g) of subsection (1) of section 46 of this Act.”

(2) Section 38 of the Maori Affairs Amendment Act 1967 is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) The Official Assignee may, on his written application, have his name entered in the share register as the owner of the shares of any European adjudged bankrupt.”

Amendment to Mental Health Act 1969

79. Separate definition of “Maori” for purposes of Mental Health Act 1969—(1) Section 82 of the Mental Health Act 1969 is hereby amended by inserting, after the definition of the term “Court”, the following definition:

“‘Maori’ means a person of the Maori race of New Zealand who is qualified to be enrolled on a Maori Electoral Roll or who would be so qualified if he were of full age or were not a protected patient.”

(2) Section 82 of the Mental Health Act 1969 is hereby further amended by adding, as subsection (2), the following subsection:

“(2) For the purposes of this Part of this Act, a person whose name was on a Maori Electoral Roll for the last preceding general election shall, until the contrary is proved, be deemed to be a Maori.”

(3) Section 83 of the Mental Health Act 1969 (as amended by section 10 (1) of the Mental Health Amendment Act 1972) is hereby further amended by omitting from subsection (1) the words “within the meaning of the Maori Affairs Act 1953”.

SCHEDULES

Section 5 (1)

FIRST SCHEDULE

ENACTMENTS AMENDED CONSEQUENT ON THE RECONSTITUTION OF THE
DEPARTMENT OF MAORI AFFAIRS

Enactment Amended	Amendment
1934-35, No. 45—The Maori Purposes Fund Act 1934-35 (1957 Reprint, Vol. 9, p. 68)	By repealing paragraph (b) of subsection (2) of section 7 (as substituted by section 8 (1) of the Maori and Island Affairs Department Act 1968), and substituting the following paragraph: “(b) The Secretary for Maori Affairs:”.
1953, No. 94—The Maori Affairs Act 1953 (Reprinted 1968, Vol. 3, p. 2199)	By repealing the definitions of the terms “Department” and “Secretary” in subsection (1) of section 2 (as substituted by section 8 (1) of the Maori and Island Affairs Department Act 1968), and substituting the following definitions: “‘Department’ means the Department of Maori Affairs:” “‘Secretary’ means the Secretary for Maori Affairs:”.
1953, No. 95—The Maori Trustee Act 1953 (Reprinted 1969, Vol. 3, p. 2349)	By omitting from subsection (2) of section 3 (as amended by section 8 (1) of the Maori and Island Affairs Department Act 1968) the words “Maori and Island Affairs Department established under the Maori and Island Affairs Department Act 1968”, and substituting the words “Department of Maori Affairs established under the Maori Affairs Act 1953”.
1955, No. 37—The Maori Trust Boards Act 1955 (1957 Reprint, Vol. 9, p. 175)	By omitting from subsection (1) of section 4 (as amended by section 8 (1) of the Maori and Island Affairs Department Act 1968) the words “Maori and Island Affairs Department”, and substituting the words “Department of Maori Affairs”.
1955, No. 37—The Maori Trust Boards Act 1955 (1957 Reprint, Vol. 9, p. 175)	By omitting from subsection (1) of section 49 (as amended by section 8 (1) of the Maori and Island Affairs Department Act 1968) the words “Secretary for Maori and Island Affairs”, and substituting the words “Secretary for Maori Affairs”.
1961, No. 46—The Maori Education Foundation Act 1961	By repealing paragraph (c) of subsection (2) of section 8 (as substituted by section 8 (1) of the Maori and Island Affairs Department Act 1968), and substituting the following paragraph: “(c) The Secretary for Maori Affairs:”.

FIRST SCHEDULE—*continued*ENACTMENTS AMENDED CONSEQUENT ON THE RECONSTITUTION OF THE DEPARTMENT OF MAORI AFFAIRS—*continued*

Enactment Amended	Amendment
1962, No. 10—The Parliamentary Commissioner (Ombudsman) Act 1962	By omitting from Part I of the Schedule (as amended by section 8 (1) of the Maori and Island Affairs Department Act 1968) the words "The Maori and Island Affairs Department", and substituting the words "The Department of Maori Affairs".
1962, No. 132—The State Services Act 1962 (Reprinted 1971, Vol. 4, p. 2533)	By omitting from the Second Schedule the words "Maori and Island Affairs Department" (as substituted by section 8 (1) of the Maori and Island Affairs Department Act 1968), and substituting the words "Department of Maori Affairs". By omitting from the Third Schedule (as substituted by section 4 (1) of the State Services Amendment Act 1973) the words "Maori and Island Affairs", and substituting the words "Maori Affairs".
1962, No. 133—The Maori Welfare Act 1962 (Reprinted 1973, Vol. 2, p. 1547)	By repealing the definition of the term "Secretary" in section 2 (as substituted by section 8 (1) of the Maori and Island Affairs Department Act 1968), and substituting the following definition: "Secretary" means the Secretary for Maori Affairs". By omitting from section 4 (as amended by section 8 (1) of the Maori and Island Affairs Department Act 1968) the words "Maori and Island Affairs Department", and substituting the words "Department of Maori Affairs". By omitting from paragraph (c) of section 28 (as amended by section 8 (1) of the Maori and Island Affairs Department Act 1968), and also from paragraph (e) of that section (as so amended), the words "Secretary for Maori and Island Affairs", and substituting in each case the words "Secretary for Maori Affairs".
1963, No. 51—The New Zealand Maori Arts and Crafts Institute Act 1963	By repealing paragraph (b) of subsection (1) of section 5 (as substituted by section 8 (1) of the Maori and Island Affairs Department Act 1968), and substituting the following paragraph: "(b) The Secretary for Maori Affairs".

Section 11

SECOND SCHEDULE

ENACTMENTS AMENDED CONSEQUENT ON THE REPLACEMENT OF THE BOARD OF MAORI AFFAIRS BY THE MAORI LAND BOARD

Enactment Amended	Amendment
1935, No. 34—The Maori Housing Act 1935 (1957 Reprint, Vol. 9, p. 5)	By repealing the definition of the term “Board” in section 2, and substituting the following definition: “‘Board’ means the Maori Land Board established by section 5 of the Maori Affairs Act 1953:”.
1938, No. 17—The Maori Housing Amendment Act 1938 (1957 Reprint, Vol. 9, p. 18)	By omitting from section 2 (as substituted by section 11 (1) of the Maori Purposes Act 1970), and also from section 3 and section 30, the words “of Maori Affairs” wherever they occur.
1953, No. 94—The Maori Affairs Act 1953 (Reprinted 1968, Vol. 3, p. 2199)	By omitting the words “Board of Maori Affairs” wherever they occur, and substituting in each case the words “Maori Land Board” in each of the following sections and subsections, namely, subsection (4) of section 132A (as inserted by section 7 of the Maori Purposes Act 1960), subsection (3) of section 150 (as amended by section 123 of the Maori Affairs Amendment Act 1967), subsection (1) of section 152 (as amended by section 125 (1) of the Maori Affairs Amendment Act 1967), subsection (3) of section 252 (as substituted by section 5 (1) of the Maori Purposes Act (No. 2) 1973), section 326, subsection (1) of section 380 (as substituted by section 11 of the Maori Purposes Act 1960), subsection (5) and subsection (10) of section 454 (as amended by section 28 of the Maori Purposes Act 1959 and by section 145 of the Maori Affairs Amendment Act 1967), and subsection (1) and subsection (6) of section 460 (as amended by section 15 of the Maori Purposes Act 1963).
1953, No. 95—The Maori Trustee Act 1953 (Reprinted 1969, Vol. 3, p. 2349)	By omitting the words “Board of Maori Affairs” wherever they occur, and substituting in each case the words “Maori Land Board” in each of the following sections, namely, section 29, section 31, section 32, section 37 (as amended by section 4 of the Maori Trustee Amendment Act 1962), section 38, section 39, and section 40.

This Act is administered in the Department of Maori Affairs.