



ANALYSIS

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1972, No. 138

**An Act to establish a Pacific Islands Polynesian Education
Foundation** [20 October 1972]

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

1. Short Title—This Act may be cited as the Pacific Islands
Polynesian Education Foundation Act 1972.

2. Interpretation—In this Act, unless the context otherwise
requires,—

“Board” means the Board of Trustees of the Foundation:

“Contributor” means a person who is for the time being a contributor to the foundation within the meaning of section 6 of this Act:

“Education” includes pre-school education:

“Financial year” means a period of 12 months ending with the last day of December:

“Foundation” means the Pacific Islands Polynesian Education Foundation constituted by this Act:

“Polynesian” means a member of the Polynesian race living in New Zealand who is both—

(a) A native of any island of the Pacific Ocean (other than New Zealand); and

(b) A New Zealand citizen or a person who has been granted permanent residence or who has been permitted to enter New Zealand with the intention of permanent residence,—

and includes any descendant of any such member of the Polynesian race:

“Minister” means the Minister of Education:

“Trustee” means a member of the Board.

3. Administration of Act—This Act shall be administered by the Department of Education under the control of the Minister.

4. Foundation established—(1) There shall be a Foundation to be called the Pacific Islands Polynesian Education Foundation.

(2) The Foundation shall consist of the contributors to the Foundation.

(3) The Foundation shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.

5. Purpose of Foundation—The general purpose of the Foundation shall be to promote and encourage the better education of Polynesians and to provide financial assistance for that purpose.

6. Contributors—(1) During any financial year contributors to the Foundation shall be—

(a) All persons who have, during that financial year or during the immediately preceding financial year, contributed the sum of \$1 or more to the funds of the Foundation or who have made gifts to the Foundation of other property of a value of not less than \$1:

(b) All persons who are for the time being accepted by the Board as life members of the Foundation.

(2) The Board may accept as a life member of the Foundation any person who gives to the funds of the Foundation an amount of not less than \$40 in one or more donations, or who makes a gift to the Foundation of other property of a value of not less than \$40.

(3) The Board shall at all times keep a register in which shall be entered the names and addresses of all contributors and the money or property from time to time contributed by each, together with the dates of those contributions. All entries in the register shall, in the absence of proof to the contrary, be sufficient evidence of the matters so recorded.

(4) Any contributor who desires to inspect the register may arrange with the Board to make the inspection at a time suitable to the Board and to the contributor.

7. Meetings of contributors—(1) The Board may from time to time call a general meeting of contributors or of the contributors residing in any particular district in which there are resident 100 or more contributors for the purpose of reporting on the work and finances of the Foundation or for the purpose of discussing plans and proposals for the furtherance and extension of the work of the Foundation or for any other purpose relating to the affairs of the Foundation.

(2) Notice of the calling of any such general meeting shall be given by an advertisement published in some newspaper circulating in the district where the meeting is to be held and the Board may also give such other notice as it thinks fit in the circumstances.

(3) Every question before any general meeting shall be decided by a majority of the votes of the contributors then present and entitled to vote. Each contributor shall have one vote only but in the event of an equality of votes for and against any proposed resolution the person acting as chairman of the meeting shall also have a casting vote.

(4) No person shall be entitled to vote as a contributor at any meeting of contributors unless he has attained the age of 18 years.

(5) At any general meeting 6 contributors shall form a quorum.

8. Constitution of Board—(1) There shall be a Board of Trustees of the Foundation to be called the Board of Trustees of the Pacific Islands Polynesian Education Foundation.

(2) The Board shall consist of:

(a) One Trustee, to be appointed by the Governor-General, who shall be the Chairman:

(b) The Director-General of Education, who shall be the Deputy-Chairman:

(c) The Secretary for Maori and Island Affairs:

(d) One Trustee, who shall be the officer in the Department of Education for the time being holding appointment as the officer for Maori and Islands Education or some other officer of that Department appointed as a Trustee by the Director-General of Education:

(e) Five other Trustees, to be appointed by the Governor-General on the joint nomination in each case of the Minister and the Minister of Island Affairs. Of those 5 Trustees—

(i) One shall be appointed after such consultation with the Niuean community in New Zealand as in the opinion of those Ministers is reasonable and practicable:

(ii) One shall be appointed after such consultation with the Cook Islands community in New Zealand as in the opinion of those Ministers is reasonable and practicable:

(iii) One shall be appointed after such consultation with the Samoan community in New Zealand as in the opinion of those Ministers is reasonable and practicable:

(iv) One shall be appointed after such consultation with the Tokelauan community in New Zealand as in the opinion of those Ministers is reasonable and practicable:

(v) One shall be appointed after such consultation with the Tongan community in New Zealand as in the opinion of those Ministers is reasonable and practicable.

(3) In the absence from any meeting of any member being an officer of any Department of the Public Service he may authorise any other officer of his Department to attend that meeting in his stead. Any person who attends any meeting of the Board pursuant to this subsection shall for the purposes of that meeting be deemed to be a member of the Board.

(4) In the absence from any meeting of any member appointed under subsection (2) of this section he may, with the joint approval of the Minister and of the Minister of Island Affairs, authorise any other person to attend that meeting in his stead. Any person who attends any meeting of the Board pursuant to this subsection shall, for the purposes of that meeting, be deemed to be a member of the Board.

(5) Any person appointed to the Board by the Governor-General under subsection (2) of this section shall be appointed for a term of 3 years but shall be eligible for reappointment.

(6) Any Trustee appointed by the Governor-General may be at any time removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister.

(7) If any appointed Trustee dies, is removed from office, or resigns, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

(8) Unless he sooner vacates his office as provided in subsection (7) of this section, every appointed Trustee shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(9) The powers of the Board shall not be affected by any vacancy in the membership thereof.

9. Chairman at meetings of the Board and contributors—

(1) The Chairman shall preside at all meetings of the Board and all meetings of contributors at which he is present.

(2) If the Chairman is absent from any such meeting and the Deputy Chairman is present, the Deputy Chairman shall preside.

(3) If both the Chairman and the Deputy Chairman are absent from a meeting of the Board, the meeting shall elect some other Trustee present to be chairman of that meeting and the Trustee so elected shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting.

(4) If both the Chairman and Deputy Chairman are absent from a meeting of contributors, the contributors present and entitled to vote shall elect a chairman for the meeting from amongst the Trustees (if any) present at the meeting and if no Trustee is present then from amongst the contributors present; and the person elected shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting.

10. Meetings of Board—(1) Meetings of the Board shall be held at least once in every year at such times and places as the Board from time to time determines.

(2) The Chairman may at any time call a special meeting of the Board.

(3) It shall be the duty of the Chairman or the Secretary to call a special meeting of the Board at any time when he is requested in writing to do so by any 5 Trustees.

(4) At any meeting of the Board 5 Trustees shall form a quorum.

(5) Every question before the Board shall be determined by a majority of the votes of the Trustees present at the meeting:

Provided that in the event of an equality of votes the Chairman shall in addition to his deliberative vote also have a casting vote.

(6) The Board and every committee appointed by the Board shall at all times cause proper minute books to be kept in which shall be entered minutes of the proceedings of the Board or committee, as the case may be, with proper details of the business transacted thereat.

(7) The minutes of each meeting shall be read at the next succeeding meeting and shall be confirmed or amended, as the case may require.

(8) Subject to the provisions of this Act and of any regulation thereunder, the Board shall regulate its procedure in such manner as it thinks fit.

11. Fees and travelling allowances—The Board may pay to any Trustee, or to any member of a Special 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. The Board and all such Committees are hereby declared to be statutory Boards within the meaning of that Act.

12. Executive Committee, Special Committees, and delegation of powers—(1) The Board may from time to time, by resolution, establish—

- (a) An Executive Committee of not less than 3 Trustees:
- (b) Special Committees for particular purposes.

(2) Every member of the Executive Committee shall be a Trustee, but no person shall be debarred from membership of any Special Committee by reason only of the fact that he is not a Trustee or a contributor.

(3) The Board may delegate to the Executive Committee or to any Special Committee, or to any Trustee, or to any officer of the Board any of its powers, except this power of delegation.

(4) Subject to any general or special directions given or conditions attached by the Board, any powers and functions so delegated may be performed and exercised by the Committee or person concerned with the same effect as if those powers and functions had been directly conferred by this Act and not by delegation.

(5) Every Committee or person purporting to act under any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(6) Every such delegation shall be revocable at will, and no such delegation shall prevent the performance or exercise of any function or power by the Board.

(7) Until any such delegation is revoked, it shall continue in force according to its tenor, notwithstanding any change in the membership of the Board or of any Committee.

13. Common seal—The common seal of the Foundation shall not be affixed to any document except pursuant to a resolution of the Board or for the purposes of giving effect to any power delegated by the Board, and the execution of any document so sealed shall be attested by 2 Trustees, and by the Secretary or by some officer authorised by the Board in that behalf.

14. Contracts—(1) Any contract which, if made between private persons, must be by deed, shall, if made by the Foundation, be in writing under the common seal of the Foundation.

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Foundation, be either under the common seal of the Foundation or signed on behalf of the Foundation by some Trustee or officer of the Foundation duly authorised in that behalf.

(3) Any contract which, if made between private persons, may be made orally, may be made in the manner specified in subsection (1) of this section as in the case of a deed, or in the manner specified in subsection (2) of this section as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Foundation by any person acting under its authority, express or implied.

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Foundation shall be invalid by reason only that it was not made in manner provided in the foregoing provisions of this section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board.

(5) The Board is hereby declared to be a local authority for the purposes of the Local Authorities (Members' Interests) Act 1968.

(6) The Local Authorities (Members' Interests) Act 1968 is hereby amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

"The Board of Trustees of the Pacific Islands Polynesian Education Foundation	1972, No. 138—The Pacific Islands Polynesian Education Founda- tion Act 1972."
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15. Appointment of officers and collectors—(1) There shall be appointed in accordance with the State Services Act 1962 all such officers and servants of the Board as may be necessary

for the efficient exercise and performance of the powers and functions of the Board, including a secretary and a treasurer.

(2) The Board may appoint such persons as it thinks fit for the purpose of collecting voluntary contributions and donations from the public for the purposes of the Foundation. No person shall be deemed to be subject to the State Services Act 1962 by reason of his appointment under this subsection.

16. Power to accept property in trust—The Board may accept on behalf of the Foundation by way of bequest, devise, or gift any money, land, or other property in trust for the purposes of the Foundation for the time being or in trust for any particular purpose or purposes for which the Board can lawfully apply the property of the Foundation.

17. General powers of administration—(1) Subject to the provisions of this Act, the Board shall, in respect of any land or other property vested in the Foundation, have authority to do all such things as it considers necessary for the due administration thereof on behalf of the Foundation.

(2) Without limiting the generality of the authority conferred on the Board by subsection (1) of this section, any land vested in the Foundation may be occupied by the Board as a farm and the Board may carry out such farming operations thereon as it thinks fit.

(3) The Board may, with the consent of the Public Trustee and subject to such terms and conditions as may be agreed upon with him, appoint the Public Trustee to be its agent for the purpose of administering, on behalf of the Foundation, any money, land, or other property, and the Board may authorise the Public Trustee to exercise in respect of any property vested in the Foundation all or any of the powers, authorities, and discretions that the Board itself may exercise in respect of that property.

18. Power to sell or exchange land—(1) The Board, with the consent of the Minister, may sell or exchange any land or interest in land vested in the Foundation other than land held in trust for any particular purpose, and may pay or receive on behalf of the Foundation any money by way of equality of exchange.

(2) The powers of selling or exchanging land which are conferred upon the Board by this section shall, with the consent of the Minister, extend to land held in trust for any particular purpose, notwithstanding the terms of that trust; but

the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the same or similar trusts, so far as may be, as the land so disposed of, and the Board shall where necessary execute a declaration of trust to record the terms of the trust following any such sale or exchange.

19. Power to grant leases—Notwithstanding the terms of any trust affecting any such land, the Board may lease any land vested in the Foundation on such terms and conditions as the Board thinks fit and whether by way of public auction, public tender, or private contract.

20. Grants to Foundation—(1) There may from time to time be paid to the Foundation out of money appropriated by Parliament for the purpose—

(a) Such grants as the Minister of Finance from time to time approves:

(b) Such subsidies as the Minister of Finance from time to time approves on devises, bequests, and other contributions and gifts to the Foundation of money, land, and other property.

(2) Any payment or grant made under paragraph (a) of subsection (1) of this section may, with the approval of the Minister of Finance, be made by the issue of Government securities of the appropriate amount to the Foundation. Where any Government securities are so issued, the Board shall not sell or otherwise dispose of them without the consent of the Minister of Finance.

(3) Any local authority within the meaning of the Local Authorities Loans Act 1956, or other public body, any public corporation, any company or other incorporated body, any unincorporated body of persons, or any other person may, unless expressly prohibited by any Act or instrument of trust affecting it, them, or him, make to the Foundation donations or gifts of money, and the Board may accept any such donations or gifts.

21. Capital and income of Foundation—(1) The capital of the Foundation shall consist of:

(a) All money contributed by contributors, whether in trust or otherwise:

(b) All money paid to the Foundation by way of grants, subsidies, donations, and gifts under section 20 of this Act or otherwise except—

(i) The interest arising from Government securities issued pursuant to subsection (2) of the said section 20:

(ii) The income arising from any shares, debentures, or other like securities issued to or held on behalf of the Foundation and being the subject of a gift to the Foundation:

(iii) Any money paid to the Foundation in the form of an annuity or with an express direction by the donor that it is to be applied as income:

(iv) Any subsidy paid in respect of any income or money referred to in subparagraphs (ii) and (iii) of this paragraph:

(c) All property held by or on behalf of the Foundation under this Act:

(d) All money derived from the sale of any property held by or on behalf of the Foundation under this Act:

(e) All money borrowed under section 23 of this Act.

(2) The income of the Foundation shall consist of:

(a) All income derived from the investment of money by or on behalf of the Foundation under this Act:

(b) All income derived from the administration of property held by or on behalf of the Foundation:

(c) All money derived from the leasing of land under section 19 of this Act:

(d) All other money not forming part of the capital of the Foundation.

22. Powers of investment—(1) Any money held by or on behalf of the Foundation, whether as capital or unexpended income, may, at the discretion of the Board, from time to time be invested in any securities in which trust funds may be invested by trustees in accordance with the Trustee Act 1956 or in accordance with any other statutory authority.

(2) Notwithstanding any rule of law or equity to the contrary, the Board shall not be obliged to convert any securities which are the subject of a gift to the Board and which are not securities in which the Board may invest money pursuant to subsection (1) of this section.

(3) Any money held by or on behalf of the Foundation, whether as capital or unexpended income, may, with the consent of the Minister, be applied in the purchase of any land or interest in land.

23. Power to borrow—(1) The Board may from time to time, with the prior approval of the Minister of Finance, and subject to such conditions as that Minister may approve, borrow money on behalf of and for the purposes of the Foundation and for the development and improvement of any real or personal property vested in the Foundation.

(2) The total amount of borrowing under this section shall not exceed three-fifths of the total value of the land and other capital assets of the Foundation.

(3) The Board may give as security for any money borrowed under this section:

- (a) A mortgage of or charge on any land, or any interest in land owned by the Foundation:
- (b) A mortgage of or charge on any personal property owned by the Foundation:
- (c) A floating charge on the property of the Foundation.

24. Authorised expenditure—(1) Subject to the provisions of this Act, the Board may apply the income of the Foundation in such manner as the Board thinks fit for all or any of the following purposes:

- (a) The education and vocational training of Polynesians:
- (b) The establishment, conduct, equipment, management or maintenance of schools at which a majority of the pupils are Polynesian pupils, or the grant of financial assistance for any of those purposes:
- (c) The grant of financial assistance or of equipment or material to established schools or other educational institutions at which Polynesians are receiving education:
- (d) The making of grants to other funds established or bodies formed for the promotion of the education of Polynesians:
- (e) The furtherance of the knowledge and appreciation of the advantages of better education amongst the Polynesian people:
- (f) The provision of bursaries with or without boarding allowances to assist Polynesians to attend any public or private secondary school:
- (g) The provision of bursaries to assist Polynesians to attend any New Zealand or overseas university, agricultural college, technical institute, or institution of similar status:

- (h) The advancement of money by way of loan, on such terms and conditions as the Board thinks fit, to any Polynesian to assist him to attend any New Zealand or overseas university, agricultural college, technical institute, or institution of similar status:
- (i) The provision of post-graduate scholarships to Polynesians holding university degrees or diplomas for the purpose of enabling them to continue their studies or conduct special research either in New Zealand or elsewhere:
- (j) The payment of travelling expenses to holders of any post-graduate scholarships, and the making of grants to meet the expenses of the wife or dependent children of any such holder:
- (k) The making of special research or study grants to any Polynesian who is not the holder of a post-graduate scholarship but who is proposing to undertake some special research or study which in the opinion of the Board merits assistance:
- (l) The making of grants to any Polynesian for vocational training:
- (m) The provision of books, clothing, and other equipment for the holders of special bursaries, scholarships, or grants, or the making of grants to the parents or guardians of any such holders to assist them to provide books, clothing, and other equipment for any such holders:
- (n) The provision, furnishing, maintenance, and management of residential accommodation for Polynesians in relation to their education or vocational training:
- (o) The making of such other provision as the Board thinks expedient in order to further the purposes for which the Foundation is established:
- (p) The improvement, development, or the making of effective and profitable use of any land or other property held by or on behalf of the Foundation, the purchase or other acquisition of other property to be used with it, and all proper expenses of management of any such property:
- (q) The payment of costs of administration of the affairs of the Foundation, including its committees and agencies and the provision of office accommodation and equipment:

(r) The making for any purposes not hereinbefore mentioned or otherwise specifically mentioned in this Act of payments not exceeding in the aggregate the sum of \$500 in any one financial year.

(2) The Board may apply such part of the capital of the Foundation as consists of money for all or any of the purposes referred to in paragraph (p) of subsection (1) of this section and, subject to the provisions of this Act, may, in addition, convert into money any of that capital which does not consist of money and apply the money resulting from the conversion for those purposes.

25. Conditions of tenure of scholarships, bursaries, and grants—(1) The conditions of tenure of every bursary, scholarship, and grant shall be determined by the Board which shall select the recipients thereof, with or without the aid of competitive examinations or tests, and decide the school, university, or other institution at which the bursary, scholarship, or grant shall be held.

(2) Every bursary, scholarship, or grant shall be of such value as the Board in its discretion determines and the Board may in its discretion renew or extend it with or without modification in value or conditions of tenure.

26. Bank account—(1) All money belonging to the Foundation amounting to \$10 and upwards shall, within 7 days after it has come into the hands of the proper officer of the Foundation, be paid into an account of the Foundation at such bank as the Board from time to time appoints.

(2) No money shall be withdrawn from the bank except by authority of the Board and by cheque or other instrument (not being a promissory note or bill) signed by the Treasurer or by an officer of the Foundation approved by the Board and countersigned by one of the Trustees who is for the time being authorised in that behalf by the Board.

(3) The Board may from time to time authorise the opening of an imprest account in the name of an officer of the Board and may direct what payments may be made from any such imprest account.

(4) The Board shall from time to time fix the maximum amount that may be held at any time in the imprest account not exceeding such amount as the Audit Office may approve.

(5) A statement of payments made from the imprest account shall be submitted to the Board for approval at its first ordinary meeting thereafter.

27. Estimates of receipts and expenditure—(1) The Board shall for each financial year make an estimate, in a form approved by the Minister of Finance, of the amount of the expenditure for all purposes and the receipts of the Foundation in that year. The estimate shall show separately the estimated amount of capital expenditure and income expenditure.

(2) The estimate shall be forwarded in duplicate to the Minister on or before the 1st day of May in the financial year to which it relates.

28. Accounts—(1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of the income and expenditure of the Foundation, and of all sums received and paid by the Foundation, and of the several purposes for which those sums were received and paid.

(2) A separate account shall be kept in respect of every trust fund or trust property under the control of the Board.

(3) The said books of account shall be open at all reasonable times to the inspection of any Trustee.

29. Annual balance—(1) The Board shall, before the 1st day of April in every year, cause its accounts for the immediately preceding financial year to be balanced and a true statement of account to be prepared in the form approved by the Controller and Auditor-General showing:

(a) The source and application of the Foundation's funds during the financial year; and

(b) The income and expenditure of the Foundation for the financial year; and

(c) The balance sheet of the Foundation at the end of the financial year.

(2) Every such statement of accounts shall be audited by the Audit Office which for that purpose shall have and may, exercise all the powers which it has under the Public Revenues Act 1953, in respect of public money and the audit of local authorities' accounts.

30. Annual report—(1) The Board shall, not later than the 30th day of June in each year, furnish to the Minister and to the Minister of Island Affairs, a report of its proceedings and operations for its preceding financial year, together with a copy of its accounts for that year with the report of the Audit Office thereon.

(2) A copy of the report and of the accounts with the report of the Audit Office thereon shall be laid before Parliament as soon as practicable after their receipt by the Minister.

31. Exemption from taxes—(1) All land held by or on behalf of the Foundation shall be exempt from land tax.

(2) The income of the Foundation shall be exempt from income tax.

(3) The Third Schedule to the Payroll Tax Act 1970 is hereby amended by inserting, after item 39, the following item:

“39A. The Pacific Islands Polynesian Education Foundation.”

32. Office of Foundation—(1) The Board shall, subject to the consent of the Minister, establish such office or offices of the Foundation as may be required for the administration of its affairs.

(2) The place or places of the offices of the Foundation and the times when those offices are open for business shall be notified in the *Gazette*.

33. Members of Board not personally liable—No member of the Board shall be personally liable for any act or default done or made by the Board or by any member thereof in good faith in the course of the operations of the Board.

34. Regulations—The Governor-General may from time to time, by Order in Council, make all such regulations as he deems to be necessary for the purpose of giving full effect to the provisions of this Act.