



ANALYSIS

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1993, No. 104

**An Act to amend Te Ture Whenua Maori Act 1993**

*[28 September 1993]*

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title**—(1) This Act may be cited as—

- (a) Te Ture Whenua Maori Amendment Act (No. 2) 1993; or
- (b) The Maori Land Amendment Act (No. 2) 1993.

(2) This Act shall be read together with and deemed part of Te Ture Whenua Maori Act 1993 (hereinafter referred to as the principal Act).

**2. Special provisions where insufficient survey plan**—

The principal Act is hereby amended by repealing section 124, and substituting the following section:

“124. (1) Where any order to which this Part of this Act applies is presented for registration under the Land Transfer Act 1952, the District Land Registrar shall, if the order is not supported by a plan defining the land affected by the order and sufficient for the purposes of the registration of that order

under that Act, embody the order in the provisional register as a separate folium, and, subject to subsection (2) of this section, all the provisions of that Act relating to provisional registration shall thereupon apply accordingly.

“(2) Where any order to which this Part of this Act applies is, in accordance with subsection (1) of this section, embodied in the provisional register as a separate folium, any person in whom the beneficial ownership of land or any interest in land is vested by that order may, in accordance with section 167 (5) of the Land Transfer Act 1952, and in accordance with the regulations in force in that behalf, deposit a plan in relation to the land or interest in land to which the order relates, which plan shall define the pieces of land affected.”

**3. No registration without prior confirmation**—Section 126 of the principal Act is hereby amended by inserting, after the words “other than”, the words “an instrument not required to be confirmed or”.

**4. Registrar of Court to record ownership**—Section 127 of the principal Act is hereby amended by adding the following subsection:

“(5) Nothing in subsection (1) of this section requires the Registrar to record the ownership of beneficial interests in land that, by virtue of this Act, remain vested in the several owners of that land despite the vesting of the legal estate in fee simple in that land in a Maori incorporation.”

**5. Alienation of whole or part of block**—Section 147 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) Where any Maori freehold land is to be alienated by sale, gift, or lease, the alienating owners shall give the right of first refusal to prospective purchasers, donees, or lessees who belong to one or more of the preferred classes of alienee, ahead of those who do not belong to any of those classes.

“(3) Nothing in subsection (2) of this section shall apply to—

“(a) The alienation by lease of any Maori freehold land that is effected—

“(i) By a Maori incorporation; or

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

“(b) Any alienation by way of a sale by a mortgagee pursuant to a power expressed or implied in any instrument of mortgage.”

**6. Manner of alienation of interests in Maori freehold land**—Section 150 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

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

“(a) Is effected—

“(i) By a Maori incorporation; or

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

“(b) Is effected by way of the assignment of a lease or the granting of a sublease of an interest in Maori freehold land (being Maori freehold land owned by a Maori incorporation or the trustees of any trust constituted under Part XII of this Act).”

**7. Court not to grant confirmation unless satisfied of certain matters**—(1) Section 152 (1) of the principal Act is hereby amended by repealing paragraph (f), and substituting the following paragraphs:

“(f) That, in the case of—

“(i) A sale or gift of a block of Maori freehold land; or

“(ii) A lease of Maori freehold land,—  
the alienating owners have, as required by section 147 (2) of this Act, given a right of first refusal to prospective purchasers, donees, or lessees who belong to one or more of the preferred classes of alienee, ahead of those who do not belong to any of those classes; and”.

(2) Section 152 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) Nothing in subsection (1) (f) of this section shall apply to—

“(a) The alienation by lease of any Maori freehold land that is effected—

“(i) By a Maori incorporation; or

- “(ii) By the trustees of any trust constituted under Part XII of this Act; or
- “(b) The alienation by way of the assignment of a lease or the granting of a sublease of an interest in Maori freehold land (being Maori freehold land owned by a Maori incorporation or the trustees of any trust constituted under Part XII of this Act).”

**8. Certain instruments require only certificate of confirmation of Registrar**—Section 160 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

- “(a) An instrument of alienation by way of mortgage or transfer of mortgage or variation or discharge of mortgage.”

**9. Application of provisions of Part XI of principal Act**—Section 193 (1) of the principal Act is hereby amended by omitting the words “relating to the appointment of the Maori Trustee or other agent”.

**10. Capacity and powers of incorporation**—Section 253 of the principal Act is hereby amended by inserting, after the words “imposed by the Court in the order of incorporation”, the words “or included in its constitution pursuant to section 253A of this Act”.

**11. Power to impose limitations or restrictions on powers of incorporation**—The principal Act is hereby amended by inserting, after section 253, the following section:

“253A. The shareholders of a Maori incorporation may from time to time, at a general meeting of the incorporation, by resolution passed in such manner as may be prescribed by the constitution of the incorporation,—

- “(a) Include in that constitution provisions imposing limitations or restrictions or both on the powers conferred on the incorporation by section 253 of this Act:
- “(b) Omit from that constitution, or vary, any provisions included in that constitution pursuant to paragraph (a) of this section.”

**12. Maori incorporations to have constitution**—Section 268 (2) of the principal Act is hereby amended by inserting,

after the word “shall”, the words “, subject to section 253A of this Act,”.

**13. Dwelling sites for Maori**—Section 296 (5) of the principal Act is hereby amended by omitting the expression “subsection (3)”, and substituting the expression “subsection (4)”.

**14. Registration of partition orders**—(1) Section 299 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) The Registrar of the Court shall forward the order to the District Land Registrar.”.

(2) Section 299 (4) of the principal Act is hereby consequentially repealed.

**15. Required consents**—Section 317 of the principal Act is hereby amended by repealing subsection (7), and substituting the following subsection:

“(7) Notwithstanding anything in subsections (5) and (6) of this section, where a roadway is laid off as part of a partition to which section 301 of this Act applies, a separate consent to the laying out of the roadway shall not be required from the territorial authority for the district in which the land to be partitioned is situated.”

**16. Part XXI of Local Government Act 1974 modified in its application to Maori land**—The principal Act is hereby amended by repealing section 327.

**17. Land acquired by Maori incorporation before commencement of principal Act**—Section 358 (3) of the principal Act is hereby amended by omitting the word “assets”, and substituting the word “land”.

**18. Transitional provisions in relation to objects of Maori incorporations**—The principal Act is hereby amended by inserting, after section 358, the following section:

“358A. (1) This section applies to every Maori incorporation established under, or continued in existence by, the provisions of Part IV of the Maori Affairs Amendment Act 1967.

“(2) The Court may from time to time, upon application made to the Court by or on behalf of a Maori incorporation to which this section applies, make—

“(a) An order redefining the objects for which the incorporation was established, or adding any other objects; or

“(b) An order omitting from the order of incorporation the object or several objects specified in the order of incorporation as the object or the several objects for which the incorporation is established.

“(3) Subject to any order made under subsection (2) (a) of this section, and to any order made, before the commencement of this Act, under section 28 of the Maori Affairs Amendment Act 1967, where an order has not been made under subsection (2) (b) of this section in relation to a Maori incorporation to which this section applies, the object or the several objects of that incorporation shall, until the making of such an order, continue to be the object or the several objects specified in its order of incorporation.

“(4) An application under this section may be made only pursuant to a resolution passed at a general meeting of the shareholders of the incorporation by or on behalf of which the application is made.”

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This Act is administered in Te Puni Kokiri.

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