

New Zealand



ANALYSIS

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1946, No. 19

Title.

AN ACT to effect a Final Settlement of certain Claims relating to the Confiscation of Maori Lands in the Waikato District, and to provide for the Control and Administration of the Moneys granted as Compensation.

[7th October, 1946

WHEREAS pursuant to the New Zealand Settlements Act, 1863, and certain amendments thereof, Proclamations and Orders in Council were from time to time made in or about the years eighteen hundred and sixty-four and eighteen hundred and sixty-five confiscating certain lands by reason of the fact that the Maoris or some of them who had theretofore held those lands had been engaged in rebellion against Her then Majesty's authority: And whereas it was from time to time later claimed and alleged on behalf of the Maoris of certain tribes that the lands formerly belonging to their tribes had been improperly confiscated or that excessive quantities of those lands had been confiscated: And whereas by Warrant under the hand of the Governor-General dated the eighteenth day of October, nineteen hundred and twenty-six, a Commission of inquiry was appointed to inquire into and report upon the various claims and allegations made by Maoris regarding the confiscation of Maori lands: And whereas the Commission in its report, which is contained in Paper G.-7 of the Appendices to the Journals of the House of Representatives for the year nineteen hundred and twenty-eight, recommended with respect to the Waikato district that the members of the Maori tribes in that district whose lands had been confiscated should be compensated for excessive confiscations by the payment of a yearly sum of money to be applied by a Board for their benefit: And whereas those tribes by their representatives agreed at Ngaruawahia on the twentieth day of April, nineteen hundred and forty-six, to accept payment of the sums hereinafter mentioned in full settlement and discharge of their claims: And whereas it is desirable to provide for the appropriation of those sums, and for their control and administration in accordance with the recommendation of the Commission:

Preamble.
1863, No. 8

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

1. This Act may be cited as the *Waikato-Maniapoto Maori Claims Settlement Act, 1946.* Short Title.

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

“ Board ” means the Tainui Maori Trust Board established by this Act:

“ Financial year ” means a year ending on the thirty-first day of March:

“ Fund ” means the Tainui Maori Trust Fund established by this Act:

“ Minister ” means the Native Minister:

“ Tainui tribes ” means the Tainui tribes, or sections of the Tainui tribes, who were the owners, according to Maori custom, of the lands in the Waikato district which were affected by the confiscations referred to in the Preamble to this Act, being the areas of land shown edged blue on the plan lodged in the Office of the Chief Surveyor at Auckland under number 15226 (red); and includes their descendants.

Settlement of Claim

Annual sums to be paid in respect of confiscations in Waikato district.

3. (1) In settlement of all claims and demands which have heretofore been made or which might hereafter be made upon His Majesty's Government in New Zealand in respect of or arising out of the confiscation of lands in the Waikato district (being the areas of land shown edged blue on the plan lodged in the office of the Chief Surveyor at Auckland under number 15226 (red)), and for the purpose of giving effect to the agreement referred to in the Preamble to this Act, there shall be paid to the Tainui Maori Trust Board, without further appropriation than this Act, the annual sum of five thousand pounds payable on the first day of April in each and every year:

Provided that the first payment in respect of the year which commenced on the first day of April, nineteen hundred and forty-six, shall be made as soon as practicable after the passing of this Act.

(2) In addition to the sum mentioned in subsection one hereof, there shall be paid to the Board, without further appropriation than this Act,—

(a) As soon as practicable after the passing of this Act, the sum of five thousand pounds; and

(b) In each year for a period of forty-five years and no longer, the annual sum of one thousand pounds, payable on the first day of April in each and every year, commencing on the first day of April, nineteen hundred and forty-seven.

Tainui Maori Trust Fund

4. (1) There is hereby established a fund to be called the Tainui Maori Trust Fund which shall consist of—

Tainui Maori
Trust Fund
established.

(a) All moneys which are lawfully paid to and received by the Tainui Maori Trust Board under the authority of this or any other Act or otherwise howsoever:

(b) All accumulations of moneys belonging to the Fund.

(2) All moneys belonging to the Fund shall be paid into an account, to be called the Tainui Maori Trust Fund Account, at such bank as the Minister may from time to time direct.

(3) No moneys shall be withdrawn from the Fund Account except by authority of the Board and by cheque signed by two members thereof or by one member and the Secretary thereof:

Provided that the Minister if he thinks fit may require that all cheques shall be countersigned by a person from time to time nominated by him.

(4) All reasonable expenses properly incurred by the Board in the administration of this Act shall be paid out of the Fund.

Tainui Maori Trust Board

5. (1) For the purpose of administering the Fund there is hereby established a Board to be called the Tainui Maori Trust Board.

Establishment
of Board to
administer
Fund.

(2) The Board shall consist of not less than ten nor more than sixteen members, being Maoris belonging to the Tainui tribes, to be appointed from time to time by the Governor-General on the recommendation of the Minister.

(3) In making any recommendation under the last preceding subsection the Minister shall have regard to, but shall not be bound by, any nominations for appointment that may be made and submitted to him by the Tainui tribes in accordance with regulations made under this Act.

(4) The Board 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 lawfully do and suffer.

Term of office
of members of
Board.

6. (1) Except as otherwise provided in this Act, every member of the Board shall be appointed for a term of three years commencing on the first day of September in the year of his appointment, and any member may from time to time be reappointed.

(2) Notwithstanding anything to the contrary in this Act, every member, unless he sooner vacates his office, shall continue to hold office until his successor comes into office.

(3) With respect to the first members of the Board the following provisions shall apply:—

(a) They shall come into office on a day to be specified in the instrument by which they are appointed:

(b) They shall retire on the thirty-first day of August, nineteen hundred and forty-nine.

Extraordinary
vacancies.

7. (1) Any member of the Board may at any time be removed from office by the Governor-General for inefficiency, disability, insolvency, 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.

(2) If any member dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) In the case of any extraordinary vacancy the Governor-General may appoint some qualified person to be a member of the Board for the residue of the term for which the vacating member was appointed. Any such appointment shall be made in the same manner as the appointment of the vacating member.

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

Chairman and
Deputy
Chairman.

8. (1) At the first meeting of the Board after the passing of this Act, and at the first meeting of the Board held after the first day of September in the year nineteen hundred and forty-seven and in each succeeding year, the Board shall appoint a Chairman and a Deputy Chairman.

(2) Any person appointed as the Chairman or Deputy Chairman shall hold office, while he continues to be a member of the Board, until the appointment of his successor in accordance with this section, and may be reappointed.

9. (1) The first meeting of the Board shall be held on a day to be appointed in that behalf by the Minister.

Meetings of
Board.

(2) Subsequent meetings of the Board shall be held at such times and places as the Board from time to time appoints.

(3) The Minister, or the Chairman of the Board, or any five members thereof, may at any time call a special meeting of the Board.

(4) At all meetings of the Board five members shall form a quorum.

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

(6) In the absence of the Chairman from any meeting of the Board the Deputy Chairman, if present, shall preside. In the absence from any meeting of both the Chairman and the Deputy Chairman, the members present shall appoint one of their number to be the Chairman of that meeting.

(7) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(8) All questions before the Board shall be decided by a majority of the valid votes recorded thereon.

(9) Subject to the provisions of this Act and of any regulations made thereunder, the Board may regulate its procedure in such manner as it thinks fit.

10. (1) The Board may from time to time appoint a Committee or Committees, consisting of two or more persons, and, subject to and in accordance with regulations made under this Act in that behalf, may delegate to any such Committee any of the powers or duties of the Board, except the power of delegation conferred by this section.

Committees.

(2) Any person may be appointed to be a member of a Committee under this section, notwithstanding that he is not a member of the Board.

(3) Any delegation under this section may be at any time revoked, in whole or in part, by the Board.

11. (1) The Board may from time to time, subject to the approval of the Minister, appoint a fit and proper person, who may be a member of the Board, to act as Secretary of the Board, and, with the like approval, may at any time remove the Secretary from office.

Officers of
Board.

(2) The Secretary shall have all such powers and duties as the Board from time to time determines, and he shall at all times conform to the directions of the Board.

(3) The Board may from time to time appoint such other officers and workmen as it may think necessary or expedient and may from time to time dismiss such officers and workmen.

(4) All employees of the Board shall be paid such salaries, wages, or allowances as the Board from time to time determines:

Provided that the rate of remuneration of the Secretary shall be fixed only with the prior approval of the Minister.

Functions and Powers of Board

Functions of
Board.

12. (1) The functions of the Board shall be to administer the Fund in accordance with the provisions of this Act for the general benefit of the members of the Tainui tribes, and in pursuance of that object the Board may, in its discretion, provide out of the Fund moneys for the benefit or advancement in life of any specific member, or of any group or class of members, of those tribes.

(2) The Board shall have power to determine finally whether any person or any group or class of persons belongs to the Tainui tribes.

(3) Without limiting the general provisions hereinbefore contained, it is hereby declared that the Board may from time to time apply moneys out of the Fund towards all or any of the following purposes:—

(a) The promotion of health—

(i) By installing or making grants or loans towards the cost of installing water-supplies, sanitation works, and drainage in Maori settlements:

(ii) By promoting, carrying out, or subsidizing housing schemes, or by making grants or loans for such schemes:

(iii) By providing, subsidizing, or making grants for medical, nursing, or dental services:

(b) The promotion of social and economic welfare—

(i) By making grants or loans for the relief of indigence or distress, or for the discharge of debts or liabilities:

(ii) By developing, subsidizing, or making grants or loans for farming, or other industries:

(iii) By making grants or loans towards the cost of the construction, establishment, management, maintenance, repair, or improvement of Maori meeting-houses, villages, maraes, or cemeteries:

(iv) By establishing, maintaining, and equipping hostels for the purpose of providing either permanent or temporary accommodation:

(c) The promotion of education—

(i) By assisting in the establishment of schools, and in the equipping, managing, and conducting of schools; by making grants of money, equipment, or material to schools or other educational institutions; or by making grants to funds established or bodies formed for the promotion of the education of Maoris:

(ii) By providing scholarships, exhibitions, bursaries, and other similar means to enable individuals to secure the benefits of education, or by making grants to Education Boards or other educational bodies for scholarships, exhibitions, or bursaries:

(iii) By providing books, clothing, or other equipment for the holders of scholarships or other individuals, or by making grants for such purposes; or by making grants generally for the purpose of assisting the parents or guardians of children to provide for their education:

(iv) By providing, maintaining, or contributing towards the cost of residential accommodation for children in relation to their education:

(d) Such other or additional purposes as the Board, with the approval of the Minister, from time to time determines.

13. In any case where the Board grants a loan to any person, it shall take such security and fix such terms and conditions in respect of the loan, and for

Loans by
Board.

the repayment of the principal sum, and for the payment of interest thereon as the Board decides at the time of the granting of the loan:

Provided that, in any case where for special reasons it is deemed expedient, the Board may grant a loan without requiring the payment of any interest or the giving of any security by the borrower, or subject only to either one of those requirements.

Power to
acquire lands,
and to farm.

14. (1) Out of moneys in the Fund, the Board may, with the prior written consent of the Minister, acquire any land or any interest in land, whether by way of purchase, lease, or otherwise, and may, with the like consent, sell, lease, sublease, or otherwise dispose of any such land or interest:

Provided that the consent of the Minister shall not be required in any case where the land or interest is acquired or disposed of whether by way of lease or otherwise for any term not exceeding three years.

(2) With the prior written consent of the Minister, the Board may—

(a) Occupy and manage any land acquired under this section for farming, reclamation, or other purposes, or may permit any person to occupy any such land, whether for the purpose of farming or reclamation or for any other purpose:

(b) Make any such land available for common use by Maoris for any purpose, or use it for the physical, social, moral, or pecuniary benefit of Maoris or for any purpose having for its object the benefit, betterment, or welfare of Maoris or the promotion of any tribal or communal object.

(3) For the purpose of farming any such land the Board may from time to time purchase or otherwise acquire such stock, implements, and chattels as it deems necessary; and may sell or otherwise dispose of all or any stock, crops, produce, or chattels grown or held in the course of farming; and for the purposes of any such farming business may, from time to time, raise such moneys as it deems necessary on the security of any stock, crops, produce, or chattels.

(4) Nothing in Part XIII of the Land Act, 1924, or in Part XII of the Native Land Act, 1931, shall prevent the acquisition by the Board of any land or any interest in land.

See Reprint of Statutes, Vol. IV, p. 796
Ibid., Vol. VI, p. 189

(5) Where any Native land is acquired by the Board it shall be deemed to remain Native freehold land.

(6) Every alienation of Native land by the Board shall require confirmation by the Native Land Court under the provisions of Part XIII of the Native Land Act, 1931, in the same cases and in the same manner as if it were an alienation by a Native owning the land in severalty, except that the formalities of execution required under section two hundred and sixty-eight of that Act shall not be required.

Ibid., p. 195

Ibid., p. 199

15. With the prior written consent of the Minister and for any of the purposes of this Act, the Board may from time to time—

Power to borrow money, and guarantee loans.

(a) Borrow moneys from any bank, person, or body corporate on the security of a mortgage of or charge upon any lands vested in the Board, or a charge upon any moneys payable to the Board under section three of this Act or otherwise howsoever:

(b) Guarantee to His Majesty the King or to any other person or body corporate the repayment of any principal sum or interest thereon by any person.

Financial Provisions

16. (1) Notwithstanding anything to the contrary contained elsewhere in this Act, the Board shall not expend any moneys or incur any liability for expenditure unless the expenditure has first been approved by the Minister.

Expenditure of Board to be approved by Minister.

(2) The Board shall in each year in the month of April, or as soon as practicable thereafter, furnish to the Minister a statement showing in such detailed form as the Minister may require the estimated income and the proposed expenditure of the Board for the financial year ending on the thirty-first day of March next following.

(3) The Minister may, in his discretion, refuse to approve any proposed expenditure shown in any such statement or any other expenditure proposed by the Board, or may grant his approval in any case either unconditionally or upon or subject to such conditions as he thinks fit.

Books of
account.

17. (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all moneys received into and paid out of the Fund, and of the several purposes for which such moneys have been received and paid.

(2) Any member or any duly authorized officer of the Board or any person duly authorized in that behalf by the Minister may at all reasonable times inspect the books and take copies of or extracts from them free of charge.

(3) The books and accounts shall be kept in such manner as may be prescribed by the Minister or by regulations made under this Act.

Yearly
statements of
account, and
report.

18. (1) At the end of each financial year the Board shall cause to be prepared and sent to the Audit Office a balance-sheet showing the assets and liabilities of the Board, and an account of income and expenditure together with such other statements of account as may be necessary to show fully the financial position of the Fund and the financial operations of the Board during that year.

(2) The balance-sheet, account, and statements shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and public stores and the audit of local authorities' accounts.

See Reprint
of Statutes,
Vol. VII,
p. 10

(3) A copy of the balance-sheet, account, and statements shall, when duly audited, be submitted by the Board to the Minister, together with a report as to the operations of the Board for that financial year.

Miscellaneous

Contracts of
Board.

19. (1) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the seal of the Board. The seal of the Board shall not be affixed to any instrument

except pursuant to a resolution of the Board and in the presence of a member and the Secretary, or two members; and those witnesses shall sign every instrument to which the seal of the Board is affixed in their presence.

(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 Board, be in writing signed by any member or the Secretary of the Board on behalf of or by direction of the Board.

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Board by any member or the Secretary acting by direction of the Board, but no oral contract shall be made for any sum exceeding twenty pounds.

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

20. (1) 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.

Members of Board not personally liable, and not debarred from benefits.

(2) Notwithstanding any rule of law or equity to the contrary, no member of the Board shall be debarred by virtue of his membership from receiving any benefit from the Fund:

Provided that no moneys from the Fund shall be applied, whether by way of grant or loan or in any other manner, for the exclusive benefit of any member, without the prior written approval of the Minister:

Provided further that no member shall take part in any discussion or vote on any resolution of the Board concerning the application of any such moneys for his exclusive benefit.

21. The members of the Board shall be paid such travelling expenses and allowances in respect of attendance at meetings of the Board or travelling on the business of the Board as may be prescribed by regulations made under this Act.

Travelling expenses and allowances.

Regulations.

22. (1) The Governor-General may from time to time, by Order in Council, make such regulations as are contemplated by this Act or as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section—

- (a) Providing for the election by poll or otherwise of persons to be nominated for membership of the Board:
 - (b) Prescribing the records to be kept by the Board, the form of those records, and the manner in which they are to be kept:
 - (c) Regulating the keeping of accounts and other records of moneys received into and paid out of the Fund, and generally regulating expenditure by the Board:
 - (d) Regulating the procedure of the Board:
 - (e) Regulating the delegation of powers and duties by the Board to Committees, and fixing the limits of any such delegation:
 - (f) Prescribing the procedure in respect of the application for and the granting of loans or other benefits under this Act:
 - (g) Fixing the travelling expenses and allowances of members of the Board.
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