

MAORI AFFAIRS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes a number of important amendments to the Maori Affairs Act 1953. It also makes an amendment to the Maori Trust Boards Act 1955 and to the Mental Health Act 1969.

Clause 1 relates to the Short Title and commencement. Except for Parts II and IV, the Act is to come into force on the 1st day of January 1975. Part II deals with the reconstitution of the Department of Maori Affairs as a separate entity. Part IV deals with the abolition of the Board of Maori Affairs and the transfer of its functions to the Maori Land Board constituted in its place. These Parts are to come into force on dates to be fixed by Order in Council.

Clause 2 alters the definition of the term Maori. At the present time, under the principal Act, the term "Maori" applies to persons of half or more Maori blood, all other persons being "Europeans". The proposal is that a person with any Maori blood at all shall be a Maori for the purposes of that Act, and thus for the purposes of the many other Acts which incorporate that definition by reference.

The amendment to the definition of "European land owned by Maoris" and the amendment to section 326 are consequential.

PART II

DEPARTMENT OF MAORI AFFAIRS

Clause 3 relates to the commencement of this Part. To enable co-ordination with proposed new provisions for Island Territories administration, this Part is to come into force on a date to be fixed by Order in Council.

Clause 4: Subclause (1) inserts several new sections that have the effect of reinstating the Department of Maori Affairs as a separate entity. The new section 4 sets out the functions and objects of the Department. Briefly the functions of the Department are to give effect, under the direction of the Minister, to the provisions of the Maori Affairs Act 1953 and other enactments administered by it and to carry out any other directions of the Minister for the benefit of individuals or groups of the Maori race.

Subclause (2) repeals the Maori and Island Affairs Department Act 1968 which amalgamated the Department of Maori Affairs and the Department of Island Territories.

Clause 5 makes consequential amendments.

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PART III

TRADE TRAINING AND EMPLOYMENT

Clause 6 confers on the Minister widened statutory authority for the trade training and employment work which has been carried out by the Department for some years.

The authorities given include:

- (a) Recruitment and placement of Maoris in employment—i.e. without undertaking training.
- (b) The training of Maoris in trades or other types of employment. This covers the ordinary trade training courses as carpentry, plastering, bricklaying, auto-electrician, etc.
- (c) The arranging of apprenticeships for Maoris. This applies particularly to the placing as apprentices of boys who have undergone a training course.
- (d) The provision of accommodation for Maoris. This covers people doing training courses, apprentices, and other people who are working away from home and need good accommodation.

Most of the Department's training and employment operations are carried out in collaboration with other bodies such as Polytechnics. *Subclause (3)* provides for this.

PART IV

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

Clause 7 provides that this Part of this Act shall come into force on a date to be fixed by the Governor-General by Order in Council.

Clause 8 abolishes the Board of Maori Affairs.

It also provides for all the powers, duties, and liabilities, etc., of the Board to vest in a new Board to be called the Maori Land Board.

Clause 9 constitutes the new Maori Land Board. Its members are to 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) Not more than 8 persons, being Maoris to be appointed by the Minister having regard to nominations made by any Maori Land Advisory Committees established under Part V of this Bill.

In the exercise of its functions and powers, the Board is required to give effect to the policy of the Government as communicated to it from time to time by the Minister.

Clause 10 amends section 10 of the principal Act. It authorises the Maori Land Board to delegate any of its functions or powers to a Maori Land Advisory Committee.

Clause 11 makes consequential amendments.

PART V

MAORI LAND ADVISORY COMMITTEES

Clause 12 provides that in this Part of this Act the term "Committee" means a Maori Land Advisory Committee.

Clause 13 empowers the Minister to set up, in respect of any Maori Land Court District or any other district, a Maori Land Advisory Committee whose functions will be:

- (a) To assist in any title improvement proposals:
- (b) To assist in the consideration of proposals for a change of use in any Maori land:
- (c) To exercise any powers that are delegated to it under Part IV of this Bill by the Maori Land Board, being powers under Part XXIV of the principal Act (as to the development and settlement of land for 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 the Commission by the Minister.

Clause 14: Subclause (1) deals with the composition of Maori Land Advisory Committees. Each Committee is to consist of not more than 7 persons of whom—

- (a) One shall be the District Officer of the Department, who shall be the Chairman:
- (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 shall be persons appointed to represent the Maori population of the district for which the Committee is appointed.

Subclause (2) provides that the appointed members of the Committee are to be appointed by the Minister.

Subclause (3) enables the officers of Government Departments who are appointed as members of the Committee to be designated by name or office.

Subclause (4) provides that any officer of a Government Department who is a member of the Committee under *paragraph (a) or paragraph (b) of subclause (1)* may appoint any other person to act in his place at any meeting of the Committee.

Subclause (5) provides that the appointed members of a Committee are to be appointed for a term of 3 years.

Subclause (6) authorises the Minister to remove any appointed member from office at any time and for any cause.

Clause 15 deals with meetings of any such Committee.

Clause 16 provides that the Department shall service such Committees and hold their records.

Clause 17 authorises a Committee to appoint subcommittees of its members but such subcommittees are required to report back to the Committee.

Clause 18 enables such Committees to invite persons with special knowledge to attend any meeting but no such person shall have power to vote.

Clause 19 provides for the payment of fees and travelling allowances under the Fees and Travelling Allowances Act 1951 to the appointed members of any such Committee.

PART VI

SUCCESSION TO MAORIS

Clause 20 defines the term "undivided beneficial freehold interest in common in Maori freehold land" for the purposes of this Part of the Act. The term means a beneficial freehold interest in Maori freehold land owned in severalty or owned by 2 or more persons as joint tenants.

Clause 21: Subclause (1) makes it clear that in this Part of this Act, and in other provisions relating to succession to Maori freehold land, the term "Maori freehold land" includes Maori reserved land under the Maori Reserved Land Act 1954.

Subclauses (2) to (4) repeal the separate provisions which, for machinery reasons, now exist for succession to Maori reserved land.

Clause 22 states the general proposition that the persons entitled on the intestacy of a Maori who dies after the commencement of this Act to succeed to his estate and the shares in which they are so entitled are the same as in the case of a European. This general proposition does not apply to undivided beneficial freehold interests in Maori freehold land owned in common.

Clause 23 provides generally that the property of a Maori who dies after the commencement of this Act, other than undivided beneficial freehold interests in common in Maori freehold land, vests in his administrator, forms part of the estate for duty purposes, and is available for the payment of debts, in all respects as if he were a European. Gifts of such interests made by a Maori before his death are not to be included in his dutiable estate.

Clause 24 deals with succession to the undivided interests in Maori land of deceased Maoris. The persons entitled on the intestacy of a Maori who dies after the commencement of this Act to succeed to his undivided beneficial freehold interests in common in Maori freehold land, and the shares on which they are entitled, are to be determined by the Maori Land Court in accordance with Maori custom and the interests dealt with by the Court under Part XII of the principal Act.

Clause 25: Maori customary succession to land, which is to be reapplied to undivided interests, does not recognise any right in a surviving spouse. This clause gives such a spouse a right to an interest for life or until remarriage in interests which in the Court's view are likely to yield significant income to the spouse or be personally used by the spouse.

Clause 26 provides that the undivided beneficial freehold interests in common in Maori freehold land of a Maori who dies after the commencement of this Act shall not vest in his administrator or form part of his estate for duty purposes, or be available for the payment of debts.

Clause 27 extends the application of *clauses 22 to 26* so that they will apply not only in the case of a Maori who dies after the commencement of this Bill but also in the case of a Maori who has died between 1 April 1968 and 1 January 1975 if at the latter date no grant of administration has been made and no other action taken having effect of vesting all his undivided beneficial freehold interests in common in Maori freehold land in the persons entitled thereto.

Clause 28 relates to intestate succession to certain interests in Maori freehold land. The clause incorporates in the principal Act, by amending section 117, the substance of *clause 27* as regards Maoris who die on or after 1 January 1975 and extends it, in the circumstances specified in *clause 27*, to Maoris who have died between 1 April 1968 and 1 January 1975.

Clause 29 re-introduces a succession fee in lieu of estate duty on certain Maori land interests. The clause amends section 131 of the principal Act which imposed, in respect of the interests in Maori land of owners who died before 1 April 1968, a special succession fee instead of estate duty. The amendment extends the section so that it will apply—

- (a) To the undivided beneficial freehold interests in common in Maori freehold land of all Maoris who die after the commencement of the Bill; and
- (b) To the undivided beneficial freehold interests in common in Maori freehold land of Maoris who have died between 1 April 1968 and 1 January 1975 if at the latter date there has been no grant of administration and the interests have not otherwise vested.

Where such an interest has been comprised in a gift made by a Maori before his death that interest is not to be included in his dutiable estate.

Clause 30 amends section 132 of the principal Act. Under this section interests in Maori land of Maoris who died before 1 April 1968 are not liable for payment of debts. The amendment extends this protection to the undivided interests in Maori land of Maoris—

- (a) Who die after the commencement of the Bill; or
- (b) Who died between 1 April 1968 and 1 January 1975 if at the latter date there has been no grant of administration and the interests have not otherwise vested.

Clause 31 amends section 132A of the principal Act. That section provides that where interests in Maori land of a Maori who died before 1 April 1968 carried with them certain personal property, as in the case of land in development schemes or incorporations, any income from the interests may be paid to the administrator if he has insufficient money in his hand to discharge the estate of the deceased from certain liabilities, such as those for estate duty and debts. The amendment extends this provision, in the case of development land only (because incorporation shares are now personal property), to the undivided interest of a Maori—

- (a) Who dies after the commencement of this Bill; or
- (b) Who died between 1 April 1969 and 1 January 1975 if at the latter date there has been no grant of administration and the interests have not otherwise vested in successors.

Clause 32: Subclause (1) extends the application of Part XII of the principal Act (as to the succession to and disposal of freehold interests in Maori freehold land) to the undivided interests in Maori land of—

- (a) A Maori who died between 1 April 1968 (when the Maori Affairs Amendment Act 1967 came into force) and 1 January 1975 (the date of commencement of this Bill) if no grant of administration of his estate has been made and the interests have not otherwise vested in those entitled;
- (b) A Maori who dies after the commencement of this Bill.

Subclause (2) excludes from the application of Part XII the interests of a Maori who has died between 1 April 1968 and 1 January 1975 if a grant of administration has been made or the interests otherwise vested.

Clause 33 inserts a new section 135A in Part XII of the principal Act (which details the operations by which Maori land is effectively passed on to successors by the Maori Land Court). Subsection (1) of the new section directs the Court to give effect to the rights conferred on a surviving spouse by *clause 25* of this Bill to an interest for life or until remarriage in undivided interests in Maori land.

Subsection (2) of the new section empowers the Court to ignore that right if it is satisfied that this is the wish of the surviving spouse.

Subsection (3) provides that nothing in the section or in *clause 25* is to limit any jurisdiction under the Family Protection Act 1955.

Clause 34 amends section 136 of the principal Act which relates to the power of the Maori Land Court on dealing with interests of a deceased owner of Maori land to allocate the interests among the successors so as to obviate the unnecessary splitting of interests.

Subclause (1) makes an amendment which is consequential on the repeals effected by *clause 36* of this Bill.

Subclause (2) removes the power of the Court to vest a small interest, which does not exceed \$20 in value, in any existing owner and the power to allocate interests of similar value among the successors in such a way that no one successor gets an interest of less than \$20 in value.

Clause 35 inserts a new section 136A in the principal Act. Subsection (1) of the new section empowers the Court, when disposing of the undivided interests in Maori land of a deceased Maori, to vest them, if it thinks fit, in trustees for those entitled instead of vesting those interests in the successors.

Subsection (2) of the new section empowers the appointment of new trustees.

Clause 36 repeals various provisions of the principal Act relating to the compulsory vesting in the Maori Trustee of uneconomic interests in Maori land at the point of succession.

Clause 37 inserts a new section 145 which gives the Court power to vest interests in European land held by a deceased Maori, in the administrator, or in the persons entitled to succeed to those interests. This is in effect simply a means of effecting the conveyance of the interests.

Subsection (2) of the new section enables the Court to act on information certified by the administrator who, by subsection (3), remains entirely responsible for the transaction.

Clause 38 repeals a number of provisions of the Maori Affairs Amendment Act 1967 which are replaced by clauses in this Part of the Bill. A minor consequential repeal is also effected.

PART VII

ALIENATION OF MAORI LAND

Clause 39 repeals section 213 of the principal Act, and inserts, in its place, 3 new sections.

The subject-matter of the sections is the making by the Maori Land Court of vesting orders transferring interests in Maori land.

Subsection (1) of the new section 213 empowers the Court by vesting to give effect to arrangements between parties for the transfer of undivided interests in Maori land in favour of:

- (a) A Maori;
- (b) A Maori incorporation;
- (c) A trustee buying for other beneficial owners.

The existing provision enables vesting orders to be made in respect of wider classes of persons.

Under subsection (2) the Court is not to make an order for an interest which it considers is worth less than \$50 unless the order is in favour of a person who already possesses an interest in the same land or unless it comprises the whole of the interest of the existing owner.

Under subsection (3) the Court may refuse to make an order if it considers the transaction should be carried out by ordinary means—e.g., memorandum of transfer.

Subsection (4) requires the Court, in considering a proposed transfer under this section, to consider the same things as it would if the transaction was by signed document submitted for confirmation.

Subsection (5) requires that if the price to be paid is over \$100 the order is not to be signed and sealed until the purchase money is paid to the Maori Trustee or, where the price does not exceed \$100, that the order is not to be signed and sealed until the Court is satisfied the money has been paid over after the making of the order.

Subsection (6) provides that, where the transaction is a gift, and the value of the interest to be vested exceeds, in the opinion of the Court, \$100, no order is to be made unless the Court has heard the evidence of the donor in person.

Subsection (7) states that an agreement for the purposes of this section is to be executed and attested as provided in section 222 (as amended by *clause 41* of this Bill) but shall not be deemed to constitute an enforceable contract.

Subsection (8) makes it clear that in the case of Maori vested land and Maori reserved land, this section is subject to the special provisions of the Maori Vested Lands Administration Act 1954 and the Maori Reserved Land Act 1955 restricting the class of persons to whom interests in those lands may be transferred.

Subsection (9) enables any other owner of the land concerned to appear and be heard on an application under this section.

Subsection (1) of the new section 213A provides for the transfer by vesting order to the persons beneficially entitled of undivided interests in Maori land held in a representative capacity, e.g., as administrator of an estate, or as Official Assignee. The Court can proceed in such a case without notification or hearing.

Subsection (2) empowers the Court, where there is more than one person entitled, to give effect to any arrangement or agreement to vest interests in some way other than entitlement even if not everyone agrees.

The new section 213B provides that the Land Settlement Promotion and Land Acquisition Act 1952 shall not apply to transfers effected by vesting order under section 213 or section 213A. It goes on, however, to require the Court in relevant cases to act in conformity with the provisions of that Act relating to acquisition of land by overseas interests, etc.

Clause 40 amends section 221 of the principal Act by doing away with an existing exemption to the provisions that require an instrument or alienation to be confirmed. An instrument of alienation executed by the Maori Trustee in any capacity other than that of trustee will require to be confirmed. However the Court, in its discretion, may deal with these transactions without notification.

Clause 41 inserts in section 222 of the principal Act a requirement that the execution by a Maori of an instrument of alienation of Maori land by way of transfer or agreement to transfer be attested by a notary public, barrister or solicitor, Justice of the Peace, Licensed Interpreter, Registrar or Deputy Registrar of the Supreme Court, Magistrate's Court, or Maori Land Court, or Resident Officer or Maori Welfare Officer of the Department.

Clause 42 amends section 227 of the principal Act by including a new list of criteria for the granting of confirmation of alienations of Maori land by way of transfer. They are:

- (a) That the instrument has been properly executed and attested; and
- (b) That the alienation is not in breach of any trust; and
- (c) That the alienation, if completed, would not result in an undue aggregation of farm land; and
- (d) That the value of timber, minerals, etc., on the land has been taken into account in assessing consideration; and
- (e) That the consideration is adequate.

In addition the requirements of the Land Settlement Promotion and Land Acquisition Act 1954 must be met.

Clause 43 makes an amendment which is consequential on the amendment made by *clause 42*.

Clause 44 amends section 233 of the principal Act to make it clear that a lease or other transaction affecting Maori land which contains any sort of agreement or option to purchase requires confirmation by the Court.

Clause 45: Section 239 of the principal Act gives the Maori Trustee a discretionary power to enforce the covenants of leases of Maori land on behalf of the owners. This clause gives the Minister authority to direct in writing that that power be used in a particular case.

Clause 46 substitutes a new section 307 in the principal Act. Subsection (9) of the new section provides that a person applying for the calling of a meeting of owners may be required by the Court to deposit a sum towards the expenses of owners in attending the meeting.

Subsection (10) allows the Court to order payment of expenses of owners or their proxies from any sum so deposited in any case where a meeting has lapsed for want of a quorum and those persons have been put to undue expense or inconvenience. The balance (if any) of any such sum is refundable. There is to be no appeal against any decision of the Court on this matter.

Clause 47 amends section 309 of the principal Act (which deals with proxies and quorums at meetings of assembled owners). The new subsection (6) provides that generally an owner can give a proxy only to another owner, or to the wife or husband of an owner, or to the son or daughter or stepson or stepdaughter or father or mother or uncle or aunt of an owner.

The new subsection (6A) provides that a quorum includes owners present in person or by proxy.

The new subsection (6b) provides that where a meeting is for the sale of land the quorum shall be owners holding 75 percent of the total shares.

The new subsection (6c) provides that in the case of a lease the quorum shall be—

- (a) For a lease of more than 42 years—not less than 75 percent of the shares.
- (b) For a lease of between 21 and 42 years—not less than 50 percent of the shares.
- (c) For a lease of between 15 and 21 years—not less than 40 percent of the shares.
- (d) For a lease of between 7 and 15 years—not less than 30 percent of the shares.
- (e) For a lease not exceeding 7 years—not less than 20 percent of the shares.

The new subsection (6d) provides that in any other case the quorum is to be owners (not being less in number than 10 or one-quarter of total number of owners whichever is the less) holding not less than 40 percent of the shares.

The new subsection (6e) provides that for the purpose of subsection 6d, where the total ownership is not a multiple of 4, one-quarter of the owners shall be deemed to be one-quarter of the next highest number which is a multiple of 4.

Subclause (2) effects a consequential repeal.

Clause 48 inserts a new section 315A in the principal Act. The new section provides that a meeting which lapses for want of a quorum is to be adjourned *sine die* and can only be recalled by direction of the Court.

A report is, in such a case, to be made to the Maori Land Advisory Committee accompanied by all available information on the land. The Committee is to make recommendations to the Minister for the future use of the land.

Clause 49 makes minor amendments of a machinery nature to section 315 of the principal Act.

Clause 50 inserts a new section 317A in the principal Act. The new section requires a person who applies to the Court for confirmation of a resolution of a meeting of owners to sell or lease, to pay into the Court 10 percent of the purchase price or 1 year's rent.

The money is to be returned if confirmation is not granted. If confirmation is given the money is to be paid to the Maori Trustee on account of the consideration under the transaction.

Clause 51 amends section 318 of the principal Act by bringing the criteria for confirmation of a resolution for the alienation of land into line with those for confirmation of a transaction by deed (as set out in *Clause 42*).

The criteria are:

- (a) That the alienation is not in breach of any trust.
- (b) That the value of timber, minerals, etc., on the land has been taken into account in assessing consideration.
- (c) That the consideration is adequate.
- (d) That the alienation, if completed, will not result in the undue aggregation of farm land.

Clause 52 amends section 319 of the principal Act. This section sets out the powers of the Court in considering an application for confirmation of a resolution. The amendment gives the Court an additional power, namely, to direct the recalling of the meeting at which the resolution was passed. There shall be no appeal against such a direction.

Clause 53 substitutes a new section 325 in the principal Act. The section provides for cancellation of a resolution if not acted on.

The new section allows the Court to annul confirmation if the confirmed resolution is not acted on within 6 months or within such further time as the Court on application may allow.

Subsection (2) gives the Court power to exercise, in the course of any proceedings under subsection (1), any other part of its jurisdiction.

Subsection (3) bars any right of appeal against an order made under subsection (1).

PART VIII

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

Clause 54 substitutes a new section 16 in the principal Act. The section deals with the appointment of Judges of the Maori Land Court. There are 2 new provisions.

Subsection (2) makes it a requirement that to be appointed a Judge of the Court a person must be a barrister or solicitor of at least 7 years' standing.

Clause 55 amends section 16 of the principal Act (which deals with the appointment of temporary Judges of the Court). The amendment has the effect of limiting the term of a temporary appointment to a period not exceeding 12 months. At present a temporary Judge may be appointed for 2 or more periods not exceeding 4 years in the aggregate.

Clause 56 adds a new subsection to section 27 of the principal Act. The new subsection empowers the Court to give leave for application in particular matters to be made by a Maori Trust Board or a District Maori Council if the Court is satisfied that a question of importance to the Maori people is involved and that the interests of the normal applicants are not prejudiced.

Clause 57 amends section 28 of the principal Act to make it clear that there is no appeal against a refusal of the Court to allow a rehearing.

Clause 58 alters the present limitation on the amount of damages which can be recovered as between Maoris in respect of trespass to Maori land, in the Maori Land Court from \$400 to \$3,000.

Clause 59 amends section 38 of the principal Act. The minimum number of Judges required to constitute the Appellate Court is increased from 2 to 3.

Clause 60 amends section 57 of the principal Act so as to allow the Court to order payment of costs in a proceeding not only by or to parties to the proceedings, but by or to other persons who have successfully sought leave to appear.

Clause 61 inserts in the principal Act a new section 57A which (by subsection (1)) provides for the creation of a Maori Land Court Special Aid Fund to be funded by money voted for the purpose and held by the Maori Trustee. Subsection (2) empowers the Court in its absolute discretion to order payment of legal costs or out-of-pocket expenses or both from the Fund to persons appearing or represented before the Court.

Subsection (3) provides that a person who has received aid from the Fund cannot obtain assistance in respect of the same matter under the Legal Aid Act 1969.

Clause 62 inserts a new section 77A in the principal Act.

Subsection (1) gives official recognition to the Maori language as the ancestral tongue of that portion of the people of New Zealand of Maori descent.

Subsection (2) empowers the Minister to take such steps as he deems appropriate to encourage the learning and use of the Maori language (in its recognised dialects and variants) and the extension to Government Departments and other institutions of information concerning and translations from and into the Maori language.

Clause 63 repeals a number of provisions of the principal Act, which allowed the compulsory acquisition by the Maori Trustee in the course of certain types of proceeding before the Maori Land Court of uneconomic interests in the land being dealt with. An uneconomic interest was an interest with a value not exceeding \$50.

Clause 64: Interests in Maori land acquired by the Maori Trustee for the Conversion Fund under Part XIII of the principal Act can be disposed of to Maoris, Maori Trust Boards, Maori incorporations, trustees of the land for remaining beneficial owners and to the Crown for Maori housing and land development purposes. In addition, there is a power to dispose of interests to the Crown without restriction if after 3 years they cannot otherwise be disposed of. This clause amends section 152 of the principal Act to abolish this last-mentioned power.

Clause 65: By the Maori Affairs Amendment Act 1967 a limitation of time was put on the lodging and prosecuting of applications for the investigation of title of land claimed as customary land. The original limitation was that applications must be made by the 31st day of December 1970 and finally dealt with by the 31st day of December 1971. This was extended in 1970 to the 31st day of December 1974 and the 31st day of December 1975 respectively.

This clause removes the time restriction entirely.

Clause 66 repeals Part XVIII of the principal Act (which deals with title improvement effected by Consolidation Schemes).

Clause 67: Subclause (1) discharges all survey charges in favour of the Crown which were continued in existence by section 412 of the principal Act.

Subclause (2) provides for removal of charges from the Land Transfer Register.

Subclause (3) repeals section 412.

Clause 68 inserts a new section 433A in the principal Act. Subsection (1) gives the Court power to declare by order that European land owned by Maoris shall cease to have the status of European land.

Subsection (2) requires the Court to be satisfied that the land because of the number of owners, etc., cannot be satisfactorily managed or dealt with as European land.

Subsection (3) provides for registration of an order.

Subsection (4) states that on registration the land becomes Maori land.

Subsection (5) provides for succession to be given as if the land had been Maori land at the material times.

Clause 69 inserts a new section 434A in the principal Act.

Subsection (1) provides that the section shall apply to the same classes of land as section 435.

Subsection (2) gives the Court power to make an order aggregating the ownership of several parcels of land—i.e., bringing the owners of each parcel together in a common list—if satisfied this will aid the working or management of the land. The shares in the aggregate list are to be calculated as in section 435—i.e., on a valuation basis.

Subsection (3) provides that on registration of the order the ownership vests in the persons and shares shown thereon.

Subsection (4) provides that if any Crown land is vested in Maoris under this section it becomes Maori freehold land.

Clause 70 inserts in section 438 of the principal Act (which deals with the vesting of land in trustees) a new subsection making it clear that advisory trustees can be appointed.

Clause 71 inserts a new section 439A in the principal Act.

Subsection (1) empowers the Court on the application of the Minister to consider a proposal that any area of land (Crown, Maori, or European) should because of its historical significance or spiritual or emotional association with the Maori people be set aside as a reservation.

Subsection (2) authorises the Court to recommend—

- (a) That the land be not reserved; or
- (b) That the land be reserved; or
- (c) If the land is not Crown land or Maori land that it be acquired for the purpose of a reservation; or
- (d) Some other course.

Clause 72 amends section 440 of the principal Act by requiring applications for orders vesting land for housing purposes to be attested in the manner prescribed by section 222 (as amended by *clause 41* of this Bill).

Clause 73 amends section 449 of the principal Act by altering the list of things, the removal of which from Maori land without authority may be the subject of an injunction by the Court. Kauri gum is dropped from the list and tree ferns and various mineral substances added.

Clause 74 makes the same amendments (similar to those made by *clause 73*) to section 450 of the principal Act dealing with the seizure of things unlawfully removed from Maori land.

Clause 75: By the Maori Affairs Amendment Act 1967 the jurisdiction of the Chief Judge under section 452 of the principal Act to amend orders of the Court to correct any mistake, error, or omission was limited to orders not more than 10 years old. This clause makes amendments removing that limitation entirely.

Clause 76 amends section 455 of the principal Act which at present provides that interests in customary land or Maori land cannot be taken in execution or otherwise be judicially made available for payment of the owner's liabilities. The amendment has the effect of removing the protection from a freehold interest in Maori land owned in severalty or owned as a joint tenant.

Clause 77 amends section 455A of the principal Act which provides machinery by which interests in Maori land of a bankrupt can be vested in the Official Assignee. The clause limits the interests which can be dealt with in this way to freehold interests in Maori land owned in severalty or as a joint tenant.

Clause 78: This clause makes the same amendments as are made by *clauses 73 and 74* of this Bill to the list of things the removal of which from Maori land without lawful authority is an offence against section 459 of the principal Act.

Clause 79: By Part I of the Maori Affairs Amendment Act 1967 provision was made for certain Maori land to obtain the status of European land.

Part I was repealed by section 13 of the Maori Purposes Act (No. 2) 1973 and the purpose of this clause is to enable the Maori Land Court to change the status back to Maori land where the owners so wish.

Subclause (1) provides that the section applies to European land which acquired that status by action under Part I of the 1967 Act and which is owned by the same owners or by the persons in whose favour a vesting order has been made under section 10 of that Act.

Subclause (2) gives the Court jurisdiction on an application by the owners, within 2 years after the date of the commencement of this Act, to declare the land no longer European land.

Subclause (3) provides for registration.

Subclause (4) provides that on registration of the Court order the land shall become Maori freehold land.

PART IX

REPRESENTATION OF OWNERS OF MAORI LAND

This Part, which is entirely new, makes special provision for the service of notice on, and the representation of, the owners of Maori land in multiple ownership, and, in special circumstances, the owners of other Maori land.

Clause 80 defines Maori land in multiple ownership in this Part as being Maori freehold land beneficially owned by more than 4 persons and not vested in trustees.

Clause 81 sets out the principal purpose of this Part as being the provision of more effective and direct representation of the owners of Maori land in multiple ownership.

Clause 82: Subclause (1) provides a means for the serving of notice on the owners of Maori land in multiple ownership, where notice is required under any statute, etc., and there is no special provision for Maori land, by serving notice on the Registrar of the Maori Land Court.

Subclause (2) provides that where this method of giving notice is used, 14 days must be added to any time which by the enactment under which the notice is given, is specified for the making of objections, lodging appeals, etc.

Clause 83 sets out the subsequent action when notice is served on the Registrar under *clause 82*.

Subclause (1) directs the Registrar to bring the matter to the attention of the Court as soon as possible.

Subclause (2) requires the Court to consider the circumstances and either arrange for a meeting of owners, or consultation with readily available representative owners or proceed immediately to vest the land in trustees under section 438 of the principal Act or appoint agents under *clause 84*.

Subclause (3) makes it clear that immediate action to vest the land in trustees or appoint agents is not to be taken without consultation with the owners unless this is necessary because of some need for urgency.

Clause 84 gives the Court power to appoint agents of the owners for specified purposes.

Subclause (1) provides that this jurisdiction, be used as in *clause 83*, or on application in the ordinary way, or without application on the Court's own motion.

Subclause (2) gives the Court the power mentioned to appoint an owner or two or more persons of which at least one is an owner to be agents of the owners.

Subclause (3) sets out a list of the various purposes for which agents may be appointed. They include the receiving of notices, the objection to the Crown or a local authority going on the land, or taking the land, negotiating on the terms of entry or acquisition, taking legal proceedings and so on.

Subclause (4) has the effect of treating as an owner a person entitled to succeed to the share of a deceased owner—i.e., allowing his appointment as agent.

Subclause (5) gives the Court powers of cancellation and amendment.

Clause 85 gives agents appointed by the Court, subject to any limitations imposed by the Court, full power to act effectively on behalf of all the owners.

Subclause (3) requires an agent to keep in touch with the owners of the land as best he can, but gives the Court power at any time to direct the calling of a full meeting.

Clause 86 provides that service under *clause 82* on the Registrar of a notice shall be as effective as if notice had been given to all the owners.

Clause 87 extends these provisions to the case of Maori land which has up to 4 owners and is not vested in trustees where the Registrar or the Court is satisfied that notice cannot be served, and the owners cannot be represented in the ordinary way because the owners are dead and not succeeded or their whereabouts is unknown.

PART X

AMENDMENTS TO MISCELLANEOUS ENACTMENTS AFFECTING MAORIS

Amendments to Maori Affairs Amendment Act 1967

Clause 88: By Part IV of the Maori Affairs Amendment Act 1967 the land owned by existing Maori incorporations was changed in status from Maori land to European land. It was also provided that on the setting up of a new Maori incorporation its constituent land would become European land.

The effect of this clause is to provide machinery for the changing back of status on the application of existing bodies and to provide a choice when a new incorporation is set up.

Subclauses (1) to (3) provide that the Court on the application of an incorporation may make an order which on registration takes effect to make their European land (which became so under the 1967 legislation) Maori land.

Subclause (4) amends Section 31 of the Maori Affairs Amendment Act 1967 (which deals with the constitution of new incorporations) by substituting a new subsection (3). The new subsection provides that the Court after ascertaining the views of the owners, shall declare in the order of incorporation either that the incorporation's Maori land shall remain Maori land or that it shall become European land.

Clause 89: Subclause (1) inserts in Part IV of the Maori Affairs Amendment Act 1967 (which relates to incorporations) a new section 37A, declaring that incorporation shares, like undivided interests in Maori land, cannot be reached by legal process by a creditor, and do not go to the Official Assignee on bankruptcy.

Subclause (2) repeals the provision in section 38 of the 1967 Act which provides for the Official Assignee's name to be entered on the share register in place of that of a bankrupt shareholder, and substitutes a similar provision applying only to the share of a bankrupt European shareholder.

Amendment to Maori Trust Boards Act 1955

Clause 90: At the present time Maori Trust Boards themselves take the final decision on the qualification of any person for entry on its roll of beneficiaries. This Bill inserts a new section 45A in the Maori Trust Boards Act 1955 giving the Maori Land Court power to make such a determination and power to decide, where necessary, to what internal group or section an applicant belongs. Boards are required to alter their rolls to conform with any decision of the Court.

Amendment to Mental Health Act 1969

Clause 91 substitutes a new definition of the term "Maori" for the purposes of the Mental Health Act 1969.

Hon. Mr Rata

MAORI AFFAIRS AMENDMENT

ANALYSIS

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| PART I | 6. Board to implement policy of Government |
| INTRODUCTORY PROVISIONS | 10. Delegation of Powers |
| 1. Short Title and commencement | 11. Consequential amendments |
| 2. Interpretation | PART V |
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| DEPARTMENT OF MAORI AFFAIRS | 12. Interpretation |
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| 4. Reconstitution of Department | 14. Composition of Committees |
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| TRADE TRAINING AND EMPLOYMENT | 21. Maori Reserved Land |
| 6. Minister may authorise preparation and carrying out of schemes | 22. Succession to Maori on intestacy generally |
| PART IV | 23. Estate of Maori generally |
| ABOLITION OF BOARD OF MAORI AFFAIRS AND CONSTITUTION OF MAORI LAND BOARD | 24. Undivided interests in Maori land of deceased Maori |
| 7. Commencement of this Part | 25. Entitlement of surviving spouse |
| 8. Board of Maori Affairs abolished | 26. Undivided interests not to form part of estate, etc. |
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27. Sections 22 to 26 to apply in certain other cases
28. Intestate succession to certain interests in Maori land
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30. Certain Maori land not available for payment of estate debts
31. Payment of certain revenues to administrator
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35. Court may create trust instead of vesting in successors
36. Conversion of uneconomic interests abolished
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 213. Transfer of interests by Court vesting orders
 - 213A. Vesting in persons beneficially entitled, interests held in representative capacity
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REPRESENTATION OF OWNERS OF MAORI LAND

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A BILL INTITULED

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

5 matters of significance to the Maori people

- 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
- 10 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 to abolish the Board of Maori
- 15 Affairs and to constitute in its place a Maori Land Board: And whereas it is desirable that in the exercise of his powers in relation to the development and settlement of Maori land, the erection of houses for Maoris, and other purposes the Minister of Maori Affairs should have the advantage
- 20 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
- 25 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). 5

(2) Except as provided in section 3 and section 7 of this Act, this Act shall come into force on the 1st day of January 1975.

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: 10

“‘Maori’ means a person of the Maori race of New Zealand; and includes any descendant of such a person:” 15

(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”. 20

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

PART II**DEPARTMENT OF MAORI AFFAIRS**

25

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: 30

“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. 35

"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
5 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
10 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:

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

20 **"(c)** The qualification of Maoris for and their entry in appropriate proportions 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
25 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
30 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
35 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
40 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 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:

- 5 (a) The recruitment and placement of Maoris in employment:
- (b) The training of Maoris in trades or other types of employment:
- (c) The arranging of apprenticeships for Maoris:
- 10 (d) The provision of suitable accommodation for Maoris who are training for employment or otherwise studying, or who are employed in urban areas.
- (3) Any scheme may be prepared and administered in collaboration with any other Government Department, educational authority, or institution, or any other person or
- 15 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

20 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.

25 (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

30 (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 sub-

35 sisting 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

“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). 10

“(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: 15

“(e) Not more than 8 other persons being Maoris, to be appointed by the Minister having regard to nominations made by any Maori Land Advisory Committees established under Part V of the Maori Affairs Amendment Act 1974. 20

“(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 and for any cause be removed from office by the Minister, notwithstanding that his term of office may not have expired, and in any such case, or in the case of his death or resignation, 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. 30

“(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.” 35

(2) The following enactments are hereby consequentially repealed, namely— 40

(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—Section 10 of the principal Act is hereby 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: 5
- (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.

14. Composition of Committees—(1) Each such Committee shall consist of not more than 7 persons of whom— 10

- (a) One shall be the District Officer of the Department, who shall be the Chairman:
- (b) Not more than 2 shall be officers of other Government Departments: 15

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. 20

(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.

(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. 25

(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. 30

(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 and for any cause be removed from office by the Minister, notwithstanding that the term of office of that member may not have expired, and in any such case, or in the case of death or resignation, 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. 35 40

(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.

5 **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
10 Chairman and of any person appointed by him to take his place, 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.

15 (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
20 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.

25 (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
30 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—A Committee may at its discretion at
35 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
40 any motion before the Committee.

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. Interpretation—In this Part of this Act the term “undivided beneficial freehold interest in common in Maori freehold land” means a beneficial freehold interest in Maori freehold land other than in Maori freehold land owned in severalty or owned by 2 or more persons as joint tenants.

21. Maori Reserved Land—(1) It is hereby expressly declared that the term “Maori freehold land” as used in this Part of this Act and in Part XII of the principal Act includes Maori reserved land under the Maori Reserved Land Act 1954.

(2) Section 133 of the principal Act is hereby amended by repealing subsection (2).

(3) Part II of the Maori Reserved Land Act 1954 is hereby repealed.

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

(a) Subsection (2) of section 22 of the Maori Purposes Act 1960:

(b) Subsections (4) to (6) of section 89 and section 130 of the Maori Affairs Amendment Act 1967:

(c) Subsection (4) of section 13 of the Maori Purposes Act 1972.

22. Succession to Maori 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 after the commencement of this Act 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 provisions of subsection (1) of this section shall not apply to any undivided beneficial freehold interest in common owned by the deceased in Maori freehold land.

23. Estate of Maori generally—(1) Except as provided by
5 subsection (2) of this section, the property, both real and personal, of a Maori who dies after the commencement of this Act shall vest in the administrator of his estate and form part of the estate for the purposes of the Estate and Gift Duties Act 1968 and shall be available for the pay-
10 ment of the debts and liabilities of the deceased to the same extent and in the same manner as if he were a European.

(2) The provisions of subsection (1) of this section shall not apply to any undivided beneficial freehold interest in common owned by the deceased in Maori freehold land.

15 (3) Notwithstanding the provisions of section 10 of the Estate and Gift Duties Act 1968, no undivided beneficial freehold interest in common in Maori freehold land comprised in a gift made by a Maori before his death shall be deemed to be included in the dutiable estate of that Maori
20 for the purposes of that Act.

24. Undivided interests in Maori land of deceased Maori—

The persons entitled on the intestacy or partial intestacy of a Maori who dies after the commencement of this Act to succeed to his intestate estate so far as it consists of
25 undivided beneficial freehold interests in common in Maori freehold land and the shares in which they are so entitled shall, subject to the provisions of this Act and the principal Act, be determined by the Court in accordance with Maori custom and the interests shall be dealt with in accordance
30 with the provisions of Part XII of the principal Act.

25. Entitlement of surviving spouse—Notwithstanding any provision to the contrary in Maori custom relating to succession to interests in land, or any provision of this or any other enactment, the surviving spouse of any Maori, who dies
35 completely or partially intestate after the commencement of this Act, shall be entitled to receive an interest for life or until remarriage in the intestate estate of the deceased so far as it consists of any undivided beneficial freehold interest in common in Maori freehold land if in the opinion of the Court
40 such an interest is likely to yield a significant income to the spouse or is likely to be used by the spouse as a basis for residential or other personal use of the land,

26. Undivided interests not to form part of estate, etc.—
The undivided beneficial freehold interests in common in Maori freehold land of a Maori who dies after the commencement of this Act shall not vest in the administrator of his estate for the purposes of the Estate and Gift Duties Act 1968, and shall not be available for the payment of the debts and liabilities of the deceased. 5

27. Sections 22 to 26 to apply in certain other cases—The provisions of sections 22 to 26 of this Act 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 (being the date of commencement of this Act), if at the latter date no grant of administration of his estate has been made and no other action taken having the effect of vesting all his undivided beneficial freehold interests in common in Maori freehold land in the persons entitled thereto. 10 15

28. Intestate succession to certain interests in Maori land— 20
Section 117 of the principal Act (as amended by subsection (4) of section 88 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— 25

“(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 30

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

29. Succession fee in lieu of estate duty on certain Maori land interests—(1) Section 131 of the principal Act (as amended by section 3 of the Maori Purposes Act 1955 and subsection (11) of section 88 of the Maori Affairs Amendment Act 1967) is hereby further amended by inserting, after subsection (2), the following subsections: 35 40

“(2A) Notwithstanding anything to the contrary in the Estate and Gift Duties Act 1968, none of the following interests shall be computed as part of the owner’s dutiable estate:

5 “(a) The undivided beneficial freehold interests in common
in Maori freehold land of a Maori who has died
on or after the 1st day of April 1968 and before
the 1st day of January 1975 if at the latter date no
grant of administration of the estate of the deceased
has been made and no other action taken having
10 the effect of vesting the interests in the persons
beneficially entitled thereto:

 “(b) The undivided beneficial freehold interests in common
in Maori freehold land of a Maori who dies on or
after the 1st day of January 1975.

15 “(2B) Notwithstanding the provisions of section 10 of the
Estate and Gift Duties Act 1968, no undivided beneficial free-
hold interest in common in Maori freehold land comprised
in a gift made by a Maori before his death shall be deemed
to be included in the dutiable estate of that Maori for the
20 purposes of that Act.”

 (2) Section 131 of the principal Act is hereby further
amended by omitting from subsection (5) the words “issue
from the Court”, and substituting the words “be signed and
sealed”.

25 **30. Certain Maori land not available for payment of estate
debts**—Section 132 of the principal Act (as amended by sub-
section (12) of section 88 of the Maori Affairs Amendment
Act 1967) is hereby further amended by repealing subsection
(1), and substituting the following subsections:

30 “(1) The following interests in Maori freehold land shall
not be or be deemed to have been assets available for the pay-
ment of the debts and liabilities of the owner on his death,
whether to the Crown or otherwise:

 “(a) The beneficial freehold interests in Maori freehold
35 land of a Maori who has died before the 1st day of
April 1968:

 “(b) The interest in customary land of any person:

 “(c) The undivided beneficial freehold interests in common
in Maori freehold land of a Maori who has died
40 on or after the 1st day of April 1968 and before
the 1st day of January 1975 if at the latter date
no grant of administration of the estate of the
deceased has been made and no other action taken
having the effect of vesting the interest in the
45 persons entitled thereto:

“(d) The undivided beneficial freehold interests in common in Maori freehold land of a Maori who dies on or after the 1st day of January 1975.

“(1A) Subsection (1) of this section shall not be so construed as to affect the operation of any mortgage or charge to which any such land is subject at the death of the deceased, or any liability for the payment of rates or taxes or the operation of any will by which any such undivided beneficial interest as specified in subsection (1) of this section is expressly devised in trust for or charged with the payment of debts or the operation of any valid assignment or charge of any money arising out of the alienation of Maori land or the income thereof made in favour of a State Loan Department or of the Crown.”

31. 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 subsection (13) of section 88 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.”

32. Application of Part XII of principal Act—(1) Section 133 of the principal Act (as amended by section 4 of the Maori Purposes Act 1955 and subsection (14) of section 88 of the Maori Affairs Amendment Act 1967) is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) This Part of this Act so far as it relates to the disposal on the death of the beneficial owner thereof of beneficial freehold interests in Maori freehold land, shall also apply to the undivided beneficial freehold interests in common in Maori freehold land of:

- “(a) 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 (being the date of commencement of the Maori Affairs Amendment Act 1974) if no grant of administration of the estate of the deceased has been made and no other action taken having the effect of vesting the interest in the persons entitled thereto; and
- 10 “(b) Any Maori who dies on or after the 1st day of January 1975.”
- (2) Section 133 of the principal Act is hereby further amended by repealing subsection (8) (as added by subsection (14) of section 88 of the Maori Affairs Amendment Act 1967),
- 15 and substituting the following subsection:
- “(8) Nothing in this Part of this Act shall apply to any interest in Maori freehold land of a 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
- 20 the 1st day of January 1975 (being the date of commencement of the Maori Affairs Amendment Act 1974) if at the last-mentioned date a grant of administration of the estate of the deceased has been obtained or other action taken having the effect of vesting the interest in the persons entitled thereto.”
- 25 (3) Subsection (14) of section 88 of the Maori Affairs Amendment Act 1967 is hereby consequentially repealed.

33. Provision for surviving spouse—The principal Act is hereby amended by inserting, after section 135, the following section:

- 30 “135A. (1) In making any determination under section 135 of this Act, in respect of 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, the Court, subject to the provisions of subsection (2) of this section, shall,
- 35 where the beneficial owner is survived by his spouse, make provision for the surviving spouse in accordance with section 25 of the Maori Affairs Amendment Act 1974.

- “(2) In any case where the Court is satisfied that a surviving spouse does not wish to take an interest to which she
- 40 is otherwise entitled under section 25 of the Maori Affairs Amendment Act 1974, it may make a determination as if there were no surviving spouse.

“(3) Nothing in this section or in section 25 of the Maori Affairs Amendment Act 1974 shall be construed to limit any jurisdiction under the Family Protection Act 1955.”

34. 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”. 5 10

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

35. Court may create trust instead of vesting in successors—The principal Act is hereby amended by inserting, after section 136, the following section: 15

“136A. (1) Instead of making a vesting order under any of the provisions of section 136 of this Act, the Court may, if it thinks fit, vest the beneficial freehold interest of the deceased owner in a trustee or trustees to be held in trust for the persons determined entitled pursuant to the provisions of section 135 of this Act: 20

“Provided that although the existence of the trust may be incorporated in the vesting order as drawn, signed, and sealed pursuant to section 34 of this Act, no notice thereof shall be entered on the schedule of ownership supporting the title order to the land nor in any other order or document required to be kept and maintained by the Registrar or by a District Land Registrar: 25

“Provided further that the existence of any such trust for the purposes of this Act or of any other Act administered by the Department shall be prima facie established by the production of a duplicate of the vesting order issued pursuant to the provisions of subsection (11) of section 34 of this Act. 30

“(2) Where any real property or interest therein is held in trust for any Maori or Maoris pursuant to a vesting order made as aforesaid (whether exclusively or in conjunction with Europeans) the Court may, if in its opinion it is expedient so to do, by order appoint a new trustee or new trustees either in substitution for or in addition to any existing trustees, and whether or not there is a trustee in office at the time of the making of the order. Any person so appointed 35 40

shall have the same rights and powers as he would have had if appointed by a decree of the Supreme Court in an action duly instituted, and the trust property shall vest in the trustees for the time being without any conveyance, transfer, assignment, or assurance. The powers conferred by this subsection shall not be exercised in any case where the trust property is vested in the Public Trustee or the Maori Trustee or in a trustee appointed by statute. Any such order shall not be capable of being registered under the Land Transfer Act 1952."

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

- (a) Sections 137, 138, 139, and 142 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) Section 119 of the Maori Affairs Amendment Act 1967.

37. 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 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."

38. Consequential amendments—(1) The Maori Affairs Amendment Act 1967 is hereby amended by repealing sections 76, 77, 78, 78A (as inserted by section 17 of the Maori Purposes Act (No. 2) 1973), 84, 85, and subsections (1) and (2) of section 87.

5

(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:

10

(c) Section 17 of the Maori Purposes Act (No. 2) 1973.

PART VII

ALIENATION OF MAORI LAND

39. 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:

20

“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—

25

“(a) A Maori:

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

30

“(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.

35

“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.

40

“(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—

5 “(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.

10 “(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
15 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
20 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,
25 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
30 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
35 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
40 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
5 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
10 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
15 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
20 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:

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

40. 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
30 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
35 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.”

41. Attestation of execution of instruments of alienation—
Section 222 of the principal Act (as substituted by section 97
40 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.” 5 10

42. 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: 15

“(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 20

“(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 25

“(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 30

“(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 35
consequently repealed.

43. 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”. 40

44. Provisions for transfer included in other alienations—Section 233 of the principal Act (as substituted by section 106 of the Maori Affairs Amendment Act 1967) is hereby amended by adding the following subsection:

- 5 “(3) The provisions of subsection (1) of this section shall not apply to any memorandum of lease or other instrument of alienation of Maori freehold land which contains any contractual provision for the future transfer (whether optional or otherwise) of the land or of any part thereof, but every
10 such memorandum or other instrument shall as regards such provision require to be confirmed by the Court in accordance with section 224 of this Act.”

45. Maori Trustee may enforce covenants of lease on behalf of owners—Section 239 of the principal Act is hereby
15 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.”

46. Meetings of assembled owners to be summoned by
20 **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.

- 25 “(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
30 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.

- 35 “(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.

- 40 “(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. 5 10

“(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. 15

“(11) No appeal shall lie to the Appellate Court against an order made under subsection (9) or subsection (10) of this section.” 20

47. 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: 25

“(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 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. 30

“(6A) The quorum for a meeting of assembled owners shall include owners present in person or by proxy. 35

“(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: 40

- “(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:
- 5 “(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:
- 10 “(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:
- 15 “(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:
- 20 “(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
- 25 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
- 30 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
- 35 of 4.”
- (2) Section 4 of the Maori Purposes Act 1967 is hereby consequentially amended by repealing subsection (4).

48. Reference to Maori Land Advisory Committee where meeting lapses—The principal Act is hereby amended by

40 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. 5 10

“(4) The Maori Land Advisory Committee shall thereupon 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.”

49. 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— 15

- (a) By repealing paragraph (b) of subsection (1); and
- (b) By omitting from paragraph (c) of subsection (1) the words “other than the Crown”. 20

50. 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. 25 30

“(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: 35

- “(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: 40
- “(b) If the resolution is disallowed the money shall be refunded without deduction to the applicant.”

51. 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 substitution 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).

52. 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”.

53. 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.” 5 10

“(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.” 15

“(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 20

54. 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.” 25

“(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.” 30

“(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.” 35

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

55. 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 sub-
5 section (2) the words, “or for two or more such periods not exceeding four years in the aggregate”.

56. 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
10 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
15 1962 to lodge an application for the exercise of the Court’s jurisdiction accordingly.”

57. 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:
20 “(5) No appeal to the Appellate Court shall lie from the refusal by the Court to make an order granting a rehearing.”

58. 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
25 the expression “\$3,000”.

59. 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”.

60. Orders as to costs—(1) Section 57 of the principal Act
30 (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”.

61. Maori Land Court Special Aid Fund—The principal
35 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. 5

"(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. 10

"(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. 15

"(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." 20

62. 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 as the ancestral tongue of that 25 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 30 in particular for the extension to Government Departments and other institutions of information concerning and translations from or into the Maori language."

63. Repeal of provisions providing for compulsory acquisition by Maori Trustee of uneconomic interests—(1) Section 35 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) of the Maori Affairs Amendment Act 1967). 40

(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).

5 (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).

10 (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.

64. 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
15 (3A).

65. 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
20 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.

66. Repeal of provision for consolidation schemes—(1) Part
25 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.

67. Survey charges in favour of Crown discharged—
30 (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,
35 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
40 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.

68. 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.

“(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.”

69. 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 5 435 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.

10 “(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.”

—70. **Appointment of advisory trustees**—Section 438 of the principal Act (as substituted by section 142 (1) of the Maori 15 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 20 section 49 of the Trustee Act 1956 shall apply accordingly with such modifications as are necessary.”

71. Court may consider proposals for Maori reservations—

The principal Act is hereby amended by inserting, after section 439, the following section:

25 “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 30 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—

35 “(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

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

72. 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.” 5

73. 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,”. 10

74. 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,”. 15

(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”. 20

75. 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: 25

“(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.” 30

(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.” 35

(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”. 40

(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).

76. Protection of Maori land against execution for debt—

5 (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:

10 “(1) No interest of any person in customary land, and no undivided beneficial freehold interest in common of a Maori in Maori freehold land (as defined in section 20 of the Maori Affairs Amendment Act 1974) 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
15 in favour of Her Majesty or of any other person.”

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

77. Maori land held in severalty or by joint tenants available in bankruptcy—

20 (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
25 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
30 bankrupt shall not vest”, and substituting the words “no beneficial freehold interests in Maori freehold land of a bankrupt shall vest”.

78. Prevention of waste on Maori land—Section 459 of the principal Act (as amended by section 8 of the Maori Pur-
35 poses 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,”.

79. 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**

80. 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.

81. 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.

82. 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.

83. Action of Court on receipt of notice—(1) On receiving any notice given in accordance with subsection (1) of section 82 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 84 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.

84. 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 82 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: 5
 - (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: 10
 - (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: 15
 - (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: 20
 - (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: 25
 - (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: 30
 - (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: 35
 - (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. 40
- (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.

85. Powers of agents—(1) On the appointment by the Court of any agent under section 84 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, 5 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, 10 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 15 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.

86. Service of notices on agents—The service of any notice concerning Maori land in multiple ownership on the agents 20 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.

87. Extension of this Part to other Maori land where the owner is deceased or his whereabouts are unknown— 25 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 82 of this Act, 30 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.

35

PART X

AMENDMENTS TO MISCELLANEOUS ENACTMENTS AFFECTING MAORIS

Amendments to Maori Affairs Amendment Act 1967

88. Declaration of land owned by incorporations as Maori land— 40 (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. 5

(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. 10

(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: 15

“(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 20

“(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.” 25

89. 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. 30 35

“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.” 40

(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 Maori Trust Boards Act 1955

5 **90. Additions to rolls**—(1) The Maori Trust Boards Act 1955 is hereby amended by inserting, after section 45, the following section:

“45A. In any case where, pursuant to section 45 of this Act, the Board has determined that any person is not qualified for
10 inclusion in its roll of beneficiaries and has rejected his application for inclusion, he may apply to the Maori Land Court to consider his qualifications, and, notwithstanding the provisions of section 45 of this Act, the Court shall have power to determine whether he is qualified for inclusion and, where
15 the beneficiaries are divided into sections or divisions for the purpose of elections, to determine the section or division of beneficiaries in which he is entitled to be included.

“(2) The Board is hereby authorised and directed to make such entry in its roll of beneficiaries as may be necessary to give effect to any determination of the Court under
20 this section.”

Amendment to Mental Health Act 1969

91. Separate definition of “Maori” for purposes of Mental Health Act 1969—(1) Section 82 of the Mental Health Act
25 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
30 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
35 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

FIRST SCHEDULE

Section 5 (1)

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”. 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.”. |

SECOND SCHEDULE

Section 11

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. |
| 1935, 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. |