

## MAORI PURPOSES (NO. 2) BILL

### EXPLANATORY NOTE

*Clause 1* relates to the Short Title.

### PART I

#### AMENDMENTS TO MAORI AFFAIRS ACT 1953

*Clause 3*: At present the Conversion Fund, which is financed by money voted by Parliament for the purpose, cannot be used to acquire interests in Maori Vested Land or Maori Reserved Land. It is now proposed that this prohibition be relaxed to the extent that interests in those lands can be bought in cases where the purchase money will be used by the vendor for housing purposes.

*Subclause (1)* of this clause accordingly inserts a new section 150A in the principal Act.

*Subclause (2)* affects a consequential amendment to the prohibition that is contained in section 148A of the principal Act.

*Clause 4*: The owners of undivided interests in Maori land on occasion wish to borrow on the security of the interests from a State Loan Department, which includes the Public Trust Office, the State Advances Corporation, the Government Insurance Office, and the Maori Trustee.

The extent to which the owners of Maori land having more than 10 owners can deal with their individual interests is severely limited. The intention of this clause is to make it clear that the owners may mortgage their interests to a State Loan Department.

*Clause 5*: *Subclause (1)* makes it clear that a Maori owner of Maori land can execute an instrument of alienation by his attorney.

*Subclause (2)* makes it clear that an owner can attend, vote, and act at a meeting of assembled owners of land under Part XXIII of the principal Act by his attorney. This includes the signing of a memorial of dissent to a resolution passed at a meeting.

*Clause 6*: This clause, and *clauses 7 to 12*, make several amendments in the law relating to the acquisition by the Crown of Maori land and of European land owned by Maoris (i.e., by more than 4 owners of whom a majority are Maoris or descendants of Maoris).

*Subclause (1)* substitutes a new section 252 in the principal Act. The existing subsection (3) of that section requires all negotiations for the acquisition of any such land to be done by the Board of Maori Affairs. Subsection (3) of the new section provides instead that the Board must approve of negotiations being undertaken and of preliminary terms. Price is to be considered in relation to a special valuation made by the Valuer-General at the request of the Crown.

Subsection (4) of the new section provides that, generally, acquisition of Maori land by the Crown is to be governed by the general law affecting the alienation of such land.

*Subclause (2)* repeals sections 212 and 260 of the principal Act. Section 212 is the section that says, in effect, that the ordinary restrictions on alienation of Maori land do not apply where such land is alienated to the Crown.

Section 260 is the section that requires the Crown to pay not less than the current (i.e., roll) valuation where it purchases the interest of a Maori in any land.

In future confirmation by the Court will be required not only of resolutions of assembled owners for alienations to the Crown, but also of signed instruments. The Court is bound to have regard, not to the roll value, but to an up-to-date special valuation.

*Subclause (3)* effects a consequential amendment to section 261 of the principal Act.

*Clause 7* repeals subsection (2) of section 253 of the principal Act. This subsection provides that land vested in the Maori Trustee with power of sale may be alienated to the Crown by agreement with the Board of Maori Affairs without public auction or tender, even though this is required by the terms of the Trust.

*Clause 8* repeals section 257 of the principal Act. This section provides, contrary to the provisions of the general law (section 215), that the Crown may buy undivided interests in Maori land.

*Clause 9* repeals section 258 of the principal Act. This section specifies that an instrument of alienation to the Crown does not need confirmation and that it is not open to invalidation for error, irregularity, or defect in the mode of execution.

*Clause 10* substitutes a new section 259 in the principal Act. In the ordinary way, where the Court has confirmed a resolution of the assembled owners of land to sell or otherwise alienate to a private person, the Maori Trustee then becomes the agent of the owners to execute an instrument to give effect to the resolution, the instrument being registered against the Land Transfer title.

Section 259 provides a short cut by stating that where the Board accepts a confirmed resolution, the confirmed resolution has the effect of a contract of purchase. This enables the land to be proclaimed Crown land under section 265.

The new section does not interfere with the basis of this procedure but clarifies it.

*Clause 11* makes it clear that the Court, in giving effect to a sale of Crown land to Maoris may, instead of vesting the land in individuals, vest it in trustees, or in a Maori organisation for the owners or for tribes or communities.

*Clause 12* substitutes a new section 268 in the principal Act. This section provides for the payment of the purchase money where any land or interest in land is acquired by the Crown under Part XXI of the principal Act. At present the Board of Maori Affairs may elect to pay the money to the Maoris entitled to it or to the Maori Trustee on their behalf. In future the Board of Maori Affairs will not have this role and the money will be paid to the Maori Trustee on behalf of the Maoris entitled to it for payment to them in accordance with their several interests.

*Clause 13:* At the present time the Board of Maori Affairs has power to acquire land for the purposes of a Maori land development scheme, but the land becomes Crown land.

It is, on occasion, convenient to acquire land for the owners of land already in the scheme, or having acquired it as Crown land to have a practical means of transferring it to the owners (often many in number) of the original scheme land.

This clause inserts new sections 370A and 370B in the principal Act. Section 370A empowers the Board to buy land or interests in land on behalf of the owners of land subject to Part XXIV of the Act. The cost of the acquisition is to be charged on the land originally in the development scheme.

Section 370B gives the Maori Land Court jurisdiction, on the application of the Board, to make an order vesting land acquired under section 370A in the appropriate persons, or to amend an existing title to include the land acquired. This section may also be used for the disposal of land acquired by the Board otherwise than under section 370A.

*Clause 14:* Part I of the Maori Affairs Amendment Act 1967 requires the Registrar of the Maori Land Court to investigate all Maori freehold land having not more than 4 owners and if it meets certain requirements to take action which results in the land losing its technical status as Maori land and acquiring that of European land.

At the same time, section 433 of the Maori Affairs Act 1953 empowers the Maori Land Court on application by the single owner of Maori land to make an order, if it thinks fit, declaring that the land shall cease to be Maori land.

This clause repeals Part I of the Maori Affairs Amendment Act 1967, and substitutes a new section 433 in the Maori Affairs Act 1953.

The new section 433 enables the Court on the application of the owner or owners to declare Maori land to be European land. On dealing with an application the Court is to consider certain specified matters relating in the main to the fitness of the land for a change of status. No order is to be made unless the Court is satisfied that the land can be conveniently used or otherwise dealt with and that no undue difficulty or inconvenience will result.

*Clause 15:* Section 437 of the principal Act gives the Maori Land Court jurisdiction, on the application of the Minister of Lands, to determine the Maoris for whose benefit a piece of Crown land has been set aside or reserved, and to make an order vesting the land in those persons or in trustees on their behalf.

This clause amends section 437 to make it clear that the machinery provided by that section can be used in cases, where, although the land has not been formerly set aside or reserved for the benefit of Maoris, it is desired to vest it in or for the benefit of Maoris.

*Clause 16:* At the present time a Maori reservation under section 439 of the principal Act can be constituted only over Maori land or European land owned by Maoris (i.e., with more than 4 owners of whom a majority are Maoris or descendants of Maoris).

This clause enlarges the possible range of land which may go into reservations, by extending it first to any European land and secondly to Crown land or other land held on perpetually renewable lease for the purpose of a meeting place or marae.

*Subclause (1)* deletes from the phrase "European land owned by Maoris", which has a technical and restricted meaning, the words "owned by Maoris".

The subclause also provides for the setting apart of land as a Maori reservation for the purposes of a marae.

*Subclause (2)* adds to section 439 three additional subsections to meet the case of land leased in perpetuity.

*Clause 17:* Under Part II of the Maori Affairs Amendment Act 1967 the Maori Land Court may, following an investigation by an Improvement Officer, be asked to make an order for the purpose of promoting the effective and profitable use and efficient administration of Maori land in the interest of the owners. Section 19 of that Act provides, subject to a qualifying proviso, that if the Court considers that the order sought is not contrary to the interests of the owners and that adequate consultation has taken place, it shall make the order sought, notwithstanding any objection by any owner or owners.

This clause, by changing the word "shall" to "may" gives the Court some discretion in the matter.

*Clause 18:* Before the coming into force of the Maori Affairs Amendment Act 1967, the interests in Maori land of a deceased Maori or descendant of a Maori did not form part of his estate, and, unless expressly provided by will, did not pass to his administrator. Instead, they were dealt with by vesting orders of the Maori Land Court. In the case of intestacy the interests did not devolve as provided by the Administration Act but normally passed to blood connections, a surviving spouse having no entitlement as of right. Because of the small size and value of many interests, the Maori Land Court had certain powers of juggling interests among successors so as to avoid further breaking down of those interests. A special type of duty known as a succession fee was levied on succession vesting orders.

The effect of the 1967 legislation was, broadly, that the general law was applied to the estates of Maoris or descendants of Maoris dying after 31 March 1968. Maori land interests fall into the estate. Administration is necessary. Ordinary estate duty (with some temporary reservations) is payable. There are some special machinery provisions for the transmission of interests in Maori land, but generally there is little special law now applicable.

In practice there have been some problems in the new system. A considerable number of estates of Maoris contain little property beyond interests in Maori land. Many interests are of relatively low value. The effort and expense involved in administration is sometimes out of all proportion to the value of the assets involved.

This clause inserts a new section conferring on the Maori Land Court jurisdiction to deal, in certain circumstances, and without administration being obtained, with Maori land interests of persons dying on or after 1 April 1968. One qualification is that an application can be granted only where the value, at the date of death, of the interests in land affected by it did not exceed \$2,000. Another qualification is that where the deceased is known to have owned beneficial freehold interests in Maori freehold land in more than one Maori Land Court district, the aggregate value, at the date of death, of his known interests in all such districts must not have exceeded \$7,500.

## PART II

### MISCELLANEOUS AMENDMENTS TO MAORI LEGISLATION

*Clause 19: Subclause (1)* enables a branch account of the Maori Trustee's Account to be kept in Wellington at a bank other than the Reserve Bank.

*Subclauses (2) and (3)* provide authority for payments from the Maori Trustee's Account to be made by money transfer service as well as by cheque.

*Clause 20:* Interests in Maori reserved land or Maori vested land acquired by the Maori Trustee from the owners and paid for from his Purchase Fund, can be disposed of to a lessee for freeholding purposes or to any Maori or descendant of a Maori.

This amendment made by this clause to section 41E of the Maori Trustee Act 1953 will enable such interests to be disposed of to a Maori Trust Board.

*Clause 21:* Notwithstanding that the Maori Housing Amendment Act 1938 authorises the acquisition for the purposes of Maori housing of any land by way of purchase, lease, gift, etc., there is some doubt whether as a result of the general provisions of Part XXI of the Maori Affairs Act 1953 (dealing with the acquisition of Maori land by the Crown) the acquisition of Maori land by way of gift is possible.

This clause amends section 3 of the Maori Housing Amendment Act 1938 to expressly authorise the acquisition of Maori land, by way of gift, as a site for the erection of rental accommodation for elderly Maoris.

*Clause 22:* The amendment made by this clause to section 28 of the Maori Trust Boards Act 1955 enables Maori Trust Boards to operate on their bank accounts by money transfer service as well as by cheque.

*Clause 23:* Section 15 of the Maori Purposes Act 1938 relates to a valuable farming estate in Poverty Bay known as the Wi Pere Trust. As first enacted the section prohibited dispositions by beneficiaries but by section 60 of the Maori Purposes Act 1950 authority was given for beneficiaries to transfer their interests to their children or other descendants or to other beneficiaries.

Quite a few transfers have taken place and these have been carried out by means of vesting orders under section 213 of the Maori Affairs Act 1953. Section 213 actually relates only to interests in land, and this clause—

- (a) Provides that the disposition of the beneficiary's interest in the land carries with it his interest in stock, chattels, money, and other property of the Trust; and
- (b) Preserves the effect of orders made before the commencement of this Act.

*Clause 24:* In 1917 approximately 36,000 acres of the land to which this section applies were given by the Maori owners for the settlement of Maori returned servicemen. The land, owing to its situation and quality, was not suitable for settlement and was not used. Section 25 of the Maori Purposes Act 1930 (later replaced by section 70 of the Maori Purposes Act 1931) constituted the land Crown land under the Land Act, but provided that any revenue arising from the land should be applied at the direction of the Minister of Maori Affairs to some fund having for its object the assistance of Maori returned soldiers, or their dependants or successors.

This clause proposes that the land should be returned to the former owners or their descendants or to trustees on their behalf, using the machinery provided by section 436 of the Maori Affairs Act 1953.

*Clause 25:* The land affected by this clause, which lies between the Whakatane Harbour and the ocean and has an area of 22.6624 hectares (56 acres), was set aside in the 1870's for a burial ground for some sections of local Maoris. Effective action to have it vested in the appropriate persons was never taken and it appears that the Maori Land Court lacks power to deal with it.

This clause makes it clear that the Court may determine who is entitled to the land and may make appropriate vesting orders.

### PART III

#### TITI ISLANDS

THE purpose of this Part of this Act is to secure to the Maori people entitled the exercise of the right (reserved by their ancestors upon the cession to the Crown of Rakiura or Stewart Island) to take mutton birds from the Titi Islands. This Part also provides for the determination from time to time of the people so entitled. These matters are at present governed by section 109 of the Maori Purposes Act 1931, subsection (2) of section 23 of the Land Act 1948, and by regulation 18 of the Land Act Regulations 1949 (as substituted by the Land Act Regulations 1949, Amendment No. 3) (S.R. 1962/10).

*Clause 26* provides that this Part of this Act is to come into force on 1 April 1974.

*Clause 27* defines terms used in this Part of the Bill.

*Clause 28* sets out the purpose of this Part of the Bill.

*Clause 29* declares the Titi Islands to be Crown land which shall be held and administered, in accordance with the provisions of this Part of this Bill and of regulations made under *clause 32*, for the benefit of the beneficial owners.

*Clause 30* requires the Registrar of the Maori Land Court at Christchurch to prepare lists of beneficiaries and an alphabetical index of all names on those lists.

*Clause 31* confers on the Ngaitahu Maori Trust Board exclusive and final authority to determine whether any person is a beneficiary by virtue of descent from any beneficiary named in the lists.

*Clause 32: Subclause (1)* authorises the making of regulations controlling the taking of mutton birds on the Titi Islands and regulating access to those Islands by persons other than the beneficial owners.

*Subclause (2)* provides that regulations made under this clause may be expressed to apply in respect of islands adjacent to Stewart Island which are not Titi Islands except any island which (at the time the regulations are made) is a public reserve.

*Subclause (3)* provides that no regulations shall be made under this clause without prior discussion, in writing or otherwise, with the Board as the representative of the beneficiaries.

*Subclause (4)* provides that nothing in the Wildlife Act 1953 shall apply in respect of the taking of mutton birds in accordance with regulations made under this clause.

*Subclause (5)* provides that the existing regulations are to continue in force and may be amended or revoked under this clause.

*Clause 33* consequentially repeals the existing statutory provisions relating to the Titi Islands.

*Clause 34* makes it clear that the powers conferred by section 109 of the Maori Purposes Act 1931 were not affected by the passing of the Maori Affairs Amendment Act 1967.

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*Hon. Mr Rata*

## MAORI PURPOSES (NO. 2)

### ANALYSIS

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## A BILL INTITULED

**An Act to amend the law relating to Maoris and Maori land,  
and for other purposes**

BE IT ENACTED by the General Assembly of New Zealand  
in Parliament assembled, and by the authority of the same, 5  
as follows:

**1. Short Title**—This Act may be cited as the Maori  
Purposes Act (No. 2) 1973.

## PART I

## AMENDMENTS TO MAORI AFFAIRS ACT 1953 10

**2. This Part to form part of the Maori Affairs Act 1953**—  
This Part of this Act shall be read together with and deemed  
part of the Maori Affairs Act 1953\* (in this Part referred  
to as the principal Act).

**3. Interests in Maori land may be purchased to help** 15  
**vendor's housing needs**—(1) The principal Act is hereby  
amended by inserting, after section 150, the following  
section:

“150A. (1) In addition to the other powers conferred on  
the Maori Trustee by this Part of this Act and by sections 20  
41A to 41F of the Maori Trustee Act 1953, it is hereby declared  
that the Maori Trustee may at any time purchase out of  
the Conversion Fund any beneficial freehold interest in any  
Maori freehold land (including land vested in the Maori  
Trustee under the Maori Vested Lands Administration Act 25  
1954 or the Maori Reserved Land Act 1955) if he is satisfied  
that the purchase money will be used for housing purposes  
by the vendor or the person for whom the Maori Trustee  
holds the interest in trust.

“(2) For the purposes of this section money is used by a 30  
person for housing purposes where it is used by him for any  
one or more of the following purposes, namely—

“(a) The acquisition of a site for a dwellinghouse:

“(b) The purchase or erection of a dwellinghouse:

“(c) The extension or renovation of a dwellinghouse: 35

“(d) The discharge of any debt owing in respect of a  
dwellinghouse:

“(e) The purchase of chattels for use in a dwellinghouse—  
and the dwellinghouse is or is to be occupied by that person  
and his family.” 40

\*Reprinted 1968, Vol. 3, p. 2199

(2) Section 148A of the principal Act (as inserted by section 121 of the Maori Affairs Amendment Act 1967) is hereby amended by inserting at the beginning of the section, before the word "Nothing", the words "Except as  
5 provided in section 150A of this Act".

**4. Interests in Maori land may be mortgaged to State Loan Department**—Section 215 of the principal Act (as substituted by section 92 of the Maori Affairs Amendment Act 1967) is hereby amended by inserting in subsection (1),  
10 after paragraph (c), the following paragraph:

"(ca) By way of mortgage to a State Loan Department;  
or".

**5. Maori owners may act by attorney**—(1) Section 222 of the principal Act is hereby amended by adding the following  
15 subsection:

"(3) Any instrument of alienation of Maori land or any agreement to alienate such land by way of transfer may be executed on behalf of the Maori alienating by his duly appointed attorney."

20 (2) Section 309 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

"(2A) For the purposes of this section and of sections 311 and 313 of this Act, an owner who attends, votes, and acts at or in relation to a meeting by his duly appointed attorney  
25 shall be deemed to have attended, voted, and acted personally or in person."

**6. Acquisition of certain land by the Crown**—(1) The principal Act is hereby amended by repealing section 252, and substituting the following section:

30 "252. (1) This Part of this Act applies with respect to Maori freehold land and to European land owned by Maoris.

"(2) The Crown may in accordance with the provisions of this Part of this Act acquire, by way of purchase, lease, exchange, or otherwise, any land or interest in land to which  
35 this Part applies.

"(3) Negotiations for the acquisition by the Crown of any interest in land to which this Part of this Act applies shall be undertaken only—

40 "(a) If the approval of the Board of Maori Affairs has been first obtained; and

"(b) In accordance with terms approved by that Board by reference to a special valuation of the land made by the Valuer-General at the request of the Crown.

“(4) Except where this Act or any other enactment expressly provides otherwise, land may be alienated to the Crown in accordance with the general provisions of this Act relating to the alienation of land, and those provisions shall apply accordingly to any alienation to the Crown.”

“(5) Where for the purposes of this Part of this Act any application to the Court is to be made by the Crown, the application may be made by the Permanent Head of the Department of State acting in the matter on behalf of the Crown, or by any officer of that department authorised by him for the purpose in general or specific terms. Any notice subsequently required by this Part of this Act to be given to or by the Crown shall be given to or by the officer who made the application or his successor in office, or to or by the Permanent Head of his department. The fact that any officer of the Public Service signs any application or other document, or gives or accepts any notice on behalf of the Crown, or appears before the Court on behalf of the Crown, shall be conclusive evidence of his authority to do so.”

(2) The principal Act is hereby amended by repealing sections 212 and 260.

(3) Section 261 of the principal Act is hereby amended by omitting from subsection (1) the words “Board of Maori Affairs”, and substituting the word “Crown”.

**7. Power to disregard terms of trusts in sales to Crown repealed**—Section 253 of the principal Act is hereby amended by repealing subsection (2).

**8. Power of Crown to buy undivided interests in special cases repealed**—The principal Act is hereby amended by repealing section 257.

**9. Execution of instruments**—The principal Act is hereby amended by repealing section 258.

**10. Crown may acquire land pursuant to resolution of assembled owners**—The principal Act is hereby amended by repealing section 259, and substituting the following section: “259. (1) The Crown may acquire any land under this Part of this Act in pursuance of a resolution of the assembled owners passed and confirmed in accordance with Part XXIII of this Act.”

“(2) When any such resolution is confirmed by the Court, the Registrar shall notify the Crown of the terms of the confirmation, and the Crown shall, within 6 months of the date of confirmation, file in the Court a notice that it accepts  
5 or rejects the confirmed resolution.

“(3) On the filing in the Court of a notice that the Crown accepts the confirmed resolution, it shall become an effective contract of purchase or other acquisition between the Crown and the owners of the land, and, in the case of acquisition,  
10 the land may be proclaimed as Crown land under section 265 of this Act without need for the execution of any further instrument of assurance, and all the provisions of that section shall apply accordingly.

“(4) Upon the filing in the Court of a notice by the  
15 Crown that it rejects the confirmed resolution, or, if the Crown fails to file any notice, whether of acceptance or rejection, on the expiry of 6 months from the date of confirmation of the resolution, the resolution as confirmed shall lapse and be of no effect.”

**20 11. Crown land sold to Maoris may be vested in trustees—**Section 267 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) The Court, with the agreement of the Minister of  
25 Lands, may, instead of vesting the land in the persons beneficially entitled, vest it in some person or persons or in a body corporate as trustees for the persons beneficially entitled or for some class of persons.”

**30 12. Payment of purchase money by Crown—**The principal Act is hereby amended by repealing section 268, and substituting the following section:

“268. All money payable to Maoris in respect of the acquisition by the Crown of any land or interest in land under this Part of this Act shall be paid to the Maori Trustee on behalf of the Maoris entitled to it for payment to them  
35 in accordance with their several interests.”

**13. New sections inserted—**The principal Act is hereby amended by inserting, after section 370, the following sections:

“370A. Acquisition of land by Board of Maori Affairs for owners of scheme—(1) The Board, in the name of the Crown,  
40 may purchase or otherwise acquire, for the purposes of this

Part of this Act any land or interest in land on behalf of the owners of any Maori land or European land owned by Maoris which is subject to this Part of this Act.

“(2) Any money expended by the Board under this section shall, for the purposes of section 363 of this Act, be deemed to have been expended in respect of the land on behalf of the owners of which the further land is acquired. 5

“370B. Land may be vested in owners—(1) On application by the Board, the Court may make a vesting order vesting any land or interest in land acquired pursuant to section 370A of this Act, in the persons on whose behalf it was acquired, subject to any lease, licence, mortgage, charge, or other encumbrance affecting it. 10

“(2) Instead of making a vesting order under this section, the Court, if it thinks it convenient to do so, may amend any existing instrument of title so as to include therein the land to be vested. Any land included pursuant to this subsection in an existing instrument of title shall have the same status, as European land or Maori freehold land, as the land originally comprised in the instrument. 15 20

“(3) The District Land Registrar is hereby authorised to make all such alterations and amendments in the register and to issue such new certificates of title as may be necessary to give effect to any order made by the Court under this section. 25

“(4) To facilitate the disposal of any land or interest in land acquired by the Board under section 370 of this Act the Court shall have and, on the application of the Board, may exercise the jurisdiction given by the foregoing subsections of this section as if the land or interest had been acquired under section 370A of this Act on behalf of the persons in whom the land or interest is to be vested.” 30

**14. Declaration of Maori land as European land—**(1) The principal Act is hereby amended by repealing section 433 (as amended by section 10 of the Maori Purposes Act 1963), and substituting the following section: 35

“433. (1) Subject to the provisions of this section, the Court, on the application of the legal and beneficial owner or owners of any Maori freehold land, may make an order declaring that the status of that land shall cease to be that of Maori land.

“(2) On hearing any application under this section the Court shall consider the following matters: 40

“(a) The number of owners of the land and the nature of their interests:

“(b) The suitability of the land, having regard to its area, dimensions, value, and means of access, for effective use and occupation:

5 “(c) Whether or not the title of the land is registered under the Land Transfer Act 1952 or is capable of being so registered.

“(3) No order shall be made under this section unless the Court is satisfied, after considering the matters set out in subsection (2) of this section, that if the order is made the  
10 land can be conveniently used or otherwise dealt with and that no undue difficulty or inconvenience will result.

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

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

(2) Section 10 of the Maori Purposes Act 1963 is hereby consequentially repealed.

(3) Part I of the Maori Affairs Amendment Act 1967 is  
20 hereby repealed.

**15. Vesting Crown land in Maoris**—Section 437 of the principal Act is hereby amended by adding the following subsection:

25 “(7) Notwithstanding that any Crown land has not formally been set aside or reserved for the benefit of Maoris, the Court, on the application of the Minister of Lands, may exercise in respect of the land the jurisdiction conferred by this section, and all the provisions of this section shall apply accordingly.”

30 **16. Maori reservations**—(1) Section 439 of the principal Act (as amended by section 5 of the Maori Purposes Act 1968, by section 7 of the Maori Purposes Act 1970, and by section 11 of the Maori Purposes Act 1972) is hereby amended—

35 (a) By omitting from subsection (1), and also from subsection (2), the words “owned by Maoris”:

(b) By inserting in subsection (1), after the words “village site”, the word “marae”.

(2) The said section 439 is hereby further amended by adding the following subsections:

40 “(15) Notwithstanding the foregoing provisions of this section, a Maori reservation for the purposes of a meeting place or marae may in accordance with this section be constituted over or extended to include any Crown land or other

land, leased on a perpetually renewable basis to any person, group of persons, body corporate, or organisation for the purpose of a marae or meeting place.

“(16) Upon the vesting by the Court in accordance with subsection (7) of this section of a Maori reservation created over land leased as provided in subsection (15) of this section, in trustees, the lease shall be deemed to have been assigned to the trustees and the trustees at any given time thereafter shall (subject to their fiduciary responsibilities and to the restrictions imposed by this section) have all the rights and privileges and be subject to all the duties and liabilities of the lessees under the lease. 5 10

“(17) Upon proof of the determination for any reason of the lease in respect of any reservation constituted over land leased as provided in subsection (15) of this section, the Secretary shall in the manner provided by this section cancel the reservation or, as the case may be, exclude from the reservation the land comprised in the lease.” 15

**17. Court's action on applications following investigation by Improvement Officer**—Section 19 of the Maori Affairs Amendment Act 1967 is hereby amended by omitting the words “it shall”, and substituting the words “it may”. 20

**18. Court may vest Maori land in successors without grant of administration**—The Maori Affairs Amendment Act 1967 is hereby amended by inserting, after section 78, the following section: 25

“78A. (1) Subject to the provisions of this section, where any person has died on or after the 1st day of April 1968 and administration (within the meaning of the Administration Act 1969) of the estate of that person has not been granted, the Maori Land Court may make an order vesting in the persons entitled thereto the beneficial freehold interests in Maori freehold land of that person. 30

“(2) Application for an order under this section shall be made by the person or one of the persons claiming to be entitled to the interests in land under the will or on the intestacy of the deceased person. 35

“(3) No order shall be made under this section unless the Court is satisfied:

“(a) That the applicant or applicants together with any other persons named in the application are entitled to succeed to the interest; and 40

- “(b) That the person or persons entitled to obtain a grant of administration of the estate of the deceased person do not intend to seek any such grant; and
- 5 “(c) That there is no reason apparent why the estate of the deceased person should be formally administered; and
- “(d) That the value at the date of death, of the interests in land affected by the application did not exceed \$2,000; and
- 10 “(e) Where the deceased person is known to have owned beneficial freehold interests in Maori freehold land in more than one Maori Land Court district, the aggregate value, at the date of death, of his known interests in all such districts did not exceed \$7,500.
- 15 “(4) In making orders under this section the Court shall proceed as if all the persons living at the death of the deceased person who, if they had then attained the age of 20 years, would take any absolutely vested interest in any part of the estate, had then attained that age.
- 20 “(5) No order shall be made under this section which vests in any person an interest in land which in the Court’s opinion is of a value less than \$50, unless either the person in whom the interest is to be so vested is already an owner of an interest in the same land or the interest to be vested in him comprises
- 25 the whole of the interest of the deceased person in the land concerned.
- “(6) Where more than one person is entitled to share in the interests in land covered by any application under this section, the Court may in making orders give effect to any
- 30 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
- 35 concerned, it may give effect to the projected arrangement or agreement notwithstanding that any of the persons concerned has not agreed thereto or objects thereto.
- “(7) Where the known estate of a deceased person has previously been administered and additional interests of the
- 40 deceased in Maori freehold land are discovered, the Court, notwithstanding any other provision of this section, may deal with those interests under this section if it is satisfied any other course would be unduly expensive or difficult having regard to the value of the interests.

“(8) Any money held by the Maori Trustee for a deceased owner of Maori land, being the proceeds of the alienation of Maori freehold land, shall for the purposes of subsection (6) of this section be deemed to be interests in Maori freehold land and the Court may dispose of them accordingly by making an order for payment thereof under section 32 of the principal Act.” 5

## PART II

### MISCELLANEOUS AMENDMENTS TO MAORI LEGISLATION

#### **19. Operations on Maori Trustee's bank accounts—** 10

(1) Section 18 of the Maori Trustee Act 1953 is hereby amended by omitting the words “elsewhere than in Wellington”.

(2) Sections 19 and 20 of the Maori Trustee Act 1953 are hereby amended by inserting, after the word “cheque” 15 wherever it appears, the words “or other instrument (not being a promissory note or bill)”.

(3) Section 21 of the Maori Trustee Act 1953 is hereby amended by inserting, after the word “cheques” wherever it appears, the words “or other instruments”. 20

#### **20. Disposal of interests in reserved and vested land—**

Section 41E of the Maori Trustee Act 1953 (as inserted by section 128 of the Maori Affairs Amendment Act 1967) is hereby amended by adding to paragraph (b) of subsection (1) the words “or to a Maori Trust Board within the meaning 25 of the Maori Trust Boards Act 1955”.

#### **21. Acquisition of Maori land for rental accommodation—**

Section 3 of the Maori Housing Amendment Act 1938 is hereby amended by adding the following subsection:

“(3) Notwithstanding the provisions of Part XXI of the 30 Maori Affairs Act 1953, Maori freehold land required by the Board as a site for the erection of rental accommodation for elderly Maoris may be acquired by the Board by way of gift.”

#### **22. Operation on Maori Trust Board bank accounts—** 35

(1) Section 28 of the Maori Trust Boards Act 1955 is hereby amended—

(a) By inserting, after the word “cheques” wherever it occurs, the words “or other instruments”:

(b) By inserting in subsection (2), after the word 40 “cheque”, the words “or other instrument”.

**23. Wi Pere Trust**—(1) Section 15 of the Maori Purposes Act 1938 is hereby amended by inserting at the beginning of subsection (12), before the words “No beneficiary”, the words “Except as provided by subsection (12A) of this section”.

5 (2) Section 15 of the Maori Purposes Act 1938 is hereby further amended by inserting, after subsection (12), the following subsections:

“(12A) Notwithstanding the other provisions of this section or of any other Act, the Court may, in accordance with the provisions of section 213 of the Maori Affairs Act 1953, make orders under that section vesting the whole or part of the beneficial interest of a beneficiary in land comprised in the trust property, in any of his children or other descendants or in any other beneficiary of the trust, and the provisions of sections 213 and 214 of that Act shall apply accordingly.”

15 “(12B) The disposition whether by operation of law or otherwise of the beneficial interest of a beneficiary in any land comprised in the trust property, whether so expressed or not, shall be and be deemed to be a disposition of his corresponding interest in all other property comprised in the trust. Except as provided in this subsection or in subsection (12) of this section, no beneficiary of the trust shall be competent to dispose of his interest in that other property.”

20 (3) All orders heretofore made by the Maori Land Court effecting the disposition of the equitable interests of beneficiaries in land comprised in the trust are hereby declared to be of the same force and effect as if the amendments made by subsections (1) and (2) of this section had been incorporated in section 15 of the Maori Purposes Act 1938 from its commencement.

30 (4) Section 60 of the Maori Purposes Act 1950 is hereby repealed.

**24. Return of Owhaoko Gift Blocks to donors**—(1) The Minister of Lands may, in respect of the land described in subsection (4) of this section (being land donated to the Crown by the Maori owners during the First World War for the settlement of discharged Maori soldiers, but not used for this purpose) apply to the Maori Land Court to vest the land in accordance with the provisions of section 436 of the Maori Affairs Act 1953, and the Court shall have and may exercise in respect of the land any jurisdiction conferred by that section.

40 (2) Instead of vesting the land in the persons found to be entitled thereto, the Court may, if it thinks fit, vest the land

in a trustee or trustees to be held in trust in accordance with the terms of the order for the benefit of any Maoris or descendants of Maoris or any group or class of Maoris or descendants of Maoris specified in the order.

(3) Sections 70 and 71 of the Maori Purposes Act 1931 are hereby consequentially repealed. 5

(4) The land to which this section relates is particularly described as follows:

All those pieces of land in the Wellington Land District being— 10

Firstly, all that part of Owhaoko A East, situated in Block XVI, Waiotaka Survey District, and Blocks XIII and XIV, Taharua Survey District, bounded to the south by the northern boundaries of Mangamaire and Horotea Survey Districts: Area, 2529.2852 hectares, more or less; and Owhaoko A1B situated in Blocks XIII and XIV, Taharua Survey District: Area 235.9317 hectares, more or less. Part Proclamation No. 1109 (*Gazette*, 1917, p. 4278) set apart as permanent State Forest by Proclamation in *Gazette*, 1939, p. 399, and also set apart as State Forest Park (Kaimanawa) by Proclamation in *Gazette*, 1969, p. 1885. 15 20

Secondly, all that part of Owhaoko A East, situated in Block IV, Mangamaire Survey District, and Blocks I and II, Horotea Survey District, bounded to the north by the northern boundaries of the said Survey Districts: Area, 4204.6838 hectares, more or less; and 25

Owhaoko B East, situated in Blocks IV, VII, and VIII, Mangamaire Survey District: Area, 2367.8156 hectares, more or less. Balance of Proclamation No. 1109 (*Gazette*, 1917, p. 4278). 30

Thirdly, Part Owhaoko D1, situated in Blocks I and V, Horotea Survey District: Area, 1592.2356 hectares, more or less. All Proclamation No. 1112 (*Gazette*, 1918, p. 10).

Fourthly, Part Owhaoko D7 (now part Owhaoko D7B), situated in Blocks VII, VIII, XI, and XIII, Mangamaire Survey District, and Blocks V, VI, IX, and X, Horotea Survey District: Area, 3469.9770 hectares, more or less. All Proclamation No. 1123 (*Gazette*, 1918, p. 804). 35

**25. Allotment 27 Parish of Rangitaiki**—(1) The Maori Land Court shall have, and on the application of the Minister of Lands, may exercise in respect of the land described in subsection (2) of this section, the jurisdiction given by section 437 of the Maori Affairs Act 1953; and for the purposes of 40

that section, the land shall, notwithstanding any action intended, commenced, or taken in the past be deemed to be Crown land reserved for the benefit of Maoris.

(2) The land to which subsection (1) of this section relates is particularly described as follows:

All that piece of land containing 22.6624 hectares, more or less, being Allotment 27, Parish of Rangitaiki, situated in Block II, Whakatane Survey District (S.O. Plan 372).

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### PART III

#### TITI ISLANDS

**26. Commencement of this Part**—This Part of this Act shall come into force on the 1st day of April 1974.

**27. Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“Beneficial owner” means, in respect of any of the Titi Islands, a person whose name is included in any of the certified lists and includes a descendant of any such person:

20 “The Board” means the Ngaitahu Maori Trust Board continued in existence by section 6 of the Maori Trust Boards Act 1955:

“Certified lists” means the lists compiled and certified by the Registrar pursuant to section 30 of this Act:

25 “Crown land” has the meaning ascribed to that term in section 2 (1) of the Maori Affairs Act 1953:

“Registrar” means the Registrar of the Maori Land Court at Christchurch:

30 “Titi Islands” means the islands referred to by name in the deed of cession of Stewart Island dated the 29th day of June 1864; and includes the separately named areas of Taukihepa Island; as the same are set out in the Schedule to this Act.

**28. Purpose of this Part**—The principal purpose of this Part of this Act is to secure to the Maori people entitled the exercise of the rights (reserved by their ancestors upon the cession to the Crown of Rakiura or Stewart Island) to take mutton birds from the Titi Islands, and to provide for the determination from time to time of the people so entitled.

**29. Islands to be held by the Crown for benefit of beneficiaries**—The Titi Islands are hereby declared to be Crown land which shall be held and administered, in accordance with the provisions of this Part of this Act and of the regulations made under section 32 of this Act, for the benefit of the beneficial owners. 5

**30. List of beneficiaries to be compiled**—(1) As soon as practicable after the commencement of this Part of this Act, the Registrar shall compile—

- (a) In respect of each of the Titi Islands a complete list 10  
of the persons shown by the records of the Maori Land Court to be entitled to an interest in the island; and
- (b) A general alphabetical index of the names appearing 15  
in all the lists compiled pursuant to paragraph (a) of this subsection, showing in each case the Titi Island or Islands in respect of which the person named has an interest.

(2) The lists and index so compiled shall be certified by the Registrar under the Seal of the Court to have been 20  
compiled pursuant to this section.

(3) A duly certified copy of each list and of the index compiled under subsection (1) of this section shall be forwarded to the Board.

**31. Board to determine beneficial owners descended from those in list**—The Board shall have exclusive and final authority to determine whether any person is a beneficiary by virtue of descent from any beneficiary named in the certified lists. 25

**32. Regulations**—(1) Subject to subsection (3) of this section, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 30

- (a) Regulating the times and conduct of mutton-birding 35  
on the Titi Islands, and the precautions to be observed by those engaged in mutton-birding;
- (b) Protecting the Titi Islands from trespass and prescribing the terms and conditions of entry on the Islands by persons other than beneficial owners;
- (c) Providing for the supervision of mutton-birding opera- 40  
tions on the Titi Islands;

- (d) Protecting the mutton birds against destructive influences and excessive taking:
- (e) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amounts of fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$200 and, where the offence is a continuing one, a further amount not exceeding \$10 for every day or part of a day during which the offence has continued:
- (f) Providing for such matters as are contemplated by or necessary for giving full effect to this Part of this Act, and for its due administration.
- (2) Any regulations made under this section may be expressed to apply in respect of islands adjacent to Stewart Island which are not Titi Islands except any island which (at the time the regulations are made) is a public reserve.
- (3) No regulations shall be made under this section without prior discussion, in writing or otherwise, with the Board as the representative of the beneficiaries.
- (4) Nothing in the Wildlife Act 1953 shall apply in respect of the taking of mutton birds in accordance with regulations made under this section.
- (5) Regulation 18 of the Land Act Regulations 1949, and the Land Act Regulations 1949, Amendment No. 3, except to the extent that they are inconsistent with this Part of this Act, shall continue in force and have effect in all respects (including the powers, duties, and responsibilities imposed on the Commissioner of Crown Lands for the Southland Land District) as if they had been made under this section and they may be amended or revoked accordingly.

**33. Repeals and savings**—(1) Section 109 of the Maori Purposes Act 1931 and subsection (2) of section 23 of the Land Act 1948 are hereby repealed.

(2) Notwithstanding the repeals effected by subsection (1) of this section, the Maori Land Court shall have jurisdiction to hear and determine all applications lodged before the commencement of this Part of this Act under section 109 of the Maori Purposes Act 1931 in respect of the beneficial ownership of the Titi Islands as if this Part of this Act had not been passed.

(3) The Registrar of the Maori Land Court shall forward to the Board a certified copy of every order made, after the commencement of this Part of this Act, by the Court under section 109 of the Maori Purposes Act 1931, together with a copy of the Court's minutes in relation thereto.

5

**34. Effect of Maori Affairs Amendment Act 1967**—Notwithstanding any provision of the Maori Affairs Amendment Act 1967, the jurisdiction of the Maori Land Court under section 109 of the Maori Purposes Act 1931 shall be deemed not to have been affected by the passing of the first-mentioned Act.

Section 27

## SCHEDULE

## LIST OF TITI ISLANDS

Herekopare,  
 Horomamae,  
 Huirapa,  
 Kaihuka,  
 Kaimohu,  
 Mokoiti,  
 Mokonui,  
 Pikomamaku,  
 Te Pohomatakiarehua,  
 Pohotuata,  
 Pohowaitai,  
 Poutama,  
 Rerewhakaupoko,  
 Tamaitemioka,  
 Tia,  
 Timore,  
 Te Wharepuaitaha.

Those parts of Taukihepa known as Hapatoto, Heretata, Hinekuha, Horomanu Patu, Kaikaiawara, Manuaroto, Paopoko, Parakiore, Pohinewaru, Puketakohe, Puwai, Rahui, Taketu, Te Awaohunu, Timaru, Tukoroua, Upokomatiha, Upokopotete, Waikatua, and Waitakua.