

# DRAFT FOR CONSULTATION

## Te Ture Whenua Māori Bill

Government Bill

### Explanatory note

#### General policy statement

This is a Bill to restate and reform the law relating to Māori land. [*More to come*].  
It is intended to divide the Bill at the committee of the whole House stage so that—

- *Parts 1 to 10* become Te Ture Whenua Māori Bill;
- *Parts 11 to 16* become Te Kooti Whenua Māori Bill.

#### Departmental disclosure statement

Te Puni Kōkiri is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at [PPU to insert URL and link] (if it has been provided for publication).

#### Regulatory impact statement

Te Puni Kōkiri produced a regulatory impact statement on [date] to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- [Insert a URL link to the RIS on the department's Internet site]
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

#### Clause by clause analysis

*Clause 1* states the title of the Bill.

*Clause 2* specifies the commencement date of the Bill.

*Part 1* (Preliminary provisions: *clauses 3 to 11*)—

- specifies the aronga/purpose and principles of the Parts that are to become Te Ture Whenua Māori Bill:
- defines and explains terms used in the Parts that are to become Te Ture Whenua Māori Bill:
- provides for tikanga Māori to be determined by evidence in proceedings.

*Part 2* (Whenua Māori/Māori land and whenua tāpui: *clauses 12 to 38*)—

- defines Māori customary land and Māori freehold land (together, **Māori land**):
- prohibits the disposition of Māori customary land and restricts the disposition of Māori freehold land:
- empowers the Māori Land Court (the **court**) to determine whether land is Māori customary land or Māori freehold land:
- provides for how land becomes or ceases to be Māori freehold land:
- allows whenua tāpui to be reserved over private land (which includes all Māori land), Crown land, or other specified land for certain purposes and for the common use and benefit of certain beneficiaries.

*Part 3* (Ownership interests in Māori freehold land: *clauses 39 to 75*)—

- specifies the rights of beneficial owners (**owners**) of Māori freehold land:
- allows the owners of Māori freehold land to convert to collective ownership:
- specifies how the owners of Māori freehold land make decisions (*Schedule 2* sets out a default decision-making process for decisions requiring agreement of owners of Māori freehold land):
- provides for whānau trusts to hold owners' beneficial interests in Māori freehold land for the benefit of certain whānau members:
- provides for the appointment of kaiwhakamarumarū to manage the property (including Māori freehold land) of persons needing protection.

*Part 4* (Dispositions of Māori freehold land and other land: *clauses 76 to 133*)—

- restricts the disposition of a parcel of Māori freehold land by sale, exchange, or gift or by an action under another enactment:
- allows a parcel of Māori freehold land to—
  - have its boundary with another parcel adjusted:
  - be partitioned into new parcels:
  - be amalgamated with other parcels into a new parcel:
  - have its beneficial ownership aggregated with, or separated from, that of other parcels:
- restricts the grant or variation of the following lesser interests over a parcel of Māori freehold land: a lease, licence, *profit à prendre*, mortgage, charge, or easement:

- allows an occupation lease or licence to be granted over a parcel of Māori freehold land:
- allows a kawenata tiaki whenua to be created over a parcel of Māori freehold land to preserve and protect certain places:
- restricts the disposition of owners' individual freehold interests in Māori freehold land to certain sales or gifts, exchanges, mortgages, or charges:
- provides for the court to make orders of confirmation for the dispositions that require them.

*Part 5* (Authority to act in relation to Māori freehold land) has 3 subparts.

*Subpart 1* (clauses 134 to 146) allows for the court to appoint an administrative kaiwhakarite to act on behalf of the owners of Māori freehold land for particular purposes. The purposes are set out in *clauses 134(1)(a) and 135*.

*Subpart 2* (clauses 147 to 160) allows for the chief executive to appoint a managing kaiwhakarite to manage Māori freehold land on behalf of its owners in particular circumstances. The circumstances are set out in *clause 151*. *Clause 153* sets out what happens to any income generated from the land by the managing kaiwhakarite.

*Subpart 3* (clauses 161 to 189) allows for the owners of certain Māori freehold land to appoint a governance body to manage the land on their behalf. *Clause 161(3)* specifies the entities eligible to be appointed as a governance body and *clause 164* sets out the appointment process. The relationship between a governance body and owners of Māori freehold land is established by a governance agreement. *Schedule 3* sets out the requirements for governance agreements. *Clause 163* sets out the rights of owners in respect of Māori freehold and other assets managed on their behalf by a governance body. Existing Māori incorporations, ahu whenua trusts, and whenua tōpū trusts will transition to the new regime as set out in *Schedule 1*.

*Part 6* (Operation of governance bodies: *clauses 190 to 226*) covers—

- the powers, duties, and responsibilities of governance bodies and their kaitiaki (those occupying a position in the body that is comparable with that of a director of a company) (*clauses 190 and 191*):
- the vesting of an asset base in a governance body on registration of a governance agreement (*clauses 193 to 197*):
- how governance bodies can change holdings of Māori freehold land managed under a governance agreement (*clauses 198 to 203*):
- the application of revenues earned by a governance body (*clauses 204 to 206*):
- the distribution of all or part of an asset base to the owners of Māori freehold land, if the governance body will no longer manage the land on the owners' behalf (*clauses 207 to 211*).

*Part 7* (Administration of estates: *clauses 227 to 244*)—

- provides for how beneficial interests in Māori freehold land are distributed when an owner dies without a will:

- provides for how beneficial interests in Māori freehold land that are gifted by will become vested in the beneficiaries of the gift.

*Part 8* (Registers, jurisdiction about land, giving notices, and other provisions: *clauses 246 to 287*) has miscellaneous provisions that—

- require certain documents to be provided to the chief executive or the Registrar-General of Land:
- provide for the chief executive to keep a Māori land register that records matters relating to Māori freehold land and other land, such as beneficial interests in land and information about governance bodies that manage land. *Schedule 4* specifies the information that must be kept on the Māori land register:
- provide for matters relating to the register kept by the Registrar-General of Land under the Land Transfer Act 1952:
- prevent Māori freehold land from vesting in the Crown when it has no owner:
- give the court jurisdiction in certain land matters:
- generally prevent a judgment against a debtor from being enforced against Māori land:
- specify how notices are to be given:
- allow regulations to be made.

*Part 9* (Dispute resolution: *clauses 288 to 302*)—

- assists Māori land owners and other parties to quickly and effectively resolve disputes about Māori land in a way that is consistent with the concept of mātauranga takawaenga:
- requires the chief executive to provide a dispute resolution service conducted by a kaitakawaenga:
- enables the court to refer a dispute for resolution under this Part:
- requires litigation parties to refer certain kinds of disputes (other than disputes over points of law) for resolution under this Part before the court will hear the dispute, including disputes over the ownership or possession of any Māori freehold land.

*Part 10* (Repeals, revocations, and consequential amendments: *clauses 303 to 305*)—

- repeals and revokes certain enactments:
- amends certain enactments as a consequence of other provisions.

*Part 11* (Preliminary provisions: *clauses 306 and 307*) contains preliminary provisions for the purposes of the Parts that are to become Te Kooti Whenua Māori Bill.

*Part 12* (Māori Land Court: *clauses 308 to 345*)—

- continues the court in its present form and largely with its present jurisdiction:
- carries over the court's jurisdiction under the Maori Fisheries Act 2004 and Maori Commercial Aquaculture Claims Settlement Act 2004.

*Part 13* (Māori Appellate Court: *clauses 346 to 363*) continues the Māori Appellate Court in its present form and largely with its present jurisdiction. The Judges of the Māori Land Court for the time being are the Judges of the Māori Appellate Court.

*Part 14* (Provisions applying to both courts: *clauses 364 to 393*) sets out provisions that apply to both courts, including provisions relating to—

- judicial conferences and directions:
- the use of te reo Māori:
- the representation of parties:
- stating cases for the High Court:
- the jurisdiction to issue injunctions:
- costs orders:
- the enforcement of judgments and orders:
- the appointment of receivers.

*Part 15* (Appointment of Judges and related provisions: *clauses 394 to 406*) carries over provisions relating to the appointment of Judges of the court. The existing provisions have been updated to reflect proposed amendments contained in the Judicature Modernisation Bill, including—

- a requirement to publish the process for appointments:
- restrictions on undertaking other employment or holding other offices:
- a requirement for a protocol relating to the activities of Judges.

*Part 16* (Rules, regulations, judgments, restricting right to commence proceedings, etc: *clauses 407 to 422*) carries over provisions relating to the Rules Committee and the rules of court. The existing provisions have been updated to reflect proposed amendments contained in the Judicature Modernisation Bill that relate to meritless litigation.



*Hon Te Ururoa Flavell*

# **Te Ture Whenua Māori Bill**

Government Bill

## **Contents**

	Page
1 Title	17
2 Commencement	17
<b>Part 1</b>	
<b>Preliminary provisions</b>	
3 Aronga/Purpose	18
4 Achieving purpose and recognising principles of Act	18
5 Interpretation	19
6 Explanation of certain Māori terms	24
7 Meaning of individual freehold interest	26
8 Meaning of owner	26
9 Evidence of applicable tikanga Māori	27
10 Transitional and related provisions	27
11 Act binds the Crown	27
<b>Part 2</b>	
<b>Whenua Māori/Māori land and whenua tāpui</b>	
Subpart 1—Whenua Māori/Māori land	
<i>Māori customary land</i>	
12 Definition of Māori customary land	27
13 Māori customary land cannot be disposed of	27
14 Court may determine whether land is Māori customary land	28
15 Court may determine class of collective owners of Māori customary land	28
16 Court may change status of Māori customary land to Māori freehold land	29
17 Administrative kaiwhakarite appointed for Māori customary land	30

## Te Ture Whenua Māori Bill

---

18	Trespass or injury to Māori customary land	30
	<i>Māori freehold land</i>	
19	Definition of Māori freehold land	31
20	Māori freehold land may be disposed of in certain ways	31
21	Court may determine whether land is Māori freehold land	31
	<i>Land becomes Māori freehold land</i>	
22	How land becomes Māori freehold land	31
23	Land becomes Māori freehold land by vesting order on change of ownership	32
24	Private land other than Māori land may be declared Māori freehold land	33
	<i>Land ceases to be Māori freehold land</i>	
25	How land ceases to be Māori freehold land	33
26	Land may cease to be Māori freehold land by declaration	34
27	Process for Māori freehold land partitioned under this Act	35
	Subpart 2—Whenua tāpui	
28	Meaning of certain purposes	36
29	Application for court order declaring private land reserved as whenua tāpui	37
30	Court order declaring private land reserved as whenua tāpui	37
31	Court must be satisfied of matters and consider submissions for whenua tāpui on private land	39
32	Minister declares Crown land or other specified land reserved as whenua tāpui	40
33	Minister must apply for court recommendation for new whenua tāpui on Crown land or other specified land	42
34	Court order of declaration for existing whenua tāpui	42
35	Effect of declarations about whenua tāpui	44
36	Administering bodies	44
37	Administering body may grant lease or licence	45
38	Reservation and disposition of whenua tāpui	46

### Part 3

#### Ownership interests in Māori freehold land

##### *Introductory provisions*

39	Example of multiple owners of parcel of Māori freehold land	46
40	Presumption of tenancy in common and equal sharing where multiple owners	47
41	Rights of owners	47
	<i>Collective ownership</i>	
42	Conversion to collective ownership of Māori freehold land	47
43	Effect of conversion to collective ownership	48



**Te Ture Whenua Māori Bill**

---

44	Collective owner has no separate interest	48
	<i>How owners of Māori freehold land make decisions</i>	
45	Decisions by specified majority of owners of Māori freehold land	49
46	Minor cannot vote on decisions and is ignored in calculations about decisions	50
47	Voting for individual freehold interest owned by joint tenants	51
48	Simple or 75% majority of all owners	51
49	Simple or 75% majority of participating owners	51
50	Simple majority of participating owners where votes have equal weight	52
51	Effect of decisions	52
	<i>Whānau trusts</i>	
52	Owner of Māori freehold land may establish whānau trust	52
53	Whānau trust (operational while owner living)	52
54	Whānau trust (operational on death of owner)	54
55	Effect of establishing whānau trust	54
56	Trustees of whānau trusts	55
57	Termination of whānau trust by court order	55
58	Responsibilities of trustees if whānau trust terminated	56
59	Whānau trusts to be entered in Māori land register	56
60	Entitlements of beneficiaries of whānau trusts	57
61	Jurisdiction of court	57
62	Court may validate actions of trustees	58
	<i>Kaiwhakamarumarū for owners needing protection</i>	
63	Appointment of kaiwhakamarumarū for owner needing protection	58
64	Who may apply for kaiwhakamarumarū order	59
65	Court may appoint lawyer to represent person if kaiwhakamarumarū application made in relation to property	60
66	Who may be appointed as kaiwhakamarumarū	61
67	Termination of kaiwhakamarumarū appointment	61
68	Functions and duties of kaiwhakamarumarū	62
69	Consequences of appointing kaiwhakamarumarū	63
70	Circumstances in which court may appoint, replace, or remove kaiwhakamarumarū	63
71	Reporting requirements for kaiwhakamarumarū	64
72	Inspection of kaiwhakamarumarū reports	65
73	Recording of order appointing kaiwhakamarumarū	65
74	Kaiwhakamarumarū orders may be registered	65
75	Review by court of appointment of kaiwhakamarumarū	65
	<b>Part 4</b>	
	<b>Dispositions of Māori freehold land and other land</b>	
76	Meaning of preferred recipient and preferred entity	66

**Te Ture Whenua Māori Bill**

---

77	Disposition of land made by owner or governance body	67
78	Overview of governance body's agreement to disposition	67
	<i>Sale, gift, exchange, etc, of parcel of Māori freehold land</i>	
79	Sale of parcel	67
80	Sale of parcel in ordinary cases	68
81	Preferential tender process for sale of parcel	69
82	Exchange of parcel	70
83	Order declaring that land ceases to be Māori freehold land on sale or exchange by governance body	71
84	Other requirements before governance body offers to sell parcel or exchanges parcel	72
85	Gift of parcel	73
86	Transfer of parcel for settlement on trustees	73
87	Agreement to certain dispositions of parcels under enactments	73
88	No sale, gift, exchange, or transfer of part of parcel	74
	<i>Boundary adjustment of parcel of Māori freehold land</i>	
89	Boundary adjustment of parcel	74
90	Actions required for boundary adjustment	74
91	Effect of boundary adjustment	75
	<i>Partition of parcel of Māori freehold land</i>	
92	Partition of parcel	76
93	Actions required for partition (other than by mortgagee)	76
94	Allocation scheme for new parcels on partition (other than by mortgagee)	77
95	Actions required for partition by mortgagee	77
96	Effect of partition	78
	<i>Amalgamation of parcels of Māori freehold land or other land</i>	
97	Amalgamation of parcels	78
98	Actions required for amalgamation	79
99	Allocation scheme for new parcel on amalgamation	80
100	Effect of amalgamation	81
	<i>Aggregation of parcels of Māori freehold land or other land</i>	
101	Aggregation of ownership of parcels	81
102	Actions required for aggregation of ownership	82
103	Allocation scheme for parcels on aggregation of ownership	82
104	Effect of aggregation of ownership	83
	<i>Cancellation of aggregation of parcels of Māori freehold land</i>	
105	Cancellation of aggregation of ownership of parcels	83
106	Allocation scheme for parcels on cancellation of aggregation of ownership	83
107	Effect of cancellation of aggregation	84

**Te Ture Whenua Māori Bill**

---

<i>Grant of lesser interest over parcel of Māori freehold land</i>		
108	Lease of parcel	84
109	Licence or <i>profit à prendre</i> over parcel	86
110	Mortgage or charge over parcel	86
111	Occupation lease or licence over parcel	86
112	Variation of lease, licence, <i>profit à prendre</i> , mortgage, charge, or occupation lease or licence	87
113	Grantee of occupation lease or licence may gift unexpired term	88
114	Easement over parcel	88
115	Cancellation or variation of easement	89
116	Kawenata tiaki whenua over parcel	90
117	Cancellation or variation of kawenata tiaki whenua	91
118	Effect and notation of kawenata tiaki whenua	91
<i>Sale, gift, exchange, and mortgage of individual freehold interest in Māori freehold land</i>		
119	Disposition of individual freehold interest	91
120	Exchange of individual freehold interest	92
<i>General provisions about dispositions</i>		
121	Dispositions made by instruments	92
122	Dispositions of Māori freehold land have effect when recorded or registered	92
123	Recording dispositions on Māori land register	93
124	Registering dispositions on land title register	93
125	Disposition must comply with certain other enactments	94
126	Evidence and orders about compliance with enactments before instruments recorded	94
127	Orders about compliance with enactments after instruments recorded	95
128	Orders of confirmation for dispositions	95
129	Determinations about dispositions by court	96
130	Court may make order to restore effect of lost instruments of disposition	96
131	Certain matters registrable despite caveat	96
132	Application of Part 3 of Property Law Act 2007 to mortgage of Māori freehold land	97
<i>Gift by will of entitlements arising from ownership</i>		
133	Gift by will of entitlements arising from ownership	98
<b>Part 5</b>		
<b>Authority to act in relation to Māori freehold land</b>		
Subpart 1—Administrative kaiwhakarite		
134	Court may appoint administrative kaiwhakarite	99

**Te Ture Whenua Māori Bill**

---

135	Purposes for which administrative kaiwhakarite may be appointed for land not managed under governance agreement	100
136	Responsibilities of administrative kaiwhakarite	101
137	Powers of administrative kaiwhakarite	101
138	Process for appointing administrative kaiwhakarite	102
139	Requirements if meeting of owners required	103
140	Order of appointment	103
141	Court may require administrative kaiwhakarite to report to court	104
142	Court may require administrative kaiwhakarite to report to owners	104
143	Court may make order relating to costs of administrative kaiwhakarite	104
144	Termination of appointment of administrative kaiwhakarite	105
145	Responsibilities of administrative kaiwhakarite if appointment terminated	106
146	Immunity from civil liability	106
	Subpart 2—Managing kaiwhakarite	
147	Chief executive may appoint managing kaiwhakarite	106
148	Responsibilities of managing kaiwhakarite	107
149	Managing kaiwhakarite is occupier for purpose of Fencing Act 1978	108
150	Powers of managing kaiwhakarite	108
151	Process for appointing managing kaiwhakarite	108
152	Notice of appointment	109
153	Distribution of income generated from operations of managing kaiwhakarite	110
154	Managing kaiwhakarite entitled to recover certain amounts out of income from land	111
155	Limitation on liability of managing kaiwhakarite to pay rates out of income from land	112
156	Managing kaiwhakarite entitled to retain operating budget out of income from land	112
157	Rights of owners while managing kaiwhakarite appointed for land	112
158	Termination of appointment of managing kaiwhakarite	113
159	Responsibilities of managing kaiwhakarite if appointment terminated	113
160	Immunity from civil liability	114
	Subpart 3—Governance bodies	
	<i>Appointing governance bodies</i>	
161	Owners of Māori freehold land may appoint governance body to manage land and other assets	114
162	Governance body holds asset base on trust	115
163	Rights of owners in respect of asset base	115
164	Process of appointing governance body	116

**Te Ture Whenua Māori Bill**

---

165	Additional process requirements if owners establish rangatōpū as governance body	116
166	Additional process requirements if owners appoint existing rangatōpū as governance body	117
167	Restrictions on governance bodies being party to more than 1 governance agreement	118
	<i>Registering governance agreements</i>	
168	Application to register governance agreement	118
169	General requirements for application to register governance agreement	119
170	Additional requirements for application to register new governance agreement	119
171	Additional requirements for application to register updated governance agreement	119
172	Additional requirements for application made by kaitiaki not yet registered as rangatōpū	120
173	Additional requirements for application made by amalgamating rangatōpū	120
174	Additional requirement for application made by representative entity	121
175	Registration of governance agreement	121
176	Grounds for rejecting application for registration of governance agreement	122
177	Governance certificate	123
	<i>Matters relating to registration of rangatōpū</i>	
178	Rangatōpū certificate	123
179	When registration of rangatōpū creates separate legal personality	124
	<i>Review of certain decision relating to governance body appointments</i>	
180	Court may review certain decisions of owners relating to governance bodies	124
	<i>Revoking governance body appointments</i>	
181	Owners of Māori freehold land may revoke governance body's appointment for that land	125
	<i>Cancelling governance agreements</i>	
182	Ways to start cancellation of governance agreement	125
183	Cancellation of governance agreement	126
184	Liability of kaitiaki for compensation for void transaction or dealing	127
185	Cancelling governance certificates	127
186	Effect of cancelling governance certificate	128

**Te Ture Whenua Māori Bill**

---

187	Registration of change of ownership of Māori freehold land within asset base	128
188	Liability of kaitiaki to continue	128
	<i>Cancelling rangatōpū registration</i>	
189	Cancelling rangatōpū registration	128
	<b>Part 6</b>	
	<b>Operation of governance bodies</b>	
	<i>Powers, duties, and responsibilities</i>	
190	Powers, duties, and responsibilities of governance bodies	128
191	Powers, duties, and responsibilities of kaitiaki	129
192	Immunity of kaitiaki from personal liability	129
	<i>Establishment of asset base</i>	
193	Asset base vests in governance body on registration of governance agreement	129
194	Registrar-General to record change of ownership of land vested in governance body under section 193	130
195	Status of contracts and other instruments	131
196	Status of existing securities	131
197	Matters not affected by vesting under section 193	131
	<i>Changes to holdings of Māori freehold land</i>	
198	Requirements if governance body decides to hold land as Māori freehold land	132
199	Requirements if governance body sells or exchanges parcel of Māori freehold land	133
200	Requirements in cases of partition, amalgamation, or boundary adjustment of Māori freehold land managed under governance agreement	133
201	Requirements for allocation scheme	133
202	Requirements for land management plan	134
	<i>Order relating to acquisition of Māori freehold land</i>	
203	Order declaring land to be Māori freehold land and confirming allocation scheme	134
	<i>Application of revenues</i>	
204	Application of revenues	135
205	Unpaid distributions	135
206	Governance body must notify chief executive of unpaid distribution details	136
	<i>Distribution schemes</i>	
207	Obligation to prepare full distribution scheme	136
208	Requirements for full distribution scheme	136

**Te Ture Whenua Māori Bill**

---

209	Obligation to prepare partial distribution scheme	138
210	Requirements for partial distribution scheme	138
211	Process once court confirms distribution scheme	139
	<i>Obligations of Māori Trustee in respect of unpaid distributions</i>	
212	Transfer of unpaid distributions from outgoing governance body to Māori Trustee	140
213	Māori Trustee must transfer unpaid distributions to successor governance body	141
	<i>Matters relating to rangatōpū</i>	
214	Requirements for kaitiaki of rangatōpū	141
215	Kaitiaki: vacancies in office, suspension from office, validity of acts	143
216	Court may appoint kaitiaki	143
217	Rangatōpū must maintain interests register	143
218	Kaitiaki of rangatōpū must make annual declaration for purpose of interests register	144
219	Rangatōpū not subject to rule against perpetuities	144
	<i>Access to information held by governance bodies</i>	
220	Requests for information	144
221	Reasons for withholding information	145
	<i>Powers of Māori Land Court in relation to governance bodies</i>	
222	Court may make orders or investigate governance bodies	145
223	Matters relating to investigation of governance bodies	146
224	What court may do after making order or investigating governance body	147
225	Court may disqualify kaitiaki	147
226	Jurisdiction of court in respect of certain rangatōpū	148
	<b>Part 7</b>	
	<b>Administration of estates</b>	
227	Definitions for this Part	148
228	General law on estates subject to this Part	149
229	Invalid disposition by will must be treated as intestacy	149
230	Land status at date of death of owner determinative	149
	<i>Māori land not available for payment of debts of estate</i>	
231	Māori land not available for payment of debts of estate	150
	<i>Restrictions relating to testamentary promises and family protection legislation</i>	
232	Restrictions relating to testamentary promises and family protection legislation	150

**Te Ture Whenua Māori Bill**

---

<i>Distribution of interests when owner dies intestate</i>		
233	Who may succeed to interests	151
234	Application for succession	151
235	Processing of application	153
236	Determination of application where objections received	153
237	Effect of succession	154
238	Succession interests subject to certain rights of surviving spouse or partner	154
239	Matters relating to whānau trust established on intestacy	155
<i>Transfer of occupation lease or licence where grantee dies intestate</i>		
240	Transfer of occupation lease or licence where grantee dies intestate	155
<i>Vesting of beneficial interests gifted by will</i>		
241	Vesting of beneficial interest gifted by will when grant of administration	158
242	Vesting of beneficial interest gifted by will when grant of administration but no effective administration	158
243	Vesting of beneficial interest gifted by will when no grant of administration	159
<i>Recording of rights of surviving spouses and partners</i>		
244	Recording of certain rights of surviving spouses and partners	160
245	Removal of records of certain rights of surviving spouses and partners	161
<b>Part 8</b>		
<b>Registers, jurisdiction about land, giving notices, and other provisions</b>		
<i>Provision of documents to chief executive and Registrar-General</i>		
246	Instruments or notices issued under Act must be provided to chief executive	161
247	Chief Registrar of Māori Land Court to provide certain documents	162
<i>Māori land register</i>		
248	Māori land register	162
249	Purpose of Māori land register	162
250	Contents of Māori land register	163
251	Access to Māori land register	164
252	Application of Privacy Act 1993	164
253	Historical and other information in Māori land register to be retained	164
254	Evidentiary presumptions relating to Māori land register	165
255	Right to apply for inclusion in Māori land register where instruments lost, destroyed, etc	165



**Te Ture Whenua Māori Bill**

---

256	Chief executive may replace or reconstitute records	166
257	Copying and imaging of paper instruments for purposes of Māori land register or other statutory purpose	166
<i>Land title registration</i>		
258	Notation on computer freehold register for Māori freehold land	167
259	Removal of notation for Māori freehold land	167
260	No liability of the Crown for notation for Māori freehold land	167
261	Computer freehold register only for entire freehold estate in Māori freehold land	168
262	Change to name of parcel	168
263	Orders and instruments issued under Act must be registered	169
264	Notation upon registration of certain dispositions	170
265	Registration of land in name of tupuna	170
<i>Māori land remains affected by existing interests after vesting</i>		
266	Māori land remains affected by existing interests after vesting	171
<i>Māori freehold land does not vest in the Crown when it has no owner</i>		
267	Parcel of Māori freehold land does not vest in the Crown when it has no owner	171
268	Individual freehold interest in Māori freehold land does not vest in the Crown when it has no owner	172
<i>Jurisdiction of court in certain land matters</i>		
269	Jurisdiction of court for purposes of this Act	172
270	Rights and interests preserved	173
271	Power of court to grant relief in relation to Māori freehold land	173
272	Court may determine claims to ownership, etc, of Māori freehold land	174
273	Court may declare ownership of Māori freehold land if ownership not accurately recorded	174
274	Jurisdiction in proceeding for recovery of land	175
275	Power of court to grant specific performance of leases of Māori freehold land	175
276	Jurisdiction of court under Fencing Act 1978	176
277	Powers of court under Contracts (Privity) Act 1982 and Contractual Remedies Act 1979	176
<i>Enforcement of judgment for debt or bankruptcy in relation to Māori land</i>		
278	Māori customary land not available for enforcing judgment against debtor	176
279	Māori freehold land not available for enforcing judgment against debtor	177
280	Māori freehold land available in bankruptcy	177

## Te Ture Whenua Māori Bill

---

### *Application to Māori land of enactments about landlocked land and adverse possession*

281	Reasonable access to landlocked Māori land	177
282	Adverse possession claim cannot succeed against co-owner of Māori land	178

### *Giving notices*

283	Giving of notices	178
284	Notices to owners of Māori customary land	179
285	Notices to owners of Māori freehold land	179
286	Time for responding to notices	180

### *Regulations*

287	Regulations	180
-----	-------------	-----

## **Part 9**

### **Dispute resolution**

288	Purpose	181
289	Interpretation	181
290	Chief executive to provide dispute resolution services	181
291	How dispute resolution process initiated	182
292	When dispute resolution process must begin	182
293	Role of kaitakawaenga	183
294	Conduct of dispute resolution process	183
295	Parties may confer powers of recommendation or decision on kaitakawaenga	184
296	Successful dispute resolution outcome	184
297	Unsuccessful dispute resolution outcome	185
298	Status of dispute resolution services	185
299	Independence of kaitakawaenga	185
300	Chief executive may issue general instructions	186
301	Judge may refer dispute for dispute resolution	186
302	Parties to refer disputes for dispute resolution before court may proceed	186

## **Part 10**

### **Repeal, revocations, and consequential amendments**

303	Repeal	188
304	Revocations	188
305	Consequential amendments to other enactments	188

## **Part 11**

### **Preliminary provisions**

306	Interpretation	188
307	Act binds the Crown	189

**Part 12**  
**Māori Land Court**

*Continuation and administration of court*

308	Māori Land Court continued	190
309	Administration of court	190
310	Court districts	190
311	Seal of court	191

*Jurisdiction of court under Maori Fisheries Act 2004*

312	Interpretation	191
313	Advisory jurisdiction of court	191
314	Jurisdiction of court to make determinations	192
315	Procedural provisions in Schedule 5 apply	192

*Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004*

316	Interpretation	192
317	Advisory jurisdiction of court	192
318	Jurisdiction of court to make determinations	192
319	Procedural provisions in Schedule 6 apply	193

*Special jurisdiction*

320	Governor-General may confer special jurisdiction	193
321	Additional members for purposes of court's special jurisdiction	193

*Reference of matters to court for inquiry*

322	Reference to court for inquiry	194
323	Additional members for purposes of inquiry	194
324	Additional members in relation to matter of tikanga Māori	194

*Other provisions relating to additional members*

325	Application	194
326	Oath to be taken by additional member	195
327	Fees and allowances	195
328	Quorum and decisions	195
329	Questions undecided referred to Māori Appellate Court	195

*Jurisdiction and powers*

330	Exercise of jurisdiction generally	196
331	Powers of court may be exercised by any Judge	196
332	Powers of Registrars	197
333	Power of Judge to refer matter to Registrar	197
334	Power to remove proceedings to another court	198
335	Power to award interest on debt or damages	198

**Te Ture Whenua Māori Bill**

---

	<i>Decisions, orders, and rehearings</i>	
336	Decisions and orders to be pronounced in open court, and minute recorded	198
337	Formal requirements and commencement of orders	198
338	Rehearings	198
	<i>Special powers of Chief Judge</i>	
339	Chief Judge may correct mistakes and omissions	199
340	Applications for exercise of special powers	200
341	Powers of Chief Judge to deal with applications under section 340	200
342	Administrative and consequential matters	200
343	Effect of amendment or cancellation on payments made or trust money	201
	<i>Exercise of powers by Deputy Chief Judge</i>	
344	Deputy Chief Judge may exercise special powers of Chief Judge	201
	<i>Right of appeal against exercise of special powers</i>	
345	Appeals	201
	<b>Part 13</b>	
	<b>Māori Appellate Court</b>	
	<i>Continuation and administration of court</i>	
346	Māori Appellate Court continued	202
347	Constitution of court	202
348	Officers of Māori Land Court to be officers of Māori Appellate Court	202
349	Seal	202
	<i>Jurisdiction</i>	
350	Appeals from Māori Land Court	203
	<i>Rights of appeal</i>	
351	Who can bring appeal against final decision or order of Māori Land Court	203
352	Appeals against provisional determinations of Māori Land Court	203
	<i>Cases stated</i>	
353	Māori Land Court may state case for Māori Appellate Court	204
354	High Court may state case for Māori Appellate Court	204
355	Additional members with knowledge and experience in tikanga Māori	205
356	Quorum and decision of court	205
	<i>Further appeals</i>	
357	Further appeal to Court of Appeal from Māori Appellate Court	206

**Te Ture Whenua Māori Bill**

---

358	Direct appeal to Supreme Court from Māori Appellate Court in exceptional circumstances	206
	<i>Procedural provisions and decisions</i>	
359	Commencement of orders	206
360	Successive appeals about same matter	207
361	Appeals to be by way of rehearing	207
362	Powers of court on appeal	207
363	Decision of majority to be decision of court	208
	<b>Part 14</b>	
	<b>Provisions applying to both courts</b>	
364	Application and interpretation	208
	<i>Procedural provisions</i>	
365	Conduct of proceedings generally	208
366	Judicial conferences and directions	209
367	Parties and witnesses may use Māori language	209
368	Evidence in proceedings	210
369	Representation of parties, etc	210
370	Court may correct defects or errors in proceedings	210
371	Case may be stated for High Court	211
372	Court must give notice before making order on own initiative	211
	<i>Injunctions</i>	
373	Jurisdiction to issue injunctions	211
374	High Court may enforce injunctions	212
	<i>General provisions about orders</i>	
375	Orders may be made subject to conditions	213
376	Orders not invalid for want of form, etc	213
377	Orders nominally in favour of deceased persons	213
378	Persons bound by orders affecting land	213
379	Orders affecting Māori land conclusive after 10 years	214
380	Costs orders	214
381	Security for costs	215
382	Taxation of costs	215
	<i>Enforcement of judgments and charging orders</i>	
383	Enforcement of judgments and orders relating to money, land, or chattels	216
384	Charging orders	216
385	Registration or recording of charging order	217
386	Appointment of receiver to enforce charges, etc	217
387	Functions and powers of receiver	218
388	Discharge of receiver	218
389	Court may order repayment out of money held by trustee, etc	219

**Te Ture Whenua Māori Bill**

---

	<i>Amendment of orders, warrants, and records</i>	
390	Amendment of orders, warrants, etc	219
391	Amendment or cancellation of orders not to affect acquired rights	219
	<i>Judicial settlement conferences</i>	
392	Judge may convene Judicial settlement conference	220
	<i>Contempt of court</i>	
393	Contempt of court	220
	<b>Part 15</b>	
	<b>Appointment of Judges and related provisions</b>	
394	Appointment of Judges	221
395	Attorney-General to publish information concerning appointment process	222
396	Judge not to undertake other employment or hold other office	222
397	Protocol relating to activities of Judges	222
398	Judges act on full-time basis but may be authorised to act part-time	223
399	Chief Judge and deputy	223
400	Delegation to Deputy Chief Judge	224
401	Appointment of temporary Judges	224
402	Former Judges	225
403	Certificate by Chief Judge and 1 other Judge prerequisite	225
404	Tenure of office	226
405	Judges to have immunities of High Court Judges	226
406	Salaries and allowances of Judges	226
	<b>Part 16</b>	
	<b>Rules, regulations, judgments, restricting right to commence proceedings, etc</b>	
	<i>Rules</i>	
407	Rules Committee continued	227
408	Fees and travelling allowances	227
409	Principal function of Rules Committee	228
410	Rules of court	228
	<i>Fees</i>	
411	Regulations	230
	<i>Court practice</i>	
412	Practice notes	230
	<i>Aid Fund</i>	
413	Māori Land Court Special Aid Fund	230
414	Court may create charges over property	231

	<i>Information regarding, and publication of, judgments</i>	
415	Information regarding reserved judgments	232
416	Final written judgments to be published on Internet site	232
	<i>Recusal</i>	
417	Recusal guidelines	233
	<i>Restriction on commencing or continuing proceedings</i>	
418	Judge may make order restricting commencement or continuation of proceeding	233
419	Grounds for making section 418 order	233
420	Terms of section 418 order	234
421	Procedure and appeals relating to section 418 orders	234
422	References to Judge in sections 418 to 421	234
	<b>Schedule 1</b>	235
	<b>Transitional and related provisions</b>	
	<b>Schedule 2</b>	248
	<b>Default decision-making process for decisions requiring agreement of owners of Māori freehold land</b>	
	<b>Schedule 3</b>	254
	<b>Governance agreements</b>	
	<b>Schedule 4</b>	264
	<b>Contents of Māori land register</b>	
	<b>Schedule 5</b>	269
	<b>Procedural provisions relating to Maori Fisheries Act 2004</b>	
	<b>Schedule 6</b>	276
	<b>Procedural provisions relating to Maori Commercial Aquaculture Claims Settlement Act 2004</b>	
	<b>Schedule 7</b>	283
	<b>Consequential amendments to other enactments</b>	

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is Te Ture Whenua Māori Act **2015**.

**2 Commencement**

This Act comes into force 3 months after the start of the day on which it receives the Royal assent.

## Part 1

### Preliminary provisions

#### 3 Aronga/Purpose

*Māori version*

- (1) Ko te aronga o tēnei Ture ko te hāpai me te āwhina i ngā kaipupuri whenua Māori kia mau tonu ai i a rātou ō rātou whenua kia whakamahi rawatia mō tā rātou e whiriwhiri ai.

*English version*

- (2) The purpose of this Act is to empower and assist owners of Māori land to retain their land for what they determine is its optimum utilisation.

*Māori version prevails*

- (3) The English version explains the purpose of this Act in English, but the Māori version prevails and is not affected by the explanation.

#### 4 Achieving purpose and recognising principles of Act

- (1) A person who exercises a power or performs a function or duty under this Act must do so, as far as possible, to achieve the purpose of this Act.
- (2) In seeking to achieve that purpose, the person must recognise the principles of this Act.

*Māori version*

- (3) Ko ngā mātāpono o tēnei Ture ko—
  - (a) ka whakatū te Tiriti o Waitangi i tētahi hononga motuhake i waenga i te Māori me te Karauna e whakatinanahia ai hoki te wairua whakawhiti o te kāwanatanga me te tiaki i te rangatiratanga kua taurangitia i te wahananga tuarua o te Tiriti o Waitangi:
  - (b) ka ārahi te tikanga Māori i ngā āhuatanga whai pānga ki te whenua Māori:
  - (c) mā te whakapapa te whenua Māori e whakauka ai hei taonga tuku iho:
  - (d) he mōtika tā ngā kaipupuri whenua Māori ki te whakawhanake, ki te whai mea angitū hei whakawhanake i ō rātou whenua hoki.

*English version*

- (4) The principles of this Act are—
  - (a) the Treaty of Waitangi establishes a special relationship between Māori and the Crown and embodies the spirit of exchange of kāwanatanga for the protection of rangatiratanga:
  - (b) tikanga Māori guides matters involving Māori land:
  - (c) Māori land endures as taonga tuku iho by virtue of whakapapa:



- (d) owners of Māori land have a right to develop their land and to take advantage of opportunities to develop their land.

*Māori version prevails*

- (5) The English version explains the principles of this Act in English, but the Māori version prevails and is not affected by the explanation.

*Examples to which this section applies*

- (6) This section applies, for example, to—
- (a) the court in considering or making any determination or decision under this Act, such as—
- (i) a decision to change the status of Māori customary land to Māori freehold land under **section 16**; or
- (ii) consideration of an application for an order granting reasonable access to landlocked land under **section 281**; and
- (b) any chief executive who exercises a power or performs a function or duty under this Act.

## 5 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**75% majority** means agreement that satisfies the requirements for a 75% majority under **sections 45 to 51**

**administrative kaiwhakarite** means a kaiwhakarite appointed by the chief executive under **section 134** to represent owners of 1 or more parcels of Māori freehold land for a specified administrative purpose

**applicable survey standards** means the standards or requirements for the conduct of cadastral surveys—

- (a) set under section 49 of the Cadastral Survey Act 2002; or
- (b) set by or under any former enactment that applied when the survey was done

**asset base** means the Māori freehold land, investment land, and other assets and liabilities managed by a governance body under a governance agreement

**chief executive**, in relation to any provision of this Act, means the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of that provision

**computer freehold register**—

- (a) has the meaning given by section 4 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002; and
- (b) includes a certificate of title issued under the Land Transfer Act 1952

**court** means the Māori Land Court

**Crown** has the meaning given by the definition in section 2(1) of the Public Finance Act 1989 and, to avoid doubt, includes the chief executive of a department referred to in that definition

**Crown land**—

- (a) means land that has not been alienated from the Crown in fee simple or that is vested in the Crown or held in fee simple by the Crown; but
- (b) does not include Māori land

**descendant**, in relation to a tūpuna or other individual,—

- (a) means a child, grandchild, or other descendant of the individual who is related by birth or legal adoption; and
- (b) includes a whangai descendant

**dispose of** means to make a disposition

**disposition**—

- (a) means any transaction affecting the legal or equitable ownership of an estate or interest in land, including—
  - (i) any sale, gift, exchange, transfer, transmission, assignment, settlement, appointment, or creation of a trust in relation to an estate or interest in land;
  - (ii) any other dealing in relation to an estate or interest in land; and
- (b) means the grant or creation, at law or in equity, of—
  - (i) any lease, easement, *profit à prendre*, mortgage, charge, licence, or power over an estate or interest in land; or
  - (ii) any other estate or interest in land; and
- (c) means a partition, a subdivision, or an amalgamation of parcels of land or an aggregation, or a cancellation of an aggregation, of ownership of parcels of land; and
- (d) includes a disposition by a living individual, by any other person, or by will; and
- (e) includes an agreement to make a disposition, such as an agreement to the acquisition of land under the Public Works Act 1981; but
- (f) does not include any vesting of an estate or interest in land, or any creation of a trust upon vesting, by or under an Act

**distribution date**, in relation to a distribution made by a governance body, has the meaning given in **section 204(2)**

**existing statutory body** means any of the following as established by or under an Act:

- (a) a Māori trust board;
- (b) the Māori Trustee;

- (c) Public Trust;
- (d) a trustee company

**financial year**,—

- (a) in relation to a governance body and a governance agreement, means the financial year specified in the governance agreement; and
- (b) in relation to a managing kaiwhakarite, means the financial year specified in the notice of appointment for the managing kaiwhakarite

**freehold estate**—

- (a) means an estate held in fee simple or for life; but
- (b) does not include a leasehold estate, such as a lease for life

**governance agreement** means an agreement under which a governance body manages an asset base on behalf of the owners of the Māori freehold land that is within the asset base

**governance body** means a rangatōpū, an existing statutory body, or a representative entity that is party to a registered governance agreement

**governance certificate** means a certificate issued in accordance with **section 177**

**immediate family**, in relation to a person,—

- (a) means members of the person’s whānau who are in a close relationship with the person; and
- (b) to avoid doubt, includes the following individuals (for which purposes a whāngai is treated as a natural child of the adopting parents and those parents as the natural parents of the whāngai):
  - (i) the person’s spouse, civil union partner, or de facto partner; or
  - (ii) the person’s child, stepchild, or grandchild; or
  - (iii) the person’s brother, sister, half-sister, half-brother, stepsister, or stepbrother; or
  - (iv) a parent, step-parent, or grandparent of the person; or
  - (v) an aunt, uncle, nephew, niece, or first cousin of the person

**individual freehold interest** has the meaning given by **section 7**

**instrument**—

- (a) means a document in paper or electronic form; and
- (b) includes an order of the court and an order made by a Judge

**investment land** means land other than Māori freehold land that is within an asset base managed by a governance body under a governance agreement

**Judge**—

- (a) means a Judge of the Māori Land Court; and

(b) includes the Chief Judge and the Deputy Chief Judge of that court

**kaitiaki**, in relation to a governance body, means—

- (a) if the body is Public Trust or a Māori Trust Board, a member of the board of the body:
- (b) if the body is the Māori Trustee, the Māori Trustee:
- (c) if the body is a board of trustees, a trustee:
- (d) in any other case, a person occupying a position in the body that is comparable with that of a director of a company

**kaiwhakamarumarū** means a person appointed by the court under **section 63** to manage the property of an owner needing protection

**land** includes—

- (a) estates and interests in land:
- (b) buildings and other permanent structures on land:
- (c) land covered with water:
- (d) plants and trees on land

**land register** means the register kept under section 33 of the Land Transfer Act 1952

**managing kaiwhakarite** means a kaiwhakarite appointed by the chief executive under **section 147** to manage 1 or more parcels of Māori freehold land

**Māori** means an individual of the Māori race of New Zealand, and includes a descendant of such an individual

**Māori customary land** has the meaning given by **section 12**

**Māori freehold land** has the meaning given by **section 19**

**Māori land** means Māori customary land and Māori freehold land

**Māori land register** means the register of matters relating to Māori land kept by the chief executive under **section 248**, and includes records for—

- (a) parcels of Māori freehold land and the nature of the beneficial interests held in the land; and
- (b) governance agreements; and
- (c) rangatōpū; and
- (d) other bodies appointed to manage land on behalf of owners

**Māori reserve** means—

- (a) any land vested in the Māori Trustee as, or for the purposes of, a Māori reserve; and
- (b) any land that is subject to the Maori Reserved Land Act 1955

**Māori trust board** has the meaning given by section 2(1) of the Maori Trust Boards Act 1955

**Māori Trustee** has the meaning given by section 2(3) of the Māori Trustee Act 1953

**Minister** means the Minister who, with the authority of the Prime Minister, is responsible for the administration of this Act

**owner** has the meaning given by **section 8**

**owner needing protection** means an individual (other than a patient within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992) who—

- (a) is less than 18 years of age; or
- (b) in the opinion of the court, lacks wholly or partly the capacity or competence to manage his or her own affairs in relation to his or her interests in Māori freehold land

**parcel**, in relation to any Māori freehold land, means the freehold estate in a discrete area of land with a continuous boundary that is—

- (a) defined in compliance with the applicable survey standards; or
- (b) identified in a court order, Crown grant, or other instrument issued under an Act for the purpose of defining a parcel and specifying the freehold ownership of the parcel

**preferred recipient** has the meaning given by **section 76**

**private land**—

- (a) means land held in fee simple by a person other than the Crown; and
- (b) includes Māori land

**Public Trust** has the meaning given by section 4 of the Public Trust Act 2001

**rangatōpū** means a governance body registered on the Māori land register as a rangatōpū

**rangatōpū certificate** means a certificate issued in accordance with **section 178**

**Registrar** means any Registrar of the Māori Land Court

**Registrar-General** means the Registrar-General of Land appointed under section 4(1) of the Land Transfer Act 1952

**representative entity**, in relation to a parcel of Māori freehold land, means an entity that—

- (a) represents a hapū or an iwi associated with the land in accordance with tikanga Māori; and
- (b) is recognised by the members of the hapū or iwi as having authority to represent the hapū or iwi

**road** has the meaning given by section 315(1) of the Local Government Act 1974

**simple majority** means agreement that satisfies the requirements for a simple majority under **sections 45 to 51**

**State highway** has the meaning given by section 5(1) of the Land Transport Management Act 2003

**Surveyor-General** means the Surveyor-General appointed under section 5(1) of the Cadastral Survey Act 2002

**transition period** has the meaning given by **clause 1 of Schedule 1**

**transitional agreement** has the meaning given by **clause 1 of Schedule 1**

**trustee company** has the meaning given by section 2 of the Trustee Companies Act 1967

**unpaid distribution** has the meaning given in **section 205(1)**

**unpaid distribution details**, in relation to an unpaid distribution, means the details referred to in **clause 6 of Schedule 4**

**wāhi tapu** has the meaning given by section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

**wāhi tūpuna** has the meaning given by section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

**whānau trust** means a trust established in accordance with **section 52**

**whāngai** means an individual adopted in accordance with tikanga Māori

**whāngai descendant**, in relation to a tūpuna or other individual, means a child, grandchild, or other descendant of the individual who is related by Māori customary adoption but only if the manner of the adoption is consistent with the tikanga of the relevant iwi, hapū, or whānau

**whenua tāpui** means land reserved as a whenua tāpui by a declaration under **subpart 2 of Part 2**.

- (2) For the purposes of this Act, a declaration is sufficient proof that an individual is the whāngai of a member of a hapū or an iwi if—
- (a) the declaration states that the member has adopted the individual in accordance with the customary practices of that hapū or iwi; and
  - (b) the declaration is made by another member of the hapū or iwi who is not immediate family of the whāngai; and
  - (c) the declaration is made in accordance with the Oaths and Declarations Act 1957.

## **6 Explanation of certain Māori terms**

- (1) This section explains in English certain Māori terms used in this Act, but—
- (a) the meaning of a Māori term is not affected by the explanation; and
  - (b) this section is overridden by any definition in **section 5** or another section of this Act.

(2) The terms are as follows:

**hapū** is a subtribe or a grouping that consists of whānau who typically share descent from a common ancestor

**iwi** is a tribe or extended grouping that consists of hapū or whānau who typically share descent from a common ancestor and associate with a distinct territory

**kaitakawaenga** is an intermediary who negotiates with parties to resolve a conflict

**kaitiaki** is someone who exercises guardianship or trusteeship

**kaiwhakamarumarū** is someone who provides protection or guardianship to another to prevent harm to that person

**kaiwhakarite** is an organiser, agent, or representative that assists or provides support to another person, including taking responsibility for certain tasks or activities on behalf of that person

**kawenata tiaki whenua** is a covenant over land to preserve and protect sites of cultural or historical interest or sites of special significance according to tikanga Māori

**marae** is a place typically in front of a whareniui (meeting house) where the members of whānau, hapū, or iwi meet and engage in pōwhiri (the ceremony of greeting and encounter), and includes associated buildings, such as the whareniui (meeting house) and wharekai (dining room), and surrounding land

**mātauranga takawaenga** is the knowledge and attributes required to negotiate with parties to resolve a conflict

**papakāinga** is a village or home base typically found on communal Māori land and can include the land itself

**rangatōpū** is a representative body

**taonga tuku iho** is a legacy of great historical and cultural significance to Māori passed down from one generation to another

**tikanga Māori** is Māori customary law, values, and practices

**tupuna** is an ancestor

**whakapapa** is genealogical or ancestral ties usually recited by Māori to establish a connection to a significant person, place, or resource of cultural significance

**whānau** is a family group that consists of individuals who typically share a common whakapapa and identify with a common living or recent ancestor

**whenua** is land

**whenua tāpui** is a reserve.

## 7 Meaning of individual freehold interest

- (1) The term **individual freehold interest** has the meaning given by this section when used in this Act in relation to Māori freehold land or private land that is not Māori land.
- (2) It means each of 2 or more beneficial interests (or shares) in the freehold estate in a parcel of land that are able to be dealt with separately from each other.
- (3) To avoid doubt,—
  - (a) joint tenants who own an individual freehold interest do not have separate individual freehold interests as between themselves; and
  - (b) a member of a class of collective owners that holds the freehold estate in a parcel of land does not have an individual freehold interest in the land.

---

### Example

There are 4 equal shares in the freehold estate in a parcel of Māori freehold land. The first 3 shares are held by 1 owner each and the fourth share is held by 2 owners as joint tenants. As between the 4 shares, the owners hold the shares as tenants in common. So there are 4 individual freehold interests in the land, 1 for each share (including the 1 share held by the joint tenants).

---

## 8 Meaning of owner

- (1) In this Act, **owner** means,—
  - (a) for Māori customary land, each member of the class of persons who hold a parcel of land in accordance with tikanga Māori:
  - (b) for a parcel of Māori freehold land or private land that is not Māori land,—
    - (i) the sole owner of the beneficial interest in the freehold estate in the parcel; or
    - (ii) any of the multiple owners of the beneficial interest in the freehold estate in the parcel:
  - (c) for one of the individual freehold interests in a parcel of Māori freehold land or private land that is not Māori land, the individual or the joint tenants who own the interest.
- (2) To avoid doubt, if the trustees of a whānau trust or other trust (other than a governance body) hold a parcel referred to in **subsection (1)(b)** or an individual freehold interest referred to in **subsection (1)(c)**, the trustees are the owners of the parcel or interest.
- (3) To avoid doubt, if a kaiwhakamarumarū is managing a parcel referred to in **subsection (1)(b)** or an individual freehold interest referred to in **subsection (1)(c)**, the kaiwhakamarumarū must be treated as the owner of the parcel or interest (in accordance with **section 69**).



**9 Evidence of applicable tikanga Māori**

In any proceedings under this Act, any question as to the tikanga Māori that applies in a particular situation must be determined on the basis of evidence.

**10 Transitional and related provisions**

The transitional and related provisions set out in **Schedule 1** have effect according to their terms.

**11 Act binds the Crown**

This Act binds the Crown.

**Part 2****Whenua Māori/Māori land and whenua tāpui****Subpart 1—Whenua Māori/Māori land***Māori customary land***12 Definition of Māori customary land**

In this Act, **Māori customary land**—

- (a) means land held by Māori in accordance with tikanga Māori; and
- (b) includes land that, immediately before the commencement of this Act, the court had determined to be Māori customary land and that has not become or been determined to be land of another status; but
- (c) does not include Māori freehold land.

**13 Māori customary land cannot be disposed of**

(1) An estate or interest in Māori customary land cannot be—

- (a) disposed of; or
- (b) vested by or under an Act or in any other way.

(2) However, this section does not prevent—

- (a) any change in the class of collective owners who, in accordance with tikanga Māori, hold a parcel of Māori customary land, as long as the change is made in accordance with tikanga Māori:
- (b) the reservation of Māori customary land as a whenua tāpui, the cancellation of the reservation, or any vesting related to the reservation or cancellation, under **subpart 2 of Part 2**:
- (c) the change in status of Māori customary land to Māori freehold land under **section 16**:
- (d) the creation, cancellation, or variation of an easement over Māori customary land under **section 114 or 115**:

- (e) the grant of reasonable access to landlocked Māori customary land by an order made under section 328 of the Property Law Act 2007 (as applied by **section 281** of this Act).

**14 Court may determine whether land is Māori customary land**

- (1) The court may determine whether any land is Māori customary land.
- (2) The court may make the determination—
  - (a) on its own initiative in any proceedings; or
  - (b) on application by—
    - (i) any person with an interest in the matter; or
    - (ii) the Registrar-General; or
    - (iii) the Minister.
- (3) After making its determination, the court must make an order that—
  - (a) specifies the parcel or parcels comprising the land or, if the land is not in defined parcels, describes the land so that it can be identified; and
  - (b) declares that the land is, or is not, Māori customary land.

**15 Court may determine class of collective owners of Māori customary land**

- (1) The court may determine the class of collective owners who, in accordance with tikanga Māori, hold a parcel of Māori customary land.
- (2) The court may make the determination—
  - (a) on its own initiative in any proceedings; or
  - (b) on application by—
    - (i) any individual Māori or group or class of Māori who claim an interest in the land; or
    - (ii) the Minister.
- (3) The class of collective owners must include all descendants of the members of the class.
- (4) After determining the class of collective owners, the court must decide under **section 16** whether to change the status of the land to Māori freehold land.
- (5) If the court decides to change the status, it must make an order under **section 16**.
- (6) If the court decides not to change the status, it must make an order that—
  - (a) specifies the parcel or parcels comprising the land or, if the land is not in defined parcels, describes the land so that it can be identified; and
  - (b) defines the class of collective owners of the land; and
  - (c) appoints an administrative kaiwhakarite for the land in accordance with **section 17**, if there is not one already.

- 
- (7) The court has exclusive jurisdiction to determine the class of collective owners of Māori customary land.
  - (8) To avoid doubt,—
    - (a) the court must not determine that the land is held by owners in defined shares; and
    - (b) if a determination has already been made under this section and the land remains Māori customary land, another determination may be made if ownership has been transferred in accordance with tikanga Māori; and
    - (c) a determination under this section merely recognises, and does not change, the existing ownership.

#### **16 Court may change status of Māori customary land to Māori freehold land**

- (1) This section applies if—
  - (a) the court is required to make a decision under this section after determining a class of collective owners of Māori customary land under **section 15**; or
  - (b) the administrative kaiwhakarite appointed for Māori customary land under **section 17** at any time applies for an order under this section.
- (2) The court must decide whether to change the status of the land to Māori freehold land.
- (3) The court must not decide to change the status unless it is satisfied that—
  - (a) the chief executive, at the court's direction, notified and held a meeting of the owners of the land in accordance with **Schedule 2** to consider the proposed change of status (and that schedule applies to the proposal with any necessary modifications); and
  - (b) the change of status is agreed to by a simple majority of the owners of the land who attended the meeting; and
  - (c) the land comprises a parcel or parcels defined in compliance with the applicable survey standards.
- (4) If the court decides to change the status, the court must make an order changing the status of the land to Māori freehold land.
- (5) The order must—
  - (a) specify the parcel or parcels comprising the land; and
  - (b) define the class of collective owners of the land as determined under **section 15**.
- (6) If an order is made changing the status of land to Māori freehold land, the land becomes subject to the Land Transfer Act 1952.

**17 Administrative kaiwhakarite appointed for Māori customary land**

- (1) This section applies if the court is required to make an order under **section 15** appointing an administrative kaiwhakarite for Māori customary land.
- (2) The order may appoint the administrative kaiwhakarite to do 1 or more of the things referred to in **section 135(2)(a), (d) to (f), and (h)** in relation to the land.
- (3) The administrative kaiwhakarite appointed by the order may also do the following in relation to the land:
  - (a) receive notices on behalf of the owners:
  - (b) apply to the court for an order under **section 16** (court may change status of Māori customary land to Māori freehold land):
  - (c) bring proceedings under **section 18** (trespass or injury to Māori customary land):
  - (d) apply to the court for an order under **section 30** (court order declaring private land reserved as whenua tāpui):
  - (e) agree or decline to agree to an easement under **section 114** or to the cancellation or variation of an easement under **section 115**:
  - (f) apply under section 327(1) of the Property Law Act for the grant of reasonable access to landlocked land (*see section 281*).
- (4) **Sections 134(4), 136, 137, and 140 to 146** apply to the appointment, with any necessary modifications, as if—
  - (a) the appointment were made under **section 134**; and
  - (b) **section 144(1)** also provided that an administrative kaiwhakarite's appointment ceases if an order is made changing the status of the land to Māori freehold land.

**18 Trespass or injury to Māori customary land**

- (1) This section applies to proceedings in the Māori Land Court or any other court—
  - (a) to recover possession of Māori customary land from any person; or
  - (b) to prevent, or recover damages for, trespass or injury to the land by any person.
- (2) The proceedings may be brought only by the following persons (on behalf of the owners of the land):
  - (a) an administrative kaiwhakarite appointed for the land; or
  - (b) the Māori Trustee, if there is no administrative kaiwhakarite appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act.

*Māori freehold land***19 Definition of Māori freehold land**

In this Act, **Māori freehold land** means land that has become Māori freehold land in accordance with this Act or any other enactment and that has not ceased to be Māori freehold land.

**20 Māori freehold land may be disposed of in certain ways**

An estate or interest in Māori freehold land may be disposed of in the same way as private land that is not Māori land unless the disposition is prohibited or restricted by this Act or another enactment.

**21 Court may determine whether land is Māori freehold land**

- (1) The court may determine whether any land is Māori freehold land.
- (2) The court may make the determination—
  - (a) on its own initiative in any proceedings; or
  - (b) on application by—
    - (i) any person with an interest in the matter; or
    - (ii) the Registrar-General.
- (3) After making its determination, the court must issue a declaration that—
  - (a) specifies the parcel or parcels comprising the land; and
  - (b) declares that the land is, or is not, Māori freehold land.

*Land becomes Māori freehold land***22 How land becomes Māori freehold land**

- (1) Land becomes Māori freehold land only in the following ways:
  - (a) the court makes an order under **section 16** to change the status of Māori customary land to Māori freehold land:
  - (b) the court makes a vesting order under **section 23** in respect of land other than Māori freehold land:
  - (c) the court makes an order under **section 24** declaring private land to be Māori freehold land:
  - (d) an exchange of land is made and land becomes Māori freehold land under **section 82**:
  - (e) a minor boundary adjustment is made and land that is not Māori freehold land changes status under **section 91(5)** by becoming part of a parcel of Māori freehold land:
  - (f) land that is partitioned or amalgamated, or whose ownership is aggregated, becomes Māori freehold land under **section 96, 100, or 104**:

- (g) the land changes ownership after the court makes an order under **section 203** declaring that the land becomes Māori freehold land on that change of ownership;
  - (h) another Act expressly provides that the land becomes Māori freehold land.
- (2) To avoid doubt,—
- (a) the court may determine and declare under **section 21** that land is Māori freehold land; and
  - (b) land may already have been Māori freehold land at the commencement of this Act.

**23 Land becomes Māori freehold land by vesting order on change of ownership**

- (1) The court may, on application, make a vesting order under this section in respect of land other than Māori freehold land.
- (2) An application may be made by—
- (a) the beneficial owners of land who want the land to vest in any individual Māori or group or class of Māori; or
  - (b) the registered proprietor of land that was acquired for any individual Māori or group or class of Māori; or
  - (c) any of the following persons for private land that was acquired by the Crown, a local authority, or a public body for a public work or other public purpose, but is no longer required for that purpose:
    - (i) the Minister of the Crown under whose control the land is held or administered;
    - (ii) the chief executive of the department of State responsible for the administration of the Cadastral Survey Act 2002;
    - (iii) the local authority or public body that holds or administers the land; or
  - (d) the Minister of Māori Affairs for any Crown land set aside or reserved for the use or benefit of Māori; or
  - (e) any Minister of the Crown, or the registered proprietor of the land, for any Crown land not covered by another paragraph of this subsection.
- (3) An application may do 1 or more of the following:
- (a) propose the 1 or more persons in whom the land is to be vested; and
  - (b) specify a price to be paid for the land and any terms and conditions of payment; and
  - (c) propose any other conditions to be imposed by the order.
- (4) A vesting order—

- (a) must specify the parcel or parcels comprising the land; and
  - (b) must vest the land in freehold—
    - (i) in the 1 or more persons, and in the relative shares, determined by the court; or
    - (ii) in the class of collective owners determined by the court, which must include all descendants of the members of the class; and
  - (c) must vest the land so that, after the vesting, the land—
    - (i) is released from any lease, licence, mortgage, easement, or other interest from which the grantee has consented to release it; but
    - (ii) remains affected by any other such interest that affected it immediately before the vesting; and
  - (d) may impose any conditions that the court thinks fit.
- (5) If an order is made, the land described by the order becomes Māori freehold land.
- (6) This section applies despite any other enactment that applies to the land, such as sections 40 to 42 of the Public Works Act 1981.

#### **24 Private land other than Māori land may be declared Māori freehold land**

- (1) The court may, on application, make an order declaring any private land other than Māori land to be Māori freehold land.
- (2) The application may be made by 1 or more owners of the land.
- (3) The court must make the order if it is satisfied that—
  - (a) the land is beneficially owned by 1 or more Māori or a group or class of Māori; and
  - (b) the application is agreed to by a simple majority of the owners of the land who participate in making the decision, with owners' votes having equal weight.
- (4) **Sections 45 to 51** apply to the making of the decision referred to in **subsection (3)(b)** as if the land were Māori freehold land.
- (5) The order must—
  - (a) specify the parcel or parcels comprising the land; and
  - (b) specify the existing owners of the land and relative shares (if any) of the owners.

#### *Land ceases to be Māori freehold land*

#### **25 How land ceases to be Māori freehold land**

- (1) Land ceases to be Māori freehold land only in the following ways:

- (a) the court makes an order under **section 26** declaring that the land ceases to be Māori freehold land:
  - (b) an exchange of land is made and Māori freehold land becomes land of another status under **section 82(7)**:
  - (c) a minor boundary adjustment is made and Māori freehold land changes status under **section 91(5)** by becoming part of a parcel of land that is not Māori freehold land:
  - (d) the land changes ownership after the court makes an order under **section 83** declaring that the land ceases to be Māori freehold land on that change of ownership:
  - (e) another Act expressly provides that the land ceases to be Māori freehold land.
- (2) This section does not affect the court's power to determine and declare under **section 21** that land is not Māori freehold land.
  - (3) To avoid doubt, land does not cease to be Māori freehold land merely because it no longer has Māori owners.

## **26 Land may cease to be Māori freehold land by declaration**

- (1) The court may, on application, make an order declaring that a parcel of land ceases to be Māori freehold land.
- (2) The application may be made by 1 or more owners of the land.
- (3) The court must make the order if it is satisfied that—
  - (a) the land is not held by a class of collective owners; and
  - (b) the land is not managed under a governance agreement; and
  - (c) the land does not contain any wāhi tapu or wāhi tūpuna; and
  - (d) the application is agreed to by a 75% majority of all of the owners of the land.
- (4) The order must specify the parcel or parcels comprising the land.
- (5) In addition to satisfying the requirements of **subsection (3)**, if the court is to make the order for a parcel of land that resulted from a partition of land under this Act,—
  - (a) the court must first start the process under **section 27** by giving written notice of the application to the relevant consent authority; and
  - (b) when the process has ended, the order must—
    - (i) impose the conditions (if any) specified in the written notice from the consent authority under **section 27(5)**; and
    - (ii) if the notice specifies a condition under section 220(1)(a) of the Resource Management Act 1991, create an esplanade strip on the terms specified by that condition, with the order having effect as if



- it were an instrument prepared in accordance with section 232 of that Act; and
- (iii) release the land from any lease, licence, mortgage, or other interest (excluding an easement) for which the grantee has consented to the release; and
  - (iv) if a survey plan is required under **section 27(3)(c)**, be an order that is conditional on the plan being deposited by the Registrar-General under Part 10 of the Resource Management Act 1991; but
- (c) the court may decide not to make the order unless an easement is granted that provides access to any esplanade reserve or esplanade strip.
- (6) If an order is made under this section declaring that a parcel of land ceases to be Māori freehold land, the land remains private land, but is not Māori land.
- (7) In addition, if an order is made under this section for a parcel of land that resulted from a partition of land under this Act,—
- (a) any of sections 229 to 237H of the Resource Management Act 1991 that apply when or after a subdivision consent is granted apply as if the order were a subdivision consent, despite section 230(2) of that Act; and
  - (b) section 239 (except subsection (1)(a) and (b)) of that Act applies, but with effect no earlier than the date on which the order is made; and
  - (c) any right of appeal against the order, including its conditions, must be exercised under this Act, not the Resource Management Act 1991; and
  - (d) despite the ongoing application of sections 233 and 236 of the Resource Management Act 1991 to the parcel, an esplanade strip is not created over land under section 233 of that Act, and land is not set aside as esplanade reserve under section 236 of that Act, to the extent that—
    - (i) the land is subject to a lease, licence, mortgage, or other interest (excluding an easement); and
    - (ii) the grantee of the interest has not consented to release the land from the interest.

## **27 Process for Māori freehold land partitioned under this Act**

- (1) This section applies if the court gives written notice under **section 26(5)(a)** to a consent authority of an application for an order declaring that a parcel of land ceases to be Māori freehold land.
- (2) The consent authority must consider and decide which (if any) conditions are to apply to the declaration.
- (3) In considering and deciding on the conditions, the consent authority must—
  - (a) treat the application as if it were a non-notified application under section 88 of the RMA for a subdivision consent; and

- (b) apply the relevant provisions of the RMA accordingly, including sections 104, 108, 220, 229 to 232, 236, and 237E to 237H; and
  - (c) apply the relevant provisions of the RMA that require the applicant to lodge a survey plan and to obtain the consent authority's approval to the survey plan, including sections 237 and 237A, but only if—
    - (i) a condition would require land to be set apart, reserved, vested, or made subject to an easement; or
    - (ii) any land to which the application relates is in the coastal marine area.
- (4) However, a condition must not require land to be set apart, reserved, vested, or made subject to an easement if—
- (a) the application does not relate to that land; or
  - (b) any part of the land is subject to an easement and the grantee of the easement has not consented to the condition; or
  - (c) any part of the land is subject to a lease, licence, mortgage, or other interest (excluding an easement) and the grantee of the interest has not consented to release the land from the interest.
- (5) After making its decision, the consent authority must give written notice to the court that—
- (a) specifies the conditions to apply to the declaration; or
  - (b) states that no conditions are to apply to the declaration.
- (6) In this section,—
- (a) **RMA** means the Resource Management Act 1991;
  - (b) a term that is not defined by this Act, but is defined by the RMA, has the meaning given by the RMA.

## Subpart 2—Whenua tāpui

### 28 Meaning of certain purposes

In **sections 30 and 32**, the **certain purposes** for which whenua tāpui may be reserved are—

- (a) a papakāinga housing site;
- (b) a marae;
- (c) a meeting place;
- (d) a recreation or sports ground;
- (e) a bathing place;
- (f) a church site;
- (g) a building site;

- (h) a burial ground:
- (i) a landing place:
- (j) a fishing ground:
- (k) a spring, well, catchment area, or other source of water supply:
- (l) a timber reserve:
- (m) a place of cultural or historical interest:
- (n) a place of scenic interest:
- (o) a place of special significance according to tikanga Māori:
- (p) any other particular purpose stated in the declaration.

**29 Application for court order declaring private land reserved as whenua tāpui**

- (1) A person may apply to the court for an order under **section 30** declaring a new whenua tāpui or the addition of land to an existing whenua tāpui.
- (2) The application may be made by—
  - (a) an administrative kaiwhakarite appointed for the land, for a declaration relating to Māori customary land; or
  - (b) 1 or more owners of the land, for a declaration relating to Māori freehold land or other private land.
- (3) For the declaration of a new whenua tāpui, the application must specify—
  - (a) the name of the administering body to be appointed for the whenua tāpui; and
  - (b) the names of the persons who are to be the members of the administering body.
- (4) For the declaration of a new whenua tāpui for the purpose of a marae, the persons specified as members of the administering body must be the members of the marae committee appointed by the persons who, in accordance with tikanga Māori, affiliate with the marae.

**30 Court order declaring private land reserved as whenua tāpui**

- (1) The court may, on application and in accordance with this section and **section 31**, make an order declaring that—
  - (a) any private land is reserved as a **new whenua tāpui**; or
  - (b) any additional private land is reserved and included in an **existing whenua tāpui** declared over private land.
- (2) However, the declaration must not apply to—
  - (a) Māori freehold land that is managed under a governance agreement (*see section 181* for how owners may revoke a governance body's appoint-

- ment to manage Māori freehold land so that it qualifies for reservation as a whenua tāpui); or
- (b) land that is subject to a mortgage or other charge; or
  - (c) land that is subject to a lease or licence that is inconsistent with the purpose for which the land is to be reserved.
- (3) The declaration of a new whenua tāpui must reserve the land—
- (a) for the 1 or more certain purposes specified in the declaration; and
  - (b) for the common use and benefit of 1 of the following classes of beneficiaries:
    - (i) the owners of the land; or
    - (ii) Māori who belong to a class of persons specified in the declaration; or
    - (iii) the people of New Zealand; and
  - (c) to be held and managed—
    - (i) by the administering body appointed in the declaration and comprising the members specified in the declaration, which must match the administering body and members specified in the application; and
    - (ii) subject to any conditions or restrictions that the court, at its discretion, specifies in the declaration.
- (4) The declaration of additional land for an existing whenua tāpui must reserve the land—
- (a) for the same purposes, and for the common use and benefit of the same class of beneficiaries, as for the existing whenua tāpui; and
  - (b) to be held and managed by the same administering body, and subject to the same conditions or restrictions (if any), as for the existing whenua tāpui.
- (5) The declaration of a new whenua tāpui for the purpose of a marae or burial ground must reserve the land for the common use and benefit of Māori who belong to a class of persons specified in the declaration.
- (6) The chief executive must give notice in the *Gazette* of the reservation of land for the common use and benefit of the people of New Zealand, on being provided under **section 247** with a sealed copy of the order declaring the reservation (whether as a new whenua tāpui or as additional land for an existing whenua tāpui).

**31 Court must be satisfied of matters and consider submissions for whenua tāpui on private land**

- (1) The court must comply with this section before making an order under **section 30** declaring a new whenua tāpui or the addition of land to an existing whenua tāpui.

*Court must be satisfied of matters*

- (2) The court must be satisfied that the application complies with **section 29**.
- (3) The court must be satisfied that,—
- (a) for a declaration relating to Māori customary land,—
    - (i) the chief executive, at the court’s direction, notified and held a meeting of the owners of the land in accordance with **Schedule 2** to consider the application (and that schedule applies to the application with any necessary modifications); and
    - (ii) the application is agreed to by a simple majority of the owners of the land who attended the meeting; or
  - (b) for a declaration relating to Māori freehold land, the application is agreed to by a simple majority of the owners of the land who participate in making the decision, with owners’ votes having equal weight; or
  - (c) for a declaration relating to other private land, the application is agreed to by the owners of the land.
- (4) The court must be satisfied that the land to be reserved comprises a parcel or parcels defined in compliance with the applicable survey standards, unless the land is Māori customary land.
- (5) For the reservation of land for the common use and benefit of the people of New Zealand (whether as a new whenua tāpui or as additional land for an existing whenua tāpui), the court must be satisfied that—
- (a) the relevant territorial authority consents to the reservation; and
  - (b) the land does not contain a wāhi tapu or wāhi tūpuna.

*Court must seek and consider submissions*

- (6) The court must give notice of the order it proposes to make—
- (a) directly to the applicants; and
  - (b) directly to any other person whose address for notices is provided in the application; and
  - (c) for the declaration of additional land for an existing whenua tāpui, directly to the administering body of the existing whenua tāpui; and
  - (d) in the pānui of the court or any publication that replaces it.
- (7) The notice must—
- (a) provide details of the application; and

- (b) set out the court's proposed order; and
  - (c) invite submissions on the proposed order; and
  - (d) specify the deadline by which submissions must be received.
- (8) The court must consider any submissions received by the deadline specified in the notice before finalising and making its order.

### **32 Minister declares Crown land or other specified land reserved as whenua tāpui**

- (1) The Minister responsible for Crown land or other specified land may, in accordance with this section and **section 33**, make a declaration that—
- (a) any Crown land or other specified land is reserved as a **new whenua tāpui**; or
  - (b) any additional Crown land or other specified land is reserved and included in an **existing whenua tāpui** declared over Crown land or other specified land.
- (2) However, the declaration must not apply to—
- (a) land that is subject to a mortgage or other charge; or
  - (b) land that is subject to a lease or licence that is inconsistent with the purpose for which the land is to be reserved; or
  - (c) Crown forest land unless the reservation will not cause the Crown to breach any Crown forestry licence that affects the land.
- (3) The declaration of a new whenua tāpui over Crown land must reserve the land—
- (a) for the 1 or more certain purposes specified in the declaration; and
  - (b) for the common use and benefit of Māori who belong to a class of persons specified in the declaration; and
  - (c) to be held and managed—
    - (i) by the administering body appointed in the declaration and comprising the members specified in the declaration; and
    - (ii) subject to any conditions or restrictions that the Minister, at his or her discretion, specifies in the declaration.
- (4) The declaration of a new whenua tāpui over other specified land must reserve the land—
- (a) for the purposes of a place of cultural or historical interest or of a place of special significance according to tikanga Māori; and
  - (b) for the common use and benefit of Māori who belong to a class of persons specified in the notice; and
  - (c) to be held and managed—

- 
- (i) by the administering body appointed in the declaration and comprising the members specified in the declaration; and
    - (ii) subject to any conditions or restrictions that the Minister, at his or her discretion, specifies in the declaration.
  - (5) The declaration of additional Crown land or other specified land for an existing whenua tāpui must reserve the land—
    - (a) for the same purposes, and for the common use and benefit of the same class of beneficiaries, as for the existing whenua tāpui; and
    - (b) to be held and managed by the same administering body, and subject to the same conditions or restrictions (if any), as for the existing whenua tāpui.
  - (6) Before making a declaration in relation to other specified land, the Minister must be satisfied that the land is a place of cultural or historical interest or a place of special significance according to tikanga Māori (as the case may be).
  - (7) The Minister need not make a declaration after obtaining the court’s recommendation under **section 33**, but if the Minister does make a declaration, the declaration must comply with the court’s recommendation of—
    - (a) the name and membership of the administering body to be appointed for the whenua tāpui; and
    - (b) an appropriate class of Māori persons for whose use and benefit the whenua tāpui should be reserved.
  - (8) A declaration under this section must be made by *Gazette* notice.
  - (9) The *Gazette* notice is not a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.
  - (10) In this section, **other specified land** means—
    - (a) Crown forest land (as defined by section 2(1) of the Crown Forest Assets Act 1989);
    - (b) land or an interest in land that is subject to resumption under section 27B of the State-Owned Enterprises Act 1986 and is held by a State enterprise (as defined by section 2 of that Act);
    - (c) land or an interest in land that is subject to resumption under section 212 of the Education Act 1989 and is held by an institution (as defined by section 159 of that Act);
    - (d) land or an interest in land that is subject to resumption under section 39 of the New Zealand Railways Corporation Restructuring Act 1990 and is held by a Crown transferee company (as defined by section 2 of that Act).

**33 Minister must apply for court recommendation for new whenua tāpui on Crown land or other specified land**

- (1) The Minister must comply with this section before declaring a new whenua tāpui under **section 32**.
- (2) The Minister must be satisfied that the land to be reserved comprises a parcel or parcels defined in compliance with the applicable survey standards.
- (3) The Minister—
  - (a) must apply to the court for a recommendation of the name and membership of the administering body to be appointed for the new whenua tāpui; and
  - (b) may also apply to the court for a recommendation of an appropriate class of Māori persons for whose use and benefit the new whenua tāpui should be reserved.
- (4) The application may, but need not, specify—
  - (a) a proposed name for the administering body to be appointed for the whenua tāpui;
  - (b) the names of persons proposed to be members of the administering body.
- (5) The court must, on application by the Minister, make a recommendation of the matters for which the recommendation was sought (and the name of the administering body and the members may differ from any proposals in the application).
- (6) For the declaration of a new whenua tāpui over Crown land for the purpose of a marae, the persons recommended as members of the administering body must be the members of the marae committee appointed by the persons who, in accordance with tikanga Māori, affiliate with the marae.
- (7) Before making its recommendation under this section, the court must—
  - (a) obtain evidence of people's ancestral or cultural connections with the land, and give all those who claim such connections an opportunity to be heard, in order to determine an appropriate class of Māori persons for whose use and benefit the whenua tāpui should be reserved; and
  - (b) having determined the appropriate class, give its members an opportunity to be heard on the name and membership of the administering body.

**34 Court order of declaration for existing whenua tāpui**

- (1) The court may, on application and in accordance with this section, make an order declaring the following in relation to any existing whenua tāpui over any land:
  - (a) the reservation as whenua tāpui is cancelled for some or all of the land; or
  - (b) the whenua tāpui is reserved for a different purpose; or



- 
- (c) the whenua tāpui is reserved for the common use or benefit of a different class of beneficiaries; or
  - (d) a person becomes, ceases to be, or replaces a member of the administering body appointed for the whenua tāpui; or
  - (e) the conditions or restrictions imposed on how the administering body holds and manages the whenua tāpui are changed.
- (2) The application may be made—
- (a) by the administering body of the whenua tāpui; or
  - (b) for a declaration under **subsection (1)(d) or (e)**, by—
    - (i) the administering body of the whenua tāpui; or
    - (ii) a beneficiary of the whenua tāpui; or
    - (iii) the Minister responsible for the land, if the whenua tāpui is over Crown land or other specified land.
- (3) For a declaration about the membership of an administering body, the application must specify—
- (a) the name of the person who is to become a member; or
  - (b) the name of the person who is to cease to be a member; or
  - (c) the name of the person who is to replace a member and the name of the member who is to be replaced.
- (4) If the court makes an order of declaration about the membership of an administering body, the order must appoint or remove members in accordance with the application.
- (5) The court must not make an order of declaration under this section unless it is satisfied that—
- (a) the declaration would have been permitted by the provision under which the whenua tāpui was first declared; and
  - (b) the administering body notified and held a meeting of the beneficiaries of the whenua tāpui in accordance with **Schedule 2** to consider the application (and that schedule applies to the application with any necessary modifications); and
  - (c) at least 10 beneficiaries attended the meeting; and
  - (d) the application is agreed to by a simple majority of the beneficiaries who attended the meeting.
- (6) The administering body must notify and hold a meeting for the purposes of **subsection (5)** if an application is made under this section.
- (7) The chief executive must give notice in the *Gazette* of an existing whenua tāpui becoming reserved for the common use and benefit of the people of New Zealand, on being provided under **section 247** with a sealed copy of the order declaring the change of beneficiaries.

**35 Effect of declarations about whenua tāpui**

- (1) A declaration about a whenua tāpui by a court order takes effect when the order takes effect.
- (2) A declaration about a whenua tāpui by the Minister takes effect on the date on which the *Gazette* notice is published or any later date specified in the *Gazette* notice.

*Reservation of land*

- (3) When land is reserved as a whenua tāpui,—
  - (a) the legal ownership of the land vests in the administering body appointed in the declaration; and
  - (b) the administering body holds the land in trust for the purposes for which it is reserved, for the common use and benefit of the beneficiaries, and subject to any conditions or restrictions specified in the declaration; and
  - (c) a person for whose common use and benefit the land is reserved may enter and use the land subject to—
    - (i) the purposes for which the land is reserved; and
    - (ii) any lease, licence, or easement over the land; and
    - (iii) any reasonable conditions or restrictions imposed by the administering body; and
  - (d) the land remains affected by any lease, licence, or easement that affected it immediately before the reservation; and
  - (e) to avoid doubt, the land remains affected by any status or statutory regime (for example, as Crown forest land or land subject to resumption by the Crown) that affected it immediately before the reservation.
- (4) When land is reserved as a whenua tāpui for purposes other than a marae or burial ground, the beneficial ownership of the land—
  - (a) is unaffected and is distinct from the interests of the persons for whose common use and benefit the land is reserved; and
  - (b) may continue to change by succession or otherwise.
- (5) When land is reserved as a whenua tāpui for the purposes of a marae or burial ground, the beneficial ownership of the land vests in the Māori who belong to the class of persons specified in the declaration (who become the class of collective owners of the land).

*Cancellation of reservation of land*

- (6) When the reservation of land as whenua tāpui is cancelled, the legal ownership of the land vests in the beneficial owners of the land.

**36 Administering bodies**

- (1) The administering body appointed for a whenua tāpui is a body corporate.

- (2) An administering body must have a board of at least 3 members, all of whom must ordinarily reside in New Zealand.
- (3) A person appointed to the board remains a member until he or she dies or is removed or replaced.
- (4) The function of an administering body is to hold and manage the whenua tāpui for the purposes for which it is reserved, for the common use and benefit of the beneficiaries, and subject to any conditions or restrictions imposed on the administering body.
- (5) An administering body may do anything authorised by this Act, or anything else that a natural person may do, for the purpose of performing its function.
- (6) A person appointed as a member of an administering body is protected from civil liability, however it may arise, for any act that the person does or omits to do in fulfilment or intended fulfilment of the purpose for which the person is appointed, unless—
  - (a) the terms of the person’s appointment provide otherwise; or
  - (b) the act or omission is done in bad faith or without reasonable care.

### **37 Administering body may grant lease or licence**

- (1) The administering body of a whenua tāpui may grant a lease or an occupation lease or licence to any person over all or part of the land or any building on the land for the purpose of carrying out any activity, trade, business, or occupation.
- (2) The lease or licence must include the following terms and conditions:
  - (a) the lease or licence is granted for 14 years or less, including any further terms that may be granted under rights of renewal;
  - (b) the grantee has no right to buy or acquire the freehold estate in the land;
  - (c) the land or building subject to the lease or licence must be used solely for the purpose for which the lease or licence is granted;
  - (d) if the land or building is not used solely for that purpose, the grantor may terminate the lease or licence in accordance with the process (if any) specified in the lease or, if there is no such process, in any reasonable way;
  - (e) on termination under **paragraph (d)**, the land and all improvements on the land revert to the grantor, and no compensation is payable to the grantee.
- (3) The lease or licence may include any other terms and conditions that the administering body thinks fit.
- (4) The grant of the lease or licence must be conditional on the court, on application by the administering body, making an order of confirmation that the grant—
  - (a) complies with the requirements of this Act; and

- (b) is consistent with the purposes for which the whenua tāpui is reserved; and
  - (c) is consistent with any conditions or restrictions imposed on how the administering body holds and manages the whenua tāpui.
- (5) This section applies despite **section 13** (for Māori customary land) and instead of **sections 108, 109, and 111** (for Māori freehold land).
- (6) If a lease or occupation lease or licence is varied to apply to additional or different land in a whenua tāpui, the variation—
- (a) is a further grant of such an interest; and
  - (b) must therefore comply with this provision.

### **38 Reservation and disposition of whenua tāpui**

#### *Reservation*

- (1) **Sections 28 to 35** override any other provision of this Act or another enactment about the disposition or administration of land.

#### *Disposition*

- (2) Land reserved as whenua tāpui must not be disposed of, but this section does not prevent—
- (a) the grant of an easement over the land or for the benefit of the land, or the variation or cancellation of such an easement; or
  - (b) the grant of a lease or an occupation lease or licence over the land under **section 37**; or
  - (c) a disposition of an individual freehold interest in the land separately from the other individual freehold interests in the land.

## **Part 3**

### **Ownership interests in Māori freehold land**

#### *Introductory provisions*

### **39 Example of multiple owners of parcel of Māori freehold land**

- (1) This section describes a typical example of ownership of a parcel of Māori freehold land, where there are multiple owners who are tenants in common.
- (2) The owners together hold the beneficial interest in the freehold estate in the parcel. Each owner holds an individual freehold interest.
- (3) If a governance body is appointed to manage the land, the governance body becomes the legal owner of the parcel, but the owners retain the beneficial interest (or ownership).

**40 Presumption of tenancy in common and equal sharing where multiple owners**

- (1) If there are multiple owners, other than a class of collective owners, of the beneficial interest in the freehold estate in a parcel of Māori freehold land,—
  - (a) the owners hold beneficial interests in the land as tenants in common; and
  - (b) each owner's beneficial interest is an equal share of the land.
- (2) **Subsection (1)** applies unless the Māori land register provides otherwise or there is other proof to the contrary.

**41 Rights of owners**

- (1) Every owner of Māori freehold land is entitled—
  - (a) to engage in decisions relating to the land:
  - (b) to be informed of all matters relating to the land, including its use and management:
  - (c) to be heard in any proceedings relating to the land:
  - (d) to be recognised and acknowledged as an owner of the land.
- (2) However, the rights are subject to any provisions of this Act that provide otherwise. For example,—
  - (a) if the land is managed by a governance body,—
    - (i) the entitlement to engage in decisions relating to the land is subject to the provisions of the governance agreement; and
    - (ii) the right to receive grants or distributions is subject to any discretion of the governing body specified in the governance agreement and the entitlement of any other person to receive the grants or distributions, whether in accordance with a provision of this Act or any other rule of law; and
  - (b) if this Act or the rules of the court authorise the court to conduct proceedings without holding a formal sitting or without hearing an owner or any other person in open court, the owner or person is not entitled to be heard in that manner.
- (3) **Subsection (1)** does not limit or affect other rights that owners may have at law or in accordance with tikanga Māori.

*Collective ownership***42 Conversion to collective ownership of Māori freehold land**

- (1) The owners of a parcel of Māori freehold land may convert all their separate beneficial interests in the freehold estate in the land into collective ownership, but only in accordance with this section.

- (2) A decision to convert the ownership of the land must be agreed to by a 75% majority of all of the owners.
- (3) The decision must define the class of collective owners as one of the following groups:
  - (a) persons who are the descendants of 1 or more named tūpuna:
  - (b) named persons who are associated with the land in accordance with tikanga Māori, and their descendants:
  - (c) persons who fall within either of the following groups immediately before the collective ownership takes effect, and their descendants:
    - (i) owners of the land who are living:
    - (ii) persons entitled to succeed to a deceased owner's interest in the land.
- (4) The decision may include 1 or more other requirements as to the terms of the collective ownership.
- (5) The decision has no effect unless the court, on application by an owner of the land, makes an order of confirmation that the conversion complies with the requirements of this Act.

#### **43 Effect of conversion to collective ownership**

- (1) This section applies if a parcel of Māori freehold land is converted to collective ownership under **section 42**.
- (2) All beneficial interests in the freehold estate in the land are extinguished.
- (3) The ownership of the land is then vested in the defined class of collective owners.
- (4) If any of the extinguished interests were held under a whānau trust and the trust has no other trust property, the trust is terminated on the date on which the ownership is vested in the collective owners.

#### **44 Collective owner has no separate interest**

- (1) A collective owner of a parcel of Māori freehold land has no interest in the land that is able to be dealt with separately from the interests of the other collective owners.
- (2) This section applies whether the person became a collective owner of the parcel—
  - (a) by conversion to collective ownership under **sections 42 and 43**; or
  - (b) by an order of the court (for example, under **section 16 or 23**); or
  - (c) in accordance with an allocation scheme for a partition or an amalgamation.

*How owners of Māori freehold land make decisions***45 Decisions by specified majority of owners of Māori freehold land**

- (1) This subpart applies to a decision relating to a parcel of Māori freehold land if this Act or a governance agreement requires that the decision be agreed to by a specified majority of the owners of the land, whether—
- (a) all of the owners; or
  - (b) only the owners who participate in making the decision (**participating owners**).

*Decision-making process*

- (2) If the parcel is managed under a governance agreement, the decision must be made using the decision-making process required by the agreement.
- (3) If the parcel is not managed under a governance agreement,—
- (a) where the whole parcel is owned by 1 person or by joint tenants, the decision may be made by whatever process the owners choose; and
  - (b) where the whole parcel is vested in a private trust and the terms of the trust include a decision-making process, the decision must be made using that process; and
  - (c) in any other case, the decision must be made using the decision-making process set out in **Schedule 2**.

*Participation thresholds*

- (4) If this Act or a governance agreement requires that the decision be agreed to by a specified majority of the participating owners, the following participation thresholds must be satisfied for the decision to be valid:
- (a) if the parcel has 10 or fewer owners, all the owners must participate in the decision-making process;
  - (b) if the parcel has more than 10 but not more than 100 owners, at least 10 owners must participate in the decision-making process and the participating owners must hold at least 25% of the individual freehold interests in the parcel;
  - (c) if the parcel has more than 100 but not more than 500 owners, at least 20 owners must participate in the decision-making process and the participating owners must hold at least 25% of the individual freehold interests in the parcel;
  - (d) if the parcel has more than 500 owners, at least 50 owners must participate in the decision-making process and the participating owners must hold at least 10% of the individual freehold interests in the parcel.
- (5) However, if the participation threshold for a decision is not satisfied,—
- (a) a second decision-making process for the decision may be commenced within 20 working days after the day on which the level of owner par-

participation in the first decision-making process was calculated (which may be the day on which voting on the proposal closes or the day on which owners consider the proposal, if the proposal does not proceed to a vote because the required quorum of owners is not present); and

- (b) there is no participation threshold for the second decision-making process, as long as—
  - (i) the applicable decision-making process is followed as if the decision were a new decision; and
  - (ii) the second decision-making process is notified to owners in a way that clearly explains that the resulting decision will be valid if it is agreed to by the required majority of the participating owners, irrespective of how many owners participate in making the decision; and
- (c) if the applicable decision-making process includes a separate quorum requirement, a failure to satisfy the quorum requirement does not invalidate the decision.

*Specified majority requirements*

- (6) A requirement for the agreement of a specified majority of the owners of a parcel of Māori freehold land (whether all of the owners or only the participating owners) is satisfied as follows:
  - (a) where the whole parcel is owned by 1 person, by that person making the decision; and
  - (b) where the whole parcel is owned by joint tenants, by all of the joint tenants agreeing to the decision; and
  - (c) in any other case,—
    - (i) where the specified majority is a simple majority or a 75% majority, by satisfying the requirements of whichever of **sections 48 to 50** applies; or
    - (ii) for any other specified majority, by satisfying the requirements of whichever of **sections 48 to 50** would apply if the references in that section to a 75% majority were references to the specified majority.

**46 Minor cannot vote on decisions and is ignored in calculations about decisions**

- (1) This section applies to an owner of Māori freehold land who—
  - (a) is less than 18 years of age; and
  - (b) does not have a kaiwhakamarumaruru appointed to manage his or her beneficial interest in the land.



- 
- (2) The owner cannot vote on any decision relating to the land and is not counted as an owner under any provision of this subpart.
  - (3) If the owner has an individual freehold interest in the land, that interest must not be counted under any provision of this subpart.
- 

**Example**

A parcel of Māori freehold land has 10 owners who are tenants in common, but this section applies to 1 of the owners. Only the other 9 owners can vote on any decision relating to the land. For the purposes of this subpart, there are only 9 owners of the land and only 9 individual freehold interests in the land. The other owner and his or her interest are ignored.

---

**47 Voting for individual freehold interest owned by joint tenants**

- (1) If an individual freehold interest is owned by joint tenants, the joint tenants are treated as if they were the 1 owner of the interest for the purposes of voting.
- (2) The vote is counted for that interest if made by only 1 joint tenant or if the same vote is made by 2 or more joint tenants, but is not counted if the joint tenants make conflicting votes.

**48 Simple or 75% majority of all owners**

- (1) A requirement for the agreement of a simple majority of all of the owners of land is satisfied if the decision is agreed to by owners whose individual freehold interests total more than a 50% share in the land.
- (2) A requirement for the agreement of a 75% majority of all of the owners of land is satisfied if the decision is agreed to by owners whose individual freehold interests total a 75% or more share in the land.
- (3) A requirement for the agreement of any majority of all of the owners of land cannot be satisfied for land owned by a class of owners.

**49 Simple or 75% majority of participating owners**

- (1) A requirement for the agreement of a simple majority of the participating owners of land is satisfied if the decision is agreed to as follows:
  - (a) for land owned by tenants in common, by owners whose individual freehold interests total more than a 50% share of all the participating owners' total share in the land:
  - (b) for land owned by a class of owners, by more than 50% of the participating owners.
- (2) A requirement for the agreement of a 75% majority of the participating owners of land is satisfied if the decision is agreed to as follows:
  - (a) for land owned by tenants in common, by owners whose individual freehold interests total a 75% or more share of all the participating owners' total share in the land:

- (b) for land owned by a class of owners, by 75% or more of the participating owners.
- (3) This section does not apply if the requirement provides that owners' votes have equal weight.

#### **50 Simple majority of participating owners where votes have equal weight**

- (1) A requirement for the agreement of a simple majority of the participating owners of land, with owners' votes having equal weight, is satisfied if the decision is agreed to by more than 50% of the participating owners.
- (2) In a vote to which this section applies, if the parcel or an individual freehold interest is held by the trustees of a whānau trust or other trust (other than a governance body), each of the beneficiaries of the trust is treated as an owner of the parcel or interest in place of the trustees for the purposes of voting.
- (3) This section applies regardless of how the land is owned (whether by tenants in common or a class of owners).

#### **51 Effect of decisions**

A decision made in accordance with this subpart binds all of the owners of the land to which the decision relates, whether or not all of the owners participated in making the decision.

#### *Whānau trusts*

#### **52 Owner of Māori freehold land may establish whānau trust**

- (1) The sole owner, or the owner of an individual freehold interest, in a parcel of Māori freehold land may establish a whānau trust, to confer the owner's beneficial interest in the land on whānau, but only in accordance with this section.
- (2) The trust must be established for the purposes of promoting the health, social, cultural, and economic welfare, education, vocational training, and general advancement in life of the beneficiaries of the trust and their immediate families.
- (3) The trust must be established under—
  - (a) **section 53**, if the trust is to operate both during and after the owner's lifetime; or
  - (b) **section 54**, if the trust is to operate only after the death of the owner.
- (4) The trust takes effect on the date on which the name of the trust is entered in the Māori land register.

#### **53 Whānau trust (operational while owner living)**

- (1) The sole owner of, or the owner of an individual freehold interest in, a parcel of Māori freehold land may declare his or her beneficial interest in the land to be held by a whānau trust for the benefit of—
  - (a) the owner and the owner's descendants; or

- (b) if the owner has no descendants, the descendants of any siblings of the owner; or
  - (c) if the owner has no descendants and there are no descendants of any siblings of the owner, the descendants of siblings of the owner's parents, but only if both the parent and the sibling are associated with the land in accordance with tikanga Māori.
- (2) The declaration must—
- (a) be in writing and dated; and
  - (b) state that the trust to be established is a whānau trust (with the name specified); and
  - (c) state the purposes of the trust (as specified in **section 52(2)**); and
  - (d) identify the beneficial interest to be held as trust property (as the interest is described in the Māori land register); and
  - (e) state whether the beneficial interest may be disposed of by the trust and, if so, any conditions or restrictions on its disposal; and
  - (f) state any other conditions or restrictions in relation to the manner in which the trustees may deal with the beneficial interest; and
  - (g) state whether the class of descendant beneficiaries includes—
    - (i) whāngai of the owner; or
    - (ii) whāngai of the owner's children; or
    - (iii) whāngai of any other descendants of the owner; or
    - (iv) if applicable, whāngai of descendants of siblings of the owner or owner's parents; and
  - (h) state the full name and contact details of each beneficiary alive (and known) when the declaration is made; and
  - (i) state the full name and contact details of each trustee; and
  - (j) provide a power of appointment for further or replacement trustees; and
  - (k) be signed by the owner; and
  - (l) state the city, town, or locality where the owner signed the declaration; and
  - (m) be witnessed by a person who is not a trustee, a beneficiary, or immediate family of the owner, and who is at least 20 years old.
- (3) A whānau trust established in accordance with this section may provide for other property, including other land, to be trust property, in which case the declaration must include any information relating to the property that is necessary for the trustees to administer the trust in relation to that property in accordance with the owner's wishes.

**54 Whānau trust (operational on death of owner)**

- (1) The sole owner, or the owner of an individual freehold interest, in a parcel of Māori freehold land may declare by will that his or her beneficial interest in the land be held by a whānau trust for the benefit of—
  - (a) the owner’s descendants; or
  - (b) if the owner has no descendants, the descendants of any siblings of the owner; or
  - (c) if the owner has no descendants and there are no descendants of any siblings of the owner, the descendants of siblings of the owner’s parents, but only if both the parent and the sibling are associated with the land in accordance with tikanga Māori.
- (2) The declaration must—
  - (a) state that the trust to be established is a whānau trust (with the name specified); and
  - (b) state the purposes of the trust (as specified in **section 52(2)**); and
  - (c) identify the beneficial interest to be held as trust property (as the interest is described in the Māori land register); and
  - (d) state whether the beneficial interest may be disposed of by the trust and, if so, any conditions or restrictions on its disposal; and
  - (e) state any other conditions or restrictions in relation to the manner in which the trustees may deal with the beneficial interest; and
  - (f) state whether the class of descendant beneficiaries includes—
    - (i) whāngai of the owner; or
    - (ii) whāngai of the owner’s children; or
    - (iii) whāngai of any other descendants of the owner; or
    - (iv) if applicable, whāngai of descendants of siblings of the owner or owner’s parents; and
  - (g) name each proposed trustee; and
  - (h) provide a power of appointment for further or replacement trustees.
- (3) A whānau trust established in accordance with this section may provide for other property, including other land, to be trust property, in which case the declaration must include any information relating to the other property that is necessary for the trustees to administer the trust in relation to that property in accordance with the owner’s wishes.

**55 Effect of establishing whānau trust**

- (1) On the date on which a whānau trust takes effect, all trust property is vested in the trustees.

- (2) However, the trustees must deal with land or an interest in land in accordance with any conditions or restrictions set out in the declaration of trust (for example, if a declaration of trust prohibits the sale of an interest, the trustees must vote, in any decision-making process of the owners of the land, against the resolution to sell the land).
- (3) If a whānau trust holds any interest in Māori freehold land that is managed under a governance agreement, any amount payable by the governance body to the owners of the land by way of distribution (*see* **section 204**) must be paid to the trustees.
- (4) **Subsection (3)** does not prevent a governance body from paying an amount by way of a grant (*see* **section 204**) directly to 1 or more beneficiaries of a whānau trust.

#### **56 Trustees of whānau trusts**

- (1) Any legal person may be appointed as the trustee of a whānau trust.
- (2) However, if an individual is appointed, he or she—
  - (a) must be 18 years of age or more; and
  - (b) must not be subject to any of the disqualifications set out in **section 214(3)**.
- (3) A trustee of a whānau trust must—
  - (a) administer the trust property—
    - (i) in a manner that furthers the purposes of the trust (as specified in **section 52(2)**); and
    - (ii) in accordance with the declaration of trust; and
  - (b) at all times keep beneficiaries informed about the affairs of the trust and any matters affecting the trust property; and
  - (c) comply with any other function or duty under any enactment or rule of law that applies to a trustee.

#### **57 Termination of whānau trust by court order**

- (1) The trustees of a whānau trust may apply to the court for an order terminating the trust.
- (2) The court may make the order if satisfied that—
  - (a) the following circumstances apply:
    - (i) the trust is not fulfilling the purposes for which it was established (as specified in **section 52(2)**); and
    - (ii) a 75% majority of the beneficiaries who participate in making the decision agree that the trust should be terminated; and
    - (iii) in the court's opinion, termination will not unduly prejudice a beneficiary of the trust; or

- (b) there are no surviving beneficiaries of the trust; or
  - (c) the trust no longer holds an interest in any Māori freehold land.
- (3) When making the order, the court must, after satisfying any liabilities, distribute the beneficial interests in any land and other trust assets as follows:
- (a) if the original owner of the beneficial interest is alive, but there are 1 or more surviving beneficiaries, to the owner:
  - (b) if the original owner of the beneficial interest is dead, to the beneficiaries of the trust—
    - (i) in equal shares; or
    - (ii) as specified in any agreement made between the beneficiaries, but only if the court is satisfied that a 75% majority of the beneficiaries who participate in making the decision agree to the terms of the agreement:
  - (c) if both the original owner and all the beneficiaries of the beneficial interest are dead, to the persons entitled to succeed to the interest under **section 233** as if the owner had died intestate.

#### **58 Responsibilities of trustees if whānau trust terminated**

- (1) Promptly after a whānau trust is terminated, the trustees must deliver to the chief executive any money, books of account, and records held in their capacity as trustees of the terminated trust.
- (2) **Subsection (1)** applies whether the trust is terminated under **section 43 or 57**.

#### **59 Whānau trusts to be entered in Māori land register**

- (1) Promptly after being established, the trustees of a whānau trust must apply to the chief executive to have the whānau trust entered in the Māori land register.
- (2) An application must include—
  - (a) a copy of the declaration that established the trust (and, if established by will, a copy of the person’s death certificate and any instrument granting administration of the estate); and
  - (b) a declaration from each trustee, made in accordance with the Oaths and Declarations Act 1957, confirming that he or she satisfies the eligibility requirements in **section 56** and has agreed to be appointed as a trustee; and
  - (c) the address and contact details of each trustee.
- (3) The chief executive must enter the name of the trust on the Māori land register if he or she is satisfied that—
  - (a) the declaration establishing the trust satisfies the requirements in **section 52**; and

- (b) each trustee satisfies the eligibility requirements in **section 56**.
- (4) If the chief executive is not satisfied of the matters set out in **subsection (3)**, he or she must give the trustees an opportunity to provide further particulars in support of the application before making any final decision to refuse to enter the trust on the register.
- (5) If registration is refused, the trustees of the trust may apply to the court for a review of the decision.

#### **60 Entitlements of beneficiaries of whānau trusts**

- (1) The beneficiary of a whānau trust, or a trustee of the trust on behalf of the beneficiary, may apply to the chief executive to have the beneficiary's details recorded in the Māori land register—
  - (a) in relation to the entry for the whānau trust; and
  - (b) in relation to the entry for the parcel of Maori land that the trustees own or hold an individual freehold interest in (as trust property).
- (2) The chief executive must record the beneficiary's details, if satisfied that the person is a beneficiary of the trust.
- (3) A beneficiary of a whānau trust is entitled—
  - (a) to attend and speak at meetings of owners of the Māori land that the trustees own or hold an individual freehold interest in (as trust property), as if the beneficiary were an owner of the land; and
  - (b) if a decision of the owners of the land is required and the vote is one based on a simple majority of participating owners where votes have equal weight, to vote at a meeting of the owners as if the beneficiary were an owner.
- (4) A beneficiary is entitled to directly receive grants that may be made from income derived from the land in relation to which the trustees are owners of an individual freehold interest as if the beneficiary were an owner of the individual interest.
- (5) To avoid doubt, the entitlement in **subsection (4)** is in addition to any entitlement to receive grants that were first made to the trustees, as owners of the individual freehold interest.

#### **61 Jurisdiction of court**

- (1) The court has jurisdiction to inquire into and determine—
  - (a) whether a whānau trust has been established in accordance with this Act; and
  - (b) whether a person is a beneficiary of a whānau trust; and
  - (c) any question or dispute in relation to the administration of a whānau trust; and

- (d) any question or dispute in relation to the appointment, replacement, or removal of trustees.
- (2) The court may, on application by a trustee or a beneficiary, amend the terms of the declaration of a whānau trust, including by adding, removing, or varying any conditions or restrictions in the declaration relating to the disposal or other dealings with the trust property that is an interest in Māori freehold land.
- (3) Without limiting **subsections (1) and (2)**, the court has and may exercise, in relation to whānau trusts, all the same powers and authorities as the High Court has and may exercise under the Trustee Act 1956 in respect of trusts generally.
- (4) The court—
  - (a) must exercise those powers and authorities consistently with this Act; and
  - (b) must not make a determination, amend the terms of the declaration of a whānau trust, or exercise powers and authorities under this section unless it is satisfied that it will assist the administration of the trust to do so.
- (5) **Subsection (3)** does not limit or affect the jurisdiction of the High Court.

## **62 Court may validate actions of trustees**

- (1) The court may, on application, in writing, validate an action of the trustees of a whānau trust if there is doubt as to whether the action was lawful or the trust was established in accordance with this Act.
- (2) An application may be made by—
  - (a) the chief executive; or
  - (b) a trustee; or
  - (c) a beneficiary of the trust.
- (3) The court must not validate any action taken in bad faith.

### *Kaiwhakamarumarū for owners needing protection*

## **63 Appointment of kaiwhakamarumarū for owner needing protection**

- (1) The court may by order, on application, appoint a kaiwhakamarumarū to act as manager of any of the following property of a person who is an owner needing protection:
  - (a) a beneficial interest in the freehold estate in Māori freehold land;
  - (b) private land other than Māori freehold land in which the person has a beneficial interest;
  - (c) personal property, but only if the person also owns property described in **paragraph (a) or (b)**, or both.
- (2) However, the court must not make an order in respect of—



- 
- (a) any property of the person that is subject to a property order under the Protection of Personal and Property Rights Act 1988;
  - (b) any private land described in **subsection (1)(b)** unless the person is Māori.
- (3) In deciding whether to make an order in relation to an owner needing protection who is not a minor, the court must have regard to—
- (a) the extent to which appointing a kaiwhakamarumarū would best protect and promote the interests of the person; and
  - (b) the fact that the manner in which the person is managing or intending to manage his or her property is not how a person of ordinary prudence would manage the property given the same circumstances is not in itself sufficient reason to appoint a kaiwhakamarumarū for the person’s property; and
  - (c) the extent to which the person is subject, or is likely to be subject, to undue influence in managing his or her property.
- (4) The order appointing a kaiwhakamarumarū must—
- (a) name the person who is the owner needing protection; and
  - (b) if the person is a minor, state his or her birth date; and
  - (c) name the kaiwhakamarumarū appointed (whether or not the appointee is a person proposed in the application); and
  - (d) state the contact details of the kaiwhakamarumarū; and
  - (e) state the date on which the appointment takes effect; and
  - (f) state the date on which the appointment ceases (taking into account **section 67**); and
  - (g) specify the property that the kaiwhakamarumarū is to manage (by reference to the Māori land register for any Māori land); and
  - (h) specify any conditions or restrictions on the powers of the kaiwhakamarumarū to manage the property; and
  - (i) specify any other matters that the court thinks necessary for the appointment to operate effectively.

#### **64 Who may apply for kaiwhakamarumarū order**

Any of the following people may apply for an order of the court under **section 63**:

- (a) a person who is an owner needing protection himself or herself;
- (b) immediate family of an owner needing protection;
- (c) the holder of a power of attorney granted by an owner needing protection:

- (d) a person employed by the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989 as a social worker:
- (e) a doctor (being a health practitioner who is registered with the Medical Council of New Zealand as a practitioner of the profession of medicine):
- (f) the Māori Trustee, the Public Trust, or a trustee company within the meaning of the Trustee Companies Act 1967:
- (g) a representative of any group that is providing services and facilities for the welfare of an owner needing protection (other than for commercial gain):
- (h) if the application is made in respect of an owner needing protection who is a patient or a resident in any place that provides hospital care, rest home care, or residential disability care within the meaning of the Health and Disability Services (Safety) Act 2001, the principal manager of that place:
- (i) if a welfare guardian (within the meaning of section 2 of the Protection of Personal and Property Rights Act 1988) has been appointed for an owner needing protection, that welfare guardian:
- (j) any other person, with leave of the court.

**65 Court may appoint lawyer to represent person if kaiwhakamarumaruru application made in relation to property**

- (1) If a person applies for an order of the court under **section 63**, the court may appoint a lawyer to represent the person whose property is the subject of the application.
- (2) If appointed, a lawyer must—
  - (a) contact the person and, as far as is practicable,—
    - (i) explain the nature and purpose of the application to the court; and
    - (ii) ascertain and give effect to the person’s wishes in respect of the application; and
  - (b) evaluate solutions for the problem that formed the basis of the application, taking into account the need to find a solution that—
    - (i) makes the least restrictive intervention possible in the life of the person, having regard to the person’s degree of incapacity or incompetence; and
    - (ii) enables or encourages the person to develop and exercise such capacity or competence in managing his or her property that he or she may have to the greatest extent possible.

- (3) A lawyer appointed under this section may, in any proceedings relating to the application, call any person as a witness and cross-examine witnesses called by any party, including the court.
- (4) A lawyer appointed under this section is entitled to be paid a fee and reimbursed for expenses incurred for providing his or her services from the Māori Land Court Special Aid Fund established under **section 413**.

#### **66 Who may be appointed as kaiwhakamarumarū**

- (1) The court may appoint any legal person as a kaiwhakamarumarū.
- (2) However, if an individual is appointed, he or she—
  - (a) must be 18 years of age or more; and
  - (b) must not be subject to any of the disqualifications set out in **section 214(3)**.
- (3) If the Public Trust is appointed as a kaiwhakamarumarū, the Public Trust Act 2001 applies,—
  - (a) so far as applicable, and with any necessary modifications, to the management of the property to which the kaiwhakamarumarū order relates; but
  - (b) subject to the order and this Act.
- (4) If the Māori Trustee is appointed as a kaiwhakamarumarū, the Māori Trustee Act 1953 applies,—
  - (a) so far as applicable, and with any necessary modifications, to the management of the property to which the kaiwhakamarumarū order relates; but
  - (b) subject to the order and this Act.
- (5) The expenses incurred by a kaiwhakamarumarū in performing or exercising the functions and powers of the office are charged against and payable from the property that the kaiwhakamarumarū is appointed to manage.
- (6) However, any amount payable must not be charged against any interest in Māori freehold land, although the income from the land may be used to satisfy the debt.
- (7) A kaiwhakamarumarū is not otherwise entitled to be remunerated unless the court directs in the order appointing the kaiwhakamarumarū or by a subsequent order or direction of the court.

#### **67 Termination of kaiwhakamarumarū appointment**

- (1) A person ceases to hold office as kaiwhakamarumarū on the date specified in the order of appointment, unless the rest of this section provides otherwise.
- (2) If the owner dies, the appointment terminates on the day of the owner's death.

- (3) If the kaiwhakamarumarū is appointed to manage the property of a person under 18 years of age, the appointment terminates on the date of the person's 18th birthday, unless the appointment was made on the grounds that the person also lacked capacity or competence to manage his or her affairs.
- (4) Promptly after a person's appointment as kaiwhakamarumarū is terminated, the person must deliver to the chief executive any money, books of account, and records held by the person in the person's capacity as kaiwhakamarumarū.

#### **68 Functions and duties of kaiwhakamarumarū**

- (1) A kaiwhakamarumarū has the functions and powers set out in the order appointing the kaiwhakamarumarū.
- (2) A kaiwhakamarumarū may apply to the court for directions relating to the performance or exercise of the functions and powers.
- (3) A kaiwhakamarumarū must—
  - (a) manage the property concerned in accordance with the order; and
  - (b) as far as practicable, consult the owner, and keep the owner informed, about the property being managed under the order; and
  - (c) as far as practicable, consult any other person that, in the opinion of the kaiwhakamarumarū, is interested in the welfare of the owner and competent to advise the kaiwhakamarumarū in relation to the management of the owner's property.
- (4) No action lies against a kaiwhakamarumarū in respect of anything done or omitted to be done by the kaiwhakamarumarū in the exercise of the powers conferred on the kaiwhakamarumarū by the order or under this Act, unless it is shown that the kaiwhakamarumarū acted in bad faith or without reasonable care.
- (5) Subject to **subsection (6)**, a kaiwhakamarumarū is protected from civil liability, however it may arise, for any act that the kaiwhakamarumarū does or omits to do in fulfilment or intended fulfilment of the purpose for which the kaiwhakamarumarū is appointed, unless—
  - (a) the terms of the order appointing the kaiwhakamarumarū provide otherwise; or
  - (b) the act or omission is done in bad faith or without reasonable care.
- (6) A kaiwhakamarumarū is personally liable for any contract or arrangement entered into with, or liability incurred to, any person if the kaiwhakamarumarū does not, before entering into the contract or arrangement or incurring the liability, disclose to that person that the kaiwhakamarumarū is acting in that capacity.

**69 Consequences of appointing kaiwhakamarumarū**

- (1) Land and other property (including any income derived from the property) of an owner needing protection does not vest in a kaiwhakamarumarū appointed to manage the property.
- (2) However, the kaiwhakamarumarū is entitled to deal with the property in any manner necessary to carry out the terms of the order appointing the kaiwhakamarumarū and, for that purpose,—
  - (a) the kaiwhakamarumarū must be treated as the owner of the beneficial interest in the land that is subject to the order; and
  - (b) every decision or action of the kaiwhakamarumarū has the same effect as if it were made or done by the owner and the owner had full capacity to make the decision or take the action; and
  - (c) no person dealing with the kaiwhakamarumarū is required to seek or gain the consent of the owner or any other person in relation to the dealing; and
  - (d) no dealing is affected by the owner or any other person not consenting to the dealing.
- (3) While the order remains in force, the owner is not capable of exercising any powers he or she may have in respect of the property to which the order relates, other than by will and only then if the person has testamentary capacity.

**70 Circumstances in which court may appoint, replace, or remove kaiwhakamarumarū**

- (1) The court may amend an order appointing a kaiwhakamarumarū or revoke and replace an order for the purpose of—
  - (a) appointing 1 or more additional kaiwhakamarumarū, if the court is satisfied it is in the interests of the owner needing protection concerned to do so;
  - (b) replacing a kaiwhakamarumarū, if the court is satisfied a vacancy exists.
- (2) The court may make an order disqualifying a person from being appointed, or continuing in an appointment, as a kaiwhakamarumarū if the court is satisfied that—
  - (a) the person was appointed, or continued in an appointment, as a kaiwhakamarumarū while not eligible under **section 214** to hold that position; or
  - (b) the person has, while a kaiwhakamarumarū and whether convicted or not,—
    - (i) persistently failed to comply with a duty arising under any enactment, rule of law, rules of court, or court order (to the extent that the duty relates to the role of the kaiwhakamarumarū under this Act); or

- (ii) been guilty of fraud in relation to property the kaiwhakamarumarū is managing or in breach of a duty owed to the owner of the property; or
  - (iii) acted in a reckless or incompetent manner in the performance of the person's duties as a kaiwhakamarumarū.
- (3) The court may make an order —
  - (a) on the court's own motion; or
  - (b) on the application of a person described in any of **paragraphs (a) to (j) of section 64**.

### **71 Reporting requirements for kaiwhakamarumarū**

- (1) A kaiwhakamarumarū must report to the Registrar, in accordance with this section, on the performance and exercise of the functions and powers of the kaiwhakamarumarū.
- (2) A kaiwhakamarumarū must provide the Registrar with a report—
  - (a) for the 12-month period starting on the day on which the appointment takes effect; and
  - (b) for each subsequent 12-month period that the term of appointment continues (or portion of the period if the appointment terminates before the 12-month anniversary date).
- (3) Each report must be filed within 30 days of the end of the reporting period.
- (4) **Subsections (2) and (3)** apply subject to the order appointing the kaiwhakamarumarū, or any other court order, requiring the kaiwhakamarumarū to file reports at more frequent intervals.
- (5) Each report must contain the following information for the reporting period to which the report relates:
  - (a) details of any transactions affecting the land or other property managed by the kaiwhakamarumarū;
  - (b) details of any income derived from the land or other property;
  - (c) details of any payments to or on behalf of the owner;
  - (d) details of any payments to or on behalf of the spouse, civil union partner, de facto partner, or child of the owner;
  - (e) details of any disbursements made.
- (6) If the Registrar considers that a report deserves inquiry, the Registrar must refer it to the court and the court may initiate a review under **section 75**.
- (7) If a kaiwhakamarumarū fails to provide a report (whether by the due date or at all), the Registrar must inform the court and the court may do either or both of the following:

- (a) make an order directing the kaiwhakamarumarū to remedy the default within the time specified in the order; or
- (b) initiate a review under **section 75**.

## **72 Inspection of kaiwhakamarumarū reports**

- (1) Any person may, by leave of the Registrar or the court, inspect or make a copy of the whole or any part of a report provided under **section 71**.
- (2) The Registrar or court may grant leave subject to any part of the report being removed or concealed.

## **73 Recording of order appointing kaiwhakamarumarū**

- (1) The Chief Registrar of the Māori Land Court must send the chief executive a sealed copy of each order of the court appointing a kaiwhakamarumarū, as required by **section 247**.
- (2) Promptly after receiving a copy of an order, the chief executive must add a notation to the relevant entries in the Māori land register stating that an order has been made under **section 63** and the name and contact details of the kaiwhakamarumarū appointed.

## **74 Kaiwhakamarumarū orders may be registered**

- (1) A kaiwhakamarumarū order may be registered under the Deeds Registration Act 1908 as an instrument affecting the title to any land in which the person to whom the order relates has any estate or interest, whether legal or equitable.
- (2) A kaiwhakamarumarū order is deemed to be an instrument purporting to affect land under the Land Transfer Act 1952, and a memorial of the instrument may be entered on the computer register of any land in respect of which the person to whom the order relates is the registered proprietor of any estate or interest.

## **75 Review by court of appointment of kaiwhakamarumarū**

- (1) The court must periodically review each order appointing a kaiwhakamarumarū to satisfy itself that the appointment is still necessary and, if so, whether any changes to the order should be made.
- (2) The court may also, at any other time, review an order appointing a kaiwhakamarumarū if—
  - (a) the kaiwhakamarumarū requests the court to do so because—
    - (i) a change in circumstances means that the order is no longer necessary or needs to be varied; or
    - (ii) the kaiwhakamarumarū requires directions from the court in relation to the appointment; or
  - (b) a report of the kaiwhakamarumarū has been referred to the court by the Registrar under **section 71(6)**; or

- (c) the kaiwhakamarumarū has failed to provide a report to the Registrar and, in accordance with **section 71(7)**, the court has decided to initiate a review.
- (3) For the purposes of **subsection (1)**, a kaiwhakamarumarū must apply to the court for a review of the kaiwhakamarumarū appointment at 5-yearly intervals or at shorter intervals if specified by the court—
  - (a) in the order that established the trust; or
  - (b) at any later time.
- (4) When conducting a review, the court may require a kaiwhakamarumarū to—
  - (a) provide explanations to the court; and
  - (b) produce relevant documents, including accounts.
- (5) Having conducted a review, the court may make an order—
  - (a) issuing directions to the kaiwhakamarumarū; or
  - (b) varying the terms of the original appointment order in any manner it thinks fit; or
  - (c) terminating the appointment.

## Part 4

### Dispositions of Māori freehold land and other land

#### 76 Meaning of preferred recipient and preferred entity

- (1) In this Act, **preferred recipient**, in relation to an owner of Māori freehold land,—
  - (a) means any 1 or more of the following persons who are associated with the land in accordance with tikanga Māori:
    - (i) children, grandchildren, and other descendants of the owner;
    - (ii) other immediate family of the owner;
    - (iii) other owners of the land;
    - (iv) former owners of the land;
    - (v) descendants of any former owner of the land; and
  - (b) includes the trustees of a whānau trust or other trust (other than a governance body) that holds the land for a person referred to in any of **paragraph (a)(i) to (v)**, but only in his or her capacity as trustee.
- (2) In this Part, **preferred entity**, in relation to Māori freehold land (the **land for disposition**), means—
  - (a) a rangatōpū that manages under a governance agreement other Māori freehold land that has 1 or more owners who are preferred recipients of the land for disposition:



- (b) a representative entity for the land for disposition.

### 77 Disposition of land made by owner or governance body

- (1) A disposition of all or part of a parcel of Māori freehold land may be made only by—
  - (a) the owners of the land, unless a governance body is appointed to manage the land; or
  - (b) the governance body.
- (2) A disposition of an individual freehold interest in Māori freehold land (separately from the other individual freehold interests in the land) may be made only by the owner of the interest.
- (3) However, this section does not prevent—
  - (a) an administrative kaiwhakarite from disposing of land on behalf of the owners if permitted under his or her appointment;
  - (b) the administrator or executor of a deceased person’s estate from disposing of land or an individual freehold interest in the estate;
  - (c) a mortgagee from selling land under a power expressed or implied in a mortgage.

### 78 Overview of governance body’s agreement to disposition

- (1) This section is an overview of what a governance body must do to agree to a disposition of Māori freehold land (under a provision of this Part that requires the governance body’s agreement).
- (2) The governance body must agree to the disposition in accordance with its governance agreement (*see* **section x**).
- (3) A governance agreement, depending on the type of disposition,—
  - (a) generally requires the governance body to obtain the agreement of a certain majority of the owners of the land (*see* **clauses 5 to 9 of Schedule 3**):
  - (b) may apply the default decision-making process in **Schedule 2**, which—
    - (i) first requires a notice of proposal about the disposition; and
    - (ii) may impose additional requirements for certain dispositions (for example, a notice of proposal to sell the land must include an independent valuation and the minimum sale price and other terms of sale); and
    - (iii) provides for a meeting of owners to vote on the proposal.

*Sale, gift, exchange, etc, of parcel of Māori freehold land*

### 79 Sale of parcel

- (1) A parcel of Māori freehold land may be sold, but only in accordance with—

- (a) **section 80**; or
  - (b) **section 83** (where a governance body has no reasonable prospect of obtaining the required level of owner agreement); or
  - (c) a power expressed or implied in a mortgage; or
  - (d) a right to buy the land in a lease executed before 8 November 1974 (being the date of commencement of Part 7 of the Maori Affairs Amendment Act 1974).
- (2) However, a parcel cannot be sold if it is owned by—
- (a) a class of collective owners; or
  - (b) the trustees of a whānau trust or other trust (other than a governance body).
- (3) To avoid doubt, a parcel of Māori freehold land (or the part of Māori freehold land comprising its fixtures, such as buildings, other permanent structures, plants, and trees) does not change status merely because it is sold, including under a power in a mortgage.

#### **80 Sale of parcel in ordinary cases**

- (1) This section specifies the only way in which a parcel of Māori freehold land may ordinarily be sold (without obtaining an order under **section 83** or relying on a mortgagee's power of sale or a right to buy in certain historical leases).
- (2) The sale must be—
- (a) to a preferred recipient in relation to the land, under an agreement negotiated with the recipient; or
  - (b) to a preferred recipient or preferred entity in relation to the land, under an agreement formed on acceptance of a qualifying tender under a **preferential tender process** for the land run in accordance with **section 81**; or
  - (c) to any other person, under an agreement—
    - (i) made by tender or auction after a preferential tender process for the land ends without a qualifying tender; and
    - (ii) on terms at least as favourable to the seller as the terms required for a qualifying tender under that preferential tender process.
- (3) If the land is managed under a governance agreement,—
- (a) the decision to offer the land for sale must be agreed to by the governance body, but only after the body complies with **section 84**; and
  - (b) the governance body must negotiate the terms of the sale or, for a preferential tender process, set a minimum sale price and all other terms of the sale.
- (4) If the land is not managed under a governance agreement,—

- 
- (a) the decision to offer the land for sale must be agreed to by a 75% majority of all of the owners of the land; and
  - (b) the owners' decision may set a minimum sale price or any other terms of the sale; and
  - (c) the following person must negotiate all other terms of the sale or, for a preferential tender process, set all other terms of the sale (including a minimum sale price if not set by the owners' decision):
    - (i) an administrative kaiwhakarite appointed to negotiate or set the terms; or
    - (ii) one or more of the owners if all of the owners agree in writing to them negotiating or setting the terms.
- (5) The sale must—
- (a) be conditional on the court making an order of confirmation that it complies with the requirements of this Act; and
  - (b) otherwise be agreed to unconditionally within 9 months after the decision is made to offer the land for sale.
- (6) To avoid doubt, if a decision is made to offer land for sale, and a preferential tender process ends without a qualifying tender, the land may be sold to any other person under **subsection (2)(c)** within the 9-month period referred to in **subsection (5)(b)** without requiring a new decision to offer the land for sale.

### **81 Preferential tender process for sale of parcel**

- (1) A preferential tender process referred to in **section 80** must satisfy **subsections (2) to (6)**.
- (2) The seller must give a written notice that—
  - (a) describes the land for sale and its boundaries; and
  - (b) requests tenders to buy the land only from the preferred recipients and preferred entities in relation to the land.
- (3) The notice must be—
  - (a) sent to every preferred recipient whose address for notices is known to the seller; and
  - (b) published in print at least 3 times, with at least 1 week between each publication,—
    - (i) in a major newspaper in Auckland, Wellington, Christchurch, and Dunedin; and
    - (ii) in a newspaper circulating in the area in which the land is located; and
  - (c) published electronically in a way that is reasonably likely to bring the request for tenders to the attention of the preferred recipients.

- (4) The notice must specify a deadline for receiving tenders that is at least 20 working days after the end of the day on which the notice is last published in print.
- (5) The notice must specify the following as the terms of sale:
  - (a) all the terms of sale set in accordance with **section 80**, but need not disclose the minimum sale price set for the land; and
  - (b) that the agreement for sale is conditional only on the court making an order of confirmation that the sale complies with the requirements of this Act; and
  - (c) that a tender cannot be withdrawn within 5 working days after the deadline for receiving tenders.
- (6) However, any of the terms of sale may instead be specified in a document located at a place or on an Internet site described in the notice.
- (7) A **qualifying tender** is received if—
  - (a) the seller receives by the deadline a written tender from a preferred recipient to buy the land—
    - (i) for at least the minimum sale price set for the land; and
    - (ii) otherwise on the specified terms of sale or on terms more favourable to the seller; or
  - (b) the seller does not receive a qualifying tender from a preferred recipient in accordance with **paragraph (a)** but instead receives by the deadline a written tender from a preferred entity to buy the land on the terms required by **paragraph (a)(i) and (ii)**.

## 82 Exchange of parcel

- (1) A parcel of Māori freehold land may be exchanged for something else, but only in accordance with—
  - (a) this section; or
  - (b) **section 83** (where there is no reasonable prospect of obtaining the required level of owner agreement).
- (2) However, a parcel cannot be exchanged if it is owned by the trustees of a whānau trust or other trust (other than a governance body).
- (3) The land to be exchanged (**land A**) must be—
  - (a) a parcel of Māori freehold land; or
  - (b) 2 or more parcels of Māori freehold land with the same beneficial ownership and the same status as land subject to, or not subject to, Part 2 of the Maori Affairs Restructuring Act 1989.
- (4) Land A must be exchanged for a parcel of either of the following types of land, or 2 or more parcels of the same type and with the same beneficial ownership

and the same status as land subject to, or not subject to, Part 2 of the Maori Affairs Restructuring Act 1989 (**land B**):

- (a) private land other than Māori customary land; or
  - (b) Crown land that is subject to Part 2 of the Maori Affairs Restructuring Act 1989.
- (5) If a parcel of land A, or a parcel of land B that is Māori freehold land, is managed under a governance agreement, the exchange must be agreed to by the governance body that manages the parcel, but only after the body complies with **section 84**.
  - (6) If a parcel of land A, or a parcel of land B that is Māori freehold land, is not managed under a governance agreement, the exchange must be agreed to by a simple majority of all of the owners of the parcel.
  - (7) If a parcel of land B is not Māori freehold land, the exchange must be agreed to as follows:
    - (a) for private land, by the owners of the parcel:
    - (b) for Crown land, by the Minister responsible for the parcel or the registered proprietor of the parcel.
  - (8) The beneficial ownership of land must be exchanged intact. That is, the beneficial ownership of land on each side of the exchange must, after the exchange, match the beneficial ownership, before the exchange, of the land on the other side.
  - (9) The exchange must be conditional on the court making an order of confirmation that the exchange complies with the requirements of this Act.
  - (10) If a parcel of land that resulted from a partition of land under this Act will cease to be Māori freehold land because of **subsection (10)**, the court must not make the order of confirmation without first complying with **section 26(5)**, which applies, together with **sections 26(6) and (7) and 27**, with any necessary modifications.
  - (11) If land is exchanged under this section, the land on each side of the exchange becomes land of the status that was held by the land on the other side of the exchange, whether that status is as land of 1 or both of the following types:
    - (a) Māori freehold land:
    - (b) land subject to Part 2 of the Maori Affairs Restructuring Act 1989.
  - (12) This section does not apply to an exchange to which an order made under **section 83** applies.
- 83 Order declaring that land ceases to be Māori freehold land on sale or exchange by governance body**
- (1) This section applies if a governance body—
    - (a) wants to sell or exchange a parcel of Māori freehold land; and

- (b) has tried but failed to obtain the level of owner agreement required by the governance agreement for the land to be sold or exchanged as Māori freehold land (*see* **clause 7 of Schedule 3**); and
  - (c) is satisfied that there is no reasonable prospect of obtaining the required level of owner agreement.
- (2) The governance body may apply to the court for an order declaring that the parcel of land will cease to be Māori freehold land on the change of ownership from the sale or exchange (as the case may be).
- (3) The court must not make an order under this section unless—
- (a) it is satisfied that the governance body has complied with **section 84** in relation to the sale or exchange; and
  - (b) it has first complied with **section 26(5)**, which applies, together with **sections 26(6) and (7) and 27**,—
    - (i) as if the effects of the provisions apply on the change of ownership from the sale or exchange; and
    - (ii) with any other necessary modifications.
- (4) The order must specify the parcel comprising the land.
- (5) If an order is made, the governance body may sell or exchange the parcel of land without complying with **section 80 or 82** (as the case may be).

**84 Other requirements before governance body offers to sell parcel or exchanges parcel**

- (1) This section imposes requirements on a governance body that manages a parcel of Māori freehold land before the governance body—
- (a) agrees to offer to sell the parcel under **section 80**; or
  - (b) agrees to exchange the parcel under **section 82**; or
  - (c) offers to sell the parcel, or exchanges the parcel, under **section 83**.
- (2) The governance body must have a land management plan that complies with **section 202** and that—
- (a) authorises the particular offer to sell the parcel under **section 80**; or
  - (b) authorises the particular exchange of the parcel under **section 82**; or
  - (c) is not inconsistent with an offer to sell the parcel, or an exchange of the parcel, under **section 83**.
- (3) The governance body must have—
- (a) identified the land (the **replacement land**) that it will acquire as a result of the exchange, or acquire or improve with the net proceeds from the sale (*see* **section 199**); and
  - (b) prepared an allocation scheme for the interests in the replacement land (*see* **section 201**); and

- (c) obtained a court order under **section 203** changing the status of the replacement land to Māori freehold land (if necessary) and confirming the allocation scheme.

### **85 Gift of parcel**

- (1) A parcel of Māori freehold land may be gifted, but only in accordance with this section.
- (2) A parcel cannot be gifted if—
  - (a) it is owned by a class of collective owners; or
  - (b) it is owned by the trustees of a whānau trust or other trust (other than a governance body); or
  - (c) it is managed under a governance agreement.
- (3) The gift must be agreed to by a 75% majority of all of the owners of the land.
- (4) The gift must be made to a preferred recipient or preferred entity in relation to the land.
- (5) The gift must be conditional on the court making an order of confirmation that the gift complies with the requirements of this Act, unless the gift is by will.

### **86 Transfer of parcel for settlement on trustees**

A governance body that manages a parcel of Māori freehold land must not settle the land on the trustees of a trust (by transfer to the trustees).

### **87 Agreement to certain dispositions of parcels under enactments**

- (1) This section applies to a disposition in relation to all or part of a parcel of Māori freehold land that—
  - (a) may be made or agreed to under an enactment other than this Act; and
  - (b) is not restricted by another provision in this Part.
- (2) The disposition may be made or agreed to, but only in accordance with this section.
- (3) The disposition must be agreed to—
  - (a) by the governance body, if the land is managed under a governance agreement; or
  - (b) by a 75% majority of all of the owners of the land, in any other case.
- (4) The disposition must be conditional on the court making an order of confirmation that it complies with the requirements of this Act.
- (5) This section applies, for example, to the making of an agreement to create an esplanade strip over land under section 235 of the Resource Management Act 1991.

**88 No sale, gift, exchange, or transfer of part of parcel**

- (1) Part of a parcel of Māori freehold land must not be sold, gifted, exchanged, or transferred separately from the rest of the parcel.
- (2) This section does not prevent a boundary adjustment under **section 89** or a partition under **section 93 or 95**.

*Boundary adjustment of parcel of Māori freehold land***89 Boundary adjustment of parcel**

A boundary adjustment may be made to a parcel of Māori freehold land, but only if—

- (a) the boundary adjustment is made with an adjacent parcel of land that is not Māori customary land; and
- (b) the actions required by **section 90** are completed.

**90 Actions required for boundary adjustment**

- (1) This section sets out the actions that must be completed for a boundary adjustment to a parcel of Māori freehold land.
- (2) A survey plan must be prepared that defines the new parcels in compliance with the applicable survey standards.
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of each new parcel so that it matches the beneficial ownership, before the boundary adjustment, of the existing parcel from which the new parcel primarily derives.
- (4) The boundary adjustment, including the survey plan and allocation scheme, must be agreed to as follows:
  - (a) in respect of the parcel of Māori freehold land,—
    - (i) if the parcel is managed under a governance agreement, by the governance body; or
    - (ii) if the parcel is not managed under a governance agreement, and the adjustment changes the area of the parcel by 2% or more, by a simple majority of all of the owners of the parcel; or
    - (iii) if the parcel is not managed under a governance agreement, and the adjustment changes the area of the parcel by less than 2%, by a 75% majority of the owners of the parcel who participate in making the decision; and
  - (b) in respect of the adjacent parcel of land,—
    - (i) for Māori freehold land, in accordance with **paragraph (a)**;
    - (ii) for other private land, by the owners of the land:



- (iii) for Crown land, by the Minister responsible for the land or the registered proprietor of the land.
- (5) The boundary adjustment, including the survey plan and allocation scheme, must also be agreed to by—
  - (a) the grantor of each easement or other interest that benefits an existing parcel; and
  - (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens an existing parcel.
- (6) The boundary adjustment must be conditional on the court making an order of confirmation that the boundary adjustment, including the survey plan and allocation scheme, complies with the requirements of this Act.
- (7) If the boundary adjustment includes land that is not Māori land, that land must be treated as Māori land for the purposes of section 11(2) of the Resource Management Act 1991 (so that section 11(1) of that Act does not apply).
- (8) If any lease, licence, mortgage, easement, or other interest that affects an existing parcel is to be varied because of the boundary adjustment (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the boundary adjustment.

## **91 Effect of boundary adjustment**

- (1) This section applies if a boundary adjustment is made to a parcel of Māori freehold land.
- (2) The land is held as the new parcels defined by the survey plan for the boundary adjustment.
- (3) The beneficial ownership of the new parcels is vested in accordance with the allocation scheme for the boundary adjustment.
- (4) If an existing parcel is managed under a governance agreement immediately before the boundary adjustment,—
  - (a) the new parcel that primarily derives from the existing parcel is instead managed under the governance agreement; and
  - (b) the governance body must comply with **section 200**.
- (5) Any land disposed of on either side of the former boundary becomes land of the status held by the land on the other side, whether that status relates to 1 or both of the following:
  - (a) Māori freehold land;
  - (b) land subject to Part 2 of the Maori Affairs Restructuring Act 1989.
- (6) If, immediately before an existing parcel has its boundary adjusted, any lease, licence, mortgage, easement, or other interest affects—

- (a) all or part of the parcel, the interest continues to apply to the same land in the new parcels; or
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the new parcels.
- (7) However, **subsection (6)** does not prevent the variation of an interest immediately upon the boundary being adjusted.

*Partition of parcel of Māori freehold land*

**92 Partition of parcel**

- (1) An existing parcel of Māori freehold land may be partitioned into 2 or more new parcels, but only if—
- (a) the actions required by **section 93** are completed; or
  - (b) for a mortgagee entitled to sell the existing parcel under a mortgage or other charge, the actions required by **section 95** are completed.
- (2) A parcel of Māori freehold land cannot be partitioned or subdivided in any other way, but its boundary may be adjusted under **section 89**.

**93 Actions required for partition (other than by mortgagee)**

- (1) This section sets out the actions that must be completed in order to partition an existing parcel (other than by a mortgagee).
- (2) A survey plan must be prepared that defines the new parcels in compliance with the applicable survey standards.
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of the new parcels in accordance with **section 94**.
- (4) The partition, including the survey plan and allocation scheme, must be agreed to as follows:
- (a) for land managed under a governance agreement, by the governance body;
  - (b) for other land, by a simple majority of all of the owners of the parcel.
- (5) The partition, including the survey plan and allocation scheme, must also be agreed to by—
- (a) the grantor of each easement or other interest that benefits the existing parcel; and
  - (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens the existing parcel.
- (6) If the existing parcel is managed under a governance agreement, the governance body must have a land management plan that complies with **section 202** and that authorises the particular partition.

- 
- (7) The partition must be conditional on the court making an order of confirmation that—
- (a) the partition, including the survey plan and allocation scheme, complies with the requirements of this Act; and
  - (b) the allocation scheme is approved by the court as being fair and equitable to all owners.
- (8) If any lease, licence, mortgage, easement, or other interest that affects the existing parcel is to be varied because of the partition (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the partition.

**94 Allocation scheme for new parcels on partition (other than by mortgagee)**

- (1) This section sets out the requirements for an allocation scheme for a partition (other than by a mortgagee).
- (2) If the existing parcel is owned by a class of collective owners, the allocation scheme must provide for the new parcels to be owned by that class of collective owners.
- (3) Otherwise, the allocation scheme must provide for each new parcel to be owned in 1 of the following ways:
- (a) by a sole owner:
  - (b) by joint tenants:
  - (c) by tenants in common.
- (4) The allocation scheme must allocate ownership of the new parcels so that, as nearly as practicable, the value of owners' interests in the land overall does not change on partition.
- (5) However, 1 or more owners of land not held by a class of collective owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners' interests.

**95 Actions required for partition by mortgagee**

- (1) This section sets out the actions that must be completed for a mortgagee to partition an existing parcel.
- (2) A survey plan must be prepared that defines the new parcels in compliance with the applicable survey standards.
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of each new parcel so that it matches the beneficial ownership, before the partition, of the existing parcel.
- (4) The partition, including the survey plan and allocation scheme, must be agreed to by—

- (a) the grantor of each easement or other interest that benefits the existing parcel; and
  - (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens the existing parcel.
- (5) The partition must be conditional on the court making an order of confirmation that the partition, including the survey plan and allocation scheme, complies with the requirements of this Act.
- (6) If any lease, licence, mortgage, easement, or other interest that affects the existing parcel is to be varied because of the partition (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the partition.

## 96 Effect of partition

- (1) This section applies if land is partitioned.
- (2) The partitioned land is held as the separate new parcels defined by the survey plan for the partition.
- (3) The beneficial ownership of the new parcels is vested in accordance with the allocation scheme for the partition.
- (4) If the existing parcel is managed under a governance agreement immediately before the partition,—
- (a) the new parcels are instead managed under the governance agreement; and
  - (b) the governance body must comply with **section 200**.
- (5) If, immediately before the existing parcel is partitioned, any lease, licence, mortgage, easement, or other interest affects—
- (a) all or part of the parcel, the interest continues to apply to the same land in the new parcels; or
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the new parcels.
- (6) However, **subsection (5)** does not prevent the variation of an interest immediately upon partition.

### *Amalgamation of parcels of Māori freehold land or other land*

## 97 Amalgamation of parcels

- (1) Two or more existing parcels of land may be amalgamated into 1 new parcel, but only if—
- (a) the existing parcels comply with this section; and
  - (b) the actions required by **section 98** are completed.

- 
- (2) The existing parcels—
    - (a) must be 1 or more existing parcels of Māori freehold land; and
    - (b) may include 1 or more existing parcels of other private land that resulted from a partition under section 296 of Te Ture Whenua Maori Act 1993 or section 440 of the Maori Affairs Act 1953.
  - (3) Each existing parcel must be adjacent to another of the existing parcels.
  - (4) All of the existing parcels—
    - (a) must be owned by 1 or more classes of collective owners or must not be owned by any class of collective owners; and
    - (b) must be managed under the same governance agreement or must not be managed under any governance agreement.
  - (5) See the following provisions for how the owners of Māori freehold land may change the ownership or governance of the land to qualify for amalgamation:
    - (a) **section 42**, for converting land to collective ownership;
    - (b) **sections 164 and 166**, for appointing a governance body to manage additional land;
    - (c) **section 181**, for revoking a governance body's appointment to manage land.

### **98 Actions required for amalgamation**

- (1) This section sets out the actions that must be completed in order to amalgamate existing parcels.
- (2) A survey plan must be prepared that defines the new parcel in compliance with the applicable survey standards.
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of the new parcel in accordance with **section 99**.
- (4) The amalgamation, including the survey plan and allocation scheme, must be agreed to in respect of each existing parcel as follows:
  - (a) for Māori freehold land managed under a governance agreement, by the governance body;
  - (b) for other Māori freehold land, by a simple majority of the owners of the parcel who participate in making the decision;
  - (c) for other private land, by the owners of the parcel.
- (5) The amalgamation, including the survey plan and allocation scheme, must also be agreed to by—
  - (a) the grantor of each easement or other interest that benefits an existing parcel; and
  - (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens an existing parcel.

- (6) If the existing parcels are managed under a governance agreement, the governance body must have a land management plan that complies with **section 202** and that authorises the particular amalgamation.
- (7) The amalgamation must be conditional on the court making an order of confirmation that—
  - (a) the amalgamation, including the survey plan and allocation scheme, complies with the requirements of this Act; and
  - (b) the allocation scheme is approved by the court as being fair and equitable to all owners.
- (8) If any lease, licence, mortgage, easement, or other interest that affects an existing parcel is to be varied because of the amalgamation (for example, to change the area to which it applies or to apportion rights or interests under it), the variation must be made conditional on an order of confirmation being made for the amalgamation.

#### **99 Allocation scheme for new parcel on amalgamation**

- (1) This section sets out the requirements for an allocation scheme for an amalgamation.

##### *Class of collective owners*

- (2) If all existing parcels are owned by a single class of collective owners, the allocation scheme must provide for the new parcel to be owned by that class of collective owners, and the rest of this section does not apply.
- (3) If all existing parcels are owned by a class of collective owners, but there are 2 or more different classes, the allocation scheme must provide for the new parcel to be owned by a class of collective owners defined as the combination of each of those different classes, and the rest of this section does not apply.

##### *No class of collective owners*

- (4) If no existing parcel is owned by a class of collective owners, the allocation scheme must provide for the new parcel to be owned in 1 of the following ways:
  - (a) by a sole owner:
  - (b) by joint tenants:
  - (c) by tenants in common.
- (5) The allocation scheme must allocate ownership of the new parcel so that, as nearly as practicable, the value of owners' interests in the land overall does not change on amalgamation.
- (6) However, 1 or more owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners' interests.

**100 Effect of amalgamation**

- (1) This section applies if land is amalgamated.
- (2) The amalgamated land is held as the single new parcel defined by the survey plan for the amalgamation.
- (3) The beneficial ownership of the new parcel is vested in accordance with the allocation scheme for the amalgamation.
- (4) If the existing parcels are managed under a governance agreement immediately before the amalgamation,—
  - (a) the new parcel is instead managed under the governance agreement; and
  - (b) the governance body must comply with **section 200**.
- (5) Any land that is amalgamated becomes Māori freehold land if it is not already.
- (6) If, immediately before a parcel is amalgamated, any lease, licence, mortgage, easement, or other interest affects—
  - (a) all or part of the parcel, the interest continues to apply to the same land in the new parcel; or
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the new parcel.
- (7) However, **subsection (6)** does not prevent the variation of an interest immediately upon amalgamation.

*Aggregation of parcels of Māori freehold land or other land***101 Aggregation of ownership of parcels**

- (1) The beneficial ownership of 2 or more parcels of land may be aggregated so that each parcel becomes owned by the aggregate of the owners of all the parcels, but only if—
  - (a) the parcels comply with this section; and
  - (b) the actions required by **section 102** are completed.
- (2) The land whose ownership is to be aggregated—
  - (a) must be 1 or more parcels of Māori freehold land; and
  - (b) may include 1 or more parcels of other private land that resulted from a partition under section 296 of Te Ture Whenua Maori Act 1993 or section 440 of the Maori Affairs Act 1953.
- (3) All of the parcels must be owned by 1 or more classes of collective owners or must not be owned by any class of collective owners.
- (4) *See* **section 42** for how the owners of Māori freehold land may convert it to collective ownership to qualify for aggregation of ownership.

**102 Actions required for aggregation of ownership**

- (1) This section sets out the actions that must be completed in order to aggregate ownership of parcels.
- (2) An allocation scheme must be prepared that allocates the beneficial ownership of the parcels in accordance with **section 103**.
- (3) The aggregation, including the allocation scheme, must be agreed to in respect of each parcel as follows:
  - (a) for Māori freehold land managed under a governance agreement, by the governance body:
  - (b) for other Māori freehold land, by a 75% majority of the owners of the parcel who participate in making the decision:
  - (c) for other private land, by the owners of the parcel.
- (4) The aggregation must be conditional on the court making an order of confirmation that—
  - (a) the aggregation, including the allocation scheme, complies with the requirements of this Act; and
  - (b) the allocation scheme is approved by the court as being fair and equitable to all owners.

**103 Allocation scheme for parcels on aggregation of ownership**

- (1) This section sets out the requirements for an allocation scheme for an aggregation of ownership.

*Class of collective owners*

- (2) If all parcels are owned by 1 or more classes of collective owners, the allocation scheme must provide for the parcels to be owned by a class of collective owners defined as the combination of each of those classes, and the rest of this section does not apply.

*No class of collective owners*

- (3) If no parcel is owned by a class of collective owners, the allocation scheme must provide for each parcel to be owned in 1 of the following ways:
  - (a) by joint tenants, but only if each parcel whose ownership is to be aggregated is held by joint tenants:
  - (b) by tenants in common.
- (4) The allocation scheme must allocate ownership of the parcels so that—
  - (a) ownership of all of the parcels is the same; and
  - (b) as nearly as practicable, the value of owners' interests in the land overall does not change on aggregation of ownership.
- (5) However, 1 or more owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners' interests.



**104 Effect of aggregation of ownership**

- (1) This section applies if the beneficial ownership of land is aggregated.
- (2) The beneficial ownership of the parcels is vested in accordance with the allocation scheme for the aggregation.
- (3) Any land whose ownership is aggregated becomes Māori freehold land if it is not already.
- (4) If, immediately before a parcel's ownership is aggregated, any lease, licence, mortgage, easement, or other interest affects—
  - (a) all or part of the parcel, the interest continues to apply to the same land after aggregation; or
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the parcels after aggregation.
- (5) Land cannot cease to be Māori freehold land while its ownership is aggregated with other land.

*Cancellation of aggregation of parcels of Māori freehold land***105 Cancellation of aggregation of ownership of parcels**

- (1) The aggregation of the beneficial ownership of 2 or more parcels of Māori freehold land may be cancelled so that each parcel becomes separately owned, but only if the actions required by this section are completed.
- (2) An allocation scheme must be prepared that allocates the ownership of the parcels in accordance with **section 106**.
- (3) The cancellation, including the allocation scheme, must be agreed to in respect of each parcel by—
  - (a) the governance body, if the parcel is managed under a governance agreement; or
  - (b) a 75% majority of the owners of the parcel who participate in making the decision, in any other case.
- (4) The cancellation must be conditional on the court making an order of confirmation that—
  - (a) the cancellation, including the allocation scheme, complies with the requirements of this Act; and
  - (b) the allocation scheme is approved by the court as being fair and equitable to all owners.

**106 Allocation scheme for parcels on cancellation of aggregation of ownership**

- (1) This section sets out the requirements for an allocation scheme for the cancellation of an aggregation of ownership.

*Class of collective owners*

- (2) If the parcels are owned by a class of collective owners, the allocation scheme must provide for each parcel to be owned by the class of collective owners who owned it immediately before the aggregation, and the rest of this section does not apply.

*No class of collective owners*

- (3) If the parcels are not owned by a class of collective owners, the allocation scheme must provide for each parcel to be owned in 1 of the following ways:
- (a) by a sole owner:
  - (b) by joint tenants:
  - (c) by tenants in common:
- (4) The allocation scheme must allocate ownership of the parcels so that—
- (a) each parcel becomes owned by those who owned it immediately before the aggregation (or by their successors in title); but
  - (b) as nearly as practicable, the value of owners' interests in the land overall does not change on cancellation.
- (5) However, 1 or more owners may agree to allocate their interests on a different basis, as long as it does not affect the allocation of the other owners' interests.

**107 Effect of cancellation of aggregation**

- (1) This section applies if the aggregation of beneficial ownership of land is cancelled.
- (2) The beneficial ownership of the parcels is vested in accordance with the allocation scheme for the cancellation.
- (3) If, immediately before the aggregation of a parcel's ownership is cancelled, any lease, licence, mortgage, easement, or other interest affects—
- (a) all or part of the parcel, the interest continues to apply to the same land after cancellation; or
  - (b) only 1 or more owners' individual freehold interests in the parcel, the interest then applies to those owners' individual freehold interests in the parcels after cancellation.

*Grant of lesser interest over parcel of Māori freehold land***108 Lease of parcel**

- (1) A lease may be granted over all or part of a parcel of Māori freehold land, but only in accordance with this section.
- (2) The lease must be granted for a term of 99 years or less.
- (3) If the lease is granted for a term of 52 years or less and is not subject to **subsection (5)**, the lease must be agreed to by—

- 
- (a) the governance body, if the land is managed under a governance agreement; or
- (b) a simple majority of all of the owners of the land, in any other case.
- (4) If the lease is granted for a term of more than 52 years and is not subject to **subsection (5)**, the lease must be agreed to by—
- (a) the governance body, if the land is managed under a governance agreement; or
- (b) a 75% majority of the owners of the land who participate in making the decision, in any other case.
- (5) If the land is managed under a governance agreement and the lease is granted to the governance body, or to an entity controlled by the governance body, the lease must—
- (a) be expressly permitted by and comply with the governance agreement; and
- (b) be agreed to by the governance body.
- (6) If the land is not managed under a governance agreement and the lease is granted for a term of more than 52 years, the grant of the lease must be conditional on the court making an order of confirmation that the grant complies with the requirements of this Act.
- (7) The lessee's interest under a lease granted to the governance body, or to an entity controlled by the governance body, cannot be assigned or subleased to anyone other than—
- (a) the governance body that holds the land; or
- (b) an entity controlled by the governance body; or
- (c) an assignee on sale under a power in a mortgage of the lessee's interest.
- (8) This section does not otherwise restrict a subgrant (for example, a sublease) under a lease of Māori freehold land.
- (9) This section does not apply to a lease that entitles a person to exclusively use and occupy the whole or any part of a parcel of Māori freehold land for the purpose of occupying an existing house or building or occupying a new house. Instead, the lease may be granted only in accordance with **section 111**.
- (10) In this section,—
- entity controlled by the governance body** means an entity for which the governance body has—
- (a) direct or indirect control of 50% or more of the votes at any meeting of the members or controlling body; or
- (b) the direct or indirect right to appoint 50% or more of the trustees, directors, or managers (however described)

**term** includes any further terms that may be granted under rights of renewal included in a lease.

### **109 Licence or *profit à prendre* over parcel**

- (1) A licence or *profit à prendre* may be granted over all or part of a parcel of Māori freehold land, but only in accordance with this section.
- (2) The licence or *profit à prendre* must be granted for a term of 52 years or less, including any further terms that may be granted under rights of renewal included in the licence or *profit à prendre*.
- (3) The licence or *profit à prendre* must be agreed to by—
  - (a) the governance body, if the land is managed under a governance agreement; or
  - (b) a simple majority of all of the owners of the land, in any other case.
- (4) This section does not restrict a subgrant (for example, a sublicense) under a licence or *profit à prendre* over Māori freehold land.
- (5) This section does not apply to a licence that entitles a person to exclusively use and occupy the whole or any part of a parcel of Māori freehold land for the purpose of occupying an existing house or building or occupying a new house. Instead, the licence may be granted only in accordance with **section 111**.

### **110 Mortgage or charge over parcel**

- (1) A mortgage or other charge may be granted over all or part of a parcel of Māori freehold land, but only in accordance with this section.
- (2) The mortgage or other charge must be agreed to by—
  - (a) the governance body, if the land is managed under a governance agreement; or
  - (b) a 75% majority of all of the owners of the land, in any other case.
- (3) The part of the land comprising its fixtures (such as buildings, other permanent structures, plants, and trees) may be charged separately from the rest of the land.
- (4) This section does not restrict—
  - (a) the grant of a mortgage or other charge over a lesser estate or interest (for example, a leasehold estate); or
  - (b) the creation of a statutory land charge under another Act.

### **111 Occupation lease or licence over parcel**

- (1) An occupation lease or licence may be granted over all or part of a parcel of Māori freehold land, but only in accordance with this section.
- (2) The lease or licence must be granted for—

- (a) 80 years or less (including any further terms that may be granted under any rights of renewal included in the lease or licence); or
- (b) the life of the person to whom it is granted.
- (3) The lease or licence must be agreed to by—
  - (a) the governance body, if the land is managed under a governance agreement; or
  - (b) a 75% majority of the owners of the land who participate in making the decision, in any other case.
- (4) The lease or licence must also be agreed to by—
  - (a) the grantor of each easement or other interest that benefits the land; and
  - (b) the grantee of each lease, licence, mortgage, easement, or other interest that burdens the land.
- (5) The lease or licence must be granted to—
  - (a) an owner of the land;
  - (b) a beneficiary of a whānau trust that has an interest in the land.
- (6) However, the immediate family of the grantee are also entitled to occupy the house to which the lease or licence applies, as long as any condition of the lease or licence about the number of occupants of the house is complied with.
- (7) The lease or licence may be granted with conditions, which must be set out in the lease or licence instrument.
- (8) The grantee of an occupation lease or licence may dispose of the lease or licence by will in accordance with **section 133**. Otherwise, subject to **section 240**, the lease or licence expires on the death of the grantee.
- (9) In this section,—
 

**immediate family** includes any other individual who, at any time during the term of the occupation lease or licence, has legal responsibility for the grantee’s welfare and best interests

**occupation lease or licence** means a lease or licence entitling a person to exclusively use and occupy the whole or any part of a parcel of land for the purpose of—

  - (a) building and occupying a new house; or
  - (b) occupying an existing house.

**112 Variation of lease, licence, *profit à prendre*, mortgage, charge, or occupation lease or licence**

If a lease, licence, *profit à prendre*, mortgage, charge, or occupation lease or licence is varied to apply to additional or different Māori freehold land, the variation—

- (a) is a further grant of such an interest; and

- (b) must therefore comply with the provision in this Part that restricts the granting of the interest.

### **113 Grantee of occupation lease or licence may gift unexpired term**

- (1) The grantee of an occupation lease or licence under **section 111** may gift by will the unexpired term of the lease or licence, but only in accordance with this section.
- (2) The lease or licence must be gifted to the following (the **recipient**):
  - (a) the grantee's spouse, civil union partner, or de facto partner; or
  - (b) a child of the grantee (including a whangai child); or
  - (c) children or grandchildren of the grantee (including whangai children or grandchildren) or both, if the children or grandchildren are minors for whom the grantee is the principal caregiver when the grantee dies.
- (3) However, the following people are also entitled to occupy the house to which the lease or licence applies, as long as any condition of the lease or licence about the number of occupants of the house is complied with:
  - (a) for a recipient under **subsection (2)(a) or (b)**, the immediate family of the recipient; or
  - (b) for recipients under **subsection (2)(c)**,—
    - (i) while any recipient occupying the house is a minor, the principal caregiver of the recipients; or
    - (ii) once no recipient occupying the house is a minor, the immediate family of each recipient.
- (4) A person who succeeds to the unexpired term of an occupation lease or licence is not entitled to dispose of that lease or licence to any other person.

### **114 Easement over parcel**

- (1) The following easements may be granted over all or part of a parcel of land, but only in accordance with this section:
  - (a) an easement over Māori land for the benefit of any land or in gross for the benefit of any person;
  - (b) an easement over land other than Māori land for the benefit of Māori land.
- (2) The easement must be agreed to as follows in respect of the land over which it runs and any land it benefits:
  - (a) for Māori freehold land managed under a governance agreement, by the governance body;
  - (b) for other Māori freehold land, by a simple majority of all of the owners of the land:

- (c) for Māori customary land with an administrative kaiwhakarite appointed for that purpose, by the administrative kaiwhakarite:
  - (d) for other Māori customary land, by the Māori Trustee:
  - (e) for other private land, by the owners of the land:
  - (f) for Crown land, by the Minister responsible for the land or the registered proprietor of the land.
- (3) An easement that runs over, or that benefits, land reserved as a whenua tāpui must also be agreed to by the administering body of the whenua tāpui.
- (4) An easement for a right of way that connects with a State highway or any other road must also be agreed to by—
- (a) the New Zealand Transport Agency and the relevant territorial authority, for connection with a State highway; or
  - (b) the relevant territorial authority, for connection with any other road.
- (5) Section 348 of the Local Government Act 1974 does not apply to an easement for a right of way created under this section for the benefit of Māori land.
- (6) The easement must be conditional on the court making an order of confirmation that the easement complies with the requirements of this Act.
- (7) This section does not apply to—
- (a) an easement required by an order made by virtue of **section 281**; or
  - (b) an easement that may be granted under section 65 of the Maori Affairs Restructuring Act 1989.

### **115 Cancellation or variation of easement**

- (1) The following easements over all or part of a parcel of land may be cancelled or varied, but only in accordance with this section:
- (a) an easement over Māori land for the benefit of any land or in gross for the benefit of any person:
  - (b) an easement over land other than Māori land for the benefit of Māori land:
  - (c) any other easement that would have satisfied **paragraph (a) or (b)** when it was created but that no longer does because of changes in the status of land.
- (2) Cancellation or variation of the easement must be agreed to as follows in respect of the land over which it runs and any land it benefits:
- (a) for Māori freehold land managed under a governance agreement, by the governance body:
  - (b) for other Māori freehold land, by a simple majority of all of the owners of the land:

- (c) for Māori customary land with an administrative kaiwhakarite appointed for that purpose, by the administrative kaiwhakarite:
  - (d) for other Māori customary land, by the Māori Trustee:
  - (e) for other private land, by the owners of the land:
  - (f) for Crown land, by the Minister responsible for the land or the registered proprietor of the land.
- (3) Cancellation or variation of an easement that runs over, or that benefits, land reserved as a whenua tāpui must also be agreed to by the administering body of the whenua tāpui.
  - (4) An easement for a right of way must not be cancelled or varied if it would cause the land that benefits from the easement to become landlocked land (as defined by **section 281**).
  - (5) The cancellation or variation must be conditional on the court making an order of confirmation that the cancellation or variation complies with the requirements of this Act.

#### **116 Kawenata tiaki whenua over parcel**

- (1) A kawenata tiaki whenua may be created over all or part of a parcel of Māori freehold land, or other land, managed under a governance agreement (the **affected area**), but only in accordance with this section.
- (2) The kawenata tiaki whenua must be agreed to by the governance body that manages the land.
- (3) The kawenata tiaki whenua must state that its purpose is for the affected area to be managed so as to preserve and protect—
  - (a) a place of cultural or historical interest; or
  - (b) a place of special significance according to tikanga Māori.
- (4) The kawenata tiaki whenua must state that it lasts forever or for a specified term.
- (5) The kawenata tiaki whenua may include any conditions on the use of the affected area that—
  - (a) further the purpose of the kawenata tiaki whenua; or
  - (b) enable the governance body to manage the affected area alongside activities on land adjacent to the affected area, but only if the conditions are not inconsistent with the purpose of the kawenata tiaki whenua.
- (6) If the affected area is only part of the land held in a computer freehold register,—
  - (a) the affected area must be defined on a survey plan made in compliance with the applicable survey standards; or
  - (b) the kawenata tiaki whenua must be supported by a certificate from the Surveyor-General that the affected area is adequately described or de-



fined for the nature of the kawenata tiaki whenua and in relation to existing surveys made in compliance with the applicable survey standards.

### **117 Cancellation or variation of kawenata tiaki whenua**

- (1) A kawenata tiaki whenua over all or part of a parcel of land may be cancelled or varied, but only in accordance with this section.
- (2) Cancellation or variation of the kawenata tiaki whenua must be agreed to by the governance body that manages the land.

### **118 Effect and notation of kawenata tiaki whenua**

- (1) A kawenata tiaki whenua created under **section 116**—
  - (a) runs with and binds the land comprising the affected area; and
  - (b) is an interest in land for the purposes of the Land Transfer Act 1952.
- (2) The governance body that manages the land must lodge with the Registrar-General the instrument that creates, varies, or cancels a kawenata tiaki whenua.
- (3) On receiving the instrument, the Registrar-General must,—
  - (a) for the creation or variation of a kawenata tiaki whenua, record a notation of the kawenata tiaki whenua or variation on the computer freehold register for the land; or
  - (b) for the cancellation of a kawenata tiaki whenua, remove any notation of the kawenata tiaki whenua from the computer freehold register for the land.

### *Sale, gift, exchange, and mortgage of individual freehold interest in Māori freehold land*

### **119 Disposition of individual freehold interest**

- (1) An individual freehold interest in any Māori freehold land may be disposed of separately from the other individual freehold interests in the land, but only if permitted by and in accordance with this section.
- (2) The individual freehold interest may be—
  - (a) sold or gifted to—
    - (i) a preferred recipient in relation to the land; or
    - (ii) a rangatōpū that manages the land under a governance agreement:
  - (b) exchanged for something else, but only in accordance with **section 120**:
  - (c) mortgaged or charged.
- (3) If the beneficial ownership of 2 or more parcels of land is aggregated, an individual freehold interest in a parcel may be disposed of under **subsection (2)**

only together with individual freehold interests that comprise equal shares of the other parcels.

- (4) To avoid doubt, the sales or gifts to which this section applies include—
- (a) a sale or gift by the owner of the individual freehold interest; or
  - (b) a sale under a power expressed or implied in a mortgage; or
  - (c) a gift by will or a sale under a power given by will.

### **120 Exchange of individual freehold interest**

- (1) An individual freehold interest (**interest A**) in any Māori freehold land (**land A**) may be exchanged by its owner for something else, but only in accordance with this section.
- (2) Interest A must be exchanged for an individual freehold interest (**interest B**) in any private land other than Māori customary land (**land B**).
- (3) The owner of interest B must be a preferred recipient in relation to land A.
- (4) If land B is Māori freehold land, the owner of interest A must be a preferred recipient in relation to land B.
- (5) The exchange must be agreed to by the owner of each interest.
- (6) To avoid doubt, if interests are exchanged under this section, land A and land B do not become land of a different status.

### *General provisions about dispositions*

### **121 Dispositions made by instruments**

- (1) A disposition that may be registered under the Land Transfer Act 1952 must be made using the instrument required by that Act and its regulations.
- (2) A transfer of only beneficial ownership must be made using the same instrument required for a transfer of legal title under the Land Transfer Act 1952 and its regulations, even though the transfer instrument is merely recorded on the Māori land register and is not registered under that Act.
- (3) Any other disposition for which an instrument has been prescribed by regulations made under this Act must be made using that instrument.

### **122 Dispositions of Māori freehold land have effect when recorded or registered**

- (1) A disposition of Māori freehold land does not have effect until it is recorded in the Māori land register, whether the disposition is of all or part of a parcel or of an individual freehold interest.
- (2) However, a disposition that may be registered under the Land Transfer Act 1952—
  - (a) does not have effect for the purposes of legal title until it is registered under that Act; but

- (b) may have earlier effect for the purposes of equitable title once it is recorded in the Māori land register.

### 123 Recording dispositions on Māori land register

- (1) This section provides for the recording on the Māori land register of an instrument executed by the parties to make a disposition of Māori freehold land, whether all or part of a parcel or an individual freehold interest.
- (2) If the disposition requires an order of confirmation that it complies with the requirements of this Act (and of any other matter), the chief executive must record the instrument in the Māori land register on receipt of—
  - (a) the instrument; and
  - (b) a sealed copy of an order of confirmation for the disposition.
- (3) If the disposition does not require an order of confirmation (and whether or not the disposition is restricted by this Act), the chief executive must record the instrument in the Māori land register on receipt of the instrument and either of the following:
  - (a) a statutory declaration by the parties under the Oaths and Declarations Act 1957 that the disposition complies with the requirements of this Act;
  - (b) a sealed copy of an order of confirmation for the disposition.
- (4) Despite **subsection (2) or (3)**, the chief executive need not record the instrument in the Māori land register if he or she considers there is doubt about whether the disposition complies with the requirements of any enactment (including this Act, if there is no order of confirmation for the disposition).
- (5) Instead, the chief executive may record the instrument only after obtaining under **section 126**—
  - (a) satisfactory evidence that the disposition complies; or
  - (b) an order that the disposition complies.
- (6) The chief executive must not finally refuse to record the instrument unless he or she obtains an order that the disposition does not comply.
- (7) To avoid doubt, it does not matter whether the chief executive receives a sealed copy of an order of confirmation from the Registrar (under **section 247**) or from another person.

### 124 Registering dispositions on land title register

- (1) This section provides for registration under the Land Transfer Act 1952 of an instrument executed by the parties to make a disposition of Māori freehold land, whether all or part of a parcel or an individual freehold interest.
- (2) If the disposition requires an order of confirmation that it complies with the requirements of this Act (and of any other matter), the Registrar-General may register the instrument only if a sealed copy of the order of confirmation is registered at the same time or has already been registered.

- (3) If the disposition does not require an order of confirmation, and whether or not the disposition is restricted by this Act, the Registrar-General may register the instrument only if he or she has received a statutory declaration by the parties under the Oaths and Declarations Act 1957 that the disposition complies with the requirements of this Act.
- (4) Instruments prescribed by regulations made under this Act for the following dispositions are additional instruments that are registrable under the Land Transfer Act 1952:
  - (a) a partition:
  - (b) an amalgamation:
  - (c) an aggregation:
  - (d) the cancellation of an aggregation:
  - (e) a boundary adjustment.
- (5) In registering any of those additional instruments, the Registrar-General must record any entries on the register and do anything else necessary to give effect to the instrument.
- (6) To avoid doubt, the registration of any instrument is subject to the provisions of the Land Transfer Act 1952 (for example, section 43 of that Act, which applies if a lodged instrument is not in order for registration, and section 164 of that Act, which requires the correctness of an instrument to be certified).

### **125 Disposition must comply with certain other enactments**

- (1) Any requirements in the following enactments that apply to a disposition restricted by this Act must be satisfied in addition to the requirements in this Act:
  - (a) Part 2 of the Maori Affairs Restructuring Act 1989:
  - (b) Maori Reserved Land Act 1955.
- (2) This section does not exclude any other enactment from also applying to a disposition (for example, the Property Law Act 2007 or the Land Transfer Act 1952).

---

#### **Example**

A parcel of Māori freehold land is subject to Part 2 of the Maori Affairs Restructuring Act 1989. A sale of the land must comply with section 19(5) of that Act (which requires the chief executive's consent to an alienation) in addition to the requirements of **section 80** of this Act.

---

### **126 Evidence and orders about compliance with enactments before instruments recorded**

- (1) The chief executive may request evidence or apply for an order under this section for the purposes of **section 123(5)**.

- (2) The chief executive may request from the parties to a disposition evidence that the disposition complies with the requirements of 1 or more enactments specified by the chief executive.
- (3) The court may, on application by the chief executive, make an order as to whether a disposition complies with the requirements of 1 or more enactments specified in the application.
- (4) The chief executive must not make an application without first requesting evidence of compliance from the parties and including in the application any evidence about compliance provided by the parties.

### **127 Orders about compliance with enactments after instruments recorded**

- (1) The court may, on application, make an order as to whether a disposition whose instrument has been recorded in the Māori land register complied with the requirements of 1 or more enactments specified in the application.
- (2) The application may be made by any person who considers that the disposition did not comply with the requirements of the enactments.
- (3) The application may be made within 3 months after the day on which the instrument was recorded.
- (4) If the court makes an order that the disposition did not comply,—
  - (a) the court may also do anything under **section 339(1) to (4)** as if they applied to the court (not only to the Chief Judge) and to any mistake or omission about compliance; and
  - (b) **sections 342(4) and (5) and 343** apply with any necessary modifications.
- (5) To avoid doubt, if the court made an order of confirmation or other order for the disposition, the person may at any time apply for an order to be made under **section 339** (which relates to erroneous court orders).

### **128 Orders of confirmation for dispositions**

- (1) The court may, on application, make an order of confirmation that a disposition that involves Māori freehold land complies with the requirements of this Act.
- (2) The order may also confirm or include any other matter provided for by another provision of this Act.
- (3) An application may be made by a party to any disposition that involves Māori freehold land (whether or not the disposition requires an order of confirmation under this Act).
- (4) If any land changes status when the disposition takes effect, the order of confirmation must state this.
- (5) The court may make the order of confirmation conditional on the satisfaction of any specified conditions (*see* **section 375**), such as a condition agreed by the parties to the disposition that 1 party pays compensation to another party.

- (6) If any land affected by the disposition is subject to a charge imposed by an order of the court, the court's order of confirmation may vary the charge in any manner it thinks fair and equitable to the owners.

### **129 Determinations about dispositions by court**

- (1) The court may make an order determining any question or dispute about whether a disposition is a disposition of a type to which a particular section of this Part applies.
- (2) The court may make the order—
- (a) on its own initiative in any proceedings; or
  - (b) on application by a party to the disposition.

### **130 Court may make order to restore effect of lost instruments of disposition**

- (1) The court may make an order under this section if it is satisfied that any instrument of disposition of Māori freehold land (whether executed before or after the commencement of this section) has been lost or destroyed.
- (2) The court must be satisfied on proof—
- (a) that the instrument was duly executed by or on behalf of the party disposing of the land; and
  - (b) in the case of an instrument requiring confirmation, that—
    - (i) it was duly confirmed; or
    - (ii) if not duly confirmed, the court or other competent authority made a pronouncement in favour of confirmation.
- (3) The court may, by an order under this section, declare the nature and effect of the instrument to which the order relates.
- (4) The instrument must be taken to have been of the nature, and to have had the effect, declared in the order.
- (5) Instead of or in addition to making an order declaring the nature and effect of the instrument, the court may, on application, make an order vesting land or an interest in land to which the instrument related—
- (a) in any person or persons claiming under the instrument; or
  - (b) in any other person or persons claiming under or through the person or persons specified in **paragraph (a)**.
- (6) Any vesting order made under **subsection (5)** may include any terms that the court thinks necessary to give effect to the terms of the instrument of disposition, despite any interest that affected the land or interest in land immediately before the instrument of disposition took effect.

### **131 Certain matters registrable despite caveat**

- (1) This section applies if—

- 
- (a) a parcel of Māori freehold land is subject to a caveat against dealings under the Land Transfer Act 1952; and
  - (b) the caveat was lodged to protect a person's individual freehold interest in the land, including an equitable interest in the individual freehold interest; and
  - (c) the person is not a registered proprietor of the fee simple estate in the land.
- (2) The caveat does not prevent the Registrar-General from registering—
- (a) any disposition of the parcel that is made in compliance with the requirements of this Act and any other enactment; or
  - (b) any disposition of an individual freehold interest other than the person's individual freehold interest; or
  - (c) a governance body as the registered proprietor of the land; or
  - (d) the beneficial owners of the land as the registered proprietors of the land if it stops being managed under a governance agreement; or
  - (e) a tupuna as the registered proprietor of the land under **section 265**.

**132 Application of Part 3 of Property Law Act 2007 to mortgage of Māori freehold land**

- (1) The provisions of Part 3 of the Property Law Act 2007 (the **PLA**) apply to a mortgage of Māori freehold land as modified by this section and with any other necessary modifications.
- (2) An application under the following provisions of the PLA must be made to, and dealt with by, the Māori Land Court:
  - (a) section 107 (relating to an order directing the sale of mortgaged property):
  - (b) section 137(1)(c) (relating to an order for possession of land or goods):
  - (c) section 170 (relating to an order consenting to a mortgagee's withdrawal from possession):
  - (d) section 171 (relating to an order directing a mortgagee's withdrawal from possession):
  - (e) section 180 (relating to an order conferring a power of sale that treats mines or minerals separately from land).
- (3) The Māori Land Court, but no other court, may discharge the mortgage under sections 109(1), 110, and 111 of the PLA.
- (4) The Māori Trustee, instead of Public Trust, may discharge the mortgage under sections 109(1) and 112 of the PLA.
- (5) Sections 125 and 126 of the PLA do not apply to the mortgage.

- (6) The power of a mortgagee in possession to enter into a lease under section 142 of the PLA, and any lease entered into, are subject to **section 108** of this Act.
- (7) A mortgagee or other person required to prepare a report under section 162 or 163 of the PLA must, under section 165 of the PLA, also send a copy of the report to the following within 5 working days after preparing it:
  - (a) the chief executive; and
  - (b) a Registrar of the Māori Land Court.
- (8) If the Registrar of the High Court executes a transfer instrument under section 196(3) of the PLA, he or she must provide a copy of it to the chief executive.
- (9) Section 205 of the PLA also applies to a governance body to whom mortgaged land is transferred, assigned, or transmitted and limits liability to the extent of the assets held by the body that are available for meeting the obligations under the mortgage.
- (10) Mortgaged land cannot be subdivided under the implied power in clause 14 of Part 1 of Schedule 2 of the PLA unless the land is partitioned in accordance with this Act.

*Gift by will of entitlements arising from ownership*

**133 Gift by will of entitlements arising from ownership**

- (1) A disposition by will of a parcel of Māori freehold land, or an individual freehold interest in Māori freehold land, may be made subject to a gift to the owner's spouse, civil union partner, or de facto partner of the right to receive any income or discretionary grants from the land or interest—
  - (a) for a specified period; or
  - (b) for the life of the spouse or partner.
- (2) The right—
  - (a) entitles the surviving spouse, civil union partner, or de facto partner to receive the income or discretionary grants to the exclusion of all others who have recorded interests; and
  - (b) continues until the—
    - (i) date of the terminating event (elected under **subsection (1)**); or
    - (ii) the spouse or partner relinquishes the right.
- (3) The person who receives the disposition of the land or interest—
  - (a) is the owner of the land or interest; and
  - (b) is entitled to receive the income or discretionary grants when the spouse or partner's right ends.
- (3) The spouse or partner cannot dispose of the right to any other person.



- (4) To avoid doubt, the gift of the right to receive income or discretionary grants does not confer an ownership interest in the land on the spouse or partner.

## Part 5

### Authority to act in relation to Māori freehold land

#### Subpart 1—Administrative kaiwhakarite

#### 134 Court may appoint administrative kaiwhakarite

- (1) The court may appoint 1 or more eligible persons as administrative kaiwhakarite—
- (a) to oversee a governance body’s preparation and implementation of a full distribution scheme under **section 207**; or
  - (b) for a purpose specified in **section 135** (to act on behalf of the owners of Māori freehold land that is not managed under a governance agreement).
- (2) However,—
- (a) the court may appoint more than 1 administrative kaiwhakarite for a purpose specified in **section 135** only if at least 1 of the eligible persons appointed is an owner of the land, the Māori Trustee, or a body corporate; and
  - (b) the Māori Trustee is the only person eligible to be appointed for a purpose specified in **section 135** if—
    - (i) the appointment is for a purpose relating to Māori freehold land that is leased; and
    - (ii) the lease provides for the lessee to be compensated for improvements made to the land.
- (3) **Section 138** sets out the process that the court must follow to appoint an administrative kaiwhakarite.
- (4) A person is **eligible** to be appointed as an administrative kaiwhakarite if—
- (a) the person is—
    - (i) the Māori Trustee; or
    - (ii) a natural person who would be eligible under **section 214** to be a kaitiaki of a rangatōpū; or
    - (iii) the trustees of a trust, if each trustee would be eligible under **section 214** to be a kaitiaki of a rangatōpū; or
    - (iv) a body corporate, if each director, or person holding an equivalent position, would be eligible under **section 214** to be a kaitiaki of a rangatōpū; and

- (b) the person is not ineligible for appointment under **subsection (2—)**; and
  - (c) the court considers that the person is qualified for appointment having regard to the requirements of the particular appointment.
- (5) The appointment of an administrative kaiwhakarite for a purpose relating to 1 or more parcels of Māori freehold land does not affect the legal or beneficial ownership of the land.

**135 Purposes for which administrative kaiwhakarite may be appointed for land not managed under governance agreement**

- (1) This section specifies the purposes for which an administrative kaiwhakarite may be appointed to act on behalf of the owners of Māori freehold land that is not managed under a governance agreement.
- (2) The purposes are:
- (a) to carry out a decision of the owners of the land:
  - (b) to set or negotiate the terms of a sale of the land under **section 80(4)(c)**:
  - (c) to receive notices on behalf of the owners of the land:
  - (d) to negotiate the terms of an agreement with the Crown or a local authority—
    - (i) for the Crown or local authority to enter on the land; or
    - (ii) for the Crown or local authority to undertake works on the land; or
    - (iii) for the settlement of compensation for land taken for a public work:
  - (e) to negotiate the terms of an agreement with a network utility operator (as defined in section 166 of the Resource Management Act 1991) to enter on the land:
  - (f) to protest, appeal, or make representations against any actual or proposed—
    - (i) entry on the land; or
    - (ii) undertaking of works on the land; or
    - (iii) acquisition of the land:
  - (g) to commence, defend, resist, or take part in proceedings relating to the land:
  - (h) if the land is leased, to act on behalf of the owners of the land—
    - (i) to execute renewals of the lease:
    - (ii) if required, to appoint an arbitrator, umpire, or valuer:
    - (iii) to accept a surrender of the lease:

- (iv) to consent to an assignment, a subletting, or a mortgage, or any other dealing with the lease:
- (v) to enforce the covenants of the lease and to exercise the rights and remedies that the owners would be entitled to exercise under the lease:
- (i) to engage lawyers, valuers, engineers, or other professional or technical advisers to assist in carrying out any other purpose for which the administrative kaiwhakarite is appointed:
- (j) to borrow any money necessary to fulfil the purpose for which the administrative kaiwhakarite is appointed and to give security, for repayment of that borrowing, over the land or over any proceeds arising from disposal of the land.

### **136 Responsibilities of administrative kaiwhakarite**

- (1) An administrative kaiwhakarite must endeavour to fulfil the purpose for which the administrative kaiwhakarite is appointed, while protecting the interests of owners in relation to that purpose.
- (2) An administrative kaiwhakarite appointed to act on behalf of the owners of Māori freehold land for a purpose specified in **section 135** must—
  - (a) consult with the owners about actions the administrative kaiwhakarite proposes to take on the owners' behalf; and
  - (b) keep the owners informed about actions the administrative kaiwhakarite has taken on the owners' behalf; and
  - (c) comply with any directions of the owners given under **section 142(4)(a)**, to the extent that the directions are consistent with the statutory obligations and terms of the appointment of the administrative kaiwhakarite.

### **137 Powers of administrative kaiwhakarite**

- (1) An administrative kaiwhakarite has all of the powers necessary to fulfil the purpose for which the administrative kaiwhakarite is appointed, subject to any conditions imposed by the court in the order of appointment.
- (2) The execution of a document by an administrative kaiwhakarite appointed to act on behalf of the owners of Māori freehold land for a purpose specified in **section 135** has the same effect as if the document had been lawfully executed by all of the owners, unless the execution of the document is unrelated to the purpose for which the administrative kaiwhakarite is appointed.
- (3) An administrative kaiwhakarite may seek directions from the court in relation to the purpose for which the administrative kaiwhakarite is appointed.

**138 Process for appointing administrative kaiwhakarite**

- (1) The court may appoint an administrative kaiwhakarite on its own initiative or on the application of an interested person.
- (2) Before appointing an administrative kaiwhakarite for a purpose specified in **section 135** (to act on behalf of the owners of Māori freehold land that is not managed under a governance agreement), the court must—
  - (a) direct the chief executive to arrange a meeting of the owners of the land in accordance with **section 139**, unless **subsection (3)** applies; and
  - (b) if a meeting of owners is held under **section 139**, consider the chief executive's report under that section; and
  - (c) be satisfied that the appointment is necessary or desirable in the interests of the owners; and
  - (d) select a person (the **proposed appointee**) who is eligible for the appointment under **section 134(4)** (*but see subsection (4)* of this section); and
  - (e) consult the proposed appointee on the terms of the appointment; and
  - (f) be satisfied that—
    - (i) the appointment of the proposed appointee would be broadly acceptable to the owners (if the proposed appointment has been considered at a meeting of the owners); and
    - (ii) the proposed appointee consents to the appointment.
- (3) The court is not required to direct the chief executive to arrange a meeting of the owners under **subsection (2)(a)** if—
  - (a) the proposal to appoint an administrative kaiwhakarite has already been sufficiently considered by a meeting of the owners; or
  - (b) the court is satisfied that the matter requiring the appointment of an administrative kaiwhakarite is sufficiently urgent to justify an administrative kaiwhakarite being appointed without a meeting of owners being held; or
  - (c) the court is satisfied, in relation to the matter requiring the appointment of an administrative kaiwhakarite, that—
    - (i) the matter is not significant enough to warrant arranging a meeting of owners; and
    - (ii) the matter will not result in a disposition of the land or any part of or interest in the land; and
    - (iii) the administrative kaiwhakarite can adequately protect the interests of the owners.
- (4) If the administrative kaiwhakarite is being appointed for a purpose relating to Māori freehold land for which a managing kaiwhakarite has been appointed by

the chief executive under **section 147**, the court must select the managing kaiwhakarite as the proposed appointee unless the court is satisfied that there is good reason for selecting a different person.

- (5) If the court decides to proceed with appointing an administrative kaiwhakarite, the court must—
- (a) appoint the proposed appointee by making an order under **section 140**; and
  - (b) send a copy of the order to the chief executive so that the chief executive can make any necessary changes to the Māori land register.

### **139 Requirements if meeting of owners required**

The chief executive must do the following as soon as practicable after he or she is directed to arrange a meeting of the owners of Māori freehold land under **section 138(2)(a)**:

- (a) arrange a meeting of the owners in accordance with the process set out in **clause 10 of Schedule 2**; and
- (b) at the meeting,—
  - (i) advise the owners that the court is considering appointing an administrative kaiwhakarite; and
  - (ii) inform the owners of the purpose for which the administrative kaiwhakarite may be appointed; and
  - (iii) obtain the owners' views on the proposal to appoint an administrative kaiwhakarite; and
  - (iv) obtain the owners' views on a suitable person to appoint as the administrative kaiwhakarite; and
- (c) after the meeting, promptly report the owners' views to the court.

### **140 Order of appointment**

A court order appointing an administrative kaiwhakarite—

- (a) must specify the purpose for which the administrative kaiwhakarite is appointed; and
- (b) must specify any conditions of the appointment, including any restriction on the power of the administrative kaiwhakarite to negotiate and enter into agreements on behalf of owners; and
- (c) may include 1 or more directions under **section 141 or 142** (requiring the administrative kaiwhakarite to report to the court or to the owners); and
- (d) may specify that the administrative kaiwhakarite is to receive a payment for services, in which case the order must also specify the amount of the

payment, or how the amount will be calculated, and how and when the payment will be made.

#### **141 Court may require administrative kaiwhakarite to report to court**

- (1) On appointing, or at any time after appointing, an administrative kaiwhakarite, the court may direct the administrative kaiwhakarite to report to the court on—
  - (a) the purpose for which the administrative kaiwhakarite is appointed; and
  - (b) the progress the administrative kaiwhakarite has made towards fulfilling that purpose; and
  - (c) any matter that is relevant to the matters referred to in **paragraphs (a) and (b)**.
- (2) The court may make a direction under this section on its own initiative or on the application of an interested person.

#### **142 Court may require administrative kaiwhakarite to report to owners**

- (1) On appointing, or at any time after appointing, an administrative kaiwhakarite to act on behalf of the owners of Māori freehold land for a purpose specified in **section 135**, the court may—
  - (a) direct the chief executive to arrange a meeting of the owners in accordance with **clause 10 of Schedule 2**; and
  - (b) direct the administrative kaiwhakarite to report to the owners, at the meeting, on any matter referred to in **section 141(1)**.
- (2) The court may make a direction under this section on the application of an interested person or on the court's own motion.
- (3) The chief executive must arrange a meeting of owners as soon as practicable after being directed to do so under this section.
- (4) At the meeting, the owners may do either or both of the following:
  - (a) direct the administrative kaiwhakarite on how to proceed in respect of the purpose for which the administrative kaiwhakarite is appointed, including how to exercise the powers of the administrative kaiwhakarite (subject to any restrictions under this Act or conditions imposed by the court in the order of appointment);
  - (b) decide to apply to the court under **section 138** to appoint a replacement administrative kaiwhakarite, or 1 or more additional administrative kaiwhakarite.

#### **143 Court may make order relating to costs of administrative kaiwhakarite**

The court may make an order in relation to the costs of an administrative kaiwhakarite—

- (a) as if the costs were incurred in proceedings of the court; and
- (b) applying, with any necessary modifications, the provisions of **Part 12**.

**144 Termination of appointment of administrative kaiwhakarite**

- (1) A person appointed as an administrative kaiwhakarite ceases to hold that appointment—
  - (a) in accordance with the terms of an order made by the court under **subsection (2)** terminating the appointment; or
  - (b) when the purpose for which the administrative kaiwhakarite is appointed has been fulfilled; or
  - (c) if the person is a natural person, when the person dies or becomes incapable of acting; or
  - (d) if the person is the trustees of a trust, when the trust is wound up; or
  - (e) if the person is a body corporate registered under an Act, when the body corporate ceases to be registered under that Act; or
  - (f) if the person is established by or under an Act, when the person is disestablished by or under that Act; or
  - (g) if the person is appointed for a purpose specified in **section 135** (to act on behalf of the owners of Māori freehold land that is not managed under a governance agreement), when the owners of the land appoint a governance body for the land.
- (2) The court may make an order terminating the appointment of a person as an administrative kaiwhakarite, on the date specified in the order, if—
  - (a) the court is satisfied that the person has breached the person's obligations under this Act or the terms of the appointment; or
  - (b) the court receives written notice from the person that the person wishes to terminate the appointment; or
  - (c) if the appointment is for a purpose specified in **section 135** (to act on behalf of the owners of Māori freehold land that is not managed under a governance agreement),—
    - (i) the court appoints a replacement administrative kaiwhakarite on the application of the owners (whether or not the application follows a meeting of the owners that is arranged under **section 142**); or
    - (ii) the court is satisfied that the owners of the land intend to appoint a governance body for the land that can fulfil the purpose for which the person is appointed.
- (3) As soon as practicable after a person becomes aware that the person's appointment as an administrative kaiwhakarite is or will be terminated under any of **paragraphs (c) to (g) of subsection (1)**, the person (or the person's personal representative, if the person has died or is incapable of acting) must give the court written notice of that fact.

- (4) A court order under **subsection (2)** and a written notice under **subsection (3)** must state—
- (a) the date on which the termination takes effect; and
  - (b) the reason for the appointment being terminated.

**145 Responsibilities of administrative kaiwhakarite if appointment terminated**

As soon as practicable after a person's appointment as an administrative kaiwhakarite is terminated, the person (or the person's personal representative, if the person has died or is incapable of acting) must deliver to the court anything held by the person in the person's capacity as administrative kaiwhakarite.

**146 Immunity from civil liability**

- (1) A person appointed as an administrative kaiwhakarite is protected from civil liability, however it may arise, for any act that the person does or omits to do in fulfilment or intended fulfilment of the purpose for which the person is appointed, unless—
- (a) the terms of the order appointing the person provide otherwise; or
  - (b) the act or omission is done in bad faith or without reasonable care.
- (2) If the purpose for which an administrative kaiwhakarite is appointed under **section 135** relates to Māori freehold land that is leased, the administrative kaiwhakarite is not responsible to the lessee for any default of the owners to perform or observe a covenant in the lease, unless—
- (a) the terms of the order appointing the person provide otherwise; or
  - (b) the default of the owners is the result of an act or omission of the administrative kaiwhakarite that is done in bad faith or without reasonable care.

Subpart 2—Managing kaiwhakarite

**147 Chief executive may appoint managing kaiwhakarite**

- (1) The chief executive may appoint an eligible person as a managing kaiwhakarite to manage 1 or more parcels of Māori freehold land on the owners' behalf.
- (2) However, the chief executive must not appoint a managing kaiwhakarite for land that is managed under a governance agreement.
- (3) **Section 151** sets out the process that the chief executive must follow to appoint a managing kaiwhakarite.
- (4) A person is **eligible** to be appointed as a managing kaiwhakarite if—
- (a) the person is—
    - (i) the Māori Trustee; or
    - (ii) a natural person who would be eligible under **section 214** to be a kaitiaki of a rangatōpū; or



- (iii) the trustees of a trust, if each trustee would be eligible under **section 214** to be a kaitiaki of a rangatōpū; or
  - (iv) a body corporate, if each director, or person holding an equivalent position, would be eligible under **section 214** to be a kaitiaki of a rangatōpū; and
- (b) the chief executive considers that the person is qualified for the appointment having regard to—
- (i) the person’s skill and experience in managing land-based commercial operations; and
  - (ii) the person’s knowledge and understanding of Māori land tenure; and
  - (iii) the extent of any connection between the person and a hapū or whānau associated with the land to be managed; and
  - (iv) the infrastructure and resources of, or available to, the person.

#### **148 Responsibilities of managing kaiwhakarite**

##### *Stewardship*

- (1) A managing kaiwhakarite must, in respect of the Māori freehold land for which the managing kaiwhakarite is appointed, endeavour to—
- (a) apply best practice in managing the land and in undertaking any activities in respect of the land; and
  - (b) protect known wāhi tapu on the land; and
  - (c) take account of the cultural value and significance of the land to its owners; and
  - (d) improve the level of engagement of owners with the management and utilisation of their land; and
  - (e) maximise the profit generated from the land for the benefit of its owners.

##### *Record-keeping*

- (2) A managing kaiwhakarite must keep the following records:
- (a) records of financial transactions made by the managing kaiwhakarite, including the rationale for transactions; and
  - (b) records that enable the overall financial position of the operations of the managing kaiwhakarite to be determined at any time with reasonable accuracy; and
  - (c) any other records relating to the use and management of the land that would assist a future governance body for the land.

##### *Reporting*

- (3) A managing kaiwhakarite must report to the chief executive on the performance of the managing kaiwhakarite—

- (a) within the first 12 months after being appointed; and
  - (b) after the first report under **paragraph (a)**, at intervals not exceeding 12 months; and
  - (c) whenever requested to do so by the chief executive.
- (4) A report under **subsection (3)** must, for the period to which it relates,—
- (a) describe the operations of the managing kaiwhakarite; and
  - (b) include copies of the records referred to in **subsection (2)**.

#### **149 Managing kaiwhakarite is occupier for purpose of Fencing Act 1978**

For the purpose of the Fencing Act 1978, a managing kaiwhakarite is the occupier of the Māori freehold land for which the managing kaiwhakarite is appointed.

#### **150 Powers of managing kaiwhakarite**

A managing kaiwhakarite may, in respect of the land for which the managing kaiwhakarite is appointed, do anything necessary for the purpose of carrying out the kaiwhakarite's responsibilities, including entering onto the land, subject to any conditions imposed by the chief executive in the notice of appointment.

#### **151 Process for appointing managing kaiwhakarite**

- (1) Before appointing a managing kaiwhakarite for Māori freehold land, the chief executive must—
- (a) endeavour to notify all the owners of the land of the proposal to appoint a managing kaiwhakarite; and
  - (b) give public notice, in the manner specified in **clause 10(3) of Schedule 2**, of the proposal to appoint a managing kaiwhakarite; and
  - (c) be satisfied that—
    - (i) the land is not currently managed under a governance agreement; and
    - (ii) it would be impracticable for the owners to appoint a governance body for the land themselves within the next 12 months (for example, because the number of owners who can be contacted is not likely to satisfy the quorum requirements of **clause 11 of Schedule 2**); and
    - (iii) no owner has raised with the chief executive a reasonable objection to the appointment of a managing kaiwhakarite; and
    - (iv) the appointment of a managing kaiwhakarite is not incompatible with an existing use of the land by 1 or more of its owners; and
    - (v) there is a reasonable potential for the land, if a managing kaiwhakarite manages the land (whether on its own or with other land), to generate a net return for its owners.

- 
- (2) If the chief executive decides to proceed with appointing a managing kaiwhakarite for the land, the chief executive must—
- (a) select a person who is eligible for the appointment under **section 147**; and
  - (b) consult the person on the terms of the appointment; and
  - (c) obtain confirmation that the person consents to the appointment and its terms; and
  - (d) appoint the person as a managing kaiwhakarite by issuing a notice of appointment under **section 152**; and
  - (e) record the details of the appointment on the Māori land register; and
  - (f) endeavour to notify all the owners of the land of the details of the appointment.
- (3) The chief executive may reappoint a managing kaiwhakarite. **Subsections (1) and (2)** apply to a reappointment as if it were a new appointment.

#### **152 Notice of appointment**

- (1) A notice of appointment of a managing kaiwhakarite must—
- (a) specify the term of the appointment, which must be a fixed term of at least 7 years; and
  - (b) specify what constitutes a financial year for the purpose of the managing kaiwhakarite setting an operating budget and distributing income generated from the operations of the managing kaiwhakarite; and
  - (c) specify (whether by amount or by method of calculation) the fees, remuneration, reimbursements, or other amounts that the managing kaiwhakarite is entitled to recover out of the income from the land (*see* **section 154**); and
  - (d) specify (whether by amount or method of calculation) any operating budget for a financial year that the managing kaiwhakarite is entitled to retain out of the income in the previous financial year from the land managed by the managing kaiwhakarite (*see* **section 156**); and
  - (e) specify any assets that the managing kaiwhakarite will contribute to the operations of the managing kaiwhakarite (**personal assets**) and that are to revert to the managing kaiwhakarite if the appointment is terminated (*see* **sections 157(4) and 159**); and
  - (f) specify any other terms agreed between the chief executive and the managing kaiwhakarite; and
  - (g) be signed by the chief executive and the managing kaiwhakarite.
- (2) The chief executive may amend a notice of appointment by—
- (a) agreeing proposed changes with the managing kaiwhakarite; and

- (b) issuing an amended notice of appointment that complies with **subsection (1)**.
- (3) However, if the amendment extends the term of the appointment, the chief executive must comply with **section 151(1)** as if the extension of the term of the appointment were a new appointment.
- (4) After amending a notice of appointment, the chief executive must promptly record the details of the amended appointment on the Māori land register.

**153 Distribution of income generated from operations of managing kaiwhakarite**

- (1) This section applies to the income generated in a financial year from the operations of a managing kaiwhakarite in respect of Māori freehold land.
- (2) Within 3 months after the end of the financial year, the managing kaiwhakarite must transfer to the chief executive the amount of any income less the amount that the managing kaiwhakarite is entitled to recover under **section 154** or retain under **section 156** (the **net income**).
- (3) The chief executive—
  - (a) must pay any amount received under this section into a separate bank account (the **net income account**); and
  - (b) must record on the Māori land register the details that the register would be required to contain under **clause 6 of Schedule 4** if the amount were unpaid distributions payable to the owners of the land; and
  - (c) may invest the amount by transferring it from the net income account to an interest-bearing account, but must not otherwise invest the amount; and
  - (d) may deduct a reasonable management fee from the net amount of any interest earned from investing the amount; and
  - (e) must ensure that the net amount of any interest earned from investing the amount, minus the management fee (if any), is added to the amount of the net income.
- (4) For the purpose of **subsection (3)(b) and clause 6 of Schedule 4**, the distribution date is the date on which the chief executive receives the amount.
- (5) If a governance body is appointed for the land within 3 years after the chief executive receives an amount of net income under this section,—
  - (a) the chief executive must pay the amount of the net income to the governance body as soon as practicable after the governance body is appointed; and
  - (b) the governance body must treat the amount as if it were unpaid distributions transferred to the governance body from the Māori Trustee under **section 213**.

- (6) If a governance body is not appointed for the land within 3 years after the chief executive receives an amount of net income under this section, the chief executive must—
- (a) on or as soon as practicable after the expiry of the third year, distribute the amount of net income to the owners of the land in proportion to their relative interests in the land; and
  - (b) if the chief executive is unable to pay a distribution to an owner within 3 months after beginning to make distributions under **paragraph (a)** (for example, because the chief executive is unable to contact the owner), transfer the amount to the Māori Trustee as soon as practicable after the expiry of the third month.
- (7) **Sections 212 and 213 and clause 6 of Schedule 4** apply to an amount transferred to the Māori Trustee under this section as if the amount transferred were unpaid distributions payable to the owners of the land.

**154 Managing kaiwhakarite entitled to recover certain amounts out of income from land**

- (1) A managing kaiwhakarite is entitled—
- (a) to receive the fees, remuneration, reimbursements, or other amounts authorised by the notice of appointment; and
  - (b) to be indemnified for certain liabilities and expenses under **subsection (2)**; and
  - (c) to recover an amount under **paragraph (a) or (b)** out of the income from the land (including rents and profits).
- (2) A managing kaiwhakarite is entitled to be indemnified for liabilities and expenses incurred if—
- (a) the liabilities or expenses are incurred—
    - (i) during the term of the appointment of the managing kaiwhakarite; and
    - (ii) in relation to the statutory and other legal obligations of the owners or occupiers of the land; and
  - (b) the liabilities or expenses are not incurred because of a failure of, or delay in, the managing kaiwhakarite meeting a statutory or other legal obligation; and
  - (c) the managing kaiwhakarite, in incurring the liabilities or expenses, has not—
    - (i) wilfully breached a statutory or legal obligation; or
    - (ii) breached the terms of the appointment of the managing kaiwhakarite; or
    - (iii) acted dishonestly or negligently.

- (3) An amount recoverable by a managing kaiwhakarite under this section becomes a charge on the income from the land, including future income.

**155 Limitation on liability of managing kaiwhakarite to pay rates out of income from land**

- (1) A managing kaiwhakarite appointed in respect of 1 or more parcels of Māori freehold land is liable for the rates on the land under section 96 of the Local Government (Rating) Act 2002.
- (2) However,—
- (a) the rates relating to a financial year must be paid out of the income generated in that year from the operations of the managing kaiwhakarite in respect of the land; and
- (b) the liability of the managing kaiwhakarite for the rates relating to a financial year is limited to the amount of income generated in that year from the operations of the managing kaiwhakarite in respect of the land.

Compare: 2002 No 6 s 93

**156 Managing kaiwhakarite entitled to retain operating budget out of income from land**

A managing kaiwhakarite is entitled to retain, out of the income from land managed by the managing kaiwhakarite (including rents and profits) for a financial year, the amount of the operating budget for the following financial year that is authorised by or calculated in accordance with the notice of appointment.

**157 Rights of owners while managing kaiwhakarite appointed for land**

- (1) The appointment of a managing kaiwhakarite for 1 or more parcels of Māori freehold land does not change the legal or beneficial ownership of the land.
- (2) Any assets that are on the land when the managing kaiwhakarite is appointed, and any assets on or associated with the land that are acquired or developed in the course of the operations of the managing kaiwhakarite, must be held by the managing kaiwhakarite on trust for the owners of the land in proportion to their relative interests in the land.
- (3) The disposition by an owner of an individual freehold interest in the land is deemed to also be a disposition of that owner's corresponding interest in the assets referred to in **subsection (2)**, and the owner is not entitled to dispose of his or her share in the assets in any other way.
- (4) In **subsection (2)**, assets—
- (a) includes plant, equipment, stock, trees, crops, and any unspent portion of the operating budget retained by the managing kaiwhakarite under **section 156**; but

- (b) does not include any assets identified as personal assets of the managing kaiwhakarite in the notice of appointment of the managing kaiwhakarite.

### **158 Termination of appointment of managing kaiwhakarite**

- (1) A person appointed as a managing kaiwhakarite in respect of Māori freehold land ceases to hold that appointment—
  - (a) in accordance with the terms of a notice issued by the chief executive under **subsection (3)** terminating the appointment; or
  - (b) when the term of the appointment expires, unless the person has been re-appointed; or
  - (c) when the owners of the land appoint a governance body for the land; or
  - (d) if the person is a natural person, when the person dies or becomes incapable of acting; or
  - (e) if the person is the trustees of a trust, when the trust is wound up; or
  - (f) if the person is a body corporate registered under an Act, when the body corporate ceases to be registered under that Act; or
  - (g) if the person is established by or under an Act, when the person is disestablished by or under that Act.
- (2) As soon as practicable after a person becomes aware that the person's appointment as a managing kaiwhakarite is or will be terminated under any of **paragraphs (c) to (g) of subsection (1)**, the person (or the person's personal representative, if the person has died or is incapable of acting) must give the chief executive written notice of that fact.
- (3) The chief executive may, by written notice, terminate the appointment of a person as a managing kaiwhakarite in respect of Māori freehold land, on the date specified in the notice, if the chief executive—
  - (a) is satisfied that the person has breached the person's obligations under this Act or the terms of the appointment; or
  - (b) receives written notice from the person that the person wishes to terminate the appointment; or
  - (c) is satisfied that the owners of the land intend to appoint a governance body for the land.
- (4) A written notice under **subsection (2) or (3)** must state—
  - (a) the date on which the termination takes effect; and
  - (b) the reason for the appointment being terminated.

### **159 Responsibilities of managing kaiwhakarite if appointment terminated**

- (1) As soon as practicable after a person's appointment as a managing kaiwhakarite for Māori freehold land is terminated, the person (or the person's personal representative, if the person has died or is incapable of acting) must—

- (a) deliver to the chief executive the records kept by the person under **section 148(2)**; and
  - (b) transfer to the chief executive any income generated from the operations of the managing kaiwhakarite that has not already been transferred to the chief executive under **section 153** less the amount that the managing kaiwhakarite is entitled to recover under **section 154**.
- (2) The person is entitled to retain any personal assets identified in the notice of appointment, but any other assets associated with the land (being the assets referred to in **section 157(2)**) must be held by the chief executive on trust for the owners of the land in proportion to their relative interests until—
- (a) a governance body is appointed for the land; or
  - (b) the chief executive appoints another managing kaiwhakarite for the land; or
  - (c) the chief executive liquidates the assets and distributes the proceeds to the owners of the land as if it were income from the land transferred to the chief executive under **section 153**.
- (3) **Section 153(3) and (4)** applies to an amount transferred to the chief executive under **subsection (1)**.

#### **160 Immunity from civil liability**

A person appointed as a managing kaiwhakarite is protected from civil liability, however it may arise, for any act that the person does or omits to do in fulfilment or intended fulfilment of the purpose for which the person is appointed, unless—

- (a) the terms of the order appointing the person provide otherwise; or
- (b) the act or omission is done in bad faith or without reasonable care.

### Subpart 3—Governance bodies

#### *Appointing governance bodies*

#### **161 Owners of Māori freehold land may appoint governance body to manage land and other assets**

- (1) The owners of 1 or more parcels of Māori freehold may, for the purpose of having the land managed under a governance agreement (whether or not as part of a wider asset base), appoint a governance body for the land.
- (2) However, a governance body must not be appointed for—
  - (a) any parcel of Māori freehold land that is held by a sole owner or by joint tenants; or
  - (b) any land that has been reserved as whenua tāpui.
- (3) A governance body must be one of the following:



- (a) a rangatōpū, which may be—
    - (i) established by the owners for the purpose of appointing it as a governance body; or
    - (ii) already registered under this Act and managing other land under an existing governance agreement; or
    - (iii) an amalgamation of 2 or more rangatōpū that are registered under this Act:
  - (b) an existing statutory body;
  - (c) a representative entity.
- (4) **Section 164** sets out the process for appointing a governance body.

### **162 Governance body holds asset base on trust**

- (1) A governance body—
- (a) holds an asset base on trust for the owners of the Māori freehold land that is within the asset base, in proportion to the owners' relative interests in the land; and
  - (b) must manage an asset base in accordance with the requirements of the governance agreement.
- (2) An asset base consists of—
- (a) the Māori freehold land that the body is authorised to manage on behalf of the owners under a governance agreement; and
  - (b) investment land, being land other than Māori freehold land that—
    - (i) vests in the body under **section 193** on the registration of the governance agreement; or
    - (ii) is acquired by the body in its operations under the governance agreement; and
  - (c) any other assets and liabilities (including livestock, buildings, chattels, money, or investments) that—
    - (i) vest in the body under **section 193** on the registration of the governance agreement; or
    - (ii) are acquired by the body in its operations under the governance agreement.

### **163 Rights of owners in respect of asset base**

- (1) An owner of Māori freehold land held by a governance body under a governance agreement—
- (a) retains beneficial ownership, but not legal ownership, of the land while it is managed under the agreement; and

- (b) may regain legal ownership of the land only if the governance agreement is cancelled (*see* **section 182**); and
  - (c) is entitled to receive all or part of his or her relative share of the remainder of the asset base only—
    - (i) by way of distribution of profits made by the governance body in accordance with the governance agreement; or
    - (ii) in accordance with a distribution scheme confirmed by the court under **section 207 or 209**.
- (2) This section does not prevent a governance body from using an asset base, in accordance with the governance agreement, for the benefit of other persons or classes of persons specified in the governance agreement.

#### **164 Process of appointing governance body**

- (1) The process of appointing a governance body for Māori freehold land is as follows:
- (a) the owners of the land approve a governance agreement that complies with **Schedule 3**; and
  - (b) if the body is a rangatōpū,—
    - (i) the owners of the land and the rangatōpū comply with whichever of **sections 165 and 166** is applicable; and
    - (ii) if the rangatōpū is an amalgamation of 2 or more rangatōpū that are already registered under this Act, each existing rangatōpū complies with any process requirements of its existing governance agreement; and
  - (c) the owners of the land authorise the body to manage the land under the agreement; and
  - (d) the body applies to the chief executive under **section 168** to register the governance agreement.
- (2) Each decision of the owners for the purpose of **subsection (1)** (including a decision for the purpose of **section 165 or 166**) requires the agreement of a simple majority of the owners who participate in making the decision.
- (3) The appointment of the governance body takes effect when the governance agreement is registered under **section 175**.

#### **165 Additional process requirements if owners establish rangatōpū as governance body**

- (1) To establish a rangatōpū for the purpose of appointing it as a governance body for Māori freehold land,—
- (a) the owners of the land must decide whether the rangatōpū will be a body corporate or a private trust; and

- (b) the application to register the governance agreement must include a request to register the rangatōpū.
- (2) If the owners decide that the rangatōpū will be a body corporate, the owners must,—
- (a) if the entity to be established as the rangatōpū is already registered as a body corporate under another enactment, be satisfied that the entity has at least 3 directors (or equivalent), each of whom is eligible under **section 214** to be a kaitiaki of a rangatōpū; or
- (b) if **paragraph (a)** does not apply, appoint as kaitiaki at least 3 persons who are eligible under **section 214** to hold that position.
- (3) If the owners decide that the rangatōpū will be a private trust, the owners must,—
- (a) if the entity to be established as a rangatōpū is already a trust established under an existing trust deed,—
- (i) be satisfied, or make any changes necessary to ensure, that there are at least 3 trustees, each of whom is eligible under **section 214** to be a kaitiaki of a rangatōpū; and
- (ii) be satisfied, or make any changes necessary to ensure, that the trust deed complies with the requirements for governance agreements; or
- (b) if **paragraph (a)** does not apply,—
- (i) appoint as kaitiaki (and trustees) at least 3 persons who are eligible under **section 214** to hold that position; and
- (ii) ensure that the terms of the trust are set out in a trust deed that complies with the requirements for governance agreements.
- (4) The establishment of the rangatōpū takes effect when the rangatōpū is registered under **section 175**.

**166 Additional process requirements if owners appoint existing rangatōpū as governance body**

- (1) To appoint as a governance body for Māori freehold land a rangatōpū that is already established and managing other land under a registered governance agreement,—
- (a) the governance agreement (the **replacement governance agreement**) to be approved under **section 164(1)(a)** by the owners of the Māori freehold land to be added to the asset base of the rangatōpū (the **incoming owners**) must be prepared—
- (i) in accordance with any processes set out in the registered governance agreement; and
- (ii) in consultation with the incoming owners; and

- (b) the appointments of the kaitiaki of the rangatōpū must be approved—
    - (i) by the incoming owners; and
    - (ii) in accordance with any processes set out in the registered agreement; and
  - (c) the application to register the replacement governance agreement must state that it is an updated version of the registered governance agreement.
- (2) To avoid doubt, if the owners of Māori freehold land wish to appoint as a governance body for the land an existing statutory body or a representative entity that is already a party to a registered governance agreement,—
- (a) **subsection (1)** does not apply; and
  - (b) the owners must enter into a separate governance agreement with the governance body (*see* **section 167(1)**).

**167 Restrictions on governance bodies being party to more than 1 governance agreement**

- (1) A governance body that is an existing statutory body or a representative entity may be a party to more than 1 governance agreement, but must maintain a separate asset base under each agreement.
- (2) A governance body that is a rangatōpū must not be a party to more than 1 governance agreement.
- (3) To avoid doubt, any governance body may manage more than 1 parcel of Māori freehold land on behalf of its owners under a single governance agreement that is approved by the owners of all the parcels.

*Registering governance agreements*

**168 Application to register governance agreement**

- (1) A governance body may, to finalise its appointment as a governance body for Māori freehold land (*see* **section 164**), apply to the chief executive to register a governance agreement for the land.
- (2) A governance body that is a party to a registered governance agreement—
  - (a) may apply to the chief executive to register an updated version of the agreement at any time; and
  - (b) must apply to the chief executive to register an updated version of the agreement if there is a change (including a change to boundaries or legal description) in the Māori freehold land managed by the body under the agreement (*see* **sections 198 to 200 and 211**).
- (3) An application to register a governance agreement (whether a new agreement or an updated version of a registered agreement) must satisfy the applicable requirements of **sections 169 to 172**.

**169 General requirements for application to register governance agreement**

An application to register a governance agreement must—

- (a) include a governance agreement that complies with **Schedule 3**; and
- (b) state the name and contact details of each kaitiaki; and
- (c) be signed by each kaitiaki; and
- (d) include a declaration by each kaitiaki, made in accordance with the Oaths and Declarations Act 1957, that the information in the application is complete and correct.

**170 Additional requirements for application to register new governance agreement**

An application to register a governance agreement must also, if the agreement is a new agreement,—

- (a) include evidence that each decision of the owners referred to in **section 164(1)** has been made in accordance with **section 164(2)**; and
- (b) identify the Māori freehold land, investment land (if any), and other assets and liabilities (if any) that are intended to vest in the governance body on the issue of a governance certificate (*see* **section 193**); and
- (c) identify any known lease, licence, mortgage, easement, or other interest that affects the land, assets, or liabilities referred to in **paragraph (b)**.

**171 Additional requirements for application to register updated governance agreement**

(1) An application to register a governance agreement must also, if the agreement is an updated version of an agreement that is already registered,—

- (a) identify the agreement that is already registered; and
- (b) include evidence that the updated agreement has been approved in accordance with the requirements of the registered agreement; and
- (c) if the governance body is a rangatōpū, include a declaration by each kaitiaki, made in accordance with the Oaths and Declarations Act 1957, that he or she is eligible to be a kaitiaki; and
- (d) if the updated agreement reflects a change in the governance body's holdings of Māori freehold land, comply with whichever of **subsections (2) to (4)** is applicable.

(2) If **section 166** applies (owners appoint an existing rangatōpū as governance body), the application must—

- (a) include evidence that each decision of the owners referred to in **section 164(1)** has been made in accordance with **section 164(2)**; and

- (b) identify the Māori freehold land, investment land (if any), and other assets and liabilities (if any) that are intended to vest in the rangatōpū on the issue of a governance certificate (*see* **section 193**); and
  - (c) identify any known lease, licence, mortgage, easement, or other interest that affected the land, assets, or liabilities referred to in **paragraph (b)** immediately before the vesting.
- (3) If **section 181** applies (the owners of a parcel of Māori freehold land managed under an agreement revoke the governance body's appointment in respect of the land), the application must—
- (a) include evidence that the owners' decision to revoke the body's appointment was made in accordance with **section 181(2)**; and
  - (b) include a copy of the distribution scheme confirmed by the court under **section 209**.
- (4) If **section 198** applies (a governance body decides to hold acquired land or investment land as Māori freehold land), the application must include a copy of the allocation scheme confirmed by the court under that section.

**172 Additional requirements for application made by kaitiaki not yet registered as rangatōpū**

- (1) This section applies if an application to register a governance agreement includes a request to register a new rangatōpū.
- (2) The application must—
- (a) include evidence that each decision of the owners referred to in **section 164(1)** has been made in accordance with **section 164(2)**; and
  - (b) state the proposed name of the new rangatōpū; and
  - (c) specify whether the rangatōpū is to be a body corporate or a private trust; and
  - (d) if the rangatōpū is to be a body corporate, state whether the body corporate is already registered as a body corporate under another enactment and, if it is, include evidence of that registration; and
  - (e) include a declaration by each kaitiaki, made in accordance with the Oaths and Declarations Act 1957, that he or she is eligible to be a kaitiaki.

**173 Additional requirements for application made by amalgamating rangatōpū**

- (1) This section applies if an application to register a governance agreement is made by 2 or more rangatōpū amalgamating to form a new rangatōpū.
- (2) The application must—

- (a) identify the 2 or more registered governance agreements (the **existing governance agreements**) that are to be replaced by the new governance agreement; and
- (b) include a request that the existing governance agreements be cancelled when the replacement governance agreement is registered.

#### **174 Additional requirement for application made by representative entity**

- (1) This section applies if an application to register a governance agreement is made by a representative entity.
- (2) The application must include a declaration by a kaitiaki of the representative entity confirming that—
  - (a) the entity represents at least 1 of the hapū or iwi associated in accordance with tikanga Māori with the Māori freehold land to be managed under the agreement; and
  - (b) the entity is recognised by the members of the hapū or iwi as having authority to represent the hapū or iwi; and
  - (c) the entity's trust deed, constitution, or other governing document permits (whether expressly or by implication) the entity to enter into a governance agreement.

#### **175 Registration of governance agreement**

- (1) This section applies if the chief executive—
  - (a) receives an application to register a governance agreement; and
  - (b) does not reject the application under **section 176**.
- (2) The chief executive must—
  - (a) register the governance agreement by issuing a governance certificate or, if the agreement is an updated version of an agreement that is already registered, an updated governance certificate; and
  - (b) if the application is made by persons appointed under **section 165** as kaitiaki of a rangatōpū that is not yet registered as a rangatōpū,—
    - (i) register the rangatōpū by issuing a rangatōpū certificate; and
    - (ii) if the rangatōpū is an amalgamation of 2 or more registered rangatōpū, cancel the governance certificates and rangatōpū certificates of the amalgamating rangatōpū; and
  - (c) make any necessary changes to the Māori land register; and
  - (d) if any land will vest in the governance body under **section 193**, send to the Registrar-General—
    - (i) a copy of the governance certificate; and
    - (ii) details of the land; and

- (iii) details of any governance certificates cancelled under **subsection (2)(b)(ii)**.
- (3) The chief executive must act under this section as soon as practicable, but within 1 month, after whichever of the following occurs last:
- (a) if the governance agreement gives effect to a decision that may be reviewed under **section 180**,—
    - (i) if an application is made under that section to review the decision, the conclusion of the review;
    - (ii) the expiry of the period specified in **section 180(2)**, if no application for review is made during that period; and
  - (b) receiving the application to register the agreement.

#### **176 Grounds for rejecting application for registration of governance agreement**

- (1) The chief executive must reject an application to register a governance agreement if—
- (a) the application is not made in accordance with the requirements of this Act; or
  - (b) the application is made in respect of Māori freehold land that is held by a sole owner or by joint tenants; or
  - (c) the registration of the agreement would result in—
    - (i) a parcel of Māori freehold land being managed under more than 1 governance agreement; or
    - (ii) a rangatōpū being party to more than 1 registered governance agreement; or
    - (iii) land reserved as whenua tāpui being managed under a governance agreement; or
  - (d) in the case of an application made by persons appointed as kaitiaki of a rangatōpū but not yet registered as a rangatōpū,—
    - (i) there is already a rangatōpū registered under the name proposed in the application; or
    - (ii) the chief executive considers that the proposed name would cause confusion with a similarly named rangatōpū, company, or other entity; or
    - (iii) the rangatōpū, if it were registered, would not comply with **section 214** (which sets out requirements for kaitiaki of rangatōpū).
- (2) As soon as practicable after receiving the application, the chief executive must, if **subsection (1)** applies, give the applicant written notice of the rejection and the reason for it.



**177 Governance certificate**

- (1) A governance certificate must—
  - (a) be dated; and
  - (b) state the name of the governance body that is party to the governance agreement; and
  - (c) state the body's registered office or principal place of business, and the address for service; and
  - (d) identify the Māori freehold land managed under the agreement; and
  - (e) state the date on which, and the place at which, the agreement was signed by, or on behalf of, the governance body and the owners of the Māori freehold land; and
  - (f) if the agreement is or was a transitional agreement, state the transition period for the agreement; and
  - (g) include sufficient details to identify any previous versions of the agreement registered under this Act.
- (2) However, **subsection (1)(e)** does not apply if—
  - (a) a transitional agreement is confirmed and registered as the governance agreement (*see* **clause 7(1)(b) of Schedule 1**), in which case the certificate must instead state the date on which the transitional agreement is registered as the governance agreement; or
  - (b) the standard agreement is registered as the governance agreement at the request of the governance body under **clause 7(1)(c) of Schedule 1** or by the chief executive acting under **clause 10 of Schedule 1**, in which case the certificate must instead state the date on which the standard agreement is registered as the governance agreement.
- (3) A governance certificate issued or certified by the chief executive is conclusive evidence that the governance agreement referred to in the certificate is registered under this Act.

*Matters relating to registration of rangatōpū***178 Rangatōpū certificate**

- (1) A rangatōpū certificate issued by the chief executive must—
  - (a) be dated; and
  - (b) state the name of the rangatōpū; and
  - (c) state whether the rangatōpū is a body corporate or a private trust (as specified in the application); and
  - (d) identify any names by which the rangatōpū was formerly known; and
  - (e) if the rangatōpū was formerly an existing Māori incorporation or an existing ahu whenua or whenua tōpū trust, state the date on which, and

identify the method by which, the incorporation or trust was first established.

- (2) A rangatōpū certificate issued or certified by the chief executive is conclusive evidence that the rangatōpū named in the certificate is a registered rangatōpū under this Act.

Compare: 1993 No 105, s 14

### **179 When registration of rangatōpū creates separate legal personality**

- (1) This section applies if—
- (a) the chief executive issues a rangatōpū certificate; and
  - (b) the certificate specifies that the rangatōpū is a body corporate; and
  - (c) before the certificate is issued, the rangatōpū was not already a body corporate registered under another enactment.
- (2) On the issue of the certificate, the rangatōpū named in the certificate—
- (a) becomes a body corporate, with perpetual succession, under the name specified in the certificate; and
  - (b) may do anything a natural person of full age and capacity may do, except as provided for in this Act or any other enactment.

#### *Review of certain decision relating to governance body appointments*

### **180 Court may review certain decisions of owners relating to governance bodies**

- (1) Any owner of a parcel of Māori freehold land may apply to the court for a review of—
- (a) a decision made for the purpose of appointing a governance body for the land (being a decision for the purpose of **section 164(1), 165, or 166**); or
  - (b) a decision to revoke the appointment of a governance body in respect of the land.
- (2) The application must be made within 20 working days after the date on which the decision is made.
- (3) The court must confirm the decision unless **subsection (4)** applies.
- (4) The court must set aside the decision if the court is satisfied that—
- (a) the decision was not made in accordance with this Act or the governance agreement (as applicable); or
  - (b) in the case of the appointment of a kaitiaki, the person appointed is not eligible under **section 214** to hold that position.
- (5) If the court sets aside a decision, the court—
- (a) may direct that the decision-making process be recommenced; and

- (b) may make any other directions the court considers necessary to ensure that the requirements of this Act or a governance agreement are satisfied.

*Revoking governance body appointments*

**181 Owners of Māori freehold land may revoke governance body's appointment for that land**

- (1) The owners of a parcel of Māori freehold land that is managed under a governance agreement may revoke the governance body's appointment in respect of that land.
- (2) A decision to revoke an appointment requires the agreement of a 75% majority of the owners of the land who participate in making the decision.
- (3) If the revocation relates to all the Māori freehold land managed under the agreement, the revocation starts the process of cancelling the governance agreement (*see section 182*).
- (4) If the revocation relates to only some of the Māori freehold land managed under the agreement, the governance body must prepare a partial distribution scheme (*see sections 209 to 211*).

*Cancelling governance agreements*

**182 Ways to start cancellation of governance agreement**

- (1) Any of the following events start the process of cancelling a governance agreement:
- (a) the owners of all the Māori freehold land managed under the agreement decide, in accordance with **section 181**, to revoke the body's appointment in respect of the land:
- (b) the governance body decides to cancel the agreement:
- (c) if the governance body is an existing rangatōpū that amalgamates with 1 or more other rangatōpū to form a new rangatōpū, the governance agreement of the new rangatōpū is registered in place of the governance agreement of the existing rangatōpū:
- (d) the court makes an order under **subsection (2)**:
- (e) the governance body that is a party to the agreement,—
- (i) in the case of an existing statutory body, is disestablished by or under an Act; or
- (ii) in the case of a representative entity, is wound up:
- (f) in the case of a rangatōpū that is a body corporate whose status as a body corporate derives from registration under another enactment, rather than under **section 179**, the body ceases to be registered as a body corporate under that other enactment.

- (2) The court may make an order to start the process of cancelling a governance agreement if the court is satisfied, in respect of the governance body that is party to the agreement, that—
  - (a) the body is insolvent; or
  - (b) the body has failed to comply with a statutory duty or obligation; or
  - (c) the continuing appointment of the body will materially prejudice the owners of the Māori freehold land managed under the agreement.
- (3) At the same time as making an order under **subsection (2)**, the court may appoint an administrative kaiwhakarite under **section 134(1)(a)** to oversee the governance body's preparation and implementation of a full distribution scheme under **section 207**.
- (4) The Registrar must send a copy of any order made under **subsection (2)** to the governance body and the chief executive.

### **183 Cancellation of governance agreement**

- (1) If an event starts the process of cancelling a governance agreement under **section 182**,—
  - (a) the agreement is cancelled,—
    - (i) if the governance body is an existing rangatōpū that amalgamates with 1 or more other rangatōpū to form a new rangatōpū, immediately after the governance agreement of the new rangatōpū is registered in place of the governance agreement of the existing rangatōpū; and
    - (ii) in any other case, when the court issues an order under **section 211** cancelling the agreement (on being satisfied that a full distribution scheme has been implemented); and
  - (b) until the agreement is cancelled, any transaction or dealing by or on behalf of the governance body that incurs an obligation, a debt, or a liability in relation to the asset base is void unless the transaction or dealing was entered into—
    - (i) on the governance body's behalf by the administrative kaiwhakarite appointed under **section 134(1)(a)** to oversee the preparation and implementation of the distribution scheme; or
    - (ii) by the governance body with the prior written consent of the administrative kaiwhakarite appointed to oversee the preparation and implementation of the distribution scheme; or
    - (iii) under an order of the court.
- (2) **Subsection (1)** does not apply to a payment made by a registered bank—
  - (a) out of an account kept by the governance body with the bank; and

- (b) in good faith and in the ordinary course of the bank's banking business; and
  - (c) on or before the day on which the bank was notified in writing by the administrative kaiwhakarite that the process of cancelling the governance agreement had begun, or before the bank had reason to believe that the process of cancelling the governance agreement had begun, whichever was earlier.
- (3) The court may validate a transaction or dealing that is void under **subsection (1)**.

#### **184 Liability of kaitiaki for compensation for void transaction or dealing**

- (1) This section applies if a court is satisfied that a kaitiaki—
- (a) purported, on behalf of the governance body, to enter into a transaction or dealing that is void under **section 183(1)(b)**; or
  - (b) was in any other way knowingly concerned in, or party to, the void transaction or dealing, whether—
    - (i) by act or omission; or
    - (ii) directly or indirectly.
- (2) The court may order the kaitiaki to compensate any person, including the governance body, that has suffered loss as a result of the act or omission.

Compare: 1993 No 105 s 239AA

#### **185 Cancelling governance certificates**

- (1) As soon as practicable after receiving a copy of an order made under **section 211** cancelling a governance agreement, the chief executive must—
- (a) cancel the governance certificate; and
  - (b) make any necessary changes to the Māori land register; and
  - (c) send to the Registrar-General a copy of the order and notification in writing that the governance certificate is cancelled.
- (2) As soon as practicable after being notified that a governance certificate is cancelled, the Registrar-General must make any amendments to the land register that are necessary to ensure that the register complies with the Land Transfer Act 1952.
- (3) The chief executive may also cancel, under **section 175(2)(b)**, a governance certificate issued to a rangatōpū that has amalgamated with another rangatōpū (in which case the chief executive will issue a new governance certificate for the amalgamated rangatōpū under that section).

**186 Effect of cancelling governance certificate**

On the cancellation of a governance certificate issued in respect of a governance agreement, the Māori freehold land managed under the agreement vests in the beneficial owners of the land.

**187 Registration of change of ownership of Māori freehold land within asset base**

As soon as practicable after receiving written notice under **section 185** that a governance certificate issued in respect of a governance agreement has been cancelled, the Registrar-General must—

- (a) register the beneficial owners of the Māori freehold land managed under the agreement as the proprietors of the fee simple estate in the land; and
- (b) record any entry on the computer freehold register and do anything else necessary to give effect to the vesting of land that is within the governance body's asset base in the owners.

**188 Liability of kaitiaki to continue**

The cancellation of a governance certificate does not affect the liability of any kaitiaki of the body or any other person in respect of any act or omission that took place before the certificate was cancelled, and that liability continues and may be enforced as if the certificate had not been cancelled.

Compare: 1993 No 105 s 326

*Cancelling rangatōpū registration***189 Cancelling rangatōpū registration**

The chief executive must cancel a rangatōpū certificate if the chief executive is satisfied that the rangatōpū —

- (a) has been wound up; or
- (b) is no longer party to a registered governance agreement; or
- (c) has amalgamated with 1 or more other rangatōpū to form a new rangatōpū.

**Part 6****Operation of governance bodies***Powers, duties, and responsibilities***190 Powers, duties, and responsibilities of governance bodies**

- (1) A governance body—
  - (a) must manage an asset base in accordance with the objects of the body as stated in the governance agreement; and

- (b) must operate in a manner—
    - (i) that is consistent with the governance agreement; and
    - (ii) that does not, and is not likely to, create a substantial risk of serious loss to the owners; and
  - (c) must, before incurring an obligation or a liability, be satisfied that there is a reasonable prospect of the governance body being able to meet the obligation or liability when required to do so; and
  - (d) must endeavour to keep the owners informed about the asset base and activities relating to the asset base; and
  - (e) must endeavour to maximise the level of engagement of the owners with the governance body.
- (2) For the purpose of performing its role, a governance body has—
- (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
  - (b) for the purpose of **paragraph (a)**, full rights, powers, and privileges.

### **191 Powers, duties, and responsibilities of kaitiaki**

A kaitiaki of a governance body must, in his or her role as a kaitiaki,—

- (a) act honestly and in good faith; and
- (b) act, and ensure that the governance body acts, in accordance with the governance agreement and the requirements of this Act; and
- (c) exercise the degree of care and diligence that a reasonable person with the same responsibilities would exercise in the circumstances.

### **192 Immunity of kaitiaki from personal liability**

A kaitiaki of a governance body is not, by reason only of being a kaitiaki, personally liable for—

- (a) any obligation of the governance body; or
- (b) any act done or not done by the governance body in good faith in the performance or intended performance of the duties and responsibilities of the governance body.

### *Establishment of asset base*

### **193 Asset base vests in governance body on registration of governance agreement**

- (1) This section applies to Māori freehold land, investment land, and other assets and liabilities that—
- (a) are intended to vest in a governance body on the registration of a governance agreement; and

- (b) are identified for that purpose in an application made under **section 168** to register a governance agreement.
- (2) On the registration of the governance agreement,—
  - (a) the fee simple estate in the Māori freehold land and the investment land vests in the body; and
  - (b) the other assets and liabilities vest in the body.
- (3) The vesting applies only to the extent that, immediately before the governance certificate is issued, the land, assets, and liabilities are held by the owners of the Māori freehold land to be managed under the agreement.
- (4) To avoid doubt, anything that is referred to in **subsection (1)**, and that is not held by the owners of the land immediately before the governance certificate is issued,—
  - (a) does not become part of the asset base under **subsection (3)**; and
  - (b) will become part of the asset base only if it is transferred to the governance body in some other way on or after the registration of the governance agreement.
- (5) The vesting takes effect—
  - (a) without any further authority than this section; and
  - (b) without any conveyance, transfer, or other instrument of assurance; and
  - (c) together with all rights and remedies (if any) that the owners had in respect of the land or assets immediately before the vesting; but
  - (d) subject to or together with any lease, licence, mortgage, easement, or other interest that affected the land or assets immediately before the vesting.
- (6) The vesting of Māori freehold land in a governance body under this section does not affect the beneficial interests in the freehold estate in the land.

**194 Registrar-General to record change of ownership of land vested in governance body under section 193**

The Registrar-General must, as soon as practicable after receiving from the chief executive under **section 175(2)(d)** details of land that vests in a governance body under **section 193**,—

- (a) register the governance body as the proprietor of the fee simple estate in the land; and
- (b) record any entry on the computer freehold register and do anything else necessary to give effect to the vesting of the land in the governance body.



**195 Status of contracts and other instruments**

- (1) This section applies to a contract, agreement, conveyance, deed, lease, licence, undertaking, notice, or other instrument that—
  - (a) relates to an asset or liability that vests in a governance body under **section 193**; and
  - (b) is entered into by, made with, given to or by, or addressed to a person who holds an interest in the asset or liability referred to in **paragraph (a)**; and
  - (c) is in effect immediately before the vesting.
- (2) The instrument is binding on, and enforceable by, against, or in favour of, the governance body as if the instrument had been entered into by, made with, given to or by, or addressed to or by the governance body and not the person referred to in **subsection (1)(b)**.

**196 Status of existing securities**

- (1) This section applies to a security a person holds as security for a debt or other liability to the person that is incurred before the debt or liability vests in a governance body under **section 193**.
- (2) The security—
  - (a) is available to the governance body as security for the discharge of the debt or liability; and
  - (b) if the security extends to future or prospective debts or liabilities, is available as security for the discharge of debts or liabilities to the governance body incurred on or after the vesting.

**197 Matters not affected by vesting under section 193**

- (1) The section sets out matters not affected by the vesting of assets and liabilities in a governance body under **section 193**.
- (2) The vesting does not, of itself,—
  - (a) place a governance body or any other person or body in breach of a contract or confidence, or make it or them guilty of a civil wrong; or
  - (b) give rise to a right for any person to terminate or cancel any contract or arrangement, to accelerate the performance of an obligation, to impose a penalty, or to increase a charge; or
  - (c) place a governance body or any other person or body in breach of an enactment, a rule of law, or a contract that prohibits, restricts, or regulates the assignment or transfer of an asset or a liability or the disclosure of information; or
  - (d) release a surety, wholly or in part, from an obligation; or
  - (e) invalidate or discharge a contract.

- (3) Except as required by **section 194**, the vesting does not, of itself, require a person who is responsible for keeping books or registers to change the name of a person to the name of a governance body in the books or registers or in a document.
- (4) A document, matter, or thing that would have been admissible in evidence for or against a person who held an interest in the assets or liabilities before the vesting is, on and after the vesting, admissible in evidence for or against the governance body.
- (5) In **subsection (4)**, **document** has the meaning given by section 4(1) of the Evidence Act 2006.

*Changes to holdings of Māori freehold land*

**198 Requirements if governance body decides to hold land as Māori freehold land**

- (1) This section applies if a governance body decides to hold as Māori freehold land—
  - (a) 1 or more parcels of land acquired or to be acquired by the body, by way of purchase or gift, in the course of the body's operations under a governance agreement (whether or not the land is Māori freehold land before the acquisition); or
  - (b) 1 or more parcels of investment land already held by the body under a governance agreement.
- (2) As soon as practicable after making the decision, the body must—
  - (a) prepare an allocation scheme for the interests in the land that complies with **section 201**; and
  - (b) apply for a court order under **section 203** declaring that the land is Māori freehold land or will become Māori freehold land on the change of ownership (unless the land already has that status) and confirming the allocation scheme.
- (3) The governance body must update the governance agreement, and register the updated version with the chief executive, within 1 month after the later of—
  - (a) complying with **subsection (2)**; and
  - (b) the date on which the body acquires the land.
- (4) To avoid doubt, this section does not apply to an acquisition of land—
  - (a) if the acquisition is by way of exchange (that situation is dealt with by **section 199**); or
  - (b) if, before the acquisition, the land is Māori freehold land, the governance body is a rangatōpū, and the owners authorise the rangatōpū to manage the land on their behalf (that situation is dealt with by **sections 164 and 166**).

**199 Requirements if governance body sells or exchanges parcel of Māori freehold land**

- (1) A governance body may dispose of a parcel of Māori freehold land by way of sale or exchange only in accordance with **Part 4**.
- (2) If a governance body sells a parcel of Māori freehold land, the body must,—
  - (a) as soon as practicable after the sale, use the net proceeds from the sale to acquire or improve the replacement land identified in the allocation scheme required under **section 84(3)(b)**; and
  - (b) until it complies with **paragraph (a)**, hold the net proceeds from the sale in a separate bank account for the benefit of the owners of the land; and
  - (c) within 1 month after the sale, update the governance agreement and register the updated version with the chief executive.
- (3) If a governance body exchanges a parcel of Māori freehold land, the body must, within 1 month after the exchange, update the governance agreement and register the updated version with the chief executive.

**200 Requirements in cases of partition, amalgamation, or boundary adjustment of Māori freehold land managed under governance agreement**

- (1) This section applies if a partition, an amalgamation, or a boundary adjustment changes the boundaries or the legal description of a parcel of Māori freehold land managed under a governance agreement.
- (2) The governance body must, within 1 month after the partition, amalgamation, or boundary adjustment, update the governance agreement and register the updated version with the chief executive.

**201 Requirements for allocation scheme**

- (1) This section sets out the requirements for an allocation scheme required under **section 84(3)(b) or 198(2)(a)**.
- (2) An allocation scheme for interests in Māori freehold land held, or to be held, by a governance body must—
  - (a) identify the parcel of land; and
  - (b) provide for the parcel to be owned by the owners of the existing Māori freehold land in the asset base; and
  - (c) allocate or adjust the ownership of the parcel,—
    - (i) in accordance, as nearly as practicable, with the relative value of the owners' shares in the existing Māori freehold land in the asset base and the nature of that ownership (for example, joint tenants, tenants in common, or a class of collective owners); or
    - (ii) in accordance with an agreement or arrangement between those owners.

- (3) If the land is replacement land (within the meaning of **section 84(3)**), the allocation scheme must also specify how any surplus proceeds from the disposition will be used or distributed.

## 202 Requirements for land management plan

- (1) This section applies if—
- (a) a governance agreement requires a governance body to have in place a land management plan; or
  - (b) a governance body wishes to dispose of a parcel of Māori freehold land by way of sale or exchange (in which case **section 199** also applies); or
  - (c) a governance body wishes to partition or amalgamate a parcel of Māori freehold land (in which case **section 200** also applies).
- (2) The governance body must have a land management plan that is approved by a 75% majority of the owners of all of the Māori freehold land managed under the agreement who participate in making the decision.
- (3) The land management plan must—
- (a) identify the land within the asset base; and
  - (b) set out any proposed changes to the land (including proposed acquisitions, dispositions, improvements, or other changes); and
  - (c) explain how the proposed changes will improve the ability of the body to manage the asset base in accordance with the governance agreement; and
  - (d) set out the financial implications of the proposed changes; and
  - (e) set out how the governance body will achieve the proposed changes; and
  - (f) set out the risks of adopting, as well as the risks of not adopting, the land management plan; and
  - (g) in respect of a proposed disposition of a parcel of Māori freehold land, set out—
    - (i) why the disposition is necessary for the body to effectively manage the asset base in accordance with the governance agreement; and
    - (ii) how the governance body will manage the process of acquiring or improving replacement land (within the meaning of **section 83**) with the proceeds from the disposition.

### *Order relating to acquisition of Māori freehold land*

## 203 Order declaring land to be Māori freehold land and confirming allocation scheme

- (1) A governance body may, as necessary for the purpose of **section 84(3)(c)** or **198(2)(b)**, apply to the court for an order—

- (a) confirming an allocation scheme for the beneficial interests in the freehold estate in a parcel of land held, or to be held, by the body as Māori freehold land; and
  - (b) if the land referred to in **paragraph (a)** is already held by the governance body and is not already Māori freehold land, declaring that the land is Māori freehold land; and
  - (c) if the land referred to in **paragraph (a)** is to be acquired by the governance body and is not already Māori freehold land, declaring that the land will become Māori freehold land on the change of ownership.
- (2) The court must make the order if it is satisfied that—
    - (a) the allocation scheme meets the requirements of **section 201**; and
    - (b) the governance body has made the application in accordance with the requirements of this Act.
  - (3) An order made under this section must include a description of the land and its boundaries.
  - (4) If an order is made under this section confirming an allocation scheme for a parcel of land, the ownership of the parcel is vested in accordance with the allocation scheme.

#### *Application of revenues*

#### **204 Application of revenues**

- (1) A governance body may apply revenues derived from its asset base—
  - (a) to pay an amount by way of distribution to the owners of the Māori freehold land in the asset base; or
  - (b) for any other purpose, if authorised by the governance agreement.
- (2) If a governance body decides to pay owners a distribution, the body must keep a record of—
  - (a) the name of each owner entitled to receive the distribution; and
  - (b) the amount to be distributed to each owner; and
  - (c) the date on which the distribution will be made.

#### **205 Unpaid distributions**

- (1) For the purpose of this Act, an **unpaid distribution** is a distribution that a governance body has not paid to the person entitled to receive it (for example, because the body is unable to contact the person).
- (2) A governance body—
  - (a) need not keep unpaid distributions in a separate bank account; and
  - (b) may apply unpaid distributions for any purpose that is consistent with the governance agreement; and

- (c) may use any net gains derived from the application of unpaid distributions for any purpose that is consistent with the governance agreement.
- (3) The amount of an unpaid distribution is a debt payable by the governance body to the owner entitled to receive the distribution or to the owner's successor in title.
- (4) A governance body must keep records of the unpaid distribution details of each unpaid distribution.

#### **206 Governance body must notify chief executive of unpaid distribution details**

- (1) If a governance body is holding unpaid distributions 12 months after the distribution date for those distributions, the body must promptly notify the chief executive of the unpaid distribution details.
- (2) As soon as practicable after the end of each financial year, a governance body must send to the chief executive unpaid distribution details for all unpaid distributions that the governance body—
  - (a) is holding at the end of that financial year; and
  - (b) has held for longer than 12 months after the distribution date.
- (3) As soon as practicable after receiving unpaid distribution details, the chief executive must record the details on the Māori land register.

#### *Distribution schemes*

#### **207 Obligation to prepare full distribution scheme**

- (1) A full distribution scheme is required if an event commences the cancellation of a governance agreement (*see section 182*).
- (2) As soon as practicable after a governance body becomes aware that a full distribution scheme is or will be required, the governance body must apply to the court under **section 134(1)(a)** for an administrative kaiwhakarite to be appointed to oversee the preparation and implementation of the scheme.
- (3) **Subsection (2)** does not apply if an administrative kaiwhakarite has already been appointed by the court under **section 182(3)**.
- (4) As soon as practicable, but within 6 months, after the administrative kaiwhakarite is appointed, the administrative kaiwhakarite must—
  - (a) prepare, or ensure that the governance body prepares, a full distribution scheme that complies with **section 208**; and
  - (b) apply to the court for an order confirming the scheme.
- (5) The court may make an order confirming a full distribution scheme if the court is satisfied that the scheme complies with **section 208**.

#### **208 Requirements for full distribution scheme**

- (1) A full distribution scheme must—

- 
- (a) identify the Māori freehold land managed under the agreement; and
  - (b) identify the amount of unpaid distributions held by the governance body; and
  - (c) identify the remainder of the asset base (including details of the governance body's secured and unsecured creditors, and the amounts they are owed); and
  - (d) subject to **subsection (3)**, provide for—
    - (i) the amount of unpaid distributions identified under **paragraph (b)** to be transferred to the Māori Trustee along with the unpaid distribution details; and
    - (ii) the secured and unsecured creditors identified under **paragraph (c)** to be paid in full; and
  - (e) specify how and when the remainder of the asset base will be distributed to the owners of the Māori freehold land identified under **paragraph (a)**; and
  - (f) provide that, if a distribution under the distribution scheme cannot be made (for example, because the governance body is unable to contact the owner), the amount of the distribution is to be transferred to the Māori Trustee as an unpaid distribution; and
  - (g) propose the date, to be confirmed or amended by the court, by which the governance body must make the transfer referred to in **paragraph (f)**.
- (2) In deciding how and when the remainder of the asset base will be distributed, the governance body must have regard to relative land areas, fairness, and practical considerations.
- (3) If the asset base is insufficient for the purpose of **subsection (1)(d)**, the distribution scheme must—
- (a) treat the amount of unpaid distributions identified under **subsection (1)(b)** as an amount owed to an unsecured creditor; and
  - (b) identify the amount (if any) that is available for paying unsecured creditors; and
  - (c) provide for the proportion of the amount identified under **paragraph (b)** that relates to unpaid distributions to be transferred to the Māori Trustee along with the unpaid distribution details
  - (d) ensure that the unpaid distribution details record the amount of each unpaid distribution as the pro rata amount that has been transferred to the Māori Trustee.
- (4) Any of the following persons may apply to the court for a determination on any aspect of a full distribution scheme:
- (a) the governance body:

- (b) any owner of the Māori freehold land identified under **subsection (1)(a)**;
- (c) the administrative kaiwhakarite appointed to oversee the preparation and implementation of the scheme.

### 209 Obligation to prepare partial distribution scheme

- (1) A partial distribution scheme is required if the owners of some, but not all, of the Māori freehold land managed under a governance agreement revoke the governance body's appointment in respect of that land (*see* **section 181**).
- (2) If a governance body becomes aware that a partial distribution scheme is or will be required, the governance body must, within the time frame specified in **subsection (3)**,—
  - (a) prepare a partial distribution scheme that complies with **section 210**; and
  - (b) apply to the court for an order confirming the scheme.
- (3) A governance body must comply with **subsection (2)**,—
  - (a) if no owner seeks a review of the decision to revoke the governance body's appointment within the period specified in **section 180(2)**, as soon as practicable after the expiry of that period; or
  - (b) if an owner has sought a review of the decision to revoke the governance body's appointment within the period specified in **section 180(2)**, as soon as practicable after the court confirms the decision under that section.
- (4) The court may make an order confirming a partial distribution scheme if the court is satisfied that the scheme complies with **section 210**.

### 210 Requirements for partial distribution scheme

- (1) A partial distribution scheme must—
  - (a) identify the Māori freehold land that is to be removed from the asset base; and
  - (b) identify the amount of unpaid distributions payable to the owners of the land identified under **paragraph (a)** (the **departing owners**); and
  - (c) identify the remainder of the asset base (including details of the governance body's secured and unsecured creditors, and the amounts they are owed) and the share that is to be distributed to the departing owners; and
  - (d) provide for the amount of unpaid distributions identified under **paragraph (b)** to be transferred to the Māori Trustee along with the unpaid distribution details; and
  - (e) specify how and when the share of the remainder of the asset base will be distributed to the departing owners; and



- (f) provide that if a distribution under the distribution scheme cannot be made (for example, because the governance body is unable to contact the owner), the amount of the distribution is to be transferred to the Māori Trustee as an unpaid distribution; and
  - (g) propose the date, to be confirmed or amended by the court, by which the governance body must make the transfer referred to in **paragraph (f)**.
- (2) The share of the asset base to be distributed to the departing owners must be calculated using the following formula:

$$(a \div b) \times (c - d)$$

where—

- a is the value of the Māori freehold land that is to be removed from the asset base
  - b is the value of all Māori freehold land within the asset base (including the land to be removed)
  - c is the total value of the remainder of the asset base
  - d is the amount of unpaid distributions payable to the departing owners.
- (3) However, the share of the asset base to be distributed to the departing owners may be calculated by a different method than that required by **subsection (2)** if the difference—
- (a) gives effect to an agreement or arrangement between the governance body and the departing owners; or
  - (b) is consented to by the departing owners; or
  - (c) is reasonable and is necessary, in the opinion of the governance body, to equitably reflect the removal of the particular Māori freehold land from the asset base.
- (4) In deciding how and when the share of the asset base will be distributed to the departing owners, the governance body must have regard to relative land areas, fairness, and practical considerations.
- (5) Any of the following persons may apply to the court for a determination on any aspect of a partial distribution scheme:
- (a) the governance body;
  - (b) any owner of the Māori freehold land identified under **subsection (1)(a)**.

## 211 Process once court confirms distribution scheme

- (1) If the court confirms a partial distribution scheme, the governance body must,—
- (a) as soon as practicable, but within 1 month, after the court confirms the scheme, register an updated governance agreement with the chief executive; and

- (b) as soon as practicable after the court confirms the scheme, distribute the relevant share of the asset base in accordance with the scheme.
- (2) If the court confirms a full distribution scheme, the administrative kaiwhakarite must take, or ensure that the governance body takes, the following steps:
  - (a) as soon as practicable after the scheme is confirmed, to distribute the asset base in accordance with the scheme; and
  - (b) as soon as practicable after complying with **paragraph (a)**, to apply to the court for an order cancelling the governance agreement.
- (3) If the court is satisfied that a full distribution scheme has been properly implemented, the court may make an order cancelling the governance agreement (*see section 183*).
- (4) The Registrar must send a copy of any order made under **subsection (3)** to the chief executive, so that the chief executive can cancel the governance certificate under **section 185**.
- (5) **Section 212** applies to any unpaid distributions transferred to the Māori Trustee under a distribution scheme confirmed under this section.

*Obligations of Māori Trustee in respect of unpaid distributions*

**212 Transfer of unpaid distributions from outgoing governance body to Māori Trustee**

- (1) This section applies if an amount relating to unpaid distributions is transferred to the Māori Trustee in accordance with a distribution scheme confirmed by the court under **section 211**.
- (2) The person making the transfer must—
  - (a) notify the chief executive of the transfer; and
  - (b) ensure that the Māori Trustee and the chief executive receive, at the time of the transfer, unpaid distribution details for each unpaid distribution.
- (3) The Māori Trustee must—
  - (a) credit the amount to the Common Fund (within the meaning of the Māori Trustee Act 1953); and
  - (b) hold the amount on trust for the persons entitled to receive the unpaid distributions (or for their successors in title); and
  - (c) ensure that any distributable income derived from the amount, and payable under section 26(2) of the Māori Trustee Act 1953, is added to the amount of the distribution.
  - (d) as soon as practicable after the end of each financial year, send to the chief executive up-to-date unpaid distribution details for all unpaid distributions that the Māori Trustee is holding at the end of that financial year.

- (4) If the Māori Trustee is holding an amount relating to an unpaid distribution, the person entitled to receive the distribution is entitled to claim that amount from the Māori Trustee (which may be less than the amount of the original distribution (*see* **section 208(3)**), or more, if interest has been added under **subsection (3)(c)**).

**213 Māori Trustee must transfer unpaid distributions to successor governance body**

- (1) This section applies if, in respect of a parcel of Māori freehold land,—
- (a) the Māori Trustee is holding an amount relating to an unpaid distribution payable to an owner of the land or that person’s successor in title; and
  - (b) the land comes under the management of a governance body.
- (2) The governance body may apply to the Māori Trustee for the amount.
- (3) If the Māori Trustee receives an application, and is satisfied that the land is managed by the governance body under a governance agreement, the Māori Trustee must—
- (a) transfer the amount to the governance body; and
  - (b) ensure that the governance body and the chief executive receive, at the time of the transfer, up-to-date unpaid distribution details for the distribution.
- (4) If a successor governance body receives an amount relating to unpaid distributions,—
- (a) the body must manage the amount as if the body had made the original distributions; and
  - (b) the amount of each unpaid distribution is the amount relating to the distribution that was received from the Māori Trustee.
- (5) If a successor governance body is holding an unpaid distribution received from the Māori Trustee under this section, the person entitled to receive the distribution is entitled to claim from the successor governance body the amount of the distribution that the successor governance body received (which may be less than the amount of the original distribution (*see* **section 208(3)**)).

*Matters relating to rangatōpū*

**214 Requirements for kaitiaki of rangatōpū**

- (1) A rangatōpū must at all times have—
- (a) at least 3 kaitiaki who are eligible under this section to hold that position; and
  - (b) a majority of kaitiaki who are ordinarily resident in New Zealand (within the meaning of section 207D(3) of the Companies Act 1993).
- (2) A person is eligible to be a kaitiaki of a rangatōpū if—

- (a) the person is a natural person who is of or over the age of 18 years; and
- (b) none of the disqualifications in **subsection (3)** apply to the person.
- (3) A person is disqualified from being a kaitiaki if—
- Criminal history*
- (a) the person has been convicted within the last 5 years of, or is currently subject to a sentence (within the meaning of section 4(2) of the Sentencing Act 2002) for, an offence relating to fraud or dishonesty (whether convicted in New Zealand or overseas):
- Personal insolvency*
- (b) the person—
- (i) is an undischarged bankrupt; or
- (ii) has made a proposal to creditors for the payment or satisfaction of debts under section 326 of the Insolvency Act 2006, and those debts remain outstanding; or
- (iii) is subject to a summary instalment order made under subpart 3 of Part 5 of the Insolvency Act 2006; or
- (iv) is a debtor who is participating in the no asset procedure under subpart 4 of Part 5 of the Insolvency Act 2006:
- Professional incompetence*
- (c) the person is disqualified by an order of the court made under **section 225(b)**:
- (d) the High Court has, within the last 5 years, substituted a new trustee for the person under section 51(2)(a) of the Trustee Act 1956 after holding that the person has misconducted himself or herself in the administration of a trust:
- (e) the person is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under section 382, 383, or 385 of the Companies Act 1993:
- Personal incapacity*
- (f) the person is subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992:
- (g) the property, or any part of the property, of the person is the subject of a personal order or a property order made under the Protection of Personal and Property Rights Act 1988:
- (h) the property of the person is the subject of an order made under **section 63** (appointment of kaiwhakamarumarū for owners needing protection).

**215 Kaitiaki: vacancies in office, suspension from office, validity of acts**

- (1) If a kaitiaki is or becomes disqualified from being a kaitiaki, he or she ceases to hold that office, unless **subsection (2)** applies.
- (2) If, under **section 214(3)(g) or (h)**, a kaitiaki is or becomes disqualified because a property order is made in respect of any part of his or her property,—
  - (a) the kaitiaki does not cease to hold office as a kaitiaki of the governance body by virtue only of the making of the order; but
  - (b) the kaitiaki is suspended from office while the order remains in force.
- (3) A kaitiaki who is suspended from office under **subsection (2)**—
  - (a) is deemed to have been granted leave of absence; and
  - (b) is not capable of acting as a kaitiaki of the governance body during the period of suspension.
- (4) The acts of a person as a kaitiaki, and the acts of a governance body of which the person is a kaitiaki, are valid even if—
  - (a) the person's appointment was defective; or
  - (b) the person is not qualified for appointment.

**216 Court may appoint kaitiaki**

- (1) If a rangatōpū has fewer than 3 kaitiaki, any of the following may apply to the court to appoint as kaitiaki 1 more persons who are eligible under **section 214** to hold that position:
  - (a) an owner of Māori freehold land managed by the rangatōpū;
  - (b) a creditor of the rangatōpū;
  - (c) the chief executive, if **clause 10 of Schedule 1** applies.
- (2) The court may appoint kaitiaki only if the court is satisfied that it is not practicable for kaitiaki to be appointed in accordance with the governance agreement.
- (3) The court may make an appointment subject to any terms and conditions the court thinks fit.

**217 Rangatōpū must maintain interests register**

- (1) A rangatōpū must establish and maintain an interests register for the holdings and dealings by its kaitiaki in the individual freehold interests in the Māori freehold land managed by the rangatōpū under a governance agreement.
- (2) The register must contain—
  - (a) details of the individual freehold interests held by each kaitiaki; and
  - (b) details of dealings in the individual freehold interests by each kaitiaki; and
  - (c) declarations made under **section 218**.

- (3) The rangatōpū must keep the register at its registered office or principal place of business.
- (4) The interests register must be available for inspection, during normal business hours and at the place at which the register is kept, by any owner of the Māori freehold land managed by the rangatōpū under the governance agreement.

**218 Kaitiaki of rangatōpū must make annual declaration for purpose of interests register**

Promptly after the end of each financial year, each kaitiaki of a rangatōpū must make a declaration of his or her holdings as at the end of the financial year, and dealings during the financial year, in the individual freehold interests in the Māori freehold land managed by the rangatōpū under a governance agreement.

**219 Rangatōpū not subject to rule against perpetuities**

The rule against perpetuities and the provisions of the Perpetuities Act 1964 do not prescribe or restrict the period during which—

- (a) a rangatōpū may exist in law; or
- (b) the kaitiaki of a rangatōpū may hold or deal with property (including income derived from property).

*Access to information held by governance bodies*

**220 Requests for information**

- (1) A governance body must endeavour to inform the owners of Māori freehold land that the body manages under a governance agreement about the governance body and its operations under the agreement, so that—
  - (a) the owners can participate effectively in the management of the asset base; and
  - (b) the governance body is accountable to the owners.
- (2) An owner may ask the governance body to make particular information available.
- (3) To enable the governance body to make the information available within a reasonable time,—
  - (a) a request for information must be reasonably detailed and specific; and
  - (b) the governance body must give an owner reasonable assistance to formulate a sufficiently detailed and specific request.
- (4) If a governance body receives a request for information, the body must—
  - (a) promptly notify the owner whether the body holds the requested information; and
  - (b) within a reasonable time after receiving the request,—

- (i) notify the owner whether the body is withholding any information under **section 221** (including the grounds on which the information is being withheld); and
  - (ii) provide the remaining information to the owner.
- (5) If the requested information is, or is contained in, a document, the governance body may provide the information to the owner by—
- (a) giving the owner a reasonable opportunity to inspect the document; or
  - (b) providing the owner with a copy of the document either in full or with any deletions or alterations necessary to remove or protect information withheld under **section 221**.

### **221 Reasons for withholding information**

A governance body may withhold information requested under **section 220** if—

- (a) withholding the information is necessary to—
  - (i) protect the privacy of natural persons, including deceased natural persons; or
  - (ii) maintain legal professional privilege; or
  - (iii) enable the governance body to carry out, without prejudice or disadvantage, commercial activities; or
  - (iv) enable the governance body to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- (b) making the information available—
  - (i) would disclose a trade secret; or
  - (ii) would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information; or
  - (iii) would breach an obligation of confidence; or
- (c) the requested information cannot be provided without substantial collusion or research; or
- (d) the request is frivolous or vexatious or the information requested is trivial.

### *Powers of Māori Land Court in relation to governance bodies*

### **222 Court may make orders or investigate governance bodies**

- (1) This section applies if the court is satisfied that a governance body is or may be operating in a manner that creates, or is likely to create, a substantial risk of

serious loss to the owners of the Māori freehold land managed under the governance agreement.

- (2) The court may make an order requiring a kaitiaki, or any officer or employee of a governance body, to do 1 or more of the following:
  - (a) file in the court a written report on any matter relating to the governance body's management of Māori freehold land or operations under the governance agreement;
  - (b) produce any papers, documents, records, or things in that person's possession or under that person's control that are relevant to the governance body's management of Māori freehold land or operations under the governance agreement;
  - (c) appear before the court—
    - (i) for questioning on a report filed under **paragraph (a)**; or
    - (ii) for questioning on anything produced under **paragraph (b)**; or
    - (iii) to explain any failure of the governance body or its kaitiaki to comply with an obligation under this Act.
- (3) The court may make an order appointing 1 or more persons (**examining officers**) to—
  - (a) investigate the affairs of the governance body (but only to the extent that those affairs relate to the body's management of Māori freehold land or operations under the governance agreement); and
  - (b) report to the court in the manner directed by the court.
- (4) The court's jurisdiction under this section may be exercised—
  - (a) on the application of—
    - (i) at least 15 of the owners of the Māori freehold land within the body's asset base; or
    - (ii) the owners who collectively hold at least 5% of the beneficial interest in the freehold estate in the Māori freehold land within the body's asset base; or
    - (iii) the governance body; or
  - (b) on the court's own initiative, if the court is considering whether to issue an injunction under **section 373** in relation to all or part of an asset base managed by the governance body.

## **223 Matters relating to investigation of governance bodies**

- (1) Before appointing an examining officer under **section 222(3)** to investigate the affairs of a governance body, the court may require security for the cost of the investigation to be given by the applicant that is seeking the investigation.



- (2) The court may, with the consent of the chief executive of a department of the public service, appoint an officer or employee of the department as an examining officer.
- (3) If an examining officer is appointed, the kaitiaki of the governance body, and other officers or employees of the governance body (whether past or present), must—
  - (a) provide to the examining officer any documents relating to the governance body's role under this Act that are held by the kaitiaki, officers, or employees; and
  - (b) give to the examining officer any assistance that the kaitiaki, officers, or employees are reasonably able to give; and
  - (c) comply with any direction of the court to explain a matter or question referred to in any report of the examining officer.
- (4) On completing the investigation, or at any stage of it, the court may order the governance body, an owner, or any other person to pay a reasonable sum towards the costs of the investigation and of any inquiry before the court.

#### **224 What court may do after making order or investigating governance body**

- (1) This section applies if the court, after considering any information that it receives as the result of making an order or investigating a governance body under **section 222**, is of the opinion that—
  - (a) a matter or question affecting the governance body should be the subject of inquiry at a sitting of the court; or
  - (b) a prima facie case for the exercise of a power conferred upon the court by this Act or Te Kooti Whenua Māori Act **2015** has been established.
- (2) The court—
  - (a) may appoint a time and place for a sitting of the court and give any directions for service of notice of the sitting that it thinks fit; and
  - (b) must ensure that notice of the sitting identifies the matter or question affecting the governance body that will be the subject of inquiry (if **subsection (1)(a)** applies) or the power that there is a prima facie case for exercising (if **subsection (1)(b)** applies).

#### **225 Court may disqualify kaitiaki**

The court may make an order disqualifying a person from being appointed, or continuing in an appointment, as a kaitiaki if the court is satisfied that—

- (a) the person was appointed, or continued in an appointment, as a kaitiaki of a governance body while not eligible under **section 214** to hold that position; or
- (b) the person has, while a kaitiaki of a governance body and whether convicted or not,—

- (i) persistently failed to comply with a duty arising under any enactment, rule of law, rules of court, or court order (to the extent that the duty relates to the role of kaitiaki under this Act); or
- (ii) persistently failed to take reasonable steps to ensure that the governance body complies with a duty arising under any enactment, rule of law, rules of court, or court order (to the extent that the duty relates to the governance body's role under this Act); or
- (iii) been guilty of fraud in relation to the governance body or of a breach of duty to the governance body; or
- (iv) acted in a reckless or incompetent manner in the performance of his or her duties as a kaitiaki.

**226 Jurisdiction of court in respect of certain rangatōpū**

- (1) This section applies in respect of any rangatōpū in the form of a private trust.
- (2) The court has and may exercise in respect of the trust all the same powers and authorities as the High Court has and may exercise under the Trustee Act 1956 in respect of trusts generally.
- (3) **Subsection (2)** does not limit or affect the jurisdiction of the High Court.

## Part 7

### Administration of estates

**227 Definitions for this Part**

In this Part, unless the context otherwise requires,—

**administration** has the meaning given by section 2(1) of the Administration Act 1969

**administrator** has the meaning given by section 2(1) of the Administration Act 1969

**beneficial interest**, in relation to Māori freehold land,—

- (a) includes an interest in the assets or funds relating to the land; and
- (b) to avoid doubt, includes—
  - (i) an estate or interest in the land other than the freehold estate in the land;
  - (ii) an interest in buildings, other permanent structures, plants, and trees on the land

**eligible beneficiary** means a person described in any of **paragraphs (a) to (d) of section 233(1)**

**intestate** includes a person who leaves a will but dies intestate as to some beneficial interest in his or her real or personal property

**Māori freehold land** includes—

- (a) vested land within the meaning of section 2(1) of the Maori Vested Lands Administration Act 1954; and
- (b) reserved land within the meaning of section 2(1) of the Maori Reserved Land Act 1955

**owner** means a person entitled to any beneficial interest as defined in this Part.

**228 General law on estates subject to this Part**

On the death intestate of an owner of Māori freehold land, or a beneficial interest in Māori freehold land, the provisions of this Part prevail over all other enactments and rules of law relating to—

- (a) applications for and grants of administration of estates of deceased persons; and
- (b) the administration of those estates; and
- (c) the bringing and settling of claims against those estates; and
- (d) succession to property owned by deceased persons at their death.

**229 Invalid disposition by will must be treated as intestacy**

If a provision in a will purports to dispose of land or an individual freehold interest in land in breach of the requirements of this Act, the provision is void and the owner is intestate in relation to the land or interest.

**230 Land status at date of death of owner determinative**

- (1) For the purposes of determining any matter under this Act, including whether a person is an eligible beneficiary under this Part, the status of any land of a deceased owner (or any land in which any beneficial interest is held by the owner) is the status of the land at the date on which the person dies.
- (2) **Subsection (3)** applies if,—
  - (a) at the date on which a deceased owner dies, the land or the land in which the owner has an interest is private land other than Māori land; and
  - (b) before the land or interest is vested in the person lawfully entitled to succeed to it, the land or land in which the interest is held becomes Māori freehold land; and
  - (c) the person lawfully entitled to succeed to the land or interest would not have been lawfully entitled to succeed to the land or interest were the land or the land in which the interest is held Māori freehold land at the date on which the deceased owner died.
- (3) The court may make an order vesting the land or interest in the person lawfully entitled to succeed to it, despite the change in status of the land.

*Māori land not available for payment of debts of estate***231 Māori land not available for payment of debts of estate**

- (1) The following land or interests in land that are owned by a deceased person (**estate land**) cannot be used to pay the debts and liabilities of his or her estate:
  - (a) Māori land;
  - (b) a beneficial interest in the freehold estate in Māori land;
  - (c) a beneficial interest in the freehold estate in a Māori reserve.
- (2) However, revenue derived from estate land is available for payment of the debts and liabilities of the person's estate if—
  - (a) the person died on or after 1 April 1968; and
  - (b) the revenue was derived before the person's death.
- (3) Nothing in **subsection (1) or (2)** limits or affects—
  - (a) the operation of any mortgage or charge to which any estate land is subject when the person dies; or
  - (b) the recovery of rates or taxes payable for the land.
- (4) Property held by the chief executive in trust for a deceased person in respect of land subject to Part 2 of the Maori Affairs Restructuring Act 1989 cannot be used to pay the debts and liabilities of the person's estate.

*Restrictions relating to testamentary promises and family protection legislation***232 Restrictions relating to testamentary promises and family protection legislation**

- (1) An order may not be made under the Law Reform (Testamentary Promises) Act 1949 in respect of a person's estate to which this Part applies if the order would have the effect of disposing of a beneficial interest in the freehold estate in Māori freehold land to anyone to whom the deceased person could not have disposed of the interest by will.
- (2) An order may not be made under the Family Protection Act 1955 in respect of a person's estate to which this Part applies if the order would have the effect of disposing of a beneficial interest in the freehold estate in Māori freehold land to a person other than a child or grandchild of the deceased owner (including a whangai child or grandchild) who is associated with the land in accordance with tikanga Māori.
- (3) Nothing in **subsection (1) or (2)** limits the power of the High Court to make an order—
  - (a) conferring the right to reside in any dwelling; or
  - (b) affecting any income derived from any beneficial interest in the freehold estate in Māori freehold land.

- (4) A Māori is to be treated as the spouse of a deceased Māori for the purposes of the Family Protection Act 1955 if—
- (a) they were married in accordance with tikanga Māori before 1 April 1952; and
  - (b) when the person died, they were still married in that way and neither was legally married to someone else.

*Distribution of interests when owner dies intestate*

**233 Who may succeed to interests**

- (1) If the owner of a parcel of Māori freehold land, or an owner of an individual freehold interest in a parcel of Māori freehold land, dies intestate, the persons eligible to succeed to the land or interest (an **eligible beneficiary**) are, in order of priority,—
- (a) the descendants of the owner:
  - (b) the descendants of the owner’s siblings and any surviving sibling:
  - (c) any surviving parent of the owner who is associated with the land in accordance with tikanga Māori:
  - (d) the descendants of siblings, and any surviving sibling, of the owner’s parents, but only if both the parent and the sibling are associated with the land in accordance with tikanga Māori.
- (2) If there is more than 1 eligible beneficiary, a whānau trust must be established over the land or interest and—
- (a) each eligible beneficiary succeeds to the land or interest as a beneficiary of the trust; and
  - (b) the purposes of the trust are to promote the health, social, cultural, and economic welfare, education, vocational training, and general advancement in life of the beneficiaries of the trust and their immediate families.
- (3) If there is no eligible beneficiary of—
- (a) a parcel of Māori freehold land, **section 267** applies:
  - (b) an individual freehold interest in a parcel of Māori freehold land, **section 268** applies.
- (4) A vesting to give effect to this section must be made only after—
- (a) an application is made to the chief executive under **section 234**; and
  - (b) if necessary, the application has been determined in accordance with **section 236**.

**234 Application for succession**

- (1) This section applies to an application for the purposes of **section 233(4)(a)**.
- (2) An application may be made by any of the following persons:

- 
- (a) an eligible beneficiary;
  - (b) a parent of the deceased owner (who is not an eligible beneficiary);
  - (c) if administration has been granted, the administrator of the estate.
- (3) An application must—
- (a) be in writing;
  - (b) be dated and signed by the applicant;
  - (c) state the full name and contact details of the applicant;
  - (d) include proof that the applicant is an eligible beneficiary, a parent of the deceased owner (who is not an eligible beneficiary), or the administrator of the estate;
  - (e) if applicable, include a proposed declaration of trust that—
    - (i) states that the trust to be established is a whānau trust (with the name specified); and
    - (ii) states the purposes of the trust (as specified in **section 233(2)(b)**); and
    - (iii) identifies the beneficial interest (as the interest is described in the Māori land register); and
    - (iv) states any conditions or restrictions in relation to the manner in which the trustees may deal with the beneficial interest; and
    - (v) states the class of beneficiaries; and
    - (vi) states the full name and contact details of each beneficiary alive (and known) when the declaration is made; and
    - (vii) states the full name and contact details of each proposed trustee; and
    - (viii) includes a statutory declaration by each proposed trustee under the Oaths and Declarations Act 1957 that he or she is eligible for, and willing to accept, appointment as a trustee; and
    - (ix) provides a power of appointment for further or replacement trustees;
  - (f) include a statutory declaration by the applicant under the Oaths and Declarations Act 1957 that the information in the application is true and correct.
- (4) A whānau trust established in accordance with this section may provide for other property, including other land, to be trust property, in which case the application must include any information relating to the property that is necessary for the trustees to administer the trust in relation to that property.

**235 Processing of application**

- (1) On receiving an application, the chief executive must determine whether the application satisfies the requirements of **section 234**.
- (2) For this purpose, the chief executive may—
  - (a) require the applicant to provide further information;
  - (b) refer the application to the court, if the chief executive is uncertain as to whether any of the information contained in the application is correct.
- (3) Once an application is in order, the chief executive must give public notice of the application and invite submissions on the application within 20 working days of the notice being given.
- (4) The chief executive must give public notice by—
  - (a) publishing a summary of the application at least 3 times, at intervals of at least 1 week, in—
    - (i) daily newspapers published in Auckland, Wellington, Christchurch, and Dunedin; and
    - (ii) a newspaper that is distributed in the area where the land is situated; and
  - (b) publishing a summary of the application on an Internet site maintained by or on behalf of the governance body or chief executive; and
  - (c) using any other method that is reasonably likely to bring the application to the attention of the owners of the land.
- (5) If any objections are received within the notice period, **section 236** applies.
- (6) If no objections are received within the notice period, the chief executive must—
  - (a) amend the Māori land register to record the new ownership details, including the details relating to any whānau trust, as set out in the application; and
  - (b) give notice to the Registrar-General of the new ownership details and the Registrar-General must make any amendments to the land register that are necessary to give effect to the new ownership or ensure that the land register complies with the Land Transfer Act 1952.

**236 Determination of application where objections received**

- (1) This section applies if objections are received within the notice period to an application for succession.
- (2) The application must be referred to the Māori land dispute resolution service.
- (3) If the objections are dealt with and a solution is reached that complies with the requirements of **section 233**, the resolution service must notify the chief executive of the solution and the chief executive must—

- (a) amend the Māori land register to record the new ownership details, including the details relating to any whānau trust, as set out in the application; and
  - (b) give notice to the Registrar-General of the new ownership details and the Registrar-General must make any amendments to the land register that are necessary to give effect to the new ownership or ensure that the land register complies with the Land Transfer Act 1952.
- (4) If the objections are dealt with and no solution is reached that complies with the requirements of **section 233**, the application must be referred to the court and the court must determine which persons are to succeed to the land or interest to which the application relates.
- (5) The Registrar must give notice of the court’s decision to the chief executive and the chief executive must—
- (a) amend the Māori land register to record the new ownership details, including the details relating to any whānau trust, as set out in the decision; and
  - (b) give notice to the Registrar-General of the new ownership details and the Registrar-General must make any amendments to the land register that are necessary to give effect to the new ownership or ensure that the land register complies with the Land Transfer Act 1952.

### 237 Effect of succession

- (1) This section applies if the chief executive has amended the Māori land register in accordance with **section 235(6), 236(3), or 236(5)**.
- (2) The beneficial ownership of the land or interest is vested—
- (a) in accordance with the entries made in the register; and
  - (b) on the date on which the entries are recorded.
- (3) The beneficial ownership is subject to any rights of the surviving spouse, civil union partner, or de facto partner of the deceased conferred by **section 238**.
- (4) Any whānau trust—
- (a) is established—
    - (i) in accordance with the entries made in the register; and
    - (ii) on the date on which the entries are recorded; and
  - (b) is subject to **sections 238 and 239**.

### 238 Succession interests subject to certain rights of surviving spouse or partner

- (1) This section applies if—
- (a) the owner of a parcel of Māori freehold land, or an owner of an individual freehold interest in a parcel of Māori freehold land, dies intestate; and



- (b) the owner is survived by a spouse, civil union partner, or de facto partner (the **survivor**); and
  - (c) at the date on which the owner died, there was no separation order or other written separation agreement in force between the owner and the survivor.
- (2) The survivor is entitled to receive any income or discretionary grants that the owner would have been entitled to receive were the owner to remain the holder of the estate or interest until the survivor—
- (a) remarries or enters a new civil union or de facto relationship; or
  - (b) dies; or
  - (c) relinquishes the right.
- (3) The persons who succeed to the land or interest under **section 237**—
- (a) are the owners of the land or interest; and
  - (b) are entitled to receive the income or discretionary grants when the survivor's right ends.

### **239 Matters relating to whānau trust established on intestacy**

- (1) The declaration of trust in relation to a whānau trust established on intestacy must be treated as including a prohibition on the trustees disposing of the beneficial interest in the freehold estate by way of sale, exchange, gift, or mortgage or other charge unless the court has authorised the trustees to do so, on application under **section 61(2)**.
- (2) The following provisions (relating to whānau trusts established in accordance with **section 52**) apply to the trust and the trustees, with any necessary modifications:
- (a) **section 55(2)** (effect of establishing whānau trust):
  - (b) **section 56** (trustees of whānau trust):
  - (c) **section 57** (termination of whānau trust by court order):
  - (d) **section 58** (responsibilities of trustees if whānau trust terminated):
  - (e) **section 60** (entitlements of beneficiaries of whānau trusts):
  - (f) **section 61** (jurisdiction of court).
  - (g) **section 62** (court may validate actions of trustees).

#### *Transfer of occupation lease or licence where grantee dies intestate*

### **240 Transfer of occupation lease or licence where grantee dies intestate**

- (1) The unexpired term of an occupation lease or licence granted under **section 111** may be transferred to another person if the grantee of the lease or licence dies intestate, but only in accordance with this section.
- (2) The transfer must be made to the following (the **recipient**):

- 
- (a) the grantee's spouse, civil union partner, or de facto partner; or
  - (b) a child of the grantee (including a whangai child); or
  - (c) children or grandchildren of the grantee (including whangai children or grandchildren) or both, if the children or grandchildren are minors for whom the grantee is the principal caregiver when the grantee dies.
- (3) However, the following people are also entitled to occupy the house to which the lease or licence applies, as long as any condition of the lease or licence about the number of occupants of the house is complied with:
- (a) for a recipient under **subsection (2)(a) or (b)**, the immediate family of the recipient; or
  - (b) for recipients under **subsection (2)(c)**,—
    - (i) while any recipient occupying the house is a minor, the principal caregiver of the recipients; or
    - (ii) once no recipient occupying the house is a minor, the immediate family of each recipient.
- (4) The transfer may be made only if the recipient or recipients—
- (a) are occupying the house, as their primary residence, at the time of the grantee's death; and
  - (b) successfully apply to the chief executive to have the lease or licence transferred, or the court orders the lease or licence to be transferred, to them in accordance with the rest of this section.
- (5) A person qualified to be a recipient, or a person legally entitled to act on the person's behalf, may apply for the transfer of the lease or licence to the recipient or recipients within 90 days of the death of the grantee of the lease or licence.
- (6) An application must—
- (a) be in writing;
  - (b) be dated and signed by the applicant or, if applicable, person acting on behalf of the applicant;
  - (c) state the full name and contact details of the applicant and, if applicable, the person acting on behalf of the applicant;
  - (d) include proof that the proposed recipient or recipients are persons qualified to be recipients;
  - (e) be witnessed by a person who is not a person qualified to be a recipient, or immediate family of a person qualified to be a recipient, and who is at least 20 years old.
- (7) On receiving an application, the chief executive must determine whether the application satisfies the requirements of **subsection (6)** and, for this purpose, the chief executive may—

- 
- (a) require the applicant or, if applicable, person acting on behalf of the applicant to provide further information;
    - (b) refer the application to the court, if the chief executive is uncertain as to whether any of the information contained in the application is correct.
  - (8) Promptly after the 90-day application period has expired, the chief executive must give written notice of any applications received to the owners of the land and invite those owners to make submissions on the applications within 20 working days of the notice being given.
  - (9) If there is only 1 application and the chief executive has not received any objection to the application within the 20 working days, the chief executive must transfer the occupation lease or licence to the recipient or recipients and record the details of the transfer in the beneficial interests register.
  - (10) If, there is more than 1 application, the chief executive must refer the matter to the Māori land dispute resolution service together with any objections to any of the applications received within the 20 working days.
  - (11) If the chief executive receives notification that the competing applications and any objections have been resolved through the Māori land dispute resolution service process, the chief executive must—
    - (a) transfer the lease or licence to the agreed recipient or recipients; or
    - (b) if it is agreed that no transfer will occur, record in the register that the lease or licence has expired.
  - (12) If the chief executive receives notification that the competing applications and any objections have not been resolved through the Māori land dispute resolution service process, the chief executive must refer the matter to the court to determine.
  - (13) In making a determination, the court must take into account—
    - (a) the merits of each application; and
    - (b) the merits of the objections to the applications; and
    - (c) the degree of hardship each proposed recipient would face if the occupation lease or licence was not transferred to them.
  - (14) A proposed recipient under an application made under this section for the transfer of an occupation lease or licence may remain in occupation of the house to which the lease or licence applies until the application is finally determined and, for that purpose, must be treated as if he or she were the grantee of the lease or licence.
  - (15) A person to whom an unexpired term of an occupation lease or licence is transferred is not entitled to dispose of that lease or licence to any other person.
  - (16) The chief executive must—
    - (a) amend the Māori land register to record the transfer of an occupation lease or licence made in accordance with this section; and

- (b) give notice to the Registrar-General of the new details and the Registrar-General must make any amendments to the land register that are necessary to give effect to the transfer or ensure that the land register complies with the Land Transfer Act 1952.
- (17) A transfer takes effect on the date on which the transfer is recorded in the Māori land register.

*Vesting of beneficial interests gifted by will*

**241 Vesting of beneficial interest gifted by will when grant of administration**

- (1) This section applies if administration has been granted over an estate that includes a beneficial interest in Māori freehold land gifted by will.
- (2) The administrator or executor of the estate may apply to have the beneficial interest vested in the beneficiaries of the gift by lodging, with the chief executive,—
  - (a) certified copies of—
    - (i) the deceased owner’s death certificate; and
    - (ii) the deceased owner’s will; and
    - (iii) proof that administration of the estate has been granted; and
  - (b) a statutory declaration by the administrator or executor under the Oaths and Declarations Act 1957 that the gift complies with the requirements of this Act.
- (3) If the chief executive is satisfied that the application is in order, the chief executive must—
  - (a) amend the Māori land register to record the new ownership details; and
  - (b) give notice to the Registrar-General of the new ownership details and the Registrar-General must make any amendments to the land register that are necessary to give effect to the new ownership or ensure that the land register complies with the Land Transfer Act 1952.
- (4) The beneficial ownership of the land or interest is vested—
  - (a) in accordance with the entries made in the register; and
  - (b) on the date on which the entries are recorded.

**242 Vesting of beneficial interest gifted by will when grant of administration but no effective administration**

- (1) This section applies if—
  - (a) administration has been granted over an estate that includes a beneficial interest in Māori freehold land gifted by will; but
  - (b) the gift is unlikely to be administered for any reason, including the following:

- (i) the administrator or executor refuses to apply to have the interest vested in the beneficiaries of the gift; or
  - (ii) it is impracticable for the administrator or executor to apply to have the interest vested in the beneficiaries of the gift (for example, because the administrator or executor has died or is overseas).
- (2) The court may, on application, make an order vesting the beneficial interest in the beneficiaries of the gift.
- (3) The application may be made by a person claiming to be a beneficiary of the gift.
- (4) The application must include—
  - (a) certified copies of—
    - (i) the deceased owner’s death certificate; and
    - (ii) the deceased owner’s will; and
  - (b) a statutory declaration by the applicant under the Oaths and Declarations Act 1957 that the gift complies with the requirements of this Act.
- (5) The applicant must give written notice of the application to the administrator or executor unless the administrator or executor is the applicant or has died.
- (6) The court must not make the order unless it is satisfied that—
  - (a) this section applies and the applicant has complied with its requirements; and
  - (b) the gift complies with the requirements of this Act.

**243 Vesting of beneficial interest gifted by will when no grant of administration**

- (1) This section applies if administration has not been granted over an estate that includes a beneficial interest in Māori freehold land gifted by will.
- (2) A person claiming to be a beneficiary of the gift may apply to have the beneficial interest vested in the beneficiaries of the gift by lodging with the chief executive—
  - (a) a certified copy of the deceased owner’s death certificate; and
  - (b) a certified copy of the deceased’s will; and
  - (c) a statutory declaration by a lawyer under the Oaths and Declarations Act 1957 that the gift complies with the requirements of this Act.
- (3) If the chief executive is satisfied that the application is in order, the chief executive must notify in writing each person entitled to seek a grant of administration of the application and inviting a response within 20 working days.

- (4) If the chief executive receives no responses or only responses indicating that no persons entitled to seek a grant of administration have sought or intend to seek such a grant, the chief executive must—
  - (a) amend the Māori land register to record the new ownership details; and
  - (b) give notice to the Registrar-General of the new ownership details, and the Registrar-General must make any amendments to the land register that are necessary to give effect to the new ownership or ensure that the land register complies with the Land Transfer Act 1952.
- (5) If the chief executive receives a response within 20 working days indicating that a person is seeking or intends to seek a grant of administration, the chief executive must notify the applicant in writing that the application has been refused, but inviting the applicant to—
  - (a) resubmit the application if, within 20 working days, a grant of administration has not been made; and
  - (b) include with the application a certified notice from the court or the High Court confirming that no grant of administration has been made.
- (6) If an application is resubmitted, and the chief executive is satisfied that it and the court notice are in order, the chief executive must—
  - (a) amend the Māori land register to record the new ownership details; and
  - (b) give notice to the Registrar-General of the new ownership details, and the Registrar-General must make any amendments to the land register that are necessary to give effect to the new ownership or ensure that the land register complies with the Land Transfer Act 1952.
- (7) The beneficial ownership of the land or interest is vested under this section—
  - (a) in accordance with the entries made in the register; and
  - (b) on the date on which the entries are recorded.

*Recording of rights of surviving spouses and partners*

**244 Recording of certain rights of surviving spouses and partners**

- (1) This section applies if—
  - (a) the owner of Māori freehold land or an individual freehold interest in Māori freehold land gifts by will to his or her spouse, civil union partner, or de facto partner the right to receive any income or discretionary grants from the owner's land or interest in the land; or
  - (b) **section 238(2)** entitles the spouse, civil union partner, or de facto partner of an intestate deceased owner of Māori freehold land or an interest in Māori freehold land to receive income or discretionary grants from the owner's land or interest in the land.

- (2) On the death of the owner, the spouse, civil union partner, or de facto partner must apply in writing to the chief executive to have the right to receive the income or grants recorded on the Māori land register.
- (3) The chief executive must record the right of the spouse, civil union partner, or de facto partner on the register if the chief executive is satisfied that—
  - (a) the applicant is the surviving spouse, civil union partner, or de facto partner of the deceased owner; and
  - (b) the requirements of **section 133** have been met or, as the case may be, **section 238** applies.

#### **245 Removal of records of certain rights of surviving spouses and partners**

- (1) This section applies if the right of a spouse, civil union partner, or de facto partner that is recorded on the Māori land register under **section 244** ends because—
  - (a) the spouse or partner dies or relinquishes it; or
  - (b) for a right conferred by **section 238**, the spouse or partner remarries or enters a new civil union or de facto relationship.
- (2) The owner of the land or interest in land when the right ends must apply in writing to the chief executive to have the record of the right removed from the register.
- (3) The chief executive must remove the record of the right from the register if the chief executive is satisfied that the right has ended.

## **Part 8**

### **Registers, jurisdiction about land, giving notices, and other provisions**

#### *Provision of documents to chief executive and Registrar-General*

#### **246 Instruments or notices issued under Act must be provided to chief executive**

- (1) This section applies if any chief executive or the Minister issues an instrument or notice under this Act that affects Māori land, a whenua tāpui, or a governance agreement or governance body.
- (2) The issuer must provide a copy of the instrument or notice to the chief executive who maintains the Māori land register (unless the issuer is that chief executive), so that the instrument or notice—
  - (a) can be recorded in the Māori land register; and
  - (b) can be lodged for registration under **section 263** if it affects, creates, or cancels a registered interest.

**247 Chief Registrar of Māori Land Court to provide certain documents**

The Chief Registrar of the Māori Land Court must—

- (a) provide to the chief executive sealed copies of every order made by the Māori Land Court, the Māori Appellate Court, the Chief Judge acting under **section 341**, or a Registrar that—
  - (i) affects any land, including a vesting order or an order of confirmation that a disposition complies with the requirements of this Act; or
  - (ii) affects or relates to a governance body; or
  - (iii) amends or cancels an order described in **subparagraph (i) or (ii)**; and
- (b) provide to the chief executive or the Registrar-General of Land copies of any document or information held in the permanent record of the Māori Land Court that the chief executive or the Registrar-General of Land determines is relevant to his or her functions.

*Māori land register*

**248 Māori land register**

- (1) The chief executive must establish and maintain a register of Māori land (**the Māori land register**), comprising a public part and an administrative part.
- (2) The Māori land register may be kept—
  - (a) as an electronic register; or
  - (b) in any other form that the chief executive thinks fit.
- (3) However, the chief executive must keep the register in a form that permits its contents to be readily accessed or reproduced in usable form.

**249 Purpose of Māori land register**

The purpose of the Māori land register is—

- (a) to enable the public to identify—
  - (i) owners of Māori land; and
  - (ii) interests affecting Māori land; and
- (b) to enable the public—
  - (i) to know whether a parcel of Māori freehold is managed by a governance body and, if so, to access information about the body and the governance agreement under which it operates; and
  - (ii) to know whether Māori freehold land or an interest in Māori freehold land is managed by any other person such as a kaiwhakamarumarū and, if so, to access information about that person and the land or interest; and



- (c) to facilitate—
  - (i) decision-making, by enabling owners of Māori freehold land and other interested persons to be identified when decisions need to be made in relation to the land:
  - (ii) dealings with beneficial interests in Māori freehold land:
  - (iii) giving effect to the purpose of this Act; and
- (d) to assist the court, the chief executive, the Registrar, and Registrar-General in the exercise or performance of their powers, functions, or duties under this Act or any other enactment; and
- (e) to enable compliance with the requirements of this or any other Act for the recording of instruments or other matters affecting Māori land or interests in Māori land

## 250 Contents of Māori land register

- (1) The public part of the Māori land register must contain,—
  - (a) for each parcel of Māori customary land, the information specified in **Part 1 of Schedule 4**; and
  - (b) for each parcel of Māori freehold land, the information specified in **Part 2 of Schedule 4**; and
  - (c) for each governance agreement, the information specified in **Part 3 of Schedule 4**; and
  - (d) for each rangatōpū, the information specified in **Part 4 of Schedule 4**; and
  - (e) for each administering body appointed for whenua tāpui, the information specified in **Part 5 of Schedule 4**; and
  - (f) any other information required to be included by or under another provision of this Act or regulations made under this Act.
- (2) The administrative part of the Māori land register may contain contact details for owners of Māori land.
- (3) Despite **subsection (1)**, the chief executive may exclude from the public part of the register—
  - (a) any information in an order of appointment for an administrative kaiwhakarite, or a notice of appointment for a managing kaiwhakarite, if the chief executive is satisfied that the information is commercially sensitive (*see clause 4(2)(d) of Schedule 4*); or
  - (b) the name or any other details relating to a person, if the chief executive is satisfied, on the application of the person, that the publication of the person's name or other details would be prejudicial to the personal safety of that person or of his or her family.

- (4) Despite **subsection (1)(a)**, the register need not include information about Māori customary land if that status has not been determined by a court.

### 251 Access to Māori land register

- (1) The chief executive must make the public part of the Māori land register (*see* **section 250(1)**) available to the public, free of charge,—
- (a) during normal business hours on a working day; and
  - (b) at any other time that the chief executive allows.
- (2) The chief executive must make the administrative part of the Māori land register (*see* **section 250(2)**) available, as described in **subsection (1)(a) and (b)** and free of charge, to persons who are authorised by or under this Act to act on behalf of, or to arrange a meeting of, the owners of Māori land.
- (3) If a person requires a copy of all or part of the Māori land register for a purpose that is consistent with the purpose of the register,—
- (a) the chief executive must supply a copy on request and on payment of a reasonable charge for the production of the copy; and
  - (b) if the person requires the copy of the instrument or record of title to be a certified copy, the Registrar must provide a certified copy.
- (4) The copies referred to in **subsection (3)** may, if the chief executive determines, be provided in electronic form.
- (5) A determination under **subsection (4)** may be made subject to specified conditions.
- (6) This section is subject to the Public Records Act 2005.

### 252 Application of Privacy Act 1993

- (1) The public part of the Māori land register (*see* **section 250(1)**) is a public register within the meaning of section 58 of the Privacy Act 1993.
- (2) A person who searches the public part of the Māori land register for a purpose that is not a purpose set out in **section 249** must be treated, for the purposes of Part 8 of the Privacy Act 1993, as if that person has breached an information privacy principle under section 66(1)(a)(i) of that Act.

### 253 Historical and other information in Māori land register to be retained

- (1) Information that is recorded in the Māori land register must be retained in the register or elsewhere even if—
- (a) the information was incorrect and has subsequently been corrected; or
  - (b) the information has been superseded; or
  - (c) the information is no longer current; or
  - (d) the form in which the register is kept has changed.

- (2) Information retained under **subsection (1)(a), (b), or (c)** must be clearly identified as information that has been corrected or superseded or is no longer current (as applicable).

**254 Evidentiary presumptions relating to Māori land register**

- (1) A record of any information on the Māori land register is conclusive evidence for all purposes that the information is correct, unless there is proof to the contrary.
- (2) **Subsection (2)** applies to a document that—
- (a) appears to be or to represent an electronic image of an instrument recorded in the Māori land register under this Act; and
  - (b) does not appear to have been altered in any way.
- (3) Unless there is proof to the contrary, the document is conclusive evidence—
- (a) of the contents of the instrument; and
  - (b) that the instrument is recorded in the register under this Act.
- (4) Unless there is proof to the contrary, a copy of an instrument that is certified by or on behalf of the chief executive to be a correct copy of an instrument recorded in the Māori land register is conclusive evidence—
- (a) of the contents of the instrument; and
  - (b) that the instrument is registered in the Māori land register.

**255 Right to apply for inclusion in Māori land register where instruments lost, destroyed, etc**

- (1) This section applies to a person who claims that—
- (a) an instrument entitles the person to be recorded on the Māori land register as the owner or an owner of Māori land; and
  - (b) the instrument has been lost or destroyed or no record of the instrument can be found.
- (2) The person may apply to the court for an order that the person be recorded as the owner or an owner of the land.
- (3) The person must give notice of the application to—
- (a) the chief executive; and
  - (b) every person recorded on the Māori land register as an owner of the land or the holder of a lease, licence, mortgage, easement, or other interest that affects the land; and
  - (c) any other person that the court directs.
- (4) The court may, if satisfied that the person's claims are correct,—
- (a) order the chief executive to record in the Māori land register that the person is the, or an, owner of the land; or

- (b) make any other order that the court thinks fit.

**256 Chief executive may replace or reconstitute records**

- (1) This section applies to—
  - (a) an instrument that is or has been recorded on the Māori land register and that has been lost, damaged, or destroyed or has become unfit for use:
  - (b) an instrument that is or has been in the custody of the chief executive and that has been lost, damaged, or destroyed or has become unfit for use:
  - (c) information recorded in the Māori land register or lodged for recording that has been lost or is unfit for use.
- (2) The chief executive may replace or reconstitute the instrument or information to which this section applies, except if the instrument is a court order (in which case the chief executive must apply to the Registrar for a replacement order to be issued by the court).
- (3) The replacement or reconstituted instrument or information has the same effect as if it were the original.
- (4) The chief executive must note on any entry in the Māori land register to which the instrument or information relates that the replacement or reconstituted instrument or information has been created or obtained under or in accordance with this section.

**257 Copying and imaging of paper instruments for purposes of Māori land register or other statutory purpose**

- (1) The chief executive may—
  - (a) produce a record, copy, or image of a paper instrument provided under this Act or any other enactment; and
  - (b) unless it is necessary to retain the instrument so that the record, copy, or image can be understood, return the instrument to the person who provided it together with a written statement that a record, copy, or image has been made.
- (2) The chief executive may use the record, copy, or image for the purposes of establishing or maintaining the Māori land register or to perform any other statutory function under this Act. If the record, copy, or image is used in this way, it must be treated as if it—
  - (a) were the original instrument; and
  - (b) had been lodged at the same time as the original instrument.

*Land title registration***258 Notation on computer freehold register for Māori freehold land**

- (1) The Registrar-General must ensure that the computer freehold register (if any) for land to which this section applies records that the land is Māori freehold land and is subject to this Act.
- (2) This section applies to land for which the Registrar-General—
  - (a) receives from the chief executive a written notice that states that the land is Māori freehold land and that requests a notation under this section; or
  - (b) receives an order of the court that declares or determines that the land is Māori freehold land; or
  - (c) receives an instrument under this or another Act by which the land becomes Māori freehold land; or
  - (d) is otherwise satisfied that the land is Māori freehold land.
- (3) There is no fee for having a notation recorded under this section.

**259 Removal of notation for Māori freehold land**

- (1) The Registrar-General must remove from the computer freehold register (if any) for land to which this section applies any notation that the land is Māori freehold land and is subject to this Act.
- (2) This section applies to land for which the Registrar-General—
  - (a) receives from the chief executive a written notice stating that the land is not Māori freehold land and requesting removal of a notation under this section; or
  - (b) receives an order of the court determining that the land is not or ceases to be Māori freehold land; or
  - (c) receives an instrument under this or another Act by which the land ceases to be Māori freehold land; or
  - (d) is otherwise satisfied that the land is not Māori freehold land.
- (3) There is no fee for having a notation removed under this section.

**260 No liability of the Crown for notation for Māori freehold land**

- (1) The Crown is not liable to compensate a person who is deprived of an estate or interest in land or who suffers any other loss as a result of an action, or a failure to act, under **section 258 or 259**.
- (2) This section overrides Part 11 of the Land Transfer Act 1952 and any other enactment or rule of law.

**261 Computer freehold register only for entire freehold estate in Māori freehold land**

- (1) The Registrar-General must not create a separate computer freehold register for Māori freehold land unless it is for the entire freehold estate in the land.
- (2) However, this section does not apply to land subject to a cross lease (as defined by section 2(1) of the Resource Management Act 1991).

**262 Change to name of parcel**

- (1) The court may, on application, make an order changing the name that constitutes the legal description of all or part of a parcel of Māori freehold land.
- (2) The application may be made by—
  - (a) the governance body, if the land is managed under a governance agreement; or
  - (b) 1 or more owners of the land, in any other case.
- (3) The Registrar must, as soon as practicable after the application is made, give notice to the Registrar-General and the Surveyor-General.
- (4) The notice must—
  - (a) provide details of the application; and
  - (b) invite submissions on the application from the recipients of the notice; and
  - (c) specify the deadline by which submissions must be received.
- (5) The court must consider any submissions received by the deadline specified in the notice.
- (6) The court must not make an order under this section unless it is satisfied that—
  - (a) the application—
    - (i) is made by the governance body in accordance with the requirements of this Act, if the land is managed under a governance agreement; or
    - (ii) is agreed to by a simple majority of the owners of the land who participate in making the decision, with owners' votes having equal weight, in any other case; and
  - (b) the new name complies with standards set under section 49 of the Cadastral Survey Act 2002 for parcel appellations.
- (7) If the court makes an order under this section, the Registrar must—
  - (a) provide the Surveyor-General with the information required to integrate the name change into the cadastre; and
  - (b) pay the prescribed fee (if any) for the integration.

**263 Orders and instruments issued under Act must be registered**

- (1) The Registrar-General must register any of the following that affect any land:
  - (a) an order made by the Māori Land Court, the Māori Appellate Court, the Chief Judge, or a Registrar under this Act or Te Ture Whenua Maori Act 1993:
  - (b) an order amending or cancelling an order described in **paragraph (a)**:
  - (c) an instrument or notice issued under this Act by any chief executive or the Minister that affects, creates, or cancels a registered interest.
- (2) However, this section does not apply to—
  - (a) an order that affects the beneficial, but not the legal, ownership of an estate or interest in the land:
  - (b) an order amending or cancelling an order described in **paragraph (a)**:
  - (c) an order whose effect is incorporated into another order that must be registered under this section.
- (3) The order or instrument must be registered as follows:
  - (a) on the computer register for the land, if the land is subject to the Land Transfer Act 1952 and there is a computer register for the land under that Act; or
  - (b) on the provisional register for the land, if the land is subject to the Land Transfer Act 1952 and there is only a provisional register for the land under section 50 of that Act; or
  - (c) as a provisional register created for the instrument under section 50 of the Land Transfer Act 1952, if the land is subject to that Act and there is no computer register or provisional register for the land under that Act; or
  - (d) in accordance with the Deeds Registration Act 1908, if the land is not subject to the Land Transfer Act 1952.
- (4) In registering the order or instrument, the Registrar-General must record any entries on the relevant register and do anything else necessary to give effect to the order or instrument.
- (5) The chief executive must lodge—
  - (a) an order for registration as soon as practicable after receiving it from the Chief Registrar under **section 247**:
  - (b) an instrument or notice for registration as soon as practicable after the chief executive issues it or receives a copy of it under **section 246**.
- (6) There is no fee for registration.

**264 Notation upon registration of certain dispositions**

- (1) If the Registrar-General registers the partition of land into new parcels, he or she must record on the computer freehold registers for new parcels of Māori freehold land a notation that **section 26(5)** restricts the making of an order under that section declaring that the land ceases to be Māori freehold land.
- (2) If the Registrar-General registers the aggregation of ownership of 2 or more parcels of Māori freehold land, he or she must record on the computer freehold registers for each parcel a notation that the ownership of the parcel is aggregated under this Act so that—
  - (a) **section 104(5)** restricts the land from ceasing to be Māori freehold land; and
  - (b) **section 119(3)** restricts the disposition of an individual freehold interest in the land.

**265 Registration of land in name of tupuna**

- (1) A tupuna may become registered, or may cease to be registered, as the proprietor of the following land in accordance with this section:
  - (a) any Māori freehold land managed under a governance agreement; or
  - (b) any land reserved as a whenua tāpui.
- (2) The land must be registered under the Land Transfer Act 1952.
- (3) The governance body or the administering body of the land must apply to the Registrar-General—
  - (a) stating whether a tupuna is to become registered, or is to cease to be registered, as the proprietor of the land; and
  - (b) identifying the land and specifying the name of the tupuna.
- (4) The application must be agreed to as follows:
  - (a) for Māori freehold land managed under a governance agreement, by the governance body; or
  - (b) for Māori freehold land reserved as a whenua tāpui, by a 75% majority of the owners of the parcel who participate in making the decision; or
  - (c) for other land reserved as a whenua tāpui, by satisfying the following requirements:
    - (i) the administering body notifies and holds a meeting of the owners of the land in accordance with **Schedule 2** to consider the application (and that schedule applies to the application with any necessary modifications); and
    - (ii) at least 10 owners attend the meeting; and
    - (iii) the application is agreed to by a simple majority of the owners who attend the meeting.



- (5) The applicant must have obtained an order of confirmation that the application complies with the requirements of this Act.
- (6) If the Registrar-General receives an application made in accordance with this section, he or she must comply with the application by (as the case may be)—
  - (a) registering the tupuna as the proprietor of the land and noting on the register that the proprietor is a tupuna registered in accordance with this section; or
  - (b) registering the governance body or administering body as the proprietor of the land in place of the tupuna.
- (7) Despite a tupuna becoming the registered proprietor of land,—
  - (a) the following continue to apply as if the governance body or administering body remained the registered proprietor:
    - (i) the rights and obligations of the governance body or administering body as legal owner of the land; and
    - (ii) the Land Transfer Act 1952, any regulations under that Act, or any other enactment that applies to the land; and
  - (b) the beneficial ownership of the land is not affected.

*Māori land remains affected by existing interests after vesting*

**266 Māori land remains affected by existing interests after vesting**

- (1) An estate or interest in Māori land or other land, after being vested by or under this Act, remains affected by any lease, licence, mortgage, easement, or other interest that affected it immediately before the vesting.
- (2) This section is subject to any contrary provision of this Act.

*Māori freehold land does not vest in the Crown when it has no owner*

**267 Parcel of Māori freehold land does not vest in the Crown when it has no owner**

- (1) A parcel of Māori freehold land does not vest in the Crown as *bona vacantia* under section 77 of the Administration Act 1969, section 324 of the Companies Act 1993, or otherwise.
- (2) Instead, the beneficial ownership of the parcel of land vests in the class of collective owners who would, in accordance with tikanga Māori, hold the parcel if it became Māori customary land.
- (3) To avoid doubt, after the vesting,—
  - (a) the parcel of land remains Māori freehold land:
  - (b) the parcel of land continues to be managed under a governance agreement (if any):

- (c) the parcel of land remains affected by existing interests (see **section 266**):
- (d) the beneficial ownership in the parcel of land is subject to any rights of the surviving spouse, civil union partner, or de facto partner of the deceased former owner (if an individual) conferred by **section 238**.
- (4) The court must, on application, determine the class of collective owners of the parcel of land, which must include all descendants of the members of the class.
- (5) The application may be made by any person with an interest in the matter.
- (6) After determining the class of collective owners, the court must make an order that defines the class of collective owners of the parcel of land.
- (7) If the former owner is a deceased individual with a surviving spouse, civil union partner, or de facto partner, the court may also, at its discretion, order that an occupation lease or licence is granted over all or part of the parcel of land to the spouse or partner for the life of the spouse or partner.
- (8) The occupation lease or licence must be treated as if it had been granted under **section 111** and gifted to the spouse or partner under **section 133**.
- (9) This section overrides any other enactment or rule of law.

**268 Individual freehold interest in Māori freehold land does not vest in the Crown when it has no owner**

- (1) An individual freehold interest in a parcel of Māori freehold land does not vest in the Crown as *bona vacantia* under section 77 of the Administration Act 1969, section 324 of the Companies Act 1993, or otherwise.
- (2) Instead, the individual freehold interest vests in the remaining owners of the parcel of land in proportion to their existing interests.
- (3) An owner of the parcel, or the governance body that manages the parcel (if any), may give notice of the vesting to the chief executive.
- (4) The chief executive must record the vesting on the Māori land register if he or she is satisfied that the vesting has occurred.
- (5) This section overrides any other enactment or rule of law.

*Jurisdiction of court in certain land matters*

**269 Jurisdiction of court for purposes of this Act**

- (1) The court has jurisdiction to—
  - (a) inquire into and determine whether a whānau trust has been established in accordance with the provisions of this Act:
  - (b) inquire into and determine whether a succession complies with this Act or is lawful:
  - (c) inquire into and determine whether a disposition of Māori freehold land complies with this Act or is lawful:

- (d) determine a dispute arising from a managing kaiwhakarite or an administrative kaiwhakarite carrying out a purpose for which the kaiwhakarite is appointed:
  - (e) inquire into and determine whether a decision of the owners of Māori freehold land is lawful:
  - (f) determine a claim to recover damages for trespass or other injury to Māori land:
  - (g) determine a claim founded on contract or tort where the debt, demand, or damage relates to Māori land.
- (2) In determining under **subsection (1)(c)** whether a disposition of Māori freehold land complies with this Act or is lawful, the court may—
- (a) confirm the disposition; or
  - (b) amend the terms of the disposition; or
  - (c) set aside the disposition.
- (3) In determining whether a decision is lawful under **subsection (1)(e)**, the court—
- (a) may uphold the decision; or
  - (b) may set aside the decision; or
  - (c) may set aside the decision and order that the decision-making process be repeated, subject to directions the court imposes on how the decision-making process is carried out; but
  - (d) must not make the decision itself.
- (4) The Māori Land Court’s jurisdiction under this or any other Act does not affect the High Court’s jurisdiction to determine anything relating to the status of land.
- (5) A determination of the High Court prevails over any conflicting declaration or determination of the Māori Land Court.
- (6) The jurisdiction of the court under this section is subject to **Part 9** (dispute resolution).

## 270 Rights and interests preserved

If the court determines under **section 269(1)(c)** that a disposition of Māori freehold land is unlawful, the court’s order amending the terms of the disposition or setting it aside does not affect a right or interest acquired for value and in good faith under any instrument of disposition registered under the Land Transfer Act 1952 before the making of the court’s order.

## 271 Power of court to grant relief in relation to Māori freehold land

The court has, in relation to Māori freehold land, all of the powers of the High Court under the following provisions of the Property Law Act 2007:

- (a) section 253 (relief against cancellation of lease for breach of covenant or condition):
- (b) section 254 (mortgagee or receiver may apply for extension of time for bringing proceedings):
- (c) section 255 (application for relief not to constitute admission):
- (d) section 256 (powers of court on application for relief):
- (e) section 257 (effect of order granting relief against cancellation of lease):
- (f) section 258 (protection of sublessee on cancellation of superior lease):
- (g) section 259 (interested person may apply for extension of time for bringing proceedings):
- (h) section 260 (powers of court on application for relief by sublessee):
- (i) section 264 (relief court may grant on application):
- (j) subpart 1 of Part 6 (entry onto neighbouring land):
- (k) subpart 2 of Part 6 (wrongly placed structures).

**272 Court may determine claims to ownership, etc, of Māori freehold land**

- (1) The court may, on application, determine any claim at law or in equity to—
  - (a) the ownership or possession of Māori freehold land; or
  - (b) a right or title to, or an estate or interest in, Māori freehold land; or
  - (c) the proceeds of the disposition of a right or title to, or an estate or interest in, Māori freehold land.
- (2) The court may, on application, determine the relative interests of legal or equitable owners of Māori freehold land.
- (3) An application may be made by any person with an interest in the matter.

**273 Court may declare ownership of Māori freehold land if ownership not accurately recorded**

- (1) The court may, on application, make an order declaring the ownership of a parcel of Māori freehold land if it is satisfied that any matter in relation to the ownership of the land is not accurately recorded in either or both of the following:
  - (a) the Māori land register; or
  - (b) a computer freehold register, computer interest register, or other instrument of title.
- (2) An application may be made by—
  - (a) the chief executive; or
  - (b) an owner of the land; or

- (c) the governance body for the land, if the land is managed under a governance agreement; or
  - (d) a kaiwhakamarumarū appointed to manage the land or an interest in the land.
- (3) The order must specify—
- (a) each owner of the land; and
  - (b) the beneficial interest that each owner has in the freehold estate in the land; and
  - (c) the date on which the order comes into force.
- (4) The Registrar must send the chief executive and the Registrar-General a copy of each order made under this section.
- (5) Promptly after receiving an order, the chief executive and the Registrar-General must amend any relevant register, document, or instrument to reflect the corrections made by the court in the order.

#### 274 Jurisdiction in proceeding for recovery of land

- (1) The court has jurisdiction to hear and determine any proceeding for the recovery of Māori freehold land if—
- (a) the land was under a lease and—
    - (i) the term and interest of the lessee has ended or been terminated by the lessor or the lessee (whether or not the lessee is liable for the payment of any rent); and
    - (ii) the lessee or other occupier of the land or part of the land neglects or refuses to quit and deliver up possession of the land; or
  - (b) the land is under a written or verbal lease or licence, the payment of rent is in arrears for any period, and the lessor or licensor is entitled to exercise a right of re-entry under the terms of the lease or licence; or
  - (c) the land is under a written or verbal lease or licence, the payment of rent is in arrears, and the occupier deserts the land leaving it uncultivated or unoccupied so that no remedy of forfeiture is available; or
  - (d) any person without right, title, or licence is in possession of the land.
- (2) **Subsection (1)** applies despite anything to the contrary in **Part 2 of the Judicature Modernisation Act 2015**.

#### 275 Power of court to grant specific performance of leases of Māori freehold land

- (1) This section applies to—
- (a) leases of Māori freehold land; and
  - (b) leases of other land that ceased to be Māori land under Part 1 of the Maori Affairs Amendment Act 1967.

- (2) The court has, in relation to leases to which this section applies, the same jurisdiction as the High Court to grant and enforce specific performance or to award damages in addition to, or in substitution for, specific performance.

**276 Jurisdiction of court under Fencing Act 1978**

- (1) The court has exclusive jurisdiction to hear and determine a claim, dispute, or question if it relates only to Māori freehold land and arises under the Fencing Act 1978.
- (2) **Subsection (1)** applies despite anything to the contrary in the Fencing Act 1978.
- (3) In addition, the court has jurisdiction to hear and determine a claim, dispute, or question if it relates partly to Māori freehold land and arises under the Fencing Act 1978.
- (4) The court's jurisdiction under **subsection (3)** applies to the Māori freehold land and is concurrent with that of any other court of competent jurisdiction.
- (5) In exercising its jurisdiction under this section, the court—
- (a) may order the payment of any sum for any claim, dispute, or question under the Fencing Act 1978, and by the same or a subsequent order may direct by whom and to whom respectively any sum must be paid;
  - (b) may order payment to be made for the erection or repair of any fence, even if any notice required by the Fencing Act 1978 to be given or served has not been given or served, if the court is satisfied that all reasonable attempts were made to give or serve the notice.

**277 Powers of court under Contracts (Privity) Act 1982 and Contractual Remedies Act 1979**

- (1) The court has all the powers of the High Court under—
- (a) the Contracts (Privity) Act 1982; and
  - (b) sections 4, 7(6) and (7), and 9 of the Contractual Remedies Act 1979.
- (2) However, a power conferred on the court by **subsection (1)** may be exercised only if the occasion for the exercise of that power arises in the course of proceedings properly before the court.
- (3) **Subsection (2)** does not apply to an application made for the purposes of section 7(1) of the Contracts (Privity) Act 1982 or section 7(6) or 9 of the Contractual Remedies Act 1979.

*Enforcement of judgment for debt or bankruptcy in relation to Māori land*

**278 Māori customary land not available for enforcing judgment against debtor**

A judgment against a debtor for payment of debts or liabilities cannot be enforced against an interest in Māori customary land of the debtor.

**279 Māori freehold land not available for enforcing judgment against debtor**

- (1) A judgment against a debtor for payment of debts or liabilities cannot be enforced against a beneficial interest in freehold in Māori freehold land of the debtor.
- (2) However, this section does not limit—
  - (a) the operation of any mortgage or charge on the land; or
  - (b) the recovery of rates or taxes payable for the land.

**280 Māori freehold land available in bankruptcy**

- (1) The court must, on application by the Official Assignee, make an order vesting in the Official Assignee any beneficial interest in freehold in Māori freehold land of a person adjudicated bankrupt.
- (2) Despite anything in the Insolvency Act 2006,—
  - (a) a beneficial interest in freehold in Māori freehold land of a bankrupt does not vest in the Official Assignee except by a vesting order made under this section:
  - (b) the Official Assignee cannot disclaim the interest:
  - (c) the Official Assignee cannot sell the interest except to a person to whom the bankrupt could have disposed of it in accordance with **Part 4**.

*Application to Māori land of enactments about landlocked land and adverse possession*

**281 Reasonable access to landlocked Māori land**

- (1) Sections 327 to 331 of the Property Law Act 2007 apply, despite section 8(3) of that Act, to any of the following that is landlocked land:
  - (a) Māori land:
  - (b) private land with at least 1 Māori owner that ceased to be Māori land under Part 1 of the Maori Affairs Amendment Act 1967.
- (2) However, those sections of the Property Law Act 2007 apply with the following modifications:
  - (a) the definitions in **subsections (4) and (5)** apply in those sections:
  - (b) section 328(3)(a) of that Act does not apply:
  - (c) the court has exclusive jurisdiction under those sections:
  - (d) an application may be made under section 327(1) of that Act for the owner—
    - (i) by an administrative kaiwhakarite appointed for that purpose or, if the land is Māori customary land with no such administrative kaiwhakarite, by the Māori Trustee; or
    - (ii) by a managing kaiwhakarite appointed for the land:

- (e) if the landlocked land is Māori land, section 329(a) of that Act applies only if the applicant purchased the land or acquired the land by exchange;
  - (f) if the landlocked land or the land over which reasonable access is sought is Māori land, the court must have regard to the following matters in addition to those in section 329 of that Act:
    - (i) the relationship that the beneficial owners of that land have with the land and with any water, sites, wāhi tapu, wāhi tūpuna, or other taonga associated with the land; and
    - (ii) the culture and traditions of those beneficial owners with respect to that land.
- (3) The court may appoint expert assessors or valuers, as additional members of the court, to assist it to determine issues of valuation or compensation in relation to an application for an order granting reasonable access.
- (4) In this section,—
- landlocked land** means a piece of land to which there is no reasonable access
- reasonable access** means physical access to land for persons or services of a nature and quality that is reasonably necessary to enable the owner or occupier to use and enjoy the land.
- (5) For the purposes of **subsection (2)(a)**,—
- occupier** means a person who lawfully occupies land
- owner**—
- (a) means a person with a legal or beneficial interest in the fee simple estate in land; and
  - (b) in relation to Māori customary land, includes the Māori who hold the land in accordance with tikanga Māori.

## 282 Adverse possession claim cannot succeed against co-owner of Māori land

- (1) Time does not run against an owner of Māori land who neglects or has neglected at any time to exercise the right to enter and use the land while it is occupied by another owner or someone claiming through or under that owner.
- (2) This section overrides the Limitation Act 2010 and any other enactment that impose on claims a limitation period or other limitation defence.

### *Giving notices*

## 283 Giving of notices

- (1) If a notice or other document is to be given to a person under this Act, it must be given in writing—
  - (a) directly to the person; or



- (b) by post addressed to the person at the person's usual or last-known place of business or residence; or
  - (c) by service on the person's lawyer or another person authorised to act on behalf of the person; or
  - (d) by electronic transmission to the person or the person's lawyer or another person authorised to act on behalf of the person (for example, by fax, electronic mail, or electronic data transfer).
- (2) In the absence of proof to the contrary, a notice or document—
- (a) sent by post is deemed to have been received when it would have been delivered in the ordinary course of post; or
  - (b) sent by electronic transmission is deemed to have been received when it enters the information system of the person to whom it is sent or comes to the person's attention.

#### **284 Notices to owners of Māori customary land**

- (1) If any enactment, bylaw, rule of law, or court requires a notice to be given to or served on the owners of Māori customary land, the notice must instead be given to or served on,—
- (a) for land reserved as a whenua tāpui, the administering body:
  - (b) for other land,—
    - (i) an administrative kaiwhakarite appointed for that purpose; or
    - (ii) the Registrar for the district in which the land is situated, if there is no administrative kaiwhakarite appointed for that purpose.
- (2) Notice given or served in accordance with this section must be treated for all purposes as if it had been given to or served on the owners of the land.
- (3) If the Registrar receives a notice under this section, the Registrar must bring the notice to the court's attention, together with any information relating to the land and its ownership.

#### **285 Notices to owners of Māori freehold land**

- (1) If any enactment, bylaw, rule of law, or court requires a notice to be given to or served on the owners of Māori freehold land, the notice must instead be given to or served on,—
- (a) for land managed under a governance agreement, the governance body:
  - (b) for land reserved as a whenua tāpui, the administering body:
  - (c) for land managed under an order made under **section 63**, the kaiwhakamarumarū:
  - (d) for land with an administrative kaiwhakarite appointed for the purpose to which the notice relates, the kaiwhakarite:
  - (e) for any other land, the following persons:

- (i) each of the legal owners, if there are 10 or fewer owners of the land:
  - (ii) the Registrar for the district in which the land is situated, if there are more than 10 owners of the land.
- (2) Notice given or served in accordance with this section must be treated for all purposes as if it had been given to or served on the owners of the land.
- (3) If the Registrar receives a notice under this section, the Registrar must—
  - (a) provide a copy of the notice to each owner of the land whose contact details are known to the court; and
  - (b) bring the notice to the court's attention, together with any information relating to the land and its ownership.

### **286 Time for responding to notices**

- (1) This section applies if—
  - (a) a person receives, in accordance with **section 284 or 285**, a notice on behalf of the owner or owners of Māori customary land or Māori freehold land; and
  - (b) any enactment, bylaw, rule of law, or court specifies a period of time within which the owner—
    - (i) may lodge an objection, a claim, or an appeal in response to the notice; or
    - (ii) is required to respond to any matter.
- (2) If the Registrar receives the notice, the period of time—
  - (a) does not begin to run until any decision is made on whether to appoint an administrative kaiwhakarite under **section 134** to act on behalf of the owners; and
  - (b) must be extended by 15 working days from that date (irrespective of whether an appointment is made).
- (3) If any other person receives the notice, the period of time must be extended by 15 working days.

### *Regulations*

### **287 Regulations**

- (1) The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:
  - (a) prescribing for any application, notice, or other document to be provided under this Act—
    - (i) the form of the document:
    - (ii) the content required in the document:

- (iii) any documentation or information that must accompany the document:
  - (iv) how the document must be provided:
  - (b) prescribing charges or fees for—
    - (i) services provided by any chief executive under this Act, such as provision of a copy of a document held in the Māori land register:
    - (ii) any other matter under this Act:
  - (c) prescribing instruments that must be used to give effect to dispositions of Māori freehold land for which there are not already instruments under another enactment:
  - (d) providing for the administration of whenua tāpui vested in an administering body, or for any other matters that may be necessary or expedient for giving full effect to **subpart 2 of Part 2** (whenua tāpui):
  - (e) prescribing a standard governance agreement for the purposes of **Schedule 1**:
  - (f) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (2) Regulations made under **subsection (1)(d)** may apply to a specified whenua tāpui, a specified class of whenua tāpui, or to all whenua tāpui.

## Part 9

### Dispute resolution

#### 288 Purpose

The purpose of this Part is to assist Māori land owners and other parties to quickly and effectively resolve disputes about Māori land in a way that is consistent with the concept of mātauranga takawaenga.

#### 289 Interpretation

In this Part,—

**kaitakawaenga** means a person employed or engaged under **section 290** to provide dispute resolution services

**mātauranga takawaenga** means a process to assist people and groups to resolve disagreements and conflicts in accordance with the tikanga, values, and kawa of the hapū associated with the relevant land, both as to process and to substance.

#### 290 Chief executive to provide dispute resolution services

- (1) The chief executive must employ or engage persons to provide dispute resolution services to assist Māori land owners and other parties to quickly and effectively resolve disputes about Māori land.

- (2) Nothing in this Act prevents any person seeking and using dispute resolution services other than those provided under this Act.
- (3) The chief executive may—
  - (a) decide how the dispute resolution services are to be provided; and
  - (b) in order to promote fast and effective resolutions, treat matters presented for resolution in different ways.

### **291 How dispute resolution process initiated**

- (1) A dispute resolution process under this Part may be commenced by—
  - (a) a party to the dispute lodging a dispute notice with the chief executive; or
  - (b) the parties referring a dispute to the chief executive under **section 302**; or
  - (c) a Judge referring a dispute to the chief executive under **section 301, clause 3(3)(c) of Schedule 5, or clause 4(3)(d) of Schedule 6**.
- (2) A dispute notice lodged under **subsection (1)(a)** must—
  - (a) state the nature of the dispute and give a brief description of the subject matter of, and the parties to, the dispute; and
  - (b) describe where and when the dispute arose; and
  - (c) set out the names and contact addresses of the parties; and
  - (d) provide the full name and contact address of the party or person lodging the dispute notice.
- (3) On receiving from a party a dispute notice lodged under **subsection (1)(a)**, the chief executive must—
  - (a) serve all other parties named in the notice with a copy of the notice; and
  - (b) notify each party served that the party must, within 10 days after the date of receipt of the notification, lodge a notice in response.
- (4) A notice in response must state whether the party lodging the notice in response agrees—
  - (a) with the description of the dispute set out in the dispute notice; and
  - (b) that the dispute notice correctly identifies the parties in dispute.

### **292 When dispute resolution process must begin**

- (1) The parties to a dispute may appoint 1 or more kaitakawaenga within the relevant following period, but, if the parties fail to do so, the chief executive must appoint 1 or more kaitakawaenga as soon as practicable after that period ends:
  - (a) if **section 291(1)(a)** applies, the relevant period is 10 working days after the date for lodging notices in response with the chief executive:

- (b) if **section 291(1)(b) or (c)** applies, the relevant period is 10 working days after the date on which the chief executive receives a notice of referral.
- (2) When appointing kaitakawaenga to conduct a dispute resolution process, the parties or chief executive must ensure that,—
  - (a) if 1 kaitakawaenga is appointed, the kaitakawaenga possesses knowledge and experience of tikanga Māori; and
  - (b) if more than 1 kaitakawaenga are appointed, at least 1 of the kaitakawaenga possesses knowledge and experience of tikanga Māori; and
  - (c) each kaitakawaenga, when deciding how to handle or deal with the dispute or any aspect of it, is able to act impartially.
- (3) The kaitakawaenga must begin the dispute resolution process with the parties as soon as is reasonably practicable after being appointed.

### **293 Role of kaitakawaenga**

- (1) A kaitakawaenga may,—
  - (a) having regard to the purpose of this Part, the principles of this Act, and the needs of the parties,—
    - (i) follow any procedures, whether structured or unstructured, or do any things that he or she considers appropriate to resolve the problem or dispute quickly and effectively; and
    - (ii) be guided by the tikanga of the hapū associated with the relevant land and the concept of mātauranga takawaenga when deciding the procedures that should be followed; and
    - (iii) conduct the proceedings in te reo Māori or permit the use of te reo Māori by the parties; and
  - (b) assist the parties to resolve a problem at an early stage, including, at the request of a party, by discussing the problem with that party without any representative of that party being present; and
  - (c) receive any information, statement, admission, document, or other material in any way that the kaitakawaenga thinks fit, whether or not it would be admissible in judicial proceedings.
- (2) However, a kaitakawaenga must act in accordance with any general instructions issued for the purpose of this Part by the chief executive under **section 300**.

### **294 Conduct of dispute resolution process**

- (1) A kaitakawaenga may—
  - (a) address any party to the matter without any representative of that party being present; and

- (b) express to any party his or her views on the substance of 1 or more of the issues between the parties—
    - (i) with or without any representative of the party being present; and
    - (ii) with or without any other party or parties to the matter being present; and
  - (c) express to any party his or her views on the process the party is following or the position the party has adopted about the problem or dispute—
    - (i) with or without any representative of the party being present; and
    - (ii) with or without any other party or parties to the matter being present.
- (2) Any statement, admission, or document created or made for the purposes of the dispute resolution process, and any information that, for the purposes of the process, is disclosed orally in the course of the process, must be kept confidential by a person who is—
- (a) a kaitakawaenga; or
  - (b) a person to whom dispute resolution services are provided; or
  - (c) a person employed or engaged by the chief executive; or
  - (d) a person who assists either a kaitakawaenga or a person to whom dispute resolution services are provided.
- (3) However, the confidentiality under **subsection (2)** may be waived with the consent of the parties or the relevant party (as the case may be).

### **295 Parties may confer powers of recommendation or decision on kaitakawaenga**

- (1) The parties to a dispute may agree in writing to confer on a kaitakawaenga—
- (a) the power to make a written recommendation in relation to the matters in issue; or
  - (b) the power to decide the matters in issue.
- (2) Before making and signing a recommendation under a power conferred under **subsection (1)(a)**, a kaitakawaenga must explain to the parties the effect of **section 296(3)** and be satisfied that the parties, knowing the effect of that section, affirm their agreement with the recommendation.
- (3) Before making and signing a decision under a power conferred under **subsection (1)(b)**, a kaitakawaenga must explain to the parties the effect of **section 296(3)** and be satisfied that the parties, knowing the effect of that section, have affirmed their agreement with the decision.

### **296 Successful dispute resolution outcome**

- (1) This section applies if some or all of the issues referred to a dispute resolution service are resolved with the assistance of a kaitakawaenga.

- (2) The kaitakawaenga must—
  - (a) explain to the parties the effect of **subsection (3)**; and
  - (b) on being satisfied that the parties, knowing the effect of **subsection (3)**, affirm their agreement,—
    - (i) record and sign the agreed terms of resolution; and
    - (ii) deliver the signed record of the agreed terms of resolution to the chief executive.
- (3) On the signing by the kaitakawaenga of the agreed terms of resolution,—
  - (a) those terms are final and binding on, and enforceable by, the parties; and
  - (b) except for enforcement purposes, no party may seek to bring those terms before a court, whether by action, appeal, application for review, or otherwise.

#### **297 Unsuccessful dispute resolution outcome**

- (1) This section applies if some or all of the issues referred to a dispute resolution service are not resolved with the assistance of a kaitakawaenga and the kaitakawaenga believes that those issues are unlikely to be resolved.
- (2) The kaitakawaenga must—
  - (a) report the lack of resolution to the chief executive; and
  - (b) state the issues that are unresolved and any issues that have been resolved.
- (3) The parties may, if they fail to resolve their dispute and they all agree, withdraw and discontinue the matter.
- (4) The chief executive, on receiving the report of the kaitakawaenga, must—
  - (a) refer some or all of the unresolved issues to a kaitakawaenga for further dispute resolution; or
  - (b) refer the unresolved issues to the court for hearing and determination.

#### **298 Status of dispute resolution services**

- (1) No dispute resolution services may be challenged or called in question in any proceedings on the ground that—
  - (a) the nature and content of the services was inappropriate; or
  - (b) the manner in which the services were provided was inappropriate.
- (2) Nothing in this Part prevents any agreed terms of resolution signed under **section 296(2)** from being challenged or called in question on the ground that **section 296(2)** was not complied with.

#### **299 Independence of kaitakawaenga**

- (1) The chief executive must ensure that any kaitakawaenga is, in deciding how to handle or deal with any particular dispute or aspect of it, able to act impartially.

- (2) If the parties may agree, a kaitakawaenga who belongs to the same hapū as 1 or more of the parties may be appointed to conduct the dispute resolution process.

### **300 Chief executive may issue general instructions**

- (1) The chief executive, in managing the overall provision of dispute resolution services, may issue general instructions about the manner in which, and the times and places at which, dispute resolution services are to be provided.
- (2) Any general instructions issued by the chief executive may include general instructions about the manner in which dispute resolution services are to be provided in relation to particular types of matters or particular types of situations, or both.
- (3) Nothing in **section 299** prevents the chief executive from issuing general instructions under this section.

### **301 Judge may refer dispute for dispute resolution**

- (1) A Judge may, after consulting the persons affected by any dispute brought to the court, refer the dispute to the chief executive for dispute resolution under the rest of this Part.
- (2) The rest of this Part applies with the following modifications:
  - (a) the dispute resolution service must give the court a certified copy of any mediation agreement signed by the parties:
  - (b) if the kaitakawaenga reports to the dispute resolution service that the parties have reached only a partial resolution of the dispute, the service may—
    - (i) refer the parties back to dispute resolution for resolution of the issues still in dispute; or
    - (ii) refer the parties back to the court for the hearing and determination of the issues still in dispute:
  - (c) if the kaitakawaenga reports to the dispute resolution service that the parties have been unable to resolve any issues in dispute, the service may—
    - (i) refer the parties back to the chief executive for dispute resolution; or
    - (ii) refer the parties back to the court for the hearing and determination of the dispute.

### **302 Parties to refer disputes for dispute resolution before court may proceed**

- (1) This section applies to a matter arising in any proceeding that is filed in the court if there is a dispute between any of the parties over the matter other than a dispute that relates to a point of law.
- (2) In **subsection (1)**, **proceeding** means any of the following:



- 
- (a) a claim at law or in equity to—
    - (i) the ownership or possession of Māori freehold land; or
    - (ii) a right, title, estate, or interest in Māori freehold land or in the proceeds of disposition of a right, title, estate, or interest in Māori freehold land:
  - (b) an application to determine the relative interests of owners in common at law or in equity of any Māori freehold land:
  - (c) a claim to recover damages for trespass or other injury to Māori land where the amount claimed does not exceed \$100,000:
  - (d) a proceeding founded on contract or tort where the debt, demand, or damage relates to Māori land and does not exceed \$100,000:
  - (e) a proceeding to determine whether an entity is a representative entity for the purposes of **section 161(3)**:
  - (f) a proceeding to determine whether a person is a preferred recipient, or whether an entity is a preferred entity, for the purposes of **section 76**:
  - (g) a proceeding to determine whether any Māori land is or is not held by any person in a fiduciary capacity:
  - (h) a proceeding alleging or claiming a breach of duty or misconduct by a kaitiaki of a governance body:
  - (i) a proceeding under **section 262** (relating to changes to names of parcels of Māori freehold land).
- (3) If this section applies, the parties must refer the matter in dispute to the chief executive for dispute resolution under this Part.
  - (4) The court does not have jurisdiction to hear and determine a matter referred to the dispute resolution service unless—
    - (a) some or all of the disputed matters referred for dispute resolution are not resolved by dispute resolution and have been referred to the court under **section 297(4)(b)**; or
    - (b) the issues in dispute have been the subject of unsuccessful dispute resolution under this Part or any other dispute resolution process within the previous 6 months and the court is exercising jurisdiction by consent of the parties.
  - (5) Nothing in **subsection (4)**—
    - (a) applies if urgent intervention by way of injunction or other remedy is required to preserve or prevent damage to any property or to avoid loss; or
    - (b) prevents a Judge of the court from including any agreed terms of resolution, completed, signed, and delivered in accordance with **section 296**, in an order of the court; or

- (c) prevents the court from hearing and determining any challenge to the validity of any agreed terms of resolution under **section 298(2)**.
- (6) A claim for the whole or part of a debt or liquidated demand may not be the subject of dispute resolution under this Part unless—
  - (a) the applicant satisfies the court or the chief executive, before dispute resolution commences, that the claim, or a part of the claim, is in dispute; or
  - (b) the applicant satisfies the court or the chief executive, before dispute resolution commences, that the claim is in the nature of a counterclaim by a respondent against an applicant; or
  - (c) the applicant satisfies the kaitakawaenga that the claim is in the nature of a counterclaim by a respondent against an applicant.
- (7) Nothing in this Act requires any person to file proceedings in the court in order to be eligible to seek and use the dispute resolution services under this Part.

## Part 10

### Repeal, revocations, and consequential amendments

#### 303 Repeal

Te Ture Whenua Maori Act 1993 (1993 No 4) is repealed.

#### 304 Revocations

The following are revoked:

- (a) Maori Assembled Owners Regulations 1995 (SR 1995/83);
- (b) Maori Incorporations Constitution Regulations 1994 (SR 1994/60);
- (c) Maori Occupation Orders Regulations 1994 (SR 1994/201).

#### 305 Consequential amendments to other enactments

The enactments specified in **Schedule 7** are consequentially amended in the manner indicated in that schedule.

## Part 11

### Preliminary provisions

#### 306 Interpretation

In this Act, unless the context otherwise requires,—

**chief executive**, in relation to any provision of this Act, means the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of that provision

**court** means the Māori Land Court

**Judge—**

- (a) means a Judge of the Māori Land Court; and
- (b) includes the Chief Judge and the Deputy Chief Judge of that court

**land** includes—

- (a) estates and interests in land;
- (b) buildings and other permanent structures on land;
- (c) land covered with water;
- (d) plants and trees on land

**Māori** means an individual of the Māori race of New Zealand, and includes a descendant of such an individual

**Māori customary land** has the meaning given by **section 12**

**Māori freehold land** has the meaning given by **section 19**

**Māori land** means Māori customary land and Māori freehold land

**Māori reserve** means—

- (a) any land vested in the Māori Trustee as, or for the purposes of, a Māori reserve; and
- (b) any land that is subject to the Maori Reserved Land Act 1955

**Minister** means the Minister who, with the authority of the Prime Minister, is responsible for the administration of this Act

**owner** has the meaning given by **section 8**

**parcel**, in relation to any Māori freehold land, means the freehold estate in a discrete area of land with a continuous boundary that is—

- (a) defined in compliance with the applicable survey standards; or
- (b) identified in a court order, Crown grant, or other instrument issued under an Act for the purpose of defining a parcel and specifying the freehold ownership of the parcel

**private land—**

- (a) means land held in fee simple by a person other than the Crown; and
- (b) includes Māori land

**Registrar** means any Registrar of the Māori Land Court.

**307 Act binds the Crown**

This Act binds the Crown.

## Part 12

### Māori Land Court

#### *Continuation and administration of court*

#### **308 Māori Land Court continued**

- (1) The Māori Land Court is continued as a court of record, and is the same court as the court that existed under the same name immediately before the commencement of this section.
- (2) The court has all the powers that are inherent in a court of record.
- (3) The court's powers under **subsection (2)** are in addition to the jurisdiction and powers conferred on it by other provisions of this Act or by any other enactment.

Compare: 1993 No 4 s 6

#### **309 Administration of court**

- (1) The court—
  - (a) must have a Chief Registrar; and
  - (b) must have 1 or more Registrars; and
  - (c) may have 1 or more Deputy Registrars; and
  - (d) may have other persons to assist it in an administrative capacity.
- (2) The Chief Registrar, a Registrar, a Deputy Registrar, and every other person assisting the court—
  - (a) must be appointed under the State Sector Act 1988; and
  - (b) are officers of the court.
- (3) A Deputy Registrar has all the powers, functions, duties, and immunity of a Registrar, subject to the control of a Registrar.
- (4) An officer of the court may also hold another office or employment in the Public Service.

Compare: 1993 No 4 s 14; 1991 No 69 s 260

#### **310 Court districts**

- (1) The Governor-General may, by Order in Council, do 1 or more of the following:
  - (a) divide New Zealand into Māori Land Court districts:
  - (b) declare the name by which each Māori Land Court district must be designated:
  - (c) abolish any district or alter the limits or the designation of any district.
- (2) The Chief Judge must assign a Judge to each district, or to 2 or more districts, as the Chief Judge thinks fit.

- (3) There must be a Registrar for each district, but the same person may hold office as Registrar for any 2 or more districts.
- (4) An Order in Council under this section must be published in the *Gazette*.  
Compare: 1993 No 4 s 15

### 311 Seal of court

- (1) The court must have a seal of the court that must be used for sealing documents that are required to be sealed.
- (2) The seal must be in a form that the Governor-General from time to time determines.
- (3) The seal in use by the court immediately before the commencement of this section continues to be the seal of the court unless and until a new seal is prescribed by the Governor-General.

Compare: 1993 No 4 s 16

### *Jurisdiction of court under Maori Fisheries Act 2004*

### 312 Interpretation

In **sections 313 to 319 and Schedule 5**, unless the context otherwise requires,—

**Aotearoa Fisheries Limited** has the meaning given to it in section 5 of the Maori Fisheries Act 2004

**constitutional documents** has the meaning given to it in section 5 of that Act

**income share** has the meaning given to it in section 5 of that Act

**mandated iwi organisation** has the meaning given to it in section 5 of that Act

**settlement assets** has the meaning given to it in section 5 of that Act

**Te Ohu Kai Moana Trustee Limited** has the meaning given to it in section 5 of that Act

**Te Putea Whakatupu Trustee Limited** has the meaning given to it in section 5 of that Act

**Te Wai Maori Trustee Limited** has the meaning given to it in section 5 of that Act

**trust income** has the meaning given to it in section 78 of that Act.

Compare: 1993 No 4 s 26A

### 313 Advisory jurisdiction of court

The court has exclusive jurisdiction to advise on disputes referred to it—

- (a) under a dispute resolution process referred to in section 181(1) of the Maori Fisheries Act 2004; or

(b) by a party to a dispute under section 182(2) of that Act.

Compare: 1993 No 4 s 26B

### **314 Jurisdiction of court to make determinations**

The court has exclusive jurisdiction to hear and determine, and make orders accordingly, in relation to—

- (a) disputes referred to it under section 182 of the Maori Fisheries Act 2004:
- (b) applications by Te Ohu Kai Moana Trustee Limited under section 185(1) of that Act:
- (c) action taken by Te Ohu Kai Moana Trustee Limited in reliance on section 186 of that Act:
- (d) disputes referred to it by any party under section 187 of that Act.

Compare: 1993 No 4 s 26C

### **315 Procedural provisions in Schedule 5 apply**

**Schedule 5** applies for the purposes of **sections 312 to 314**.

### *Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004*

### **316 Interpretation**

In **sections 317 to 319 and Schedule 6**, unless the context otherwise requires,—

**iwi aquaculture organisation** has the meaning given to it in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004

**settlement assets** has the meaning given to it in section 5 of that Act

**trustee** has the meaning given to it in section 4 of that Act.

Compare: 1993 No 4 s 26O

### **317 Advisory jurisdiction of court**

The court has exclusive jurisdiction to advise on disputes referred to it under a dispute resolution process referred to in section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Compare: 1993 No 4 s 26P

### **318 Jurisdiction of court to make determinations**

The court has exclusive jurisdiction to hear and determine disputes referred to it under section 54 of the Maori Commercial Aquaculture Claims Settlement Act 2004 and may make orders accordingly.

Compare: 1993 No 4 s 26Q

**319 Procedural provisions in Schedule 6 apply**

**Schedule 6** applies for the purposes of **sections 316 to 318**.

*Special jurisdiction***320 Governor-General may confer special jurisdiction**

- (1) The Governor-General may, by Order in Council, confer on the court jurisdiction to determine—
  - (a) any claim, dispute, issue, question, or other matter affecting the rights of Māori in any real or personal property; or
  - (b) any other matter that is within the field of the special expertise of the court.
- (2) Any order made by the court in any case referred to it under this section has the same effect and must be dealt with, as far as practicable, in the same manner as an order or a determination of a similar nature made by the court in the exercise of the jurisdiction expressly conferred on it by this Act.
- (3) Nothing in this section authorises an extension of the jurisdiction of the court that would—
  - (a) remove or modify any statutory restriction or limitation of the jurisdiction of the court; or
  - (b) confer on the court authority to vary or annul any order or decision of the Māori Appellate Court.

Compare: 1993 No 4 s 27

**321 Additional members for purposes of court's special jurisdiction**

- (1) An Order in Council made under **section 320** may provide that, for the purpose of any claim, dispute, issue, question, or other matter to which the Order in Council relates, there must be 1 or 2 additional members of the Māori Land Court or the Māori Appellate Court (as the case requires).
- (2) Each additional member must possess knowledge and experience relevant to the claim, dispute, issue, question, or other matter to which the Order in Council relates.
- (3) No Judge of the Māori Land Court may be an additional member.
- (4) The Order in Council may appoint the additional member or additional members or authorise the Chief Judge to appoint the additional member or additional members.
- (5) If the Chief Judge is authorised to appoint an additional member for the purposes of any claim, dispute, issue, question, or other matter, he or she must, before appointing the member, consult the parties to the proceedings about the knowledge and experience that the additional member should possess.

Compare: 1993 No 4 s 28

*Reference of matters to court for inquiry***322 Reference to court for inquiry**

- (1) The Minister, the chief executive, or the Chief Judge may at any time refer a matter to the court for inquiry and report if, in his or her opinion, it is necessary or expedient that an inquiry be conducted.
- (2) A reference under this section is an application within the ordinary jurisdiction of the court, and the court may hear the matter and make any report and recommendations on the matter to the Minister, the chief executive, or the Chief Judge that the court thinks proper.

Compare: 1993 No 4 s 29

**323 Additional members for purposes of inquiry**

- (1) If any matter is referred to the court for inquiry under **section 322(1)**, the Chief Judge may, for the purposes of that inquiry, appoint to the court 1 or 2 additional members who are not Judges of the court.
- (2) Each person appointed under **subsection (1)** must possess knowledge and experience relevant to the subject matter of the inquiry.
- (3) The Chief Judge must, before appointing any person under **subsection (1)** for the purpose of any inquiry, consult the parties to the inquiry about the knowledge and experience that the person should possess.
- (4) *See also section 324* (2 or more additional members to be appointed if matter of tikanga Māori referred).

Compare: 1993 No 4 s 31

**324 Additional members in relation to matter of tikanga Māori**

- (1) If a matter of tikanga Māori is referred to the court under **section 322(1)**, the Chief Judge must, under **section 323(1)**, appoint 2 or more additional members to the court.
- (2) If **subsection (1)** applies in relation to any matter of tikanga Māori, every person appointed under **section 323** in relation to that matter must possess knowledge and experience of tikanga Māori.

Compare: 1993 No 4 s 32

*Other provisions relating to additional members***325 Application**

**Sections 326 to 329** apply to additional members of the Māori Land Court or Māori Appellate Court who are appointed—

- (a) by or under an Order in Council made under **sections 320 and 321**;  
or
- (b) under **section 323(1) or 324(1)**; or



- (c) under **clause 3(4), 4(4), or 5(6) of Schedule 5** or **clause 3(4), 4(4), or 5(6) of Schedule 6**.

### 326 Oath to be taken by additional member

Before performing the duties of his or her office, any additional member of the Māori Land Court or the Māori Appellate Court must take an oath before a Judge of the Māori Land Court that he or she will faithfully and impartially perform the duties of his or her office.

Compare: 1993 No 4 s 34

### 327 Fees and allowances

- (1) There must be paid to any additional member of the Māori Land Court or the Māori Appellate Court, out of public money, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951.
- (2) The provisions of that Act apply accordingly as if the Māori Land Court or the Māori Appellate Court (as the case requires) were a statutory Board within the meaning of section 2 of that Act.

Compare: 1993 No 4 s 35

### 328 Quorum and decisions

- (1) If any additional members are appointed to the court for the purposes of any proceedings or matter, the presence of a Judge and of at least 1 additional member is necessary to constitute a sitting of the court.
- (2) The decision of a majority of the members present at a sitting of the court is the decision of the court if—
- (a) the matter before the court is a matter of tikanga Māori; or
  - (b) the matter before the court is a matter arising on a reference made under **section 322**; or
  - (c) the court is constituted under **section 323**.
- (3) The decision of a majority (including the Judge) of the members present at a sitting of the court is the decision of the court if the matter before the court is not a matter to which **subsection (2)** applies. If the members present are equally divided in opinion, the decision of the Judge is the decision of the court.

Compare: 1993 No 4 s 36(1)–(3)

### 329 Questions undecided referred to Māori Appellate Court

- (1) If any question before the Māori Land Court cannot be decided in accordance with **section 328**, the question must be referred to the Māori Appellate Court for decision in accordance with the practice and procedure of that court.
- (2) In any proceedings under this section,—

- (a) the Māori Appellate Court has all the powers of the Māori Land Court under this Act; and
  - (b) the decision of the Māori Appellate Court is final and is enforceable as if it were a decision of the Māori Land Court under this Act.
- (3) **Subsection (4)** applies if, for the purposes of any proceedings or matter, an additional member or additional members are appointed to the Māori Appellate Court under **sections 320 and 321**.
- (4) If this subsection applies, **section 356** applies in relation to the proceedings or matter as if the Māori Appellate Court were constituted, for the purposes of the proceedings or matter, under **section 355**.

Compare: 1993 No 4 s 36(4), (5)

### *Jurisdiction and powers*

#### **330 Exercise of jurisdiction generally**

- (1) The jurisdiction of the court may be exercised on application by—
- (a) any person claiming to have an interest in the matter; or
  - (b) the Minister, the chief executive, or a Registrar.
- (2) **Subsection (1)** is subject to any express provisions of this Act or of the rules of court relating to the making of applications.
- (3) The court may give any person, body, or association leave to make an application to the court for the exercise of its jurisdiction if the court is satisfied—
- (a) that a question of importance to Māori or any iwi or hapū is involved; and
  - (b) that, because of the standing of the proposed applicant among the Māori concerned and the proposed applicant's relationship to or connection with any land to which the application relates, it is appropriate that leave be given to the proposed applicant.
- (4) In the course of any proceedings relating to any particular part of the court's jurisdiction, the court may exercise any other part of its jurisdiction that it considers necessary or desirable, and it may do so without further application and on any terms as to notice to parties and otherwise that the court thinks fit.
- (5) The court's exercise of jurisdiction under **subsection (4)** is subject to the rules of court.

Compare: 1993 No 4 s 37

#### **331 Powers of court may be exercised by any Judge**

- (1) Any Judge sitting alone, or any 2 or more Judges sitting together, may exercise all the powers of the court.

- (2) With the consent of the parties, proceedings may be continued before a Judge or Judges other than the Judge or Judges before whom they were commenced.

Compare: 1993 No 4 s 38

### 332 Powers of Registrars

- (1) The jurisdiction and powers conferred on the court by this Act or any other enactment may be exercised by any Registrar of the court who is designated for the purposes of this section by the Chief Judge.
- (2) The designation may be made only with the concurrence of the Chief Registrar and may apply in all or any of the classes of case specified by the rules of court, as the Chief Judge may determine.
- (3) An order made by a Registrar in the exercise of any jurisdiction or power under **subsection (1)** has effect for all purposes as an order of the court.
- (4) Nothing in this section limits **section 331**.

Compare: 1993 No 4 s 39

### 333 Power of Judge to refer matter to Registrar

- (1) A Judge may refer to a Registrar for inquiry and report—
- (a) any proceedings that require the preparation of any whakapapa:
  - (b) any proceedings that require any prolonged examination of documents or any scientific or local investigation that cannot, in the opinion of the Judge, conveniently be made before the Judge:
  - (c) any proceedings where the question in dispute consists wholly or in part of matters of account:
  - (d) with the consent of the parties, any other proceedings:
  - (e) any question arising in any proceedings.
- (2) The court's exercise of powers under **subsection (1)** is subject to the rules of court.
- (3) If any proceedings or questions are referred to a Registrar under this section, a Judge may direct how the reference must be conducted and may remit any report for further inquiry and report.
- (4) On consideration of any report or further report, a Judge may give any judgment or make any order in the proceedings that may be just.
- (5) A Judge may,—
- (a) after deciding or reserving any question of liability, refer to the Registrar or to the Registrar and an accountant any mere matter of account that is in dispute between the parties; and
  - (b) after deciding the question of liability, give judgment on the Registrar's report.

Compare: 1993 No 4 s 40

**334 Power to remove proceedings to another court**

Any proceedings commenced in the court may, if the Judge thinks fit, be removed for hearing into any other court of competent jurisdiction.

Compare: 1993 No 4 s 18

**335 Power to award interest on debt or damages**

The court has, in its proceedings, the same powers to award interest on any debt or damages as the District Court has under **Part 4 of the Judicature Modernisation Act 2015** in its own proceedings.

Compare: 1993 No 4 s 24B

*Decisions, orders, and rehearings***336 Decisions and orders to be pronounced in open court, and minute recorded**

- (1) The substance of a final decision or order of the court must be pronounced orally in open court.
- (2) A final decision or order takes effect according to its terms as from the beginning of the day on which it is pronounced orally in open court.
- (3) **Subsection (2)** is subject to **section 337**.
- (4) A minute of the decision or order must be entered in the records of the court without delay.

Compare: 1993 No 4 s 41

**337 Formal requirements and commencement of orders**

- (1) An order of the court must be drawn up, sealed, and signed in accordance with the rules of court.
- (2) The rules of court may provide for exemptions from the requirements in **subsection (1)**.
- (3) An order of the court must be dated with the date of the minute of the order, and relates back to that date.

Compare: 1993 No 4 s 42

**338 Rehearings**

- (1) Any person interested in any matter to which an order of the court relates may apply in accordance with the rules of court for a rehearing under this section.
- (2) On application under **subsection (1)**, the Judge who made the order, or any other Judge, may—
  - (a) order a rehearing on any terms that the Judge thinks reasonable; and
  - (b) in the meantime, stay the proceedings.

- (3) A rehearing under this section must not be granted if the application is made more than 28 working days after the date of the order, unless the Judge is satisfied that the application could not reasonably have been made sooner.
- (4) An application under this section does not operate as a stay of proceedings unless the Judge so orders.
- (5) The rehearing need not take place before the Judge who heard the original proceedings.
- (6) On any rehearing, the court may—
  - (a) affirm, vary, or annul its former determination; and
  - (b) exercise any jurisdiction that it could have exercised when the proceedings were originally heard.
- (7) When a rehearing is granted, the period allowed for an appeal to the Māori Appellate Court does not begin to run until the rehearing has been disposed of by a final decision or order of the court.

Compare: 1993 No 4 s 43

### *Special powers of Chief Judge*

#### **339 Chief Judge may correct mistakes and omissions**

- (1) This section applies if the Chief Judge is satisfied that an order made by the court or by a Registrar (including an order made by a Registrar before the commencement of this section), or a certificate of confirmation issued by a Registrar under section 160 of Te Ture Whenua Māori Act 1993, is erroneous in fact or in law because of any mistake or omission—
  - (a) on the part of the court or the Registrar; or
  - (b) in the presentation of the facts of the case to the court or to the Registrar.
- (2) On application made under **section 340**, the Chief Judge may cancel or amend the order or certificate of confirmation or make any other order that, in the opinion of the Chief Judge, is necessary in the interests of justice to rectify the mistake or omission.
- (3) An order under this section may be made to take effect retrospectively to such extent as the Chief Judge thinks necessary for the purpose of giving full effect to that order.
- (4) **Subsection (3)** is subject to **section 343**, but is not limited by any other provision of this Act.
- (5) The Chief Judge may exercise his or her powers under this section that relate to orders to which **section 379** (which relates to orders that would otherwise be conclusive) would otherwise apply.
- (6) The Chief Judge's powers under this section do not apply to any vesting order made under **Part 2** in respect of Māori customary land.

- (7) The Chief Judge may decline to exercise jurisdiction under this section in any case, and no appeal may be brought to the Māori Appellate Court against the Chief Judge's dismissal of an application under this section.

Compare: 1993 No 4 s 44

### **340 Applications for exercise of special powers**

- (1) The Chief Judge's jurisdiction under **section 339** may be exercised only on written application—
- (a) by or on behalf of a person who claims to have been adversely affected by the order to which the application relates; or
  - (b) by the Registrar.
- (2) On any application under this section, the Chief Judge may—
- (a) require the applicant to deposit in an office of the court any sum that the Chief Judge thinks fit as security for costs; and
  - (b) summarily dismiss the application if the amount fixed is not deposited within the time allowed.

Compare: 1993 No 4 s 45

### **341 Powers of Chief Judge to deal with applications under section 340**

- (1) The Chief Judge may refer an application under **section 340** to the court or the Māori Appellate Court for inquiry and report, and may deal with an application without holding formal sittings or without hearing the parties in open court.
- (2) The Chief Judge may state a case for the opinion of the High Court on any point of law that arises in relation to any application made under **section 340**.
- (3) **Section 371** applies with the necessary modifications for the purpose of **subsection (2)**.
- (4) The Chief Judge may make any order as to the payment of costs for an application under **section 340** that the court can make under **section 380** in any proceedings.
- (5) **Section 380** applies with the necessary modifications for the purpose of **subsection (4)**.

Compare: 1993 No 4 s 46

### **342 Administrative and consequential matters**

- (1) An order made by the Chief Judge under **section 339** must be signed by the Chief Judge and sealed with the seal of the court.
- (2) The Chief Judge may, at any time, cause duplicates of an order to be signed and sealed if the order was made under **section 339** or under the corresponding provisions of any former enactment by the Chief Judge, any former Chief Judge, the Deputy Chief Judge, or any former Deputy Chief Judge.

- (3) A duplicate must have the word “Duplicate” written or stamped on it, and has the same evidentiary value as the order of which it is a duplicate.
- (4) Any Judge of the court may make all consequential amendments that are required to be made in any order, record, or document made, issued, or kept by the court because of any order made by the Chief Judge under **section 339** or made by the Māori Appellate Court on appeal from the order.
- (5) If it is necessary to correct the land transfer register kept under section 33 of the Land Transfer Act 1952, the Registrar of the court must transmit to the Registrar-General of Land a copy of the order and a note of the consequential amendments made under **subsection (4)**. The Registrar-General of Land must make all necessary amendments in the register of the title to the land affected.
- (6) No fee is payable under this Act or the Land Transfer Act 1952 for any necessary amendments to the register of the title to any land under **subsection (5)**.

Compare: 1993 No 4 s 47

### **343 Effect of amendment or cancellation on payments made or trust money**

- (1) No payment made in good faith under or for the purposes of the original order may be treated as having been made without lawful authority just because that order has been cancelled or amended by an order made under **section 339**.
- (2) Even though an application has been made under **section 340**, any trustee or agent holding any money for distribution may distribute the money to the person entitled to it in accordance with the terms of the order to which the application relates, unless the distribution is prohibited by an injunction under **section 373(1)(d)** that has been served on the trustee.
- (3) If an injunction is obtained, the Chief Judge may, in the order made on the application or by a separate order, determine the persons to whom any money to which the injunction relates must be paid and their relative shares or interests in the money.

Compare: 1993 No 4 s 48

#### *Exercise of powers by Deputy Chief Judge*

### **344 Deputy Chief Judge may exercise special powers of Chief Judge**

The Deputy Chief Judge has the powers, functions, and duties of the Chief Judge under **sections 339 to 343**, subject to the direction of the Chief Judge.

Compare: 1993 No 4 s 48A

#### *Right of appeal against exercise of special powers*

### **345 Appeals**

- (1) An appeal may be brought to the Māori Appellate Court against any order made by the Chief Judge or the Deputy Chief Judge under **section 339**.

- (2) On the Māori Appellate Court's determination of an appeal, no further application in respect of the same matter may be made under **section 340**.

Compare: 1993 No 4 s 49

## **Part 13**

### **Māori Appellate Court**

#### *Continuation and administration of court*

#### **346 Māori Appellate Court continued**

The Māori Appellate Court is continued as a court of record, and is the same court as that existing under the same name immediately before the commencement of this section.

Compare: 1993 No 4 s 50

#### **347 Constitution of court**

- (1) The Judges of the Māori Land Court for the time being are the Judges of the Māori Appellate Court.
- (2) Any 3 or more Judges have power to act as the Māori Appellate Court.
- (3) The Māori Appellate Court may sit in 2 or more divisions at the same time, and each division has all the powers and jurisdiction of the Māori Appellate Court.
- (4) The presiding Judge in the Māori Appellate Court is—
  - (a) the Chief Judge; or
  - (b) in the absence of the Chief Judge, the Deputy Chief Judge; or
  - (c) in the absence of the Chief Judge and the Deputy Chief Judge, either the senior Judge present or another Judge who is appointed by the Chief Judge.
- (5) Proceedings in the Māori Appellate Court may be continued before Judges other than those before whom they were commenced.

Compare: 1993 No 4 s 51

#### **348 Officers of Māori Land Court to be officers of Māori Appellate Court**

The Registrars, Deputy Registrars, and other officers of the Māori Land Court may act in the same capacity in the Māori Appellate Court.

Compare: 1993 No 4 s 52

#### **349 Seal**

- (1) The Māori Appellate Court must have a seal of the court that must be used for sealing documents that are required to be sealed.
- (2) The seal must be in a form prescribed by the Governor-General.



- (3) The seal in use at the commencement of this section continues to be the seal of the Māori Appellate Court until a new seal is prescribed by the Governor-General.

Compare: 1993 No 4 s 53

### *Jurisdiction*

#### **350 Appeals from Māori Land Court**

- (1) The Māori Appellate Court has jurisdiction to hear and determine appeals from any final decision or order of the Māori Land Court, whether made under this Act or otherwise.
- (2) The court's jurisdiction under **subsection (1)** is subject to any express provision to the contrary in this Act or any other enactment.

Compare: 1993 No 4 s 58(1)

### *Rights of appeal*

#### **351 Who can bring appeal against final decision or order of Māori Land Court**

- (1) An appeal against any final decision or order of the Māori Land Court may be brought by or on behalf of—
- (a) any party to the proceedings in which the order is made; or
  - (b) any other person bound by the order or materially affected by it.
- (2) An appeal must be commenced by notice of appeal given in the form and manner prescribed by the rules of court.
- (3) The notice of appeal must be given within 2 months after the date of the minute of the order appealed from or within any further period that the Māori Appellate Court may allow.

Compare: 1993 No 4 s 58(2), (3)

#### **352 Appeals against provisional determinations of Māori Land Court**

- (1) An appeal may be brought to the Māori Appellate Court against any provisional or preliminary determination of the Māori Land Court if the Māori Land Court gives leave to appeal.
- (2) An appeal under this section may be brought by or on behalf of any person who—
- (a) is materially affected by the determination appealed against; or
  - (b) would be bound by an order made in relation to the determination.
- (3) The Māori Land Court may decline leave to appeal if satisfied that the interests of justice and of the parties would best be served by completing the proceedings before any appeal is made to the Māori Appellate Court.

- (4) When leave to appeal is given, the Māori Land Court may either stay further proceedings in the matter or continue the proceedings, but no final decision or order may be made until the appeal has been finally disposed of or dismissed.
- (5) When an appeal has been determined by the Māori Appellate Court, no person may bring any further appeal against any aspect of the final decision or order that was made in those proceedings by the Māori Land Court and that conforms to the Māori Appellate Court's determination.
- (6) If no leave to appeal is sought against any provisional or preliminary determination by the Māori Land Court in any proceedings, the Māori Appellate Court may decline to hear any appeal against the final decision or order of the Māori Land Court made in those proceedings if the Māori Appellate Court is satisfied that—
  - (a) the appellant has had a reasonable opportunity to appeal against the provisional or preliminary determination; and
  - (b) the point that would be in issue on the appeal is substantially the same as the point to which the provisional or preliminary determination related.

Compare: 1993 No 4 s 59

#### *Cases stated*

### **353 Māori Land Court may state case for Māori Appellate Court**

- (1) The Māori Land Court may, in any proceedings before it, state a case for the opinion of the Māori Appellate Court on any point of law that arises in those proceedings.
- (2) Any case stated under this section may be removed into the High Court under **section 371**.
- (3) The decision of the Māori Appellate Court on any case stated under this section is binding on the Māori Land Court.
- (4) **Subsection (3)** is subject to removal or appeal under **section 371**.

Compare: 1993 No 4 s 60

### **354 High Court may state case for Māori Appellate Court**

- (1) The High Court may state a case and refer it to the Māori Appellate Court if—
  - (a) any question of fact relating to the interests or rights of Māori in any land or in any personal property arises in the High Court; or
  - (b) any question of tikanga Māori arises in the High Court.
- (2) The Māori Appellate Court must—
  - (a) consider any case referred to it under **subsection (1)**; and
  - (b) transmit a certificate of its opinion on the matter to the High Court.
- (3) The High Court may refer any case back to the Māori Appellate Court for further consideration.

- (4) If the High Court has stated a case for the opinion of the Māori Appellate Court on any question of tikanga Māori, the opinion of the Māori Appellate Court on that question is binding on the High Court.
- (5) **Subsection (4)** is subject to **subsection (3)**.

Compare: 1993 No 4 s 61

### **355 Additional members with knowledge and experience in tikanga Māori**

- (1) If any case is stated under **section 354(1)(b)** for the opinion of the Māori Appellate Court, the Chief Judge may, if any party to the proceeding so requests, direct that, for the purpose of the hearing of that case, the Māori Appellate Court consist of—
  - (a) 3 Judges of the Māori Land Court; and
  - (b) 1 or 2 other members, appointed by the Chief Judge, who are not Judges of the Māori Land Court.
- (2) Each person appointed under **subsection (1)(b)** must possess knowledge and experience of tikanga Māori.
- (3) The Chief Judge must, before appointing any person under **subsection (1)(b)** for the purpose of any hearing, consult the parties to the proceedings about the knowledge and experience of tikanga Māori that the person should possess.
- (4) Before performing the duties of his or her office, any member of the Māori Appellate Court appointed under **subsection (1)(b)** must take an oath before a Judge of the Māori Land Court that he or she will faithfully and impartially perform the duties of his or her office.
- (5) There must be paid to any member appointed to the Māori Appellate Court under **subsection (1)(b)** remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, which applies as if the Māori Appellate Court were a statutory Board within the meaning of section 2 of that Act.

Compare: 1993 No 4 s 62

### **356 Quorum and decision of court**

- (1) If the Māori Appellate Court is constituted under **section 355** for the purpose of any proceedings, the presence of all 4 members or all 5 members (as the case requires) is necessary to constitute a sitting of the Māori Appellate Court for the purpose of those proceedings.
- (2) The decision of a majority of the members is the decision of the Māori Appellate Court.
- (3) The decision of the Māori Appellate Court in every case must be signed by the presiding Judge, and may be issued by the presiding Judge or by any other Judge of the Māori Appellate Court or by the Registrar of the Māori Appellate Court.

Compare: 1993 No 4 s 63

*Further appeals***357 Further appeal to Court of Appeal from Māori Appellate Court**

- (1) A party to an appeal brought under **section 351** may appeal to the Court of Appeal against all or part of the Māori Appellate Court's determination on the appeal.
- (2) On an appeal under **subsection (1)**, the Court of Appeal may make any order or determination it thinks fit.

Compare: 1993 No 4 s 58A

**358 Direct appeal to Supreme Court from Māori Appellate Court in exceptional circumstances**

- (1) A party to an appeal brought under **section 351** may, with the leave of the Supreme Court, appeal to the Supreme Court against all or part of the Māori Appellate Court's determination on the appeal.
- (2) On an appeal under **subsection (1)**, the Supreme Court may make any order or determination it thinks fit.
- (3) This section is subject to **section 75 of the Judicature Modernisation Act 2015** (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court).

Compare: 1993 No 4 s 58B

*Procedural provisions and decisions***359 Commencement of orders**

- (1) An order made by the Māori Appellate Court takes effect or must be treated as having taken effect in accordance with this section.
- (2) An order takes effect or must be treated as having taken effect on a date to be specified in the order.
- (3) The court may fix different dates for the commencement of different provisions of any order.
- (4) If the Māori Appellate Court varies an order of the Māori Land Court, the Māori Appellate Court may fix as the order's commencement a date that is not earlier than the date on which the varied order would have taken effect if there had been no appeal.
- (5) An order made by the Māori Land Court by direction of the Māori Appellate Court under **section 362(1)(d)** takes effect, in accordance with the terms of the order of the Māori Appellate Court,—
  - (a) on the date on which the order appealed against takes effect under **section 337**; or

- (b) on a date to be specified by the Māori Appellate Court.
- (6) If the Māori Appellate Court fails to specify the date on which the order of the court takes effect, the order takes effect on the commencement of the day of the date of the minute of the order entered in the records of the Māori Appellate Court.

Compare: 1993 No 4 s 64

### **360 Successive appeals about same matter**

- (1) Different persons may bring successive appeals about the same order to the Māori Appellate Court.
- (2) However, no matter determined on appeal may be again brought in question in any other appeal to the Māori Appellate Court under this Act.

Compare: 1993 No 4 s 54

### **361 Appeals to be by way of rehearing**

- (1) An appeal to the Māori Appellate Court must be dealt with by way of rehearing.
- (2) At the hearing of an appeal, no party is entitled to adduce any evidence that was not adduced at the earlier hearing, but the Māori Appellate Court may allow any further evidence to be adduced if, in its opinion, it is necessary to enable it to reach a just decision in the case.
- (3) Nothing in **subsection (2)** prevents the Māori Appellate Court from referring to any record or other document filed or held in the records of the court even though that record or document may not have been produced or referred to at the earlier hearing.
- (4) The evidence adduced at the earlier hearing must be proved by the records of the Māori Land Court, and no other proof of that evidence may be admitted unless the Māori Appellate Court gives leave to admit the proof.

Compare: 1993 No 4 s 55

### **362 Powers of court on appeal**

- (1) On any appeal, the Māori Appellate Court may, by order, do 1 or more of the following things as it thinks fit:
- (a) affirm the order appealed from:
- (b) annul or revoke that order, with or without substituting any other order:
- (c) vary that order:
- (d) direct the Māori Land Court to make any other or any additional order that the Māori Appellate Court thinks fit:
- (e) direct the Māori Land Court to rehear the whole or any specified part of the matter to which the order relates:

- (f) make any order that the Māori Land Court could have made in the proceedings:
  - (g) dismiss the appeal.
- (2) In exercising its jurisdiction under this section, the Māori Appellate Court has all the discretionary powers of the Māori Land Court.
- Compare: 1993 No 4 s 56

### **363 Decision of majority to be decision of court**

- (1) The decision of the Māori Appellate Court must be in accordance with the opinion of the majority of the Judges present.
  - (2) If the Judges present are equally divided in opinion, the order appealed from or under review is taken to be affirmed.
- Compare: 1993 No 4 s 57

## **Part 14**

### **Provisions applying to both courts**

#### **364 Application and interpretation**

- (1) This Part applies in relation to both the Māori Land Court and the Māori Appellate Court except to the extent that it is expressly excluded by another enactment.
  - (2) In this Part, unless the context otherwise requires, **court** means the Māori Land Court or the Māori Appellate Court.
- Compare: 1993 No 4 s 65

#### *Procedural provisions*

#### **365 Conduct of proceedings generally**

- (1) A Judge conducting or presiding over any hearing may—
    - (a) apply to the hearing any rules of marae kawa that the Judge considers appropriate:
    - (b) make any ruling on the use of te reo Māori during the hearing, additional to the rights provided by **section 367**.
  - (2) Proceedings before the court must be conducted in such a way as, in the opinion of the Judge conducting or presiding over the proceedings, will best avoid unnecessary formality.
  - (3) Nothing in **subsection (1) or (2)** affects any of the powers a Judge has to ensure that the proceedings of the court are conducted in a proper manner.
  - (4) No appeal may be brought against any decision of a Judge made for the purposes of this section.
- Compare: 1993 No 4 s 66

**366 Judicial conferences and directions**

- (1) A Judge may, at any time on application by any party or intended party or without application, and on any terms that the Judge thinks fit, direct that a conference of the parties or intended parties or their counsel (a **judicial conference**) be held and be presided over by a Judge.
- (2) The purpose of a judicial conference is to ensure that any application or intended application may be determined in a convenient and expeditious manner, and that all matters in dispute may be effectively and completely determined.
- (3) At any judicial conference, the presiding Judge may do 1 or more of the following things:
  - (a) with the consent of the applicant, amend an application to give better effect to the applicant's intention:
  - (b) identify the issues to be determined:
  - (c) give directions as to service and as to the public notification of the application and any hearing:
  - (d) direct by whom and by what time any notice of intention to appear, or any statement in reply, must be filed:
  - (e) direct any party to file further particulars:
  - (f) direct any party to undertake further research, or direct the Registrar to undertake further research from the court records:
  - (g) direct any party to file any valuation, land use, or other report that may assist the court in determining any matter in issue:
  - (h) fix a time by which affidavits or other documents must be filed:
  - (i) exercise any powers of direction or appointment vested in the court or a Judge by the rules of court that relate to applications of the class with which the Judge is dealing:
  - (j) give any consequential directions that may be necessary:
  - (k) fix a time and place for the hearing of the application.
- (4) A Judge may, at any time before the hearing of an application commences, exercise any of the powers specified in **subsection (3)** without holding a judicial conference.

Compare: 1993 No 4 s 67

**367 Parties and witnesses may use Māori language**

- (1) Any party or witness in any proceedings before the court may give evidence or address the court in te reo Māori.
- (2) Nothing in **subsection (1)** limits the Māori Language ((Te Reo Māori) Act **2014**.

Compare: 1993 No 4 s 68

**368 Evidence in proceedings**

- (1) The court may act on any testimony, sworn or unsworn, and may receive as evidence any statement, document, information, or matter (whether legally admissible or not) that, in the opinion of the court, may assist it to deal effectively with the matters before it.
- (2) The court may, on its own initiative, cause any inquiries to be made, call any witnesses (including expert witnesses), and seek and receive any evidence so long as the court—
  - (a) considers that the action may assist it to deal effectively with the matters before it; and
  - (b) ensures that the parties are kept fully informed and, where appropriate, given an opportunity to reply.
- (3) The Evidence Act 2006 applies to the court, and to the Judges of the court, and to all proceedings in the court, in the same manner as if the court were a court within the meaning of that Act.
- (4) **Subsection (3)** is subject to **subsections (1) and (2)**.

Compare: 1993 No 4 s 69

**369 Representation of parties, etc**

- (1) Any party or other person entitled to appear in any proceedings in the court may appear—
  - (a) personally; or
  - (b) by a lawyer; or
  - (c) with the leave of the court, by any other agent or representative.
- (2) Any leave under **subsection (1)(c)** may be given on any terms that the court thinks fit, and may at any time be withdrawn.
- (3) In any proceedings under this Act, the court may appoint a lawyer—
  - (a) to assist the court, if any application before the court is unopposed and the court considers that it should hear argument on any point; or
  - (b) to represent any person or class of persons, if the court considers that the interests of that person or class of persons could be affected by any order that may be made in the proceedings.
- (4) A lawyer appointed under **subsection (3)** may call any person as a witness in the proceedings and may cross-examine witnesses called by any party to the proceedings or by the court.

Compare: 1993 No 4 s 70

**370 Court may correct defects or errors in proceedings**

- (1) In the course of any proceedings, the court may, on application by any party or on its own initiative, amend the proceedings to correct defects or errors.



- (2) The amendments may be made on any terms that the court thinks fit.

Compare: 1993 No 4 s 71

**371 Case may be stated for High Court**

- (1) The Māori Appellate Court may state a case for the opinion of the High Court on any point of law that arises in any proceedings before it.
- (2) The Māori Land Court may, with the leave of the Chief Judge, state a case for the opinion of the High Court on any point of law that arises in any proceedings before it.
- (3) The Chief Judge may withdraw any case stated under this section at any time before it has been considered by the High Court.
- (4) Any party to a decision of the High Court on any case stated under this section may appeal against the decision to the Court of Appeal.
- (5) The High Court may remove into the Court of Appeal any case stated under this section for the opinion of the High Court.

Compare: 1993 No 4 s 72

**372 Court must give notice before making order on own initiative**

- (1) This section applies in any proceedings where the court has power to make an order on its own initiative.
- (2) Before exercising the power, the court must give the affected parties reasonable notice of its intention to proceed on its own initiative.

*Injunctions*

**373 Jurisdiction to issue injunctions**

- (1) The court may, by order made at any time on application by any person interested or by the Registrar of the court or on its own initiative, issue an injunction that—
- (a) prohibits any person from trespassing or damaging any Māori freehold land, whenua tāpui, or wāhi tapu; or
- (b) prohibits any person from dealing with or damaging any property that—
- (i) is the subject of proceedings that are pending before the court or the Chief Judge; or
- (ii) may be affected by any order that may be made in the proceedings; or
- (c) prohibits the cutting or removing, or otherwise disposing of, any timber trees, timber, other wood, flax, tree ferns, sand, topsoil, metal, minerals, or other substances on or from any Māori freehold land (whether usually quarried or mined or not); or

- (d) prohibits any trustee or agent from distributing any rent, purchase money, royalties, or other proceeds of—
  - (i) the disposition of land affected by any order to which an application under **section 340** or an appeal under **Part 13** relates; or
  - (ii) any compensation payable in respect of other revenue derived from land affected by an order referred to in **subparagraph (i)**.
- (2) Any injunction made by the court under this section may be expressed to be binding on a government department.
- (3) **Subsection (2)** applies despite anything in the Crown Proceedings Act 1950.
- (4) An injunction made by the court under this section may be expressed to be of interim effect only.
- (5) An injunction made by the court under this section has final effect if it is not expressed to be of interim effect only.

Compare: 1993 No 4 s 19

#### **374 High Court may enforce injunctions**

- (1) For the purpose of enforcing any injunction issued by the court, the Chief Judge may, on application by any party or on the Chief Judge's own initiative, transmit to any Registrar of the High Court a copy of the injunction, signed by the Chief Judge and bearing the seal of the court that issued the injunction.
- (2) The Registrar of the High Court who receives the copy must file it as a record of the High Court.
- (3) On the filing of the copy, the injunction must be treated as having been issued by the High Court and may be enforced by writ of attachment or other means in accordance with the practice of that court.
- (4) For the purpose of this section, a Judge of the Māori Land Court may provide a certificate signed by him or her that sets out—
  - (a) any particulars of the relevant proceedings of that court or of the Māori Appellate Court; or
  - (b) any particulars relating to the performance or non-performance by any person of the requirements of the injunction.
- (5) A certificate provided under **subsection (4)** must, unless the contrary is proved, be accepted by the High Court and by all officers of that court as sufficient evidence of the facts certified.
- (6) The filing of the copy of an injunction in the High Court does not limit or affect any right or power of rehearing, appeal, amendment, or cancellation existing in respect of the order that created the injunction.

Compare: 1993 No 4 s 85

*General provisions about orders***375 Orders may be made subject to conditions**

- (1) Any order may be made subject to the performance of any condition within any period that may be specified in the order.
- (2) An order that is made subject to the performance of any condition must not be sealed while it remains subject to a condition that has not yet been fulfilled.
- (3) **Subsection (2)** applies despite anything in **section 337** or the rules of court.
- (4) If an order has been made subject to the performance of any condition, the court may, without further application but subject to the giving of any notices (if any) that the court may direct,—
  - (a) amend or cancel the order on the failure to comply with the condition within the specified period; or
  - (b) extend that period for any further time that the court thinks fit.

Compare: 1993 No 4 s 73

**376 Orders not invalid for want of form, etc**

- (1) No order may be questioned or invalidated on the ground of any error, irregularity, or defect in the form of the order or in the practice or procedure of the court.
- (2) No order may be questioned or invalidated on the ground of any variance between the order as drawn up, sealed, and signed and the minute of the order. In the case of any variance, the order prevails.

Compare: 1993 No 4 s 74

**377 Orders nominally in favour of deceased persons**

- (1) This section applies if an order is made in favour, or otherwise in respect, of any person who is deceased at the time of the making, sealing, or date of the order.
- (2) The order may not be questioned or invalidated just because the person was deceased at the time of the making, sealing, or date of the order.
- (3) The court may, unless prevented by another provision in this Act, amend the order at any time so that it conforms to the facts of the case as existing at the date of the order, and any amendment takes effect from the date of the amended order.

Compare: 1993 No 4 s 75

**378 Persons bound by orders affecting land**

An order affecting the title to Māori land or any interest in Māori land binds all persons having any estate or interest in that land, whether or not they—

- (a) were parties to or had notice of the proceedings in which the order was made; or

(b) are subject to any disability.

Compare: 1993 No 4 s 76

### 379 Orders affecting Māori land conclusive after 10 years

- (1) An order made in relation to Māori land becomes conclusive 10 years after the date of the order and may not be annulled or quashed, or declared or held to be invalid, by any court in any proceedings instituted after the order becomes conclusive.
- (2) If there is any conflict between any 2 orders that are conclusive under this section, the order that bears the earlier date prevails to the extent of the inconsistency, and it does not matter whether those orders were made by the same or different courts.
- (3) Nothing in this section limits or affects the authority of the Chief Judge to cancel or amend any order under **section 339**.

Compare: 1993 No 4 s 77

### 380 Costs orders

- (1) In any proceedings, the court may make any order that it thinks just as to the payment of the costs (a **costs order**) by or to any person who is or was a party to those proceedings or to whom leave has been granted by the court to be heard.
- (2) A costs order under **subsection (1)** may relate to the payment of costs of the particular proceedings referred to in that subsection or of any proceedings or matters incidental or preliminary to the particular proceedings.
- (3) The court may make a costs order under **subsection (1)** for the payment of costs by or to any person even if that person is deceased at the time of the order.
- (4) If the court is satisfied that any party to the proceedings has acted not only on his or her own behalf but also on behalf of other persons having a similar interest in the proceedings, the court has the same power to make a costs order for the payment of the costs of those proceedings by those other persons as it has under **subsection (1)** to make a costs order for the payment of costs by that party.
- (5) In any proceedings, the court may make an order charging on any land or interest in land, or on any revenues derived from any land or interest in land, to which the proceedings relate the whole or any part of—
  - (a) the costs of the proceedings; and
  - (b) any charges, fees, or expenses that, in the opinion of the court, were reasonably and properly incurred by any party to the proceedings or by any other person for the purposes of or in relation to the proceedings.
- (6) An order may be made under **subsection (5)** whether or not any other order is made in the proceedings in relation to the land.

- (7) Any order made under this section for the payment of costs or imposing a charge for costs may, when made in open court,—
- (a) specify the sum or sums payable or charged; or
  - (b) leave the amount to be determined by taxation in accordance with the rules of court.

Compare: 1993 No 4 s 79(1)–(3), (6), (7)

### **381 Security for costs**

- (1) At any stage of any proceedings, the court may require any party to deposit any sum of money as security for costs, and, in default of that deposit being made, the court may stay or dismiss the proceedings either wholly or in respect of the party in default.
- (2) When any sum has been deposited as security for costs, it must be disposed of in any manner that the court directs.

Compare: 1993 No 4 s 79(4), (5)

### **382 Taxation of costs**

- (1) All costs, charges, or expenses charged or chargeable to any party in connection with or incidental to the prosecution of or opposition to any claim or application to the court are subject to taxation in accordance with this section.
- (2) On application by or on behalf of the person chargeable, the court may either tax any of the costs, charges, or expenses or refer the costs, charges, or expenses to the Registrar or other officer of the court for taxation.
- (3) The court may order a bill of items to be supplied for the purpose of any such taxation, or the taxing officer may require the production of such a bill.
- (4) The costs, charges, or expenses are subject to taxation even though the person chargeable may have entered into an agreement as to the amount to be paid, and, if the court or taxing officer thinks that the agreement is unfair or unreasonable, the court or taxing officer may reduce the amount payable under the agreement.
- (5) The court or taxing officer must certify in writing the amount that should, in fairness to the parties, be paid in respect of any costs, charges, or expenses, and the amount certified must be treated as being the amount properly payable by the person chargeable.
- (6) Nothing in this section prevents or limits the right to make a complaint to a complaints service under section 132(2) or 160 of the Lawyers and Conveyancers Act 2006.
- (7) No costs, charges, or expenses may be taxed under this section while they are the subject of a complaint under section 132(2) or 160 of the Lawyers and Conveyancers Act 2006 on which no final decision has been made by the relevant complaints service.

Compare: 1993 No 4 s 80

*Enforcement of judgments and charging orders***383 Enforcement of judgments and orders relating to money, land, or chattels**

- (1) This section applies for the purpose of enforcing any judgment or order of the court for—
  - (a) the recovery of money; or
  - (b) the recovery of land; or
  - (c) the delivery of specific chattels.
- (2) For the purpose of this section, a Judge may, on application by any party or on the Judge's own initiative, transmit to a Registrar of the District Court a copy of the judgment or order, signed by the Judge and bearing the seal of the court that gave the judgment or made the order.
- (3) The Registrar who receives the copy must file it as a record of the District Court.
- (4) Once filed, the judgment or order must, so long as it remains in force, be treated as if it had been given or made by the District Court, and may be enforced accordingly.
- (5) For the purpose of this section, a Judge of the Māori Land Court may provide a certificate signed by him or her that sets out—
  - (a) any particulars of the relevant judgment or order of that court or of the Māori Appellate Court; or
  - (b) any particulars relating to the performance or non-performance by any person of the requirements of any relevant judgment or order.
- (6) A certificate provided under **subsection (5)** must, unless the contrary is proved, be accepted by the District Court, and by all officers of that court, as sufficient evidence of the facts so certified.
- (7) The filing in the District Court under this section of a copy of a judgment or an order of the Māori Land Court or of the Māori Appellate Court does not limit or affect any right or power of rehearing, appeal, amendment, or cancellation existing in respect of that judgment or order.

Compare: 1993 No 4 s 81

**384 Charging orders**

- (1) A Judge may, on application by any party or on the Judge's own initiative, make an order for the purpose of enforcing any order made by the court for the payment of money (a **charging order**).
- (2) A charging order may create a charge on any of the following property to which the person liable to pay the money is entitled:
  - (a) any Māori freehold land:
  - (b) any legal or equitable interest in any Māori freehold land:

- (c) any revenue derived from any Māori freehold land:
  - (d) the proceeds of the disposition of any Māori freehold land.
- (3) The property becomes subject to a charge accordingly in favour of the person to whom for the time being, and from time to time, the money is or becomes payable. In the case of any interest in land, the charge is subject to registration under **section 385**.
  - (4) A charging order must identify the property on which the charge is imposed.
  - (5) A charging order may at any time be varied or discharged by the court.
  - (6) Nothing in section 123 of the Accident Compensation Act 2001 applies to any charge constituted under this section.
  - (7) Nothing in this section limits anything in **section 383**.

Compare: 1993 No 4 s 82(1)–(5)

### **385 Registration or recording of charging order**

- (1) If a charging order under **section 384** is made in respect of a registered estate or an interest in any land, a duplicate or copy of the order under the seal of the court may be provided to the Registrar-General of Land for registration.
- (2) The Registrar-General of Land must, without fee, record it in the appropriate register.
- (3) An order that discharges or varies a charging order may be registered or recorded in the same manner as the charging order.

Compare: 1993 No 4 s 82(6)–(8)

### **386 Appointment of receiver to enforce charges, etc**

- (1) This section applies if, by or under this Act or any other enactment, any charge has been imposed on—
  - (a) any Māori freehold land; or
  - (b) any legal or equitable interest in any Māori freehold land; or
  - (c) any revenue derived from any Māori freehold land; or
  - (d) the proceeds of the disposition of any Māori freehold land.
- (2) The court may at any time and from time to time, for the purpose of enforcing the charge, appoint the Māori Trustee or any other fit person to be a receiver for the property charged.
- (3) However, the court must not appoint the Māori Trustee as a receiver under **subsection (2)** unless the court is satisfied that the Māori Trustee consents to the appointment.
- (4) If, in any proceeding before the court, there is any dispute over the title to any property that is the subject of that proceeding, the court may, pending its deter-

mination of the dispute, appoint the Māori Trustee or any other fit person to be a receiver for that property.

Compare: 1993 No 4 s 83(1)–(3)

### **387 Functions and powers of receiver**

- (1) A receiver appointed under **section 386** has—
  - (a) all the rights, powers, duties, and liabilities that are expressly conferred or imposed on the receiver by the court; and
  - (b) any other incidental powers that may be reasonably necessary for the exercise of the powers conferred by the court.
- (2) However, a receiver appointed under this section must not sell or lease any Māori freehold land otherwise than as provided in **subsection (3)**.
- (3) A receiver appointed under this section for the purpose of enforcing a charge may, with the leave of the court, grant leases of any land charged or grant licences to remove timber, flax, kauri gum, minerals, or other substances from the land.
- (4) A receiver may grant a lease or licence under **subsection (3)** in his or her own name.
- (5) A lease or licence may be granted under **subsection (3)** for any term not exceeding 21 years (including any term or terms of renewal) on any conditions and for the rent or other consideration that the receiver thinks fit.
- (6) Any lease or licence granted under **subsection (3)** in respect of land subject to the Land Transfer Act 1952 may be registered under that Act, and the Registrar-General of Land may register the lease or licence accordingly without requiring the production of any certificate of title.

Compare: 1993 No 4 s 83(4)–(7)

### **388 Discharge of receiver**

- (1) If a receiver has performed the functions for which he or she was appointed, or if the court is satisfied for any other reason that the receiver should be discharged, the court may—
  - (a) make an order for the discharge of the receiver; and
  - (b) if necessary, appoint some other person to be a receiver in place of the discharged receiver.
- (2) If the receiver applies for discharge, the receiver must file final accounts with the application, and, unless the receiver is the Māori Trustee, must pay into court any money held by the receiver for the receivership.

Compare: 1993 No 4 s 83(8), (9)



**389 Court may order repayment out of money held by trustee, etc**

- (1) This section applies if the Māori Trustee or any other person (the **trustee**) is holding or is entitled to receive any money on trust for the owners, or any of the owners, of any Māori freehold land, and the land or any legal or equitable interest in the land is subject to a charge imposed by or under this Act or any other enactment.
- (2) The court may, whether or not it appoints a receiver under **section 386**, give notice of the charge to the trustee.
- (3) The court may, by order, require the trustee to apply that money, in accordance with the terms of the order, in or towards the repayment of the amount secured by the charge.

Compare: 1993 No 4 s 84

*Amendment of orders, warrants, and records***390 Amendment of orders, warrants, etc**

- (1) The court or any Judge of the court may at any time make or authorise to be made in any order, warrant, record, or other document made, issued, or kept by the court any amendments that are considered necessary to—
  - (a) give effect to the true intention of any decision or determination of the court, including the amendment or cancellation of any earlier orders of the court for the purpose of giving effect to a new order; or
  - (b) record the actual course and nature of any proceedings in the court.
- (2) Amendments made under **subsection (1)** take effect on the date of commencement of the order, warrant, record, or other document amended.
- (3) The court may at any time during any proceedings direct the Registrar to amend any entry in the records of the court that is authorised under **section 391**.
- (4) **Subsection (3)** does not limit the generality of **subsection (1)**.

Compare: 1993 No 4 s 86

**391 Amendment or cancellation of orders not to affect acquired rights**

- (1) If any order, warrant, record, or other document is amended or cancelled under **section 339 or 390** or otherwise, the amendment or cancellation does not take away or affect any right or interest acquired in good faith and for value before the making of the amendment or cancellation.
- (2) However, **subsection (1)** is subject to—
  - (a) any order or decision of the court that amends or cancels any earlier orders of the court for the purpose of giving effect to a new order (for example, where any rights or obligations under an earlier order are apportioned by a new order); and

- (b) any order or decision of the Māori Appellate Court, the Court of Appeal, or the Supreme Court.
- (3) If any order or other document amended or cancelled has previously been registered by the Registrar-General of Land, the court must transmit a copy of the order of amendment or cancellation to the Registrar-General of Land, and he or she must make all necessary consequential amendments in the registration of the title to any land that is affected by the amendment or cancellation.

Compare: 1993 No 4 s 88

### *Judicial settlement conferences*

#### **392 Judge may convene Judicial settlement conference**

- (1) The purpose of a judicial settlement conference is to give the parties to a proceeding before the court an opportunity to negotiate a settlement of a claim or any issue.
- (2) A judicial settlement conference must be convened by a Judge and held in chambers.
- (3) A Judge who convenes a judicial settlement conference may assist the parties in their negotiations, but that Judge must not preside at the hearing of the proceeding (if any) unless—
  - (a) all parties taking part in the conference consent; or
  - (b) the only matter for resolution at the hearing is a question of law.
- (4) A proceeding is treated as having been discontinued 30 working days after the date on which the Judge endorses the proceeding as having been settled, unless one of the following applies:
  - (a) the parties, by notice to the Judge given before the close of that 30-day period, consent to an extension of that period, and in that case the Judge must direct accordingly and the discontinuance takes effect on the close of that extended period:
  - (b) the Judge, in the interests of justice, directs that the proceeding be discontinued with effect on and from some other date stated by the Judge.

Compare: SR 2014/179 r 7.3

### *Contempt of court*

#### **393 Contempt of court**

- (1) This section applies if any person—
  - (a) wilfully insults a judicial officer, or any Registrar, or any officer of the court, or any witness during his or her sitting or attendance in court or in going to or returning from the court; or
  - (b) wilfully interrupts the proceedings of the court or otherwise misbehaves in court; or

- (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of the hearing of any proceedings.
- (2) If this section applies,—
  - (a) any constable or officer of the court, with or without the assistance of any other person, may, by order of a Judge, take the person into custody and detain him or her until the rising of the court; and
  - (b) the Judge may, if he or she thinks fit, sentence the person to—
    - (i) imprisonment for a period not exceeding 3 months; or
    - (ii) a fine not exceeding \$1,000 for each offence.
- (3) Nothing in this section limits or affects any power or authority of the court to punish any person for contempt of court in any case to which this section does not apply.
- (4) A person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who wilfully obstructs or interferes with any Judge, Registrar, Receiver, or other officer of the court in the execution of his or her powers or duties.

Compare: 1993 No 4 ss 90, 91; 2011 No 81 s 365

## Part 15

### Appointment of Judges and related provisions

#### 394 Appointment of Judges

- (1) The Governor-General may from time to time, by warrant, appoint fit and proper persons to be Judges of the Māori Land Court.
- (2) The number of Judges appointed under this section must not at any time exceed 14.
- (3) For the purposes of **subsection (2)**,—
  - (a) a Judge who is acting on a full-time basis counts as 1;
  - (b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1;
  - (c) the aggregate number (for example, 13.5) must not exceed the maximum number of Judges that is for the time being permitted.
- (4) A person must not be appointed as a Judge unless the person is suitable, having regard to the person's knowledge and experience of te reo Māori, tikanga Māori, and the Treaty of Waitangi.
- (5) A person may be appointed as a Judge only if—
  - (a) that person has for at least 7 years held a New Zealand practising certificate as a barrister or as a barrister and solicitor; or
  - (b) that person—

- (i) holds a degree in law granted or issued by any university within New Zealand; and
  - (ii) has been admitted as a barrister and solicitor of the High Court; and
  - (iii) has held a practising certificate in a jurisdiction specified by Order in Council—
    - (A) for at least 7 years; or
    - (B) for a lesser number of years, but when that number of years is added to the number of years for which the person has held a New Zealand practising certificate the total number of years is at least 7.
- (6) No person may be appointed a Judge after attaining the age of 70 years.
- (7) **Subsection (6)** is subject to **sections 401(6) and 402(1)**.
- (8) A Judge is, by virtue of that office, a Justice of the Peace for New Zealand.
- (9) A Judge must not practise as a lawyer.

Compare: 1993 No 4 s 7

### **395 Attorney-General to publish information concerning appointment process**

- (1) The Attorney-General must publish information explaining his or her process for—
- (a) seeking expressions of interest for the appointment of Judges of the court; and
  - (b) nominating persons for appointment as a Judge of the court.
- (2) If the Attorney-General is not for the time being responsible for recommending the appointment of Judges of the court, he or she must publish information explaining the responsible Minister's process for doing the things referred to in **subsection (1)**.

### **396 Judge not to undertake other employment or hold other office**

- (1) A Judge of the court must not undertake any other paid employment or hold any other office (whether paid or not) without the approval of the Chief Judge.
- (2) An approval under **subsection (1)** may be given only if the Chief Judge is satisfied that undertaking the employment or holding the office is consistent with the Judge's judicial office.
- (3) However, **subsection (1)** does not apply to another office if an enactment permits or requires the office to be held by a Judge.

### **397 Protocol relating to activities of Judges**

- (1) The Chief Justice must develop and publish a protocol containing guidance on—

- (a) the employment, or types of employment, that he or she considers may be undertaken consistent with being a Judge; and
  - (b) the offices, or types of offices, that he or she considers may be held consistent with being a Judge.
- (2) The Chief Justice may develop and publish a protocol under **subsection (1)** only after consultation with the Chief Judge.

### **398 Judges act on full-time basis but may be authorised to act part-time**

- (1) A person acts as a Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
- (2) The Attorney-General may, in accordance with **subsection (4)**, authorise a Judge who is appointed under **section 394 or 399** to act on a part-time basis for any specified period.
- (3) To avoid doubt, an authorisation under **subsection (2)** may take effect as from a Judge's appointment or at any other time, and may be made more than once in respect of the same Judge.
- (4) The Attorney-General may authorise a Judge to act on a part-time basis only—
- (a) on the request of the Judge; and
  - (b) with the concurrence of the Chief Judge.
- (5) In considering whether to concur under **subsection (4)(b)**, the Chief Judge must have regard to the ability of the court to discharge its obligations in an orderly and expeditious way.
- (6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- (7) The basis on which a Judge acts must not be altered during the term of the Judge's appointment without the Judge's consent, but consent under this subsection is not necessary if the alteration is required by **subsection (6)**.

Compare: 1993 No 4 s 7A

### **399 Chief Judge and deputy**

- (1) The Governor-General must from time to time, by warrant, appoint a Chief Judge of the Māori Land Court and a Deputy Chief Judge of the Māori Land Court.
- (2) A person appointed as Chief Judge or as Deputy Chief Judge must hold that office so long as that person holds office as a Judge.
- (3) However, with the prior approval of the Governor-General, the Chief Judge and the Deputy Chief Judge may resign those offices without resigning the office of Judge.
- (4) **Subsection (5)** applies if, because of illness, absence from New Zealand, or any other cause, the Chief Judge is prevented from exercising the duties of of-

office and that subsection also applies during any vacancy in the office of Chief Judge.

- (5) If this subsection applies, the Deputy Chief Judge has all the functions, duties, and powers of the Chief Judge until the Chief Judge resumes or takes up the duties of office.

Compare: 1993 No 4 s 8

#### **400 Delegation to Deputy Chief Judge**

- (1) The Chief Judge may delegate to the Deputy Chief Judge, either generally or particularly, any power, function, or duty conferred on the Chief Judge by or under this Act.
- (2) Subject to general or particular directions given by the Chief Judge, the Deputy Chief Judge may exercise and perform all the powers, functions, or duties delegated by the Chief Judge in the same manner and with the same effect as if they had been conferred on the Deputy Chief Judge directly by this Act and not by delegation.
- (3) A delegation—
- (a) must be in writing; and
  - (b) is revocable in writing at any time; and
  - (c) may be made subject to any restrictions or conditions that the Chief Judge thinks fit; and
  - (d) does not prevent the exercise or performance of a power, function, or duty by the Chief Judge; but
  - (e) must not include a power of delegation.
- (4) In the absence of proof to the contrary, the Deputy Chief Judge, when purporting to act under a delegation, is presumed to be acting in accordance with the terms of the delegation.
- (5) Powers exercised, functions performed, or decisions made by the Deputy Chief Judge acting as the Chief Judge may not be questioned in any proceeding on the ground that the occasion for the Deputy Chief Judge so acting had not arisen or had ceased.

Compare: 1993 No 4 s 8A

#### **401 Appointment of temporary Judges**

- (1) The Governor-General may whenever, in his or her opinion, it is necessary or expedient to make a temporary appointment, appoint 1 or more temporary Judges of the Māori Land Court to hold office for the period stated in the warrant of appointment.
- (2) **Subsection (1)** is subject to **section 403**.
- (3) The period specified must not exceed 2 years.
- (4) However, a person appointed under this section may be reappointed.

- (5) A person may not be appointed as a temporary Judge under this section unless that person is eligible for appointment as a Judge under **section 394**.
- (6) However, a person otherwise qualified who has attained the age of 70 years (including a Judge who has retired after attaining that age) may be appointed as a temporary Judge under this section.
- (7) **Subsection (3)** applies to an appointment made under **subsection (6)**.
- (8) The power conferred by this section may be exercised at any time, even though there may be 1 or more persons holding the office of Judge under **section 394 or 402**.
- (9) A person appointed under this section must be paid, during the term of the appointment, the salary and allowances payable under **section 406** to a Judge other than the Chief Judge and the Deputy Chief Judge.

Compare: 1993 No 4 s 9

#### **402 Former Judges**

- (1) The Governor-General may, by warrant, appoint any former Judge to be an acting Judge for any term not exceeding 2 years or, if the former Judge has attained the age of 72 years, not exceeding 1 year, as the Governor-General may specify.
- (2) **Subsection (1)** is subject to **section 403**.
- (3) During the term of the appointment, the former Judge may act as a Judge only during any period or periods, and only in any place or places, that the Chief Judge determines.
- (4) During each period when the former Judge acts as a Judge, but not otherwise, a former Judge appointed under this section must—
  - (a) be paid a salary at the rate for the time being payable by law to a Judge other than the Chief Judge and the Deputy Chief Judge; and
  - (b) be paid any travelling allowances or other incidental or minor allowances that may be fixed from time to time by the Governor-General.
- (5) During each period when a former Judge acts as a Judge, he or she has all the jurisdiction, powers, protections, privileges, and immunities of a Judge.

Compare: 1993 No 4 s 10

#### **403 Certificate by Chief Judge and 1 other Judge prerequisite**

No appointment may be made under **section 401 or 402** otherwise than on a certificate signed by the Chief Judge and at least 1 other permanent Judge to the effect that, in their opinion, it is necessary for the due conduct of the business of the court that 1 or more temporary Judges, or (as the case requires) 1 or more acting Judges, be appointed.

Compare: 1993 No 4 s 11

**404 Tenure of office**

- (1) The Governor-General may remove a Judge for inability or misbehaviour.
- (2) A Judge must retire from office on attaining the age of 70 years.

Compare: 1993 No 4 s 12

**405 Judges to have immunities of High Court Judges**

The Judges have all the immunities of a Judge of the High Court.

Compare: 1993 No 4 s 12A

**406 Salaries and allowances of Judges**

- (1) There must be paid to the Chief Judge, to the Deputy Chief Judge, and to the other Judges—
  - (a) salaries at the rates that the Remuneration Authority from time to time determines; and
  - (b) the allowances that the Remuneration Authority from time to time determines; and
  - (c) the additional travelling allowances or other incidental or minor allowances that the Governor-General from time to time determines.
- (2) The salary of a Judge must not be diminished during the continuance of the Judge's appointment.
- (3) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position.
- (4) For the purpose of **subsection (2)**, the payment of salary and allowances on a pro-rata basis under **subsection (3)** is not a diminution of salary.
- (5) Any determination made under **subsection (1)**, and any provision of the determination, may be made so as to come into force on a date to be specified in the determination, being the date of the making of the determination or any other date, whether before or after the date of the making of the determination or the date of the commencement of this section.
- (6) **Subsection (5)** is subject to the Remuneration Authority Act 1977.
- (7) A determination, and every provision of a determination, for which no commencement date is specified comes into force on the date of the making of the determination.

Compare: 1993 No 4 s 13



## Part 16

### Rules, regulations, judgments, restricting right to commence proceedings, etc

#### *Rules*

#### **407 Rules Committee continued**

- (1) There continues to be a Rules Committee comprising—
  - (a) the Chief Judge; and
  - (b) 1 other Judge appointed by the Chief Judge; and
  - (c) a person nominated by the New Zealand Māori Council and appointed by the Chief Judge; and
  - (d) the chief executive of the Ministry of Justice or a person nominated by that chief executive; and
  - (e) the chief executive or a person nominated by the chief executive; and
  - (f) a person appointed by the Minister of Māori Affairs and the Minister of the Crown who is responsible for the Ministry of Justice; and
  - (g) a lawyer nominated by the Council of the New Zealand Law Society and appointed by the Chief Judge; and
  - (h) not more than 2 other persons appointed by the Minister of Māori Affairs.
- (2) Each appointed member holds office for any term, not exceeding 3 years, that may be specified in his or her instrument of appointment, but may from time to time be reappointed.
- (3) Any appointed member may resign by notice in writing to the Chief Judge or the Minister (as the case requires).
- (4) Whenever the Chief Judge is unable to attend any meeting of the Rules Committee or to perform any other function of a member of that Committee, the Deputy Chief Judge may attend that meeting or perform that function in place of the Chief Judge.
- (5) **Subsection (4)** does not limit **section 399**.

Compare: 1993 No 4 s 92

#### **408 Fees and travelling allowances**

- (1) The Rules Committee must be treated as a statutory Board within the meaning of section 2 of the Fees and Travelling Allowances Act 1951.
- (2) There must be paid to the members of the Rules Committee out of money appropriated by Parliament for the purpose any fees, allowances, travelling allow-

ances, and expenses that may be fixed in accordance with the Fees and Traveling Allowances Act 1951, and the provisions of that Act apply accordingly.

Compare: 1993 No 4 s 93

#### **409 Principal function of Rules Committee**

The principal function of the Rules Committee is—

- (a) to review the rules of court and to keep the rules under review; and
- (b) to make any recommendations to the Minister that it thinks fit for the amendment or revocation of any rules, or the making of any new rules, to ensure that the rules facilitate the prompt, inexpensive, and just dispatch of the business of the court and the administration of justice in the court.

Compare: 1993 No 4 s 94

#### **410 Rules of court**

- (1) The Governor-General may, by Order in Council made with the concurrence of the Chief Judge and any 2 or more of the other members of the Rules Committee, make rules of court for the purposes of facilitating the prompt, inexpensive, and just dispatch of the business of the court.
- (2) The power of making rules under this section extends to all matters of practice or procedure and matters relating to or concerning the effect or operation in law of any practice or procedure in any case within the jurisdiction of the court, but does not confer the power to prescribe fees.
- (3) Rules of court may be made for 1 or more of the following purposes:
  - (a) prescribing forms to be used for the purposes of any proceedings before the court:
  - (b) prescribing the district or office in which proceedings are to be commenced, and the procedure to be adopted where proceedings are commenced in one district or office but should, under this Act or any other enactment or the rules, have been commenced in another district or office:
  - (c) prescribing the circumstances in which proceedings may be transferred from one district to another, and the procedure that applies when proceedings are transferred:
  - (d) prescribing the form of the records of the court and providing for the custody of records:
  - (e) providing for the receipt of, and accounts for, all money paid into or out of court:
  - (f) providing for the appointment and public notification of sitting days of the court, empowering any Judge to appoint special sittings of the court at any places and times that the Judge thinks fit, and authorising any

Judge to hold a sitting of the court at any place where the court does not usually sit:

- (g) providing for the public notification of applications to the court, and prescribing the circumstances in which any application or class of applications may be disposed of without public notification and without a hearing:
- (h) prescribing the manner in which and the procedure by which witnesses are to be summoned to appear before the court:
- (i) prescribing the circumstances and manner in which and the procedure by which any Registrar may take evidence for use in any proceedings before the court:
- (j) authorising a Registrar to hear and determine any uncontested proceedings, or to conduct and report on any inquiry:
- (k) prescribing the class or classes of proceedings in which the jurisdiction and powers of the court may be exercised by a Registrar in accordance with **section 332**:
- (l) prescribing, according to the nature of the proceedings and the amount involved, the costs and charges to be paid by any party in any proceedings before the court to any other party, in addition to the money paid out of pocket:
- (m) providing for the drawing up in writing, sealing, and signing of orders of the court, the minuting and other evidencing of any orders or class of orders, and the issuing of duplicate orders for evidentiary and registration purposes:
- (n) prohibiting the formal issuing of any order until the time for appeal has expired and any conditions attached to the order have been fulfilled or security for the performance of any conditions has been given to the satisfaction of the court, or until any necessary plan sufficient for the purposes of registration under the Land Transfer Act 1952 has been prepared:
- (o) prescribing the terms and conditions on which appeals to the Māori Appellate Court may be brought, prosecuted, or withdrawn:
- (p) requiring an appellant to give security for the costs of the appeal:
- (q) providing for the dismissal of an appeal by the Māori Land Court or by a Judge of that court on the ground of the failure of the appellant—
  - (i) to conform to a requirement to give security for those costs; or
  - (ii) to prosecute the appeal in accordance with the rules:
- (r) prescribing the classes of person before whom affidavits, declarations, or affirmations to be used in any proceedings before the court may be sworn or made within or outside New Zealand.

- (4) **Subsection (3)** does not limit the generality of **subsections (1) and (2)**.
- (5) Rules of court made under this section take effect on a date specified by the Order in Council by which the rules are made.

Compare: 1993 No 4 s 95

### *Fees*

#### **411 Regulations**

The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:

- (a) prescribing the matters in respect of which fees are payable under this Act:
- (b) prescribing scales of fees for the purposes of this Act and for the purposes of any proceedings before the Māori Land Court or the Māori Appellate Court, whether under this Act or any other enactment:
- (c) prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which this Act applies:
- (d) conferring on a Judge, a Registrar, a Deputy Registrar, or any other person the power to determine the amount of the fee payable in a particular case and whether any fees should be refunded, remitted, or reduced.

Compare: 1993 No 4 s 96

### *Court practice*

#### **412 Practice notes**

- (1) The Chief Judge may, with the concurrence of at least 2 other Judges, issue practice notes for the guidance of parties to any class or classes of proceedings and the parties' advisers.
- (2) Practice notes may contain or provide for any matters that may be necessary or desirable for the proper conduct of the proceedings, including any instructions or suggestions that are not inconsistent with this Act or the rules of court.

Compare: 1993 No 4 s 97

### *Aid Fund*

#### **413 Māori Land Court Special Aid Fund**

- (1) There must be paid out of public money into a fund to be known as the Māori Land Court Special Aid Fund (the **Fund**) any amounts that are from time to time appropriated by Parliament for the purpose.
- (2) The Chief Registrar of the Māori Land Court must hold the Fund.

- (3) The court may from time to time make orders for the payment from the Fund of the reasonable legal costs or the reasonable out-of-pocket expenses, or both, of—
- (a) any person or class of persons heard or represented in any proceedings before the court;
  - (b) any lawyer appointed to assist the court under **section 369(3)(a)**.
- (4) A duplicate of any order made by the court under **subsection (3)** must be forwarded by post to the Legal Services Commissioner as soon as practicable after the making of the order.
- (5) No person in whose favour an order has been made under **subsection (3)** may apply for or be granted assistance under the Legal Services Act 2011 for the same matter.
- (6) There must also be paid out of the Fund, unless the court orders otherwise,—
- (a) the reasonable fees and reasonable expenses of any accountant to whom a Judge refers a matter under **section 333(5)**; and
  - (b) the reasonable fees and reasonable expenses of any person that the Registrar is directed, by the Judge, to engage to assist with an inquiry and report under **section 333**; and
  - (c) the reasonable fees and reasonable expenses of a kaitakawaenga who is engaged by the chief executive to provide dispute resolution services in response to a reference by a Judge under **section 301, clause 3(3)(c) of Schedule 5, or clause 4(3)(d) of Schedule 6**; and
  - (d) all reasonable costs and reasonable out-of-pocket expenses of any person called by the court as a witness under **section 368(2)**; and
  - (e) the reasonable fees and reasonable expenses of any lawyer appointed under **section 65(1) or 369(3)**; and
  - (f) the reasonable fees and reasonable expenses of any person appointed as a receiver under **section 386**.

Compare: 1993 No 4 s 98(1)–(5), (9)

#### **414 Court may create charges over property**

- (1) If an order is made under **section 413(3)**, the court may also make an order that—
- (a) the whole or any part of the amount ordered to be paid out of the Fund be a charge against any real or personal property of any of the following:
    - (i) the person or class of persons in whose favour the first order is made;
    - (ii) any other owners whose interests are or could have been affected by any order made in the proceedings to which the grant of aid relates; and

- (b) fixes the terms and conditions on which the amount charged is to be repaid.
- (2) A charge created by an order of the court under **subsection (1)** must be in favour of the Māori Trustee on behalf of the Crown.
- (3) A charge created by an order of the court under **subsection (1)** may be registered against any interest in land to which the charge relates in accordance with **Part 4**.

Compare: 1993 No 4 s 98(6)–(8)

*Information regarding, and publication of, judgments*

**415 Information regarding reserved judgments**

The Chief Judge must, in consultation with the Chief Justice,—

- (a) publish information about the process by which parties to proceedings before the court may obtain information about the status of any reserved judgment in those proceedings; and
- (b) periodically publish information about the number of judgments of the court that he or she considers is outstanding beyond a reasonable time for delivery; and
- (c) publish information about reserved judgments that he or she considers is useful.

**416 Final written judgments to be published on Internet site**

- (1) Every final written judgment of the court must be published on an Internet site as soon as practicable unless there is good reason not to publish.
- (2) Good reason not to publish a judgment or part of it includes the following:
  - (a) non-publication is necessary because of a suppression order or a statutory requirement that affects publication or continued publication;
  - (b) the judgment falls into a category of judgments that are of limited public value;
  - (c) taking into account the presumption in **subsection (1)** in favour of publication, a Judge nevertheless determines that the judgment or any part of it should not be published because publication or the effect of publication would be contrary to the interests of justice.
- (3) In this section, **final written judgment** means a written decision that determines or substantially determines the outcome of any proceedings and that is—
  - (a) a written reserved judgment; or
  - (b) an oral judgment transcribed by an official transcription service.

*Recusal***417 Recusal guidelines**

The Chief Judge must, in consultation with the Chief Justice, develop and publish guidelines to assist Judges to decide if they should recuse themselves from a proceeding.

*Restriction on commencing or continuing proceedings***418 Judge may make order restricting commencement or continuation of proceeding**

- (1) A Judge may make an order (a **section 418 order**) restricting a person from commencing or continuing proceedings in the court.
- (2) The order may have—
  - (a) a limited effect (a **limited order**); or
  - (b) an extended effect (an **extended order**).
- (3) A limited order restrains a party from continuing or commencing proceedings on a particular matter in the court.
- (4) An extended order restrains a party from continuing or commencing proceedings on a particular or related matter in the court.
- (5) Nothing in this section limits the court's inherent power to control its own proceedings.

**419 Grounds for making section 418 order**

- (1) A Judge may make a limited order if, in at least 2 proceedings about the same matter in the court, the Judge considers that 2 or more of the proceedings are or were totally without merit.
- (2) A Judge may make an extended order if, in at least 2 proceedings about any matter considered by the court, the Judge considers that the proceedings are or were totally without merit.
- (3) In determining whether the proceedings are or were totally without merit, the Judge may take into account the nature of any other interlocutory application or appeal involving the party to be restrained, but is not limited to those considerations.
- (4) The proceedings concerned must be proceedings commenced or continued by the party to be restrained, whether against the same person or different persons.
- (5) For the purposes of this section and **sections 420 and 421**, an appeal in a proceeding must be treated as part of that proceeding and not as a distinct proceeding.

**420 Terms of section 418 order**

- (1) A **section 418** order may restrain a party from commencing or continuing any proceeding (whether generally or against any particular person or persons) of any type specified in the order without first obtaining the leave of the court.
- (2) A **section 418** order, whether limited or extended, has effect for a period of up to 3 years as specified by the Judge, but the Judge making it may specify a longer period (which must not exceed 5 years) if he or she is satisfied that there are exceptional circumstances justifying the longer period.

**421 Procedure and appeals relating to section 418 orders**

- (1) A party to any proceeding may apply for a limited order or an extended order.
- (2) A Judge may make a **section 418** order either on application under **subsection (1)** or on his or her own initiative.
- (3) An application for leave to continue or to issue a proceeding by a party subject to a **section 418** order may be made without notice, but the court may direct that the application for leave be served on any specified person.
- (4) The party against whom a **section 418** order is made may appeal against the order to the Māori Appellate Court.
- (5) The appellant in an appeal under **subsection (4)** or the applicant for the **section 418** order concerned may, with the leave of the Māori Appellate Court, appeal against the determination of that appeal to the Court of Appeal.
- (6) A court determining an appeal under this section has the same powers as the court appealed from has to determine an application or appeal (as the case may be).

**422 References to Judge in sections 418 to 421**

The functions and powers of a Judge under **sections 418 to 421** may be performed and exercised by any Judge of the Māori Land Court, including a Judge who is acting as a Judge of the Māori Appellate Court.



## Schedule 1

### Transitional and related provisions

s 10

#### Contents

		Page
1	Interpretation	236
	<i>Existing Māori incorporations and existing ahu whenua and whenua tōpū trusts</i>	
2	Existing Māori incorporations continue as rangatōpū	237
3	Rights of shareholders of existing Māori incorporations preserved during transition period	238
4	Existing ahu whenua or whenua tōpū trusts continue: trustees become governance bodies	238
5	Other ahu whenua trusts and trusts of Maori land continue as if this Act had not been enacted	239
6	Chief executive must register rangatōpū and transitional governance agreements	240
7	Governance body must, within 3 years, update or confirm transitional agreement or adopt standard agreement	240
8	Rangatōpū must appoint eligible kaitiaki before updating or confirming transitional agreement or adopting standard agreement	241
9	Rangatōpū that were existing ahu whenua or whenua tōpū trusts must decide on form of rangatōpū before updating transitional agreement	241
10	Consequences if governance body fails to update or confirm transitional agreement, or adopt standard agreement, within 3 years	242
	<i>Other existing trusts</i>	
11	Existing whānau trusts	242
12	Existing kai tiaki trusts	243
13	Other trusts of Māori land not affected	244
	<i>Administration of estates</i>	
14	Administration of estates if granted before commencement of this Act	244
15	Liability of Māori land and certain other property for payment of debts of estate	244
	<i>Existing Māori reservations become whenua tāpui</i>	
16	Existing Māori reservations become whenua tāpui	244

	<i>Dispositions of Māori freehold land</i>	
17	Order of confirmation for sale of parcel after partition restricted under earlier Act	245
	<i>Provisional registration of existing instruments if survey inadequate</i>	
18	Provisional registration of existing instruments if survey inadequate	246
	<i>Existing leases of Māori freehold land and other land</i>	
19	Existing leases of Māori freehold land and other land	246
	<i>Existing roadways and roads</i>	
20	Existing roadways and roads	246
	<i>Existing charges for surveys of Māori land</i>	
21	Existing charges for surveys of Māori land	247
	<i>Existing registration of land in name of trust or tipuna</i>	
22	Existing registration of land in name of trust or tipuna	247

## 1 Interpretation

In this schedule,—

**commencement date** means the date on which this schedule comes into force  
**existing ahu whenua or whenua tōpū trust** has the meaning given in **clause 4(2)**

**existing Māori incorporation** has the meaning given in **clause 2(3)**

**standard agreement** means the standard governance agreement prescribed by regulations

**Te Ture Whenua Māori Act 1993** means Te Ture Whenua Māori Act 1993

**transition period**, in respect of a transitional agreement, is the period beginning on the commencement date and ending with the earlier of—

- (a) either—
  - (i) the date on which an updated governance agreement is registered in place of the transitional agreement; or
  - (ii) the date on which the transitional agreement or the standard agreement is registered as the governance agreement; and
- (b) the date that is 3 years after the commencement date

**transitional agreement** means a governance agreement registered under **clause 6**.

*Existing Māori incorporations and existing ahu whenua and whenua tōpū trusts*

**2 Existing Māori incorporations continue as rangatōpū**

- (1) On the commencement date,—
  - (a) an existing Māori incorporation continues to exist—
    - (i) as a body corporate with perpetual succession under the name specified in the order of incorporation; and
    - (ii) as a rangatōpū; and
  - (b) each member of the incorporation's committee of management becomes a kaitiaki of the rangatōpū; and
  - (c) the incorporation's constitution becomes a transitional governance agreement; and
  - (d) the assets and liabilities held by the incorporation are the asset base of the rangatōpū; and
  - (e) the shares in the incorporation continue as undivided interests in the Māori freehold land managed by the rangatōpū.
- (2) On the commencement date, each unclaimed dividend held by an existing Māori incorporation, or by a preceding incorporation or body corporate (including the Māori Trustee), becomes an unpaid distribution for the purpose of this Act.
- (3) In this clause, **existing Māori incorporation** means any of the following incorporations that exist on the commencement date, as identified in the register of Māori incorporations kept under section 279 of Te Ture Whenua Māori Act 1993:
  - (a) a Māori incorporation established under Part 13 of Te Ture Whenua Maori Act 1993:
  - (b) a Māori incorporation established under or continued in existence by the provisions of Part 4 of the Maori Affairs Amendment Act 1967:
  - (c) a Māori incorporation constituted by section 21 of the Maori Purposes Act 1975:
  - (d) the Māori incorporation constituted by the Mawhera Incorporation Order 1976:
  - (e) the Māori incorporation constituted by the Parininihi Ki Waitotara Incorporation Order 1976:
  - (f) the Māori incorporation constituted by the Wakatu Incorporation Order 1977.
- (4) To avoid doubt, the following are not existing Māori incorporations for the purposes of this Act:

- (a) the Māori incorporation established by section 5 of the Maraeroa A and B Blocks Incorporation Act 2012;
- (b) the Māori incorporation constituted by section 27 of the Maori Purposes Act 1970.

### 3 Rights of shareholders of existing Māori incorporations preserved during transition period

- (1) During the transition period for a rangatōpū that continues an existing Māori incorporation under **clause 2**,—
  - (a) the rangatōpū must continue to maintain a share register in accordance with section 263 of Te Ture Whenua Māori Act 1993, which applies as if it had not been repealed by this Act and as if—
    - (i) the requirement to have a share register were a requirement to have a register of owners; and
    - (ii) any reference to shares were a reference to undivided interests in the Māori freehold land managed by the rangatōpū under the transitional agreement; and
    - (iii) any reference to shareholders were a reference to the owners of the undivided interests in the Māori freehold land managed by the rangatōpū under the transitional agreement; and
  - (b) the shareholders in the existing Māori incorporation continue to have the same rights and entitlements in respect of the rangatōpū and the asset base as they had in respect of the incorporation and its operations under Part 13 of Te Ture Whenua Māori Act 1993 and the Māori Incorporations Constitution Regulations 1994.
- (2) If the rangatōpū updates its transitional agreement as described in **clause 7(1)(a)**, the rangatōpū must ensure that the updated governance agreement that replaces the transitional agreement does not materially alter the rights and entitlements of a person who was a shareholder in the incorporation.

### 4 Existing ahu whenua or whenua tōpū trusts continue: trustees become governance bodies

- (1) On the commencement date,—
  - (a) an existing ahu whenua or whenua tōpū trust continues to exist; and
  - (b) if the trust has more than 1 trustee, and the trustees are natural persons,—
    - (i) the trustees continue as a rangatōpū that is a private trust; and
    - (ii) each trustee becomes a kaitiaki of the rangatōpū; and
  - (ba) if the trust has a single trustee that is a body corporate, and the trustee is not an existing Māori incorporation or an existing statutory body,—
    - (i) the trustee continues as a rangatōpū; and

- (ii) each person occupying a position in the body corporate that is comparable with that of a director of a company becomes a kaitiaki of the rangatōpū; and
  - (c) if the trust has a single trustee that is an existing statutory body, the trustee continues as the governance body; and
  - (d) if the trust has a single trustee that is a Māori incorporation,—
    - (i) for the purposes of this schedule, the Māori incorporation is deemed to be an existing statutory body that continues as a governance body under **paragraph (c)**; and
    - (ii) despite **section 167(2)**, the governance body in its capacity as a rangatōpū under **clause 2** will be a party to a second governance agreement in its capacity as a deemed existing statutory body under this clause; and
    - (iii) the governance body must maintain a separate asset base under each of the agreements referred to in **subparagraph (ii)**; and
  - (e) the terms of the trust (as set out in the order constituting the trust) become a transitional governance agreement; and
  - (f) the land and other assets vested in the trustees become the asset base managed under the agreement.
- (2) In this clause, **existing ahu whenua or whenua tōpū trust** means any of the following trusts that exist on the commencement date, as identified in the permanent record of the Māori Land Court kept under rule 7.19 of the Māori Land Court Rules 2011:
- (a) an ahu whenua trust constituted under section 215 of Te Ture Whenua Maori Act 1993:
  - (b) a whenua tōpū trust constituted under section 216 of Te Ture Whenua Maori Act 1993:
  - (c) a trust that is an amalgamation under section 221 of Te Ture Whenua Maori Act 1993 of any 2 or more ahu whenua or whenua tōpū trusts:
  - (d) a trust constituted under section 438(1) of the Maori Affairs Act 1953 and continued as an ahu whenua trust under section 354 of Te Ture Whenua Maori Act 1993, other than a trust specified in **clause 5(1)(a)**:
  - (e) an ahu whenua trust constituted under section 357(4)(b) of the Ngāi Tahu Claims Settlement Act 1998.
- (3) To avoid doubt, the trusts to which **clause 5** applies are not existing whenua tōpū or ahu whenua trusts for the purposes of this Act

## 5 Other ahu whenua trusts and trusts of Maori land continue as if this Act had not been enacted

- (1) This clause applies to—

- (a) any of the following trusts, as continued as ahu whenua trusts by section 354 of Te Ture Whenua Maori Act 1993, that exist on the commencement date:
    - (i) a trust constituted under section 5 of the Maori Purposes Act 1954 (in respect of the Ratana Settlement in the Aotea District);
    - (ii) a trust referred to in section 6(7) of the Maori Purposes Act 1983 (in respect of the Titi Islands);
    - (iii) the Rotoaira Trust constituted by the court on 6 December 1956 (*see* Part 1 of the Maori Purposes Act 1959);
    - (iv) the Te Puna-Topu-O-Hokianga Trust constituted by the court on 2 May 1974 (*see* section 17 of the Reserves and Other Lands Disposal Act 1977); and
  - (b) any other trust constituted in respect of any Māori land that is not an existing ahu whenua or whenua tōpū trust.
- (2) Nothing in this Act affects the powers, rights, or duties of trustees of Māori land under the trust, whether created by Act, Crown grant, or other instrument of title, or in any other manner.
- (3) The powers, rights, and duties referred to in **subclause (2)** continue to exist and may be exercised and performed in the same manner as if this Act had not been enacted.

Compare: 1993 No 4 s 353

## **6 Chief executive must register rangatōpū and transitional governance agreements**

- (1) As soon as practicable after the commencement date, the chief executive must—
- (a) register each rangatōpū created by **clause 2 or 4**, by issuing a rangatōpū certificate; and
  - (b) register each transitional governance agreement created by **clause 2 or 4**, by issuing a governance certificate; and
  - (c) make any necessary changes to the Māori land register .
- (2) **Sections 193 to 197** do not apply to a governance certificate issued under this section.

## **7 Governance body must, within 3 years, update or confirm transitional agreement or adopt standard agreement**

- (1) A governance body that is a party to a transitional agreement must, within 3 years after the commencement date,—
- (a) update the transitional agreement so that it complies with **Schedule 3** and apply to the chief executive under **section 168** for the updated agreement to be registered in place of the transitional agreement; or

- (b) confirm the transitional agreement and apply to the chief executive under **subclause (2)** for the transitional agreement to be registered as the governance agreement; or
  - (c) adopt the standard agreement and apply to the chief executive under **subclause (2)** for the standard agreement to be registered in place of the transitional agreement.
- (2) An application under **subclause (1)(b) or (c)** must comply with **sections 169 and 171** (which set out requirements for an application to register a governance agreement), except that **section 169(a)** (which requires the application to include a governance agreement that complies with **Schedule 3**) does not apply.
- (3) A transitional agreement is not invalid by reason only that it does not comply with **Schedule 3**.
- (4) However, if a transitional agreement is confirmed and registered as a governance agreement, any part of the agreement that is inconsistent with **Schedule 3** or any other provision of this Act is invalid and ceases to apply.
- 8 Rangatōpū must appoint eligible kaitiaki before updating or confirming transitional agreement or adopting standard agreement**
- (1) **Section 214** (requirements for kaitiaki of rangatōpū) does not apply to a rangatōpū during the transition period.
- (2) However, a rangatōpū must, before updating or confirming a transitional agreement, or adopting the standard agreement, ensure that its kaitiaki meet the requirements of **section 214**.
- (3) During the transition period,—
- (a) the term of appointment of a person who becomes a kaitiaki under **clause 2(1)(b) or 4(1)(b)(ii)** (a **transitional kaitiaki**) is the term that applied when the person was appointed as a member of the committee of management or as a trustee, as the case may be; and
  - (b) a transitional kaitiaki's appointment may be renewed or extended only if the person is eligible under **section 214** to hold that position.
- 9 Rangatōpū that were existing ahu whenua or whenua tōpū trusts must decide on form of rangatōpū before updating transitional agreement**
- (1) This clause applies if—
- (a) a rangatōpū that is party to a transitional agreement was formerly an existing ahu whenua or whenua tōpū trust; and
  - (b) the rangatōpū wishes to update its transitional agreement as described in **clause 7(1)(a)**.
- (2) Before updating the agreement, the rangatōpū must decide whether to convert the form of the rangatōpū from a private trust to a body corporate.

- (3) The rangatōpū must include in its application for the updated agreement to be registered in place of the transitional agreement—
- (a) a statement of whether the rangatōpū is to become a body corporate or remain a private trust; and
  - (b) if the rangatōpū is to become a body corporate, a request for an updated rangatōpū certificate.

**10 Consequences if governance body fails to update or confirm transitional agreement, or adopt standard agreement, within 3 years**

- (1) This clause applies if a governance body that is party to a transitional agreement—
- (a) applies to the chief executive under **clause 7(1)(a)** for the standard agreement to be registered in place of the transitional agreement; or
  - (b) does not, before the expiry of 3 years after the commencement date, comply with **clause 7** by updating or confirming its transitional agreement or adopting the standard agreement.
- (2) If this clause applies,—
- (a) the standard agreement replaces the transitional agreement; and
  - (b) in the case of a rangatōpū continued as a private trust, the rangatōpū becomes a body corporate; and
  - (c) the chief executive must promptly—
    - (i) register, as a replacement governance agreement, the standard agreement prescribed by regulations; and
    - (ii) issue a replacement governance certificate under **section 177**; and
    - (iii) if the body does not satisfy the requirements of **section 214** (requirements for kaitiaki), apply to the court under **section 216** for replacement kaitiaki to be appointed.

*Other existing trusts*

**11 Existing whānau trusts**

- (1) This clause applies to a whānau trust constituted by the court under section 214 of Te Ture Whenua Māori Act 1993 and existing on the commencement date.
- (2) The trust continues in force in accordance with the terms of the order constituting the trust and any further order or extension of powers granted by the court.
- (3) The trustees holding office immediately before the commencement date continue to hold the office for the duration and in accordance with the terms of their appointment, even if no longer eligible in accordance with **section 56**.
- (4) Otherwise **sections 55 to 62** apply to the trust, with any necessary modifications, as if the trust were a trust established in accordance with **section 52**.



**12 Existing kai tiaki trusts**

- (1) This clause applies to a kai tiaki trust constituted by the court under section 217 of Te Ture Whenua Māori Act 1993 and existing on the commencement date.
- (2) The trust continues in force in accordance with the terms of the order constituting the trust and any further order or extension of powers granted by the court.
- (3) The trustees holding office immediately before the commencement date continue to hold the office for the duration and in accordance with the terms of their appointment, even if no longer eligible in accordance with **section 56**.
- (4) The trustees must periodically apply to the court for a review of the trust at the following intervals:
  - (a) no later than 5 years after the establishment of the trust or, if a period is specified in the trust order, no later than the date specified in the order; and
  - (b) at the end of each subsequent 5-year period or, if subsequent reporting intervals are specified in the trust order, no later than the date specified in the order.
- (5) On any review the court may, by order,—
  - (a) confirm the trust order without variation; or
  - (b) vary the terms of the order in the manner it thinks fit; or
  - (c) make an order terminating the trust; or
  - (d) make an order terminating the trust and appointing a kaiwhakamarumaruru under this Act to assume responsibility for the former trust property.
- (6) If the trust is terminated (irrespective of whether a kaiwhakamarumaruru is appointed in its place), the court must, by order, vest the beneficial interest in any Māori land—
  - (a) in the beneficiary of the trust, if the beneficiary is living;
  - (b) in the person or persons entitled to succeed to the beneficiary's interest in accordance with this Act, if the beneficiary is deceased.
- (7) Promptly after the trust is terminated, the trustees must deliver to the chief executive any money, books of account, and records held in their capacity as trustees of the terminated trust.
- (8) The court has jurisdiction to inquire into and determine—
  - (a) whether the purpose of the trust has been fulfilled; and
  - (b) any question or dispute in relation to the administration of the trust; and
  - (c) any question or dispute in relation to the appointment, replacement, or removal of trustees.
- (9) Without limiting **subclause (4)**, the court has and may exercise, in relation to the trust, all the same powers and authorities as the High Court has and may exercise under the Trustee Act 1956 in respect of trusts generally.

- (10) The court must exercise those powers and authorities consistently with this Act.
- (11) **Subclause (2)** does not limit or affect the jurisdiction of the High Court.

### **13 Other trusts of Māori land not affected**

- (1) This clause applies to a trust over Māori land, whether created by Act, Crown grant, or other instrument of title, or in any other manner, if—
- (a) the trust exists on the commencement date; and
  - (b) the trust is not subject to the transitional provisions of this schedule.
- (2) Nothing in this Act affects the powers, rights, or duties of the trustees of the trust, and those powers, rights, and duties continue to exist and may be exercised and performed in the same manner as if this Act had not been passed.

#### *Administration of estates*

### **14 Administration of estates if granted before commencement of this Act**

- (1) **Part 7** does not apply to the administration of the estate of a deceased owner of Māori freehold land or an individual freehold interest in Māori land, if administration was granted before the commencement date.
- (2) Instead,—
- (a) the estate must be administered in accordance with Te Ture Whenua Māori Act 1993 (and any other Act applying immediately before the commencement date) as if this Act had not been enacted; and
  - (b) the court may make an order vesting the land or interest in the persons entitled to the land or interest regardless of its value.

### **15 Liability of Māori land and certain other property for payment of debts of estate**

For the purposes of **section 231**, where any person who died before 1 April 1968 held a freehold interest in Māori land that is subject to a contract of sale or to any lease or other disposition, the interest of the deceased includes the deceased's interest in all purchase money, rent, and other money payable in respect of that disposition that was not paid before the deceased's death (whether the money was due and payable before or after the death).

#### *Existing Māori reservations become whenua tāpui*

### **16 Existing Māori reservations become whenua tāpui**

- (1) This clause applies to a Māori reservation set apart under section 338 of Te Ture Whenua Maori Act 1993 or the corresponding provisions of any former enactment.

*Existing whenua tāpui*

- (2) The Māori reservation is treated as if it were an existing whenua tāpui that had been declared under **subpart 2 of Part 2**, but this Act applies with 2 modifications if that existing whenua tāpui is reserved for the purposes of a marae or burial ground.
- (3) The first modification is that if any additional land is reserved and included in the existing whenua tāpui under **subpart 2 of Part 2**, the beneficial ownership of the additional land does not vest in the Māori who belong to the class of persons specified in the declaration, despite **section 35(5)**.
- (4) The second modification is that, for agreement to an application under **section 265** (registration of land in name of tupuna), the beneficiaries of the existing whenua tāpui are treated as if they were the owners of the land.

*Administering body*

- (5) The trustees that hold the Māori reservation immediately before the commencement date are treated as if they were the members of the administering body appointed for the whenua tāpui under **subpart 2 of Part 2**.
- (6) Any terms of trust imposed on the trustees are treated as if they were conditions or restrictions imposed on the administering body under **subpart 2 of Part 2**.
- (7) If, on the commencement date, the membership of the administering body does not comply with the requirements of **section 36(2)** or of any regulations made under this Act, the members must ensure that the membership complies within 3 years after the commencement date. Until then, non-compliance is ignored.
- (8) If, on the commencement date, no trustees hold the Māori reservation, the court may appoint an administering body, which is treated as if it were appointed for the whenua tāpui under **subpart 2 of Part 2**.

*Dispositions of Māori freehold land***17 Order of confirmation for sale of parcel after partition restricted under earlier Act**

- (1) This clause applies if—
  - (a) application is made for an order of confirmation for the sale of a parcel of Māori freehold land; and
  - (b) the parcel resulted from a partition of land made on or after 1 October 1991 on which a restriction was imposed under section 432A of the Maori Affairs Act 1953 or section 304 of Te Ture Whenua Maori Act 1993; and
  - (c) the sale is to persons who are not members of the same hapū as the owners of the parcel that was partitioned.

- (2) Before making the order, the court must comply with section 304(3) to (6) of Te Ture Whenua Maori Act 1993, which applies as if it were not repealed and with any necessary modifications.

*Provisional registration of existing instruments if survey inadequate*

**18 Provisional registration of existing instruments if survey inadequate**

- (1) This section applies if—
- (a) an instrument that affects Māori freehold land and that was created or entered into before the commencement date is lodged for registration; but
  - (b) 1 of the following applies:
    - (i) the instrument cannot be registered because the boundaries of the land to which the instrument applies are not adequately defined in a deposited plan or other plan; or
    - (ii) the title to the land is not registered or provisionally registered under the Land Transfer Act 1952.
- (2) The Registrar-General must register the instrument on the provisional register under section 50 of the Land Transfer Act 1952.

*Existing leases of Māori freehold land and other land*

**19 Existing leases of Māori freehold land and other land**

Any provision of Part 11 of Te Ture Whenua Maori Act 1993 that applied to a lease (as defined by section 192 of that Act) immediately before the commencement date continues to apply to the lease—

- (a) as if that Part were not repealed; and
- (b) as if references in that Part to trustees or a Māori incorporation in which land is vested were to a governance body that manages the land; and
- (c) with any other necessary modifications.

*Existing roadways and roads*

**20 Existing roadways and roads**

The following provisions of Te Ture Whenua Māori Act 1993 apply as if they were not repealed and with any necessary modifications:

- (a) section 318(3) for the purposes of any variation by the court of an order laying out a roadway;
- (b) section 319(4) and, for the purposes of any provisions made by the court under that subsection, section 319(2), (3), and (5);
- (c) sections 320 to 326.

*Existing charges for surveys of Māori land***21 Existing charges for surveys of Māori land**

- (1) This clause applies to a charge that, immediately before the commencement date, is imposed on Māori land by an order made under section 333 or 336 of Te Ture Whenua Maori Act 1993, or any corresponding former enactment, to secure the costs of a survey.
- (2) Sections 334, 335, 336(2), and 337 of Te Ture Whenua Māori Act 1993 apply to the charge as if they were not repealed, as if section 337 related only to the amount secured by the charge, and with any other necessary modifications.

*Existing registration of land in name of trust or tipuna***22 Existing registration of land in name of trust or tipuna**

- (1) This clause applies if, immediately before the commencement date, land is registered in the name of a trust or tipuna under section 220A of Te Ture Whenua Maori Act 1993.
- (2) **Section 265** of this Act applies to the land—
  - (a) as if the name were the name of a tupuna that had been registered under that section; and
  - (b) if the land is private land other than Māori land, as if the land were Māori freehold land.

**Schedule 2**  
**Default decision-making process for decisions requiring agreement**  
**of owners of Māori freehold land**

s 45

**Contents**

		Page
1	When decision-making process applies	248
2	Decision-making process commences with notice of proposal	248
3	General requirements for notice of proposal	249
4	Additional requirements for notice given by owners of land	249
5	Additional requirements for notice of proposal to appoint governance body	249
6	Additional requirements for notice of proposal to offer Māori freehold land for sale	250
7	Additional requirements for notice of proposal to dispose of Māori freehold land by way of gift	250
8	Additional requirements for notice of proposal to grant long-term lease of Māori freehold land	250
9	Additional requirements for notice of proposal to dispose or deal with Māori freehold land in any other way	250
10	Governance body or chief executive to arrange meeting of owners	251
11	Meeting of owners	251
12	Voting on proposals	252
13	Decision-making process ends with notification of vote results	253

**1 When decision-making process applies**

The decision-making process set out in this schedule applies if this Act or a governance agreement requires —

- (a) that a decision be agreed to by a majority of the owners of Māori freehold land; and
- (b) that the decision be made in accordance with the process set out in this schedule.

**2 Decision-making process commences with notice of proposal**

(1) A decision-making process is commenced as follows:

- (a) if the decision is to be made by the owners of Māori freehold land that is managed under a governance agreement,—
  - (i) 1 or more of the owners of the land give the governance body a notice of proposal; or

- (ii) the governance body prepares a notice of proposal on its own initiative; or
  - (b) if the decision is to be made by the owners of Māori freehold land that is not managed under a governance agreement, 1 or more of the owners of the land gives the chief executive a notice of proposal.
- (2) Despite **subclause (1)**, an owner of Māori freehold is not entitled to commence a decision-making process for a proposal to appoint a governance body for the land if, during the previous 6 months,—
  - (a) a proposal to appoint a governance body (whether the same or a different body) for that land failed to gain sufficient votes to pass; or
  - (b) a decision to appoint a governance body for that land was set aside by the court under **section 180**.

### 3 General requirements for notice of proposal

A notice of proposal must—

- (a) describe the matter for decision; and
- (b) identify the Māori freehold land that will be affected by the decision (if applicable); and
- (c) be in writing, be dated, and be signed by or on behalf of the person commencing the decision-making process; and
- (d) comply with any applicable requirements of **clauses 4 to 9**.

### 4 Additional requirements for notice given by owners of land

If a notice of proposal is given by 1 or more owners of Māori freehold land,—

- (a) the notice must include—
  - (i) the names and contact details of the owners giving notice; and
  - (ii) the names and any known contact details of the other owners of the land; and
- (b) the signature by or on behalf of the owners giving notice must be witnessed by a person who—
  - (i) is at least 20 years of age; and
  - (ii) is not a beneficial owner of the land; and
  - (iii) is not a member of the immediate family of a beneficial owner of the land.

### 5 Additional requirements for notice of proposal to appoint governance body

A notice of proposal for a decision to appoint a governance body to manage Māori freehold land must include—

- (a) a governance agreement that complies with **Schedule 3**; and

- (b) a copy of any report, held by the person preparing or giving the notice, that relates to the land and its condition (for example, a council report, valuation, utilisation report, inspection report, or research report).

**6 Additional requirements for notice of proposal to offer Māori freehold land for sale**

A notice of proposal for a decision to offer Māori freehold land for sale must—

- (a) include an independent valuation of the land to be disposed of:
- (b) include the proposed minimum sale price and any other proposed terms of the sale.

**7 Additional requirements for notice of proposal to dispose of Māori freehold land by way of gift**

A notice of proposal for a decision to dispose of Māori freehold land by way of gift must—

- (a) include an independent valuation of the land to be disposed of:
- (b) state whom the disposal is being made to (the **recipient**):
- (c) specify how the recipient qualifies as a preferred recipient.

**8 Additional requirements for notice of proposal to grant long-term lease of Māori freehold land**

A notice of proposal to grant a long-term lease over Māori freehold land must—

- (a) include an independent valuation of the land to be leased:
- (b) state the name of the proposed lessee:
- (c) include details of the proposed lease (including the proposed initial rent, the term of the lease, the basis for rent reviews, and the terms of any rights of renewal).

**9 Additional requirements for notice of proposal to dispose or deal with Māori freehold land in any other way**

- (1) This clause applies to a notice of proposal to—
  - (a) dispose of Māori freehold land other than by way of sale, gift, or the grant of a long-term lease:
  - (b) deal with Māori freehold land in any other way.
- (2) The notice must include details of the proposed disposition or dealing (including the names of the parties).



**10 Governance body or chief executive to arrange meeting of owners**

- (1) Within 1 month after a decision-making process is commenced, the governance body or chief executive (as applicable) must make arrangements for the owners of the affected Māori freehold land to meet and consider the proposal.
- (2) The governance body or the chief executive must endeavour to notify all the owners of—
  - (a) the date, time, and place of the meeting; and
  - (b) the main details of the proposal; and
  - (c) a statement of how a person may access or obtain a copy of the full notice of proposal (for example, in hard copy from the governance body or the chief executive and in electronic form from an Internet site maintained by or on behalf of the governance body or the chief executive); and
  - (d) details of the decision-making process, including—
    - (i) who is eligible to vote; and
    - (ii) how to cast a vote; and
    - (iii) the closing date for voting, which must be at least 7 days after the date of the meeting; and
    - (iv) the name of the returning officer for votes.
- (3) The governance body or chief executive must also give public notice of the matters set out in **subclause (2)**, by—
  - (a) publishing the information at least 3 times, at intervals of at least 1 week, in—
    - (i) daily newspapers published in Auckland, Wellington, Christchurch, and Dunedin; and
    - (ii) a newspaper that is distributed in the area where the land is situated; and
  - (b) publishing the information on an Internet site maintained by or on behalf of the governance body or chief executive; and
  - (c) using any other method that is reasonably likely to bring the notice to the attention of the owners of the land.

**11 Meeting of owners**

- (1) An owner of Māori freehold land may attend a meeting of owners arranged under **clause 10**—
  - (a) in person; or
  - (b) via a nominated representative; or
  - (c) via telephone or Internet-based communication technology.

- (2) The quorum for a meeting to consider a proposal affecting a parcel of Māori freehold land is,—
- (a) if the parcel has 10 or fewer owners, all the owners; and
  - (b) if the parcel has more than 10 but not more than 100 owners, at least 10 owners who together hold at least 25% of the individual freehold interests in the parcel; and
  - (c) if the parcel has more than 100 but not more than 500 owners, at least 20 owners who together hold at least 25% of the individual freehold interests in the parcel; and
  - (d) if the parcel has more than 500 owners, at least 50 owners who together hold at least 10% of the individual freehold interests in the parcel.

## 12 Voting on proposals

- (1) A person is entitled to vote on a proposal requiring the agreement of a majority of the owners of Māori freehold land if the person is—
- (a) an owner of the land who is at least 18 years of age; or
  - (b) if a kai tiaki trust holds an interest in the land, a trustee of the trust; or
  - (c) if a whānau trust holds an interest in the land, either—
    - (i) if the proposal is for the purpose of **section 24** (private land other than Māori land may be declared Māori freehold land), **section 31** (court recommendation to reserve whenua tāpui), or **section 262** (change to name of parcel), a beneficiary of the trust; or
    - (ii) in any other case, a trustee of the trust; or
  - (d) a person—
    - (i) who is at least 18 years of age; and
    - (ii) who is appointed as a proxy to vote for a person described in **paragraph (a) or (b)**.
- (2) A person may cast a vote on a proposal—
- (a) at the meeting of owners; or
  - (b) until the date specified by the governance body or the chief executive as the closing date for voting,—
    - (i) by sending a voting form by post or email to the returning officer; or
    - (ii) by using an electronic voting system set up by the returning officer.
- (3) A proposal passes if the vote on the proposal satisfies the level of agreement required for the particular decision by this Act or the governance agreement (as applicable).

**13 Decision-making process ends with notification of vote results**

- (1) No later than 14 days after the closing date for voting on a proposal, the returning officer must provide, to the person who arranged the meeting of owners (being the governance body or the chief executive), a written notice setting out the result of the vote.
- (2) No later than 14 days after receiving written notice of the result of a vote, the governance body or chief executive must—
  - (a) endeavour to notify all the owners of the result; and
  - (b) give public notice of the result in accordance with **clause 10(3)**.
- (3) If the proposal has passed (*see* **clause 12(3)**), the decision that is the subject of the proposal must be treated as having been made on the day on which the governance body or the chief executive gives public notice of the result of the vote on the proposal.

## Schedule 3 Governance agreements

**ss 164, 169**

### Contents

		Page
	<i>Form of governance agreement</i>	
1	Form of governance agreement	255
	<i>Information that must be included in governance agreement</i>	
2	Details of parties to governance agreement	255
3	Objects of governance agreement	256
	<i>Provisions relating to amendments to agreement</i>	
4	Governance agreement may specify process for amending agreement	256
	<i>Provisions relating to decision making</i>	
5	Governance agreement may authorise, restrict, or prohibit some activities of governance body	257
6	Governance agreement may specify decision-making processes	257
7	Governance agreement must require minimum level of owner agreement for some decisions	258
8	Governance agreement may require owner agreement for some things that would otherwise not require owner agreement	259
9	Governance agreement may authorise some things that would otherwise be prohibited	260
	<i>Provisions relating to meetings of owners</i>	
10	Governance agreement may provide for annual and other general meetings of owners	260
	<i>Provisions relating to planning and reporting</i>	
11	Governance agreement may specify planning and reporting requirements	260
	<i>Provisions relating to financial matters</i>	
12	Governance agreement must specify certain matters	261
13	Governance agreement may specify purposes for application of revenues	261
	<i>Provisions relating to rangatōpū</i>	
14	Rangatōpū governance agreement must specify how kaitiaki will be appointed if rangatōpū manages more than 1 parcel of Māori freehold land	261

15	Rangatōpū governance agreement may specify level of owner agreement required for decision to appoint rangatōpū	262
16	Rangatōpū's governance agreement may provide for matters relating to kaitiaki	262
17	Special requirements for governance agreements of existing Māori incorporations continued as rangatōpū <i>Provisions relating to court's jurisdiction to investigate governance body</i>	262
18	Governance agreement must authorise owners or governance body to instigate investigation under section 222	263

### *Form of governance agreement*

#### **1 Form of governance agreement**

- (1) A governance agreement between the owners of Māori freehold land and a governance body must be in the form of—
  - (a) a trust deed, if the body is a rangatōpū in the form of a private trust; or
  - (b) a written constitution, if the body is a rangatōpū in the form of a body corporate; or
  - (c) a written agreement, if the body is an existing statutory body or a representative entity.
- (2) The agreement must be signed and dated by, or on behalf of, the body and the owners of the Māori freehold land.
- (3) However, if the agreement is a standard agreement that replaces a transitional agreement under **clause 10 of Schedule 1**,—
  - (a) **subclause (2)** does not apply; and
  - (b) the agreement must be signed and dated by the chief executive.

### *Information that must be included in governance agreement*

#### **2 Details of parties to governance agreement**

- (1) A governance agreement must—
  - (a) identify the governance body that is a party to the agreement; and
  - (b) identify, by legal description, the Māori freehold land that the body will manage under the agreement as part of an asset base; and
  - (c) state whether the body is a rangatōpū, an existing statutory body, or a representative entity; and
  - (d) if the body is a rangatōpū, state whether the rangatōpū is in the form of a body corporate or a private trust; and

- (e) state the body's registered office or principal place of business, and the address for service.
- (2) The governance agreement must require, or be read as if it requires, the governance body to notify the chief executive of any change in the body's registered office or principal of business, or its address for service, within 5 working days after the date of the change.

### 3 **Objects of governance agreement**

A governance agreement must state the objects of the agreement, in terms of the owners' vision and priorities (whether cultural, economic, or environmental) for optimum utilisation of the land.

#### *Provisions relating to amendments to agreement*

### 4 **Governance agreement may specify process for amending agreement**

- (1) A governance agreement may specify a process for making amendments to the agreement, and may specify different processes for particular amendments or classes of amendment.
- (2) A process specified in a governance agreement must require, or be read as if it requires, an amendment—
  - (a) to be signed by or on behalf of the governance body; and
  - (b) to be incorporated into an updated version of the governance agreement and registered with the chief executive as soon as practicable after the amendment is finalised.
- (3) If a governance agreement does not specify a process for making amendments, the agreement must be read as if it—
  - (a) requires the governance body to make a substantive amendment by—
    - (i) using the decision-making process set out in **Schedule 2** to reach a decision about the amendment; and
    - (ii) obtaining the agreement of a 75% majority of the owners who participate in making the decision; and
  - (b) enables the governance body to make any other amendment without the agreement of owners; and
  - (c) requires an amendment to be signed by or on behalf of the governance body; and
  - (d) requires the amendment to be incorporated into an updated version of the governance agreement and registered with the chief executive as soon as practicable after the amendment is finalised.
- (4) An amendment is **substantive** to the extent that it changes any of the following:
  - (a) the objects of the agreement:

- (b) the rights or entitlements of any of the owners of the Māori freehold land managed by the governance body;
- (c) the level of owner agreement required for any decision relating to Māori freehold land.

*Provisions relating to decision making*

**5 Governance agreement may authorise, restrict, or prohibit some activities of governance body**

A governance agreement—

- (a) must specify a particular decision-making process for some decisions and may specify a decision-making process for other decisions (*see clause 7*); and
- (b) must require a minimum level of owner agreement for some decisions and may require a minimum level of owner agreement for other decisions (*see clause 8*); and
- (c) may require a minimum level of owner agreement for some decisions that would otherwise not require owner agreement (*see clause 9*); and
- (d) may prohibit a governance body from doing something.

**6 Governance agreement may specify decision-making processes**

- (1) A governance agreement must—
  - (a) require the following decisions to be made in accordance with the process set out in **Schedule 2**:
    - (i) a decision to revoke the appointment of the governance body;
    - (ii) a decision to offer to sell Māori freehold land;
    - (iii) a decision to remove the status of Māori freehold land; or
  - (b) be read as if it complies with **paragraph (a)**.
- (2) A governance agreement may specify 1 or more processes to be used for making any other decision or class of decision.
- (3) If an agreement does not specify a process for making a decision, but requires the decision to be agreed to by a specified majority of owners, the agreement must be read as if it requires the decision to be made in accordance with the process set out in **Schedule 2**.
- (4) If an agreement does not specify a process for making a decision, and does not require the decision to be agreed to by a specified majority of owners, the agreement must be read as if it authorises the governance body to make the decision without the agreement of owners.

## 7 Governance agreement must require minimum level of owner agreement for some decisions

- (1) A governance agreement must require, or be read as if it requires, that the following decisions be agreed to by a 75% majority of the owners of the land who participate in making the decision:
- (a) a decision to revoke the governance body's appointment to manage a parcel of Māori freehold land (*see* **section 181**):
  - (b) a decision to enter into a **major transaction**, which, for the purpose of this clause, has the meaning given in section 129 of the Companies Act 1989, except that references in that section to the assets of a company must be read as references to the asset base managed under the governance agreement.
- (2) For a decision set out in the first column of the table below, a governance agreement—
- (a) may require a minimum level of owner agreement that is equal to or greater than (but not less than) the level set out in the corresponding row of the second column; and
  - (b) if **paragraph (a)** does not apply, must be read as if it requires the level of owner agreement set out in the corresponding row of the second column.
- (3) The decisions for which a minimum level of owner agreement is required are—

<b>Matter for decision by governance body</b>	<b>Minimum level of owner agreement</b>
Applying for an order declaring that land ceases to be Māori freehold land ( <i>see</i> <b>section 26</b> )	A 75% majority of all of the owners of the land
Converting separate ownership interests in Māori freehold land into collective ownership ( <i>see</i> <b>section 42</b> )	A 75% majority of all of the owners of the land
Offering Māori freehold land for sale ( <i>see</i> <b>section 80</b> )	A 75% majority of all of the owners of the land
Exchanging Māori freehold land for something else ( <i>see</i> <b>section 82</b> )	A simple majority of all of the owners of the land
Agreeing to a disposition of Māori freehold land under another enactment ( <i>see</i> <b>section 87</b> )	A 75% majority of all of the owners of the land
Agreeing to a boundary adjustment of a parcel of Māori freehold land that changes the area of the parcel by 2% or more ( <i>see</i> <b>section 90</b> )	A simple majority of all of the owners of the land
Partitioning Māori freehold land ( <i>see</i> <b>section 93</b> )	A simple majority of all of the owners of the land
Amalgamating Māori freehold land ( <i>see</i> <b>section 98</b> )	A simple majority of the owners of the land who participate in making the decision
Aggregating ownership of Māori freehold land ( <i>see</i> <b>section 102</b> )	A 75% majority of the owners of the land who participate in making the decision
Cancelling the aggregation of the ownership of Māori freehold land ( <i>see</i> <b>section 105</b> )	A 75% majority of the owners of the land who participate in making the decision



Granting a lease over Māori freehold land for more than 52 years ( <i>see</i> <b>section 108(4)</b> )	A 75% majority of the owners of the land who participate in making the decision
Setting a land management plan for an asset base ( <i>see</i> <b>section 202</b> )	A 75% majority of the owners of the land who participate in making the decision
Applying for an order to change the name of a parcel of Māori freehold land ( <i>see</i> <b>section 262</b> )	A simple majority of the owners of the land who participate in making the decision, with owners' votes having equal weight

## 8 Governance agreement may require owner agreement for some things that would otherwise not require owner agreement

- (1) For a decision specified in **subclause (2)**, a governance agreement—
  - (a) may require a minimum level of owner agreement; and
  - (b) if **paragraph (a)** does not apply, must be read as if it authorises the governance body to make the decision without the agreement of owners.
- (2) The decisions that may be made without owner agreement unless the governance agreement provides otherwise are—
  - (a) selling, gifting, or exchanging part of a parcel of Māori freehold land for the sole purpose of effecting a minor boundary adjustment (*see* **section 89**):
  - (b) granting a lease over Māori freehold land for 52 years or less (*see* **section 108(3)**):
  - (c) granting a lease over Māori freehold land to a governance body, or to an entity controlled by the governance body (*see* **clause 9** and **section 108(5)**):
  - (d) granting a licence or *profit à prendre* over Māori freehold land (*see* **section 109**):
  - (e) granting a mortgage or other charge over Māori freehold land (*see* **section 110**):
  - (f) granting an occupation lease or licence for Māori freehold land (*see* **clause 9** and **section 111**):
  - (g) granting an easement over or for the benefit of Māori freehold land (*see* **section 114**):
  - (h) cancelling or varying an easement over or for the benefit of Māori freehold land (*see* **section 115**):
  - (i) creating a kawenata tiaki whenua over Māori freehold land or other land (*see* **section 116**):
  - (j) cancelling or varying a whenua rāhui covenant (*see* **section 117**).

**9 Governance agreement may authorise some things that would otherwise be prohibited**

- (1) A governance agreement may authorise a governance body to do either or both of the following:
  - (a) lease Māori freehold land to the governance body, or to an entity controlled by the governance body (*see section 108(5)*):
  - (b) grant an occupation lease or licence for Māori freehold land (*see section 111*):
- (2) If a governance agreement does not expressly authorise a governance body to do something specified in **subclause (1)**, the agreement must be read as if it prohibits the governance body from doing that thing.

*Provisions relating to meetings of owners*

**10 Governance agreement may provide for annual and other general meetings of owners**

- (1) A governance agreement may do any of the following:
  - (a) require a regular general meeting of owners of Māori freehold land managed under the agreement to be held annually or at any other interval not exceeding 5 years:
  - (b) provide for other general meetings of owners:
  - (c) specify items of business that must or may be discussed at a regular or other general meeting.
- (2) If a governance agreement does not specify that there will be a regular general meeting, the agreement must be read as if it requires the governance body to hold an annual general meeting not later than 6 months after the end of each financial year.

*Provisions relating to planning and reporting*

**11 Governance agreement may specify planning and reporting requirements**

- (1) A governance agreement may require a governance body to present the following information to the owners of Māori freehold land managed under the agreement annually or at any other interval not exceeding 5 years:
  - (a) an annual report on the operations of the governance body during 1 or more previous financial years:
  - (b) audited financial statements for 1 or more previous financial years:
  - (c) an operational plan for 1 or more forthcoming financial years:
  - (d) a strategic plan for 1 or more forthcoming financial years:
  - (e) if the governance body is a rangatōpū, a copy of the interests register kept by the rangatōpū under **section 217**.

- (2) If a governance agreement does not require a governance body to present the documents specified in **subclause (1)(a) and (b)** and, if applicable, **subclause (1)(e)**, to owners annually or at any other interval not exceeding 5 years, the agreement must be read as if it requires the governance body to distribute those documents to the owners not later than 6 months after the end of each financial year.

*Provisions relating to financial matters*

**12 Governance agreement must specify certain matters**

A governance agreement must—

- (a) define the financial year that the governance body will use for planning and reporting purposes; and
- (b) specify the remuneration (if any), or the method of calculating or authorising any remuneration, to be paid to the governance body or, in the case of a rangatōpū, the kaitiaki; and
- (c) specify how any remuneration will be paid.

**13 Governance agreement may specify purposes for application of revenues**

- (1) A governance agreement may specify the purposes for which a governance body is authorised to apply revenues derived from its asset base (*see section 204*), which may include developing or improving a parcel of land, or making a distribution to the owners of a parcel of land, irrespective of whether the revenues are derived from that parcel of land.
- (2) If a governance agreement does not specify any purposes, the agreement must be read as if it authorises the governance body to apply the revenues for any purpose that is consistent with the objects of the agreement.

*Provisions relating to rangatōpū*

**14 Rangatōpū governance agreement must specify how kaitiaki will be appointed if rangatōpū manages more than 1 parcel of Māori freehold land**

- (1) A governance agreement to which a rangatōpū is a party must, if only 1 parcel of Māori freehold land is managed under the agreement,—
- (a) require that an appointment or a reappointment of a kaitiaki be agreed to by a 75% majority of the owners participating in making the decision; or
  - (b) be read as if it complies with **paragraph (a)**.
- (2) A governance agreement to which a rangatōpū is a party must, if more than 1 parcel of Māori freehold land is managed under the agreement,—
- (a) specify whether kaitiaki are to be appointed—
    - (i) on a collective basis (all kaitiaki appointments agreed to by a 75% majority of all participating owners); or

- (ii) on a representative basis (1 kaitiaki appointed for each parcel, with the appointment agreed to by a 75% majority of the participating owners of the parcel); or
  - (iii) by a combination of the methods specified in **subparagraphs (i) and (ii)**; or
- (b) be read as if it requires kaitiaki to be appointed on the basis described in **paragraph (a)(i)**.

**15 Rangatōpū governance agreement may specify level of owner agreement required for decision to appoint rangatōpū**

For a decision to appoint or reappoint a kaitiaki of a rangatōpū, a governance agreement—

- (a) may require a minimum level of owner agreement that is equal to or greater than (but not less than) a simple majority of the owners of the Māori freehold land managed under the agreement who participate in making the decision; or
- (b) if **paragraph (a)** does not apply, must be read as if it requires the agreement of a simple majority of those owners.

**16 Rangatōpū's governance agreement may provide for matters relating to kaitiaki**

- (1) A governance agreement to which a rangatōpū is a party may—
  - (a) provide for a kaitiaki to be appointed for a term that is equal to or less than (but not greater than) 3 years; and
  - (b) contain other provisions relating to the appointment of kaitiaki, including how vacancies will be filled.
- (2) If a governance agreement does not provide for the term of office of kaitiaki, the agreement must be read as if it authorises a kaitiaki to hold office for a term of 3 years.
- (3) A governance agreement must contain, or be read as if it contains, a provision that—
  - (a) restricts kaitiaki from entering into any contract or enforceable obligation on behalf of the rangatōpū whenever the rangatōpū has fewer than 3 kaitiaki; and
  - (b) invalidates any contract or enforceable obligation entered into in breach of the restriction in **paragraph (a)**.

**17 Special requirements for governance agreements of existing Māori incorporations continued as rangatōpū**

- (1) This clause applies to a governance agreement if the governance body that is a party to the agreement is a rangatōpū that is a continuation of an existing Māori incorporation (*see clause 2 of Schedule 1*).

*Existing Māori incorporations constituted under section 21 of Māori Purposes Act 1975*

- (2) If the rangatōpū that is a party to the agreement was formerly an existing Māori incorporation constituted under section 21 of the Māori Purposes Act 1975, the agreement must—
  - (a) give effect to section 21(3) to (5) of the Māori Purposes Act 1975; or
  - (b) be read as if it complies with **paragraph (a)**.
- (3) For the purpose of **subclause (2)**, section 21(3) to (5) of the Māori Purposes Act 1975 applies as if each reference in that section to an incorporation were a reference to the rangatōpū.

*Provisions relating to court's jurisdiction to investigate governance body*

**18 Governance agreement must authorise owners or governance body to instigate investigation under section 222**

- (1) A governance agreement—
  - (a) must specify that the governance body or the owners may apply to the court under **section 222** to instigate an investigation of the governance body; and
  - (b) must not in any way limit the right of the governance body or the owners to make an application under **section 222**.
- (2) Without limiting **subclause (1)(b)**, a governance agreement may include dispute resolution or mediation procedures that the governance body or the owners are encouraged to follow before applying to the court under **section 222**.

## Schedule 4 Contents of Māori land register

s 250

### Contents

Page

#### Part 1

#### Information relating to parcels of Māori customary land

1	General information relating to Māori customary land	264
---	--	-----

#### Part 2

#### Information relating to parcels of Māori freehold land

2	General information relating to Māori freehold land	265
3	Information about beneficial interests	265
4	Authorities to act on behalf of owners	266
5	Authority to receive notices to owners	266
6	Unpaid distributions	266

#### Part 3

#### Information relating to governance agreements

7	General information relating to governance agreements	267
8	Copy of agreement	267
9	Information about transitional agreements	267

#### Part 4

#### Information relating to rangatōpū

10	General information relating to rangatōpū	267
----	---	-----

#### Part 5

#### Information relating to whenua tāpui

11	General information relating to whenua tāpui	268
----	--	-----

#### Part 6

#### Information relating to trusts existing before commencement of Act

12	General information relating to existing trusts	268
----	---	-----

#### Part 1

#### Information relating to parcels of Māori customary land

#### 1 General information relating to Māori customary land

- (1) The legal description of the land or, if there is no legal description, sufficient details to identify the land.

- (2) Sufficient details to identify the class of collective owners of the land, if this has been determined by the court under **section 15**.

## Part 2

### Information relating to parcels of Māori freehold land

#### 2 General information relating to Māori freehold land

- (1) The legal description of the parcel.
- (2) The legal owner of the parcel.
- (3) Details of any lease, licence, mortgage or charge, occupation lease or licence, easement, or other interest that affects the parcel (if the chief executive has been notified of that interest).
- (4) If a tupuna is registered as the proprietor of the parcel under **section 265**,—
  - (a) a statement to that effect; and
  - (b) the name of the tupuna.

#### 3 Information about beneficial interests

- (1) The nature and proportion of the beneficial interests in the parcel, including, if there is more than 1 owner of an individual freehold interest, whether the interest is held by the owners as joint tenants or as tenants in common.
- (2) For each beneficial interest,—
  - (a) the full name of each owner of the interest:
  - (b) if the interest is held by a whānau trust,—
    - (i) the full name of each trustee; and
    - (ii) the date on which the trust was registered; and
    - (iii) a copy of the instrument that declares the trust or, if the instrument is a will, the part of the will that declares the trust (*see sections 53 and 54*); and
  - (c) if the interest is managed by a kaiwhakamarumarū,—
    - (i) the name of the kaiwhakamarumarū; and
    - (ii) the period for which the kaiwhakamarumarū is appointed; and
    - (iii) a copy of the order that appoints the kaiwhakamarumarū (*see section 64*); and
  - (d) if the interest is held in by a class of collective owners in accordance with **section 42**, a description of the class of owners.
- (3) For each beneficial interest subject to an entitlement of the type described in **section 133 or 238**,—
  - (a) the name of the individual on whom the entitlement is conferred; and

- (b) the period for which the entitlement exists.

#### 4 Authorities to act on behalf of owners

- (1) The name of the governance body (if any) authorised to manage the parcel on behalf of its owners (along with the information required under **Parts 3 and 4 of this schedule**).
- (2) If an administrative kaiwhakarite is appointed to act on behalf of the owners of the parcel,—
  - (a) the name of the administrative or managing kaiwhakarite; and
  - (b) the period for which the kaiwhakarite has been appointed; and
  - (c) the registered office or principal place of business of the kaiwhakarite, and the address for service; and
  - (d) a copy of the order of appointment (for an administrative kaiwhakarite) or notice of appointment (for a managing kaiwhakarite) (*but see section 250(3)(a)*).
- (3) The name of the administering body (if any) of the parcel, if it is whenua tāpui.

#### 5 Authority to receive notices to owners

Details of who, under **section 285(1)**, is authorised to receive notices to be given to the owners of the parcel.

#### 6 Unpaid distributions

The details of unpaid distributions payable to a current or former owner of the parcel, being—

- (a) the name of the owner entitled to receive the distribution; and
- (b) the amount of the distribution; and
- (c) the distribution date; and
- (d) sufficient details to identify the Māori freehold land managed under the agreement that was owned by the person referred to in **paragraph (a)** on the distribution date; and
- (e) sufficient details to identify who is holding the unpaid distribution (which may be a governance body or the Māori Trustee); and
- (f) in the case of an unpaid distribution held by the Māori Trustee, the amount that the owner who is entitled to receive the distribution is entitled to claim from the Māori Trustee (*see section 212(4)*), if this is less than the amount of the distribution.



### Part 3

#### Information relating to governance agreements

##### 7 General information relating to governance agreements

- (1) The date on which the agreement was registered.
- (2) Sufficient details to identify the Māori freehold land managed under the agreement.
- (3) The name of the governance body that is party to the agreement.
- (4) The body's registered office or principal place of business, and the address for service.
- (5) A statement of whether the governance body is a rangatōpū, an existing statutory body, or a representative entity.
- (6) Sufficient details to identify—
  - (a) any previous versions of the governance agreement registered under this Act; and
  - (b) the Māori freehold land managed under each previous version.

##### 8 Copy of agreement

Either—

- (a) an electronic version of the agreement; or
- (b) details of an Internet site from which an electronic version of agreement may be downloaded.

##### 9 Information about transitional agreements

If the agreement is or was a transitional agreement, sufficient details to identify—

- (a) the transition period for the agreement; and
- (b) in respect of the Māori freehold land that is managed under the transitional agreement, the instrument (constitution or trust order) under which the land was managed before the commencement of this Act.

### Part 4

#### Information relating to rangatōpū

##### 10 General information relating to rangatōpū

- (1) The name of the rangatōpū.
- (2) The date on which the rangatōpū was registered under **section 175**.
- (3) The rangatōpū's registered office or principal place of business, and the address for service.

- (4) The name and contact details of each kaitiaki.
- (5) If the rangatōpū was formerly an existing Māori incorporation or an existing ahu whenua or whenua tōpū trust, sufficient details to identify—
  - (a) when, and in what form, the incorporation or trust was first constituted or established; and
  - (b) any subsequent changes to the form of the incorporation or trust prior to the commencement of this Act.

## **Part 5**

### **Information relating to whenua tāpui**

#### **11 General information relating to whenua tāpui**

- (1) The name of the administering body.
- (2) The names of the members of the administering body.
- (3) The body's registered office or principal place of business, and the address for service.
- (4) Sufficient details to identify the land that the body administers as whenua tāpui.
- (5) The text of the declaration under **subpart 2 of Part 2** reserving the whenua tāpui.
- (6) If a tupuna is registered under **section 265** as the proprietor of any of the land that the body administers as whenua tāpui,—
  - (a) a statement to that effect; and
  - (b) the name of the tupuna.

## **Part 6**

### **Information relating to trusts existing before commencement of Act**

#### **12 General information relating to existing trusts**

- (1) The name of a trust to which **clause 11, 12, or 1 of Schedule 1** applies.
- (2) The names of the trustees.
- (3) Sufficient details to identify the Māori land held by the trust.

## Schedule 5

### Procedural provisions relating to Maori Fisheries Act 2004

s 315

#### *Principles*

#### 1 Principles applying to exercise of jurisdiction in relation to Maori Fisheries Act 2004

- (1) Any person who is a party to a matter referred to in **section 313 or 314** has standing in relation to the powers provided for in those sections and this schedule.
- (2) A request for advice under **section 313**, or an application for a determination under **section 314**, is—
  - (a) a proceeding for the purposes of this Act; and
  - (b) an application within the ordinary jurisdiction of the court.
- (3) The court has the power and authority to give advice or make determinations as it thinks proper.
- (4) The court must determine an application or matter referred to it for advice or determination under **section 313 or 314** by applying the same considerations as would be relevant under the Maori Fisheries Act 2004.
- (5) **Sections 313 and 314** do not limit the right of any person to appeal against any decision of the court.
- (6) Nothing in this clause or in **section 313 or 314** restricts any other right of a person to bring proceedings in the court.

Compare: 1993 No 4 s 26D(1)–(5), (9)

#### 2 Application of section 181 of Maori Fisheries Act 2004

- (1) The court does not have jurisdiction under **section 313 or 314** unless it is satisfied that the parties have complied with section 181(1) of the Maori Fisheries Act 2004.
- (2) **Subclause (1)** does not limit section 182, 185, or 186 of the Maori Fisheries Act 2004.
- (3) If a dispute resolution process contemplated by section 181(1) of the Maori Fisheries Act 2004 has not been agreed or has not been complied with, the court must order the parties to engage in a dispute resolution process on terms the court prescribes unless it believes, for specified reasons, that a dispute resolution process is inappropriate.

Compare: 1993 No 4 s 26D(6)–(8)

*Advisory jurisdiction***3 Procedure of court in its advisory jurisdiction**

- (1) The jurisdiction conferred by **section 313** is exercised by written request to the Chief Judge by a party seeking advice.
- (2) Within 20 working days of receiving a request under **section 313**, the Chief Judge must allocate the request either to himself or herself or to another Judge to address.
- (3) Before supplying the advice sought, the Judge addressing a request for advice may (but is not obliged to)—
  - (a) exercise the powers in **section 366** for the purpose stated there:
  - (b) consult the requestor and parties affected by the advice:
  - (c) refer some or all of the issues arising from the request to a kaitakawaenga for dispute resolution.
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the Judge with the request for advice.

Compare: 1993 No 4 s 26E

*Determinations***4 Procedure of court in making determinations**

- (1) The jurisdiction conferred by **section 314** is exercised on written application to the Chief Judge by a party seeking the determination.
- (2) Within 20 working days of receiving an application under **section 314**, the Chief Judge must allocate the application either to himself or herself or to another Judge to address.
- (3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following:
  - (a) if **subclause (5)** applies, determine the issue without a full or any hearing and make an order accordingly:
  - (b) refer the application to the court for hearing and determination:
  - (c) exercise the powers in **section 366** for the purpose stated there:
  - (d) refer issues arising from the application to a kaitakawaenga for dispute resolution:
  - (e) if **subclause (6)** applies, dismiss or defer consideration of the application.
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga

Māori or other expertise, for the purpose of providing advice on the application.

- (5) The Judge may make a determination under **subclause (3)(a)** if the Judge is satisfied that—
  - (a) the applicant has taken reasonable steps to notify affected parties of the application and those parties do not oppose the application; or
  - (b) the parties have taken reasonable steps to resolve their dispute, as provided for in section 182(3) of the Maori Fisheries Act 2004.
- (6) The Judge may dismiss or defer consideration of an application under **subclause (3)(e)** if—
  - (a) the application is vexatious, frivolous, or an abuse of the court, or fails to satisfy the rules of court; or
  - (b) the application does not present serious issues for determination; or
  - (c) the Judge considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (7) The Judge may choose not to address an application if the Judge is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.

Compare: 1993 No 4 s 26F

#### *Powers to deal with clause 4(3)(b) applications*

### **5 Powers of court if application referred under clause 4(3)(b)**

- (1) If a matter is referred to the court for hearing and determination under **clause 4(3)(b)**, the court must proceed to hear and determine the application.
- (2) However, despite **subclause (1)**, the court may (but is not obliged to) do 1 or more of the following:
  - (a) if **subclause (3)** applies, determine the issue without a full or any hearing and make an order accordingly;
  - (b) exercise the powers in **section 366** for the purpose stated there;
  - (c) if **subclause (4)** applies, dismiss or defer consideration of the application;
  - (d) request a report from Te Ohu Kai Moana Trustee Limited on any matter the court considers appropriate.
- (3) The court may make a determination under **subclause (2)(a)** if it is satisfied that—
  - (a) the applicant has taken reasonable steps to notify affected parties of the application; and
  - (b) those parties do not oppose the application.

- (4) The court may dismiss or defer consideration of an application under **sub-clause (2)(c)** if—
  - (a) the application is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) the application does not present serious issues for determination; or
  - (c) the court considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (5) The court may choose not to address an application if it is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.
- (6) The court may, on its own initiative or at the request of any party to the proceeding, appoint 1 or more additional members, who are not Judges of the Māori Land Court and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the court.

Compare: 1993 No 4 s 26G

### *Dispute resolution*

## **6 Appointment of kaitakawaenga**

- (1) A Judge who decides to refer issues to a kaitakawaenga under **clause 3(3)(c), 4(3)(d), or 10(3)(a)** must consult the affected parties about who to appoint as kaitakawaenga.
- (2) The affected parties may, by agreement, appoint as kaitakawaenga 1 or more persons with the skills and experience to undertake dispute resolution on issues arising under the Maori Fisheries Act 2004.
- (3) If a kaitakawaenga is not appointed by agreement under **subclause (2)**, the Judge must—
  - (a) appoint the kaitakawaenga; and
  - (b) before doing so, be satisfied that the kaitakawaenga has the skills and experience to undertake dispute resolution on issues arising under the Maori Fisheries Act 2004.

Compare: 1993 No 4 s 26H

## **7 Judge appointed as kaitakawaenga**

- (1) A Judge other than the Judge dealing with the relevant application or request to the court may be a kaitakawaenga.
- (2) A Judge acting as a kaitakawaenga is to be treated as acting judicially and retains the same immunities as he or she has when acting as a Judge.
- (3) A Judge who acts as a kaitakawaenga must not sit as a Judge of the court on any of the same issues.

Compare: 1993 No 4 s 26I

**8 Conduct of dispute resolution**

- (1) A Judge may advise a kaitakawaenga of the issues that need to be addressed in the dispute resolution.
- (2) The following persons are entitled to attend and participate in the dispute resolution:
  - (a) parties affected and their representatives; and
  - (b) any other person with the leave of the Judge who is dealing with the relevant application or request to the court.
- (3) A kaitakawaenga may—
  - (a) follow the procedures (structured or unstructured) and do the things that the kaitakawaenga considers appropriate to resolve the issues referred to the kaitakawaenga promptly and effectively; and
  - (b) receive any information, statement, admission, document, or other material in any way or form the kaitakawaenga thinks fit, whether or not it would be admissible in judicial proceedings.
- (4) Written and oral material presented at or for the dispute resolution must be kept confidential by the kaitakawaenga and those participating in the dispute resolution, unless the party who produces the material consents to its disclosure.
- (5) No person may be sued for defamation for statements made in the dispute resolution.
- (6) Statements made and material presented at the dispute resolution are admissible in a subsequent dispute resolution of the same issues but are not admissible in other proceedings before a person acting judicially, unless the parties participating in the dispute resolution consent to the admission of the statement or material.

Compare: 1993 No 4 s 26J

**9 Successful dispute resolution**

- (1) If some or all of the issues referred to dispute resolution are resolved at the dispute resolution, the kaitakawaenga must—
  - (a) record the terms of that resolution; and
  - (b) deliver them to the Judge.
- (2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the court.

Compare: 1993 No 4 s 26K

**10 Unsuccessful dispute resolution**

- (1) If some or all of the issues referred to dispute resolution are not resolved by the dispute resolution, and the kaitakawaenga believes that those issues are unlikely to be resolved, the kaitakawaenga must—

- (a) report that lack of resolution to the Judge; and
  - (b) state the issues that are unresolved and any issues that have been resolved.
- (2) Affected parties who participate in the dispute resolution may, if the dispute resolution fails and they all agree, withdraw from and discontinue the dispute resolution.
- (3) Subject to **subclause (2)**, the Judge, on receiving a report under **subclause (1)**, must—
- (a) refer some or all of the unresolved issues to a kaitakawaenga for dispute resolution; or
  - (b) refer the unresolved issues to the court for hearing and determination or for the provision of advice, as the case may be.
- (4) A Judge who refers unresolved issues to the court under **subclause (3)(b)** may be the Judge who hears the matter or provides advice.

Compare: 1993 No 4 s 26L

### *Orders*

#### **11 Orders and interim orders**

- (1) In making orders under **section 313 or 314** or this schedule, the Judge or the court, as the case may be, may do 1 or more of the following:
- (a) incorporate or restate the terms of an agreement reached by the persons participating in an application:
  - (b) incorporate the terms that express the outcome of a dispute resolution:
  - (c) specify that the order applies for general or specific purposes:
  - (d) specify the purpose or purposes for which the order is made:
  - (e) specify a date after which the order ceases to have effect:
  - (f) in the case of a mandated iwi organisation, take any action specified in **subclause (2)**:
  - (g) make orders about costs under **section 380 or 381**:
  - (h) make other orders not inconsistent with the Maori Fisheries Act 2004, as the Judge or the court considers appropriate.
- (2) **Subclause (1)(f)** authorises the Judge or the court to do 1 or more of the following:
- (a) require new elections or the appointment of office holders in accordance with the constitutional documents of the mandated iwi organisation:
  - (b) require Te Ohu Kai Moana Trustee Limited to suspend recognition of a mandated iwi organisation until specified changes are made to its constitutional documents:



- (c) until the Judge or the court is satisfied that the dispute has been satisfactorily resolved, prevent an action—
- (i) to allocate and transfer settlement assets under section 130 or 135 of the Maori Fisheries Act 2004:
  - (ii) to pay income under section 76 of the Maori Fisheries Act 2004:
  - (iii) to distribute trust income under section 83 or 98 of the Maori Fisheries Act 2004:
- (d) specify additional conditions or requirements that are necessary—
- (i) to assist in the timely resolution of the dispute; or
  - (ii) to prevent prejudice to the interests of the mandated iwi organisation or the members of its iwi.
- (3) The Judge or the court, at the request of any party, may also order, as considered appropriate, that an action referred to in **subclause (2)(c)** be subject to an interim injunction until—
- (a) the date specified in the order; or
  - (b) the conditions specified in the order are met; or
  - (c) a further order is made by the court; or
  - (d) the order ceases to have effect.
- (4) If the court makes an order under **subclause (2)(c) or (3)** that an action be prevented or be subject to an interim injunction, as the case may be, the affected assets must be held in trust by Te Ohu Kai Moana Trustee Limited in accordance with **section [equivalent of s 118A of existing Act]**.

Compare: 1993 No 4 s 26M

*Restriction on challenges against additional members*

## 12 Proceedings where additional members appointed

If additional members are appointed under **clause 3(4), 4(4), or 5(6)**, the proceedings and processes of the court cannot be challenged on appeal or in any other proceedings on the grounds that an additional member had a tribal affiliation or other relationship with any of the parties, unless it is shown that the additional member acted in bad faith.

Compare: 1993 No 4 s 26N

**Schedule 6**  
**Procedural provisions relating to Maori Commercial Aquaculture  
Claims Settlement Act 2004**

s 319

*Principles*

**1 Principles applying to exercise of jurisdiction in relation to Maori Commercial Aquaculture Claims Settlement Act 2004**

- (1) Any person who is a party to a matter referred to in **section 317 or 318** has standing in relation to the powers provided for in this schedule.
- (2) A request for advice under **section 317**, or an application for a determination under **section 318**, is—
  - (a) a proceeding for the purposes of this Act; and
  - (b) an application within the ordinary jurisdiction of the court.
- (3) The court has the power and authority to give advice or make determinations as it thinks proper.
- (4) The court must determine an application or matter referred to it for advice or determination under **section 317 or 318** by applying the same criteria as would be applied under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (5) **Sections 317 and 318** do not limit the right of any person to appeal against any decision of the court.
- (6) Nothing in this clause or in **section 317 or 318** restricts any other right of a person to bring proceedings in the court.

Compare: 1993 No 4 s 26R(1)–(5), (8)

**2 Application of section 53 of Maori Commercial Aquaculture Claims Settlement Act 2004**

- (1) The court does not have jurisdiction under this clause unless it is satisfied that the parties have complied with section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (2) If a dispute resolution process contemplated by section 53 of the Maori Commercial Aquaculture Claims Settlement Act 2004 has not been agreed or has not been complied with, the court must order the parties to engage in a dispute resolution process on terms it prescribes unless it believes, for specified reasons, that a dispute resolution process is inappropriate.

Compare: 1993 No 4 s 26R(6), (7)

*Advisory jurisdiction***3 Procedure of court in its advisory jurisdiction**

- (1) The jurisdiction conferred by **section 317** is exercised by written request to the Chief Judge by a party seeking advice.
- (2) Within 20 working days of receiving a request under **section 317**, the Chief Judge must allocate the request either to himself or herself or to another Judge to address.
- (3) Before supplying the advice sought, the Judge addressing a request for advice may (but is not obliged to)—
  - (a) exercise the powers in **section 366** for the purpose stated there:
  - (b) consult with the requestor and parties affected by the advice:
  - (c) refer some or all of the issues arising from the request to a kaitakawaenga for dispute resolution.
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the Judge with the request for advice.

Compare: 1993 No 4 s 26S

*Determinations***4 Procedure of court in making determinations**

- (1) The jurisdiction conferred by **section 318** is exercised on written application to the Chief Judge by a party seeking the determination.
- (2) Within 20 working days of receiving an application under **section 318**, the Chief Judge must allocate the application either to himself or herself or to another Judge to address.
- (3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following:
  - (a) if **subclause (5)** applies, determine the issue without a full or any hearing and make an order accordingly:
  - (b) refer the application to the court for hearing and determination:
  - (c) exercise the powers in **section 366** for the purpose stated there:
  - (d) refer issues arising from the application to a kaitakawaenga for dispute resolution:
  - (e) if **subclause (6)** applies, dismiss or defer consideration of the application.
- (4) The Chief Judge may appoint 1 or more additional members who are not Judges of the Māori Land Court, and who have knowledge of relevant tikanga

- Māori or other expertise, for the purpose of providing advice on the application.
- (5) The Judge may make a determination under **subclause (3)(a)** if the Judge is satisfied that—
- (a) the applicant has taken reasonable steps to notify affected parties of the application, and those parties do not oppose the application; or
  - (b) the parties have taken reasonable steps to resolve their dispute, as provided for in section 54(3) of the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (6) The Judge may dismiss or defer consideration of an application under **subclause (3)(e)** if—
- (a) the application is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) the application does not present serious issues for determination; or
  - (c) the Judge considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (7) The Judge may choose not to address an application if the Judge is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.

Compare: 1993 No 4 s 26T

*Powers to deal with clause 4(3)(b) applications*

**5 Powers of court if application referred under clause 4(3)(b)**

- (1) If a matter is referred to the court for hearing and determination under **clause 4(3)(b)**, the court must proceed to hear and determine the application.
- (2) However, despite **subclause (1)**, the court may (but is not obliged to) do 1 or more of the following:
- (a) if **subclause (3)** applies, determine the issue without a full or any hearing and make an order accordingly;
  - (b) exercise the powers in **section 392** for the purpose stated there;
  - (c) if **subclause (4)** applies, dismiss or defer consideration of the application;
  - (d) request a report from Te Ohu Kai Moana Trustee Limited on any matter the court considers appropriate.
- (3) The court may make a determination under **subclause (2)(a)** if it is satisfied that—
- (a) the applicant has taken reasonable steps to notify affected parties of the application; and
  - (b) those parties do not oppose the application.

- (4) The court may dismiss or defer consideration of an application under **sub-clause (2)(c)** if—
- (a) it is vexatious, frivolous, or an abuse of the court, or fails to satisfy rules of court; or
  - (b) it does not present serious issues for determination; or
  - (c) the court considers it is appropriate to dismiss or defer consideration of the application for another reason.
- (5) The court may choose not to address an application if it is satisfied that the issues presented by the application are governed by another enactment or are more appropriately addressed in another forum.
- (6) The court may, on its own initiative or at the request of any party to the proceeding, appoint 1 or more additional members who are not Judges of the Māori Land Court and who have knowledge of relevant tikanga Māori or other expertise, for the purpose of assisting the court.

Compare: 1993 No 4 s 26U

### *Dispute resolution*

#### **6 Appointment of kaitakawaenga**

- (1) A Judge who decides to refer issues to a kaitakawaenga under **clause 3(3)(c), 4(3)(d), or 10(3)(a)** must consult the affected parties about who to appoint as kaitakawaenga.
- (2) The affected parties may, by agreement, appoint as kaitakawaenga 1 or more persons with the skills and experience to undertake dispute resolution on issues arising under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (3) If a kaitakawaenga is not appointed by agreement under **subclause (2)**, the Judge must—
  - (a) appoint the kaitakawaenga; and
  - (b) before doing so, be satisfied that the kaitakawaenga has the skills and experience to undertake dispute resolution on issues arising under the Maori Commercial Aquaculture Claims Settlement Act 2004.

Compare: 1993 No 4 s 26V

#### **7 Judge appointed as kaitakawaenga**

- (1) A Judge other than the Judge dealing with the relevant application or request to the court may be a kaitakawaenga.
- (2) A Judge acting as a kaitakawaenga is to be treated as acting judicially and retains the same immunities as he or she has when acting as a Judge.
- (3) A Judge who acts as a kaitakawaenga must not sit as a Judge of the court on any of the same issues.

Compare: 1993 No 4 s 26W

**8 Conduct of dispute resolution**

- (1) A Judge may advise a kaitakawaenga of the issues that need to be addressed at the dispute resolution.
- (2) The following persons are entitled to attend and participate in the dispute resolution:
  - (a) the affected parties and their representatives; and
  - (b) any other person with the leave of the Judge who is dealing with the relevant application or request to the court.
- (3) A kaitakawaenga may—
  - (a) follow the procedures (structured or unstructured) and do the things that the kaitakawaenga considers appropriate to resolve the issues referred to the kaitakawaenga promptly and effectively; and
  - (b) receive any information, statement, admission, document, or other material in any way or form the kaitakawaenga thinks fit, whether or not it would be admissible in judicial proceedings.
- (4) Written and oral material presented at or for the dispute resolution must be kept confidential by the kaitakawaenga and those participating in the dispute resolution, unless the party who produces the material consents to its disclosure.
- (5) No person may be sued for defamation for statements made in the dispute resolution.
- (6) Statements made and material presented at the dispute resolution are admissible in a subsequent dispute resolution of the same issues, but are not admissible in other proceedings before a person acting judicially, unless the parties participating in the dispute resolution consent to the admission of the statement or material.

Compare: 1993 No 4 s 26X

**9 Successful dispute resolution**

- (1) If some or all of the issues referred to dispute resolution are resolved at the dispute resolution, the kaitakawaenga must—
  - (a) record the terms of that resolution; and
  - (b) deliver them to the Judge.
- (2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the court.

Compare: 1993 No 4 s 26Y

**10 Unsuccessful dispute resolution**

- (1) If some or all of the issues referred to dispute resolution are not resolved by the dispute resolution, and the kaitakawaenga believes that those issues are unlikely to be resolved, the kaitakawaenga must—

- (a) report that lack of resolution to the Judge; and
  - (b) state the issues that are unresolved and any issues that have been resolved.
- (2) Affected parties who participate in the dispute resolution may, if dispute resolution fails and they all agree, withdraw from and discontinue the dispute resolution.
- (3) Subject to **subclause (2)**, the Judge must, on receiving a report under **subclause (1)**, either—
- (a) refer some or all of the unresolved issues to a kaitakawaenga for dispute resolution; or
  - (b) refer the unresolved issues to the court for hearing and determination or for the provision of advice, as the case may be.
- (4) A Judge who refers unresolved issues to the court under **subclause (3)(b)** may be the Judge who hears the matter or provides advice.

Compare: 1993 No 4 s 26Z

### *Orders*

#### **11 Orders and interim orders**

- (1) In making orders under **section 317 or 318** or this schedule, the Judge or the court, as the case may be, may do 1 or more of the following:
- (a) incorporate or restate the terms of an agreement reached by the persons participating in an application:
  - (b) incorporate the terms that express the outcome of a dispute resolution:
  - (c) specify that the order applies for general or specific purposes:
  - (d) specify the purpose or purposes for which the order is made:
  - (e) specify a date after which the order ceases to have effect:
  - (f) in the case of an iwi aquaculture organisation, take any action specified in **subclause (2)**:
  - (g) make orders about costs under **section 380 or 381**:
  - (h) make other orders not inconsistent with the Maori Commercial Aquaculture Claims Settlement Act 2004, or as the Judge or the court considers appropriate.
- (2) **Subclause (1)(f)** authorises the Judge or the court to do 1 or more of the following:
- (a) require new elections or the appointment of office holders in accordance with the constitutional documents of the iwi aquaculture organisation:
  - (b) require the trustee to suspend recognition of an iwi aquaculture organisation until specified changes are made to its constitutional documents:

- (c) until the Judge or the court is satisfied that the dispute has been satisfactorily resolved, prevent an action to allocate and transfer settlement assets under the Maori Commercial Aquaculture Claims Settlement Act 2004;
  - (d) specify additional conditions or requirements that are necessary—
    - (i) to assist in the timely resolution of the dispute; or
    - (ii) to prevent prejudice to the interests of the iwi aquaculture organisation or the members of its iwi.
- (3) The Judge or the court, at the request of any party, may also order, as it considers appropriate, that an action referred to in **subclause (2)(c)** be subject to an interim injunction until—
- (a) the date specified in the order; or
  - (b) the conditions specified in the order are met; or
  - (c) a further order is made by the court; or
  - (d) the order ceases to have effect.
- (4) If the court makes an order under **subclause (2)(c) or (3)** that an action be prevented or be subject to an interim injunction, as the case may be, the affected assets must be held in trust by the trustee in accordance with **section [equivalent of s 118B of existing Act]**.

Compare: 1993 No 4 s 26ZA

*Restriction on challenges against additional members*

**12 Proceedings where additional members appointed**

If additional members are appointed under **clause 3(4), 4(4), or 5(6)**, the proceedings and processes of the court cannot be challenged on appeal or in any other proceedings on the ground that an additional member had a tribal affiliation or other relationship with any of the parties unless it is shown that the additional member acted in bad faith.

Compare: 1993 No 4 s 26ZB



**Schedule 7**  
**Consequential amendments to other enactments**

**s 305(3)**

*[To come]*