

DRAFT FOR CONSULTATION

Caveat

This is not a final draft. It is still subject to further instructions and PCO quality assurance processes.

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

[*To come*].

The following are English explanations of certain Māori terms used in the Bill, but they are merely a guide, not definitions:

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

iwi is an 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 assists parties to resolve a conflict themselves

kaitiaki is someone who exercises guardianship or trusteeship

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

kaiwhakahaere is an advocate, agent, or advisor 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 wharenui (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 wharenui (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.

Hon Te Ururoa Flavell

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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 immediately after the end of the 3-month period that starts on the date of Royal assent.

Part 1

Preliminary provisions

3 Aronga me ngā mātāpono o tēnei Ture/Purpose and principles of Act

Māori version

- (1) Ko te aronga o tēnei Ture ko te whakatūturu anō i te wairua whakawhiti i te kāwanatanga me te whakapūmau i te rangatiratanga ka whakatinanahia i roto i te Tiriti o Waitangi me te whakaū i te mōtika a ngā kaipupuri whenua Māori ki te mau tonu, ki te whakahaere, ki te whakanoho ki te whakawhanake hoki i ō rātou whenua hei taonga tuku iho mō te painga o ngā kaipupuri, o ō rātou whānau, o ō rātou hapū hoki.
- (2) Ko ngā mātāpono o tēnei Ture ko—
 - (a) Te Tiriti o Waitangi te tūāpapa o te whakamahinga o ngā ture ka pā atu ki te whenua Māori:
 - (b) ko ngā tikanga Māori te tūāpapa o 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 angitu hei whakawhanake i ō rātou whenua hoki.

English version

- (3) The purpose of this Act is to reaffirm the spirit of the exchange of kāwanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi and to recognise the right of owners of Māori land to retain, control, occupy, and develop their land as a taonga tuku iho for the benefit of the owners, their whānau, and their hapū.
- (4) The principles of this Act are—
- (a) the Treaty of Waitangi is central to the application of laws affecting Māori land;
 - (b) tikanga Māori is central to matters involving Māori land;
 - (c) Māori land endures as a 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 purpose and principles 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.
- (3) This section applies, for example, to—
- (a) the court in considering or making any determination or decision under this Act, such as a decision—
 - (i) to change the status of Māori customary land to Māori freehold land under **section 17**; or
 - (ii) to make an order declaring that a parcel of land ceases to be Māori freehold land under **section 28**; or
 - (iii) to make an order granting reasonable access to landlocked land under **section 315**; and
 - (b) any chief executive who exercises a power or performs a function or duty under this Act.

5 Interpretation

In this Act, 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

adoption order has the meaning given by section 2 of the Adoption Act 1955

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 and other assets and liabilities managed by a governance body under a governance agreement

charge—

- (a) means a right or interest in relation to an estate or interest in land that secures the payment of money to a person who is owed money; and
- (b) includes a charge imposed by a charging order

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

class of collective owners means the defined class of owners who hold a parcel of Māori freehold land in collective ownership in accordance with **section 48**

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

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 206(2)**

eligible beneficiary in **Part 7** means a person described in **section 244(2)**

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

- (a) a Māori Trust Board (as defined in section 2(1) of the Maori Trust Boards Act 1955):
- (b) the Māori Trustee:
- (c) Public Trust:
- (d) a trustee company

financial year, in relation to a governance body and a governance agreement, means the financial year specified in the governance agreement

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 that complies with **Schedule 4** 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 body referred in **section 168(1)** that is party to a registered governance agreement

governance certificate means a certificate that complies with **clause 27 of Schedule 3**

immediate family, in relation to a person,—

- (a) means members of the person's whānau who—
 - (i) are in a close relationship with the person; or

- (ii) have, in accordance with tikanga Māori, responsibility for, or an interest in, the person's welfare and best interests; and
- (b) to avoid doubt, includes the following individuals:
 - (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 6 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

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

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 (as defined in section 2(1) of the Māori Trust Boards Act 1955), 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 Māori incorporation, a member of the committee of management;
- (d) if the body is 1 or more trustees of a trust, a trustee (other than an advisory trustee, an associate trustee, or a custodian trustee);
- (e) in any other case, a person occupying a position in the body that is comparable with that of a director of a company

kaiwhakahaere means a person appointed by the court under **section 153** to represent owners of 1 or more parcels of Māori freehold land for a specified administrative purpose

kaiwhakamarumarū means a person appointed by the court under **section 73** to manage the property of an owner needing protection

kawenata tiaki whenua means a covenant over land created under **section 136** to preserve and protect places of cultural or historical interest or special significance according to tikanga Māori

land includes—

- (a) estates and interests in land:
- (b) buildings and other fixtures attached to the land:
- (c) all things growing on land:
- (d) land covered with water

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

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 13**

Māori freehold land—

- (a) has the meaning given by **section 20**; and
- (b) in **Part 7** includes—
 - (i) vested land within the meaning of section 2(1) of the Maori Vested Lands Administration Act 1954; and
 - (ii) reserved land within the meaning of section 2(1) of the Maori Reserved Land Act 1955

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 268**, 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) succession; and
- (e) 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 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—

- (a) has the meaning given by **section 7**; but
- (b) in **Part 7** it means a person entitled to a beneficial interest as defined for the purposes of that Part

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 Māori Land Court or another 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,—

- (a) means the freehold estate in a discrete area of land that—
 - (i) is defined as a parcel in compliance with the applicable survey standards; or
 - (ii) is 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:
- (b) may include, for example, a single area with 1 continuous boundary or multiple areas that are physically separate as a result of prior partitions or other actions

participating owners means the owners of land who participate in making a decision

preferred recipient has the meaning given by **section 95**

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 in the Māori land register as a rangatōpū

rangatōpū certificate means a certificate that complies with **clause 28 of Schedule 3**

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 owners of the land as having authority to represent the hapū or iwi

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

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

statutory declaration means a declaration made in accordance with the Oaths and Declarations Act 1957

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 207(1)(a)**

unpaid distribution details, in relation to an unpaid distribution, means the details listed in **section 207(1)(b)**

wāhi tapu means a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense

wāhi tūpuna means a place important to Māori for its ancestral significance and associated cultural and traditional values

whānau trust means a trust established in accordance with **section 58**

whāngai, in relation to a member of an iwi or a hapū, means an individual adopted by the member by Māori customary adoption in accordance with the tikanga of the iwi or hapū

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

6 Meaning of individual freehold interest

- (1) In this Act, an **individual freehold interest** in a parcel of Māori freehold land means each of 2 or more beneficial interests (or shares) in the freehold estate in the parcel of land that are able to be dealt with separately from each other.
- (2) 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).

7 Meaning of owner

- (1) This section defines **owner** in relation to private land.
- (2) The owner of a parcel of Māori customary land means the members of the class of persons who hold the parcel of land in accordance with tikanga Māori.
- (3) The owner of a parcel of Māori freehold land means—
 - (a) the sole owner of the beneficial interest in the freehold estate in the parcel; or
 - (b) each of the multiple owners (including each member of a class of collective owners) of the beneficial interest in the freehold estate in the parcel.
- (4) The owner of one of the individual freehold interests in a parcel of Māori freehold land means the individual or the joint tenants who own the interest.
- (5) The owner of a parcel of private land that is not Māori land means the legal owner of the freehold estate in the parcel.
- (6) To avoid doubt, if the trustees of a whānau trust or other trust (other than a governance body) hold a parcel of private land other than Māori customary land, or an individual freehold interest in such a parcel, the trustees are the owners of the parcel or interest.
- (7) To avoid doubt, if a kaiwhakamarumarū is managing a parcel of private land other than Māori customary land, or an individual freehold interest in such a parcel, the kaiwhakamarumarū must be treated as the owner of the parcel or interest (in accordance with **section 76**).

8 Descent relationships determined by tikanga Māori

- (1) This section applies to a provision of this Act that refers to a term that involves relationships of descent between people, such as a reference to—
 - (a) a child, grandchild, brother, sister, parent, grandparent, whānau, or descendant; or
 - (b) an association with land in accordance with tikanga Māori.
- (2) The tikanga of the relevant iwi or hapū determines whether—
 - (a) a whāngai relationship at any link in the chain of descent is to be treated as a relationship of descent for the purposes of the provision:
 - (b) a relationship by birth, or a relationship by adoption order, at any link in the chain of descent is to be treated as a relationship of descent for the purposes of the provision, despite anything in the Adoption Act 1955.

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 Act does not apply to common marine and coastal area

This Act does not apply to the common marine and coastal area (as defined by section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011).

11 Transitional and related provisions

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

12 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***13 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.

14 Māori customary land cannot be disposed of

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

- (a) disposed of; or
- (b) vested 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, any vesting related to the reservation or cancellation, or the grant of any lease under **subpart 2**:

- (c) the change in status of Māori customary land to Māori freehold land under **section 17**;
- (d) the creation, cancellation, or variation of an easement over Māori customary land under **section 134 or 135**;
- (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 315** of this Act).

15 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.
- (4) If the court's order declares that the land is not Māori customary land, it may also declare whether the land is Crown land or other private land.

16 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 17** 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 17**.

- (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 a kaiwhakahaere for the land in accordance with **section 18**, 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.

17 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 16**; or
 - (b) the kaiwhakahaere appointed for Māori customary land under **section 18** 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 more than 50% 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 16**.
- (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.

18 Kaiwhakahaere appointed for Māori customary land

- (1) This section applies if the court is required to make an order under **section 16** appointing a kaiwhakahaere for Māori customary land.
- (2) The order may appoint the kaiwhakahaere to do 1 or more of the things referred to in **section 154(2)(a), (d)(i) and (ii), (e), (f), (g), (i), and (j)** in relation to the land.
- (3) The kaiwhakahaere appointed by the order may also do the following in relation to the land:
 - (a) receive and respond to notices on behalf of the owners:
 - (b) apply to the court for an order under **section 17** (court may change status of Māori customary land to Māori freehold land):
 - (c) bring proceedings under **section 19** (trespass or injury to Māori customary land):
 - (d) apply to the court for an order under **section 31** (court order declaring private land reserved as whenua tāpui):
 - (e) apply under section 327(1) of the Property Law Act for the grant of reasonable access to landlocked land (*see section 315*).
- (4) **Sections 153(3), 155, 156, and 159 to 165** apply to the appointment, with any necessary modifications, as if—
 - (a) the appointment were made under **section 153**; and
 - (b) **section 163(1)** also provided that the appointment of a kaiwhakahaere ceases if an order is made changing the status of the land to Māori freehold land.

19 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—
 - (a) a member of the class of collective owners who hold the land in accordance with tikanga Māori, if the court has determined that class; or
 - (b) in any case, the following persons on behalf of the owners of the land:
 - (i) a kaiwhakahaere appointed for the land; or

- (ii) the Māori Trustee, if there is no kaiwhakahaere appointed for the land and there is no evidence that the Māori Trustee is unauthorised to act.

Māori freehold land

20 Definition of Māori freehold land

In this Act, **Māori freehold land** means land that—

- (a) has become Māori freehold land in accordance with this Act or any other enactment, whether before or after the commencement of this Act; and
- (b) has not ceased to be Māori freehold land.

21 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.

22 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.
- (4) If the court's order declares that the land is not Māori freehold land, it may also declare whether the land is Crown land or other private land.

23 Effect on High Court's jurisdiction

- (1) 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.
- (2) A determination of the High Court prevails over any conflicting declaration or determination of the Māori Land Court.

Land becomes Māori freehold land

24 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 17** to change the status of Māori customary land to Māori freehold land:
 - (b) the court makes a vesting order under **section 25** in respect of land other than Māori freehold land:
 - (c) the court makes an order under **section 26** declaring private land to be Māori freehold land:
 - (d) an exchange of land is made and land becomes Māori freehold land under **section 101**:
 - (e) a boundary adjustment is made and land that is not Māori freehold land changes status under **section 110(5)** by becoming part of a parcel of Māori freehold land:
 - (f) land that is amalgamated, or whose ownership is aggregated, becomes Māori freehold land under **section 119 or 123**:
 - (g) the court makes an order under **section 205** and, if the order requires a change of ownership, the relevant governance body becomes the owner of the land:
 - (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 22** that land is Māori freehold land; and
 - (b) land may already have been Māori freehold land at the commencement of this Act; and
 - (c) the chief executive has no power under this Act to determine and declare that land is Māori freehold land.

25 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 for Māori Development 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.

26 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 only if it is satisfied of the following:
 - (a) the land is not managed under a governance agreement;
 - (b) for land that is held by the trustees of a whānau trust or other trust,—

- (i) the beneficiaries of the trust are 1 or more Māori, or a group or class of Māori, who are associated in accordance with tikanga Māori with the area in which the land is located; and
- (ii) the application is agreed to by the trustees and does not breach the terms of the trust:
- (c) for other land,—
 - (i) the land is beneficially owned by 1 or more Māori, or a group or class of Māori, who are associated in accordance with tikanga Māori with the area in which the land is located; and
 - (ii) the application is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight).
- (4) **Sections 51 to 57** apply to the making of the decision referred to in **subsection (3)(c)(ii)** 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.
- (6) *See*—
 - (a) **section 48** for how the owners of the Māori freehold land may convert it to collective ownership;
 - (b) **section 200** for how land that is managed under a governance agreement may become Māori freehold land.

Land ceases to be Māori freehold land

27 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 28** 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 101(7)**;
 - (c) a boundary adjustment is made and Māori freehold land changes status under **section 110(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 102** 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 22** that land is not Māori freehold land.
- (3) To avoid doubt,—
 - (a) land does not cease to be Māori freehold land merely because it no longer has Māori owners; and
 - (b) the chief executive has no power under this Act to determine and declare that land is not Māori freehold land.

28 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 not make an order unless 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) no part of the land is reserved as a whenua tāpui; and
 - (d) no part of the land is subject to a kawenata tiaki whenua; and
 - (e) the land does not contain any wāhi tapu or wāhi tūpuna; and
 - (f) the application is agreed to by owners who together hold a 75% or more share in the land.
- (4) An order must specify the parcel or parcels comprising the land.
- (5) If an order is made, the parcel of land that ceases to be Māori freehold land remains private land, but is not Māori land.
- (6) *See section 102* for how land that is managed under a governance agreement may cease to be Māori freehold land on the change of ownership from a sale or exchange.

Subpart 2—Whenua tāpui

29 Meaning of certain purposes

In **sections 31 and 33**, 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) an urupā:
- (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) a wāhi tapu or wāhi tūpuna:
- (q) any other particular purpose stated in the declaration.

30 Application for court order declaring private land reserved as whenua tāpui

- (1) A person may apply to the court for an order under **section 31** declaring a new whenua tāpui or the addition of land to an existing whenua tāpui.
- (2) The application may be made by—
 - (a) a kaiwhakahaere 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.
- (5) For the declaration of a new whenua tāpui for the purpose of a marae or an urupā, the application may specify that the beneficial ownership of the land is to vest in the beneficiaries of the whenua tāpui.

31 Court order declaring private land reserved as whenua tāpui

- (1) The court may, on application, 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) The order must be made in accordance with this section, **section 32**, and (for the declaration of a new whenua tāpui) **section 37**.
- (3) The declaration must not apply to—
 - (a) land that is managed under a governance agreement (*see* **section 136** for how a kawenata tiaki whenua may be created over such land for certain purposes); 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.
- (4) 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.
- (5) 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.
- (6) The declaration of a new whenua tāpui for the purpose of a marae or an urupā must reserve the land for the common use and benefit of Māori who belong to a class of persons specified in the declaration.
- (7) The declaration must also declare that the land vests in the beneficiaries of the whenua tāpui if the declaration is about—
 - (a) a new whenua tāpui to be reserved for the purpose of a marae or an urupā and the beneficial ownership of which is to vest in the beneficiaries; or

- (b) additional land for an existing whenua tāpui that is reserved for the purpose of a marae or an urupā and the beneficial ownership of which is vested in the beneficiaries.
- (8) 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 267** 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).

32 Court must be satisfied of matters for whenua tāpui on private land

- (1) The court must comply with this section before making an order under **section 31** declaring a new whenua tāpui or the addition of land to an existing whenua tāpui.
- (2) The court must be satisfied that the application complies with **section 30**.
- (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 75% or more of the owners of the land who attended the meeting; or
 - (b) for a declaration relating to Māori freehold land and for the purposes of a marae or an urupā, and the beneficial ownership of which is to vest in the beneficiaries, the application is agreed to by owners who together hold a 75% or more share in the land; or
 - (c) for a declaration relating to Māori freehold land in any other case, the application is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); or
 - (d) for a declaration relating to other private land, the application is agreed to by the owners of the land.
- (4) If the land to be reserved is only part of a parcel and is not Māori customary land, the court must be satisfied that—
 - (a) the land to be reserved is defined on a survey plan made in compliance with the applicable survey standards; or
 - (b) the declaration is supported by a certificate from the Surveyor-General that the land to be reserved is adequately described or defined for the nature of the whenua tāpui and in relation to existing surveys made in compliance with the applicable survey standards.

- (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.

33 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 34**, 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) 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—
 - (i) a place of cultural or historical interest; or
 - (ii) a place of special significance according to tikanga Māori; or
 - (iii) a wāhi tapu or wāhi tūpuna; and
 - (b) for the common use and benefit of Māori who belong to a class of persons specified in the notice; and

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- (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 as described in **subsection (4)(a)(i) to (iii)** (whichever applies).
- (7) The Minister need not make a declaration after obtaining the court’s recommendation under **section 34**, 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 common 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).

34 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 33**.
- (2) If the land to be reserved is only part of a parcel, the Minister must be satisfied that—
 - (a) the land to be reserved is defined on a survey plan made in compliance with the applicable survey standards; or
 - (b) the declaration is supported by a certificate from the Surveyor-General that the land to be reserved is adequately described or defined for the nature of the whenua tāpui and in relation to existing surveys made 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 common 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 for each matter for which 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 common 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.

35 Application for court order of declaration for existing whenua tāpui

- (1) A person may apply to the court for an order under **section 36** making a declaration in relation to any existing whenua tāpui over any land.
- (2) The application may be made—
 - (a) by the administering body of the whenua tāpui; or
 - (b) by the following:
 - (i) a kaiwhakahaere appointed for the land, for a declaration relating to Māori customary land; or
 - (ii) 1 or more owners of the land, for a declaration relating to Māori freehold land or other private land; or
 - (c) for a declaration under **section 36(1)(d) or (e)**,—
 - (i) by a person referred to in **paragraph (a) or (b)**; or
 - (ii) by a beneficiary of the whenua tāpui; or
 - (iii) by the Minister responsible for the land, if the whenua tāpui is over Crown land or other specified land.
- (3) For a declaration under **section 36(1)(b)** that a whenua tāpui is reserved for the purpose of a marae or an urupā, the application may specify that the beneficial ownership of the land is to vest in the beneficiaries of the whenua tāpui.
- (4) 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.

36 Court order of declaration for existing whenua tāpui

- (1) The court may, on application, 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) A declaration under **subsection (1)(b)** must also declare that the land vests in the beneficiaries of the whenua tāpui if the declaration is about a whenua tāpui to be reserved for the purpose of a marae or an urupā and the beneficial ownership of which is to vest in the beneficiaries.
- (3) The order must be made in accordance with this section and (for a declaration under **subsection (1)(e)**) **section 37**.
- (4) The court must not make an order of declaration under this section unless it is satisfied of the following:
 - (a) the application complies with **section 35**;
 - (b) the declaration would have been permitted by the provision under which the whenua tāpui was first declared;
 - (c) 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 75% or more of the owners of the land who attended the meeting;
 - (d) for a declaration relating to Māori freehold land to be reserved for the purposes of a marae or an urupā, and the beneficial ownership of which is to vest in the beneficiaries, the application is agreed to by owners who together hold a 75% or more share in the land;
 - (e) for a declaration relating to Māori freehold land in any other case, the application is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight);
 - (f) for a declaration relating to other private land, or to Crown land or other specified land, that is currently reserved for the owners of the land or Māori who belong to a class of persons,—
 - (i) 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
 - (ii) at least 10 beneficiaries attended the meeting; and
 - (iii) the application is agreed to by more than 50% of the beneficiaries who attended the meeting;
 - (g) for a declaration relating to other private land that is currently reserved for the common use and benefit of the people of New Zealand, the application is agreed to by the owners of the land;
 - (h) for a declaration relating to Crown land or other specified land that is currently reserved for the common use and benefit of the people of New

Zealand, the application is agreed to by the Minister responsible for the land.

- (5) In addition, if the existing whenua tāpui is subject to a lease and the declaration is under **subsection (1)(a), (b), or (e)**, the court must not make an order of declaration unless it is satisfied that,—
 - (a) for a lease granted under **section 40**, the declaration does not affect the lease;
 - (b) for a lease granted under **section 41 or 42** and a declaration under **subsection (1)(a) or (b)**, there are no occupied residences under the lease;
 - (c) for a lease granted under **section 41 or 42** and a declaration under **subsection (1)(c)**, the declaration does not affect the lease.
- (6) The chief executive or the administering body must notify and hold a meeting for the purposes of **subsection (3)** if an application is made under this section.
- (7) 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.
- (8) 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 267** with a sealed copy of the order declaring the change of beneficiaries.

37 Court must seek and consider submissions for some orders

- (1) The court must comply with this section before—
 - (a) making an order under **section 31** declaring a new whenua tāpui; or
 - (b) making an order under **section 36** declaring that the conditions or restrictions imposed on how the administering body holds and manages an existing whenua tāpui are changed.
- (2) 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 a declaration about 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.
- (3) 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.
- (4) The court must consider any submissions received by the deadline specified in the notice before finalising and making its order.

38 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 beneficiary 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 the purposes of a marae or an urupā, and the beneficial ownership of the land is declared to vest in the beneficiaries of the whenua tāpui, the beneficial ownership of the land vests in those beneficiaries (who become the class of collective owners of the land, despite anything in **section 48**).
- (5) When land is reserved as a whenua tāpui in any other case, the beneficial ownership of the land—
- (a) is unaffected and is distinct from the interests of the beneficiaries of the whenua tāpui; and
 - (b) may continue to change by succession or otherwise.

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.

39 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, each of whom—
- (a) is ordinarily resident in New Zealand (within the meaning of section 207D(3) of the Companies Act 1993); and
 - (b) is eligible to be a kaitiaki of a governance body under **section 225(3)**.
- (3) A person appointed to the board remains a member until he or she dies, resigns, 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.

40 Lease of whenua tāpui for general purposes

- (1) The administering body of a whenua tāpui may grant a lease to any person over all or part of the land for the purpose of carrying out any activity, trade, business, or occupation (other than residential housing), but only in accordance with this section.
- (2) The lease must include the following terms and conditions:
- (a) the lease is granted for a term of 14 years or less;
 - (b) the land or building subject to the lease must be used solely for the purpose for which the lease is granted;
 - (c) if the land or building is not used solely for that purpose, the grantor may terminate the lease in accordance with the process (if any) specified in the lease or, if there is no such process, in any reasonable way:

- (d) on termination under **paragraph (c)**, the land and all improvements on the land revert to the grantor, and no compensation is payable to the grantee.
- (3) The lease may include any other terms and conditions that the administering body thinks fit.
- (4) The grant of the lease 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) The lessee's interest under the lease may, unless the terms and conditions of the lease provide otherwise,—
 - (a) be assigned; or
 - (b) be subleased, but only in accordance with the provision in this subpart that restricts a lease of the sublease's type.
- (6) This section applies despite **section 14** (for Māori customary land) and instead of **section 127** (for Māori freehold land).
- (7) In this section and **sections 41 to 43**,—

residential housing means—

 - (a) the occupation of existing premises as a place of residence; or
 - (b) the building of premises on, or transporting of premises onto, land and the occupation of the premises as a place of residence

term includes—

 - (a) any further terms that may be granted under rights of renewal included in the lease; and
 - (b) for a lease granted under a right of renewal, the terms of any leases from which the right of renewal derives.

41 Lease of papakāinga housing site for residential housing with rent payable

- (1) The administering body of the following whenua tāpui may grant a lease over all or part of the land for the purpose of residential housing and with rent payable, but only in accordance with this section:
 - (a) a whenua tāpui reserved for the purposes of a papakāinga housing site; or
 - (b) a whenua tāpui reserved for the purposes of a marae; or
 - (c) a whenua tāpui reserved for the purposes of a building site that is subject to use of the buildings for residential housing.

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- (2) The lease must be granted—
 - (a) for a term of 99 years or less; or
 - (b) as a periodic tenancy (as defined by section 2(1) of the Residential Tenancies Act 1986).
 - (3) The lease need not be agreed to by the owners of the land unless required by a condition or restriction imposed on how the administering body holds and manages the land.
 - (4) Agreement is not required for a lease granted under a right of renewal included in another lease.
 - (5) The lessee's interest under the lease may be—
 - (a) assigned; or
 - (b) subleased, but only in accordance with the provision in this subpart that restricts a lease of the sublease's type.
 - (6) This section applies despite **section 14** (for Māori customary land) and instead of **section 128** (for Māori freehold land).

42 Lease of papakāinga housing site for residential housing rent-free

- (1) The administering body of the following whenua tāpui may grant a lease over all or part of the land for the purpose of residential housing and rent-free, but only in accordance with this section:
 - (a) a whenua tāpui reserved for the purposes of a papakāinga housing site; or
 - (b) a whenua tāpui reserved for the purposes of a building site that is subject to use of the buildings for residential housing.
- (2) The lease must be granted for a term of—
 - (a) 99 years or less; or
 - (b) the life of the person to whom it is granted.
- (3) The lease need not be agreed to by the owners of the land unless required by a condition or restriction imposed on how the administering body holds and manages the land.
- (4) Agreement is not required for a lease granted under a right of renewal included in another lease.
- (5) The lease must be granted to a beneficiary of the whenua tāpui.
- (6) The lease may include a provision that allows any of the following people to occupy the house on the leased land in addition to the grantee as long as any maximum number of occupants that is specified in the lease is complied with:
 - (a) any member of the grantee's immediate family; and
 - (b) the principle caregiver of the grantee or of a member of the grantee's immediate family.

- (7) The lease may be granted with conditions, which may include the requirement to pay any charges (but not rent) that relate to the property.
- (8) The lease is enforceable even though no rent is payable under it, despite any other enactment or rule of law.
- (9) The grantee's interest under the lease cannot be subleased, and the unexpired term of the lease (if any) may be disposed of only in accordance with **section 130 or 253**.
- (10) The lease ends if the unexpired term of the lease is not disposed of under **section 130 or 253** once the grantee, or a recipient under either of those provisions, dies.
- (11) This section applies despite **section 14** (for Māori customary land) and instead of **section 129** (for Māori freehold land).

43 Variation of lease of whenua tāpui

- (1) **Subsection (2)** applies if a lease over all or part of the land reserved as a whenua tāpui—
 - (a) is to be varied to apply to additional or different land reserved as a whenua tāpui; or
 - (b) is to be varied as to its term.
- (2) The variation of the lease must comply with the provision in this subpart that restricts the granting of the lease itself, as if the variation were the grant of such a lease (and not a renewal).
- (3) If a lease over all or part of the land reserved as a whenua tāpui is to be varied so that it is for a different purpose to which a different provision would have applied if the lease had been granted for that purpose, the variation must comply with that provision as if the variation were the grant of a lease for that purpose (and not a renewal).

44 Reservation and disposition of whenua tāpui

Reservation

- (1) **Sections 29 to 38** 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, or vested under an Act or in any other way, but this section does not prevent—
 - (a) the cancellation of the reservation of land as a whenua tāpui, or any vesting related to the reservation or cancellation, under this subpart;
 - (b) 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

- (c) the grant of a lease over the land under **sections 40 to 42**, or the assignment or vesting of the unexpired term of such a lease under **section 130 or 253**; or
 - (d) a disposition of an individual freehold interest in the land separately from the other individual freehold interests in the land.
- (3) The grant of a lease over land reserved as a whenua tāpui is not a subdivision of land for the purposes of section 11 or Part 10 of the Resource Management Act 1991.

Part 3

Ownership interests in Māori freehold land

Subpart 1—Ownership and decision-making

Introductory provisions

45 Example of multiple owners of parcel of Māori freehold land

- (1) This section describes an 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).

46 Presumptions about multiple owners of parcel of Māori freehold land

- (1) If there are multiple owners of the beneficial interest in the freehold estate in a parcel of Māori freehold land, the beneficial interest is presumed to be held by a class of collective owners.
- (2) However, if there is proof in the Māori land register or elsewhere that the presumption under **subsection (1)** does not apply, the following presumption applies instead:
 - (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.
- (3) The presumption under **subsection (2)** is also subject to any proof in the Māori land register or elsewhere that it does not apply.

47 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 about 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

48 Conversion to collective ownership of Māori freehold land

- (1) A parcel of Māori freehold land that is owned by tenants in common or joint tenants may be converted to collective ownership, but only in accordance with this section.
- (2) A decision to convert the ownership of the land must be agreed to,—
- (a) for a parcel owned by tenants in common, by owners who together hold a 75% or more share in the land; or
 - (b) for a parcel owned by joint tenants, by all of the owners.
- (3) The decision must define the class of collective owners in 1 of the following ways:
- (a) as the named persons who, immediately before conversion, were the living owners of the land or were entitled to succeed to any deceased owner's interest in the land, and the descendants of the named persons:
 - (b) as named persons who are associated with the land in accordance with tikanga Māori, and their descendants, as long as the class also includes every person described by **paragraph (a)**:
 - (c) as the descendants of 1 or more named tūpuna, as long as the class also includes every person described by **paragraph (a)**.

- (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.

49 Effect of conversion to collective ownership

- (1) This section applies if a parcel of Māori freehold land is converted to collective ownership under **section 48**.
- (2) The beneficial ownership of the parcel is vested in the defined class of collective owners.
- (3) If any beneficial interests in the parcel were held under a whānau trust and the trust has no other trust property, the trust is terminated on the date on which the beneficial ownership is vested in the class of collective owners.

50 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 48 and 49**; or
 - (b) by an order of the court (for example, under **section 17 or 25**); or
 - (c) in accordance with an allocation scheme for a partition or an amalgamation.

How owners of Māori freehold land make decisions

51 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—
 - (a) by owners who together hold a specified majority share in the land (for example, more than a 50% share); or
 - (b) by owners who together hold a specified majority of the participating owners' total share in the land (for example, more than 50% of that total share); or
 - (c) by a specified majority of the participating owners of the land (casting votes of equal weight).

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 and **paragraph (b)** does not apply, the decision may be made by whatever process the owners choose; and
 - (b) where the whole parcel is owned by the trustees of a whānau trust or other trust or by an incorporated body, and the terms of the trust or the constitutional documents of the body 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) The participation thresholds that must be satisfied for participating owners of a parcel of land to validly agree to a decision under this Act or a governance agreement—
- (a) are the thresholds specified in **subsections (6) and (7)**; and
 - (b) are subject to the exception specified in **subsection (8)**.
- (5) However, if the parcel is managed under a governance agreement that provides for other participation thresholds or exceptions, those other thresholds or exceptions apply instead.
- (6) If a decision is about a parcel owned by tenants in common,—
- (a) and there are 10 or fewer owners, all of the owners must participate; or
 - (b) and there are more than 10 but not more than 100 owners, there must be participation by at least 10 owners whose individual freehold interests total a 25% or more share in the parcel; or
 - (c) and there are more than 100 but not more than 500 owners, there must be participation by at least 20 owners whose individual freehold interests total a 25% or more share in the parcel; or
 - (d) and there are more than 500 owners, there must be participation by at least 50 owners whose individual freehold interests total a 10% or more share in the parcel.
- (7) If a decision is about a parcel owned by a class of collective owners,—
- (a) at least 20 owners must participate; but
 - (b) all the owners must participate if the class is known to have fewer than 20 members.
- (8) 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 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

- (9) A requirement for agreement by 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) by satisfying the requirements of whichever of **sections 54 to 56** applies; or
 - (ii) if **sections 54 to 56** do not apply because the requirement specifies a percentage majority other than 50% or 75%, by satisfying the requirements of whichever of **sections 54 to 56** applies as if their references to 50% were references to that other percentage.

52 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 kaiwhakamarumarū appointed to manage his or her beneficial interest in the land.
- (2) The owner—
 - (a) may participate in a meeting of owners about any decision relating to the land; but
 - (b) cannot vote on the decision.

- (3) The owner is not a participating owner in relation to the decision and the owner's share is not counted in the participating owners' total share in the land (*see*, for example, **section 51(1)(b) and (c)**).

Example

A parcel of Māori freehold land has 10 owners who are tenants in common with equal shares, but this section applies to 2 of the owners. Only the other 8 owners can vote on any decision relating to the land. If 6 of those 8 owners vote in favour of a decision, the decision—

- is agreed to by owners who together hold a 60% share in the land; and
 - is agreed to by owners who together hold a 75% share of the participating owners' total share in the land; and
 - is agreed to by 75% of the participating owners.
-

53 Voting for individual freehold interest owned by joint tenants

- (1) This section applies for the purposes of voting under **sections 54 to 56** in relation to any land with individual freehold interests.
- (2) 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.
- (3) 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.
- (4) *See Part 9* for how a dispute between joint tenants may be referred to dispute resolution.

54 Agreement by owners with >50% or ≥75% share in land

- (1) A requirement for agreement by owners who together hold more than a 50% share in the 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 agreement by owners who together hold a 75% or more share in the 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 collective owners.

55 Agreement by owners with >50% or ≥75% of participating owners' total share in land

- (1) A requirement for agreement by owners who together hold more than 50% of the participating owners' total share in the 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 collective owners, by more than 50% of the participating owners (casting votes of equal weight).
- (2) A requirement for agreement by owners who together hold 75% or more of the participating owners' total share in the 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 collective owners, by 75% or more of the participating owners (casting votes of equal weight).

56 Agreement by >50% of participating owners (casting votes of equal weight)

- (1) A requirement for agreement by more than 50% of the participating owners of the land (casting votes of 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 collective owners).

57 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.

Subpart 2—Whānau trusts

Establishment of whānau trust

58 Owner of Māori freehold land may establish whānau trust

- (1) A whānau trust may only be established in accordance with this section.
- (2) The purpose of a whānau trust is to hold and manage beneficial interests in Māori freehold land and other assets for the benefit of the trust's beneficiaries.
- (3) The trust must be established under—
 - (a) **section 59** (whānau trust operational while owner or owners living); or
 - (b) **section 60** (whānau trust operational on death of owner).

59 Whānau trust (operational while owner or owners living)

- (1) The sole owner of, or the owner of an individual freehold interest in, a parcel of Māori freehold land may declare that his or her beneficial interest in the land is to be held by the trustees of a whānau trust for the benefit of the owner and—
 - (a) the owner’s descendants (including those yet to be born); or
 - (b) 1 or more preferred recipients and descendants of those preferred recipients (including those yet to be born); or
 - (c) a combination of persons described in **paragraphs (a) and (b)**.
- (2) Alternatively, the sole owners of, or the owners of individual freehold interests in a parcel or parcels of Māori freehold land who are members of the same whānau may declare their beneficial interest to be held by the trustees of a whānau trust for the benefit of the owners and—
 - (a) the owners’ descendants (including those yet to be born); or
 - (b) 1 or more preferred recipients and descendants of those preferred recipients (including those yet to be born); or
 - (c) a combination of persons described in **paragraphs (a) and (b)**.
- (3) Whānau trust property may include the following:
 - (a) the beneficial interest in 1 or more parcels of Māori freehold land;
 - (b) the beneficial interest in 1 or more individual freehold interests in a parcel or parcels of Māori freehold land;
 - (c) the beneficial interest in individual freehold interests in parcels of Māori freehold land of more than 1 owner if the owners are siblings;
 - (d) other property, including other land.
- (4) The declaration of the whānau trust 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 purpose of the trust (as specified in **section 58(2)**); and
 - (d) identify each beneficial interest to be held as trust property (as the interest is described in the Māori land register); and
 - (e) state whether each beneficial interest may be disposed of by the trustees 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 each beneficial interest; and
 - (g) if other property, including other land, is to be trust property, include any information relating to the property that is necessary to identify the prop-

erty and to enable the trustees to administer the trust in relation to the property in accordance with the owner's wishes; and

- (h) 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
- (i) state the full name and contact details of each beneficiary alive (and known) when the declaration is made; and
- (j) state the full name and contact details of each trustee; and
- (k) provide a power of appointment for further or replacement trustees; and
- (l) be signed by each owner; and
- (m) state the city, town, or locality where each owner signed the declaration; and
- (n) be witnessed by a person who is not a trustee, a beneficiary, or immediate family of any owner who signed the declaration, and who is at least 20 years old.

60 Whānau trust (operational on death of owner)

- (1) The sole owner of, or the owner of an individual freehold interest in, a parcel of Māori freehold land may declare by will that, after the owner's death, his or her beneficial interest in the land is to be held by the trustees of a whānau trust for the benefit of all or any of the beneficiaries described in **section 59(1)(a) to (c)**.
- (2) Whānau trust property may include any of the property described in **section 59(3)(a), (b), and (d)**.
- (3) The declaration of the whānau trust must—
 - (a) comply with, and include the information described in, **section 59(4)(b) to (g) and (k)**; and
 - (b) name each proposed trustee.

Operation of whānau trust

61 Effect of establishing whānau trust

- (1) A whānau trust is established on the date that the trust is entered in the Māori land register.
- (2) Trust property vests in the trustees either—
 - (a) in the case of a vesting order, on the date of the court order; or

- (b) in all other cases, on the date that the trust is entered in the Māori land register.
- (3) The trustees must deal with trust property 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).
- (4) If the trustees hold an 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 under **section 206(1)(a)** must be paid to the trustees.
- (5) **Subsection (3)** does not prevent a governance body from paying an amount by way of a grant under **section 206(1)(b)** directly to 1 or more beneficiaries of a whānau trust.

62 Trustees of whānau trusts

- (1) Any legal person may be appointed as a 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 225(4)**.

63 Powers and responsibilities of trustees of whānau trusts

- (1) The trustees of a whānau trust must—
 - (a) administer the trust property—
 - (i) in a manner that furthers the purpose of the trust (as specified in **section 58(2)**); and
 - (ii) in accordance with the declaration of trust; and
 - (b) 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.
- (2) Provided they act in accordance with **subsection (1)**, the trustees may—
 - (a) at any time after the trust is established, acquire other property to be held for the purposes of the trust; and
 - (b) invest any amount they receive by way of distribution or other income and are not bound to distribute any of the amounts to beneficiaries.
- (3) In **subsection (2)(a)**, **acquire** includes purchase or acquire by way of gift.

64 Whānau trusts to be entered in Māori land register

- (1) The trustees of a whānau trust must apply to the chief executive to have the trust entered in the Māori land register promptly after—
 - (a) the declaration of trust is made, for a trust established under **section 59**; or
 - (b) after administration of the owner’s estate has been granted, for a trust established under **section 60**.
- (2) An application must include—
 - (a) a copy of the declaration of the whānau trust (and, for a trust established under **section 60**, a copy of the person’s death certificate and any instrument granting administration of the estate); and
 - (b) a statutory declaration from each trustee confirming that he or she satisfies the eligibility requirements in **section 62** 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 whānau trust in the Māori land register if he or she is satisfied that—
 - (a) the declaration of the trust satisfies the requirements in **section 58**; and
 - (b) each trustee satisfies the eligibility requirements in **section 62**.
- (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 a decision to refuse to enter the trust in the register.
- (5) The chief executive must enter the name of the whānau trust in the Māori land register, without first needing to be satisfied of the matters in **subsection (3)** if—
 - (a) the chief executive amends the register under **section 248(6)**, **257(3)**, **259(4)**, or **259(6)** to vest interests in Māori freehold land in the trustees of the trust; or
 - (b) the chief executive receives a court order made under **section 245(5)**, **258(2)**, or **260(5)** vesting interests in Māori freehold land in the trustees of the trust.

65 Recording of beneficiaries’ details on Māori land register

- (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 in relation to—
 - (a) the entry for the whānau trust; and
 - (b) the entry for the parcel of Maori land that the trustees own or in which they hold an individual freehold interest (as trust property).

- (2) The chief executive must record the beneficiary's details, if he or she is satisfied that the person is a beneficiary of the trust.

66 Entitlements of beneficiaries of whānau trusts

- (1) A beneficiary of a whānau trust has the following entitlements in respect of Māori freehold land or an individual freehold interest held by the trustees as trust property:
- (a) to attend and speak at meetings of owners, as if the beneficiary were an owner of the land; and
 - (b) to vote as if the beneficiary were a participating owner, 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;
 - (c) to receive grants made from income of the trust.
- (2) A beneficiary is entitled to receive grants under **subsection (1)(c)**,—
- (a) as if the beneficiary were an owner of the individual interest; and
 - (b) without those grants first being paid to the trustees; and
 - (c) in addition to any entitlement of the beneficiary to receive grants that were made to the trustees as owners of the individual freehold interest.

67 Whānau trusts 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 whānau trust may exist in law; or
- (b) a trustee of a whānau trust may hold or deal with property (including income derived from property).

Jurisdiction of court and enforcement of obligations of trustees

68 Jurisdiction of court

- (1) The court has jurisdiction to inquire into and determine the following:
- (a) whether a declaration of a whānau trust complies with this Act;
 - (b) whether a whānau trust has been, or may be, established in accordance with this Act;
 - (c) whether a person is, or is eligible to be, a beneficiary of a whānau trust;
 - (d) whether a person is, or is eligible to be, a trustee;
 - (e) whether any property is, or is capable of being, whānau trust property;
 - (f) any question or dispute in relation to the administration of a whānau trust:

- (g) 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.
- (3) The amendments that may be made by the court include—
 - (a) correcting errors or omissions; and
 - (b) adding, removing, or varying any conditions or restrictions relating to the disposal or other dealings with the trust property that is an interest in Māori freehold land.
- (4) The court also 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.
- (5) 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.
- (6) **Subsection (4)** does not limit or affect the jurisdiction of the High Court.

69 Court may validate actions of trustees

- (1) The court may, on application, 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 may not validate any action taken in bad faith.

70 Enforcement of obligations of whānau trust

- (1) The court may require a trustee of a whānau trust to—
 - (a) file a written report in the court and appear before the court for questioning on the report; or
 - (b) appear before the court for questioning on any matter relating to the administration of the trust or the performance of his or her duties as trustee.
- (2) The court may enforce the obligations of a trustee of a whānau trust under either or both of the following:

- (a) the terms of the trust;
 - (b) the trustee's fiduciary duties to the beneficiaries of the trust.
- (3) The court may act under this section at any time—
- (a) on application to the court; or
 - (b) on the court's own motion.

Termination of whānau trust

71 Termination of whānau trust by court order

- (1) An application may be made to the court for an order terminating a whānau trust.
- (2) The application may be made by—
- (a) the owner who established the trust (if still living); or
 - (b) the trustees, or a majority of the trustees, of the trust; or
 - (c) at least 5 beneficiaries of the trust.
- (3) The court may make the order if it is satisfied that—
- (a) the following circumstances apply:
 - (i) the trust is not fulfilling the purpose for which it was established (as specified in **section 58(2)**); and
 - (ii) a 75% majority of the beneficiaries who participate in making the decision as to whether the trust should be terminated agree that it 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.
- (4) When making the order, the court must, after it is satisfied that all outstanding liabilities are satisfied, vest the beneficial interests in any land and other trust assets as follows:
- (a) if the original owner of the beneficial interest is alive,—
 - (i) in the original owner; or
 - (ii) with the agreement of the original owner, in accordance with **paragraph (b)**, as if that paragraph applied because the owner was dead:
 - (b) if the original owner of the beneficial interest is dead, to the beneficiaries of the trust who are associated with the land for which the beneficial interests are to be vested in accordance with tikanga Maori—
 - (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 who qualify as eligible under **section 244** as if the owner had died intestate:
- (d) if there are no surviving beneficiaries associated with the land in accordance with tikanga Māori, to the persons who qualify as eligible beneficiaries under **section 244** as if the owner had died intestate.

72 Responsibilities of trustees if whānau trust terminated

- (1) Promptly after a whānau trust is terminated, the trustees must deliver to the chief executive all money, books of account, and records held in their capacity as trustees of the terminated trust.
- (2) This section applies whether the trust is terminated under **section 49 or 71**.

Subpart 3—Kaiwhakamarumarū for owners needing protection

Appointment of kaiwhakamarumarū for owners needing protection

73 Appointment of kaiwhakamarumarū for owner needing protection

- (1) The court may, on application, make an order appointing 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 Māori freehold land:
 - (b) an interest in private land (other than a beneficial interest in Maori land):
 - (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) an interest in private land described in **subsection (1)(b)** unless the person is Māori.

74 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 older; and
 - (b) must not be subject to any of the disqualifications set out in **section 225(4)**; and

- (c) must not have been disqualified from being appointed, or from continuing in an appointment, as a kaiwhakamarumarū under **section 84(2)**; or
- (d) must not have been disqualified from being appointed, or continuing in an appointment, as a kaitiaki under **section 214**.

75 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.

76 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 then only if the person has testamentary capacity.

*Procedure for appointing kaiwhakamarumaruru***77 Who may apply for kaiwhakamarumaruru order**

Any of the following people may apply for an order under **section 73**:

- (a) a person who is an owner needing protection:
- (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.

78 Court may appoint lawyer to represent person if application for kaiwhakamarumaruru order made in relation to person's property

- (1) The court may appoint a lawyer to represent the person whose property is the subject of an application for an order appointing a kaiwhakamarumaruru under **section 73**.
- (2) A lawyer appointed by the court 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 443**.

79 Matters to which court must have regard when deciding whether to appoint kaiwhakamarumarū

- (1) In deciding whether to make an order under **section 73** in relation to an owner needing protection who is not a minor, the court must have regard to the extent to which—
- (a) appointing a kaiwhakamarumarū would best protect and promote the interests of the person; and
 - (b) the person is subject, or is likely to be subject, to undue influence in managing his or her property.
- (2) 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.

80 Content of order appointing kaiwhakamarumarū

The order appointing a kaiwhakamarumarū must—

- (a) name the person who is the owner needing protection; and
- (b) state the person's birth date, if he or she is a minor; 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 85**); 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 are necessary for the appointment to operate effectively.

Operational matters in respect of kaiwhakamarumarū appointment

81 Protection of kaiwhakamarumarū from liability

- (1) 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.
- (2) 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.
- (3) Despite **subsection (2)**, 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.

82 Expenses incurred by kaiwhakamarumarū and remuneration

- (1) The reasonable 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.
- (2) 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.
- (3) A kaiwhakamarumarū is not otherwise entitled to be remunerated unless the court directs that he or she should be remunerated either—
 - (a) in the order appointing the kaiwhakamarumarū; or
 - (b) in a subsequent order or direction.

83 Application of other enactments to kaiwhakamarumarū appointment

- (1) 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.
- (2) 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.
- (3) If a trustee company is appointed as a kaiwhakamarumarū, the Trustee Companies Act 1967 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.

Changes to kaiwhakamarumarū appointment and termination of appointment

84 Circumstances in which court may appoint, replace, remove, or disqualify 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 as a kaiwhakamarumarū or terminating a kaiwhakamarumarū appointment if the court is satisfied that—
- (a) the person was appointed, or continued in an appointment, as a kaiwhakamarumarū while not eligible under **section 225** to hold that position; or
 - (b) the person has, in relation to any appointment 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 he or she is managing in respect of the appointment 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 under the appointment.
- (3) The court may make an order —
- (a) on the application of a person described in **section 77**; or
 - (b) on the court's own motion.
- (4) In **subclause (2)(b)**, **appointment** means—
- (a) the kaiwhakamarumarū appointment before the court; or
 - (b) any other kaiwhakamarumarū appointment; or
 - (c) an appointment as a property manager or welfare guardian under the Protection of Personal Property Rights Act 1988; or
 - (d) an appointment as an attorney under an enduring power of attorney; or
 - (e) an appointment as a trustee of a trust.

85 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 kaiwhakamarumarū 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.
- (4) However, the appointment does not terminate on the person's 18th birthday if it was made on the grounds that the person also lacked capacity or competence to manage his or her affairs.
- (5) A kaiwhakamarumarū appointment terminated by court order under **section 84 or section 91(5)** terminates on the date specified in the order or, if a date is not specified, the date the order is made.
- (6) Promptly after a person's appointment as kaiwhakamarumarū is terminated, the person must deliver to the chief executive all money, books of account, and records held by the person in the person's capacity as kaiwhakamarumarū.

Reporting requirements and review of kaiwhakamarumarū appointments

86 Kaiwhakamarumarū must report to Registrar

A kaiwhakamarumarū must report to the Registrar, in accordance with **sections 87 to 89**, on the performance and exercise of the functions and powers of the kaiwhakamarumarū.

87 Frequency of reporting by kaiwhakamarumarū

- (1) 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).
- (2) Each report must be filed within 90 days after the last day of the reporting period.
- (3) However, a kaiwhakamarumarū must file reports at more frequent intervals if required to do so by the order appointing the kaiwhakamarumarū or any other court order.

88 Contents of kaiwhakamarumarū report

A report made by a kaiwhakamarumarū 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:
- (f) details of any expenses incurred by the kaiwhakamarumarū that are charged against and payable from the property that the kaiwhakamarumarū is appointed to manage:
- (g) details of any remuneration received by the kaiwhakamarumarū.

89 Actions resulting from report by kaiwhakamarumarū

- (1) If the Registrar considers that a report by a kaiwhakamarumarū deserves inquiry, the Registrar must refer it to the court and the court may initiate a review under **section 91**.
- (2) 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 91**.

90 Inspection of kaiwhakamarumaruru reports

- (1) Any person may, by leave of the Registrar or the court, inspect or make a copy of the whole or part of a report provided under **section 86**.
- (2) The Registrar or court may grant leave subject to part of the report being removed or concealed.

91 Review by court of appointment of kaiwhakamarumaruru

- (1) The court must periodically review each order appointing a kaiwhakamarumaruru 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 kaiwhakamarumaruru if—
 - (a) the kaiwhakamarumaruru 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 kaiwhakamarumaruru requires directions from the court in relation to the appointment; or
 - (b) a report of the kaiwhakamarumaruru has been referred to the court by the Registrar under **section 86(1)**; or
 - (c) the kaiwhakamarumaruru has failed to provide a report to the Registrar and, in accordance with **section 86(2)(b)**, the court has decided to initiate a review.
- (3) For the purposes of **subsection (1)**, a kaiwhakamarumaruru must apply to the court for a review of the kaiwhakamarumaruru appointment at 5-yearly intervals or at shorter intervals if specified by the court—
 - (a) in the order of appointment; or
 - (b) at any later time.
- (4) When conducting a review, the court may require a kaiwhakamarumaruru 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 kaiwhakamarumaruru; or
 - (b) varying the terms of the original appointment order in any manner it thinks fit; or
 - (c) terminating the appointment.

*Registration of kaiwhakamarumarū order***92 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 267**.
- (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 73** and the name and contact details of the kaiwhakamarumarū appointed.

93 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 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 land in respect of which the person to whom the order relates is the registered proprietor of any estate or interest.

94 Changes to be made to registers after kaiwhakamarumarū appointment terminated

- (1) The chief executive must add, to the relevant entries in the Māori land register, a notation that a particular kaiwhakamarumarū appointment has terminated.
- (2) The notation must be added promptly after the chief executive is satisfied that the appointment has terminated.
- (3) The chief executive must also promptly notify the Registrar-General of the termination if the order is registered as an instrument or a memorial of instrument has been entered in respect of it under **section 93**.

Part 4**Dispositions of Māori freehold land and other land****95 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, but not stepchildren:
 - (ii) grandparents, parents, uncles, aunts, siblings, nieces, nephews, and first cousins of the owner:

- (iii) other owners of the land:
 - (iv) former owners of the land:
 - (v) descendants of any former owner of the land, including the land when it formed any part of a former parcel; 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 governance body, other than an existing statutory body or a representative entity, 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.
- (3) *See Part 9* for how a dispute about whether a person is a preferred recipient, or whether an entity is a preferred entity, may be referred to dispute resolution.

96 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) a kaiwhakahaere 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 accordance with the person's will:
 - (c) a mortgagee from selling land under a power expressed or implied in a mortgage.

97 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 the governance agreement.
- (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 Part 4 of Schedule 4*):
 - (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

98 Sale of parcel

- (1) A parcel of Māori freehold land may be sold, but only in accordance with—
 - (a) **section 99**; or
 - (b) **section 102** (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—
 - (a) if it is owned by a class of collective owners; or
 - (b) if it is owned by the trustees of a whānau trust or other trust (other than a governance body); or
 - (c) under a power given by will.
- (3) To avoid doubt, a parcel of Māori freehold land (or the part of Māori freehold land comprising the buildings and other fixtures attached to the land, and everything growing on the land) does not change status merely because it is sold, including under a power in a mortgage.

99 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 102** or relying on a mortgagee's power of sale or a right to buy in certain historical leases).
- (2) The sale must be—

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- (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 100**; 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 103**; 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 owners who together hold a 75% or more share in 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) a kaiwhakahaere 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.

100 Preferential tender process for sale of parcel

- (1) A preferential tender process referred to in **section 99** 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 electronically and (if necessary) in any other way so that preferred recipients are reasonably likely to learn of the request for tenders.
- (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 99**, 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)**.

101 Exchange of parcel

- (1) A parcel of Māori freehold land may be exchanged for something else, but only in accordance with—

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- (a) this section; or
 - (b) **section 102** (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—
 - (a) a class of collective owners; or
 - (b) 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 103**.
 - (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 owners who together hold more than a 50% share in 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 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.

102 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; 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 it is satisfied that the governance body has complied with **section 103** in relation to the sale or exchange.
- (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 99 or 101** (as the case may be).

103 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 99**; or
 - (b) agrees to exchange the parcel under **section 101**; or
 - (c) offers to sell the parcel, or exchanges the parcel, under **section 102**.
- (2) The governance body must have a land management plan that complies with **section 204** and that—
- (a) authorises the particular offer to sell the parcel under **section 99**; or
 - (b) authorises the particular exchange of the parcel under **section 101**; or
 - (c) is not inconsistent with the offer to sell the parcel, or the exchange of the parcel, under **section 102**.
- (3) The governance body must have—

- (a) identified the **replacement land**, meaning—
 - (i) the new land it will acquire, or acquire and improve, with the net proceeds from the sale or as a result of the exchange; or
 - (ii) the existing land it will improve with the net proceeds from the sale (*see* **section 201**); and
- (b) prepared an allocation scheme for the interests in the replacement land (*see* **section 203**); and
- (c) obtained a court order under **section 205** changing the status of the replacement land to Māori freehold land (if necessary) and confirming the allocation scheme.

104 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 owners who together hold a 75% or more share in 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.

105 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).

106 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, but is not required by that enactment to be made or agreed to; 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 owners who together hold a 75% or more share in 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.

107 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 108** or a partition under **section 112 or 114**.

Boundary adjustment of parcel of Māori freehold land

108 Boundary adjustment of parcel

- (1) A boundary adjustment may be made to a parcel of Māori freehold land, but only if—
 - (a) the boundary adjustment is made with an adjoining parcel of land that is not Māori customary land; and
 - (b) the actions required by **section 109** are completed.
- (2) To avoid doubt, this section does not affect the application of the common law rules of accretion or erosion to any moveable boundary of a parcel of Māori freehold land.

109 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—
 - (a) in compliance with the applicable survey standards; and
 - (b) so that no new parcel becomes landlocked land (as defined by **section 315**).
- (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 owners who together hold more than a 50% share in 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 owners who together hold 75% or more of the participating owners' total share in the parcel; and
 - (b) in respect of the adjoining 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.

110 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 202**.
- (5) Each new parcel becomes land of the status that was held by the parcel from which it primarily derives, 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

111 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 112** are completed; or
 - (b) for a mortgagee entitled to sell the existing parcel under a mortgage or other charge, the actions required by **section 114** 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 108**.

112 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—
- (a) in compliance with the applicable survey standards; and
 - (b) so that no new parcel becomes landlocked land (as defined by **section 315**).
- (3) An allocation scheme must be prepared that allocates the beneficial ownership of the new parcels in accordance with **section 113**.
- (4) The partition, including the survey plan and allocation scheme, must be agreed to as follows:

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- (a) for land managed under a governance agreement, by the governance body;
 - (b) for other land, by owners who together hold more than a 50% share in 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 204** 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 court is satisfied that the partition will assist the owners to retain, occupy, or develop their land; and
 - (c) the court is satisfied that the allocation scheme is 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.

113 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.

114 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—
 - (a) in compliance with the applicable survey standards; and
 - (b) so that no new parcel becomes landlocked land (as defined by **section 315**).
- (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—
 - (a) the partition, including the survey plan and allocation scheme, complies with the requirements of this Act; and
 - (b) the court is satisfied that the partition will assist the owners to retain the most land that is consistent with the circumstances leading to the mortgagee's entitlement to sell the existing parcel.
- (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.

115 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 202**.
- (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

116 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 117** 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 adjoin 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 48**, for converting land to collective ownership:

- (b) **section 168**, for appointing a governance body to manage additional land:
- (c) **section 182**, for revoking a governance body's appointment to manage land.

117 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 118**.
- (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 owners who together hold more than 50% of the participating owners' total share in the parcel:
 - (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 204** 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 court is satisfied that the allocation scheme is 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.

118 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.

119 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 202**.
- (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

120 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 121** 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—
 - (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.
- (4) *See* **section 48** for how the owners of Māori freehold land may convert it to collective ownership to qualify for aggregation of ownership.

121 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 122**.
- (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 owners who together hold 75% or more of the participating owners' total share in the parcel;
 - (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 court is satisfied that the allocation scheme is fair and equitable to all owners.

122 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.

123 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.
- (6) See **section 139(3)**, which provides that, where the ownership of parcels is aggregated, an individual freehold interest in a parcel may be disposed of only together with individual freehold interests that comprise equal shares of the other parcels.

Cancellation of aggregation of parcels of Māori freehold land

124 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 125**.
- (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) owners who together hold 75% or more of the participating owners' total share in the parcel, 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 court is satisfied that the allocation scheme is fair and equitable to all owners.

125 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.

126 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***127 Lease of parcel for general purposes**

- (1) A lease may be granted over all or part of a parcel of Māori freehold land for a purpose other than residential housing, but only in accordance with this section.
- (2) The lease must be granted for a term of 99 years or less.

Requirement for agreement (unless lease is renewal)

- (3) The lease must be agreed to in accordance with **subsections (5) to (7)**.
- (4) However, agreement is not required for a lease granted under a right of renewal included in another lease.
- (5) If the lease is granted for a term of 52 years or less and is not a self-lease, the lease must be agreed to by—

- (a) the governance body, if the land is managed under a governance agreement; or
 - (b) owners who together hold 75% or more of the participating owners' total share in the land, in any other case.
- (6) If the lease is granted for a term of more than 52 years and is not a self-lease, the lease must be agreed to by—
- (a) the governance body, if the land is managed under a governance agreement; or
 - (b) owners who together hold more than a 50% share in the land, in any other case.
- (7) If the lease is a self-lease, the lease must be agreed to by the governance body.

Other provisions

- (8) 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.
- (9) The lessee's interest under the lease may be—
- (a) assigned; or
 - (b) subleased, but only in accordance with the provision in this Part that restricts a lease of the sublease's type.
- (10) However, the lessee's interest under a self-lease cannot be assigned or subleased to anyone other than—
- (a) the governance body that manages 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; or
 - (d) any person for the purpose of residential housing.

- (11) In this section and **sections 128 and 129**,—

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)

residential housing means—

- (a) the occupation of existing premises as a place of residence; or
- (b) the building of premises on, or transporting of premises onto, land and the occupation of the premises as a place of residence

self-lease means a lease of land managed under a governance agreement that is granted to the governance body or an entity controlled by the governance body
term includes—

- (a) any further terms that may be granted under rights of renewal included in the lease; and
- (b) for a lease granted under a right of renewal, the terms of any leases from which the right of renewal derives.

128 Lease of parcel for residential housing with rent payable

- (1) A lease may be granted over all or part of a parcel of Māori freehold land for the purpose of residential housing and with rent payable, but only in accordance with this section.
- (2) The lease must be granted—
 - (a) for a term of 99 years or less; or
 - (b) as a periodic tenancy (as defined by section 2(1) of the Residential Tenancies Act 1986).
- (3) The lease cannot be granted unless the land is managed under a governance agreement, and the lease must be agreed to by the governance body.
- (4) However, agreement is not required for a lease granted under a right of renewal included in another lease.
- (5) The lessee's interest under the lease may be—
 - (a) assigned; or
 - (b) subleased, but only in accordance with the provision in this Part that restricts a lease of the sublease's type.

129 Lease of parcel for residential housing rent-free

- (1) A lease may be granted over all or part of a parcel of Māori freehold land for the purpose of residential housing and rent-free, but only in accordance with this section.
- (2) The lease must be granted for a term of—
 - (a) 99 years or less; or
 - (b) the life of the person to whom it is granted.
- (3) The lease must be agreed to by—
 - (a) the governance body, if the land is managed under a governance agreement; or
 - (b) owners who together hold 75% or more of the participating owners' total share in the land, in any other case.
- (4) However, agreement is not required for a lease granted under a right of renewal included in another lease.

- (5) The lease 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) The lease may include a provision that allows any of the following people to occupy the premises on the leased land in addition to the grantee as long as any maximum number of occupants that is specified in the lease is complied with:
 - (a) any member of the grantee’s immediate family; and
 - (b) the principle caregiver of the grantee or of a member of the grantee’s immediate family.
- (7) The lease may be granted with conditions, which may include the requirement to pay any charges (but not rent) that relate to the property.
- (8) The lease is enforceable even though no rent is payable under it, despite any other enactment or rule of law.
- (9) The grantee’s interest under the lease cannot be subleased, and the unexpired term of the lease (if any) may be disposed of only in accordance with **section 130 or 253**.
- (10) The lease ends if the unexpired term of the lease is not disposed of under **section 130 or 253** once the grantee, or a recipient under either of those provisions, dies.

130 Gift of rent-free lease for residential housing

- (1) The grantee of a rent-free lease for residential housing under **section 42 or 129** may assign the unexpired term of the lease to another person, but only in accordance with this section.
- (2) The lease must be gifted to the following (the **recipient**):
 - (a) a child or grandchild of the grantee; or
 - (b) the grantee’s spouse, civil union partner, or de facto partner; or
 - (c) for a lease granted under **section 42**, a beneficiary of the whenua tāpui; or
 - (d) for a lease granted under **section 129**, an owner of the land or a beneficiary of a whānau trust that has an interest in the land.
- (3) Any provision of the lease referred to in **section 42(7) or 129(6)** (about additional occupants) applies to the recipient as the grantee of the lease.
- (4) Alternatively, the terms of the gift may vary the lease to delete that provision or to insert a new or replacement provision of that type.
- (5) Despite any provision of the lease, the recipient’s principal caregiver is entitled to occupy the premises on the leased land in addition to the recipient, if the grantee gifts the lease by will to a recipient who—
 - (a) is a child or grandchild of the grantee; and

- (b) is less than 18 years of age or requires full-time care; and
 - (c) occupied the premises as their primary residence when the grantee died.
- (6) If **subsection (5)** applies and the recipient's principal caregiver is also the principal caregiver for persons not entitled to occupy the premises, those persons are entitled to occupy the premises as long as any maximum number of occupants that is specified in the lease is complied with.
- (7) If a recipient has a principal caregiver, a kaiwhakamarumarū, or a welfare guardian appointed under the Protection of Personal and Property Rights Act 1988, that person may administer the lease on the recipient's behalf.
- (8) The recipient of a lease under this section or **section 253**, as the grantee of the lease, may assign the unexpired term of the lease in accordance with this section, but only to a child or grandchild of the original grantee of the lease.

131 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—
- (a) for a term of 52 years or less; or
 - (b) in the case of a forestry right under the Forestry Rights Registration Act 1983, for a term of 99 years or less.
- (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) owners who together hold more than a 50% share in the land, in any other case.
- (4) However, agreement is not required for a licence or *profit à prendre* granted under a right of renewal included in another licence or *profit à prendre*.
- (5) This section does not restrict a subgrant (for example, a sublicence) under a licence or *profit à prendre* over Māori freehold land.
- (6) In this section, **term** includes—
- (a) any further terms that may be granted under rights of renewal included in the licence or *profit à prendre*; and
 - (b) for a licence or *profit à prendre* granted under a right of renewal, the terms of any licences or *profits à prendre* from which the right of renewal derives.

132 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) owners who together hold a 75% or more share in the land, in any other case.
- (3) The part of the land comprising the buildings and other fixtures attached to the land, and everything growing on the land,—
- (a) may be charged separately from the rest of the land; and
 - (b) despite any other enactment or rule of law, may be transferred separately from the rest of the land under a power expressed or implied by the charge.
- (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.

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

- (1) **Subsection (2)** applies if—
- (a) a lease, licence, *profit à prendre*, mortgage, or charge is to be varied to apply to additional or different Māori freehold land; or
 - (b) a lease, licence, or *profit à prendre* over Māori freehold land is to be varied as to its term (including any further terms that may be granted under rights of renewal).
- (2) The variation of the interest must comply with the provision in this Part that restricts the granting of the interest itself, as if the variation were the grant of such an interest (and not a renewal).
- (3) If a lease over Māori freehold land is to be varied so that it is for a different purpose to which a different provision would have applied if the lease had been granted for that purpose, the variation must comply with that provision as if the variation were the grant of a lease for that purpose (and not a renewal).

134 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 owners who together hold more than a 50% share in the land:
 - (c) for Māori customary land with a kaiwhakahaere appointed for that purpose, by the kaiwhakahaere:
 - (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 315**; or
 - (b) an easement that may be granted under section 65 of the Maori Affairs Restructuring Act 1989.

135 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 owners who together hold more than a 50% share in the land:
 - (c) for Māori customary land with a kaiwhakahaere appointed for that purpose, by the kaiwhakahaere:
 - (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 315**).
 - (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.

136 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 created by an instrument that is 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 a parcel,—

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

137 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) The kawenata tiaki whenua may be cancelled or varied by an instrument that is agreed to by the governance body that manages the land.
- (3) If the land is no longer managed by a governance body, the kawenata tiaki whenua may be cancelled or varied by an order of the court that may be made—
 - (a) on application by an owner of the land, or on the court's own initiative in determining an application under **section 221** for an order cancelling a governance agreement; and
 - (b) only if the cancellation or variation is agreed to by owners who together hold more than 50% of the participating owners' total share in the parcel.

138 Effect and notation of kawenata tiaki whenua

- (1) A kawenata tiaki whenua created under **section 136**—
 - (a) is a covenant that 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, cancels, or varies 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.
- (4) To avoid doubt, if the land subject to a kawenata tiaki whenua is no longer managed by a governance body, the Registrar-General must register in accordance with **section 287** an order that cancels or varies the kawenata tiaki whenua (after the Chief Registrar provides the order to the chief executive under **section 267**).

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

139 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 to the following, but cannot be sold under a power given by will:
 - (i) a preferred recipient in relation to the land; or
 - (ii) a governance body, other than an existing statutory body or a representative entity, that manages the land under a governance agreement:
 - (b) gifted to—
 - (i) a preferred recipient in relation to the land; or
 - (ii) a governance body, other than an existing statutory body or a representative entity, that manages the land under a governance agreement:
 - (c) exchanged for something else, but only in accordance with **section 140**:
 - (d) 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.

140 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

141 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 in 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.

142 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.

143 Recording dispositions on Māori land register

- (1) This section provides for the recording in 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 only if—
 - (a) the instrument is provided to the chief executive; and
 - (b) the order of confirmation has been made and sealed; and
 - (c) the requirements prescribed by regulations for the instrument are satisfied by a person's certification or by the order of confirmation.

- (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 only if—
 - (a) the instrument is provided to the chief executive; and
 - (b) the requirements prescribed by regulations for the instrument are satisfied by a person's certification or by a sealed order of confirmation for the disposition.
- (4) Even if the requirements of **subsection (2) or (3)** are satisfied, if the chief executive considers that 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), then the chief executive—
 - (a) need not record the instrument in the Māori land register; and
 - (b) may instead record the instrument only after obtaining under **section 146**—
 - (i) satisfactory evidence that the disposition complies; or
 - (ii) an order that the disposition complies; but
 - (c) must not finally refuse to record the instrument unless he or she obtains an order that the disposition does not comply.

144 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) the instrument has been recorded on the Māori land register or is recorded on the Māori land register at the same time; and
 - (b) the order of confirmation has been made and sealed; and
 - (c) the requirements prescribed by regulations for the instrument are satisfied by a person's certification or by the order of confirmation.
- (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—
 - (a) the instrument has been recorded on the Māori land register or is recorded on the Māori land register at the same time; and
 - (b) the requirements prescribed by regulations for the instrument are satisfied by a person's certification or by a sealed order of confirmation for the disposition.

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- (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 in 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).

145 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 99** of this Act.

146 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 143(4)**.
- (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.

147 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 306(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 309(4) and (5) and 310** 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 306** (which relates to erroneous court orders).

148 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 or prescribed by regulations.
- (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 406**), 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.
- (7) If regulations made under **section 321(1)(g)** apply any requirement for certification under another enactment, and an order confirms or includes any such

matter as required by the regulations, those requirements for certification under the other enactment must be treated as being satisfied.

149 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.

150 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 289**; or
 - (f) a vesting of any of the land that is done by this Act; or
 - (g) any order made by the Māori Land Court, the Māori Appellate Court, the Chief Judge acting under **section 308**, or a Registrar.

151 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 127** 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

152 Gift by will of entitlements arising from ownership

- (1) This clause applies to the disposition of a parcel of Maori freehold land or an individual freehold interest in Maori freehold land.
- (2) The owner may make the disposition 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.
- (3) 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—
 - (i) the end of the specified period or the death of the spouse or partner; or
 - (ii) the spouse or partner relinquishes the right; and
 - (c) does not commence if the spouse or partner declines the gift before receiving any income or discretionary grants.
- (4) 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.
- (4) The spouse or partner cannot dispose of the right.
- (5) The gift of the right does not confer on the spouse or partner an ownership interest in the land.

Part 5

Authority to act in relation to Māori freehold land

Subpart 1—Kaiwhakahaere

153 Court may appoint kaiwhakahaere

- (1) The court may appoint 1 or more eligible persons as kaiwhakahaere—
 - (a) to oversee a governance body's preparation and implementation of a full distribution scheme under **section 215**; or
 - (b) for a purpose specified in **section 154** (to act on behalf of the owners of Māori freehold land that is not managed under a governance agreement).
- (2) **Section 157** sets out the process that the court must follow to appoint a kaiwhakahaere.
- (3) A person is **eligible** to be appointed as a kaiwhakahaere if—
 - (a) the person is—
 - (i) the Māori Trustee; or
 - (ii) a natural person who would be eligible under **section 225** to be a kaitiaki of a governance body; or

- (iii) the trustees of a trust, if each trustee would be eligible under **section 225** to be a kaitiaki of a governance body; or
- (iv) a body corporate, if each director, or person holding an equivalent position, would be eligible under **section 225** to be a kaitiaki of a governance body; and
- (b) the court considers that the person is qualified for appointment having regard to the requirements of the particular appointment.
- (4) The appointment of a kaiwhakahaere for a purpose relating to 1 or more parcels of Māori freehold land does not affect the legal or beneficial ownership of the land.

154 Purposes for which kaiwhakahaere may be appointed for land not managed under governance agreement

- (1) This section specifies the purposes for which a kaiwhakahaere 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 99(4)(c)**:
 - (c) to receive and respond to 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 negotiate the grant, variation, or cancellation of an easement over, or for the benefit of, the land under **section 134 or 135**:
 - (j) to engage lawyers, valuers, engineers, or other professional or technical advisers to assist in carrying out any other purpose for which the kaiwhakahaere is appointed:
 - (k) to borrow any money necessary to fulfil the purpose for which the kaiwhakahaere is appointed and to give security, for repayment of that borrowing, over the land or over any proceeds arising from disposal of the land:
 - (l) to carry out any other purpose agreed to by owners who together hold 75% or more of the participating owners' total share in the land.

155 Responsibilities of kaiwhakahaere

- (1) A kaiwhakahaere must endeavour to fulfil the purpose for which the kaiwhakahaere is appointed, while protecting the interests of owners in relation to that purpose.
- (2) A kaiwhakahaere appointed to act on behalf of the owners of Māori freehold land for a purpose specified in **section 154** must—
 - (a) consult with the owners about actions the kaiwhakahaere proposes to take on the owners' behalf; and
 - (b) keep the owners informed about actions the kaiwhakahaere has taken on the owners' behalf; and
 - (c) comply with any directions of the owners given under **section 161(4)(a)**, to the extent that the directions are consistent with the statutory obligations and terms of the appointment of the kaiwhakahaere.

156 Powers of kaiwhakahaere

- (1) A kaiwhakahaere has all of the powers necessary to fulfil the purpose for which the kaiwhakahaere is appointed, subject to any conditions imposed by the court in the order of appointment.
- (2) The execution of a document by a kaiwhakahaere appointed to act on behalf of the owners of Māori freehold land for a purpose specified in **section 154** 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 kaiwhakahaere is appointed.

- (3) A kaiwhakahaere may seek directions from the court in relation to the purpose for which the kaiwhakahaere is appointed.

157 Process for appointing kaiwhakahaere

- (1) The court may appoint a kaiwhakahaere on its own initiative or on the application of an interested person.
- (2) Before appointing a kaiwhakahaere for a purpose specified in **section 154** (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 158**, unless **subsection (3)** applies; and
 - (b) if a meeting of owners is held under **section 158**, 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 153(3)** (*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 a kaiwhakahaere has already been sufficiently considered by a meeting of the owners; or
 - (b) the court is satisfied that the matter requiring the appointment of a kaiwhakahaere is sufficiently urgent to justify a kaiwhakahaere being appointed without a meeting of owners being held; or
 - (c) the court is satisfied, in relation to the matter requiring the appointment of a kaiwhakahaere, 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 kaiwhakahaere can adequately protect the interests of the owners.
- (4) If the court decides to proceed with appointing a kaiwhakahaere, the court must—
- (a) appoint the proposed appointee by making an order under **section 159**; 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.

158 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 157(2)(a)**:

- (a) arrange a meeting of the owners in accordance with the process set out in **clause 11 of Schedule 2**; and
- (b) at the meeting,—
 - (i) advise the owners that the court is considering appointing a kaiwhakahaere; and
 - (ii) inform the owners of the purpose for which the kaiwhakahaere may be appointed; and
 - (iii) obtain the owners' views on the proposal to appoint a kaiwhakahaere; and
 - (iv) obtain the owners' views on a suitable person to appoint as the kaiwhakahaere; and
- (c) after the meeting, promptly report the owners' views to the court.

159 Order of appointment

A court order appointing a kaiwhakahaere—

- (a) must specify the purpose for which the kaiwhakahaere is appointed; and
- (b) must specify any conditions of the appointment, including any restriction on the power of the kaiwhakahaere to negotiate and enter into agreements on behalf of owners; and
- (c) may include 1 or more directions under **section 160 or 161** (requiring the kaiwhakahaere to report to the court or to the owners); and
- (d) may specify that the kaiwhakahaere 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; and
- (e) may specify which (if any) information in the order is commercially sensitive.

160 Court may require kaiwhakahaere to report to court

- (1) On appointing, or at any time after appointing, a kaiwhakahaere, the court may direct the kaiwhakahaere to report to the court on—
 - (a) the purpose for which the kaiwhakahaere is appointed; and
 - (b) the progress the kaiwhakahaere 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.

161 Court may require kaiwhakahaere to report to owners

- (1) On appointing, or at any time after appointing, a kaiwhakahaere to act on behalf of the owners of Māori freehold land for a purpose specified in **section 154**, the court may—
 - (a) direct the chief executive to arrange a meeting of the owners in accordance with **clause 11 of Schedule 2**; and
 - (b) direct the kaiwhakahaere to report to the owners, at the meeting, on any matter referred to in **section 160(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 kaiwhakahaere on how to proceed in respect of the purpose for which the kaiwhakahaere is appointed, including how to exercise the powers of the kaiwhakahaere (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 157** to appoint a replacement kaiwhakahaere, or 1 or more additional kaiwhakahaere.

162 Court may make order relating to costs of kaiwhakahaere

The court may make an order in relation to the costs of a kaiwhakahaere—

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

163 Termination of appointment of kaiwhakahaere

- (1) A person appointed as a kaiwhakahaere 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

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- (b) when the purpose for which the kaiwhakahaere 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 appointment is held by 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 154** (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 a kaiwhakahaere, 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 154** (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 kaiwhakahaere on the application of the owners (whether or not the application follows a meeting of the owners that is arranged under **section 161**); 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 a kaiwhakahaere 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, so that the notice can be recorded in the Māori land register.
- (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.

164 Responsibilities of kaiwhakahaere if appointment terminated

As soon as practicable after a person's appointment as a kaiwhakahaere 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 kaiwhakahaere.

165 Immunity from civil liability

- (1) A person appointed as a kaiwhakahaere 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.
- (2) However, **subsection (1)** does not apply in respect of an act or omission if—
 - (a) the terms of the order appointing the person state that the person is not protected from civil liability for the act or omission; or
 - (b) the act or omission is done in bad faith or without reasonable care.
- (3) If the purpose for which a kaiwhakahaere is appointed under **section 154** relates to Māori freehold land that is leased, the kaiwhakahaere 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 kaiwhakahaere that is done in bad faith or without reasonable care.

Subpart 2—Governance bodies**166 Function and purpose of governance bodies**

- (1) A governance body is an entity that is authorised by the owners of Māori freehold land to manage the land on behalf of the owners under a governance agreement.
- (2) A governance body may enter into a governance agreement to manage any Māori freehold land other than—
 - (a) a parcel of Māori freehold land that is held by a sole owner or by joint tenants; or
 - (b) land that has been reserved as whenua tāpui.
- (3) A governance body—
 - (a) manages, under each governance agreement that it enters into, a separate asset base that—
 - (i) comprises or includes the Māori freehold land that the body is authorised to manage on behalf of its owners; and

- (ii) may include other assets and liabilities that vest in the body under **section 195** on the registration of the agreement or are acquired by the body in its operations under the agreement; and
 - (b) 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 that land; and
 - (c) must manage an asset base in accordance with the objects and requirements of the governance agreement.
- (4) A governance body acting in accordance with its powers and its governance agreement and in compliance with this Act or any other Act is not acting in breach of trust.

167 Rights of owners of Māori freehold land managed under governance agreement

- (1) A governance body is the legal owner of the asset base that it manages under a governance agreement.
- (2) An owner of Māori freehold land managed 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 183*); 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 215 or 219**.
- (3) This section does not prevent an owner of Māori freehold land managed under a governance agreement from receiving a grant or scholarship provided by the governance body.

Appointing a governance body for Māori freehold land

168 Process of appointing governance body

- (1) The owners of Māori freehold land that is not managed under a governance agreement may appoint, as a governance body for the land, any of the following:
- (a) a Māori incorporation that is continued as a governance body by **section 170**;
 - (b) the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**;

- (c) a rangatōpū that is established by the owners:
 - (d) a rangatōpū that is already established and managing other Māori freehold land under another registered governance agreement:
 - (e) an existing statutory body:
 - (f) a representative entity.
- (2) The process for appointing a governance body is set out in **Part 1 of Schedule 3**.
- (3) The appointment of the governance body and, if applicable, the establishment of a rangatōpū take effect when the governance agreement is registered under **section 177**.

169 Court may review certain decisions of owners relating to governance bodies

- (1) The owners of a parcel of Māori freehold land may, in accordance with **subsections (2) and (3)**, apply to the court for a review of any of the following decisions that are made on or after the commencement of this section:
- (a) a decision made for the purpose of appointing a governance body for the land (being a decision to approve a governance agreement or appoint kaitiaki or a decision referred to in **clause 3 or 13 of Schedule 3**); or
 - (b) a decision to revoke the appointment of a governance body in respect of the land.
- (2) An application under this section must be made by—
- (a) at least 1 owner of a parcel of Māori freehold land, if the land has no more than 10 owners; or
 - (b) at least 5 owners of a parcel of Māori freehold land, if the land has more than 10 owners.
- (3) The application must be made within 20 working days after the date on which the decision is made.
- (4) The court must confirm the decision unless **subsection (5)** applies.
- (5) 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 225** to hold that position.
- (6) 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.

*Māori incorporations and certain trusts continue as governance bodies***170 Māori incorporations continue as governance bodies**

- (1) On the commencement of this Act, a Māori incorporation continues to exist—
 - (a) as a body corporate with perpetual succession under the name specified in the order of incorporation; and
 - (b) as a governance body.
- (2) A Māori incorporation may do anything necessary to give effect to any resolution or decision validly made under Te Ture Whenua Māori Act 1993 before the repeal of that Act.
- (3) In this section, **Māori incorporation** means any of the following that exist on the commencement of this Act, 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 (*but see clause 6 of Schedule 1*):
 - (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) Transitional matters relating to Māori incorporations are set out in **clauses 2 to 6 of Schedule 1**.

171 Trustees of certain ahu whenua trusts and whenua tōpū trusts continue as governance bodies

- (1) On the commencement date,—
 - (a) an ahu whenua trust or whenua tōpū trust specified in **subsection (3)** continues to exist as a private trust under the name specified in the trust order; and
 - (b) the trustees of the trust are the governance body for the trust property.
- (2) The trustees of the trust may do anything necessary to give effect to any resolution or decision validly made under Te Ture Whenua Māori Act 1993 before the repeal of that Act.

- (3) This section applies to any of the following trusts that exist on the commencement of this Act, 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 (*but see clause 10 of Schedule 1*, which relates to Te Ngae Farm Trust):
 - (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 **section 173**:
 - (e) an ahu whenua trust constituted under section 357(4)(b) of the Ngāi Tahu Claims Settlement Act 1998.
- (4) To avoid doubt, the trustees of the trusts to which **section 173** applies are not governance bodies for the purposes of this Act.
- (5) Transitional matters relating to ahu whenua trusts and whenua tōpū trusts are set out in **clauses 7 to 10 of Schedule 1**.

172 Matters not affected by Māori incorporations or trusts being continued as governance bodies

- (1) This section sets out matters not affected by a Māori incorporation or a trust being continued as a governance body under **section 170 or 171**.
- (2) The continuation does not, of itself,—
- (a) constitute a change of control of the incorporation or trust; or
 - (b) place the incorporation or trust or any other person or body in breach of a contract or confidence, or make it or them guilty of a civil wrong; or
 - (c) 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
 - (d) place the incorporation or trust 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
 - (e) release a surety, wholly or in part, from an obligation; or
 - (f) invalidate or discharge a contract.

173 Other ahu whenua trusts and trusts of Māori 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 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);
 - (iv) the Ruapuha Uekaha Hapu Trust constituted by the court on 2 October 1990 (in respect of land associated with the Waitomo caves); and
 - (b) any other trust constituted in respect of any Māori land that is not a whanau trust, a kai tiaki trust, or a trust to which **section 171** applies.
- (2) Each trust referred to in **subclause (1)(a)** continues to exist after the commencement of this Act as an ahu whenua trust.
- (3) 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.
- (4) The powers, rights, and duties referred to in **subclause (3)** continue to exist and may be exercised and performed in the same manner as if this Act had not been enacted.
- (5) Despite **subsections (2) to (4)**, section 241 of Te Ture Whenua Māori Act 1993 (which authorises the court to terminate a trust) does not apply in respect of the Ruapuha Uekaha Hapu Trust referred to in **subsection (1)(a)(v)**.

Compare: 1993 No 4 s 353

174 Governance bodies that are Māori incorporations or trusts may become rangatōpū

- (1) The following governance bodies may become a rangatōpū:
 - (a) a Māori incorporation that is continued as governance body by **section 170**;
 - (b) the trustees of a trust who are continued as a governance body by **section 171** may, at any time, become a rangatōpū.
- (2) The process for becoming a rangatōpū is set out in **Part 2 of Schedule 3**.

- (3) The establishment of the rangatōpū take effect when the replacement governance agreement is registered under **section 177**.

Certain governance bodies may amalgamate

175 Certain governance bodies may amalgamate

- (1) Any 2 or more governance bodies of any of the following kinds may amalgamate to form a new rangatōpū:
- (a) Māori incorporations that are continued as governance bodies by **section 170**;
 - (b) the trustees of ahu whenua trusts who are continued as governance bodies by **section 171**;
 - (c) rangatōpū.
- (2) The process for amalgamating governance bodies is set out in **Part 3 of Schedule 3**.
- (3) The amalgamation of governance bodies and the establishment of the amalgamated governance body as a new rangatōpū take effect when the amalgamated governance agreement is registered under **section 177**.

Registering governance agreements

176 Application to register governance agreement

- (1) To finalise its appointment as a governance body for Māori freehold land, a governance body or proposed governance body must 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 at any time update the agreement and apply to the chief executive to register the updated version in place of the registered governance agreement; and
 - (b) must apply to the chief executive to register an updated agreement in place of the registered 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 200 to 202 and 219 to 221*)
- (3) An application to register a governance agreement must satisfy the requirements of **Part 4 of Schedule 3**.

177 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 179**.

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- (2) The chief executive must, within the time frame specified in **subsection (3)**,—
- (a) register the governance agreement by issuing a governance certificate; and
 - (b) if the application is made by the kaitiaki of a proposed rangatōpū (being 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 governance bodies (*see section 175*), cancel the governance certificates and rangatōpū certificates (if applicable) of the amalgamating governance bodies; and
 - (c) make any necessary changes to the Māori land register; and
 - (d) if any land will vest in the governance body under **section 195**, 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 not later than 1 month, after whichever of the following occurs last:
- (a) receiving the application to register the agreement:
 - (b) if the governance agreement gives effect to a decision that may be reviewed under **section 169**,—
 - (i) the expiry of the period specified in **section 169(3)**, if no application for review is made during that period; or
 - (ii) if an application is made under that section to review the decision, the conclusion of the review:
 - (c) if **section 178** applies because the chief executive receives simultaneous applications to register different governance agreements that relates to the same parcel of Māori freehold land, the conclusion of the simultaneous applications process set out in that section.

178 Process for dealing with simultaneous applications

- (1) This section applies if the chief executive receives simultaneous applications to register a governance agreement for a parcel of Māori freehold land.
- (2) The chief executive must—
 - (a) arrange a meeting of the owners of the land in accordance with the process set out in **clause 11 of Schedule 2**, which applies—

- (i) as if the decision-making process were commenced by the chief executive receiving the latest simultaneous application; and
 - (ii) as if the proposal to be considered were the question of which of the simultaneous applications should prevail; and
- (b) at the meeting,—
 - (i) advise the owners that the chief executive has received simultaneous applications to register a governance body for the land; and
 - (ii) invite each applicant to address the meeting and to present information in support of their application; and
 - (iii) conduct a vote, in accordance with **clause 13(1) and (2) of Schedule 2**, on the question of which application should prevail.
- (3) If the vote satisfies the participation thresholds set out in **section 51(4)(a) to (d)**, the preferred application is the one that receives votes that represent the greatest share of the parcel of Māori freehold land.
- (4) The chief executive must—
 - (a) notify the results of the vote in accordance with **clause 14 of Schedule 2**; and
 - (b) reject each simultaneous application that is not the preferred application, under **section 179**.
- (5) An application to register a governance agreement for a parcel of Māori freehold land (**agreement A**) is **simultaneous** with an application to register another governance agreement for the same parcel of Māori freehold land (**agreement B**) if—
 - (a) the application to register agreement A is received before agreement B is registered; and
 - (b) neither application is rejected under **section 179**.

179 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—
 - (i) is not made in accordance with the requirements of this Act; or
 - (ii) is made in respect of Māori freehold land that is held by a sole owner or by joint tenants; or
 - (iii) is made in respect of Māori freehold that is already managed under a registered governance agreement; or
 - (iv) is a simultaneous application, within the meaning of **section 178**, that is not the preferred application under that section; or

- (b) the registration of the agreement would result in—
 - (i) any of the following being party to more than 1 registered governance agreement: a Māori incorporation that is continued as a governance body by **section 170**, the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, or a rangatōpū; or
 - (ii) land reserved as whenua tāpui being managed under a governance agreement; or
- (c) 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, Māori incorporation, ahu whenua trust, whenua tōpū trust, company, or other entity; or
 - (iii) the chief executive considers that the use of the proposed name would contravene an enactment; or
 - (iv) the chief executive considers that the proposed name is offensive; or
 - (v) the rangatōpū, if it were registered, would not comply with **section 225** (which sets out requirements for kaitiaki of certain governance bodies).
- (2) If **subsection (1)** applies, the chief executive must promptly give the applicant written notice of the rejection and the reason for it.
- (3) If the chief executive rejects an application, the applicant may reapply at any time.

180 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 is 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.

181 Certificates are conclusive evidence of registration

- (1) 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.
- (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.

*Revoking governance body appointments***182 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 the owners who together hold 75% or more of the participating owners' total share in the land.
- (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 183*).
- (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 219 to 221*).

*Cancelling governance agreements***183 Ways to start cancellation of governance agreement**

- (1) Any of the following events starts 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 182**, to revoke the body's appointment in respect of the land (whether or not another governance body is to be appointed for the land):
 - (b) the governance body decides to cancel the agreement:
 - (c) the governance body decides to amalgamate with 1 or more other governance bodies to form a new rangatōpū (if this is permitted by **section 175**) and :
 - (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 180**, 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 a kaiwhakahaere under **section 153(1)(a)** to oversee the governance body's preparation and implementation of a full distribution scheme under **section 215**.
- (4) The Registrar must send a copy of any order made under **subsection (2)** to the governance body and the chief executive.

184 Cancellation of governance agreement when governance body replaced

- (1) This section applies if—
 - (a) the process of cancelling a governance agreement is started as described in **section 183(1)(a)** (revocation of governance body appointment); and
 - (b) the asset base managed under the agreement (the **first agreement**) is to be transferred directly to another governance body or proposed governance body and managed under another governance agreement (the **second agreement**).
- (2) The outgoing governance body must provide to the incoming governance body,—
 - (a) sufficient details about the asset base managed under the first agreement to—
 - (i) enable the incoming governance body to comply with **clause 22 of Schedule 3** (which sets out the general requirements for an application to register a governance agreement); and
 - (ii) ensure that the asset base will vest in the incoming governance body when the second agreement is registered (*see* **section 195**); and
 - (b) for each unpaid distribution held by the outgoing governance body, the unpaid distribution details.

- (3) When the second agreement is registered,—
 - (a) the first agreement is cancelled; and
 - (b) if the outgoing governance body is a Māori incorporation that is continued as a governance body by **section 170**, or the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, the chief executive must apply to the court for an order winding up the incorporation or trust.

185 Cancellation of governance agreements when governance bodies amalgamate

- (1) This section applies if the process of cancelling a governance agreement is started as described in **section 183(1)(a)** (amalgamation of governance bodies).
- (2) The governance agreement of each amalgamating governance body is cancelled immediately after the amalgamated governance agreement is registered in its place.

186 Cancellation of governance agreement in other circumstances

- (1) This section applies if—
 - (a) the process of cancelling a governance agreement is started as described in **section 183**; and
 - (b) **sections 184 and 185** do not apply.
- (2) The agreement is cancelled when the court issues an order under **section 221(3)** cancelling the agreement (on being satisfied that a full distribution scheme has been implemented).
- (3) 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—
 - (a) on the governance body's behalf by the kaiwhakahaere appointed under **section 153(1)(a)** to oversee the preparation and implementation of the distribution scheme; or
 - (b) by the governance body with the prior written consent of the kaiwhakahaere appointed to oversee the preparation and implementation of the distribution scheme; or
 - (c) under an order of the court.
- (4) **Subsection (3)** 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 kaiwhakahaere 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.

- (5) The court may validate a transaction or dealing that is void under **subsection (3)**.

187 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 184(3)**; 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

188 Cancelling governance certificates

- (1) As soon as practicable after a governance agreement is cancelled, 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) On the cancellation of a governance certificate,—
- (a) if the Māori freehold land managed under the cancelled governance agreement is to continue being managed by a governance body under another registered governance agreement, the asset base managed under the cancelled governance agreement vests in that governance body; or
 - (b) if **paragraph (a)** does not apply, the Māori freehold land managed under the cancelled governance agreement vests in the beneficial owners of the land. The remainder of the asset base will have been distributed already in the course of implementing a full distribution scheme: *see section 221*.
- (3) As soon as practicable after being notified under this section that a governance certificate is cancelled, the Registrar-General must—
- (a) register, as the proprietor of the fee simple estate in the land,—
 - (i) if the Māori freehold land managed under the cancelled governance agreement is to continue being managed by a governance

- body under another registered governance agreement, that governance body; or
- (ii) if **subparagraph (i)** does not apply, the beneficial owners of the Māori freehold land managed under the agreement; 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 other governance body or in the owners.

189 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

190 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

191 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 that is consistent with the governance agreement; and
- (c) must operate in a manner that does not, and is not likely to, create a substantial risk of serious loss to—
- (i) the owners of the Māori freehold land managed under the agreement; or
- (ii) the creditors of the governance body; and

- (d) 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
 - (e) must endeavour to keep the owners informed about the asset base and activities relating to the asset base; and
 - (f) must promptly notify the chief executive of any change in the body's registered office or principal place of business, or its address for service.
- (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.

192 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.

193 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.

194 Immunity of owners from personal liability

An owner of Māori freehold land managed under a governance agreement is not, by reason only of being an owner of that land, personally liable for—

- (a) any debts or liabilities of the governance body; or
- (b) any claims made on the governance body; or
- (c) any deficiency in the asset base of the governance body.

Establishment of asset base

195 Asset base vests in governance body on registration of governance agreement

- (1) This section applies to Māori freehold land, other 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 176** 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 other 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—
- (a) the owners of the Māori freehold land to be managed under the agreement; or
 - (b) in the case of 2 or more governance bodies amalgamating to form a rangatōpū (*see section 175*), one of the amalgamating governance bodies.
- (4) To avoid doubt, anything that is referred to in **subsection (1)**, and that is not held by the owners of the land or an amalgamating governance body 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.

196 Registrar-General to record change of ownership of land vested in governance body under section 195

The Registrar-General must, as soon as practicable after receiving from the chief executive under **section 177(2)(d)** details of land that vests in a governance body under **section 195**,—

- (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.

197 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 195**; 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)**.

198 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 195**.
- (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.

199 Matters not affected by vesting under section 195

- (1) The section sets out matters not affected by the vesting of assets and liabilities in a governance body under **section 195**.
- (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 196**, 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

200 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 land, other than Māori freehold land, that is 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 203**; and
 - (b) apply for a court order under **section 205** 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 send it to the chief executive for registration under **section 177**, 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 201**); 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 168 and clauses 9 to 11 of Schedule 3**).

201 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, improve, or acquire and improve the replacement land identified in the allocation scheme required under **section 103(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 send it to the chief executive for registration under **section 177**.
- (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 send it to the chief executive for registration under **section 177**.

202 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 send it to the chief executive for registration under **section 177**.

203 Requirements for allocation scheme

- (1) This section sets out the requirements for an allocation scheme required under **section 103(3)(b) or 200(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; and
 - (iii) in a way that is fair and equitable to all the owners.
- (3) If the land is replacement land (within the meaning of **section 103(3)**), the allocation scheme must also specify how any surplus proceeds from the disposition will be used or distributed.

204 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 201** also applies); or
 - (c) a governance body wishes to partition or amalgamate a parcel of Māori freehold land (in which case **section 202** also applies).
- (2) The governance body must have in place either—
 - (a) a land management plan that complies with **subsection (3)** and that is approved by owners who together hold 75% or more of the participating owners' total share in the Māori freehold land managed under the agreement; or
 - (b) if the governance body is a Māori incorporation, an ahu whenua trust, or a whenua tōpu trust, a land acquisition plan or land improvement plan, or both, that the court approved under section 137(2)(b) of Te Ture Whenua Māori Act 1993 before the commencement of this section.
- (3) A land management plan must—
 - (a) identify the Māori freehold land within the asset base; and
 - (b) set out any proposed changes that affect the Māori freehold land within the asset base (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 103**) with the proceeds from the disposition.

Order relating to acquisition of Māori freehold land

205 Order declaring land to be Māori freehold land and confirming allocation scheme

- (1) A governance body may, as necessary for the purpose of **section 103(3)(c) or 200(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 203**; 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

206 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 that is consistent with the body's responsibilities in respect of the asset base: *see* **section 166(3)**.
- (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.

207 Unpaid distributions

- (1) For the purpose of this Act,—
- (a) 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); and
 - (b) the details of an unpaid distribution (the **unpaid distribution details**) are—
 - (i) the name of the owner entitled to receive the distribution; and
 - (ii) the amount of the distribution; and
 - (iii) the distribution date; and
 - (iv) 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.
- (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, and publish those records in the way that is most likely to bring the details of unpaid distributions to the attention of those who are entitled to receive them.
- (5) To avoid doubt, this section applies to all unpaid distributions held by a governance body, irrespective of whether the original distribution was made by that governance body.

*Access to information held by governance bodies***208 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 making decisions about the land or other decisions required under the governance agreement; 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 209** (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 209**.

209 Reasons for withholding information

A governance body may withhold information requested under **section 208** 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 collation or research, or substantial cost; or
- (d) the request is frivolous or vexatious or the information requested is trivial.

Powers of Māori Land Court in relation to governance bodies

210 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 that concern or affect Māori freehold land:
 - (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 that concern or affect Māori freehold land:
 - (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 in respect of Māori freehold land.
- (3) The court may make an order appointing 1 or more persons (**examining officers**) to—

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- (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 that concern or affect Māori freehold land); and
 - (b) report to the court in the manner directed by the court.
- (4) However, if the court is satisfied that there is a matter in dispute that the owners and the governance body should attempt to resolve themselves, the court must first—
- (a) adjourn the matter to allow any dispute resolution process set out in the governance agreement to be carried out; or
 - (b) refer the dispute to the chief executive to initiate a dispute resolution process (*see* **section 326**).
- (5) 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 404** in relation to the Māori freehold land managed by the governance body.

211 Matters relating to investigation of governance bodies

- (1) Before appointing an examining officer under **section 210(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.

212 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 210**, 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).

213 Court may make restraining order

- (1) The court may, on application by a governance body, kaitiaki, or owner, make an order restraining a governance body, kaitiaki, or owner who proposes to engage in conduct that would contravene a governance agreement or **Parts 1 to 10** from engaging in that conduct.
- (2) **Subsection (1)** applies despite anything in the Crown Proceedings Act 1950.

214 Court may disqualify kaitiaki

- (1) 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 225** 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.
- (2) An order made under this section may disqualify a person permanently or for a period specified in the order.
- (3) However, the court may make an order under this section permanent or for a period longer than 10 years only in the most serious of cases for which an order may be made.

Distribution schemes

215 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 183**).
- (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 153(1)(a)** for a kaiwhakahaere to be appointed to oversee the preparation and implementation of the scheme.
- (3) **Subsection (2)** does not apply if a kaiwhakahaere has already been appointed by the court under **section 183(3)**.
- (4) As soon as practicable, but within 6 months, after the kaiwhakahaere is appointed, the kaiwhakahaere must—
- (a) prepare, or ensure that the governance body prepares, a full distribution scheme that complies with **section 216**; 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 216**.

216 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)** and **sections 217 and 218**, 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) identify the amount (if any) that is available for paying unsecured creditors (which includes the amount of unpaid distributions identified under **subsection (1)(b)**: *see section 218(2)(d)*); and
 - (b) provide for the proportion of the amount identified under **paragraph (a)** that relates to unpaid distributions to be transferred to the Māori Trustee along with the unpaid distribution details; and
 - (c) 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 kaiwhakahaere appointed to oversee the preparation and implementation of the scheme.

217 Expenses of kaiwhakahaere

Costs, charges, and expenses properly incurred by a kaiwhakahaere in the preparation or implementation of a full distribution scheme for a governance body

are payable out of the asset base of the governance body in priority to all other claims.

218 Application of certain provisions of Companies Act 1993

- (1) This section applies if a kaiwhakahaere is appointed to oversee the preparation and implementation of a full distribution scheme for a governance body.
- (2) Sections 275, 292 to 301, 310G, 310I, and 312 of the Companies Act 1993 apply to the governance body in all respects, and with such modifications as may be necessary, as if—
 - (a) the governance body were a company in liquidation under that Act; and
 - (b) the kaiwhakahaere were the liquidator of the company; and
 - (c) the date on which, and the time at which, the kaiwhakahaere was appointed were the date on which, and the time at which, the liquidation commenced; and
 - (d) the amount of unpaid distributions identified under **section 216(1)(b)** were an amount owed to an unsecured creditor.
- (3) Nothing in section 263 of the Companies Act 1993 applies to a governance body by virtue of the application of section 312 of that Act.
- (4) To avoid doubt, the reference in section 275(4) of the Companies Act 1993 to clause 1(a) of Schedule 7 of the Companies Act 1993 must be read as a reference to **section 217** of this Act

219 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 182*).
- (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 220**; 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 169(3)**, 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 169(3)**, 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 220**.

220 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)**.

221 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, send an updated governance agreement to the chief executive for registration under **section 177**; 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 kaiwhakahaere 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—
 - (a) cancelling the governance agreement (*see* **section 184**); and
 - (b) if the governance body is a Māori incorporation that is continued as a governance body by **section 170**, or the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, winding up the incorporation or trust.
- (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 188**.
- (5) **Section 222** 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***222 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 221**.
- (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.
- (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 216(3)**), or more, if interest has been added under **subsection (3)(c)**).

223 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 (*see* **section 222**) that is 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 receives, 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 216(3)**)).

Provisions relating to governance bodies that are Māori incorporations, ahu whenua trusts, whenua tōpū trusts, or rangatōpū

224 Application of sections 225 to 231

Sections 225 to 231 apply to a governance body that is any of the following:

- (a) a Māori incorporation that is continued as a governance body by **section 170**;
- (b) the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, unless the trustee is an existing statutory body;
- (c) a rangatōpū.

225 Kaitiaki: quorum and eligibility

- (1) The governance body 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 the governance body 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 of the governance body 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 214(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 73** (appointment of kaiwhakamarumarū for owners needing protection).

226 Kaitiaki: vacancies in office, suspension from office, validity of acts

- (1) If a kaitiaki of the governance body is or becomes disqualified from being a kaitiaki, he or she ceases to hold that office, unless **subsection (2)** applies.
- (2) If a kaitiaki is or becomes disqualified because a property order is made in respect of any part of his or her property (*see* **section 225(4)(g) or (h)**),—
 - (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.

227 Court may investigate kaitiaki appointments

- (1) The court may investigate the validity of a person's appointment as kaitiaki of the governance body with regard to the appointment process and the person's eligibility for appointment.
- (2) The court's jurisdiction under this section may be exercised on the application of—
- (a) at least 15 of the owners of the Māori freehold land within the body's asset base; or
 - (b) 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
 - (c) the governance body.
- (3) After investigating the validity of an appointment, the court may,—
- (a) if it is satisfied that the appointment is invalid, declare the appointment to be invalid and direct the governance body to commence a new appointment process; or
 - (b) if **paragraph (a)** does not apply, declare the appointment to be valid.
- (4) If the validity of an appointment is investigated under this section, the appointment is presumed to be valid until it has been declared otherwise.

228 Court may appoint kaitiaki

- (1) If the governance body has fewer than 3 kaitiaki, either of the following may apply to the court to appoint as kaitiaki 1 more persons who are eligible under **section 225** to hold that position:
- (a) an owner of Māori freehold land managed by the governance body;
 - (b) a creditor of the governance body.
- (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.

229 Governance bodies must maintain interests register

- (1) The governance body 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 governance body 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 230**.
- (3) The governance body 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 governance body under the governance agreement.

230 Kaitiaki must make annual declaration for purpose of interests register

Promptly after the end of each financial year, each kaitiaki of the governance body 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 governance body under a governance agreement.

231 Certain governance bodies 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) the governance body may exist in law; or
- (b) the kaitiaki of the governance body may hold or deal with property (including income derived from property).

Additional provisions relating to governance bodies that are Māori incorporations

232 Application of sections 233 to 235**Sections 233 to 235—**

- (a) apply to a Māori incorporation that is continued as a governance body by **section 170**; but
- (b) do not apply to a Māori incorporation after it becomes a rangatōpū (*see section 174*).

233 Māori incorporations must continue to maintain share register

- (1) A Māori incorporation must continue to maintain a share register—
 - (a) in accordance with section 263 of Te Ture Whenua Maori Act 1993, until that section is displaced by regulations made under **section 321(1)(k)**; and
 - (b) on and after the date on which regulations are made under **section 321(1)(k)**, in accordance with those regulations.
- (2) A Māori incorporation must send an up-to-date copy of its share register to the chief executive no later than 6 months after the commencement of this Act.
- (3) A Māori incorporation must, if it approves a change in the share register, notify the chief executive within 5 working days after the change is approved.
- (4) If the chief executive receives information under **subsection (2) or (3)** that reflects a change in the ownership of an individual freehold interest in Māori freehold land, the chief executive must 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.

234 Māori incorporations may adjust shareholding

A Māori incorporation—

- (a) may amend the total number of shares in the incorporation to a specified number, and correspondingly amend the number of shares held by each shareholder so as to represent the same proportion of the total shares as was represented by that person's shareholding before the amendment; and
- (b) must update the share register to reflect any amendments made under **paragraph (a)** and notify the chief executive within 5 working days after the change is approved.

235 Relationship between share register and Māori land register

- (1) This section applies if there is an inconsistency in the details relating to beneficial interests in a parcel of Māori freehold land as they are recorded on—
 - (a) a share register maintained by a Māori incorporation under **section 233**; and
 - (b) the Māori land register.
- (2) The details recorded in the share register are presumed to be correct in the absence of proof to the contrary.
- (3) The court has jurisdiction to determine and declare the correct details.
- (4) The following persons may apply to court for a declaration under this section:
 - (a) the Māori incorporation:

- (b) any person who own or claims to own, or has any other interest in, a beneficial interest affected by the inconsistency.

Part 7

Administration of estates

Introductory provisions

236 General law on estates subject to this Part

- (1) On the death of an owner of Māori freehold land, or an individual freehold interest in a parcel of 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.
- (2) However, relative interests in the Titi islands continue to be determined in accordance with Part 2 of the Maori Purposes Act 1983 and the court continues to have exclusive jurisdiction in relation to matters referred to in section 6(4) of that Act.
- (3) In **subsection (2) Titi islands** means the islands specified in section 6(10) of the Maori Purposes Act 1983.

237 Restrictions on gifting Māori freehold land by will

- (1) A parcel of Māori freehold land may only be gifted by will to a preferred recipient or a preferred entity and only in accordance with **section 104**.
- (2) An individual freehold interest in a parcel of Māori freehold land may only be gifted by will to a preferred recipient or a rangatōpu and only in accordance with **section 139**.

238 Invalid disposition by will must be treated as intestacy

- (1) 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.
- (2) However, the owner is not intestate in relation to the land or interest if the land or individual freehold interest is disposed of in accordance with this Act by some other provision in the will.

239 Land status at time of death of owner determinative

- (1) The status of a deceased owner's land (or land in which a beneficial interest is held by a deceased owner) is the status of the land at the time the owner died.

- (2) **Subsection (1)** applies for the purpose of determining any matter under this Act, including whether a person is an eligible beneficiary for the purposes of this Part.

240 Change in land status between death of owner and vesting

- (1) This section applies if,—
- (a) an owner of a parcel of Māori freehold land, or a individual freehold interest in Māori freehold land dies; and
 - (b) at the time the owner dies, the land or the land in which the owner had an interest is private land other than Māori land; and
 - (c) before the land or interest is vested in the persons entitled to succeed to it, the land or land in which the interest is held becomes Māori freehold land.
- (2) The court may, on application, make an order vesting the land or interest in the persons entitled to succeed to it, despite the change in status of the land.
- (3) The application may be made by a person claiming to be entitled to succeed to the land or interest.
- (4) The application must include—
- (a) a certified copy of the deceased owner’s death certificate; and
 - (b) a certified copy of the deceased owner’s will; and
 - (c) a statutory declaration by a lawyer that the gift complies with the requirements of this Act.
- (5) 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.
- (6) If the chief executive receives no response 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.
- (7) 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.
- (8) If an application is resubmitted, and the chief executive is satisfied that it and the court notice are in order, the chief executive must amend the Māori land register and give notice in accordance with **paragraphs (a) and (b) of subsection (6)**.
- (9) 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.

Māori land not available for payment of debts of estate

241 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

242 Restrictions relating to testamentary promises 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 described in **subsection (2)**.
- (2) The order may not be made if it 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.

- (3) An application for succession under this Act that is affected by a proceeding under the Law Reform (Testamentary Promises) Act 1949 must not be dealt with until the chief executive receives notice that the proceeding has been determined, resolved, or withdrawn.
- (4) Nothing in this section limits the power of the High Court to make an order—
 - (a) conferring the right to reside in a dwelling; or
 - (b) affecting income derived from a beneficial interest in the freehold estate in Māori freehold land.

243 Restrictions relating to family protection legislation

- (1) 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 described in **subsection (2)**.
- (2) The order may not be made if it 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 who is associated with the land in accordance with tikanga Māori.
- (3) An application for succession under this Act that is affected by a proceeding under the Family Protection Act 1955 must not be dealt with until the chief executive receives notice that the proceeding has been determined, resolved, or withdrawn.
- (4) Nothing in this section limits the power of the High Court to make an order—
 - (a) conferring the right to reside in a dwelling; or
 - (b) affecting income derived from a beneficial interest in the freehold estate in Māori freehold land.
- (5) 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

244 Eligible beneficiaries may succeed to interests when owner dies intestate

- (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, only eligible beneficiaries are eligible to succeed to the land or interest.
- (2) A person cannot be an eligible beneficiary unless he or she is associated with the land or interest in accordance with tikanga Māori.
- (3) Eligible beneficiaries are, in order of priority,—

- (a) any surviving children of the owner and the descendants of the owner's children (in the case of a descendant of the owner's child, whether or not the owner's child survived the owner):
 - (b) any surviving siblings of the owner and the descendants of the owner's siblings (in the case of a descendant of the owner's sibling, whether or not the owner's sibling survived the owner):
 - (c) any surviving parent of the owner:
 - (d) any surviving siblings of a parent of the owner and the descendants of a parent's siblings (in the case of a descendant of a parent's sibling, whether or not the parent's sibling survived the owner):
 - (e) any other descendants of the owner's grandparents living at or born after the date of the owner's death (even if the grandparent did not survive the owner).
- (4) If there is no eligible beneficiary of—
- (a) a parcel of Māori freehold land, **section 291** applies:
 - (b) an individual freehold interest in a parcel of Māori freehold land, **section 292** applies.
- (5) A vesting to give effect to succession must be made only after—
- (a) an application is made to the chief executive under **section 247**; and
 - (b) if necessary, the application has been determined in accordance with **section 249**.

245 Succession on intestacy where there is more than 1 eligible beneficiary

- (1) This section applies if there is more than 1 eligible beneficiary when 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.
- (2) A whānau trust must be established over the land or interest and the owner's beneficial interest in—
- (a) any other parts of the asset base of any governance body appointed for any Māori freehold land in which the deceased owner has an individual freehold interest; and
 - (b) any estate or interest in Māori freehold land other than the freehold estate.
- (3) However, a whānau trust must not be established if 1 or more of the eligible beneficiaries—
- (a) does not want a whānau trust to be established or does not want to participate in a whānau trust; and
 - (b) obtains a court order under **subsection (4)**.
- (4) An eligible beneficiary described in **subsection (3)(a)** may apply to the court to—

- (a) confirm a family arrangement and the court may make an order vesting land or a beneficial interest in land to which the family arrangement relates; or
- (b) make an order vesting land or a beneficial interest in land in the eligible beneficiaries in equal shares (with the children of a deceased beneficiary taking the share of the children's parents equally as between themselves if there is more than 1 child).

246 Family arrangement instead of whānau trust

- (1) Under a family arrangement confirmed by the court under **section 245**, all or any of the land or interests in the land are to be vested in an eligible beneficiary instead of the trustees of a whānau trust.
- (2) A family arrangement may provide for the land or interests in the land to vest in an eligible beneficiary and other interests to vest in the trustees of a whānau trust.
- (3) If interests are vested in the trustees of a whānau trust,—
 - (a) the trustees may hold interests other than those of the deceased owner; and
 - (b) the beneficiaries of the trust may include eligible beneficiaries and their descendants as well as other owners or preferred recipients and their descendants.
- (4) A vesting order made under **section 245** may include any terms that the court thinks necessary to give effect to the family arrangement.
- (5) Any dispute over the terms of a family arrangement, or over whether any land or interests should be excluded from a whānau trust, must be referred to the chief executive for dispute resolution under **Part 9**.

247 Application for succession when owner dies intestate

- (1) This section applies to an application required by **section 244(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 and signed by the applicant;
 - (b) state the full name and contact details of the applicant;
 - (c) 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:

- (d) include the full names, and contact details if available, of all eligible beneficiaries:
 - (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 244(2)**); and
 - (iii) identifies the land and interests as follows:
 - (A) the parcel or parcels of Māori freehold land (as described in the Māori land register):
 - (B) the freehold interests in a parcel or parcels of Māori freehold land (as described in the Māori land register):
 - (C) any beneficial interest in an estate or interest in Māori freehold land other than the freehold estate; 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 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 that the information in the application is true and correct.
- (4) A whānau trust established under **section 244(2)** 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.

248 Processing of application for succession when owner dies intestate

- (1) On receiving an application under **section 247**, the chief executive must determine whether the application satisfies the requirements of that section.
- (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 notice of the application by publishing the following information on an Internet site to which the public have free access:
 - (a) a summary of the application:
 - (b) the date the application is first published on the site:
 - (c) an invitation to make submissions on the application by the end of the date that is 20 days after it is first published.
- (4) The chief executive may also use any other method of publication that is reasonably likely to bring the application to the attention of the owners of the land.
- (5) The chief executive must also provide the details described in **subclause (3)(a) to (c)** directly to each eligible beneficiary and proposed trustee whose details are included in the application.
- (6) If any objections are received within the notice period, **section 249** applies.
- (7) 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) if the application relates to interests in Māori freehold land managed under a governance agreement by a Māori incorporation that is continued as a governance body by **section 170**, notify the governance body of the new ownership details, including the details relating to any whānau trust, as set out in the application; and
 - (c) 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.

249 Determination of application for succession where objections received

- (1) This section applies if objections to an application for succession are received within the notice period.
- (2) The application must be referred to the court.
- (3) The court must determine which persons are to succeed to the land or interest to which the application relates.
- (4) 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) if the decision relates to interests in Māori freehold land managed under a governance agreement by a Māori incorporation that is continued as a governance body by **section 170**, notify the governance body of the new ownership details, including the details relating to any whānau trust, as set out in the decision; and
- (c) 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.

250 Effect of succession

- (1) This section applies if the chief executive has amended the Māori land register in accordance with **section 248(6) or 249(3)**.
- (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 251**.
- (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 251 and 252**.

251 Succession interests subject to certain rights of surviving spouse or partner

- (1) This section applies if—
 - (a) the owner—
 - (i) of a parcel of Māori freehold land dies intestate; or
 - (ii) 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, the survivor’s marriage, civil union, or de facto relationship with the owner had not ended (within the meaning of section 2A(2), 2AB(2), or 2D(4) of the Property (Relationships) Act 1976, as applicable).

- (2) The survivor has the following rights—
 - (a) in respect of a parcel of Māori freehold land, to occupy the principal family home if it is on that land:
 - (b) in respect of either a parcel of Māori freehold land or an individual freehold interest in a parcel of Māori freehold land, 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.
- (3) A survivor’s rights end when the survivor—
 - (a) remarries or enters a new civil union or de facto relationship; or
 - (b) dies; or
 - (c) relinquishes the right.
- (4) The persons who succeed to the land or interest under **section 250**—
 - (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.

252 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 68(2)**.
- (2) The following provisions (relating to whānau trusts established in accordance with **section 58**) apply to the trust and the trustees, with any necessary modifications:
 - (a) **section 61** (effect of establishing whānau trust):
 - (b) **section 62** (trustees of whānau trust):
 - (c) **section 66** (entitlements of beneficiaries of whānau trusts):
 - (d) **section 68** (jurisdiction of court):
 - (e) **section 69** (court may validate actions of trustees):
 - (f) **section 71** (termination of whānau trust by court order):
 - (g) **section 72** (responsibilities of trustees if whānau trust terminated).

Vesting of rent-free lease for residential housing where grantee dies intestate

253 Vesting of rent-free lease for residential housing where grantee dies intestate

- (1) The unexpired term of a rent-free lease for residential housing granted under **section 42 or 129** may be vested in another person if the grantee of the lease

dies intestate, but only in accordance with this section and **sections 254 to 256**.

- (2) The vesting must be made to the following (the **recipient**):
 - (a) a child or grandchild of the grantee; or
 - (b) the grantee's spouse, civil union partner, or de facto partner.
- (3) The recipient must have occupied the house to which the lease applies as their primary residence when the grantee died.
- (4) The vesting occurs only if the chief executive, on application under **section 254**, issues a written notice under that section vesting the unexpired term of the lease in the recipient.
- (5) The vesting has effect—
 - (a) for the purposes of equitable title once the written notice is recorded in the Māori land register; and
 - (b) for the purposes of legal title once the written notice is registered under the Land Transfer Act 1952.
- (6) Any provision of the lease referred to in **section 42(7) or 129(6)** (about additional occupants) applies to the recipient as the grantee of the lease.
- (7) Despite any provision of the lease, if a recipient is less than 18 years of age or requires full-time care, the recipient's principal caregiver is entitled to occupy the premises on the leased land in addition to the recipient.
- (8) If **subsection (7)** applies and the recipient's principal caregiver is also the principal caregiver for persons not entitled to occupy the premises, those persons are entitled to occupy the premises as long as any maximum number of occupants that is specified in the lease is complied with.
- (9) If a recipient has a principal caregiver, a kaiwhakamarumarū, or a welfare guardian appointed under the Protection of Personal and Property Rights Act 1988, that person may administer the lease on the recipient's behalf.
- (10) The unexpired term of a lease that became held by a recipient under this section or **section 130** may be vested in accordance with this section, but only in a child or grandchild of the original grantee of the lease.

254 Application for vesting of rent-free lease for residential housing

- (1) A person qualified to be a recipient of a lease under **section 253** may apply to have the lease vested in him or her within 60 working days after the death of the grantee of the lease.
- (2) An application must—
 - (a) be in writing;
 - (b) be dated and signed by the applicant or, if applicable, the 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 is qualified to be a recipient;
 - (e) be witnessed by a person who is not qualified to be a recipient, is not immediate family of a person qualified to be a recipient, and is at least 20 years old.
- (3) A proposed recipient under an application made under this section for the vesting of a lease may continue to occupy the house to which the lease applies until the application is finally determined and, for that purpose, must be treated as if the lease had been vested in him or her under **section 253**.

255 Procedure after chief executive receives application for vesting of rent-free lease for residential housing

- (1) On receiving an application under **section 254**, the chief executive must determine whether the application satisfies the requirements of **subsection (2)** of that section and, for this purpose, the chief executive may—
- (a) require the applicant or, if applicable, the 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.
- (2) Promptly after the 60-working 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 after the notice is given.
- (3) 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 issue a written notice vesting the unexpired term of the lease in the recipient.
- (4) 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.
- (5) 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) issue a written notice vesting the unexpired term of the lease in the agreed recipient; or
 - (b) if it is agreed that no vesting will occur, record in the register that the lease has expired.
- (6) 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 in accordance with **section 256**.

256 Matters for court to take into account when determining competing applications for vesting of rent-free lease for residential housing

In making a determination on competing applications for the vesting of a rent-free lease for residential housing, 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 lease were not vested in them.

Vesting of beneficial interests gifted by will

257 Vesting of beneficial interest gifted by will when grant of administration

- (1) This section applies if administration has been granted over—
 - (a) the estate of an owner of Māori freehold land or an individual freehold interest in Māori freehold land gifted by will; or
 - (b) an estate that includes a beneficial interest in any estate or interest in Māori freehold land gifted by will.
- (2) The administrator may apply to have the land or interest vested in the beneficiaries of the gift by lodging, with the chief executive or, if the land is managed by a governance body that is a Māori incorporation,—
 - (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 that the gift complies with the requirements of this Act.
- (3) If the application is lodged with the chief executive and 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) if the application relates to interests in Māori freehold land managed under a governance agreement, notify the governance body of the new ownership details; and
 - (c) 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 application is lodged with a governance body that is a Māori incorporation and the governance body is satisfied that the application is in order, the governance body must amend the share register to record the new ownership details.

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- (5) The land or interest is vested—
- (a) in accordance with the entries made in the Māori land register (or the share register if a governance body amends the share register under **subsection (3A)**); and
 - (b) on the date on which the entries are recorded.
- (6) The vesting of land or an interest under **subsection (4)** includes the owner's beneficial interest in any other parts of the asset base of any governance body appointed for any Māori freehold land in which the deceased owner had an individual freehold interest.

258 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 described in **section 257(1)(a) or (b)**; but
 - (b) the gift is unlikely to be administered for any reason, including the following:
 - (i) the administrator refuses to apply to have the land or interest vested in the beneficiaries of the gift; or
 - (ii) it is impracticable for the administrator to apply to have the land or 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 land or 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) a certified copy of the deceased owner's death certificate; and
 - (b) a certified copy of the deceased owner's will; and
 - (c) a statutory declaration by the applicant that the gift complies with the requirements of this Act.
- (5) The applicant must give written notice of the application to the administrator unless the administrator 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.

259 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 described in **section 257(1)(a) or (b)**.
- (2) A person claiming to be a beneficiary of the gift may apply to have the land or 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 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 amend the Māori land register and give notice to the Registrar-General as provided in **section 257(3)** and **section 257(4)** applies.
- (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 amend the Māori land register and give notice to the Registrar-General as provided in **section 257(3)** and **section 257(4)** applies.

260 Family arrangements made by beneficiaries of testamentary gift

- (1) This section overrides **sections 257 to 259**.
- (2) Despite those sections, the beneficiaries of a beneficial interest in any estate or interest in Māori freehold land, including an individual freehold interest, gifted by will may enter into a family arrangement.
- (3) Under a family arrangement any or all of the beneficial interests may be—
 - (a) be vested in 1 or more eligible recipients instead of, or in addition to, the beneficiaries; or

- (b) be vested in the trustees of a whānau trust that meets the requirements of **Part 3**.
- (4) The court must make an order confirming the family arrangement if the court is satisfied that—
- (a) either—
- (i) the beneficiaries have entered into the arrangement with the benefit of independent legal advice; or
- (ii) the arrangement is understood by the members of the family and is fair in the circumstances; and
- (b) that the arrangement complies with the Act.
- (5) Once the court has made an order confirming a family arrangement, 1 of the beneficiaries who applied for the order may apply to the chief executive to have the interests included in the arrangement vested in accordance with the family arrangement instead of the will.
- (6) The application must be accompanied by certified copies of—
- (a) the deceased owner’s death certificate; and
- (b) the deceased owner’s will; and
- (c) the order of the court confirming the family arrangement.
- (7) If the chief executive is satisfied that the application is an order, the chief executive must amend the Māori land register and give notice to the Registrar-General as provided in **section 257(3)** and **section 257(4)** applies.
- (8) Any dispute over the terms of a family arrangement, or over whether any land or interests should be excluded from a whānau trust, must be referred to the chief executive for dispute resolution under **Part 9**.

Recording of rights of surviving spouses and partners

261 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 251(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 in the Māori land register.

- (3) The chief executive must—
- (a) record the right of the spouse, civil union partner, or de facto partner in the register if the chief executive is satisfied that—
 - (i) the applicant is the surviving spouse, civil union partner, or de facto partner of the deceased owner; and
 - (ii) the requirements of **section 152** have been met or, as the case may be, **section 251** applies; and
 - (b) if the right relates to Māori freehold land managed under a governance agreement by a Māori incorporation that is continued as a governance body by **section 170**, and if the chief executive is satisfied of the matters set out in **paragraph (a)(i) and (ii)**, notify the governance body of the right.

262 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 in the Māori land register under **section 261** ends because—
 - (a) the spouse or partner dies or relinquishes it; or
 - (b) for a right conferred by **section 251**, 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, if the chief executive is satisfied that the right has ended,—
 - (a) remove the record of the right from the register; and
 - (b) if the right relates to Māori freehold land managed under a governance agreement by a Māori incorporation that is continued as a governance body by **section 170**, notify the governance body of the removal of the right from the register.

Succession register

263 Chief executive to keep succession register

- (1) The chief executive must keep a succession register and record in the register particulars of every—
 - (a) succession application; and
 - (b) completed succession.
- (2) The succession register must be in the public part of the Māori land register but the contact details of particular individuals may be excluded unless those individuals consent to their inclusion.

- (3) If a succession application is processed by a Maori incorporation that is continued as a governance body by **section 170**, the governance body must provide details of the succession application and completed succession to the chief executive who must include the details in the succession register.
- (4) The governance body must provide the details required by under **subsection (3)** to the chief executive within 5 days after the date that the succession is completed.

Additional vesting

264 Chief executive may vest beneficial interest in administrator

- (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 may apply to have the beneficial interest vested in the administrator by lodging, with the chief executive, the documents referred to in **section 257(2)**.
- (3) If the chief executive is satisfied that the application is in order, the chief executive must amend the Māori land register and give notice to the Registrar-General as provided in **section 257(3)** and **section 257(4)** applies.

Special provision by court

265 Court may make special provision relating to income for whāngai descendants and adopted children

- (1) The court may make an order conferring on any person the right to all or part of the income from a parcel of Māori freehold land or from an individual freehold interest in a parcel of Māori freehold land.
- (2) The court may make the order only in respect of a person who is not entitled to succeed to the land or interest solely because, under **section 8**, the tikanga of the relevant iwi or hapū determines that—
 - (a) a whāngai relationship is not treated as a relationship of descent for the purposes of that succession; or
 - (b) a relationship by birth, or a relationship by adoption order, is not treated as a relationship of descent for the purposes of that succession.
- (3) The court may make the order only if it considers that—
 - (a) the order is required to prevent an injustice to that person; and
 - (b) the person's claim is not within the jurisdiction of the High Court under the Law Reform (Testamentary Promises) Act 1949 or the Family Protection Act 1955.

Part 8

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

Provision of documents to chief executive and Registrar-General

266 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 287** if it affects the legal ownership of an estate or interest in land.

267 Chief Registrar of Māori Land Court to provide certain documents

- (1) The Chief Registrar of the Māori Land Court must—
 - (a) provide to the chief executive who maintains the Māori land register a sealed copy of each relevant order, so that the order can be recorded in the Māori land register; and
 - (b) lodge with the Registrar-General each relevant order that affects the legal ownership of an estate or interest in land, so that the order can be registered under **section 287**.
- (2) The relevant orders are any orders made by the Māori Land Court, the Māori Appellate Court, the Chief Judge acting under **section 308**, or a Registrar that—
 - (a) affect any land, including a vesting order or an order of confirmation that a disposition complies with the requirements of this Act; or
 - (b) affect or relate to a governance body; or
 - (c) amend or cancel an order described in **paragraph (a) or (b)**.
- (3) The Chief Registrar of the Māori Land Court must provide to the chief executive who maintains the Māori land register, or to the Registrar-General, copies of any document or information held in the permanent record of the Māori Land Court that the chief executive, or the Registrar-General, determines is relevant to his or her functions.

*Māori land register***268 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.

269 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

270 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 5**; and
 - (b) for each parcel of Māori freehold land, the information specified in **Part 2 of Schedule 5**; and
 - (c) for each governance agreement, the information specified in **Part 3 of Schedule 5**; and
 - (d) for each rangatōpū, the information specified in **Part 4 of Schedule 5**; and
 - (e) for each administering body appointed for whenua tāpui, the information specified in **Part 5 of Schedule 5**; and
 - (f) instruments, orders, notices, and other documents provided to the chief executive for the recording of any matter in the register; and
 - (g) 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 a kaiwhakahaere that the order specifies is commercially sensitive (*see* **clause 5(2)(d) of Schedule 5**); 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.

271 Access to Māori land register

- (1) The chief executive must—
- (a) make the public part of the Māori land register (*see* **section 270(1)**) available to the public; and
 - (b) make the administrative part of the Māori land register, which contains contact details for owners of Māori land, available to—
 - (i) a governance body managing the land; and
 - (ii) any other person authorised by or under this Act to act on behalf of, or to arrange a meeting of, the owners of the land; and
 - (c) when making a part of the register available under **paragraph (a) or (b)**, ensure that it is available—
 - (i) free of charge; and

- (ii) during normal business hours on a working day; and
 - (iii) at any other time that the chief executive allows.
- (2) 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 chief executive must provide a certified copy.
- (3) The copies referred to in **subsection (2)** may, if the chief executive determines, be provided in electronic form.
- (4) A determination under **subsection (3)** may be made subject to specified conditions.
- (5) This section is subject to—
- (a) **section 272**, Part 6 of the Domestic Violence Act 1995, and any other enactment under which information may be withheld; and
 - (b) the Public Records Act 2005.

272 Chief executive may withhold personal information

- (1) The chief executive may do the following during any withholding period granted to a person under this section:
- (a) refuse to make available, or provide a copy of, any part of the Māori land register under **section 271** if the part names or contains identifying information about the person;
 - (b) prevent the name of the person, or identifying information about the person, from being included in any part of the Māori land register that is made available to the public.

Decision about withholding period

- (2) The chief executive must, on application by a person under **section 273**, decide whether to grant a withholding period to the person.
- (3) The chief executive must grant the withholding period if satisfied that the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family.
- (4) The chief executive must, as soon as is reasonably practicable after making the decision, give notice to the person of—
- (a) the decision; and
 - (b) the date of the decision; and
 - (c) if the withholding period is not granted, the reasons for the decision.

Duration of withholding period

- (5) A withholding period for a person starts on the date on which the chief executive decides to grant it.
- (6) A withholding period for a person ends 5 years after it starts or on any earlier date on which the chief executive decides to end the period.
- (7) The chief executive must decide to end the withholding period if he or she—
 - (a) receives the person's application to end the withholding period; or
 - (b) becomes aware and is satisfied that the basis for granting the withholding period no longer exists (for example, because an order has ceased to have effect or because the person has died and the safety of the person's family is not prejudiced).
- (8) The chief executive must, as soon as is reasonably practicable after making a decision to end a withholding period for a person under **subsection (7)(b)**, give notice to the person of—
 - (a) the decision; and
 - (b) the date of the decision; and
 - (c) the reasons for the decision.

Other matters

- (9) The fact that a withholding period has ended does not prevent the chief executive from deciding to grant another withholding period on the same evidential basis.
- (10) This section overrides any requirements of this Act that relate to the Māori land register.

273 Application to chief executive to withhold personal information

- (1) A person may apply to the chief executive to grant a withholding period under **section 272**.
- (2) The application must include—
 - (a) the details of any identifying information about the person that enables the information to be located in any instrument or document, or to be excluded from the public parts of the Māori land register, for the purposes of **section 272(1)**; and
 - (b) a statutory declaration by the person as to why the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family; and
 - (c) sufficient evidence that the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family.
- (3) Evidence provided in the application may include—

- (a) a restraining order that is in force under the Harassment Act 1997 in respect of any person;
 - (b) any prescribed order of a court;
 - (c) a statutory declaration by a constable, or the person's employer (if the prejudice arises from the person's employment), that he or she believes that the publication of information that discloses, or is likely to disclose, the whereabouts of the person may prejudice the safety of the person or the person's family;
 - (d) any other relevant evidence.
- (4) Unless there is proof to the contrary, an order referred to in subsection **(3)(a) or (b)** is conclusive evidence of the matters to which it relates.

Later notice about order used as evidence for withholding period

- (5) A person must give notice to the chief executive of the date on which an order will cease, or has ceased, to have effect if—
- (a) a withholding period applies to the person; and
 - (b) the person included the order as evidence in the application for the withholding period.
- (6) The person must give the notice as soon as is reasonably practicable after becoming aware of the date, but need not give the notice if the date is apparent from the order itself.

274 Exceptions to withholding personal information

- (1) Even if the chief executive may refuse to make available, or provide a copy of, any part of the Māori land register under **section 272(1)**, the chief executive may make available, or provide a copy of, that part to a person who requires it—
- (a) to conduct a transaction with the protected person; or
 - (b) to have an instrument or document recorded or registered under this Act or any other enactment; or
 - (c) to exercise a right held, or satisfy an obligation owed, in relation to the particular land (but not land generally), such as the right to sell the land under a mortgagee's power of sale.
- (2) The person to whom the part of the Māori land register is made available or copied, must not disclose it, or any information obtained from it, to anyone else except for the purpose for which it was required under **subsection (1)**.
- (3) The chief executive must give notice to the protected person—
- (a) before making available, or providing the copy of, the part of the Māori land register to the person who requires it; or

- (b) as soon as practicable after making available, or providing the copy of, the part of the register to the person who requires it, if it is impracticable to give notice before that.
- (4) The notice must specify—
 - (a) the part of the Māori land register that will be made available or copied; and
 - (b) the person to whom the part will be made available or copied; and
 - (c) when the part will be made available or copied to the person.
- (5) In this section, **protected person** means the person to whom the relevant withholding period applies under **section 41**.

275 Application of Privacy Act 1993

- (1) The public part of the Māori land register (*see* **section 270(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 269** 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.

276 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).

277 Powers to alter Māori land register

- (1) The chief executive may alter the Māori land register to—
 - (a) correct an error made by the chief executive or a person acting under delegation by the chief executive;
 - (b) correct an error made by a person in preparing or submitting a document or information to be recorded;
 - (c) record a boundary change resulting from accretion or erosion;
 - (d) give effect to an order or a direction of a court.

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- (2) The chief executive must not alter the Māori land register under **subsection (1)(a), (b), or (c)** if the alteration would materially affect the estate or interest of any person unless—
 - (a) the person consents in writing to the alteration; or
 - (b) in accordance with regulations made under this Act,—
 - (i) the chief executive gives notice of intention to alter the register; and
 - (ii) no material objection to the proposed alteration is received.
 - (3) The chief executive may alter the Māori land register for any other purpose with the consent in writing of the persons affected.
 - (4) The chief executive may, in exercising powers under this section, have regard to any material or information the chief executive considers relevant and reliable.
 - (5) **Subsection (4)** is subject to any regulations made under this Act.

278 Electronic workspace facilities

- (1) The chief executive may approve 1 or more electronic facilities for use in the preparation of electronic instruments to be provided under this Act.
- (2) The chief executive must not approve an electronic facility unless satisfied that adequate provision is made to ensure that—
 - (a) instruments prepared in the facility comply with the requirements of this Act when provided; and
 - (b) the chief executive is able to carry out the chief executive's functions and duties under this Act.
- (3) The chief executive may, at any time, withdraw approval of an electronic workspace facility that fails to meet the requirements referred to in **subsection (2)**.
- (4) The chief executive may monitor activities in an electronic workspace facility for the purpose of detecting fraud and improper dealings.
- (5) The chief executive may provide an electronic workspace facility.
- (6) The chief executive may—
 - (a) set conditions for the use of the electronic workspace facility;
 - (b) audit the electronic workspace facility to ensure compliance with the conditions;
 - (c) monitor activities in the electronic workspace facility for the purpose of maintaining the effectiveness and efficiency of the facility.
- (7) In this Act, **electronic workspace facility** means a facility approved by the chief executive under **subsection (1)**.

279 Evidentiary presumptions relating to Māori land register

- (1) A record of any information in 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.

280 Court order to replace lost or destroyed instrument

- (1) This section applies to a person who claims that—
 - (a) any instrument entitles the person to be recorded in the Māori land register as an owner of Māori freehold land or a holder of an interest in Māori freehold 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 has the same effect as the instrument.
- (3) The person must give notice of the application to—
 - (a) the chief executive; and
 - (b) every person recorded in the Māori land register as an owner of the land or a 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) make an order on the terms that the court determines have the same effect as the instrument; and
 - (b) make any other order that the court thinks fit.

281 Chief executive may replace or reconstitute records

- (1) This section applies to—

- (a) an instrument that is or has been recorded in 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.

282 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

283 Māori freehold land status to be recorded on computer freehold register

- (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 that 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; or
 - (b) receives an order of the court that changes the status of the land to, or declares or determines that the land is, Māori freehold land.
- (3) There is no fee for anything done by the Registrar-General under this section.
- (4) To avoid doubt, **subsection (2)(a)** does not give the chief executive the power to change the status of land.

284 Computer freehold register for land that is not Māori freehold land

- (1) The Registrar-General must remove from the computer freehold register (if any) for land to which this section applies any record that the land is Māori freehold land that 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 not Māori freehold land; or
 - (b) receives an order of the court that changes the status of the land from, or declares or determines that the land is not or ceases to be, Māori freehold land.
- (3) There is no fee for anything done by the Registrar-General under this section.
- (4) To avoid doubt, **subsection (2)(a)** does not give the chief executive the power to change the status of land.

285 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).

286 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 more than 50% of the participating owners of the land (casting votes of equal weight), in any other case; and
 - (b) the new name complies with standards set under section 49 of the Cadastal 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.

287 Orders, instruments, and notices 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 acting under **section 308**, or a Registrar:
 - (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 the legal ownership of an estate or interest in land.
- (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 an instrument or notice for registration as soon as practicable after the chief executive issues it or receives a copy of it under **section 266**.
- (6) There is no fee for registration.

288 Notation upon registration of certain dispositions

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 123(5)** restricts the land from ceasing to be Māori freehold land; and
- (b) **section 139(3)** restricts the disposition of an individual freehold interest in the land.

289 Registration of land in name of trust or tupuna

- (1) The following land may become registered, or may cease to be registered, in the name of an unincorporated trust in accordance with this section:
- (a) any Māori freehold land managed under a governance agreement with the trust as the governance body; or
 - (b) any land reserved as a whenua tāpui with the trust as the administering body.
- (2) The following land may become registered, or may cease to be registered, in the name of a tupuna in accordance with this section:
- (a) any Māori freehold land managed under a governance agreement; or
 - (b) any land reserved as a whenua tāpui.
- (3) The land must be registered under the Land Transfer Act 1952.

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- (4) The governance body or the administering body of the land must apply to the Registrar-General—
- (a) stating whether the land is to become registered, or is to cease to be registered, in the name of the trust or the tupuna; and
 - (b) identifying the land and specifying the name of the trust or the tupuna.
- (5) 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 owners who together hold 75% or more of the participating owners' total share in the parcel; 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 more than 50% of the owners who attend the meeting.
- (6) The applicant must have obtained an order of confirmation that the application complies with the requirements of this Act.
- (7) 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 land in the name of the trust or the tupuna and noting in the register that the proprietor is a trust or a tupuna registered in accordance with this section; or
 - (b) registering the land in the name of the governance body or administering body (meaning its trustees if it is an unincorporated trust) in place of the name of the trust or the tupuna.
- (8) Despite land becoming registered in the name of a trust or a tupuna,—
- (a) the following continue to apply as if the governance body or administering body (meaning its trustees if it is an unincorporated trust) 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

290 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

291 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 290**):
 - (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 251**.
- (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 a lease is granted over all or part of the parcel of land to the spouse or partner for the purpose of residential housing, either with rent payable or rent-free, for the life of the spouse or partner.
- (8) The lease must be treated as if it had been granted under **section 128**, for a lease with rent payable, or **section 129**, for a rent-free lease, and gifted to the spouse or partner by will.
- (9) This section overrides any other enactment or rule of law.

292 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 in 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.

*Disposition or vesting of land to which roadway provides access***293 Disposition or vesting of land to which roadway provides access**

- (1) This section applies to any land that—
 - (a) is accessed by a roadway laid out over any land by an order made under Te Ture Whenua Maori Act 1993 or any former enactment; and
 - (b) is disposed of to, or vested in, new owners.
- (2) The new owners of the land become entitled to the same rights, and subject to the same obligations, in relation to the roadway as the existing owners had immediately before the disposal or vesting.
- (3) If the land comprising the roadway is held in a separate instrument of title, the disposal or vesting must be treated as including a disposal or vesting of the existing owners' interest (if any) in the roadway.
- (4) This section is subject to anything contrary in the instrument of disposition or vesting.

*Road stopping and vesting of stopped roads***294 Unused road may be stopped and vested**

- (1) The court may, on application, make an order stopping all or part of a road if—
 - (a) any relevant adjoining land is Māori land when the order is made; or
 - (b) where the court cannot identify the relevant adjoining land,—
 - (i) both sides of the road are adjoined by any Māori land; or
 - (ii) only 1 side of the road is adjoined by any Māori land and the other side is adjoined by any other private land whose owners agree to the application.
- (2) An application may be made by—

- (a) the governance body, or an owner, of land adjoining the road that is not Māori customary land; or
 - (b) a kaiwhakahaere appointed for that purpose in relation to land adjoining the road that is Māori customary land or, if the land has no such kaiwhakahaere, the Māori Trustee; or
 - (c) the person or body that controls the road (for example, a council, the Minister of Transport, or the New Zealand Transport Authority); or
 - (d) any affected person.
- (3) In deciding whether to stop any road, the court must have regard to—
- (a) whether use of the road or anything else justifies the retention of the road; and
 - (b) how the retention or stopping of the road would affect the utilisation of land adjoining the road; and
 - (c) any cultural or historical association of the owners of land adjoining the road with any land within the road; and
 - (d) any other matter the court considers relevant.
- (4) Any road must not be stopped—
- (a) without the written consent of the person or body that controls the road; or
 - (b) if the stopping would cause land adjoining the road to become land-locked land (as defined by **section 315**).
- (5) In this section and **section 295**, **relevant adjoining land** means the land adjoining a road and of which the road would have formed part if the road had not been created.

295 Vesting of stopped road

- (1) The court may, in accordance with this section, make an order vesting any land comprising stopped road in the owners of the following land (**recipient land**):
- (a) the relevant adjoining land if any of it is Māori land when the order is made; or
 - (b) if the court cannot identify the relevant adjoining land and any Māori land adjoins the road, any 1 or more parcels of land adjoining the stopped road (whether Māori land or otherwise).
- (2) The court may make the order—
- (a) in making an order to stop any road under **section 294**; or
 - (b) on application, if the road is or has been stopped in any other way.
- (3) An application under **subsection (2)(b)** may be made by—
- (a) the governance body, or an owner, of land adjoining the stopped road that is not Māori customary land; or

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- (b) a kaiwhakahaere appointed for that purpose in relation to land adjoining the stopped road that is Māori customary land or, if the land has no such kaiwhakahaere, the Māori Trustee; or
 - (c) the person or body that controlled the road (for example, a council, the Minister of Transport, or the New Zealand Transport Authority); or
 - (d) any affected person.
- (4) An order under this section—
- (a) must vest any land comprising the stopped road in the owners of the recipient land and, for an order under **subsection (1)(b)** with more than 1 parcel of recipient land, in the proportions the court considers equitable having regard to how the vesting will affect the utilisation of land and any other matter the court considers relevant; and
 - (b) must state that the vested land is held as part of the recipient land, is affected by the same interests as the recipient land, and has the same status as the recipient land (as Māori freehold land, Māori customary land, or otherwise); and
 - (c) may vest the land subject to any conditions requiring the payment of compensation, or providing for any other matters, as the court considers equitable.
- (5) The court must not make an order under this section unless the court is satisfied that,—
- (a) for recipient land that is managed under a governance agreement (whether Māori freehold land or otherwise), the vesting is agreed to by the governance body; or
 - (b) for recipient land that is Māori freehold land not managed under a governance agreement, the vesting is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); or
 - (c) for recipient land that is 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 proposed vesting (and that schedule applies to the proposed vesting with any necessary modifications); and
 - (ii) the vesting is agreed to by more than 50% of the owners of the land who attended the meeting; or
 - (d) for recipient land that is other private land not managed under a governance agreement, the vesting is agreed to by the owners of the land; or
 - (e) for recipient land that is Crown land, the vesting is agreed to by the Minister responsible for the land.

*Jurisdiction of court in certain land matters***296 Jurisdiction of court for purposes of this Act**

- (1) The court has (in addition to any other powers conferred under this Part) jurisdiction to determine—
- (a) whether a whānau trust has been established in accordance with the provisions of this Act:
 - (b) whether a succession complies with this Act or is lawful:
 - (c) whether a disposition of Māori freehold land complies with this Act or is lawful:
 - (d) a dispute arising from a kaiwhakahaere carrying out a purpose for which the kaiwhakahaere is appointed:
 - (e) whether a decision of the owners of Māori freehold land is lawful:
 - (f) a claim to recover damages for trespass or other injury to Māori land:
 - (g) a claim founded on contract or tort where the debt, demand, or damage relates to Māori land:
 - (h) a claim to the ownership of buildings or other fixtures situated on or attached to Māori land:
 - (i) whether an entity is a representative entity for the purposes of this Act:
 - (j) whether a person is a preferred recipient, or whether an entity is a preferred entity, for the purposes of **section 95**:
 - (k) whether any Māori land is or is not held by any person in a fiduciary capacity:
 - (l) an allegation or claim of breach of duty or misconduct by a kaitiaki of a governance body:
 - (m) whether a person is a whāngai:
 - (n) whether a whāngai relationship, a relationship by birth, or a relationship by adoption order is to be treated as a relationship of descent for the purposes of a provision in this Act (*see section 8*):
 - (o) whether a person is entitled to have a right recorded in the Māori land register under **section 261**:
 - (p) whether a right of a spouse, civil union partner, or de facto partner that is recorded in the Māori land register has ended:
 - (q) whether a person is an eligible beneficiary for the purpose of Part 7.
- (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 court’s jurisdiction may be exercised on the application of any person with an interest in the matter.
- (5) In the course of any proceedings relating to any particular part of the court’s jurisdiction, the court may, subject to the rules of court,—
 - (a) exercise any other part of its jurisdiction that it considers necessary or desirable to deal effectively with the matter before it; and
 - (b) exercise that jurisdiction without further application and on any terms as to notice to parties and otherwise that the court thinks fit.

297 Rights and interests preserved

If the court determines under **section 296(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.

298 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).

299 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—
 - (a) the relative interests of legal or equitable owners of Māori freehold land; or
 - (b) whether any Māori land is or is not held by any person in a fiduciary capacity.
- (3) An application may be made by any person with an interest in the matter.

300 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 kaiwhakamarumaruru 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.

301 Jurisdiction in respect of certain trusts

- (1) This section applies in respect of—
 - (a) any rangatōpū in the form of a private trust; and
 - (b) any other trust constituted in respect of Maori freehold land.
- (2) The court has, in respect of the trust, all the powers and authorities of the High Court under the Trustee Act 1956.
- (3) Subsection (2) does not limit or affect the jurisdiction of the High Court.

302 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]**.

303 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.

304 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.

305 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.

Special powers of Chief Judge

306 Chief Judge may correct mistakes and omissions

- (1) The Chief Judge may, on application under **section 307**, make an order cancelling or amending—

- (a) an order made by a court or Registrar; or
 - (b) an order made by the Registrar before the commencement of this section; or
 - (c) a record in the Māori land register other than a record of the—
 - (i) registration of a governance agreement (including any amendment to or cancellation of the agreement); and
 - (ii) issuing of a governance certificate or a rangatōpū certificate.
- (2) The Chief Judge must not make an order under this section unless satisfied that the order, certificate, or record 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; or
 - (c) on the part of the chief executive; or
 - (d) in any document lodged with the chief executive.
- (3) The Chief Judge may—
- (a) make an order cancelling or amending the order, certificate, or record; or
 - (b) 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.
- (4) 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.
- (5) **Subsection (4)** is subject to **section 310**, but is not limited by any other provision of this Act.
- (6) The Chief Judge may exercise his or her powers under this section that relate to orders to which **section 410** (which relates to orders that would otherwise be conclusive) would otherwise apply.
- (7) The Chief Judge may decline to exercise jurisdiction under this section.
- (8) A party to an application made under **section 307** or a person affected by a decision or order of the Chief Judge under this section (including a decision under **subsection (7)**) may appeal to the Māori Appellate Court against all or part of the decision or order as if it were a decision or order of the court.
- (9) On the Māori Appellate Court's determination of an appeal, no further application in respect of the same matter may be made under **section 307**.

Compare: 1993 No 4 s 44

307 Applications for exercise of special powers

- (1) The Chief Judge's jurisdiction under **section 306** 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, certificate, or record to which the application relates; or
 - (b) by a Registrar; or
 - (c) by the chief executive responsible for keeping the Māori land register.
- (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

308 Powers of Chief Judge to deal with applications under section 307

- (1) The Chief Judge may refer an application under **section 307** 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 307**.
- (3) **Section 402** 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 307** that the court can make under **section 411** in any proceedings.
- (5) **Section 411** applies with the necessary modifications for the purpose of **subsection (4)**.

Compare: 1993 No 4 s 46

309 Administrative and consequential matters

- (1) An order made by the Chief Judge under **section 306** 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 306** 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 306** 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,—
- (a) the Registrar of the court must transmit to the Registrar-General of Land and the chief executive a copy of the order and a note of the consequential amendments made under **subsection (4)**; and
 - (b) the Registrar-General of Land must make all necessary amendments in the register of the title to the land affected.
- (6) If it is necessary to correct any record in the Māori land register,—
- (a) the Registrar must transmit to the chief executive a copy of the order and a note of consequential amendments made under **subsection (4)**; and
 - (b) the chief executive must, if the order affects the land transfer register, send a duplicate of the order to the Registrar General; and
 - (c) the chief executive must make all the necessary amendments in the Māori land register.
- (7) 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) or (6)**.

Compare: 1993 No 4 s 47

310 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 306**.
- (2) Even though an application has been made under **section 307**, 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 404(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

311 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 306 to 310**, subject to the direction of the Chief Judge.

Compare: 1993 No 4 s 48A

*Enforcement of judgment for debt or bankruptcy in relation to Māori land***312 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.

313 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.

314 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***315 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 by a kaiwhakahaere appointed for that purpose or, if the land is Māori customary land with no such kaiwhakahaere, by the Māori Trustee:
- (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.

316 Exclusion of interests in Māori land founded on adverse possession

- (1) Despite any other enactment or rule of law, no person may claim an interest in Māori land on the ground of adverse possession.
- (2) No relief may be claimed by any person for any loss or damage arising from this section.

*Giving notices***317 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.

318 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) a kaiwhakahaere appointed for that purpose; or
 - (ii) the Registrar for the district in which the land is situated, if there is no kaiwhakahaere 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.

319 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 73**, the kaiwhakamarumaruru:
 - (d) for land with a kaiwhakahaere appointed for that purpose, the kaiwhakahaere:
 - (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,—
- (a) the Registrar must—
 - (i) provide a copy of the notice to the chief executive; and
 - (ii) bring the notice to the court’s attention, together with any information relating to the land and its ownership (so that the court may consider appointing a kaiwhakahaere on its own initiative under **section 157**); and
 - (b) the chief executive, on receiving the copy, must provide a copy of the notice to each owner of the land whose contact details are known to the chief executive.

320 Time for responding to notices

- (1) This section applies if—
- (a) a person receives, in accordance with **section 318 or 319**, 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 a kaiwhakahaere under **section 153** 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

321 Regulations

The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:

- (a) prescribing any of the following for any application, notice, instrument, or other document provided for 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 instruments that must be used to give effect to dispositions of Māori freehold land for which there are not already instruments under another enactment:
- (c) regulating the practice applying to and the conduct of dispositions under this Act:
- (d) prescribing requirements for 1 or more declarations about a disposition's compliance with the requirements of this Act (for the purposes of the certification referred to in **paragraph (e)(i)**):
- (e) prescribing, for each type of instrument for a disposition under this Act, the matters that must be certified by specified persons before the chief executive may record the instrument in the Māori land register, such as the following:
- (i) that any required declarations about the disposition's compliance with the requirements of this Act have been made:
 - (ii) that the person giving the certificate has authority to act for the party specified in the regulations and that the party has the legal capacity to give the authority:
 - (iii) that the person giving the certificate has taken reasonable steps to confirm the identity of the person who gave the authority to act:
 - (iv) that the person giving the certificate has evidence showing the truth of the certifications and that the evidence will be retained for a prescribed period:
- (f) providing that in all circumstances, or in specified circumstances, matters prescribed under **paragraph (e)** for certification may instead be included in, and confirmed by, an order of confirmation for a disposition:

- (g) applying any requirement for certification under another enactment, instead of any requirement prescribed under **paragraph (e)**, in specified circumstances (for example, applying the requirements for certification under the Land Transfer Act 1952 Act and its regulations to any instrument that may also be registered or noted on the land title register under that Act):
- (h) [prescribing any other requirements that must be satisfied before the chief executive may record [a governance body or a governance agreement] in the Māori land register, and those requirements may include (for example) requirements that 1 or more of the following matters are certified by specified persons:
 - (i) that the person giving the certificate has authority to act for the party specified in the regulations and that the party has the legal capacity to give the authority:
 - (ii) that the person giving the certificate has taken reasonable steps to confirm the identity of the person who gave the authority to act:
 - (iii) [if this Act restricts the disposition, that the disposition complies with the requirements of this Act:]
 - (iv) that the person giving the certificate has evidence showing the truth of the certifications and that the evidence will be retained for a prescribed period:]
- (i) 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:
- (j) 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), whether in relation to a specified whenua tāpui, a specified class of whenua tāpui, or all whenua tāpui:
- (k) in relation to the share register maintained by Māori incorporations under **section 233**,—
 - (i) prescribing the requirements that are to apply in place of section 263 of Te Ture Whenua Māori Act 1993; and
 - (ii) prescribing the way in which a Māori incorporation may utilise the Māori land register in order to meet those requirements:
- (l) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

322 Regulations relating to governance agreements

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing the provisions that must be contained in a governance agreement.
- (2) Regulations made under this section—
 - (a) may prescribe different governance agreement provisions for different kinds of governance body; but
 - (b) must not prescribe governance agreement provisions that are inconsistent with the provisions set out in **Schedule 4**.
- (3) The Minister must not make a recommendation under this section without first consulting the persons or representatives of the persons that the Minister considers appropriate having regard to the subject matter of the proposed regulations.

Part 9 Dispute resolution

323 Purpose

The purpose of this Part is to assist Māori land owners and other parties to quickly and effectively resolve between themselves disputes about Māori land in a way that is consistent with the concept of mātauranga takawaenga.

324 Interpretation

In this Part,—

kaitakawaenga means a person employed or engaged under **section 325** to provide dispute resolution services

mātauranga takawaenga means a process to assist people and groups to resolve disagreements and conflicts—

- (a) in the case of a hapū dispute, in accordance with the tikanga, values, and kawa of the hapū associated with the relevant land, both as to process and to substance; and
- (b) in the case of a whānau dispute, in accordance with the kawa of the whānau, both as to process and to substance.

325 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) This Act does not prevent a person from 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, offer a variety of approaches to assist the parties to address matters presented for resolution.

326 How dispute resolution process initiated

- (1) A dispute resolution process under this Part may be commenced by—
 - (a) a party to the dispute lodging an application for dispute resolution assistance with the chief executive; or
 - (b) the parties referring a dispute to the chief executive under **section 337**; or
 - (c) a Judge referring a dispute to the chief executive under **section 210(4) or 336, clause 3(3)(c) of Schedule 6, or clause 4(3)(d) of Schedule 7**.
- (2) The application 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 the application, the chief executive must—
 - (a) serve all other parties named in the application with a copy of the application; and
 - (b) notify each party served that the party must, within 20 working days after the date of receipt of the application, lodge a response.
- (4) A response must state whether the responding party agrees—
 - (a) with the description of the dispute set out in the application; and
 - (b) that the application correctly identifies the parties in dispute.
- (5) For the purposes of **subsection (1)(c)**, the dispute or issues in dispute may be defined by the Judge.

327 When dispute resolution process must begin

- (1) The parties to a dispute may together nominate for appointment of 1 or more kaitakawaenga within the relevant following period:
 - (a) if **section 326(1)(a)** applies, the relevant period is 20 working days after the date for lodging a response with the chief executive;
 - (b) if **section 326(1)(b) or (c)** applies, the relevant period is 20 working days after the date on which the chief executive receives the referral.

- (2) The chief executive must appoint the nominated kaitakawaenga if satisfied that—
 - (a) the criteria in **subsection (3)** have been met;
 - (b) the nominated kaitakawaenga is not from the same hapu as a party to the dispute or all the parties to the dispute have given their consent to the appointment of that person.
- (3) The criteria is as follows:
 - (a) the kaitakawaenga or at least 1 of the kaitakawaenga must possess knowledge and experience of tikanga Māori; and
 - (b) each kaitakawaenga, when deciding how to handle or deal with the dispute or any aspect of it, is able to act impartially; and
 - (c) each kaitakawaenga has suitable skills and attributes to assist the parties to resolve the dispute.
- (4) If the parties do not nominate a kaitakawaenga or fail to nominate a suitable person, the chief executive must appoint 1 or more kaitakawaenga in accordance with the criteria in **subsection (2)**.
- (5) The kaitakawaenga must begin the dispute resolution process with the parties as soon as is reasonably practicable after being appointed.

328 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 335**.

329 Conduct of dispute resolution process

- (1) A kaitakawaenga may—
 - (a) address any party to the matter with or 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).

330 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 or decision under a power conferred under **subsection (1)**, a kaitakawaenga must—
 - (a) explain to the parties the effect of **section 331(3)**; and
 - (b) be satisfied that the parties, knowing the effect of that section, have affirmed their agreement with the recommendation or decision.

- (3) A kaitakawaenga is immune from civil and criminal liability for any decision made under a power conferred under **subsection (1)(b)** if the decision is made in good faith and in a reasonable manner.

331 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.
- (4) The court may, on the application of a party to a successful dispute resolution outcome, exercise its jurisdiction to enforce the outcome.

332 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 refer the unresolved issues to the court.
- (5) The court, on having the unresolved issues referred to it, may—
 - (a) hear and determine all of the unresolved issues; or
 - (b) hear and determine some of the unresolved issues and, in accordance with **section 336**, refer the rest of the unresolved issues back to the chief executive for dispute resolution; or

- (c) in accordance with **section 336**, refer all of the unresolved issues back to the chief executive for dispute resolution.

333 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 331(2)** from being challenged or called in question on the ground that **section 331(2)** was not complied with.

334 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.
- (3) A person appointed as a kaitakawaenga 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 appointment provides otherwise; or
 - (b) the act or omission is done in bad faith or without reasonable cause.

335 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 334** prevents the chief executive from issuing general instructions under this section.

336 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 chief executive must give the court a certified copy of any record of any agreed terms of resolution signed by the parties:

- (b) the court may, on receipt of a report of the kaitakawaenga provided under section 306(4)—
 - (i) hear and determine the unresolved issues; or
 - (ii) after consulting the affected parties, refer some or all of the unresolved issues to the chief executive for dispute resolution under this Part.
- (3) An agreement referred to in **subsection (2)(a)** must be treated as confidential by the court unless confidentiality is waived by all the parties to the dispute.
- (4) A decision by the court under **subsection (2)(b)** is subject to the right of the parties to discontinue the proceeding.

337 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 that does not involve a point of law.
- (2) In **subsection (1)**, **proceeding** means any of the following:
 - (a) an objection to an application for succession:
 - (b) an application to determine whether a person is a whāngai:
 - (c) an application to determine whether a whāngai relationship, a relationship by birth, or a relationship by adoption order is to be treated as a relationship of descent for the purposes of a provision in this Act (*see **section 8***):
 - (d) an application to determine whether a person is entitled to receive the rights of a surviving spouse or partner:
 - (e) a proceeding to determine whether an entity is a representative entity for the purposes of this Act:
 - (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 95**:
 - (g) an application to determine whether a person is a preferred recipient:
 - (h) an application to determine whether a person is a preferred entity.
- (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 332(4)**; 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 331**, 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 333(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

338 Repeal

Te Ture Whenua Maori Act 1993 (1993 No 4) is repealed.

339 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).

340 Consequential amendments to other enactments

The enactments specified in **Schedule 8** are consequentially amended in the manner indicated in that schedule.

Part 11

Preliminary provisions

341 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 13**

Māori freehold land has the meaning given by **section 20**

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 7**

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.

rules of court means rules made under **section 440**.

342 Act binds the Crown

This Act binds the Crown.

Part 12 Māori Land Court

Continuation and administration of court

343 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 **Parts 11 to 16** or by **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** or any other enactment.

Compare: 1993 No 4 s 6

344 Administration of court

- (1) A Chief Registrar, Registrars, Deputy Registrars, and other officers of the court may be appointed under the State Sector Act 1988 for the conduct of the business of the court.
- (2) The Chief Registrar and Registrars have the duties and powers that are—
 - (a) conferred by or under this Act or any other enactment, or by the rules of court; and
 - (b) necessary or desirable to ensure the efficient and effective administration of the operations of the court.
- (3) A Deputy Registrar has the same duties and powers as a Registrar.
- (4) Subsection (3) is subject to any provision to the contrary in the rules of court.
- (5) 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

345 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*.
- (5) Each Māori Land Court district that existed immediately before the commencement of this section continues to exist unless and until it is abolished under **subsection (1)**.

Compare: 1993 No 4 s 15

346 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

347 Interpretation

In **sections 348 to 354 and Schedule 6**, 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

348 **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

349 **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

350 **Procedural provisions in Schedule 6 apply**

Schedule 6 applies for the purposes of **sections 347 to 349**.

Jurisdiction of court under Maori Commercial Aquaculture Claims Settlement Act 2004

351 **Interpretation**

In **sections 352 to 354 and Schedule 7**, 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

352 **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

353 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

354 Procedural provisions in Schedule 7 apply

Schedule 7 applies for the purposes of **sections 351 to 353**.

*Special jurisdiction***355 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 its jurisdiction expressly conferred on it by an 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

356 Orders for payment of money held in trust

- (1) This section applies to any money held in trust for any Māori, or any money derived from any Māori land and held in trust, by any trustee, government department, officer of the Public Service, corporation, solicitor, or accountant.
- (2) The court may, on the application of any person interested or of its own motion, order that any money to which this section applies be paid to the person or persons beneficially entitled to the money, or to any other person, as the court may direct, on behalf of the person or persons so entitled.
- (3) Despite **subsection (2)**, the court may direct that any money to which this section applies be applied wholly or partly in or towards the payment of any legal costs, survey costs, funeral expenses, tangi expenses, costs of headstones,

or other disbursements, or the reimbursement of any person who has already paid any such costs, expenses, or disbursements.

- (4) The court may exercise any powers under this section in respect of any money to which this section will apply when it is received by any person or body specified in **subsection (1)**, but the order has no effect until that money is received.

357 Additional members for purposes of court's special jurisdiction

- (1) An Order in Council made under **section 355** 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

358 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

359 Additional members for purposes of inquiry

- (1) If any matter is referred to the court for inquiry under **section 358(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 360* (2 or more additional members to be appointed if matter of tikanga Māori referred).

Compare: 1993 No 4 s 31

360 Additional members in relation to matter of tikanga Māori

- (1) If a matter of tikanga Māori is referred to the court under **section 358(1)**, the Chief Judge must, under **section 359(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 359** 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

361 Application

Sections 362 to 365 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 355 and 357**;
or
- (b) under **section 359(1) or 360(1)**; or
- (c) under **clause 3(4), 4(4), or 5(6) of Schedule 6** or **clause 3(4), 4(4), or 5(6) of Schedule 7**.

362 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

363 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

364 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 358**; or
 - (c) the court is constituted under **section 359**.
- (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)

365 Questions undecided referred to Māori Appellate Court

- (1) If any question before the Māori Land Court cannot be decided in accordance with **section 364**, 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 355 and 357**.
- (4) If this subsection applies, **section 387** 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 386**.

Compare: 1993 No 4 s 36(4), (5)

*Jurisdiction and powers***366 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.

Compare: 1993 No 4 s 37

367 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

368 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 367**.

Compare: 1993 No 4 s 39

369 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

370 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

371 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

372 Equitable relief

- (1) The court may make an order under this section for the purposes of or as a result of exercising jurisdiction conferred on it by or under any Act.
- (2) The court may make an order for equitable relief if it is satisfied that, in the particular circumstances of the case,—
 - (a) the order is necessary to achieve a just outcome; and
 - (b) any other available relief is insufficient to achieve a just outcome.

- (3) The court may make an order under **subsection (2)** on the application of a party to a proceeding or on the court's own motion.

Decisions, orders, and rehearings

373 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 374**.
- (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

374 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

375 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

Judges and officers of court appointed under Te Ture Whenua Māori Act 1993

376 Judges and officers of court appointed under the Te Ture Whenua Māori Act 1993

Judges and officers of court appointed under the Te Ture Whenua Māori Act 1993 who were in those positions immediately before the commencement of this Act continue to hold office under the conditions of their appointment.

Part 13
Māori Appellate Court

Continuation and administration of court

377 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

378 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

379 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

380 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***381 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 any other enactment.
- (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***382 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)

383 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 the appeal has been determined by the Māori Appellate Court, no further appeal may be made against any aspect of the final decision or order of the Māori Land Court that conforms to the Māori Appellate Court's determination.
- (6) To avoid doubt, nothing in **subsection (5)** prevents an appeal under **section 388 or 399** or an appeal against a different aspect of the Māori Land Court's decision.

Compare: 1993 No 4 s 59

Cases stated

384 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 402**.
- (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 402**.

Compare: 1993 No 4 s 60

385 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

386 Additional members with knowledge and experience in tikanga Māori

- (1) If any case is stated under **section 385(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

387 Quorum and decision of court

- (1) If the Māori Appellate Court is constituted under **section 386** 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

388 Further appeal to Court of Appeal from Māori Appellate Court

- (1) A party to an appeal brought under **section 382** 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

389 Direct appeal to Supreme Court from Māori Appellate Court in exceptional circumstances

- (1) A party to an appeal brought under **section 382** 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

390 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 393(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 374**; 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

391 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

392 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 or of the Māori Land 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

393 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

394 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

395 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

396 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 398**.
- (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

397 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

398 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

399 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

400 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

401 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

402 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

403 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 and reasonable opportunity to be heard on the matter.

Injunctions

404 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, damaging, or adversely affecting any Māori freehold land, whenua tāpui, or wāhi tapu; or
- (b) prohibits any person from dealing with, damaging, or adversely affecting 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 307** 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)**; or
- (e) requires the trustee of any trust of Māori land to carry out the obligations of the trustee under that trust.
- (2) An order made by the court under this section—
 - (a) may be expressed as binding on a government department; and
 - (b) has final effect unless it is expressed to be of interim effect only.
- (3) If the court makes an order under this section, the court may grant any consequential relief as it thinks fit.

Compare: 1993 No 4 s 19

405 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

406 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 374** 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

407 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

408 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

409 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

410 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 306**.

Compare: 1993 No 4 s 77

411 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)

412 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)

413 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

414 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

415 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:
 - (e) any assets associated with Māori freehold land (for example any live-stock):
 - (f) any things within the asset base of a governance body.
- (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 287**.
- (4) A charge created by a charging order must be recorded on—
 - (a) Māori land register; and
 - (b) if the charge affects a registered interest, in the Land Transfer register.
- (5) A charging order must identify the property on which the charge is imposed.
- (6) A charging order may at any time be varied or discharged by the court.
- (7) Nothing in section 123 of the Accident Compensation Act 2001 applies to any charge constituted under this section.
- (8) Nothing in this section limits anything in **section 414**.

Compare: 1993 No 4 s 82(1)–(5)

416 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 determination 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)

417 Functions and powers of receiver

- (1) A receiver appointed under **section 416** 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 **section 416** 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.

Compare: 1993 No 4 s 83(4)–(7)

418 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)

419 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 416**, 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

420 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 421**.
- (4) **Subsection (3)** does not limit the generality of **subsection (1)**.

Compare: 1993 No 4 s 86

421 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 306 or 420** 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

422 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

423 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; or
 - (d) without sufficient cause fails to attend in accordance with a summons to attend to give evidence before the court or to produce to the court any papers, documents, records, or things; or
 - (e) without sufficient cause refuses to be sworn or to give evidence, or, having been sworn, refuses to answer any question that the person is lawfully required by the court to answer; or
 - (f) without sufficient cause fails to produce any such paper, document, record, or thing.
- (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

424 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 431(6) and 432(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

425 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)**.

426 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.

427 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.

428 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 424 or 429** 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

429 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 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

430 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

431 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 433**.
- (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 424**.
- (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 424 or 432**.
- (9) A person appointed under this section must be paid, during the term of the appointment, the salary and allowances payable under **section 436** to a Judge other than the Chief Judge and the Deputy Chief Judge.

Compare: 1993 No 4 s 9

432 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 433**.
- (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

433 Certificate by Chief Judge and 1 other Judge prerequisite

No appointment may be made under **section 431 or 432** 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

434 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

435 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

436 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

437 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 for Māori Development 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 for Māori Development.
- (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 429**.

Compare: 1993 No 4 s 92

438 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 allowances, and expenses that may be fixed in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.

Compare: 1993 No 4 s 93

439 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

440 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 368**:
- (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

441 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

442 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***443 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 400(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 369(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 369**; 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 336, clause 3(3)(c) of Schedule 6, or clause 4(3)(d) of Schedule 7**; and
 - (d) all reasonable costs and reasonable out-of-pocket expenses of any person called by the court as a witness under **section 399(2)**; and
 - (e) the reasonable fees and reasonable expenses of any lawyer appointed under **section 78(1) or 400(3)**; and
 - (f) the reasonable fees and reasonable expenses of any person appointed as a receiver under **section 416**.

Compare: 1993 No 4 s 98(1)–(5), (9)

444 Court may create charges over property

- (1) If an order is made under **section 443(3) or (6)**, 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

445 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.

446 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

447 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

448 Judge may make order restricting commencement or continuation of proceeding

- (1) A Judge may make an order (a **section 448 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.

449 Grounds for making section 448 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 450 and 451**, an appeal in a proceeding must be treated as part of that proceeding and not as a distinct proceeding.

450 Terms of section 448 order

- (1) A **section 448** 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 448** 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.

451 Procedure and appeals relating to section 448 orders

- (1) A party to any proceeding may apply for a limited order or an extended order.
- (2) A Judge may make a **section 448** 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 448** 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 448** 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 448** 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).

452 References to Judge in sections 448 to 451

The functions and powers of a Judge under **sections 448 to 451** 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 11

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1 Interpretation

In this schedule,—

commencement date means the date on which this schedule comes into force

Provisions applying to Māori incorporations that are continued as governance bodies

2 Matters relating to continuation of Māori incorporations as governance bodies

- (1) This clause applies to a Māori incorporation that is continued as a governance body by **section 170**.
- (2) On the commencement date,—
 - (a) each member of the committee of management of the incorporation becomes a kaitiaki of the governance body; and

- (b) the constitution of the Māori incorporation, as in force immediately before the commencement date (*see* section 268 of Te Ture Whenua Māori Act 1993) and as modified by **clause 5 of Schedule 4**, becomes the governance agreement; and
 - (c) the assets and liabilities of the Māori incorporation become the asset base for which the Māori incorporation is the governance body; and
 - (d) the shares in the Māori incorporation continue to be individual freehold interests in the Māori freehold land managed under the governance agreement; and
 - (e) each unclaimed dividend held by the incorporation, or by a preceding incorporation or body corporate (including the Māori Trustee), becomes an unpaid distribution for the purposes of this Act.
- (3) As soon as practicable after the commencement of this Act, the chief executive must—
- (a) register the governance agreement by issuing a governance certificate; and
 - (b) make any necessary changes to the Māori land register.

3 Investment land held by Māori incorporation before commencement of Act

- (1) This clause applies if a Māori incorporation holds any land on the commencement date that, before the commencement date, it had determined to retain as an investment rather than as part of the corpus of the incorporation.
- (2) The court may, on application by the incorporation, make an order—
- (a) authorising the Maori incorporation to hold the whole or any part of the land as an investment; and
 - (b) declaring that the land that is the subject of the authorisation ceases to be Māori freehold land.
- (3) The court must not make an order unless it is satisfied that—
- (a) no part of the land is reserved as a whenua tāpui; and
 - (b) no part of the land is subject to a kawenata tiaki whenua; and
 - (c) the land does not contain any wāhi tapu or wāhi tūpuna; and
 - (d) the incorporation's decision to retain the land as an investment was properly made.
- (4) An order—
- (a) must specify the parcel or parcels comprising the land; and
 - (b) may make any other provision in relation to the change of status of the land that the court thinks just.

- (5) If an order is made, the parcel of land that ceases to be Māori freehold land remains private land, but is not Māori land.

4 Information kept on register of Māori incorporations to be provided to chief executive

- (1) As soon as practicable after the commencement date, the Chief Registrar of the Māori Land Court must provide to the chief executive a copy of each register of Māori incorporations kept by a registrar of a Māori Land Court district under section 279 of Te Ture Whenua Māori Act 1993.
- (2) If, after the Chief Registrar has provided information to the chief executive under **subclause (1)**, a Registrar of a Māori Land Court district receives a copy of a special resolution made before the commencement date, the Chief Registrar must forward the copy to the chief executive.

5 Kaitiaki quorum and eligibility requirements: delayed application to Māori incorporations

- (1) This clause applies to a governance body that is a Māori incorporation, but ceases to apply to the governance body if it becomes a rangatōpū.
- (2) Until the expiry of 3 years after the commencement of this section,—
- (a) **section 225** (which sets out quorum and eligibility requirements for kaitiaki) does not apply to the governance body; but
- (b) the governance body must continue to have at least 3 and no more than 7 kaitiaki; and
- (c) section 272 of Te Ture Whenua Māori Act 1993 (qualification, disqualification, and removal of members) continues to apply to the governance body—
- (i) despite the repeal of that section; and
- (ii) as if the reference in that section to the powers of the court under section 269(4) of that Act were a reference to the powers of the court under **section 214** of this Act; and
- (3) This section applies despite **section 224**.

6 Māori incorporation constituted by Mawhera Incorporation Order 1976

- (1) This clause applies to—
- (a) the Māori incorporation constituted by the Mawhera Incorporation Order 1976 and continued as a governance body by **section 170**; and
- (b) any rangatōpū that results from the Māori incorporation specified in **paragraph (a)** changing its form under **section 174** or amalgamating with another governance body under **section 174**.

- (2) For as long as the Māori incorporation or rangatōpū holds the land described in section 27(6) of the Māori Purposes Act 1976, it must hold the land as Māori freehold land.
- (3) **Subclause (2)** prevails over any other provision of this Act.

Provisions applying to ahu whenua trusts and whenua tōpū trusts that are continued as governance bodies

7 Transitional matters relating to ahu whenua trusts and whenua tōpū trusts

- (1) This clause applies to the trustees of an ahu whenua trust or a whenua tōpū trust who are continued as a governance body by **section 171**.
- (2) Each trustee appointed before the commencement date continues to hold that office on and from the commencement date—
 - (a) in accordance with the terms of the instrument of appointment; and
 - (b) with the same general powers and authorities as the trustee had under section 226 of Te Ture Whenua Māori Act 1993; and
 - (c) with any additional roles and responsibilities that arise under **subclause (3)(a) or (b)**.
- (3) On the commencement date,—
 - (a) each responsible trustee (being any trustee other than an advisory trustee, an associate trustee, or a custodian trustee) who is a natural person becomes a kaitiaki of the governance body; and
 - (b) if a responsible trustee is not a natural person, each person occupying a position in the trustee that is comparable with that of a director of a company becomes a kaitiaki of the governance body; and
 - (c) each trustee appointed as an advisory trustee becomes a member of an advisory committee for the trustees who become kaitiaki under **paragraph (c)**; and
 - (d) the terms of the trust that are in effect immediately before the commencement date, as set out in the order constituting the trust and as modified by **clause 8 of Schedule 4**, become the governance agreement; and
 - (e) the trust property is the asset base managed under the agreement.
- (4) As soon as practicable after the commencement of this Act, the chief executive must—
 - (a) register the governance agreement by issuing a governance certificate; and
 - (b) make any necessary changes to the Māori land register.

8 Māori incorporation may continue as trustee of ahu whenua trust or whenua tōpū trust

If a Māori incorporation is the trustee of an ahu whenua trust or a whenua tōpū trust is continued as a governance body by **section 171**,—

- (a) despite **clause 3(7) of Schedule 3**, the Māori incorporation may be a party to more than one governance agreement—one in its capacity as a governance body under **section 170** and one in its capacity as a governance body under this section; but
- (b) the Māori incorporation must maintain a separate asset base under each governance agreement; and

9 Kaitiaki quorum and eligibility requirements: delayed application to ahu whenua trusts and whenua tōpū trusts

- (1) This clause applies to a governance body that is the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, but ceases to apply to the governance body if it becomes a rangatōpū.
- (2) Until the expiry of 3 years after the commencement of this section,—
 - (a) the following provisions do not apply to the governance body:
 - (i) **section 225** (which sets out quorum and eligibility requirements for kaitiaki); and
 - (ii) **clause 1AGF and 1AGG of Schedule 3** (which relate to kaitiaki); but
 - (b) the governance body must comply with the requirements of the governance agreement as they relate to quorum requirements for kaitiaki; and
 - (c) any kaitiaki appointed after the commencement of this section must meet the eligibility requirements for kaitiaki that are set out in **section 225**.
- (3) This section applies despite **section 224**.

10 Whenua tōpū trust: Te Ngae Farm Trust

- (1) This clause applies to the whenua tōpū trust constituted under section 216 of Te Ture Whenua Maori Act 1993 as Te Ngae Farm Trust and continued as a governance body by **section 171**, and its governance agreement (being the terms of the trust as set out in the order constituting the trust).
- (2) The governance agreement must not be—
 - (a) cancelled; or
 - (b) amended in a manner that is inconsistent with the terms of the settlement of the WAI 36 claim (the Tūhoe lands claim) signed on 21 October 1993.
- (3) The trust must continue to be the governance body for the land referred to in section 13 of the Reserves and Other Lands Disposal Act 1993 (Te Ngae Mis-

sion Farm: *see* section 11(4) of Ngāti Rangiteaorere Claims Settlement Act 2014).

- (4) 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.
- (5) **Subclauses (2) to (4)** prevail over anything to the contrary in this Act.

Provisions applying to existing trusts that are not continued as governance bodies

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 62**.
- (4) Otherwise **sections 61 to 69** apply to the trust, with any necessary modifications, as if the trust were a trust established in accordance with **section 58**.

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 62**.
- (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 kaiwhakamarumarū under this Act to assume responsibility for the former trust property.
- (6) If the trust is terminated (irrespective of whether a kaiwhakamarumarū 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.

Existing Māori reservations become whenua tāpui

14 Existing Māori reservations become whenua tāpui

- (1) This clause applies to a Māori reservation set apart under section 338 of Te Ture Whenua Māori 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 an urupā.
- (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 38(4)**.
- (4) The second modification is that, for agreement to an application under **section 289** (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) If the trustees became the holders of the Māori reservation under an Act to settle historical claims under the Treaty of Waitangi, then **subclause (8)** and **section 39(1) to (3)** do not apply to the administering body.
- (7) 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**.
- (8) If, on the commencement date, the membership of the administering body does not comply with the requirements of **section 39(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.
- (9) 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***15 Confirmation of alienation of Māori freehold land**

- (1) This clause applies to a proposed alienation of any interest in Māori freehold land if, immediately before the commencement date,—
 - (a) any consent, agreement, resolution, or court approval required for the alienation by Te Ture Whenua Māori Act 1993 had been obtained in accordance with that Act; and
 - (b) confirmation under Part 8 of that Act was required in relation to the alienation, but had not been obtained.

-
- (2) Parts 7 and 8 of that Act apply, as if this Act had not been enacted, for the purposes of—
- (a) obtaining the confirmation; and
 - (b) if applicable, giving effect to a resolution (*see* section 157 of that Act).

16 Recording and registration of existing instruments

- (1) This clause applies to a proposed alienation of any interest in Māori freehold land for which, immediately before the commencement date,—
- (a) there was an instrument that was able to be noted by the Registrar in accordance with Te Ture Whenua Māori Act 1993; but
 - (b) the instrument had not been so noted.
- (2) This clause also applies to a proposed alienation of any interest in Māori freehold land—
- (a) to which **subsection (1)** would apply if the confirmation referred to in **clause 15(2)(a)** had been obtained, and anything referred to in **clause 15(2)(b)** had been done, immediately before the commencement date; and
 - (b) for which the confirmation has since been obtained, and anything else has since been done, under **clause 15**.
- (3) The instrument of alienation may be recorded in the Māori land register under **Parts 1 to 10**, and registered or noted in the land title register under the Land Transfer Act 1952, despite anything in **Parts 1 to 10**.

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.

18 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.

19 Occupation orders become leases for residential housing purposes

(1) If an occupation order made under Part 15 of Te Ture Whenua Māori Act 1993 applies immediately before the commencement date, the order must be treated as if it were,—

- (a) for an order that required rent to be paid, a lease granted under **section 128** for the purpose of residential housing and with rent payable; or
- (b) for an order that did not require rent to be paid, a lease granted under **section 129** for the purpose of residential housing and rent-free.

(2) The lease must be treated as including the following terms and conditions, which override any inconsistent provision of this Act:

- (a) any terms and conditions that applied to the occupation order; and
- (b) a term by which the court may at any time, on the application of any person or on its own initiative, make an order amending or cancelling the lease (*see* section 330 of Te Ture Whenua Māori Act 1993); and
- (c) if the occupation order was made before 1 July 2002, a term by which the court may—
 - (i) review the lease on application by an owner of a beneficial interest in the leased land or by the grantee of the lease; and
 - (ii) conduct the review as if it were exercising its jurisdiction to make the initial occupation order, and having particular regard to the fact that, after it was made, the occupation order could pass by succession (*see* section 330A of Te Ture Whenua Māori Act 1993).

(3) The court has jurisdiction to do anything required by a term or condition referred to in this clause.

20 Existing occupation of house by owner

(1) This section applies if,—

- (a) immediately before the commencement date, an owner of Māori freehold land occupies an existing house on the land as his or her principal place of residence,—

-
- (i) whether or not under any recorded arrangement with other owners and whether any such arrangement is subject to payment of rent or rent-free; but
 - (ii) not under a lease granted under Part 11 of Te Ture Whenua Maori Act 1993; and
 - (b) on the commencement date, the land—
 - (i) is not managed under a governance agreement; and
 - (ii) is not a whenua tāpui; and
 - (iii) is not subject to Part 2 of the Maori Affairs Restructuring Act 1989, the Maori Reserved Land Act 1955, or the Maori Vested Lands Administration Act 1954.
 - (2) The owner, along with any immediate family who also occupy the house, may continue to occupy the house as a principal place of residence.
 - (3) The owner cannot dispose of the right to occupy during his or her life, but can agree to end the right.
 - (4) If the owner dies, the outcome is determined by the first of the following paragraphs that applies:
 - (a) if the owner's spouse, civil union partner, or de facto partner also occupies the house, the spouse or partner, along with any immediate family who also occupy the house, may continue to occupy the house as a principal place of residence; or
 - (b) if a child or children of the owner who are under 18 years of age also occupy the house, the child or children may continue to occupy the house as a principal place of residence, along with—
 - (i) any immediate family who also occupy the house; and
 - (ii) the children's principal caregiver; and
 - (iii) any other persons for whom the children's principal caregiver is also the principal caregiver, subject to any maximum number of occupants required by any arrangement with other owners; or
 - (c) if **paragraphs (a) and (b)** do not apply, the right to occupy ends.
 - (5) If the right to occupy is continued by **subsection (4)(a)** and the owner's spouse or partner dies, the right ends unless **subsection (4)(b)** is satisfied, in which case the right is continued by that paragraph.
 - (6) If the right to occupy is continued by **subsection (4)(a)** and the owner's spouse or partner remarries or enters a new civil union or de facto relationship, or agrees to end the right, the right ends.
 - (7) If the right to occupy is continued by **subsection (4)(b)**, the right ends when each of the owner's children to whom the right applies has reached 18 years of age.

- (8) If the land subject to the right to occupy becomes managed under a governance agreement,—
 - (a) the right to occupy continues; but
 - (b) the owner or other occupants must pay any reasonable charges that relate to the property as required by the governance body.
- (9) If the house is occupied under an arrangement with other owners, the occupants must comply with the arrangement.
- (10) The other owners of the land, and any governance body that manages the land, have no liability in relation to the occupation by the owner or other occupants.

Administration of estates

21 Administration of estates if administration 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.

22 Determining eligibility of beneficiary to succeed to interests of intestate owner in certain circumstances

- (1) The eligibility of a beneficiary to succeed to land or an interest when an owner dies intestate is not determined in accordance with **section 244** in the circumstances set out in subclause (2).
- (2) The circumstances are that the owner died before the commencement of this Act and—
 - (a) administration of the estate of the owner has been granted; or
 - (b) the land or interest has been vested in the persons entitled to it.
- (3) In those circumstances—
 - (a) the eligibility of a beneficiary to succeed must be determined in accordance with the law applying on the date of the owner's death; and
 - (b) **clause 21(2)** applies.

23 Liability of Māori land and certain other property for payment of debts of estate

For the purposes of **section 241**, 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).

Land title registration

24 Provisional registration of existing instruments if survey inadequate

- (1) This clause 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.

25 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 289** of this Act applies to the land—
- (a) as if the name were the name of a trust or 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.

Existing charges for surveys of Māori land

26 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 roadways

27 Roadways may be declared roads

- (1) The Governor-General may, by proclamation made on the recommendation of the Minister of Transport, declare that the land comprising a roadway laid out by an order made under Te Ture Whenua Maori Act 1993 or any former enactment is a road.
- (2) The Minister may recommend a proclamation only in accordance with a recommendation of the court, which must describe the roadway in sufficient detail to enable its boundaries to be accurately determined.
- (3) The Minister's recommendation must—
- (a) state whether the roadway is proposed to be a State highway once it becomes a road; and
 - (b) have the written consent of—
 - (i) the territorial authority for the district containing the road; and
 - (ii) if the road is to be a State highway, the New Zealand Transport Agency.
- (4) A proclamation under this clause takes effect on—
- (a) the date of its publication in the *Gazette*; or
 - (b) any later date specified in the proclamation.
- (5) The effect of the proclamation is—
- (a) to cancel the roadway over the land; and
 - (b) to vest the land as a road, free of all interests, in the territorial authority for the district containing the land.
- (6) Section 57 of the Public Works Act 1981 applies to a proclamation under this clause with any necessary modifications.

28 Cancellation or variation of roadway

- (1) The court may, on application, make an order cancelling or varying any roadway laid out by an order made under Te Ture Whenua Maori Act 1993 or any former enactment.
- (2) An application may be made by any affected person.
- (3) In deciding whether to cancel or vary any roadway, the court must have regard to—
- (a) whether use of the roadway or anything else justifies the retention of the roadway; and

- (b) how the retention, cancellation, or variation of the roadway would affect the utilisation of the land over which the roadway runs and of the land to which the roadway provides access; and
 - (c) any cultural or historical association of the owners of the land over which the roadway runs, and of the land to which the roadway provides access, with any land within the roadway; and
 - (d) any other matter the court considers relevant.
- (4) Any roadway must not be cancelled or varied if it would cause land to which the roadway provides access to become landlocked land (as defined by **section 315**).
- (5) An order varying any roadway may—
- (a) vary the persons or classes of persons entitled to use the roadway;
 - (b) vary how the roadway may be used;
 - (c) vary the roadway’s alignment over a parcel of land, but only if agreed to by the following persons in respect of that parcel and each parcel of land to which the roadway provides access:
 - (i) for Māori freehold land managed under a governance agreement, by the governance body;
 - (ii) for other Māori freehold land, by more than 50% of the participating owners of the land (casting votes of equal weight);
 - (iii) for Māori customary land with a kaiwhakahaere appointed for that purpose, by the kaiwhakahaere;
 - (iv) for other Māori customary land, by the Māori Trustee;
 - (v) for other private land, by the owners of the land;
 - (vi) for Crown land, by the Minister responsible for the land or the registered proprietor of the land.
- (6) The Registrar must give written notice to the Surveyor-General of the cancellation or variation of a roadway under this clause.
- (7) To avoid doubt, a roadway may be cancelled or varied even if the status of the land has changed since the roadway was created.

29 Cancellation or variation of roadway with separate instrument of title

- (1) This clause applies if the court makes an order under **clause 28** cancelling a roadway that has a separate instrument of title.
- (2) The court may also order that—
- (a) the separate instrument of title is cancelled; and
 - (b) the land comprising the roadway is vested in the owners of the following land (**recipient land**):

- (i) the land adjoining the roadway, and of which the roadway would have formed part if the roadway had not been laid out, if any of it is Māori land when the order is made; or
 - (ii) if the court cannot identify the land in **subparagraph (i)** and any Māori land adjoins the roadway, any 1 or more parcels of land adjoining the roadway (whether Māori land or otherwise); and
 - (c) for a vesting under **paragraph (b)(ii)** with more than 1 parcel of recipient land, the land comprising the road is vested in the proportions the court considers equitable having regard to how the vesting will affect the utilisation of land and any other matter the court considers relevant; and
 - (d) the vested land is held as part of the recipient land, is affected by the same interests as the recipient land, and has the same status as the recipient land (as Māori freehold land, Māori customary land, or otherwise).
- (3) The court must not include the matters under **subsection (2)** in the order unless the court is satisfied that,—
- (a) for recipient land that is managed under a governance agreement (whether Māori freehold land or otherwise), the vesting is agreed to by the governance body; or
 - (b) for recipient land that is Māori freehold land not managed under a governance agreement, the vesting is agreed to by more than 50% of the participating owners of the land (casting votes of equal weight); or
 - (c) for recipient land that is 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 proposed vesting (and that schedule applies to the proposed vesting with any necessary modifications); and
 - (ii) the vesting is agreed to by more than 50% of the owners of the land who attended the meeting; or
 - (d) for recipient land that is other private land not managed under a governance agreement, the vesting is agreed to by the owners of the land; or
 - (e) for recipient land that is Crown land, the vesting is agreed to by the Minister responsible for the land.

30 Compensation for roadway

- (1) If the court makes an order under **clause 28** cancelling or varying a roadway, the court may also make an order requiring the payment of compensation, or providing for any other matters, as the court considers equitable between the owners of the land that the roadway is over and any other persons.
- (2) An order for compensation must specify the amount of compensation, the payers, and the payees.

- (3) A person may waive his or her entitlement to compensation under an order referred to in this clause.
- (4) If the court awards compensation under an order referred to in this clause, the court may secure the amount by imposing a charge on any land held by the persons required to pay the amount.

Incomplete court proceedings and orders

31 Incomplete proceedings

- (1) In this clause, **matter** means any application, action, appeal, or proceeding commenced under Te Ture Whenua Māori Act 1993 that is not determined or completed by the commencement date.
- (2) If the matter, had it been commenced under this Act, would have been required to be referred to dispute resolution under **section 337(3)**,—
 - (a) the Maori Land Court or Maori Appellate may, with the consent of the parties, refer the matter to the chief executive for dispute resolution; and
 - (b) the provisions of **Part 9** apply accordingly.
- (3) Subclause (4) applies to a matter—
 - (a) that was commenced more than 2 years before the commencement date; and
 - (b) that has not been heard by the Māori Land Court (whether fully or partially); and
 - (c) for which there is provision under this Act for dealing with a matter of its kind.
- (4) The matter must be determined or completed by the Māori Land Court or Māori Appellate Court as if this Act had not been passed, except that a judge may convene a post judicial settlement in accordance with **section 422**.

32 Incomplete court orders

- (1) If an order made by the Māori Land Court or Māori Appellate Court under Te Ture Whenua Māori Act 1993 has not been drawn up, signed, and sealed in accordance with the Māori Land Court Rules before the commencement date,—
 - (a) Part 7 of those rules apply as if this Act had not been passed; and
 - (b) the order must be dated as if the date of the minute of the order were made in accordance with section 41(3) of Te Ture Whenua Māori Act 1993; and
 - (c) the order takes effect according to its tenor on and from the day on which it was pronounced orally in open court pursuant to section 41(1) of Te Ture Whenua Māori Act 1993.

- (2) If an order of the Māori Land Court or Māori Appellate Court under Te Ture Whenua Māori Act 1993 is made subject to the performance of any conditions and those conditions have not been fulfilled by the commencement date,—
- (a) **section 406** of this Act applies as if the order had been made under this Act; and
 - (b) the order takes effect according to its tenor on and from the date that all outstanding conditions have been fulfilled.

Schedule 2
**Default decision-making process for decisions requiring agreement
of owners of Māori freehold land**

s 51

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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 169**.

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 4**; 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 may apply to have notice of proposal struck out

- (1) If a governance body or the chief executive receives a notice of proposal that the governance body or chief executive considers is frivolous or vexatious or is not made in good faith,—
- (a) the governance body or chief executive may apply to the court to have the notice of proposal struck out; and
 - (b) for the purpose of calculating the time frames set out in **clause 11(1) and (2)**, the decision-making process is deemed to commence on the date that the court decides the application.
- (2) The court may strike out the notice of proposal if the court is satisfied that the proposal is frivolous or vexatious or is not made in good faith.

11 Governance body or chief executive to arrange meeting of owners

- (1) In the case of a decision to be made by the owners of Māori freehold land that is not managed under a governance agreement, the chief executive must, within 1 month after the decision-making process is commenced, make arrangements for the owners of the affected land to meet and consider the proposal.
- (2) In the case of a decision to be made by the owners of Māori freehold that is managed under a governance agreement, the governance body must make arrangements for the owners of the affected land to meet and consider the proposal—
- (a) at the next scheduled general meeting of owners; or
 - (b) at a special general meeting of owners convened to consider the proposal before the next scheduled general meeting of owners.
- (3) 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.
- (4) The governance body or chief executive must also give notice of the matters set out in **subclause (2)**—
- (a) on an Internet site to which the public have free access; and
 - (b) using any other method that the chief executive or governance body considers is reasonably likely to bring the notice to the attention of the owners of the land.

12 Meeting of owners

- (1) An owner of Māori freehold land may attend a meeting of owners arranged under **clause 11**—
- (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.

13 Voting on proposals

- (1) The governance body or chief executive must appoint an independent returning officer to receive and count votes on a proposal.
- (2) 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 26** (private land other than Māori land may be declared Māori freehold land), **section 32** (court recommendation to reserve whenua tāpui), or **section 286** (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)**.
- (3) 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.
- (4) 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).

14 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 on a proposal,—
 - (a) the person who arranged the meeting of owners must—
 - (i) endeavour to notify all the owners of the result; and
 - (ii) if the person is the governance body, notify the chief executive of the result so that it can be recorded in the Māori land register; and
 - (b) the chief executive must record the result in the Māori land register.
- (3) If the proposal has passed (*see* **clause 13(4)**), the decision that is the subject of the proposal must be treated as having been made on the day on which the result of the vote on the proposal is recorded in the Māori land register.

Schedule 3

Matters relating to governance bodies

ss 171, 174, 175, 176, 177, 169

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Part 5

Governance certificates and rangatōpū certificates

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1 Interpretation

In this schedule,—

existing owners, in relation to a registered governance agreement, means the owners of the Māori freehold land governed under the agreement

governed Māori freehold land means the Māori freehold land that is managed under a registered governance agreement

incoming Māori freehold land means Māori freehold land that is not managed under a registered governance agreement, but for which a governance body is to be appointed

incoming owners means the owners of the incoming Māori freehold land.

Part 1

Process for appointing governance body

2 Overview

- (1) This Part sets out the process for appointing a governance body for Māori freehold land that is not already managed under a governance agreement, which is referred to in this schedule as the **incoming Māori freehold land**.
- (2) The process begins with the owners of the incoming Māori freehold making the preliminary decisions set out in **clause 3**.
- (3) The process then differs depending on whether the incoming Māori freehold land is to be—
 - (a) managed under a new governance agreement as the core of an asset base containing no other Māori freehold land, in which case **clauses 5 to 7** apply; or
 - (b) incorporated into an asset base that is already managed under a registered governance agreement, and managed under a replacement governance agreement, in which case **clauses 9 to 11** apply.

- (4) The final step in the process is for the proposed governance body to apply to the chief executive to register the governance agreement. The application requirements are set out in **Part 4** of this schedule.

3 Preliminary decisions

Type of governance body

- (1) The incoming owners must decide which type of governance body, of the types set out in **section 168(1)**, they wish to appoint.

Form of governance body (if body is to be rangatōpū)

- (2) If the incoming owners decide to establish a rangatōpū for the purpose of appointing it as a governance body, the owners must decide whether the rangatōpū is to be a body corporate or a private trust.
- (3) If the entity to be established as a rangatōpū is already registered as a body corporate, the rangatōpū must be established as a body corporate.
- (4) If the entity to be established as a rangatōpū is already a trust established under an existing trust deed, the rangatōpū may be established as a body corporate or a private trust.

Separate or combined governance agreement (if governance body is already party to an agreement)

- (5) **Subclauses (6) and (7)** apply if the incoming owners decide to appoint a governance body that is already a party to a registered governance agreement.
- (6) If the governance body is an existing statutory body or a representative entity, the incoming owners must decide whether the incoming Māori freehold land is to be managed—
- (a) as the core of an asset base containing no other Māori freehold land (*see clauses 5 to 7*); or
 - (b) as part of an asset base that includes the incoming Māori freehold land and the governed Māori freehold land (*see clauses 9 to 11*).
- (7) If the governance body is a Māori incorporation that is continued as a governance body by **section 170**, the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, or a rangatōpū,—
- (a) the governance body must not be a party to more than 1 governance agreement; and
 - (b) the incoming land must be managed as part of an asset base that includes the incoming Māori freehold land and the governed Māori freehold land.

Process if incoming Māori freehold land to be core of separate asset base

4 When clauses 5 to 7 apply

Clauses 5 to 7 apply if the proposed governance body is to manage the incoming Māori freehold land as the core of an asset base containing no other Māori freehold land. This will be the case if the proposed governance body is any of the following:

- (a) a rangatōpū to be established by the incoming owners; or
- (b) an existing statutory body or a representative entity that—
 - (i) is not already managing other Māori freehold land under a registered governance agreement; or
 - (ii) is already managing other Māori freehold land under a registered governance agreement, but will manage the incoming Māori freehold land under a different governance agreement from the governed Māori freehold land.

5 Approve governance agreement

- (1) The incoming owners must approve a governance agreement that complies with **Schedule 4**.
- (2) If the proposed governance body is an entity to be established as a rangatōpū that is already a trust established under an existing trust deed, the incoming owners must ensure that the terms of the trust are set out in a trust deed that complies with **Schedule 4**.
- (3) A decision of the owners of a parcel of Māori freehold land to approve a governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land.

6 Appoint kaitiaki

- (1) This clause applies only if the proposed governance body is a rangatōpū.
- (2) The incoming owners must approve the appointments of at least 3 kaitiaki who are eligible under **section 225** to hold that position.
- (3) If the entity to be established as a rangatōpū is already registered as a body corporate or operating under an existing trust deed, the incoming owners may approve existing directors or trustees as kaitiaki, appoint new kaitiaki, or both.
- (4) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 322**, which must be applied as if any reference in those provisions to Māori freehold land managed under a governance agreement were references to the Māori freehold land that the governance body will manage if it is appointed.

7 Register governance agreement

The proposed governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the governance agreement.

Process if incoming Māori freehold land to be incorporated with existing asset base

8 When clauses 9 to 11 apply

Clauses 9 to 11 apply if the proposed governance body is already managing Māori freehold land under a governance agreement and is to manage the incoming Māori freehold land under the same governance agreement as the governed Māori freehold land. This—

- (a) will be the case if the proposed governance body is a Māori incorporation that is continued as a governance body by **section 170**, the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, or a rangatōpū (because these governance bodies must not be party to more than 1 governance agreement); and
- (b) may be the case if the proposed governance body is an existing statutory body or a representative entity.

9 Approve replacement governance agreement

- (1) The incoming owners and the existing owners must both agree and approve the governance agreement that is to replace the registered governance agreement.
- (2) The asset base to be managed under the replacement governance agreement must include the same governed Māori freehold land that is managed under the registered governance agreement, as well as the incoming Māori freehold land. This subclause does not limit **section 200 or 201**.
- (3) The governance body must comply with the registered governance agreement in seeking the existing owners' approval of the replacement governance agreement.
- (4) The replacement governance agreement must comply with **Schedule 4**.
- (5) A decision of the owners of a parcel of Māori freehold land to approve the replacement governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land.

10 Approve kaitiaki appointments

- (1) This clause applies only if the proposed governance body is a Māori incorporation that is continued as a governance body by **section 170**, the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, or a rangatōpū.

- (2) The incoming owners and the existing owners must approve the appointments of at least 3 kaitiaki who are eligible under **section 225** to hold that position.
- (3) The owners may approve existing kaitiaki, appoint new kaitiaki, or both.
- (4) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 322**, which must be applied as if any reference in those provisions to Māori freehold land managed under a governance agreement were references to the Māori freehold land that the governance body will manage if it is appointed.

11 Register replacement governance agreement

The governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the replacement governance agreement.

Part 2

Process for Māori incorporation or trust to become rangatōpū

12 When clauses 13 to 16 apply

Clauses 13 to 16 apply if a governance body that is a Māori incorporation referred to in **section 170** or a trust referred to in **section 171** wishes to become a rangatōpū.

13 Preliminary decisions

- (1) The existing owners must decide whether the rangatōpū is to be a body corporate or a private trust.
- (2) If the governance body is a Māori incorporation, the rangatōpū must be a body corporate.
- (3) If the governance body is a trust, the rangatōpū may be a body corporate or a private trust.

14 Approve replacement governance agreement

- (1) The existing owners must agree and approve a governance agreement that is to replace the registered governance agreement.
- (2) The asset base to be managed under the replacement governance agreement must include the same governed Māori freehold land that is managed under the registered governance agreement. This subclause does not limit **section 200 or 201**.
- (3) The governance body must comply with the registered governance agreement in seeking the existing owners' approval of the replacement governance agreement.
- (4) The replacement governance agreement must comply with **Schedule 4**.

- (5) A decision of the owners of a parcel of Māori freehold land to approve the replacement governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land.

15 Approve kaitiaki appointments

- (1) The existing owners must approve the appointments of at least 3 kaitiaki who are eligible under **section 225** to hold that position.
- (2) The owners may approve existing kaitiaki, appoint new kaitiaki, or both.
- (3) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 322**.

16 Register replacement governance agreement

The governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the replacement governance agreement.

Part 3

Process for governance bodies to amalgamate

17 When clauses 18 to 20 apply

Clauses 18 to 20 apply if 2 or more governance bodies of the kinds referred to in **section 175** wish to amalgamate to form a new rangatōpū.

18 Approve amalgamated governance agreement

- (1) The existing owners in relation to the governance agreement of each amalgamating governance body must agree and approve the governance agreement that is to replace the registered governance agreements.
- (2) The asset base to be managed under the amalgamated governance agreement must include the same governed Māori freehold land that is managed under each registered governance agreement. This subclause does not limit **section 200 or 201**.
- (3) Each amalgamating governance body must comply with its registered governance agreement in seeking the existing owners' approval of the amalgamated governance agreement.
- (4) The amalgamated governance agreement must comply with **Schedule 4**.
- (5) A decision of the owners of a parcel of Māori freehold land to approve the amalgamated governance agreement that applies to the parcel requires the agreement of the owners who together hold more than 50% of the participating owners' total share in that land.

19 Approve kaitiaki appointments

- (1) The existing owners in relation to the registered governance agreement of each amalgamating governance body must approve the appointments of at least 3 kaitiaki who are eligible under **section 225** to hold that position.
- (2) The existing owners may approve any kaitiaki of an amalgamating governance body as kaitiaki of the amalgamated governance body, appoint new kaitiaki, or both.
- (3) Each decision of the incoming owners to appoint, or approve the appointment of, a kaitiaki must be made in accordance with the process described in the governance agreement provisions that are prescribed under **section 322**, which must be applied as if any reference in those provisions to Māori freehold land managed under a governance agreement were references to the Māori freehold land that the amalgamated governance body will manage under the amalgamated governance agreement.

20 Register amalgamated governance agreement

The proposed amalgamated governance body must apply to the chief executive in accordance with **Part 4** of this schedule to register the amalgamated governance agreement.

Part 4**Requirements for application to register governance agreement****21 Overview**

- (1) This Part sets out the requirements for an application to the chief executive to register a governance agreement.
- (2) The general requirements are set out in **clause 22**.
- (3) The additional requirements then differ depending on the circumstances, as set out in **clauses 23 to 26**.

22 General requirements

Each application to register a governance agreement must—

- (a) include a governance agreement that complies with **Schedule 4**; and
- (b) state the name and contact details of each kaitiaki; and
- (c) be signed by each kaitiaki; and
- (d) include a statutory declaration by each kaitiaki—
 - (i) that the information in the application is complete and correct; and
 - (ii) that the applicable procedural requirements of this schedule have been satisfied; and

- (e) identify the Māori freehold land, other 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 195**); and
- (f) identify any known lease, licence, mortgage, easement, or other interest that affected the land, assets, or liabilities referred to in **paragraph (e)** immediately before the vesting.

23 Additional requirements depending on type of governance body

Rangatōpū

- (1) If the governance body is a rangatōpū, the application must—
 - (a) include a statutory declaration by each kaitiaki that he or she is eligible to be a kaitiaki; and
 - (b) if the rangatōpū is not yet registered as a rangatōpū,—
 - (i) include a request that the rangatōpū be registered under the name stated in the application; and
 - (ii) state whether the rangatōpū is to be a body corporate or a private trust; and
 - (iii) if the rangatōpū is to be a body corporate, state whether it is already registered as a body corporate under another enactment and include evidence of that registration, if applicable.

Representative entity

- (2) If the governance body is a representative entity, the application must include a declaration by 1 or more kaitiaki 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) if the entity has an existing trust deed, constitution, or other governing document, that document permits (whether expressly or by implication) the entity to enter into a governance agreement.

Māori incorporation, ahu whenua trust, whenua tōpū trust

- (3) If the proposed governance body is a Māori incorporation that is continued as a governance body by **section 170** or the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, the application must include a statutory declaration by each kaitiaki that he or she is eligible to be a kaitiaki.

24 Additional requirements if governance body is replacing its registered governance agreement

- (1) If a governance body applies to register a governance agreement in place of its registered governance agreement, the application must—
 - (a) identify the registered governance agreement that is to be replaced; and
 - (b) include a statutory declaration by 1 or more kaitiaki that the replacement agreement has been prepared and agreed to in accordance with the requirements of the registered agreement; and
 - (c) if the replacement agreement reflects a change in the governance body's holdings of Māori freehold land, comply with whichever of **subclauses (2) or (3)** is applicable; and
 - (d) include a request to cancel the registered governance agreement and register the replacement governance agreement in its place.
- (2) If the replacement governance agreement reflects a change in the governance body's holdings of Māori freehold land that is the result of the owners of some of the governed Māori freehold land revoking 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 182(2)**; and
 - (b) include a copy of the distribution scheme confirmed by the court under **section 219**.
- (3) If **section 200** applies (a governance body decides to hold land as Māori freehold land), the application must include a copy of the allocation scheme confirmed by the court under that section.

25 Additional requirements if governance body is being replaced

If the asset base to be managed under the governance agreement is already being managed by another governance body under a governance agreement that is to be cancelled (*see* **section 184**), the application must include a request to cancel the existing governance agreement.

26 Additional requirements if amalgamated governance agreement replaces 2 or more registered governance agreements

If a proposed amalgamated governance body (*see* **Part 3** of this schedule) applies to register an amalgamated governance agreement, the application must—

- (a) identify the registered governance agreement of each amalgamating governance body; and
- (b) include a statutory declaration by each kaitiaki that the replacement agreement has been prepared and agreed to in accordance with the requirements of the registered governance agreements; and

- (c) include a request to cancel the registered governance agreements and register the amalgamated governance agreement in their place; and
- (d) include a request that the amalgamated governance body be registered as a rangatōpū.

Part 5

Governance certificates and rangatōpū certificates

27 Governance certificate

- (1) A governance certificate issued by the chief executive 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 (unless **subclause (2) or (3)** applies); and
 - (f) include sufficient details to identify any previous versions of the agreement registered under this Act.
- (2) If the governance body is a Māori incorporation that is continued as a governance body by **section 170**, the certificate must—
 - (a) state the date on which the Māori incorporation was originally constituted, whether by court order or enactment; and
 - (b) include sufficient details to identify any prior names of the Māori incorporation, and any subsequent court orders affecting its powers or legal capacity.
- (3) If the governance body is the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, the certificate must—
 - (a) state the date on which the trust was originally constituted, whether by court order or statute; and
 - (b) include sufficient details to identify any prior names of the trust, and any subsequent court orders affecting its powers or legal capacity.

28 Rangatōpū certificate

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; and
- (d) identify any names by which the rangatōpū was formerly known; and
- (e) if the rangatōpū is, or has at any time been, a Māori incorporation that is continued as a governance body by **section 170** or the trustees of an ahu whenua trust or whenua tōpū trust who are continued as a governance body by **section 171**, state the date on which, and identify the method by which, the Māori incorporation or trust was first established.

Schedule 4 Governance agreements

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1 Overview

This schedule sets out the requirements for governance agreements as follows:

- (a) **Part 1** sets out the requirements that apply if the governance body is a Māori incorporation:
- (b) **Part 2** sets out the requirements that apply if the governance body is an ahu whenua trust or a whenua tōpū trust:
- (c) **Part 3** sets out the requirements that apply in any other case:
- (d) **Part 4** sets out the provisions relating to decision-making that are to be included in, or read into, all governance agreements.

2 Governance agreements must be consistent with this Act

If there is an inconsistency between the terms or provisions of a governance agreement and a provision of this Act, this Act prevails.

**Part 1
Māori incorporations****3 Application of this Part**

This Part applies to a governance agreement if the governance body that is a party to the agreement is a Māori incorporation.

4 Form of governance agreement

The governance agreement must be in the form of a constitution (*see clause 2 of Schedule 1*).

5 Contents of governance agreement

The governance agreement must contain, or be read as if it contained,—

- (a) the provisions that are prescribed by regulations (the **prescribed provisions**), as amended or replaced—
 - (i) before the commencement of this Act under section 268(3) of Te Ture Whenua Māori Act 1993; or
 - (ii) on or after the commencement of this Act in accordance with the process for amending the agreement that is set out in the prescribed provisions; and
- (b) the provisions relating to decision-making that are required by **Part 4** of this schedule.

Part 2**Ahu whenua trusts and whenua tōpū trusts****6 Application of this Part**

This Part applies to a governance agreement if the governance body that is a party to the agreement is an ahu whenua trust or a whenua tōpū trust.

7 Form of governance agreement

The governance agreement must be in the form of a trust deed.

8 Contents of governance agreement

The governance agreement must contain, or be read as if it contained,—

- (a) the terms of the trust—
 - (i) as set out in the instrument constituting the trust; and

- (ii) including any amendments to that instrument made under Te Ture Whenua Māori Act 1993 before its repeal by this Act; and
 - (iii) include any approved extension of the activities of the trust made under section 229 of Te Ture Whenua Māori Act 1993 before its repeal by this Act; and
- (b) the provisions that are prescribed by regulations (the **prescribed provisions**); and
 - (c) the provisions relating to decision-making that are required by **Part 4** of this schedule.

Part 3

Other governance bodies

9 Application of this Part

This Part applies to a governance agreement if the governance body that is a party to the agreement is—

- (a) a rangatōpū; or
- (b) a representative entity; or
- (c) an existing statutory body.

10 Form of governance agreement

The governance agreement must be in the form of—

- (a) a trust deed, if the body is a rangatōpū in the form of a private trust
- (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.

11 Contents of governance agreement

The governance agreement must contain, or be read as if it contained,—

- (a) a statement of the objects of the agreement, in terms of the owners' vision and priorities (whether cultural, economic, or environmental) for the land; and
- (b) the provisions that are prescribed by regulations (the **prescribed provisions**); and
- (c) the provisions relating to decision-making that are required by **Part 4** of this schedule.

Part 4

All governance bodies: provisions relating to decision-making

12 Application of this Part

This Part applies to all governance agreements.

13 Decision-making processes

The 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)**.

14 Decisions requiring minimum level of owner agreement

- (1) The governance agreement must require, or be read as if it requires, that a decision to revoke the governance body's appointment to manage a parcel of Māori freehold land be agreed to by the owners who together hold 75% or more of the participating owners' total share in the land.
- (2) For a decision set out in the first column of the table below, the 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—

| Matter for decision by governance body | Minimum level of owner agreement |
|--|---|
| Applying for an order declaring that land ceases to be Māori freehold land (<i>see section 28</i>) | The agreement of owners who together hold a 75% or more share in the land |
| Converting separate ownership interests in Māori freehold land into collective ownership (<i>see section 48</i>) | The agreement of owners who together hold a 75% or more share in the land |
| Offering Māori freehold land for sale (<i>see section 99</i>) | The agreement of owners who together hold a 75% or more share in the land |
| Exchanging Māori freehold land for something else (<i>see section 101</i>) | The agreement of owners who together hold more than a 50% share in the land |
| Agreeing to a disposition of Māori freehold land under another enactment (<i>see section 106</i>) | The agreement of owners who together hold a 75% or more share in 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 section 109</i>) | The agreement of owners who together hold more than a 50% share in the land |
| Partitioning Māori freehold land (<i>see section 112</i>) | The agreement of owners who together hold more than a 50% share in the land |
| Amalgamating Māori freehold land (<i>see section 117</i>) | The agreement of owners who together hold more than 50% of the participating owners' total share in the land |
| Aggregating ownership of Māori freehold land (<i>see section 121</i>) | The agreement of owners who together hold 75% or more of the participating owners' total share in the land |
| Cancelling the aggregation of the ownership of Māori freehold land (<i>see section 124</i>) | The agreement of owners who together hold 75% or more of the participating owners' total share in the land |
| Granting a lease over Māori freehold land for more than 52 years (<i>see section 127(6)</i>) | The agreement of owners who together hold more than a 50% share in the land |
| Setting a land management plan for an asset base (<i>see section 204</i>) | The agreement of owners who together hold 75% or more of the participating owners' total share in the land |
| If the governance body is a Māori incorporation, adjusting the shareholding of the incorporation (<i>see section 234</i>) | The agreement of owners who together hold more than a 50% share in the land |
| Applying for an order to change the name of a parcel of Māori freehold land (<i>see section 286</i>) | The agreement of more than 50% of the participating owners of the land (casting votes of equal weight) |
| Appointing an agent under section 65(5) of the Forests Act 1949 | The agreement of owners who together hold 75% or more of the participating owners' total share in the land |

Schedule 5
Information to be recorded in Māori land register

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Part 1

Information relating to parcels of Māori customary land

1

2 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 16**.

Part 2**Information relating to parcels of Māori freehold land****3 General information relating to Māori freehold land**

- (1) The legal description of the parcel.
- (2) The legal owner of the parcel.
- (3) Details of the following that are known to the chief executive:
 - (a) any lease, licence, *profit à prendre*, mortgage or charge, easement, kawenata tiaki whenua, or other interest that affects the parcel:
 - (b) any disposition of such an interest:
 - (c) any other right, obligation, or enactment that affects the parcel and is eligible for notation on the land title register under the Land Transfer Act 1952.
- (4) If a parcel is registered in the name of a trust or a tupuna under **section 289**,—
 - (a) a statement to that effect; and
 - (b) the name of the trust or the tupuna.

4 Information about beneficial interests in parcel

- (1) The nature of each beneficial interest in the parcel and,—
 - (a) for a beneficial interest in the freehold estate with more than 1 owner, whether the owners hold the interest as tenants in common or as joint tenants; and
 - (b) for an individual freehold interest held by joint tenants, that the interest is so held.
- (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 59 and 60*); 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 77*); and
 - (d) if the interest is held by a class of collective owners in accordance with **section 48**, a description of the class of collective owners.
- (3) For each beneficial interest in a parcel that is managed under a governance agreement by a governance body that is a Māori incorporation (*see section 170*),—
- (a) a statement that if there is an inconsistency between the Māori land register and the Māori incorporation's share register in relation to the details relating to the interest,—
 - (i) the details recorded in the share register are presumed to be correct in the absence of proof to the contrary; and
 - (ii) the court may make a declaration as to the correct details under **section 235**; and
 - (b) the details of any declaration relating to the interest that is made by the court under **section 235**.
- (4) For each beneficial interest subject to an entitlement of the type described in **section 152 or 251**,—
- (a) the name of the individual on whom the entitlement is conferred; and
 - (b) the period for which the entitlement exists.

5 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 a kaiwhakahaere is appointed to act on behalf of the owners of the parcel,—
 - (a) the name of the kaiwhakahaere; and
 - (b) the period for which the kaiwhakahaere has been appointed; and
 - (c) the registered office or principal place of business of the kaiwhakahaere, and the address for service; and
 - (d) a copy of the order of appointment for the kaiwhakahaere (*but see section 270(3)(a)*).
- (3) The name of the administering body (if any) of the parcel, if it is whenua tāpui.

6 Authority to receive notices to owners

Details of who, under **section 319(1)**, is authorised to receive notices to be given to the owners of the parcel.

7 Decisions relating to Māori freehold land

The details of any decisions relating to the parcel that are notified to the chief executive under **clause 14 of Schedule 2**.

Part 3**Information relating to governance agreements****8 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) The type of governance body (of the types set out in **section 168(1)**).
- (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.

9 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.

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 177**.
- (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 Māori incorporation, an ahu whenua trust, or a 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 administering body's registered office or principal place of business, and the address for service.
- (4) Sufficient details to identify the land that the administering body administers as whenua tāpui.
- (5) The text of the declaration under **subpart 2 of Part 2** reserving the whenua tāpui.
- (6) If any of the land that the administering body administers as whenua tāpui is registered in the name of a trust or a tupuna under **section 289**,—
 - (a) a statement to that effect; and
 - (b) the name of the trust or 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 6

Procedural provisions relating to Maori Fisheries Act 2004

s 350

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 348 or 349** has standing in relation to the powers provided for in those sections and this schedule.
- (2) A request for advice under **section 348**, or an application for a determination under **section 349**, 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 348 or 349** by applying the same considerations as would be relevant under the Maori Fisheries Act 2004.
- (5) **Sections 348 and 349** do not limit the right of any person to appeal against any decision of the court.
- (6) Nothing in this clause or in **section 348 or 349** 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 348 or 349** 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 348** 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 348**, 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 397** 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 349** 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 349**, 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 397** 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 397** 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 348 or 349** 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 411 or 412**:
 - (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,—
- (a) Te Ohu Kai Moana Trustee Limited must hold the assets that are subject to the order in trust for that mandated iwi organisation until—
 - (i) the date specified in the order; or
 - (ii) the conditions specified in the order are met; or
 - (iii) the order ceases to have effect; and
 - (b) the mandated iwi organisation is entitled to receive any income earned from those assets for the period that they are held in trust, except that Te Ohu Kai Moana Trustee Limited is entitled to deduct the reasonable costs of administering the assets.

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 7
**Procedural provisions relating to Maori Commercial Aquaculture
Claims Settlement Act 2004**

s 354

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 352 or 353** has standing in relation to the powers provided for in this schedule.
- (2) A request for advice under **section 352**, or an application for a determination under **section 353**, 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 352 or 353** by applying the same criteria as would be applied under the Maori Commercial Aquaculture Claims Settlement Act 2004.
- (5) **Sections 352 and 353** do not limit the right of any person to appeal against any decision of the court.
- (6) Nothing in this clause or in **section 352 or 353** 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 352** 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 352**, 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 397** 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 353** 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 353**, 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 397** 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 422** 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 352 or 353** 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 411 or 412**:
 - (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,—
- (a) the trustee must hold the assets that are subject to the order in trust for that iwi aquaculture organisation until—
 - (i) the date specified in the order; or
 - (ii) the conditions specified in the order are met; or
 - (iii) the order ceases to have effect; and
 - (b) the iwi aquaculture organisation is entitled to receive any income earned from those assets for the period that they are held in trust, except that the trustee is entitled to deduct the reasonable costs of administering the assets.

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 8

Consequential amendments to other enactments

s 340(3)

Part 1

Amendments to Acts

Administration Act 1969 (1969 No 52)

In section 2(1), definition of **Maori**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 77, item 8, column 2, insert at the end:

However, a parcel, or a share of a parcel, of Māori freehold land does not belong to the Crown as *bona vacantia*, but is instead subject to **section 291 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

Adoption Act 1955 (1955 No 93)

In section 2, definition of **Maori**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Animal Welfare Act 1999 (1999 No 142)

In section 2(1), definition of **marae**, replace paragraph (a)(i) with:

- (i) land that is reserved for the purposes of a marae or meeting place under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** and that is used for the purposes for which it is reserved; or

In section 2(1), definition of **marae**, paragraph (b), replace “for which the land is so set apart” with “of a marae or meeting place”.

Biosecurity Act 1993 (1993 No 95)

In section 128(2), replace “section 181 of Te Ture Whenua Maori Act 1993” with “**sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

In Schedule 1A, delete the item relating to Ministry of Justice (Maori Land Court Unit).

In Schedule 1A, insert in its appropriate alphabetical order:

| | | |
|------------------------------|-------------------|---------------------------------------|
| Land Information New Zealand | Death information | To identify deceased Maori landowners |
|------------------------------|-------------------|---------------------------------------|

Building Act 2004 (2004 No 72)

In section 73(1)(b), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

In section 74(1)(a), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

In section 74(4), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

In section 395, replace “Part 10 of Te Ture Whenua Maori Act 1993” with “**Sections 317 to 320 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 395, replace “section 181(4)” with “**section 320**”.

Charities Act 2005 (2005 No 39)

In section 5(2)(b), replace “Maori reservation referred to in Te Ture Whenua Maori Act 1993 (Maori Land Act 1993)” with “whenua tāpui referred to in **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Civil Aviation Act 1990 (1990 No 98)

In section 25(3)(b), replace “and the provisions of Part 10 of Te Ture Whenua Maori Act 1993 shall apply in respect of notices served in the circumstances set out in that Part of that Act” with “and **sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** apply in respect of notices served in the circumstances set out in those sections”.

Climate Change Response Act 2002 (2002 No 40)

In section 4(1), definition of **landowner**, paragraph (b)(ii), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 13 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 4(1), definition of **landowner**, paragraph (b)(ii), replace “under Te Ture Whenua Maori Act 1993” with “under **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 4(1), definition of **landowner**, paragraph (b)(iii), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 4(1), definition of **Maori land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 168(1)(g), replace “a Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

In section 183(7), definition of **professional trustee**, replace paragraph (b) with:

- (b) includes a trustee in whom property is vested under Te Ture Whenua Maori Act 1993. If the trustee is continued as a governance body under

Climate Change Response Act 2002 (2002 No 40)—*continued*

Parts 1 to 10 of Te Ture Whenua Māori Act 2015, the statutory declaration referred to in subsection (3)(e) must be made by a kaitiaki of the governance body.

In section 195(1)(a), replace “the Registrar of the Maori Land Court in whose jurisdiction the land is situated” with “the chief executive responsible for the Māori land register”.

Companies Act 1993 (1993 No 105)

In section 324, insert:

- (7) A parcel, or a share of a parcel, of Māori freehold land does not vest in the Crown under this section, but is instead subject to **section 291 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

Conservation Act 1987 (1987 No 65)

In section 2(1), definition of **Maori**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 2(1), definition of **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 2(1), definition of **private land**, paragraph (a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Crown Minerals Act 1991 (1991 No 70)

In section 2(1), definition of **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 25A(2), replace “the Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”.

In section 25A(3), replace “the Registrar of the Māori Land Court must enter in his or her records the particulars of the permit” with “the chief executive responsible for the Māori land register must enter the particulars of the permit in the register”.

In section 36(5C), replace “the Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”.

In section 36(5D), replace “the Registrar of the Māori Land Court must enter in his or her records the particulars of that certificate” with “the chief executive responsible for the Māori land register must enter the particulars of the certificate in the register”.

In section 51(1)(a), replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

Crown Proceedings Act 1950 (1950 No 54)

In section 2(1), definition of **court**, replace “constituted under Te Ture Whenua Maori Act 1993” with “continued by **Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Electricity Act 1992 (1992 No 122)

In section 2(1), definition of **road**, paragraph (c), delete “under section 320 of that Act”.

In section 168(1), replace “may be served on the Registrar of the Maori Land Court in accordance with Part 9 of the Maori Affairs Amendment Act 1974, and the provisions of that Part shall apply accordingly” with “must be given in accordance with **sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** and **section 320 of those Parts** applies accordingly”.

In section 168(2), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015.**”

Electronic Transactions Act 2002 (2002 No 35)

In the Schedule, Part 4, paragraph (6), replace “Te Ture Whenua Maori Act 1993” with **Parts 11 to 16 of Te Ture Whenua Māori Act 2015.**

Fencing Act (1978 No 50)

In section 23(2), replace “section 26 of Te Ture Whenua Maori Act 1993” with **section 304 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015.**

Fisheries Act 1996 (1996 No 88)

In section 200(1), replace “Maori reservation constituted by or under the Maori Affairs Act 1953 or Part 17 of Te Ture Whenua Maori Act 1993” with “whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 200(3), replace “Maori reservation” with “whenua tāpui”.

Forests Act 1949 (1949 No 19)

In section 2(1), definition of **specified Maori land**, replace “land having the status of Maori land or General land owned by Maori, as defined in section 4 of Te Ture Whenua Maori Act 1993” with “land having the status of Māori land, or of private land (other than Māori land) that is beneficially owned by a Māori or by a group of persons of whom a majority are Māori, as those terms are defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 65(5) with:

- (5) Despite anything contained in **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**,—
- (a) the provisions of this section apply to Maori land as defined by that Act; and
 - (b) the following persons may appoint the Minister or Crown Forestry Management Limited as their agent:
 - (i) if the land is managed under a governance agreement, the governance body; or

Forests Act 1949 (1949 No 19)—*continued*

- (ii) if the land is not managed under a governance agreement,—
 - (A) owners who together hold 75% or more of the participating owners' total share in the land; or
 - (B) a kaiwhakahaere appointed under section 135(1)(b) of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** for the purpose of appointing an agent under this section.

Replace section 67K(5) with:

- (5) If the land concerned is Māori land (as defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**) and the land is not within the boundaries of a parcel of land identified on a plan lodged in terms of subsection (4), the owner must request the chief executive responsible for the Māori land register to record a notation of the sustainable forest management plan on that register in relation to the land. The chief executive must record the notation accordingly and the notation is sufficient compliance with the requirements of this section.

In section 67K(11),—

- (a) replace “District Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”; and
- (b) replace “District Registrar shall” with “the chief executive must”.

Replace section 67ZD(3) with:

- (3) If a forest sink covenant relates to Māori land (as defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**) for which no computer freehold register or provisional register has been created, the chief executive responsible for the Māori land register must record a notation of the forest sink covenant on that register in relation to the land.

In Schedule 2, clause 3(2)(b), replace “the appropriate Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”.

Gas Act 1992 (1992 No 124)

In section 2(1), definition of **road**, paragraph (c), delete “under section 320 of that Act”.

In section 53(1), replace “may be served on the Registrar of the Maori Land Court in accordance with Part 10 of Te Ture Whenua Maori Act 1993, and the provisions of that Part shall apply accordingly” with “must be given in accordance with **sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** and **section 320 of those Parts** applies accordingly”.

In section 53(2), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015.**”

Government Roothing Powers Act 1989 (1989 No 75)

In section 71(5), replace “deposited in the office of the Registrar of the Maori Land Court who shall record it in the records of the court” with “provided to the chief executive responsible for the Māori land register, who must record it in the register”.

In section 94(d),—

- (a) replace “deposited in the office of the Registrar of the Maori Land Court” with “provided to the chief executive responsible for the Māori land register”; and
- (b) replace “the Registrar shall record the declaration and the certificate in the records of the court” with “the chief executive must record the declaration and the certificate in the register”.

In section 95(2), replace “the Registrar of the Maori Land Court, who shall record the certificate in the records of that court” with “the chief executive responsible for the Māori land register, who must record the certificate in the register”.

Replace section 95(3)(b) with:

- (b) if any of the land affected is Māori land, the chief executive responsible for the Māori land register, who must record the certificate in the register; and

Government Superannuation Fund Act 1956 (1956 No 47)

In section 72, definition of **Judge**, paragraph (d), replace “section 7 of Te Ture Whenua Maori Act 1993” with “**section 424 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 72, definition of **temporary Judge**, paragraph (d), replace “section 9 of Te Ture Whenua Maori Act 1993” with “**section 431 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 81A, definition of **Judge**, paragraph (d), replace “section 7 of Te Ture Whenua Maori Act 1993” with “**section 424 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 81A, definition of **temporary Judge**, paragraph (d), replace “section 9 of Te Ture Whenua Maori Act 1993” with “**section 431 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Hauraki Gulf Marine Park Act 2000 (2000 No 1)

In section 4, repeal the definition of **Maori land** and **Maori customary land**.

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)

In section 6, definition of **Māori land**, replace “given to Maori land in section 4 of Te Ture Whenua Maori Act 1993” with “given in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 67(8)(a), replace “the appropriate Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”.

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)—*continued*

Replace section 67(8)(b) with:

- (b) the chief executive must record the effect of the application in the register.

In section 68(8)(a), replace “the appropriate Registrar of the Māori Land Court” with “the chief executive responsible for the Māori land register”.

Replace section 68(8)(b) with:

- (b) the chief executive must record the effect of the application in the register.

Income Tax Act 2007 (2007 No 97)

In section CW 1, heading above subsection (2), replace “*Maori incorporation*” with “*governance body*”.

In section CW 1 2(b), replace “Maori incorporation” with “governance body”.

In section CW 1, list of defined terms,—

- (a) insert “governance body”; and
- (b) delete “Maori incorporation”.

In section DP 9 (2)(b), replace “Maori incorporation” with “governance body”.

In section DP 9, list of defined terms,—

- (a) insert “governance body”; and
- (b) delete “Maori incorporation”.

In section HF 2(2)(a) and (b), (3)(a) and (b), and (4), replace “Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993)” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section YA 1, definition of **charitable purpose**, replace “Maori reservation referred to in Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993)” with “whenua tāpui referred to in **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section YA 1, insert in its appropriate alphabetical order:

governance body is defined in **section 5** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**

In section YA 1, delete the definition of **Maori incorporation**.

In section YA 1, definition of **Maori land**, replace “the Maori Land Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section YA 1, definition of **Maori owners**, paragraph (b), replace “every Maori incorporation that has a beneficial interest in the land” with “every governance body that has a beneficial interest in Maori land bought by a forestry company”.

Joint Family Homes Act 1964 (1964 No 45)

In section 25(1),—

Joint Family Homes Act 1964 (1964 No 45)—*continued*

- (a) replace “Part 19 of the Maori Affairs Act 1953” with “**Part 4 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”; and
- (b) replace “the Registrar of the Maori Land Court to the effect that the application has been recorded in the records of the Maori Land Court” with “the chief executive responsible for the Māori land register to the effect that the application has been recorded in that register”.

In section 25(2), replace “the Maori Affairs Act 1953” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

KiwiSaver Act 2006 (2006 No 40)

In Schedule 1, clause 8(6), definition of **Maori land**, replace “the Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Land Act 1948 (1948 No 64)

In section 2, definition of **Maori** and **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Land Transfer Act 1952 (1952 No 52)

Replace section 10(c) with:

- (c) all Māori freehold land (as defined by **section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**):

Land Transfer Amendment Act 1963 (1963 No 61)

In section 21(b), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Land Transport Act 1998 (1998 No 110)

In section 2(1), definition of **premises**, replace “dwelling or Maori reservation constituted by or under the Maori Affairs Act 1953 or Part 17 of Te Ture Whenua Maori Act 1993” with “dwelling or whenua tāpui constituted by or under **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** or any corresponding former enactment”.

Land Transport Management Act 2003 (2003 No 118)

In section 5(1), definition of **Māori land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 5(1), definition of **Māori roadway**, delete “or to be laid out”.

Legal Services Act 2011 (2011 No 4)

Replace section 48(4)(b) to (d) with:

- (b) a governance body (within the meaning of **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**):

Legal Services Act 2011 (2011 No 4)—*continued*

- (c) a whānau trust (within the meaning of **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**):
- (c) a trust continued as an ahu whenua or whenua tōpū trust by **clause 173 of Schedule 1 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

In Schedule 1, clause 5(4), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Limitation Act 2010 (2010 No 110)

In section 4, definition of **Maori customary land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 19(2) with:

- (2) However,—
 - (a) section 28 is the only provision in Parts 2 and 3 that applies to Māori customary land; and
 - (b) sections 21 to 27 do not apply to Māori freehold land.

Repeal section 28(1).

In section 28(4), delete “section 344 of Te Ture Whenua Maori Act 1993, or” with “**section 316 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 28(4)(b), replace “Te Ture Whenua Maori Act 1993 or of any other Act” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015, Parts 11 to 16 of Te Ture Whenua Māori Act 2015, or any other Act**”.

Local Government Act 1974 (1974 No 66)

Replace section 324A(3) with:

- (3) In any case where land comprising or adjoining a roadway laid out pursuant to Part 14 of Te Ture Whenua Maori Act 1993 is Māori land (as defined by **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**) and the whereabouts of its owners is unknown, consent under subsection (2) may be obtained by giving notice in accordance with **sections 317 to 320 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

Local Government Act 2002 (2002 No 84)

In section 197(2), definition of **development contribution**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 205(d)(iii) with:

- (iii) the administering body of a whenua tāpui under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**, to enhance the whenua tāpui for cultural or other purposes:

Local Government Act 2002 (2002 No 84)—*continued*

In Schedule 11,—[]

Local Government (Rating) Act 2002 (2002 No 6)

In section 5, replace the definition of **Māori freehold land** with:

Māori freehold land has the meaning set out in **section 20** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**

In section 91, replace “general land” with “private land other than Māori land”.

Repeal section 92(3).

In section 92(4), replace “If subsection (2) or subsection (3) do not apply” with “If subsection (2) does not apply”.

In section 92(5), replace the definition of **trustee** with:

trustee includes a governance body registered under **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

In section 92(7), replace “Subsections (2), (3), and (4)” with “Subsections (2) and (4)”.

In section 94(2), []

In section 99(4), replace “Section 82 of Te Ture Whenua Maori Act 1993 does not” with “**Sections 287 and 415** of **Parts 11 to 16 of Te Ture Whenua Māori Act 2015** do not”.

Replace section 100(1)(i) with:

(i) the aronga/purpose set out in **section 3** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

In section 102, replace “the provisions of section 123 or section 124 of Te Ture Whenua Maori Act 1993, as the case may require, with the necessary modifications” with “**section 287** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.”

Replace section 108(2) with:

(2) If the Māori Land Court is satisfied that it would not be contrary to the interests of the owners to do so, it must, without further application, enforce the charging order by appointing a receiver under **section 416** of **Parts 11 to 16 of Te Ture Whenua Māori Act 2015** in respect of the relevant land for the purpose of enforcing the charging order.

In section 113(2), replace “the provisions of section 123 or section 124 of Te Ture Whenua Maori Act 1993, as the case may require, with any necessary modifications” with “**section 287** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.”

In Schedule 1, Part 1, item 12, replace “Land that is set apart under section 338 of Te Ture Whenua Maori Act 1993 or any corresponding former provision of that Act and” with “Land that is a whenua tāpui declared under **subpart 2 of Part 2** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** and”.

Local Government (Rating) Act 2002 (2002 No 6)—*continued*

In Schedule 1, Part 1, item 12, replace paragraph (b) with:

- (b) that is reserved for the common use and benefit of the people of New Zealand.

Local Legislation Act 1989 (1989 No 110)

In section 2, []

Maori Affairs Restructuring Act 1989 (1989 No 68)

In section 2(1), definition of **General land owned by Maori**, replace “any General land” with “any private land (other than Māori land)”.

In section 2(1), insert in its appropriate alphabetical order:

Māori land has the meaning given in **section 5** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**

In section 14(2), replace “General land” with “private land other than Māori land”.

In section 19(2)(b), replace “any General land owned for the benefit of Maori” with “any private land (other than Māori land) owned for the benefit of Māori”.

Replace section 19(5) and (6) with:

- (5) Land subject to this Part must not be alienated or partitioned, and any interest in such land must not be alienated, without the consent of the chief executive.
- (6) However, the chief executive’s consent is not needed for the acquisition by the Māori Trustee of any land or interest in land under any provision of this Act.

In section 49(4), replace “Maori incorporation as defined by section 4 of Te Ture Whenua Maori Act 1993” with “governance body as defined in **section 5** of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 64(2), replace “as General land or Maori freehold land” with “as Māori freehold land or otherwise”.

In section 73(1), delete “Nothing in Part 16 of Te Ture Whenua Maori Act 1993 shall apply with respect to surveys under this section.”

In section 79(2), replace “General land” with “private land other than Māori land”.

Maori Commercial Aquaculture Claims Settlement Act 2004 (2004 No 107)

In section 54(2), replace “section 26P of Te Ture Whenua Maori Act 1993” with “**section 352** of **Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In sections 54(3) and 55(2), replace “section 26Q of Te Ture Whenua Maori Act 1993” with “**section 353** of **Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Maori Education Foundation (Abolition) Act 1993 (1993 No 53)

In section 6(1), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 6(1), replace “Maori (within the meaning of section 4” with “Māori (within the meaning of **section 5**”.

In section 6(1)(a), replace “Maori freehold land (within the meaning of section 4” with “Māori freehold land (within the meaning of **section 20**”.

Replace section 6(2) with:

- (2) However, the power to gift or dispose of land or an interest under subsection (1) is subject to section 4A of the Maori Vested Lands Administration Act 1954 and section 10 of the Maori Reserved Land Act 1955.

In section 6(3), replace “Maori incorporation (within the meaning of section 4 of Te Ture Whenua Maori Act 1993)” with “governance body (within the meaning of **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

Maori Fisheries Act 2004 (2004 No 78)

In section 5, definition of **Maori**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 5, replace the definition of **tikanga Maori** with:

tikanga Māori means Māori customary values and practices

In section 182(2), replace “section 26B of Te Ture Whenua Maori Act 1993” with “**section 348 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In sections 182(3), (4), and (5), 183(2), and 185(1), replace “section 26C of Te Ture Whenua Maori Act 1993” with “**section 349 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 183(1)(e), replace “section 26M of Te Ture Whenua Maori Act 1993” with “**clause 11 of Schedule 6 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 187(1), replace “section 26C(d) of Te Ture Whenua Maori Act 1993” with “**section 349(d) of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Maori Housing Act 1935 (1935 No 34)

In section 2, definition of **court**, replace “constituted under Te Ture Whenua Maori Act 1993” with “continued by **Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 6(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Maori Housing Amendment Act 1938 (1938 No 17)

In section 3(3), replace “Notwithstanding the provisions of Part 21 of the Maori Affairs Act 1953” with “Despite **section 104(4) of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 21(7), replace “the Registrar of the Maori Land Court for filing with the orders of the court” with “the chief executive responsible for the Māori land register for recording in the register”.

In section 21(7), replace “the Registrar of the Maori Land Court to send” with “the chief executive responsible for the Māori land register to send”.

In section 25,—

- (a) replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”; and
- (b) replace “Maori reservation” with “whenua tāpui”.

Maori Purposes Act 1931 (1931 No 32)

In section 103(3), replace “a Maori reservation under the principal Act” with “a whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Maori Purposes Act 1959 (1959 No 90)

In section 3, definition of **the Trustees**, replace “the committee of management of any body corporate incorporated under Part 13 of Te Ture Whenua Maori Act 1993” with “the kaitiaki of any governance body registered under **Part 6 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Maori Purposes Act 1970 (1970 No 120)

In section 30, replace “subsection (9) of section 439 of the Maori Affairs Act 1953” with “**section 44 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.”

Maori Purposes Act 1975 (1975 No 135)

[S.21 in general]

Maori Purposes Act 1976 (1976 No 148)

In section 27, []

Maori Purposes Act 1978 (1978 No 70)

In section 11, []

Māori Purposes Act 2011 (2011 No 73)

In section 3, definition of **Maori Land Court**, replace “section 6 of Te Ture Whenua Maori Act 1993” with “**section 343 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Māori Purposes Act 2011 (2011 No 73)—*continued*

In section 4, replace “subsections (1) and (2)” with:

- (1) The Māori Land Court has jurisdiction to—
 - (a) appoint and remove trustees of the estate; and
 - (b) fix payments from the estate for the trustees’ fees and allowances.
- (2) In exercising its jurisdiction under **subsection (1)**, the Māori Land Court has the same powers as the High Court under the Trustee Act 1956.

Maori Reserved Land Act 1955 (1955 No 38)

Replace section 15A(8) with:

- (8) The chief executive responsible for the Māori land register must, in respect of each incorporation constituted pursuant to this section, register the Order in Council as the governance agreement by issuing a governance certificate that complies with **clause 27 of Schedule 3 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

Maori Reserved Land Amendment Act 1997 (1997 No 101)

Replace section 5(6) with:

- (6) The provisions implied in a lease by subsection (1) apply subject to—
 - (a) the provisions relating to the disposition of Māori freehold land by sale or exchange in **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; and
 - (b) the provisions relating to the alienation of Maori freehold land by lease in Te Ture Whenua Maori Act 1993 (which apply as if not repealed, instead of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**).

In section 8(5)(b), replace “a person that comes within the preferred classes of alienees under Te Ture Whenua Maori Act 1993” with “a preferred recipient of an owner of the leased land (as preferred recipient is defined by **section 95 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

In section 9(4)(a), replace “a person that comes within the preferred classes of alienees under Te Ture Whenua Maori Act 1993” with “a preferred recipient of a beneficiary of the trust whose trustees own the leased land (as preferred recipient is defined by **section 95 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**, which applies as if the beneficiary were an owner of the leased land)”.

In Schedule 1, clause 26, replace “a person who comes within the preferred classes of alienees under Te Ture Whenua Maori Act 1993” with “a preferred recipient of an owner of the leased land (as preferred recipient is defined by **section 95 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

Maori Trust Boards Act 1955 (1955 No 37)

Repeal section 24E.

Maori Trust Boards Act 1955 (1955 No 37)—continued

Replace section 24F with:

24F Board may contract to provide services to other bodies

A Board may contract to provide administrative, secretarial, accounting, or other services to any governance body (as defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**), trust, or other body if the majority of the owners of the Māori freehold land managed by the governance body or the majority of the beneficiaries or members of the trust or other body (as applicable) are beneficiaries of the Board.

Māori Trustee Act 1953 (1953 No 95)

In section 11(5), replace “General land” with “private land (other than Māori land)”.

In section 13B(1), replace “any General land owned by Maori or any General land owned on behalf of Maori” with “any private land (other than Māori land) owned by Māori or any private land (other than Māori land) owned on behalf of Māori”.

Repeal section 30(7).

Replace section 30A(a) and (b) with:

- (a) any trust continued as an ahu whenua trust by **clause 173 of Schedule 1 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; or
- (b) any governance body (as defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**); or

In section 30A(3), replace “Maori incorporation” with “governance body”.

Maraeroa A and B Blocks Claims Settlement Act 2012 (2012 No 52)

In section 78, definition of **protected land**, replace paragraph (b) with:

- (b) any Māori freehold land held by the Maraeroa and B Blocks Incorporation.

In section 85(1), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 85(2)(f) with:

- (f) **sections 102, 287, 296(1)(f) and (g), 299, 302, 304, 313, and 316 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**;
- (fa) **section 404 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**;

Maraeroa A and B Blocks Incorporation Act 2012 (2012 No 2)

Replace section 11 with:

Maraeroa A and B Blocks Incorporation Act 2012 (2012 No 2)—*continued***11 Application of other enactments**

- (1) Except as provided in this Act, nothing in **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** applies to the Maraeroa A and B Blocks Incorporation (the **Incorporation**).
- (2) If the Incorporation wishes to amalgamate with a rangatōpū (as defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**),—
 - (a) **section 175 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** applies as if the Incorporation had been continued as a governance body under **section 170** of that Act; and
 - (b) after the amalgamation, **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** applies without modification to the resulting rangatōpū.
- (3) If the Incorporation acquires or is holding land that is not Māori freehold land, but that the Incorporation decides to hold as Māori freehold land,—
 - (a) the Incorporation may apply to the court for an order declaring that the land is Māori freehold land; and
 - (b) if the court makes an order under **paragraph (a)**, the Chief Registrar of the court must comply with **section 267 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.
- (4) If the Incorporation acquires land that is Māori freehold land, but that the Incorporation decides to hold as an investment rather than as part of the corpus of the incorporation,—
 - (a) the Incorporation may apply to the court under **section 28 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** for an order declaring that the land ceases to be Māori freehold land; and
 - (b) the court may make the order despite **section 28(3)(a)** of that Act.
- (5) **Sections 210 to 212 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** apply in respect of the Incorporation as if, in those sections,—
 - (a) the references to a governance body were references to the Incorporation; and
 - (b) the references to a governance agreement were references to the constitution of the Incorporation.
- (6) The Māori land register kept under **section 268 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** must contain as much of the information specified in **section 270** of that Act as is available in respect of the Incorporation.
- (7) For the purpose of **subsection (6)**, **section 270 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** applies as if—
 - (a) the Incorporation were a rangatōpū; and

Maraeroa A and B Blocks Incorporation Act 2012 (2012 No 2)—*continued*

- (b) the constitution of the Incorporation were a governance agreement.
- (8) Despite the repeal of Te Ture Whenua Māori Act 1993, sections 268 and 271 to 278 of that Act continue to apply to the Incorporation as if it were a Māori incorporation within the meaning of section 4 of that Act, except that—
- (a) the requirement to file documents with the Registrar of the court does not apply; and
- (b) the constitution of the Incorporation is set out in attachment 8 of the documents schedule and alterations to the constitution are to be made in accordance with the constitution.

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)

In section 9(1), definition of **Māori Appellate Court**, replace “section 50 of Te Ture Whenua Maori Act 1993” with “**section 377 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 9(1), definition of **Māori Land Court**, replace “section 6 of Te Ture Whenua Maori Act 1993” with “**section 343 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 59(4)(b)(iv), replace “Māori reservation” with “whenua tāpui”.

In section 99(1)(a), replace “section 61 of Te Ture Whenua Maori Act 1993” with “**section 385 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Marine Reserves Act 1971 (1971 No 15)

In section 5(10),—

- (a) replace “the Maori Affairs Act 1953” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”; and
- (b) replace “the Registrar of the Maori Land Court” with “the chief executive responsible for the Māori land register”; and
- (c) replace “request the Registrar” with “request the chief executive”.

Maritime Transport Act 1994 (1994 No 104)

In section 434(3)(b), replace “and the provisions of Part 10 of Te Ture Whenua Maori Act 1993 shall apply in respect of notices served in the circumstances set out in that Part” with “and **sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** apply in respect of notices served in the circumstances set out in those sections”.

Maungaharuru-Tangitū Hapū Claims Settlement Act 2014 (2014 No 12)

In section 135(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Mining Tenures Registration Act 1962 (1962 No 48)

In section 14(2), replace “private General land” with “other private land”.

In the heading to Schedule 4, replace “private General land” with “other private land”.

Mortgagors and Lessees Rehabilitation Act 1936 (1936 No 33)

In section 61(4), replace “the Registrar of the Maori Land Court for the district in which the land is situated, either personally or by posting it by registered letter addressed to the Registrar at his office” with “the chief executive responsible for the Māori land register, either personally or by posting it by registered letter addressed to the chief executive’s office”.

National Animal Identification and Tracing Act 2012 (2012 No 2)

In Schedule 2, clause 6(3), replace “section 181 of Te Ture Whenua Maori Act 1993” with “**sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

New Zealand Railways Corporation Restructuring Act 1990 (1990 No 105)

Replace 26(a) with:

- (a) Māori freehold land, or private land (other than Māori land) that is beneficially owned by a Māori or by a group of persons of whom a majority are Maori, as those terms are defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; and

In section 26(c), after “trustees”, insert “, or managed under a governance agreement (within the meaning of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

In section 26, replace “section 436 of the Maori Affairs Act 1953” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 (2014 No 52)

In section 6(2)(e), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015** and **Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In the heading to section 12, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015** and **Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 12(1), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 134(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāi Tahu Claims Settlement Act 1998 (1998 No 97)

In section 8, definition of **Māori freehold land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

After section 12, insert:

12A Application of Te Ture Whenua Maori Act 1993 and regulations

A provision of Te Ture Whenua Maori Act 1993, or of any regulations made under that Act, continues to have effect for the purposes of any section of this Act that refers to the provision.

In section 357(4)(b), replace “ahu whenua trust” with [].

In section 357(5), replace “ahu whenua trust” with [].

In section 394(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 472(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngai Tāmanuhiri Claims Settlement Act 2012 (2012 No 55)

In section 100(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014 (2014 No 19)

In section 175(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Awa Claims Settlement Act 2005 (2005 No 28)

In section 159(1), replace “Sections 297 to 304 of Te Ture Whenua Maori Act 1993” with “**Sections 111 to 115 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 159(2), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, and 194 of Te Ture Whenua Maori Act 1993” with “**sections 296(1)(g) and (h), 298(k), 302, and 304 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015, section 404(1)(a) of Parts 11 to 16 of Te Ture Whenua Māori Act 2015, and section 194 of Te Ture Whenua Maori Act 1993 (which applies as if not repealed)**”.

In section 159(3), replace “Section 342 of Te Ture Whenua Maori Act 1993” with “**Section 313 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 159(4), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Hauā Claims Settlement Act 2014 (2014 No 75)

In section 122(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014 (2014 No 20)

In section 195(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Koroki Kahukura Claims Settlement Act 2014 (2014 No 74)

In section 59(5) and (6), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 68(5) with:

- (5) The provisions in **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**, and in any regulations made under **section 321(1)(i) of those Parts**, do not apply to the Māori reservation properties (which are treated as whenua tāpui by **clause 14 of Schedule 1 of those Parts**) except as follows:
- (a) the Māori Land Court has jurisdiction under **section 36(1)(e) of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** to amend the conditions or restrictions that apply to a whenua tāpui on application from the trustees, but must not amend or derogate from the terms in subsection (4); and
 - (b) the Māori Land Court may make an order declaring the reservation as whenua tāpui is cancelled for some or all of the land in a whenua tāpui in accordance with **section 36(1)(a) of those Parts**.

In section 68(6), replace “Sections 18(1)(c), 18(1)(d), 19(1)(a), 20, 24, 26, 194, and 342 of Te Ture Whenua Maori Act 1993” with “**Sections 296(1)(g) and (h), 298(k), 302, 304, and 313 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015, section 404(1)(a) of Parts 11 to 16 of Te Ture Whenua Māori Act 2015, and section 194 of Te Ture Whenua Maori Act 1993 (as if not repealed)**”.

In section 68(7), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 85(1)(c) with:

- (c) **sections 14, 241, and 312 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015.**

In section 85(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 119(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Mākino Claims Settlement Act 2012 (2012 No 53)

In section 109(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Manawa Claims Settlement Act 2012 (2012 No 27)

In section 86(4), replace “section 338(8) of Te Ture Whenua Maori Act 1993 to amend the terms of the trust of the Māori reservation” with “**section 36(1)(e) of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** to amend the conditions or restrictions that apply to the whenua tāpui (as the Māori reservation is treated by **clause 14 of Schedule 1 of those Parts**)”.

Replace section 86(5) with:

- (5) No other provision of **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** or regulations made under **section 321(1)(i) of those Parts** applies to the whenua tāpui.

In section 87(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 87(4), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply” with “section 194 applies (as if not repealed)”.

After section 87(4), insert:

- (4A) In relation to **Parts 1 to 10 of Te Ture Whenua Māori Act 2015, sections 296(1)(g) and (h), 298(k), 302, 304, and 313** apply to the jointly vested sites as if the land were Māori freehold land.
- (4B) In relation to **Parts 11 to 16 of Te Ture Whenua Māori Act 2015, section 404(1)(a)** applies to the jointly vested sites as if the land were Māori freehold land.

Ngāti Manuhiri Claims Settlement Act 2012 (2012 No 90)

In section 126(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Pāhauwera Treaty Claims Settlement Act 2012 (2012 No 30)

In section 109(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Porou Claims Settlement Act 2012 (2012 No 31)

In section 112(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Rangiteaorere Claims Settlement Act 2014 (2014 No 13)

In section 76(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Rangiwewehi Claims Settlement Act 2014 (2014 No 14)

In section 119(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngati Toa Rangatira Claims Settlement Act 2014 (2014 No 17)

In section 160(2)(c), replace “Maori reservation” with “whenua tāpui”.

In section 197(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Whare Claims Settlement Act 2012 (2012 No 28)

In section 89(4), replace “section 338(8) of Te Ture Whenua Maori Act 1993 to amend the terms of the trust of the Māori reservation” with “**section 36(1)(e) of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** to amend the conditions or restrictions that apply to the whenua tāpui (as the Māori reservation is treated by **clause 14 of Schedule 1 of those Parts**)”.

Replace section 89(5) with:

- (5) No other provision of **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** or regulations made under **section 321(1)(i) of those Parts** applies to the whenua tāpui.

In section 90(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 90(4), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply” with “section 194 applies (as if not repealed)”.

After section 90(4), insert:

- (4A) In relation to **Parts 1 to 10 of Te Ture Whenua Māori Act 2015, sections 296(1)(g) and (h), 298(k), 302, 304, and 313** apply to the jointly vested sites as if the land were Māori freehold land.
- (4B) In relation to **Parts 11 to 16 of Te Ture Whenua Māori Act 2015, section 404(1)(a)** applies to the jointly vested sites as if the land were Māori freehold land.

In section 105(4), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 105(5), replace “sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply” with “section 194 applies (as if not repealed)”.

After section 105(5), insert:

- (5A) In relation to **Parts 1 to 10 of Te Ture Whenua Māori Act 2015, sections 296(1)(g) and (h), 298(k), 302, 304, and 313** apply to the jointly vested sites as if the land were Māori freehold land.
- (5B) In relation to **Parts 11 to 16 of Te Ture Whenua Māori Act 2015, section 404(1)(a)** applies to protected land as if it were Māori freehold land.

Ngāti Whātua o Kaipara Claims Settlement Act 2013 (2013 No 37)

In section 111(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Ngāti Whātua Ōrākei Claims Settlement Act 2012 (2012 No 91)

In section 60(2), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 60(3)(a), replace “sections 338(3) and (5) to (14), 340, and 341 of Te Ture Whenua Maori Act 1993” with “**sections 31(3)(a) and (b) and (4)(b), 33 to 36, 40 to 43, and 44(2) of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 63, replace “General land within the meaning of section 4 of Te Ture Whenua Maori Act 1993” with “private land (other than Māori land) within the meanings of **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 66(4)(c), replace “Te Ture Whenua Maori Act 1993 relating to trustees of Maori reservations” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015** relating to administering bodies of whenua tāpui”.

In section 67(2)(a), replace “the trustees of a Maori reservation by any regulations made under section 338 of Te Ture Whenua Maori Act 1993” with “the administering body of a whenua tāpui by any regulations made under **section 321(1)(d) of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 75(1) and (2), replace “the Registrar of the Maori Land Court” with “chief executive responsible for the Māori land register”.

Overseas Investment Act 2005 (2005 No 82)

In Schedule 1, Part 1, table 2, replace “a Maori reservation to which section 340 of Te Ture Whenua Maori Act 1993 applies” with “a whenua tāpui reserved under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** for the common use and benefit of the people of New Zealand”.

Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 (2009 No 26)

In section 48(6)(a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 103(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Privacy Act 1993 (1993 No 28)

In Schedule 2, Part 1, replace the item relating to Te Ture Whenua Maori Act 1993 with:

| | |
|---|--------------------|
| Parts 1 to 10 of Te Ture Whenua Māori Act 2015 | Section 268 |
|---|--------------------|

Property Law Act 2007 (2007 No 91)

In section 8(3), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 264(4), after “Te Ture Whenua Maori Act 1993”, insert “if it relates to an existing lease to which **clause 20 of Schedule 1 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** applies”.

In section 328(3)(a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Property (Relationships) Act 1976 (1976 No 166)

In section 6, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Protected Objects Act 1975 (1975 No 41)

In section 12(1)(d), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 12(1)(g) with:

- (g) to appoint a new trustee or trustees for any taonga tūturu held in trust, but only if—
 - (i) the trustee would be eligible for appointment—
 - (A) as a governance body under **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** (*see section 168(1)* of that Act); or
 - (B) as a kaitiaki of a governance body under **section 225 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; and
 - (ii) the trustee consents to the appointment; and

In section 12(3), replace “section 19(1)(b) of Te Ture Whenua Maori Act 1993” with “**section 404(1)(b) of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 12(4), replace “section 30 of Te Ture Whenua Maori Act 1993” with “**Part 9 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Protection of Personal and Property Rights Act 1988 (1988 No 4)

Replace sections 31A and 31B with:

31A Kaiwhakamarumaruru appointed

- (1) This section applies if, in respect of any interests in land or any properties—
 - (a) a kaiwhakamarumaruru is appointed under **section 73 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; or
 - (b) a kaitiaki trust is constituted under section 217 of the Te Ture Whenua Maori Act 1993.

Protection of Personal and Property Rights Act 1988 (1988 No 4)—continued

- (2) No property order made under section 31 and no declaration accepted by a trustee corporation and filed under section 32(3) or 33(4) applies in respect of the interests or property.

31B Māori land

- (1) Where it appears to a Family Court that an application for the exercise of the court's jurisdiction under this Part may result in an order appointing 1 or more persons to act as the manager of beneficial interests in Māori freehold land (as defined in **section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**), the court must refer that application to the Māori Land Court.
- (2) The Māori Land Court must treat the application, to the extent that it relates to beneficial interests in Māori freehold land, as if it were an application under **section 73 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** for the appointment of a kaiwhakamarumarū to manage the interests.
- (3) Where the Māori Land Court makes an order appointing a kaiwhakamarumarū in respect of any beneficial interests in Māori freehold land and the order covers other interests or property—
- (a) no order may be made under section 31 in respect of any of the interests or property covered by the order appointing the kaiwhakamarumarū; and
 - (b) no trustee corporation may, under section 32(3) or 33(4), accept any application filed under section 33 or 34 in respect of any of the interests or property covered by the order appointing the kaiwhakamarumarū.
- (4) Where the Māori Land Court, after considering an application referred to that court under **subsection (1)**, declines to appoint a kaiwhakamarumarū in respect of any beneficial interests in Māori freehold land to which that application relates, a Family Court may—
- (a) make a property order under section 31 in respect of any or all of those interests; or
 - (b) otherwise exercise its jurisdiction under this Part in respect of any or all of those interests.

Public Trust Act 2001 (2001 No 100)

Replace section 99(2)(a) with:

- (a) Māori land within the meaning of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; or

Public Works Act 1981 (1981 No 35)

In section 17(4)(a), replace “section 2 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Public Works Act 1981 (1981 No 35)—*continued*

In section 17(4)(c), after “trustees”, insert “, or managed under a governance agreement (within the meaning of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

In section 17(4), replace “the Maori Land Court for the district in which the land is situated for an order under the provisions of Part 9 of the Maori Affairs Amendment Act 1974” with “the Māori Land Court to appoint a kaiwhakahaere for the land under **section 153 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 17(5), replace “an agent” with “a kaiwhakahaere”.

In section 18(5)(a), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 18(5)(c), after “trustees”, insert “, or managed under a governance agreement (within the meaning of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

In section 18(5), replace “the Maori Land Court for the district in which the land is situated for an order under the provisions of Part 10 of Te Ture Whenua Maori Act 1993” with “the Māori Land Court to appoint a kaiwhakahaere for the land under **section 153 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 18(6), replace “an agent” with “a kaiwhakahaere”.

In section 23(2), replace “at the appropriate Maori Land Court” with “from the Māori land register kept under **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”

Replace section 41(a) with:

- (a) Māori freehold land, or private land (other than Māori land) that is beneficially owned by a Māori or by a group of persons of whom a majority are Māori, as those terms are defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**); and

In section 41(c), after “trustees”, insert “, or managed under a governance agreement (within the meaning of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

Replace section 41(e) with:

- (e) apply to the Māori Land Court for an order under **section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**.

Queen Elizabeth the Second National Trust Act 1977 (1977 No 102)

In section 2, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 22(2), replace “(and, if the land is Maori land, of the Registrar of the Maori Land Court)” with “(and, if the land is Māori freehold land, of the person or persons entitled to receive a notice to the owners of the land under **section 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

Railways Act 2005 (2005 No 37)

In section 4(1), definition of **road**, replace paragraph (b)(iii) with:

- (iii) a roadway laid out by order of the Māori Land Court under sections 315 to 327 of Te Ture Whenua Maori Act 1993 or any former Act, unless—
 - (i) that order has been cancelled; or
 - (ii) the roadway has been declared to be a road; or

Rating Valuations Act 1998 (1998 No 69)

Replace section 5B(3)(b)(i)(C) with:

- (C) Māori freehold land subject to a lease granted for the purposes of residential housing in accordance with **section 128 or 129 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; and

Replace section 5C(5)(b)(i)(B) with:

- (B) Māori freehold land subject to a lease granted for the purposes of residential housing in accordance with **section 128 or 129 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; and

Raukawa Claims Settlement Act 2014 (2014 No 7)

In section 119(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Reserves Act 1977 (1977 No 66)

In section 2(1), definition of **Maori** and **Maori land**, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 2(1), delete the definition of **Maori reservation**.

In section 2(1), definition of **reserve** or **public reserve**, replace paragraph (m) with:

- (m) any whenua tāpui

In section 2(1), insert in its appropriate alphabetical order:

whenua tāpui means a whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**

In section 12(1), replace “on the Registrar of the Maori Land Court in accordance with Part 10 of Te Ture Whenua Maori Act 1993, and the provisions of that Part shall apply accordingly” with “in accordance with **sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”, and **section 320 of those Parts** applies accordingly.

In section 38(1) and (2), replace “Maori reservation” with “whenua tāpui”.

Reserves Act 1977 (1977 No 66)—*continued*

In section 38(2), delete “(including trustees appointed under section 438 of the Maori Affairs Act 1953)”.

In section 38(2), replace “Maori incorporation” with “governance body (as defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

In section 39(b), delete “(including trustees appointed under section 438 of the Maori Affairs Act 1953)”.

In section 39(b), replace “Maori incorporation” with “governance body (as defined in **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**)”.

In section 85(1), replace “Maori reservation” with “whenua tāpui”.

Replace section 86 with:

86 Payment of rates on whenua tāpui

If a whenua tāpui declared under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015** is reserved for the common use and benefit of the people of New Zealand, and is held and managed by an administering body, the Minister may, by agreement with the administering body, contribute towards the payment, out of money appropriated by Parliament for the purpose, of the whole or part of any rates from time to time levied on the land.

In section 119(2), replace “section 181 of Te Ture Whenua Maori Act 1993” with “**sections 317 to 319 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Resource Management Act 1991 (1991 No 69)

Replace section 11(1)(c) with:

- (c) effected by the reservation of land as a whenua tāpui or for inclusion in a whenua tāpui, or by any land ceasing to be reserved as a whenua tāpui, under **subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; or

In section 11(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 108(9)(b), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 353, replace “Part 10 of Te Ture Whenua Maori Act 1993” with “**Sections 317 to 320 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 353, replace “section 181(4)” with “**section 320**”.

Rongowhakaata Claims Settlement Act 2012 (2012 No 54)

In section 82(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, item relating to the Fisheries Act 1996, third column, replace “Māori reservation” with “whenua tāpui”.

Summary Proceedings Act 1957 (1957 No 87)

In section 30, replace “Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Summit Road (Canterbury) Protection Act 2001 (2001 No 3)

In section 35, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Tapuika Claims Settlement Act 2014 (2014 No 15)

In section 162(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Tauranga City Council and Mount Maunganui Borough Council (Tauranga Harbour Bridge) Empowering Act 1972 (1972 No 4)

In section 13(2),—

- (a) replace “section 439 of the Maori Affairs Act 1953” with “**subpart 2 of Part 2 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”; and
- (b) replace “Maori reservation set apart under that section” with “whenua tāpui declared under that subpart”.

Te Urewera Act 2014 (2014 No 51)

In section 88, definition of **Māori freehold land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 93(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 104(2)(a) with:

- (a) the agreement for the Board to acquire the land by sale and purchase, or to receive the land as a gift, must be treated as a disposition of the whole or part of a parcel for the purposes of **Part 4 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**; and

Replace section 104(2)(c) with:

- (c) the requirements of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** for the disposition by sale or gift of the whole or part of a parcel must be complied with.

Replace section 105(2) with:

- (2) In the case of a proposal relating to Māori freehold land, the Minister must be satisfied that the Māori Land Court has made an order of confirmation under

Te Urewera Act 2014 (2014 No 51)—*continued*

Part 4 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015 that the disposition of the land for the purpose of adding it to Te Urewera complies with the requirements of **those Parts**.

Treaty of Waitangi Act 1975 (1975 No 114)

In section 6A(8), replace “section 58 of Te Ture Whenua Maori Act 1993” with “**sections 381 and 382 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**” in each place.

In Schedule 2, clause 5AC(2)(a)(ii), replace “section 12 of Te Ture Whenua Maori Act 1993” with “**section 434 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Tūhoe Claims Settlement Act 2014 (2014 No 50)

In section 72(2), replace “section 134 of Te Ture Whenua Maori Act 1993” with “**section 25 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Tutae-Ka-Wetoweto Forest Act 2001 (2001 No 48)

In section 9(1), replace “The Registrar of the Maori Land Court” with “The chief executive responsible for the Māori land register”.

In section 9(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Unit Titles Act 2010 (2010 No 22)

In section 14, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Waikato Raupatu Claims Settlement Act 1995 (1995 No 58)

In section 22, replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)

In section 71(7), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 78(7), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Waitutu Block Settlement Act 1997 (1997 No 84)

In section 3, definition of **Incorporation**, replace “continued under section 357 of Te Ture Whenua Maori Act 1993” with “continued as a governance body by **section 170 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Walking Access Act 2008 (2008 No 101)

In section 4, definition of **Maori freehold land**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 20 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 4, definition of **Maori Land Court**, replace “section 6 of Te Ture Whenua Maori Act 1993” with “**section 343 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In section 4, definition of **private land**, paragraph (a)(ii), replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Replace section 27(1)(a) to (c) with:

- (a) in the case of Māori freehold land vested in a whānau trust established under **section 58 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**, with the trustees of that trust; and
- (b) in the case of Māori freehold land managed under a governance agreement (within the meaning of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015**), with the governance body that is a party to the agreement; and
- (c) in the case of Maori freehold land not managed under a governance agreement or vested in a whānau trust, with the sole owner, joint tenants, or owners in common of that land, as the case may be; and

In section 27(2), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

In section 27(2)(a), replace “obtained” with “to be obtained”.

Wills Act 2007 (2007 No 36)

Replace section 8(6) with:

- (6) This section is overridden by any provision of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** that restricts the disposition by will of a beneficial interest in Māori freehold land.

Replace section 34(3) with:

- (3) This section is overridden by any provision of **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** that restricts the disposition by will of a beneficial interest in Māori freehold land.

Part 2**Amendments to legislative instruments****Domestic Violence (Public Registers) Regulations 1998 (SR 1998/342)**

In Schedule 1, replace the item relating to Te Ture Whenua Maori Act 1993 with:

Domestic Violence (Public Registers) Regulations 1998 (SR 1998/342)—*continued***Parts 1 to 10 of Te Ture Whenua Māori Act 2015** **Section []****Employment Court Regulations 2000 (SR 2000/250)**

In regulation 32, replace “Maori within the meaning of Te Ture Whenua Maori Act 1993” with “Māori within the meaning of **section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482)

In regulation 6(1), definition of **Māori**, replace “section 4 of Te Ture Whenua Maori Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.

Land Information New Zealand (Fees and Charges) Regulations 2003 (SR 2003/124)

In the Schedule, Part 6, item 5, [].

Land Transfer Regulations 2002 (SR 2002/213)

In Schedule 1, Part 1, item relating to discharge instrument, paragraph (c), replace “Sections 82, 333, Te Ture Whenua Maori Act 1993” with “**Section 415 of Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

Maori Assembled Owners Regulations 1995 (SR 1995/83)

Revoke.

Maori Incorporations Constitution Regulations 1994 (SR 1994/60)

Revoke.

Māori Land Court Fees Regulations 2013 (SR 2013/219)

In regulation 3, definition of **proceeding**, paragraph (a), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 10 of Te Ture Whenua Māori Act 2015 or Parts 11 to 16 of Te Ture Whenua Māori Act 2015**”.

In the Schedule, []

Māori Land Court Rules 2011 (SR 2011/374)

[]

Maori Occupation Orders Regulations 1994 (SR 1994/201)

Revoke.

Maori Reservations Regulations 1994 (SR 1994/57)

Revoke.

Māori Trustee Regulations 2009 (SR 2009/169)

In regulation 6(3), replace “the agent of the owners under Part 9 of Te Ture Whenua Maori Act 1993 in the sale of the land” with “the kaiwhakahaere of the owners under **Parts 1 to 10 of Te Ture Whenua Māori Act 2015** in the sale of the land”.

Social Security (Monetary Benefits) Regulations 2007 (SR 2007/229)

In regulation 4(a), replace “section 4 of the Maori Land Act 1993” with “**section 5 of Parts 1 to 10 of Te Ture Whenua Māori Act 2015**”.