Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020

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Date of assent	6 August 2020
Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020.

2 Commencement

(1) This Act comes into force on the later of the following:

(a) 1 October 2020:

(b) immediately after the 6-month period that starts on the date of Royal assent.

(2) However, section 22, as it relates to section 98M(2) to (5) of the principal Act, comes into force on a single date set by Order in Council, which must be on or after the date on which the rest of this Act comes into force.

Provisions commenced by Order in Council

Provisions	Commencement date	Order in Council
Section 22 (to the extent it inserts section 98M(2) to (5))	30 April 2026	Clause 2 of the Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020 Commencement Order 2026

This note is not part of the Act.

Part 1
Amendments to Te Ture Whenua Maori Act 1993

3 Principal Act

This Part amends Te Ture Whenua Maori Act 1993 (the **principal Act**).

4 Section 4 amended (Interpretation)

(1) In section 4, repeal the definition of **Chief Surveyor**.

(2) In section 4, insert in its appropriate alphabetical order:

Maori reservation means a Maori reservation set apart under section 338 or the corresponding provisions of any former enactment

(3) In section 4, replace the definition of **Surveyor-General** with:

Surveyor-General has the meaning given by section 4 of the Cadastral Survey Act 2002

5 Section 16 amended (Seal of court)

After section 16(1), insert:

(1A) The seal may be applied to a document physically or electronically.

6 Section 18 amended (General jurisdiction of court)

After section 18(1)(b), insert:

(ba) to determine whether a person is a member of a class of persons who are or will be beneficial owners of, or beneficiaries of a trust whose trustees are owners of, land that is or will become Maori freehold land:

7 Section 19 amended (Jurisdiction in respect of injunctions)

(1) In section 19(1)(a), replace "Maori freehold land, Maori reservation, or wahi tapu" with "Maori land or Maori reservation".

(2) After section 19(1)(b), insert:

(ba) requiring any person to—

(i) remove any structure or object from any Maori land or Maori reservation; or

(ii) reinstate any structure or object that has been removed from any Maori land or Maori reservation; or

(iii) restore any Maori land or Maori reservation to the condition it was in before it was modified by any infrastructure work, earthwork, or other means; or

(iv) remedy any damage done to any Maori land or Maori reservation; or

(3) In section 19(1)(c), replace "Maori freehold land" with "Maori land".

(4) In section 19(1)(d), replace "alienation of land" with "alienation of Maori land or a Maori reservation".

8 New section 20A inserted (Jurisdiction in relation to mortgages)

After section 20, insert:

20A Jurisdiction in relation to mortgages

(1) An application for a court order under Part 3 of the Property Law Act 2007 (mortgages) must be made to—

(a) the Maori Land Court, if the application relates only to Maori freehold land; or

(b) whichever of the High Court or District Court has jurisdiction, if the application relates to Maori freehold land and other land.

(2) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to another court described in subsection (1) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(3) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(4) The Maori Land Court has jurisdiction under, and must apply, Part 3 of the Property Law Act 2007 in relation to any application made to it, or any proceedings or question referred to it, in accordance with this section.

(5) For those purposes, Part 3 of the Property Law Act 2007 applies as if—

(a) the Maori Land Court were the High Court under that Part; and

(b) a Registrar of the Maori Land Court were the Registrar under that Part.

(6) Any appeal from an order of the Maori Land Court made under Part 3 of the Property Law Act 2007 must be made to the High Court.

9 New section 22B inserted (Power of court in relation to easements and covenants over Maori freehold land)

After section 22A, insert:

22B Power of court in relation to easements and covenants over Maori freehold land

(1) This section applies to any application for a court order to be made, or a direction to be given, under section 313, 317, or 318(3) of the Property Law Act 2007 that relates to Maori freehold land, even if it also relates to other land.

(2) The application may be made to the Maori Land Court or the District Court.

(3) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to the other court referred to in subsection (2) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(4) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(5) The Maori Land Court has jurisdiction under sections 313, 314, 317, and 318(3) of the Property Law Act 2007 in relation to any application made to it, or any proceedings or question referred to it, in accordance with this section.

(6) Any appeal from an order of the Maori Land Court made under section 313 or 317 of the Property Law Act 2007 must be made to the High Court.

10 New section 24C inserted (Equitable relief)

After section 24B, insert:

24C Equitable relief

(1) The court may make an order for equitable relief under this section—

(a) for the purposes of or as a result of exercising jurisdiction conferred on it by or under this Act or any other Act; and

(b) to the extent that the order is not inconsistent with that Act.

(2) The court may make the order 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 the order on the application of a party to a proceeding or of the court's own motion.

11 Section 32 amended (Additional members in relation to matter of tikanga Maori)

Replace the heading to section 32 with "**Additional members for purposes of inquiry in relation to matter of tikanga Maori**".

12 New section 32A inserted (Additional members who know relevant tikanga Maori or whakapapa for proceedings about Maori land)

After section 32, insert:

32A Additional members who know relevant tikanga Maori or whakapapa for proceedings about Maori land

(1) In any proceedings before the Maori Land Court that relate to Maori land and are specified by the rules of court, 1 or 2 additional members who have

knowledge and experience of tikanga Maori or whakapapa that is relevant to the proceedings may be appointed to the court by—

(a) the Judge hearing the proceedings; or

(b) the Chief Judge, if a Judge has not yet been assigned to the proceedings.

(2) The additional members must not be Judges of the court.

(3) The Judge or Chief Judge may make the appointment of their own motion or at the request of any party to the proceedings.

(4) The proceedings and processes of the court cannot be challenged on appeal, or in any other proceedings, on the grounds that an additional member appointed under this section had a tribal affiliation or other relationship with any of the parties unless it is shown that the additional member acted in bad faith.

13 Section 34 amended (Oath to be taken by additional member)

In section 34, replace "section 26E(4) or section 26F(4) or section 26G(5) or section 26S(4) or section 26T(4) or section 26U(5) or section 28(1) or section 31(1) or section 33(1)" with "section 26E(4), 26F(4), 26G(5), 26S(4), 26T(4), 26U(5), 28(1), 31(1), 32A(1), or 33(1)".

14 Section 35 amended (Fees and allowances)

In section 35, replace "section 26E(4) or section 26F(4) or section 26G(5) or section 26S(4) or section 26T(4) or section 26U(5) or section 28(1) or section 31(1) or section 33(1)" with "section 26E(4), 26F(4), 26G(5), 26S(4), 26T(4), 26U(5), 28(1), 31(1), 32A(1), or 33(1)".

15 Section 36 amended (Quorum and decisions)

(1) In section 36(1), replace "section 26E(4) or section 26F(4) or section 26G(5) or section 26S(4) or section 26T(4) or section 26U(5) or section 28(1) or section 31(1) or section 33(1)" with "section 26E(4), 26F(4), 26G(5), 26S(4), 26T(4), 26U(5), 28(1), 31(1), 32A(1), or 33(1)".

(2) In section 36(2), replace "tikanga Maori" with "tikanga Maori or whakapapa".

16 New section 40A inserted (Judge may convene judicial settlement conference)

After section 40, insert:

40A Judge may convene judicial settlement conference

(1) A Judge may convene a judicial settlement conference.

(2) The purpose of a judicial settlement conference is to give the parties to a proceeding before the court an opportunity to negotiate the settlement of a claim or an issue.

(3) A Judge who convenes a judicial settlement conference may assist the parties in their negotiations, but the 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.

17 Section 43 amended (Rehearings)

In section 43(2), replace "28 days" with "20 working days".

18 Section 53 amended (Seal)

After section 53(1), insert:

(1A) The seal may be applied to a document physically or electronically.

19 New section 81A inserted (Enforcement of orders for recovery of land)

After section 81, insert:

81A Enforcement of orders for recovery of land

(1) If the court makes an order for the recovery of land, it may, on the application of any party or of its own motion, transmit a sealed copy of the order to whichever of the High Court or District Court may enforce the order (the **enforcing court**).

(2) The Registrar of the enforcing court must file the copy as a record of the enforcing court, and the order then—

(a) is treated as having been made by the enforcing court; and

(b) may be enforced by the enforcing court.

(3) The court may also transmit a certificate to the enforcing court that sets out any matter relating to the order and the related proceedings, including any person's breach of or compliance with the order.

(4) The certificate is sufficient evidence of the matters it contains, unless the contrary is proved.

(5) The filing of the copy of the order does not limit or affect any right or power of rehearing, appeal, amendment, or cancellation in respect of the order.

20 Section 95 amended (Rules of court)

(1) After section 95(3)(f), insert:

(fa) prescribing the class or classes of proceedings that relate to Maori land for which 1 or 2 additional members with relevant knowledge and experience of tikanga Maori or whakapapa may be appointed to the court under section 32A:

(2) After section 95(3)(i), insert:

(ia) prescribing any matters relating to the resolution of disputes under Part 3A, such as criteria for the court, Judge, or Registrar to consider in deciding whether to refer a matter to a mediator under that Part:

(3) After section 95(3)(k), insert:

(ka) providing for any matter of practice or procedure for the purposes of section 113A(5) or 235A(6):

21 Section 98 amended (Maori Land Court Special Aid Fund)

In section 98(4), delete "by post".

22 New Part 3A inserted

After section 98G, insert:

Part 3A
Dispute resolution

98H Matters to which this Part applies

(1) This Part applies to any matter over which the Maori Land Court has jurisdiction other than—

(a) a matter to which section 26B or 26C applies (which relates to the Maori Fisheries Act 2004); or

(b) a matter to which section 26P or 26Q applies (which relates to the Maori Commercial Aquaculture Claims Settlement Act 2004); or

(c) a matter to which section 30(1) applies (which relates to the most appropriate representatives of a class or group of Maori).

(2) In this Part, **parties** or **parties to a dispute** means the parties between which there is a disputed issue.

98I Purpose of this Part

The purpose of this Part is to assist the parties to a dispute (including owners of Maori land) to quickly and effectively resolve any disputed issues—

(a) between themselves; and

(b) in accordance with the law; and

(c) as far as possible, in accordance with the relevant tikanga of the whanau or hapu with whom they are affiliated, for both the process and the substance of the resolution.

98J Mediation is always voluntary

(1) An issue may be referred to mediation only if all the parties agree to mediation.

(2) An issue may be mediated only while all the parties still agree to mediation.

(3) This section overrides the rest of this Part (for example, sections 98L, 98Q(3)(a), and 98R(3)).

98K Powers of Judge or Registrar subject to rules of court

If there are any relevant rules of court, a Judge or Registrar may exercise a power under this Part only in accordance with those rules.

98L Dispute may be referred to mediation

(1) If there are court proceedings about a matter, the Judge hearing the proceedings may refer any issue arising from the matter to a mediator—

(a) at the Judge's initiative; or

(b) on the request of any party to the disputed issue who is a party to the proceedings.

(2) If there are not court proceedings about a matter, any party to a disputed issue arising from the matter may apply to a Registrar to have the issue referred to a mediator.

(3) The Registrar may refer the issues—

(a) to a mediator, if the Registrar is satisfied that mediation is likely to be effective; or

(b) to a Judge to decide whether to refer it to a mediator, in any other case.

(4) In deciding whether to refer an issue to a mediator, the Judge or Registrar may hold a conference of the parties to the dispute.

98M Appointment of mediator

(1) Either 1 or 2 persons must be appointed as the mediator, each with the skills and experience to mediate the issues referred to them.

(2) The chief executive must record a list of persons whom the chief executive has approved as mediators under this Part.

(3) The parties to a dispute may appoint the mediator by agreement—

(a) from the list of approved persons; or

(b) from beyond that list if—

(i) the parties consider that it is justified in the circumstances; and

(ii) the appointment is approved by the chief executive and the Judge or Registrar who referred the issues to a mediator.

(4) If the parties do not agree on the mediator, the Judge or Registrar who referred the issues to a mediator must, after consulting the parties, appoint the mediator—

(a) from the list of approved persons; or

(b) from beyond that list if the appointment is approved by the chief executive.

(5) In this section, **chief executive** means the chief executive of the Ministry of Justice.

98N Judge appointed as mediator

(1) A Judge may act as a mediator but—

(a) must not act as a mediator for any issue arising from a matter for which they have sat on court proceedings; and

(b) must not sit on court proceedings about a matter relating to any issue for which they have acted as mediator.

(2) However, a Judge acting as a mediator is to be treated as acting judicially and retains the same immunities as when acting as a Judge.

98O Conduct of mediation

(1) The Judge or Registrar who referred issues to a mediator may advise the mediator of the issues that need to be addressed at mediation.

(2) The following persons are entitled to attend and participate in a mediation:

(a) the parties and their representatives; and

(b) any other person who is approved by—

(i) the Judge or Registrar who referred the issues to a mediator; or

(ii) the mediator.

(3) A mediator may—

(a) follow the procedures (structured or unstructured), and do the things, that the mediator considers appropriate to promptly and effectively resolve the issues referred to the mediator; and

(b) receive any information, statement, admission, document, or other material in any way or form that the mediator thinks fit, whether or not it would be admissible in judicial proceedings.

(4) However, a mediator must try to give effect to the purpose of this Part in mediating the issues.

(5) Written and oral material presented at or for the mediation must be kept confidential by the mediator and participants in the mediation, unless the person who produces the material consents to its disclosure.

(6) No person may be sued for defamation for statements made in mediation.

(7) Statements made and material presented at a mediation are admissible in a subsequent mediation of the same issues but are not admissible in other proceedings before a person acting judicially, unless the persons participating in the mediation consent to the admission of the statement or material.

(8) The mediator must provide written reports to keep the Registrar informed of progress in the mediation, unless the mediator is a Judge.

98P Successful mediation

(1) If some or all of the issues referred to mediation are resolved at mediation, the mediator must—

(a) record the terms of the resolution; and

(b) report them to the Judge or Registrar who referred the issues to a mediator.

(2) If a Judge referred the issues to a mediator, the Judge may make an order that includes the terms of the resolution.

(3) If a Registrar referred the issues to a mediator,—

(a) the Registrar must include the terms of the resolution in a proposed order and provide the proposed order to a Judge; and

(b) the Judge may make that order, or a different order, that includes the terms of the resolution.

(4) However, the Registrar or Judge must not propose or make an order under this section unless they are satisfied that the issues were resolved in compliance with section 98I(b) and (c).

(5) If the Judge is not satisfied of that compliance, the Judge may refer the terms of the resolution back to the mediator with directions about what is required for an order to be made under this section.

98Q Unsuccessful mediation of issues from court proceedings

(1) This section applies to issues referred to mediation that arose from a matter for which there were court proceedings (*see* section 98L(1)).

(2) If some or all of the issues are not resolved by mediation and the mediator believes that those issues are unlikely to be resolved, the mediator must—

(a) report that lack of resolution to the Judge; and

(b) state the issues that are unresolved.

(3) On receiving the report, the Judge may refer some or all of the unresolved issues to—

(a) a mediator (whether or not the earlier mediator), but only if satisfied that mediation is the most appropriate way to resolve the issues; or

(b) the court to hear and determine or to advise on.

(4) The Judge who refers unresolved issues to the court may be the Judge who hears the matter or gives the advice.

98R Unsuccessful mediation of other issues

(1) This section applies to issues referred to mediation that arose from a matter for which there were not court proceedings (*see* section 98L(2)).

(2) If some or all of the issues are not resolved by mediation, any party may apply to the court—

(a) to refer some or all of the unresolved issues to a mediator; or

(b) to hear and determine some or all of the unresolved issues.

(3) The court, on application under subsection (2)(a), may decide to refer an issue to a mediator (whether or not the earlier mediator) only if satisfied that mediation is the most appropriate way to resolve the issue.

(4) In deciding whether to refer an issue to a mediator, the court may hold a conference of the parties.

98S Orders

In making an order under this Part, the Judge or the court may do 1 or more of the following:

(a) incorporate or restate the terms of an agreement reached by the parties to a dispute:

(b) incorporate the terms that express the outcome of mediation:

(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) make other orders not inconsistent with this Part, as the Judge or court considers appropriate.

23 New section 107A inserted (Succession when class of persons are beneficial owners or beneficiaries)

Before section 108, insert:

107A Succession when class of persons are beneficial owners or beneficiaries

(1) This section applies to Maori freehold land that is vested in trustees by an order made under section 132(6) (for which a class of persons, including all descendants, are the beneficial owners or beneficiaries).

(2) If a member of the class of persons dies, the member's descendants remain beneficial owners or beneficiaries and there is no succession to the interest under this Part.

24 Section 108 amended (Disposition by will)

(1) In section 108(1), replace "subsections (2) and (3)" with "this section".

(2) Repeal section 108(2)(e).

(3) In section 108(2)(f), replace "(e)" with "(d)".

(4) After section 108(2), insert:

(2AA) *See* section 114A for whether a child who is a whangai or another person has a relationship of descent for the purposes of subsection (2).

(5) Repeal section 108(3).

(6) Replace section 108(4) with:

(4) A beneficial interest may be left by will under subsection (2) subject to a gift to the owner's spouse, civil union partner, or de facto partner that is granted in accordance with section 108A.

(7) In section 108(5),—

(a) replace "subsection (2) or subsection (4)" with "this section"; and

(b) replace "either of those subsections" with "this section".

25 New section 108A inserted (Disposition by will of spouse's or partner's rights to occupy and receive income)

After section 108, insert:

108A Disposition by will of spouse's or partner's rights to occupy and receive income

(1) An owner of a beneficial interest in Maori freehold land may leave that interest by will under section 108 subject to the gift to the owner's spouse, civil union partner, or de facto partner of 1 or both of the rights specified in subsection (2).

(2) The rights are—

(a) the right to occupy the principal family home if it is on the land:

(b) the right to receive any income or discretionary grants from the interest.

(3) A right may be gifted for—

(a) a specified period; or

(b) the life of the spouse or partner.

(4) A right ends if—

(a) the specified period (if any) ends; or

(b) the spouse or partner dies; or

(c) the spouse or partner gives it up in writing.

(5) A right—

(a) cannot be transferred or disposed of by the spouse or partner; and

(b) does not give the spouse or partner an ownership interest in the land.

(6) The person or persons who receive the beneficial interest in Maori freehold land—

(a) are the owners of the interest (who may be assembled owners under Part 9); and

(b) if the right to receive any income or discretionary grants was gifted, are entitled to receive the income or discretionary grants when the right ends.

26 Section 109 amended (Succession to Maori freehold land on intestacy)

Replace section 109(2) to (4) with:

(2) A beneficial interest to which subsection (1) applies is subject to any rights of the owner's spouse, civil union partner, or de facto partner under section 109AA.

27 New section 109AA inserted (Succession on intestacy subject to spouse's or partner's rights to occupy and receive income)

After section 109, insert:

109AA Succession on intestacy subject to spouse's or partner's rights to occupy and receive income

(1) This section applies if—

(a) the owner of a beneficial interest in Maori freehold land dies intestate; and

(b) the owner is survived by a spouse, civil union partner, or de facto partner; and

(c) at the date on which the owner dies, the marriage, civil union, or de facto relationship has not ended (within the meaning of section 2A(2), 2AB(2), or 2D(4) of the Property (Relationships) Act 1976, as applicable).

(2) The spouse or partner has—

(a) the right to occupy the principal family home if it is on the land; and

(b) the right to receive any income or discretionary grants from the interest.

(3) The rights end if the spouse or partner—

(a) marries or enters a new civil union or de facto relationship; or

(b) dies; or

(c) gives them up in writing.

(4) The rights—

(a) cannot be transferred or disposed of by the spouse or partner; and

(b) do not give the spouse or partner an ownership interest in the land.

(5) The person or persons who receive the beneficial interest in Maori freehold land—

(a) are the owners of the interest (who may be assembled owners under Part 9); and

(b) are entitled to receive the income or discretionary grants when the spouse's or partner's rights end.

28 Section 113 amended (Maori Land Court to determine beneficial entitlements to Maori land)

Replace the heading to section 113 with "**Maori Land Court to determine succession to beneficial entitlements to Maori freehold land**".

29 New section 113A inserted (Registrar may determine succession to interests in Maori freehold land and make related orders)

After section 113, insert:

113A Registrar may determine succession to interests in Maori freehold land and make related orders

(1) A Registrar may determine the following unless the applicant requests otherwise:

- (a) an application for simple and uncontested succession under section 113 (to beneficial freehold interests in Maori freehold land); and
- (b) any related application for an order vesting a freehold interest in General land under section 111, or a beneficial interest in Maori freehold land under section 112, 117, or 118, including any order that may be made under section 242 (because of section 117(8) or 118(5)).

(2) For that purpose,—

- (a) those provisions apply as if the Registrar were the court, except as modified by this section; and
- (b) section 119 applies with any necessary modifications; but
- (c) the Registrar does not have the powers described in section 117(3)(a) (including as applied by section 118(5)).

(3) The Registrar must determine the applications without a hearing.

(4) The Registrar may at any time refer the applications to the court for determination if the Registrar decides that an application is not for a simple and uncontested succession.

(5) Any determination or order made by the Registrar in accordance with this section must be treated as an order of the court for the purposes of this Act, including section 42 (commencement of orders), but excluding—

- (a) sections 41 (orders pronounced in open court) and 43 (rehearings); and
- (b) any matter of practice or procedure that is instead provided for by the rules of court.

(6) The determination or order may be reviewed as follows:

- (a) any person affected by the determination or order may apply to the court for a review—
  - (i) within 20 working days after the determination or order is made; or

(ii) within any longer period allowed by a Judge if the Judge is satisfied that the person could not reasonably have applied sooner:

(b) a Judge must conduct the review on the papers unless the Judge considers that a hearing is necessary:

(c) the Judge may affirm, vary, or annul the determination or order, and may exercise any jurisdiction the court has in relation to an application for succession under this Part (the **Judge's review decision**).

(7) A person must obtain the leave of the court to apply under section 43 for a rehearing of the Judge's review decision, which is treated as if it were an order of the court.

(8) In this section, **simple and uncontested succession** means succession that the Registrar is satisfied is—

(a) simple, such as the following examples:

(i) succession by will or on intestacy, whether or not probate or administration has been granted, where all successors belong to the same preferred class of alienee and succeed to equal shares:

(ii) further succession based on evidence heard in court for a previous succession; and

(b) uncontested because—

(i) the application has been notified or consulted on as required by the rules of court, if the rules require that; and

(ii) no one has objected to the application.

30 New section 114A inserted (Descent relationships for whangai determined by tikanga Maori)

After section 114, insert:

114A Descent relationships for whangai determined by tikanga Maori

(1) This section applies to a provision of this Act or the Family Protection Act 1955 that depends on there being a relationship of descent between people for the purposes of—

(a) succession under this Part; or

(b) a claim under the Family Protection Act 1955 that relates to Maori freehold land (as defined by section 3A(6) of that Act).

(2) This section applies, for example, to a provision of that type that refers to—

(a) a child, whangai, grandchild, issue, brother, sister, or parent; or

(b) being descended or related by blood; or

(c) members of the hapu associated with land.

(3) For any child who is a whangai, the tikanga of the relevant iwi or hapu determines whether there is a relationship of descent between the child and one or both of the following types of parent for the purposes of that provision:

(a) the child's birth parents (as defined by section 2 of the Adult Adoption Information Act 1985):

(b) the child's new parents after the child became a whangai.

(4) This section prevails over section 19 of the Adoption Act 1955.

31 Sections 115 and 116 replaced

Replace sections 115 and 116 with:

115 Court may determine whangai and descent relationships of whangai

(1) The court may determine whether, for the purposes of succession under this Part or a claim under the Family Protection Act 1955 that relates to Maori freehold land (as defined by section 3A(6) of that Act),—

(a) a child is a whangai of certain parents:

(b) a child who is a whangai has a relationship of descent with certain parents (*see* section 114A(3)).

(2) The court's jurisdiction under this section may be exercised on the application of any person with an interest in the matter.

(3) An order made by the court on a matter under this section is proof of the matter for the purposes of section 114A.

(4) This section prevails over section 19 of the Adoption Act 1955.

116 Court may provide for person to have rights to occupy and receive income despite no descent relationship of whangai

(1) The court may make an order giving a person 1 or both of the following rights in relation to a beneficial interest in Maori freehold land:

(a) the right to occupy the principal family home if it is on the land:

(b) the right to receive the whole or any part of any income or discretionary grants from the interest.

(2) The court may make the order only in respect of a person who is not entitled to succeed to the beneficial interest under this Part solely because, under section 114A, the tikanga of the relevant iwi or hapu determines that there is no relationship of descent between a child who is a whangai and certain parents.

(3) The court may make the order only if it considers that—

(a) the order is required to prevent an injustice to the person; and

(b) the person's claim is not within the jurisdiction of the High Court or the Family Court under the Law Reform (Testamentary Promises) Act 1949 or the Family Protection Act 1955.

(4) A right may be given for—

(a) a specified period; or

(b) the life of the recipient.

(5) A right ends if—

(a) the specified period (if any) ends; or

(b) the recipient dies; or

(c) the recipient gives it up in writing.

(6) A right—

(a) cannot be transferred or disposed of by the recipient; and

(b) does not give the recipient an ownership interest in the land.

(7) The person or persons who receive the beneficial interest in Maori freehold land—

(a) are the owners of the interest (who may be assembled owners under Part 9); and

(b) if the right to receive the whole or any part of any income or discretionary grants was given, are entitled to receive the whole, or that part, of the income or discretionary grants when the right ends.

32 Section 125A amended (Alteration to land appellation)

(1) Replace section 125A(1)(b) with:

(b) if necessary, the composite record of cadastral parcels maintained under section 9(e) of the Cadastral Survey Act 2002.

(2) In section 125A(3)(b), replace "Chief Surveyor" with "Surveyor-General".

(3) In section 125A(5)(c), replace "section 11(1)(g) of the Survey Act 1986" with "section 7(1) of the Cadastral Survey Act 2002".

(4) Replace section 125A(7)(b) with:

(b) a copy of the order to the Surveyor-General, for updating any relevant records in the cadastre; and

33 Section 127 amended (Registrar of court to record ownership)

(1) Replace section 127(1) and (2) with:

(1) The Registrar of a Maori Land Court district must establish and maintain a record (an **ownership list**) of the following for all Maori freehold land in the district:

(a) the legal and beneficial ownership of the land:

(b) any trusts affecting the land or any individual interest in the land:

(c) any right to occupy a principal family home on the land:

(d) any right to receive income or discretionary grants from an interest in the land.

(2) If the Registrar is satisfied that any of the following interests or rights has ended in respect of a beneficial interest in Maori freehold land, the Registrar must note the ending of the interest or right in the ownership list:

(a) any interest for life or another limited period:

(b) any right to occupy a principal family home on the land:

(c) any right to receive income or discretionary grants from an interest in the land.

(2) Replace section 127(4) and (5) with:

(4) In all proceedings, an ownership list under the signature of the Registrar and the seal of the court is prima facie evidence of the matters to which it relates, without production of any relevant order of the court or instrument of alienation.

(5) Nothing in subsection (1) requires the Registrar—

(a) to record the ownership of beneficial interests in land that, by virtue of this Act, remain vested in the several owners of the land despite the vesting of the legal estate in fee simple in a Maori incorporation; or

(b) to record the individual members of a class of persons who are the beneficial owners of land.

34 Section 128 amended (Court may issue declaratory consolidated order)

After section 128(1), insert:

(1A) However, this section does not apply to Maori freehold land that is vested in trustees by an order made under section 132(6) (for which a class of persons are the beneficial owners or beneficiaries).

35 New section 131A inserted (Change from Crown land to Maori customary land by order)

After section 131, insert:

131A Change from Crown land to Maori customary land by order

(1) This section applies to Crown land that was Maori customary land immediately before it became Crown land.

(2) The following Minister of the Crown may apply to the Maori Land Court for an order for any of the land to become Maori customary land:

(a) for Crown land reserved for Maori, the Minister for Maori Development:

(b) for other Crown land, any Minister of the Crown.

(3) The court must, on application,—

(a) determine the owners who, in accordance with tikanga Maori, held the land immediately before it became Crown land (the **previous owners**); and

(b) define the proposed owners of the land as the class of persons comprising the previous owners and all of their descendants (the **new owners**).

(4) The court may then make an order—

(a) declaring the land to be Maori customary land; and

(b) defining the new owners as the class of persons who own the land.

(5) The court must not make an order under this section unless it is satisfied that—

(a) the new owners have had sufficient notice of the proposal, including the change of status to Maori customary land, and sufficient opportunity to discuss and consider it; and

(b) there is a sufficient degree of support for the proposal among the new owners.

(6) The effect of the order is that—

(a) the land is freed from any trusts, restrictions, or conditions to which it was subject; and

(b) the land becomes Maori customary land; and

(c) the new owners are treated as the owners who hold the land in accordance with tikanga Maori.

36 Section 132 amended (Change from Maori customary land to Maori freehold land by vesting order)

(1) In section 132(1), delete "the relative interests of".

(2) Replace section 132(3)(a) with:

(a) the class of persons who it is claimed are the owners of the land when the application is made; and

(3) Replace section 132(4) with:

(4) On investigating the title and determining the current owners under this section, the court must define the owners as a class of persons.

(5) The class of persons must include all descendants of the members of the class, and may or may not be an iwi or a hapu.

(6) The court may then make an order defining the area dealt with and vesting the land in—

(a) the trustees of an ahu whenua trust constituted under section 215 to hold in trust for the class of persons (who are the beneficial owners of the land); or

(b) if the class of persons is an iwi or a hapu, the trustees of a whenua topu trust constituted under section 216, to be used or applied for the general benefit of the class of persons (who are the beneficiaries of the trust).

(7) The vesting order may include any terms of trust that the court thinks fit.

(8) The court must not make a vesting order under this section unless it is satisfied that—

(a) the members of the proposed class of persons have had sufficient notice of the proposal, including the change of status to Maori freehold land, and sufficient opportunity to discuss and consider it; and

(b) there is a sufficient degree of support for the proposal among the members.

37 Section 134 amended (Change to Maori freehold land by vesting order on change of ownership)

Replace section 134(3)(c)(ii) with:

(ii) the chief executive within the meaning of section 4 of the Cadastral Survey Act 2002; or

38 Section 141 amended (Effect of vesting orders upon registration)

Replace section 141(1)(b) with:

(b) vesting the land in the persons named in the order for a legal estate in fee simple, in the same manner as if the land had been granted to those persons by the Crown, and (where more than 1 person is named)—

(i) as tenants in common in the shares specified in the order; or

(ii) for land vested in the trustees of an ahu whenua trust, as joint tenants (who hold the land in trust for the beneficial owners of the land); or

(iii) for land vested in the trustees of a whenua topu trust, as joint tenants (who hold the land to be used or applied for the general benefit of the beneficiaries of the trust); and

39 Section 144 replaced (Maori customary land deemed Crown land for certain purposes)

Replace section 144 with:

144 Recovery of, or trespass or injury to, Maori customary land

(1) This section applies to proceedings in the Maori Land Court or any other court—

(a) to recover possession of Maori customary land from any person; or

(b) to prevent, or recover damages for, trespass or injury to the land by any person.

(2) The proceedings may be brought only by the Māori Trustee on behalf of the owners of the land.

40 Section 145 replaced (Maori customary land inalienable)

Replace section 145 with:

145 Maori customary land cannot be alienated

(1) Maori customary land or an interest in that land cannot be—

(a) alienated; or

(b) disposed of by will; or

(c) vested or acquired under an Act.

(2) However, this section does not prevent—

(a) any change in the owners who, in accordance with tikanga Maori, hold a parcel of Maori customary land, as long as the change is made in accordance with tikanga Maori:

(b) the reservation of Maori customary land as a Maori reservation, the exclusion of land from the reservation, the cancellation of the reservation, any vesting related to the reservation, exclusion, or cancellation, or the grant or assignment of any lease or occupation licence over the reservation:

(c) the change in status of Maori customary land to Maori freehold land:

(d) the creation, cancellation, or variation of an easement, or laying out of a roadway, over Maori customary land.

41 Section 147A amended (Right of first refusal for sale or gift)

In section 147A, insert as subsections (2) to (7):

(2) A right of first refusal must be given in accordance with the rest of this section, unless the proposed sale or gift is to a member of a preferred class of alienees.

(3) The seller or donor must give a written notice that—

(a) describes the land to be alienated, including—

(i) the name and area of the block; and

(ii) the street address, if applicable; and

(iii) the Maori Land Court district that the land is within; and

(b) requests tenders to buy the land (for a sale), or expressions of interest in being gifted the land (for a gift), only from members of the preferred classes of alienees.

(4) The notice must be—

(a) sent to every member of the preferred classes of alienees whose physical or electronic address for notices is known to the seller or donor after the

seller or donor has made reasonable efforts to determine the addresses; and

(b) published as follows and so as to ensure that members of the preferred classes of alienees are reasonably likely to learn of the proposed alienation:

(i) in a newspaper that circulates in the Maori Land Court district that the land is within, and in any other newspaper or newspapers; and

(ii) on an Internet site to which the members have access free of charge.

(5) The notice must specify a deadline for receiving tenders or expressions of interest that is—

(a) reasonable; and

(b) no less than 15 working days after the day on which the notice is first published.

(6) For a sale,—

(a) the notice must specify the terms of sale but need not disclose the minimum sale price set for the land; but

(b) 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) The seller or donor may apply to the court for a direction about what is required to satisfy their obligations under this section, and the court may give a direction on those matters.

42 Section 150A amended (Alienation by trustees)

(1) After section 150A(1), insert:

(1A) However, for land vested in trustees by an order made under section 132(6) (for which a class of persons are the beneficial owners or beneficiaries), the trustees cannot alienate that Maori freehold land by sale or gift.

(2) In section 150A(2), replace "Subsection (1)" with "Subsections (1) and (1A)".

43 New section 150E inserted (Exclusion of interests in Maori land founded on adverse possession)

After section 150D, insert:

150E Exclusion of interests in Maori land founded on adverse possession

(1) Despite any other enactment or rule of law, no person may claim an interest in Maori 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.

44 Section 151 amended (Application for confirmation)

In section 151(2)(b), replace "14 days" with "10 working days".

45 Section 152 amended (Court to grant confirmation if satisfied of certain matters)

In section 152(1)(f), replace "obligation" with "obligations".

46 Section 181 amended (Notice to owners of Maori land may be given to Registrar in certain cases)

In section 181(4)(b), replace "14 days" with "10 working days".

47 Section 201 amended (Valuations for revision of rent)

In section 201(2A) and (2B), replace "14 days" with "10 working days".

48 Section 204 amended (Service of notices)

Replace section 204(1) and (2) with:

(1) A notice given to a person under this Part must be given—

(a) by delivering it personally, or through someone else (such as a courier), to the person; or

(b) by sending it by email to the person at an email address that is used by the person.

(2) In the absence of proof to the contrary,—

(a) a notice sent in accordance with subsection (1)(b) is treated as having been given to the person on the next working day after the date on which it was emailed; and

(b) to prove that the notice was emailed, it is sufficient to prove that it was sent to the email address.

49 Section 207 amended (Compensation to be ascertained by valuation)

In section 207(1A) and (1B), replace "14 days" with "10 working days".

50 Section 215 amended (Ahu whenua trusts)

In section 215(5), after "the persons beneficially entitled to the land", insert "and, except for land vested in trustees by an order made under section 132(6),".

51 New section 235A inserted (Registrar may determine simple and uncontested trust matters)

Before section 236, insert:

235A Registrar may determine simple and uncontested trust matters

(1) A Registrar may, unless the applicant requests otherwise,—

(a) determine an application for a simple and uncontested trust matter under a provision of this Part; and

(b) exercise powers under section 241 in relation to that application.

(2) A Registrar may at any time exercise powers under section 239(2) and (3) (but only as it relates to section 239(2)).

(3) For the purposes of subsections (1) and (2), the provisions that they refer to apply as if the Registrar were the court, except as modified by this section.

(4) The Registrar must determine the application without a hearing.

(5) The Registrar may at any time refer an application to the court for determination if the Registrar decides that the application is not for a simple and uncontested matter.

(6) Any determination or order made by the Registrar in accordance with this section must be treated as an order of the court for the purposes of this Act, including section 42 (commencement of orders), but excluding—

(a) sections 41 (orders pronounced in open court) and 43 (rehearings); and

(b) any matter of practice or procedure that is instead provided for by the rules of court.

(7) The determination or order may be reviewed as follows:

(a) any person affected by the determination or order may apply to the court for a review—

(i) within 20 working days after the determination or order is made; or

(ii) within any longer period allowed by a Judge if the Judge is satisfied that the person could not reasonably have applied sooner:

(b) a Judge must conduct the review on the papers unless the Judge considers that a hearing is necessary:

(c) the Judge may affirm, vary, or annul the determination or order, and may exercise any jurisdiction the court has in relation to an application for a trust matter under a provision of this Part (the **Judge's review decision**).

(8) A person must obtain the leave of the court to apply under section 43 for a rehearing of the Judge's review decision, which is treated as if it were an order of the court.

(9) In this section, **simple and uncontested trust matter** means a trust matter that the Registrar is satisfied is—

(a) simple, such as the following examples:

(i) having a whanau trust constituted under section 214 to hold only the applicant's beneficial interests or shares:

(ii) for a kai tiaki trust that was constituted for a minor, a determination or an order that the powers of the trustees ended under section 217(7)(b) when the minor became 20 years old:

(iii) the appointment of a trustee to a whanau trust under section 239(1); and

(b) uncontested because—

(i) the application has been notified or consulted on as required by the rules of court, if the rules require that; and

(ii) no one has objected to the application.

52 Section 240 amended (Removal of trustee)

(1) In section 240, after "satisfied", insert "that".

(2) Replace section 240(a) and (b) with:

(a) the trustee has lost the capacity to perform the functions of a trustee; or

(b) the removal is desirable for the proper execution of the trust, and 1 or more of the following grounds for removal are met:

(i) the trustee repeatedly refuses or fails to act as trustee:

(ii) the trustee becomes an undischarged bankrupt:

(iii) the trustee is a corporate trustee that is subject to an insolvency event:

(iv) the trustee is no longer suitable to hold office as trustee because of the trustee's conduct or circumstances.

(3) In section 240, insert as subsections (2) and (3):

(2) A trustee has lost the capacity to perform the functions of a trustee, for example, if the trustee—

(a) is subject to an order appointing a manager under section 31 of the Protection of Personal and Property Rights Act 1988; or

(b) has a trustee corporation managing the trustee's property under section 32 or 33 of that Act.

(3) A person may no longer be suitable to hold office as trustee, for example, because of the following conduct or circumstances:

(a) the trustee is convicted of an offence involving dishonesty:

(b) it is not known where the trustee is and the trustee cannot be contacted:

(c) the trustee is prohibited from being a director or promoter of, or being concerned or taking part in the management of,—

(i) a company under the Companies Act 1993; or

(ii) an incorporated or unincorporated body under the Financial Markets Conduct Act 2013 or the Takeovers Act 1993.

53 Section 241 amended (Termination of trust)

After section 241(1), insert:

(1A) However, for land vested in trustees by an order made under section 132(6) (for which a class of persons are the beneficial owners or beneficiaries), the order must vest that Maori freehold land in the trustees of another trust under section 132(6), and section 132 applies for that purpose, excluding section 132(8) and with any other necessary modifications.

54 Section 246 amended (Interpretation)

In section 246, definition of **special resolution**, replace "21 clear days' notice" with "15 working days' notice".

55 Section 247 amended (Owners may be incorporated)

(1) Replace section 247(2)(b) with:

(b) the court is satisfied that—

(i) the owners of the land (or their trustees in the case of disability) have had sufficient notice of the proposal to incorporate and sufficient opportunity to discuss and consider it; and

(ii) there is a sufficient degree of support for the proposal.

(2) In section 247(4), replace "the court is satisfied that the owners of that other land have consented to their inclusion in the manner prescribed by paragraph (a) or paragraph (b) of subsection (2)" with "subsection (2)(a) or (b) is satisfied for those other owners".

56 Section 259 amended (Application of revenues)

After section 259(4), insert:

(5) If a Maori incorporation pays any dividend to the shareholders (under subsection (1)(c)), the incorporation must keep a record of—

(a) the name of each shareholder to whom a dividend is paid; and

(b) the amount paid to each shareholder; and

(c) the date of each payment.

57 Section 269 amended (Committee of management)

After section 269(4)(b), insert:

(ba) the member is prohibited from being a director or promoter of, or being concerned or taking part in the management of,—

(i) a company under the Companies Act 1993; or

(ii) an incorporated or unincorporated body under the Financial Markets Conduct Act 2013 or the Takeovers Act 1993; or

58 Section 272 amended (Qualification, disqualification, and removal of members)

Replace section 272(2)(a) and (b) with:

(a) a person who—

(i) is subject to an order appointing a manager under section 31 of the Protection of Personal and Property Rights Act 1988; or

(ii) has a trustee corporation managing the person's property under section 32 or 33 of that Act; or

(b) an undischarged bankrupt; or

59 Section 273 amended (Election of chairman of committee and appointment of secretary)

In section 273(3) and (4), replace "2 weeks" with "10 working days".

60 New sections 274B and 274C inserted

After section 274A, insert:

274B Maori incorporation must maintain interests register

(1) A Maori incorporation must establish and maintain an interests register for the holdings of, and dealings by, the members of its committee of management in beneficial interests in the Maori freehold land held by the incorporation.

(2) The register must contain—

(a) details of the beneficial interests held by each member; and

(b) details of dealings in the beneficial interests by each member; and

(c) declarations made under section 274C.

(3) The Maori incorporation must keep the interests register—

(a) in a physical form at its registered office or principal place of business; or

(b) in an electronic form.

(4) The Maori incorporation must make the (physical or electronic) interests register available for inspection at its registered office or principal place of business, during normal business hours and free of charge, by any shareholder of the Maori incorporation or any person authorised in writing by a shareholder.

(5) If the Maori incorporation keeps the interests register in an electronic form, it may also make the register available for inspection on an Internet site, at all reasonable times and free of charge.

274C Members must make annual declaration for purpose of interests register

Promptly after the end of each financial year of a Maori incorporation, each member of its committee of management must make a declaration of their

holdings as at the end of the financial year, and of their dealings during the financial year, in any beneficial interests in the Maori freehold land held by the incorporation.

61 Section 276B amended (Financial statements must be filed)

In section 276B(1), replace "14 days" with "10 working days".

62 Section 279 amended (Register of Maori incorporations)

In section 279(3), replace "21 days" with "15 working days".

63 Section 290 amended (Modes of partition)

After section 290(1)(d), insert:

(e) into parcels for which a class of persons are the beneficial owners or beneficiaries (for land vested in trustees by an order made under section 132(6)).

64 Section 297 amended (Partition orders may be made in respect of land held in trust)

After section 297(1), insert:

(1A) However, for land vested in trustees by an order made under section 132(6), the beneficial owners or beneficiaries of the new parcels must be the same class of persons as for the land that was partitioned, despite any other provision relating to partition.

65 Section 301 amended (Compliance with provisions of Resource Management Act 1991 relating to subdivisions)

After section 301(3), insert:

(4) However, section 230(3) to (5) of the Resource Management Act 1991 does not apply to the subdivision (so that an esplanade reserve is not set aside and an esplanade strip is not created).

66 Section 307 amended (Amalgamation orders)

After section 307(7), insert:

(7A) However, if the land is vested in trustees by an order made under section 132(6), then, despite the rest of this section and section 309,—

(a) an amalgamation order may be made only if the same type of trust holds all the land (either an ahu whenua trust or a whenua topu trust); and

(b) the court must vest the new parcel in the trustees of a trust of that type for beneficial owners or beneficiaries that combine the classes of persons from the land being amalgamated, as if vesting it under section 132(6).

67 Section 308 amended (Aggregation orders)

After section 308(2), insert:

(2A) However, if the land is vested in trustees by an order made under section 132(6), then, despite the rest of this section and section 309,—

(a) an aggregation order may be made only if the same type of trust holds all the land (either an ahu whenua trust or a whenua topu trust); and

(b) the court must vest the areas of land in the trustees of a trust of that type for beneficial owners or beneficiaries that combine the classes of persons from the land whose ownership is being aggregated, as if vesting it under section 132(6).

68 Section 322 amended (Court may cancel roadways)

Replace section 322(2) with:

(2) The Registrar must give notice of the variation or cancellation of the order to the chief executive within the meaning of section 4 of the Cadastral Survey Act 2002.

69 Section 326A amended (Meaning of certain terms)

In section 326A, replace the definition of **reasonable access** with:

reasonable access means physical access to land for persons or services that is of a nature and quality that are reasonably necessary to enable the owner or occupier to use and enjoy the land.

70 Section 326B amended (Reasonable access may be granted in cases of landlocked Maori land)

(1) In section 326B(4), replace "regard to" with "regard to,".

(2) Replace section 326B(4)(a) with:

(a) if the applicant purchased the land, the nature and quality of the access (if any) to the landlocked land that existed when the applicant purchased the land; and

(3) After section 326B(4)(d), insert:

(da) the relationship that the applicant has with the landlocked land and with any water, site, place of cultural or traditional significance, or other taonga associated with the land; and

(db) the culture and traditions of the applicant with respect to the landlocked land; and

71 Section 326D amended (Additional provisions relating to orders under sections 326B or 326C)

(1) In the heading to section 326D, replace "**sections 326B or 326C**" with "**section 326B or 326C**".

(2) Repeal section 326D(3) and (4).

(3) In section 326D(5), replace "sections 326B or 326C" with "section 326B or 326C".

72 Section 328 amended (Occupation orders)

Replace section 328(1)(b) with:

(b) any person who is entitled to succeed to the beneficial interests of any deceased person in that land; or

(c) any beneficiary of a whanau trust that holds a beneficial interest in that land,—

73 Section 332 replaced (Power to require surveys)

Replace section 332 with:

332 Power to require surveys

(1) The court may make an order requiring the survey of any Maori land if, in the court's opinion, the survey is necessary or expedient for—

(a) the completion of any order of the court; or

(b) the exercise of any powers or jurisdiction of the court in relation to the land.

(2) Alternatively, the court may make an order requiring the survey of any Maori land for any purpose—

(a) on the application of an owner of any Maori land; but

(b) only if the court is satisfied that—

(i) the owners of the land to be surveyed have had sufficient notice of the proposal for the survey and sufficient opportunity to discuss and consider it; and

(ii) there is a sufficient degree of support for the survey among the owners.

(3) However, an order must not be made under this section unless the court is satisfied that the cost of the proposed survey has been paid or has been sufficiently secured.

(4) An order may—

(a) include any details about the nature or purpose of the survey; and

(b) nominate a surveyor to carry out the survey.

74 Section 333 repealed (Power of court to make charging orders on land in respect of costs of survey)

Repeal section 333.

75 Section 334 amended (Interest on survey charges)

(1) In section 334(1), replace "Except as provided in section 336, the" with "The".

(2) In section 334(2), replace "Chief Surveyor" with "Surveyor-General".

76 Section 335 amended (Power of Minister of Lands to remit survey charges)

In section 335(2), replace "the Chief Surveyor of the district in which the land affected is situated and" with "the Surveyor-General".

77 Section 336 repealed (Contribution from owners in respect of surveys)

Repeal section 336.

78 Section 338 amended (Maori reservations for communal purposes)

(1) In section 338(1) and (2), replace "The chief executive may, by notice in the *Gazette* issued on the recommendation of the court," with "The court may make an order to".

(2) In section 338(3), replace "notice" with "order".

(3) In section 338(5), replace "On the recommendation of the court, the chief executive, by notice in the *Gazette*, may, in respect of any Maori reservation made under this section," with "The court may make an order in respect of any Maori reservation to".

(4) Replace section 338(6) with:

(6) Land must not be set apart as a Maori reservation while it is subject to any mortgage or charge, and an order made under subsection (1), (2), or (5) does not affect any lease or licence.

(5) Replace section 338(11) with:

(11) While land is set apart as a Maori reservation,—

(a) the land or an interest in the land cannot be alienated, or vested or acquired under an Act; but

(b) the beneficial ownership of the land may continue to change by succession or otherwise (but this does not change the persons for whose common use or benefit the reservation is held, unless it is held for the beneficial owners).

(6) In section 338(12), replace "The trustees" with "However, the trustees".

(7) Replace section 338(14) with:

(14) A lease or occupation licence may be granted under subsection (12) for a term exceeding 14 years (including any term or terms of renewal) if granted for the purposes of—

(a) education; or

(b) health; or

(c) papakāinga housing.

79 Section 339 amended (Court may consider proposal for Maori reservation on application of Minister)

(1) In section 339(1), delete ", and make a recommendation to the chief executive or, in the case of land or an interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies, the Minister".

(2) Replace section 339(2) with:

(2) The court may then—

(a) make an order under section 338 to set aside the land as a Maori reservation; or

(b) recommend to the Minister that something else is done.

(3) However, for land or an interest in land to which section 8A or section 8HB of the Treaty of Waitangi Act 1975 applies, the court may—

(a) recommend to the Minister that the Crown acquire the land so that it can be set aside as a Maori reservation and, if the Crown acquires the land, make an order under section 338 with that effect; or

(b) recommend to the Minister that something else is done.

(4) For the purposes of this section, section 338 applies to land other than Maori freehold land or General land with any necessary modifications.

80 Section 340 amended (Maori reservation may be held for common use and benefit of people of New Zealand)

Replace section 340(1) and (2) with:

(1) An order constituting a Maori reservation under section 338 may, at the court's discretion, reserve the land for the common use and benefit of the people of New Zealand, as long as the land is not a wahi tapu (being a place of special significance according to tikanga Maori).

(2) However, the court must be satisfied that reserving the land in that way—

(a) is in accordance with the views of the owners; and

(b) is consented to by the local authority.

81 Section 341 amended (Further provisions relating to Maori reservation for marae or meeting place)

In section 341(3), replace "the chief executive shall, in the manner provided by section 338," with "the court may make an order under section 338(5) to".

82 New section 341A inserted (Orders about Maori reservations to be registered)

After section 341, insert:

341A Orders about Maori reservations to be registered

(1) An order made under section 338(1), (2), or (5) must be registered—

(a) on the record of title for the land under the Land Transfer Act 2017; or

(b) if applicable, in accordance with the Deeds Registration Act 1908.

(2) The Registrar must lodge an order for registration as soon as practicable after it is made.

(3) No fee is payable for registration.

83 Section 342 amended (Protection of Maori land against execution for debt)

Replace section 342(1) with:

(1) The following cannot be enforced against a person's interest in Maori customary land or, subject to section 343, a person's beneficial freehold interest in Maori freehold land:

(a) a judgment for payment of the person's debts or liabilities:

(b) a fine, penalty, or sentence of reparation that is imposed on the person:

(c) a requirement to pay money that is imposed on the person by an order or any other judicial process.

84 Schedule 1AA amended

In Schedule 1AA, after Part 1, insert the Part 2 set out in the Schedule of this Act.

Part 2
Amendments to other Acts and regulations

Amendments to Family Protection Act 1955

85 Amendments to Family Protection Act 1955

Section 86 amends the Family Protection Act 1955.

86 Section 3A amended (Courts to have concurrent jurisdiction)

(1) In section 3A(1), replace "the High Court and the Family Court" with "the High Court, the Maori Land Court, and the Family Court".

(2) After section 3A(2), insert:

(2A) An application under this Act must be made to—

(a) the Family Court or the High Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the application relates only to Maori freehold land.

(3) Replace section 3A(3) with:

(3) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to any other court

referred to in subsection (2A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(3A) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(4) In section 3A(4), after "Act in the Family Court", insert "or the Maori Land Court".

(5) In section 3A(4), after "with in the Family Court", insert "or the Maori Land Court (as the case may be)".

(6) After section 3A(4), insert:

(5) Any appeal from a decision of the Family Court or the Maori Land Court under this Act must be made to the High Court.

(6) In this section, **Maori freehold land**—

(a) has the meaning given by section 4 of Te Ture Whenua Maori Act 1993; and

(b) includes shares in a Maori incorporation under that Act; and

(c) includes the proceeds of alienation of anything referred to in paragraph (a) or (b).

Amendments to Government Roading Powers Act 1989

87 Amendments to Government Roading Powers Act 1989

Sections 88 to 93 amend the Government Roading Powers Act 1989.

88 Section 48 amended (Powers of Minister over roads under Minister's control)

(1) In section 48(6), replace "the office of the District Court nearest to the land concerned" with "the court".

(2) After section 48(6), insert:

(6A) The application must be made to—

(a) the District Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the application relates only to Maori land (as defined by section 4 of Te Ture Whenua Maori Act 1993).

(3) After section 48(7), insert:

(7A) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to the other court referred to in subsection (6A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(7B) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(7C) Any appeal from an order or a direction made under subsection (7) must be made to the High Court (even for an order or a direction of the Maori Land Court).

89 Section 50 amended (Owner or occupier of land not to cause damage to bridge by removal of stone, etc)

(1) In section 50(3), replace "District Court" with "court".

(2) After section 50(3), insert:

(3A) The appeal must be made to—

(a) the District Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the appeal relates only to Maori land (as defined by section 4 of Te Ture Whenua Maori Act 1993).

(3) After section 50(5), insert:

(5A) The court to which an appeal is made may refer any proceedings resulting from the appeal, or any question in those proceedings, to the other court referred to in subsection (3A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(5B) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(5C) Any further appeal from the court's decision must be made to the High Court (even for a decision of the Maori Land Court).

90 Section 55 amended (Removal of trees, hedges, etc, that obscure visibility or interfere with public work)

(1) In section 55(3), replace "the office of the District Court nearest to the land" with "the court".

(2) After section 55(3), insert:

(3A) The application must be made to—

(a) the District Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the application relates only to Maori land (as defined by section 4 of Te Ture Whenua Maori Act 1993).

(3) After section 55(6), insert:

(6A) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to the other court referred to in subsection (3A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(6B) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

91 Section 61 amended (Powers and duties of Agency in relation to State highways)

(1) In section 61(8), replace "the office of the District Court nearest to the land concerned" with "the court".

(2) After section 61(8), insert:

(8A) The application must be made to—

(a) the District Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the application relates only to Maori land (as defined by section 4 of Te Ture Whenua Maori Act 1993).

(3) After section 61(9), insert:

(9A) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to the other court referred to in subsection (8A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(9B) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(9C) Any appeal from an order or a direction made under subsection (9) must be made to the High Court (even for an order or a direction of the Maori Land Court).

92 Section 74 amended (Land may be temporarily occupied)

(1) In section 74(3), replace "the office of the District Court nearest to the land concerned" with "the court".

(2) After section 74(3), insert:

(3A) The application must be made to—

(a) the District Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the application relates only to Maori land (as defined by section 4 of Te Ture Whenua Maori Act 1993).

(3) After section 74(4), insert:

(5) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to the other court referred to in subsection (3A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(6) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(7) Any appeal from an order or a direction made under subsection (4) must be made to the High Court (even for an order or a direction of the Maori Land Court).

93 Section 76 amended (Access to land cut off from road or separated by motorway)

(1) In section 76(4), replace "the nearest office of the District Court" with "the court".

(2) After section 76(4), insert:

(5) The matter must be referred to—

(a) the District Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the matter relates only to Maori land (as defined by section 4 of Te Ture Whenua Maori Act 1993).

(6) The court to which a matter is referred may refer any proceedings resulting from the matter, or any question in those proceedings, to the other court referred to in subsection (5) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(7) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

Amendments to Law Reform (Testamentary Promises) Act 1949

94 Amendments to Law Reform (Testamentary Promises) Act 1949

Section 95 amends the Law Reform (Testamentary Promises) Act 1949.

95 Section 5 amended (Courts to have concurrent jurisdiction)

(1) In section 5(1), replace "the High Court and the Family Court" with "the High Court, the Maori Land Court, and the Family Court".

(2) After section 5(2), insert:

(2A) An application under this Act must be made to—

(a) the Family Court or the High Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the application relates only to Maori freehold land.

(3) Replace section 5(3) with:

(3) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to any other court referred to in subsection (2A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(3A) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(4) In section 5(4), after "Act in the Family Court", insert "or the Maori Land Court".

(5) In section 5(4), after "with in the Family Court", insert "or the Maori Land Court (as the case may be)".

(6) After section 5(4), insert:

(5) Any appeal from a decision of the Family Court or the Maori Land Court under this Act must be made to the High Court.

(6) In this section, **Maori freehold land**—

(a) has the meaning given by section 4 of Te Ture Whenua Maori Act 1993; and

(b) includes shares in a Maori incorporation under that Act; and

(c) includes the proceeds of alienation of anything referred to in paragraph (a) or (b).

Amendments to Local Government Act 1974

96 Amendments to Local Government Act 1974

Section 97 amends the Local Government Act 1974.

97 Section 446 amended (Council may cover in watercourse so as to make it a public drain)

(1) In section 446(7), replace "District Court" with "court".

(2) After section 446(7), insert:

(7A) The application must be made to—

(a) the District Court, unless paragraph (b) applies:

(b) the Maori Land Court, if the application relates only to Maori land (as defined by section 4 of Te Ture Whenua Maori Act 1993).

(3) After section 446(8), insert:

(8A) The court to which an application is made may refer any proceedings resulting from the application, or any question in those proceedings, to the other court referred to in subsection (7A) if it considers that the proceedings or question would be more appropriately dealt with by the other court.

(8B) The court may refer the proceedings or question on its own initiative or on application by a party to the proceedings.

(8C) Any appeal from an order made under subsection (8) must be made to the High Court (even for an order of the Maori Land Court).

(4) In section 446(9), replace "subsections (5) to (8)" with "subsections (5) to (8C)".

Amendments to Maori Assembled Owners Regulations 1995

98 Amendments to Maori Assembled Owners Regulations 1995

Sections 99 to 101 amend the Maori Assembled Owners Regulations 1995.

99 Regulation 2 amended (Interpretation)

In regulation 2(1), definition of **owners**, delete "as tenants in common".

100 Regulation 32 amended (Quorum at meetings generally)

In regulation 32(2), replace "regulation 33 or regulation 34 or regulation 35" with "regulation 33 or 34".

101 Regulation 35 revoked (Quorum for resolution to incorporate)

Revoke regulation 35.

Amendment to Maori Incorporations Constitution Regulations 1994

102 Amendment to Maori Incorporations Constitution Regulations 1994

Section 103 amends the Maori Incorporations Constitution Regulations 1994.

103 Schedule 1 amended

In Schedule 1, after clause 38, insert:

39 Interests register

The incorporation's interests register must be kept in a physical or an electronic form, and made available, in accordance with section 274B of the Act.

Amendments to Māori Land Court Fees Regulations 2013

104 Amendments to Māori Land Court Fees Regulations 2013

Section 105 amends the Māori Land Court Fees Regulations 2013.

105 Schedule amended

(1) In the Schedule, Part 12, after item 23, insert:

Applications under Family Protection Act 1955 or Law Reform (Testamentary Promises) Act 1949				
23A	Filing an application to the Maori Land Court under the—			
	(a)	Family Protection Act 1955	–	0
	(b)	Law Reform (Testamentary Promises) Act 1949	–	0

(2) In the Schedule, Part 12, item 25, before paragraph (a), insert:

	(aa)	referral of a disputed issue to a mediator	98L or 98R	0

Schedule
New Part 2 inserted into Schedule 1AA

s 84

Part 2
Provisions relating to Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020

3 Meaning of commencement date

In a provision of this Part, **commencement date** means the date on which the provision comes into force.

4 Judges are mediators until other mediators provided for

(1) This clause applies until the commencement of section 98M(2) to (5).

(2) For the purposes of section 98M, the Judge or Registrar who referred the issues to a mediator must appoint either 1 or 2 Judges as the mediator.

5 Existing Maori reservations

A Maori reservation that, at the start of the commencement date, is set apart under section 338 must be treated as if it were set apart by an order of the court.

Legislative history

19 September 2019	Introduction (Bill 179–1)
15 October 2019	First reading and referral to Māori Affairs Committee
1 May 2020	Reported from Māori Affairs Committee (Bill 179–2)
24 June 2020	Second reading
22 July 2020	Committee of the whole House, third reading
6 August 2020	Royal assent

This Act is administered by Te Puni Kōkiri.

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