



## ANALYSIS

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1987, No. 176

**An Act to declare the Maori language to be an official language of New Zealand, to confer the right to speak Maori in certain legal proceedings, and to establish Te Komihana Mo Te Reo Maori and define its functions and powers**

[20 July 1987]

WHEREAS in the Treaty of Waitangi the Crown confirmed and guaranteed to the Maori people, among other things, all their taonga: And whereas the Maori language is one such taonga:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Maori Language Act 1987.

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(2) Section 4 of this Act shall come into force on the 1st day of February 1988.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the 1st day of August 1987.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Certificate of competency” means a certificate of competency in the Maori language issued under and in accordance with this Act:

“Commission” means Te Komihana Mo Te Reo Maori established by section 6 of this Act:

“Interpretation”, in relation to the Maori language, means the oral expression in English of words spoken in Maori and the oral expression in Maori of words spoken in English:

“Legal proceedings” means—

(a) Proceedings before any court or tribunal named in the First Schedule to this Act; and

(b) Proceedings before any Coroner; and

(c) Proceedings before any tribunal or other body that, by or pursuant to any enactment, has the powers, or some of the powers, of a Commission of Inquiry under the Commissions of Inquiry Act 1908 and is required to inquire into and report upon any matter of particular interest to the Maori people or to any tribe or group of the Maori people:

“Minister” means the Minister of Maori Affairs:

“Presiding officer”, in relation to any legal proceedings, means the Judge or other person who is presiding over the proceedings:

“Translation”, in relation to the Maori language, means the written expression in English of words written in Maori and the written expression in Maori of words written in English.

### *Recognition of Maori Language*

**3. Maori language to be an official language of New Zealand**—The Maori language is hereby declared to be an official language of New Zealand.

**4. Right to speak Maori in legal proceedings**—In any legal proceedings, the following persons may speak Maori, whether or not they are able to understand or communicate in English or any other language:

- (a) Any member of the court, tribunal, or other body before which the proceedings are being conducted:
  - (b) Any party or witness:
  - (c) Any counsel:
  - (d) Any other person with leave of the presiding officer.
- (2) The right conferred by subsection (1) of this section to speak Maori does not—
- (a) Entitle any person referred to in that subsection to insist on being addressed or answered in Maori; or
  - (b) Entitle any such person other than the presiding officer to require that the proceedings or any part of them be recorded in Maori.
- (3) Where any person intends to speak Maori in any legal proceedings, the presiding officer shall ensure that a competent interpreter is available.
- (4) Where, in any proceedings, any question arises as to the accuracy of any interpreting from Maori into English or from English into Maori, the question shall be determined by the presiding officer in such manner as the presiding officer thinks fit.
- (5) Rules of Court or other appropriate rules of procedure may be made requiring any person intending to speak Maori in any legal proceedings to give reasonable notice of that intention, and generally regulating the procedure to be followed where Maori is, or is to be, spoken in such proceedings.
- (6) Any such Rules of Court or other appropriate rules of procedure may make failure to give the required notice a relevant consideration in relation to an award of costs, but no person shall be denied the right to speak Maori in any legal proceedings because of any such failure.

Cf. Welsh Language Act 1967 (U.K.), s. 1 (1)

**5. Effect of recognition**—Nothing in section 3 or section 4 of this Act shall—

- (a) Affect any right that any person has, otherwise than by virtue of that section, to receive or impart any communication in Maori; or
- (b) Affect the right of any other linguistic community in New Zealand to use the language of that community.

*Maori Language Commission*

**6. Establishment of Commission**—(1) There is hereby established a commission, to be called Te Komihana Mo Te Reo Maori.

(2) The Commission shall be a body corporate with perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, of suing and being sued, and of doing and suffering all such acts and things as bodies corporate may do and suffer.

Cf. *Bord Na Gaeilge Act, 1978 (Eire)*, s. 2

**7. Functions of Commission**—The functions of the Commission shall be as follows:

- (a) To initiate, develop, co-ordinate, review, advise upon, and assist in the implementation of policies, procedures, measures, and practices designed to give effect to the declaration in section 3 of this Act of the Maori language as an official language of New Zealand:
- (b) Generally to promote the Maori language, and, in particular, its use as a living language and as an ordinary means of communication:
- (c) The functions conferred on the Commission by sections 15 to 20 of this Act in relation to certificates of competency in the Maori language:
- (d) To consider and report to the Minister upon any matter relating to the Maori language that the Minister may from time to time refer to the Commission for its advice:
- (e) Such other functions as may be conferred upon the Commission by any other enactment.

Cf. *Bord Na Gaeilge Act, 1978 (Eire)*, s. 3 (1), (3), (4)

**8. Powers of Commission**—(1) The Commission shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of subsection (1) of this section, the Commission may—

- (a) Conduct, hold, or attend all such inquiries, hearings, or meetings as the Commission thinks desirable to enable it to determine the views and wishes of the Maori community in relation to the promotion and use of the Maori language; and
- (b) Undertake or commission research into the use of the Maori language; and
- (c) Consult with and receive reports from Government Departments and other bodies on the use of Maori language in the course of the conduct of the business

of those Departments or other bodies, whether by their staff or by people with whom they have official dealings; and

- (d) Publish information relating to the use of the Maori language; and
- (e) Report to the Minister on any matter relating to the Maori language that the Commission considers should be drawn to the Minister's attention.

Cf. Bord Na Gaeilge Act, 1978 (Eire), s. 3 (2), (4)

**9. Commission to have regard to Government policy—**

(1) In the performance of its functions and the exercise of its powers under this Act, the Commission shall have regard to the general policy of the Government in relation to the Maori language, as that policy is communicated to the Commission from time to time by the Minister by notice in writing.

(2) As soon as practicable after giving to the Commission a notice under subsection (1) of this section, the Minister shall publish in the *Gazette* and lay before Parliament a copy of the notice.

**10. Annual report—**(1) The Commission shall in each year make a report to the Minister on the work of the Commission during that year.

(2) As soon as practicable after receiving a report from the Commission under subsection (1) of this section, the Minister shall lay a copy of the report before Parliament.

**11. Responsibilities of other persons and bodies unaffected—**Nothing in any of the foregoing provisions of this Act shall affect any responsibility that any Minister of the Crown or other person, or any Government Department or other body, had immediately before the passing of this Act for any matter relating to the Maori language.

Cf. Bord Na Gaeilge Act, 1978 (Eire), s. 3 (5)

**12. Membership of Commission—**(1) The Commission shall consist of—

- (a) One member, to be called the Maori Language Commissioner, who shall be the Chairman of the Commission; and
- (b) Not more than 4 other members.

(2) Every appointment to the Commission shall be made by the Governor-General on the recommendation of the Minister.

(3) In considering the suitability of any person for appointment to the Commission, the Minister shall have regard not only to that person's personal attributes but also to that person's knowledge of and experience in the use of the Maori language and other matters likely to come before the Commission.

Cf. Bord Na Gaeilge Act, 1978 (Eire), s. 4 (1), (2); 1975, No. 114, s. 4 (2A); 1985, No. 148, s. 2 (1)

**13. Further provisions relating to Commission**—The provisions of the Second Schedule to this Act shall have effect in relation to the Commission and its affairs.

**14. Money to be appropriated by Parliament for purposes of this Act**—All fees, salaries, allowances, and other expenditure payable or incurred under or in the administration of this Act shall be payable out of money to be appropriated by Parliament for the purpose.

#### *Certificates of Competency*

**15. Commission to grant certificates of competency in the Maori language**—(1) The Commission shall grant a certificate of competency in the Maori language to any person who applies to the Commission for such a certificate and satisfies the Commission that he or she is qualified to be the holder of such a certificate.

(2) Every certificate of competency in the Maori language shall be 1 of the following 3 kinds:

- (a) A certificate of competency in the interpretation of the Maori language:
- (b) A certificate of competency in the translation of the Maori language:
- (c) A certificate of competency in the interpretation and translation of the Maori language.

(3) Every person who, immediately before the date of the commencement of this Act, was licensed as an Interpreter of the Maori language under Part VII of the Maori Affairs Act 1953 shall be entitled as of right, upon application to the Commission made at any time within 2 years after that date, to be granted by the Commission a certificate of competency in the interpretation and translation of the Maori language.

Cf. 1953, No. 94, s. 71

**16. Qualifications for certificates of competency**—For the purposes of determining whether or not an applicant for a certificate of competency in the Maori language is qualified to hold such a certificate, the Commission shall prepare, and publish in such manner as it thinks fit, criteria by which competence in the interpretation or translation of the Maori language is to be assessed.

**17. Commission may delegate power to issue certificates of competency**—(1) Notwithstanding anything in section 15 of this Act, the Commission may from time to time delegate to any person or body the power to assess applicants for certificates of competency in the Maori language and to grant certificates to those applicants who are found to be qualified to be the holders of such certificates.

(2) Subject to any directions given by the Commission, any person or body to whom or to which the Commission delegates its power pursuant to subsection (1) of this section may exercise that power in the same manner and with the same effect as if the power had been conferred directly by this Act and not by delegation.

(3) Any delegation made under this section may be revoked by the Commission at any time.

(4) No delegation of the Commission's power under this section shall prevent the exercise of that power by the Commission.

**18. Endorsement for purposes of legal proceedings**—

(1) The Commission may endorse any certificate of competency to the effect that the holder is competent to interpret the Maori language or (as the case may require) to translate the Maori language or both for the purposes of any legal proceedings if the Commission is satisfied that the holder of the certificate—

(a) Has a sufficient degree of competency in the interpretation or (as the case may require) the translation or both of the Maori language; and

(b) Has undergone an appropriate course of training or instruction in the duties of an interpreter or translator or both in legal proceedings.

(2) Every holder of a certificate of competency endorsed under this section shall, on production of the certificate, be recognised as competent to interpret the Maori language or (as the case may require) to translate the Maori language or both for the purposes of any legal proceedings; but no such holder shall have the right to insist on acting, and no party, witness, or

other person shall have the right to insist on that holder acting, as an interpreter or a translator or both in any particular proceedings.

(3) Where, in respect of any legal proceedings, the presiding officer considers that the holder of any certificate of competency in the Maori language (whether or not endorsed under this section)—

- (a) Has failed to interpret or translate adequately for the purposes of the proceedings; or
- (b) Has acted in a manner that is inconsistent with the duties of an interpreter or a translator in legal proceedings,—

the presiding officer may cause a report of the matter to be referred to the Commission, who shall deal with it under section 19 of this Act as if it were a complaint lodged under that section.

Cf. 1953, No. 94, s. 73

**19. Complaints against holders of certificates of competency—**(1) Any person may lodge with the Commission a complaint against the holder of any certificate of competency in the Maori language on the ground that—

- (a) The holder has, in the course of any interpretation or translation of the Maori language, exhibited such incompetence as to call into question the holder's qualification to hold the certificate; or
- (b) The holder has, while acting as an interpreter or a translator of the Maori language in any legal proceedings, acted in a manner that is inconsistent with the duties of an interpreter or a translator in legal proceedings.

(2) Except where the Commission is satisfied that the complaint is frivolous or vexatious, the Commission shall cause a copy of the complaint to be given or sent to the person to whom it relates, and shall give that person a reasonable opportunity to appear before the Commission, or (at that person's option) to make written submissions to the Commission, in answer to the complaint.

(3) If, after investigating any complaint under subsection (1) (a) of this section, the Commission is satisfied that the person to whom the complaint relates is not qualified to hold the certificate of competency in the Maori language that the person is then holding, it may—

- (a) Cancel the certificate of competency; or



(b) Suspend the certificate of competency until such time as the Commission is satisfied that the person is qualified to hold the certificate.

(4) If, after investigating any complaint under subsection (1) (b) of this section, the Commission is satisfied that the person to whom the complaint relates has, while acting as an interpreter or a translator of the Maori language in any legal proceedings, acted in a manner that is inconsistent with the duties of an interpreter or a translator in legal proceedings, it may—

(a) Cancel any endorsement of the certificate of competency made under section 18 of this Act; or

(b) If no such endorsement has been made, endorse the certificate of competency to the effect that the holder shall not be recognised as competent to interpret Maori or (as the case may require) to translate Maori or both for the purposes of any legal proceedings.

(5) The Commission shall, as soon as practicable after deciding to take any action under subsection (3) or subsection (4) of this section, give to the person concerned notice in writing of its decision and of the reasons for it.

(6) Where the Commission decides to cancel, suspend, or endorse a certificate of competency in the Maori language, it shall, in the notice given under subsection (5) of this section, require the holder to surrender the certificate of competency to the Commission for appropriate administrative action.

Cf. 1953, No. 94, s. 74

**20. Rules**—The Governor-General may from time to time, by Order in Council made on the advice of the Minister tendered on the recommendation of the Commission, make rules for either or both of the following purposes:

(a) Prescribing fees in respect of applications for certificates of competency in the Maori language:

(b) Prescribing the procedures to be followed in respect of such applications.

Cf. 1953, No. 94, s. 77

**21. Offence**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who, being required under section 19 (6) of this Act to surrender to the Commission any certificate of competency in the Maori language, fails without reasonable excuse to do so.

Cf. 1953, No. 94, s. 75

**22. Ombudsmen Act 1975 amended**—The First Schedule to the Ombudsmen Act 1975 is hereby amended by inserting in Part II, after the item “The Health Service Personnel Commission” (as inserted by section 65 (1) of the Health Service Personnel Commission Act 1983), the item “Te Komihana Mo Te Reo Maori”.

**23. Higher Salaries Commission Act 1977 amended**—The First Schedule to the Higher Salaries Commission Act 1977 (as substituted by section 3 of the Higher Salaries Commission Amendment Act 1980) is hereby amended by inserting, after the item relating to the Joint Council for Local Authorities Services, the following item:

“Te Komihana Mo Te Reo Maori”

**24. Repeals**—(1) Part VII (comprising sections 71 to 77A) of the Maori Affairs Act 1953 is hereby repealed.

(2) Section 51 of the Maori Affairs Amendment Act 1974 is hereby consequentially repealed.

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## SCHEDULES

### Section 2

### FIRST SCHEDULE

#### COURTS AND TRIBUNALS BEFORE WHICH MAORI MAY BE SPOKEN

##### A. Courts

The Court of Appeal  
 The High Court  
 District Courts  
 Family Courts  
 The Maori Land Court  
 The Maori Appellate Court

##### B. Tribunals

The Waitangi Tribunal  
 The Equal Opportunities Tribunal  
 Planning Tribunals  
 Small Claims Tribunals.

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### Section 13

### SECOND SCHEDULE

#### PROVISIONS RELATING TO TE KOMIHANA MO TE REO MAORI

**1. Term of office of members**—(1) Every member of the Commission shall be appointed for a term not exceeding 3 years, but may from time to time be reappointed.

(2) Any member of the Commission may resign at any time by notice in writing addressed to the Minister.

(3) Any member of the Commission may be removed from office at any time by the Governor-General on the advice of the Minister for disability,

SECOND SCHEDULE—*continued*

bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.

(4) Every member of the Commission shall, unless the member dies or resigns or is removed from office, continue to hold office until the member's successor comes into office notwithstanding the expiry of the term for which the member was appointed.

(5) The functions and powers of the Commission shall not be affected by any vacancy in its membership.

**2. Meetings of Commission**—(1) Subject to the succeeding provisions of this clause, the Chairman shall convene such meetings of the Commission as the Chairman thinks necessary for the efficient performance of the functions of the Commission.

(2) Meetings of the Commission shall be held at such places as the Commission or the Chairman from time to time appoints.

(3) The Chairman shall preside at all meetings of the Commission at which the Chairman is present.

(4) In the absence of the Chairman from any meeting, the members present shall appoint 1 of their number to be the Chairman for the purposes of that meeting.

(5) At any meeting of the Commission, the quorum necessary for the transaction of business shall be 3 members.

(6) All questions arising at any meeting of the Commission shall be decided by a majority of votes of the members present and voting.

(7) The presiding member shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(8) The Commission may meet in private or in public, as the Commission from time to time decides.

(9) The Commission shall cause such notice as it thinks fit to be given of any public meeting of the Commission to persons likely to be interested in the subject-matter of the meeting.

(10) Subject to the provisions of this Act, the Commission may regulate its procedure in such manner as it thinks fit.

**3. Assent to resolution without a meeting**—A resolution in writing signed, or assented to by letter, telegram, cable, or telex message by all the members of the Commission shall be as valid and effectual as if it had been passed at a meeting of the Commission duly called and constituted.

**4. Commission may authorise Chairman to perform and exercise Commission's functions and powers**—Notwithstanding anything in this Act, the Commission may from time to time authorise the Chairman to perform any of the Commission's functions or to exercise any of its powers on behalf of the Commission; and every act of the Chairman in relation to any such matter shall be deemed for all purposes to be the act of the Commission.

**5. Seal**—The Commission shall have a seal, which shall be judicially noticed in all Courts and for all purposes.

**6. Employees of Commission**—(1) Subject to the succeeding provisions of this clause, the Commission may from time to time appoint

SECOND SCHEDULE—*continued*

such officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient performance and exercise of its functions and powers under this Act or any other enactment.

(2) The number of officers and employees who may be appointed under subclause (1) of this clause, whether generally or in respect of any specified duties, shall from time to time be determined by the Minister.

(3) Officers and employees appointed under subclause (1) of this clause shall be employed on such terms and conditions of employment and shall be paid such salaries and allowances as the Commission may from time to time determine in agreement with the State Services Commission or, failing such agreement, as the Minister determines.

(4) Any determination under subclause (3) of this clause shall take effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the determination.

(5) If no date is so specified, the determination shall take effect on the date of the determination.

**7. Employment of experts**—(1) The Commission may appoint any person, who in its opinion possesses expert knowledge or is otherwise able to assist in connection with the exercise of its functions, to make such inquiries or to conduct such research or to make such reports as may be necessary for the efficient performance of any functions of the Commission.

(2) The Commission shall pay persons appointed by it under this clause, for services rendered by them, fees or commission or both at such rates as it thinks fit, and may separately reimburse them for expenses reasonably incurred in rendering services for the Commission.

**8. Application of certain Acts to members and staff of Commission**—No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of that person's appointment as a member of the Commission, or an officer or employee of the Commission, or under clause 7 of this Schedule.

**9. Remuneration, allowances, and expenses of members of Commission**—(1) There shall be paid to the members of the Commission such remuneration by way of fees, salary, wages, or allowances as may from time to time be determined, either generally or in respect of any particular member or members of the Commission, by the Higher Salaries Commission in accordance with the Higher Salaries Commission Act 1977.

(2) Any determination under subclause (1) of this clause shall take effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the determination.

(3) The Commission is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(4) There shall be paid to the members of the Commission travelling allowances and travelling expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

SECOND SCHEDULE—*continued*

**10. Superannuation or retiring allowances**—(1) For the purposes of providing a superannuation fund or retiring allowance for any of the officers or employees of the Commission or for the Chairman of the Commission, sums by way of subsidy may from time to time be paid into any scheme under the National Provident Fund Act 1950 containing provision for employer subsidy or into any other employer-subsidised scheme approved by the Minister of Finance for the purposes of this clause.

(2) Notwithstanding anything in this Act, any person who, immediately before becoming an officer or employee of the Commission or a member of the Commission, is a contributor to the Government Superannuation Fund under Part II of the Government Superannuation Fund Act 1956 shall be deemed for the purposes of that Act to be employed in the Government service so long as that person continues to be an officer or employee of the Commission or a member of the Commission; and that Act shall apply to that person in all respects as if that person's service as such an officer or employee or as such a member were Government service.

(3) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (2) of this clause shall entitle any such person to become a contributor to the Government Superannuation Fund after the person has once ceased to be a contributor.

(4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2) of this clause, to a person who is in the service of the Commission, whether as an officer or employee or as a member, and is a contributor to the Government Superannuation Fund, the term "controlling authority", in relation to any such person, means the Commission.

**11. Funds of Commission**—The funds of the Commission shall consist of the following:

- (a) Any money appropriated by Parliament for the purposes of the Commission and paid to the Commission for the purposes of the Commission:
- (b) All other money lawfully received by the Commission for the purposes of the Commission:
- (c) All accumulations of income derived from any such money.

**12. Bank accounts**—(1) The Commission shall open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Commission, or by any employee of the Commission shall, as soon as practicable after it has been received, be paid into such bank accounts of the Commission as the Commission from time to time determines.

(3) The withdrawal or payment of money from any such account shall be authorised by a prior resolution of the Commission or shall be submitted to the Commission for confirmation at its first ordinary meeting after the date of payment.

(4) The withdrawal or payment of money from any such accounts shall be by cheque signed by such person or persons as the Commission may from time to time authorise.

SECOND SCHEDULE—*continued*

**13. Accounts and audit**—(1) The Commission shall keep full and correct accounts of all its financial transactions, assets, liabilities, and funds; and its accounts shall be audited by the Audit Office which for that purpose shall have and may exercise all such powers as it has under the Public Finance Act 1977 in respect of public money and stores.

(2) The financial year of the Commission shall end on the 31st day of March or on such other date as may from time to time be directed by the Minister.

(3) At the end of each financial year, the Commission shall prepare an income and expenditure account showing its financial transactions for that year, together with a balance sheet as at the last day of the financial year.

(4) As soon as practicable after the end of its financial year, the Commission shall submit its income and expenditure account and balance sheet to the Audit Office for audit.

(5) A copy of the audited accounts of the Commission together with the Audit Office report thereon shall be laid before Parliament no later than 6 months after the end of the financial year, and may be incorporated in the annual report of the Commission prepared under section 10 of this Act.

**14. Investment of money**—Any money that belongs to the Commission and that is not immediately required for expenditure by the Commission may be invested in the same manner in which money in the Public Account may be invested pursuant to section 50 of the Public Finance Act 1977.

**15. Exemption from income tax**—The income of the Commission shall be exempt from income tax.

**16. Crown may provide services for Commission**—The Crown, acting through any Government department, may from time to time, at the request of the Commission, execute any work or enter into arrangements for the execution or provision by the department for the Commission of any work or service, or for the supply to the Commission of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed.

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This Act is administered in the Department of Maori Affairs.