

This factsheet provides a glossary of common terms and abbreviations used in and by the Māori Land Court and Māori Appellate Court

Introduction

The words and phrases listed in this glossary are used throughout Māori Land Court and our publications.

Its purpose is to help you to understand information in these publications and the meanings given are a general guide, and they should not be considered technical definitions.

It is hoped that the information in the glossary will help you to understand and communicate more easily with Māori Land Court staff and professional people, such as lawyers, when discussing Māori land issues.

Please note: In this glossary, Te Ture Whenua Māori Act 1993 will be called “the Act”.

For more information about Māori land matters, please contact your nearest Māori Land Court office.

Glossary of Terms

ABSOLUTE

Is used to describe ownership of land interests meaning that the interest(s) or share(s) are owned by the person.

Absolute interests are not subject to any other restrictions or orders (not in a trust, not a remainder interest or a life interest).

ADJOURN

To postpone a Court sitting, or any meeting, to another date and/or location.

ADMINISTRATOR

Someone who is given authority by the High Court to manage and administer the estate of a deceased person.

When an administrator is appointed by the High Court, it issues a grant of letters of administration.

AFFIDAVIT

A written statement that is signed and either affirmed or sworn on oath and therefore able to be used as evidence in Court.

AGGREGATION ORDER

Aggregation of titles occurs when two or more separate blocks of land share a common ownership list.

The titles remain separate, but there is only one common ownership list for all of the land.

(Refer to section 308 of the Act.)

ALIENATION

Alienation occurs is when landowners grant certain rights of their land to another person(s).

For example:

- selling or gifting the land gives the new owner the ownership rights
- leases give the lessee a limited right to occupy land in return for payment of rent (and other conditions)
- mortgages give the mortgagee the right to sell the land if the mortgage is not repaid.

AMALGAMATION

Amalgamation occurs when the titles of two or more blocks of land are cancelled and a single title is issued for the whole of the area.

The blocks of land are no longer separate.

(Refer to section 307 of the Act.)

ANNUITY

A yearly grant or allowance usually provided for in a will.

APPEAL

A complaint to a superior Court (in this instance the Māori Appellate Court) of a perceived injustice done by an inferior one.

The party complaining is called the appellant(s) and the other party are called the respondent(s).

ATTORNEY – POWER OF

A legal document that appoints another person to act on one's behalf in business or legal matters. Powers of attorney continue to be in force until they are cancelled by the person granting the power or that person dies.

AUDITOR

A person who checks and examines accounts.

BENEFICIAL OWNER

The owner of a beneficial interest in land.

Where land is vested in trustees, the trustees are the legal owners of the land and they hold it upon trust for the beneficial owners and they manage that land in accordance with the trust order set by the Court.

BENEFICIARY/BENEFICIARIES

Person/s who benefit from a trust.

BEQUEST

Personal property left to someone in a will.

BODY CORPORATE

A legal entity such as a company, incorporation, or Māori trust board.

CHARTER

A set of principles that form the constitution of an organisation.

CLEAR DAY

A day interpreted to be 24 hours from a named point in time. If the day ends on a public holiday, then the time automatically extends by the duration of the holiday. Weekends do not count as clear days.

CODICIL

A supplementary will read in conjunction with the will.

CONTEST (A WILL)

To dispute or challenge a will through the High Court.

CONTRACT

An agreement between two parties that is intended to be enforceable at law. Contracts are usually written, but a spoken agreement can also be a contract.

CORPUS

The land of the Māori incorporation at the time it is established, plus any land acquired later that is declared by the Court to form the main part of the incorporation. Land that is not declared as corpus is called investment land.

COURT ORDER

A document prepared and signed by a Court, to give effect to a decision of a Judge of the Court.

CROSS LEASE

A cross lease occurs where several owners of land in one title lease out separate areas, within that title, to each other individually for house sites.

A composite title is issued to each house owner, comprising:

1. the freehold share of the lessee in the whole block, and
2. the leasehold interest of the lessee in the individual site.

The two ownerships cannot be separated. In the case of Māori land, it is the person(s) entitled to succeed to the Māori land who succeed to both interests.

CROWN

The Crown refers to the head of state of New Zealand. The current head of state is Her Majesty Elizabeth the Second, by the Grace of God, Queen of New Zealand and Her Other Realms and Territories, head of the Commonwealth, Defender of the Faith.

The Crown is represented in this country by the Governor-General.

All Crown-owned land is, in effect, state-owned land.

DEVISE

Real property (such as land) left to someone in a will.

DISABILITY

Physical or mental disablement that, in the opinion of the Court, results in a person lacking, wholly or partly, the competence to manage his/her affairs in relation to his/her property.

DIVIDEND

A payment made to shareholders.

EFFECTIVE FORTHWITH

There is usually a period of two months before orders of the Māori Land Court can be released.

This period, called the appeal period, allows for any appeals that may be lodged.

If the Court considers that the order should be issued without the appeal period, the Court will declare the order to be “effective forthwith” and then the order can be released immediately.

ENCUMBRANCE

A charge, such as a mortgage, on the land claim or liability attached to property. e.g. a mortgage or a charge.

EQUITABLE OBLIGATION

A duty, enforceable at law, to act according to good conscience.

EUROPEAN LAND

The term “European land” has been replaced by the term “general land”.

EXECUTOR

A person appointed to carry out certain duties under the last will of a deceased person.

The deceased will have named the executor in their Will, and the appointment of that person is confirmed by the High Court.

When an executor is confirmed by the High Court, probate is issued in their favour.

(If the will does not name an executor, then the person who is appointed by the High Court to administer the estate is called an administrator).

FORMAL ADMINISTRATION

Formal administration of the estate of a deceased person is granted by the High Court either as Probate or as Letters of Administration (see those definitions).

FRAGMENTATION/FRAGMENTING

Fragmentation occurs when a person's shares in land are divided amongst other people.

GENERAL LAND

Land that is not Māori land (either Māori Freehold Land or Māori Customary Land) and which is not Crown Land.

GENERAL LAND OWNED BY MĀORI

General land is a land which is owned by a Māori or by a group of people majority of whom are Māori.

GRANT OF ADMINISTRATION (OR GRANT OF LETTERS OF ADMINISTRATION)

Where the High Court appoints someone to administer the estate of a deceased person (an administrator), as no executor has been named in the will.

The High Court's authority for that person to act is given in a grant of letters of administration.

HAPŪ

A sub-tribe or kin group that is linked by a common ancestor.

INCOME

Money that is derived from assets held and earnings (such as rent and interest) but not "purchase money" (land converted into money).

IWI

The traditional Māori tribal hierarchy and social order made up of hapū (kin groups) and whānau (family

groups), having a founding ancestor and territorial (tribal) boundaries.

JOINT TENANTS

People who own land jointly. The interests are not split between them – they are co-owners. If one owner dies, the other joint tenant(s) automatically succeed to the interest that the deceased joint tenant held.

This kind of ownership is most commonly used by married couples, who often prefer to own property as joint tenants.

Where general land is owned by more than one person, it is deemed to be held by them jointly unless the title states otherwise.

KAI TIAKI

A trustee or guardian.

LEGAL OWNER

The owner of the legal title to land. When trustees are appointed, they become the legal owners of the land. The names of the trustees, not the beneficiaries, will appear on the title.

LIFE INTEREST

The Court can award a life interest, usually to the deceased's surviving spouse or civil union partner, which entitles them to receive income from the estate. The life interest does not entitle the life tenant to any other portion of the estate.

It is limited to income (e.g. rents or interest) and excludes capital (e.g. purchase money or compensation for land). When the life tenant dies or re-marries, their life interest ends and the estate passes to the next-of-kin of the person from whom the interest came (usually their children).

MĀORI COMMUNITY PURPOSES

The promotion and support of initiatives through financial aid, loans, and grants.

Initiatives include:

- health
- social, cultural, and economic welfare
- educational and vocational training.

(For a full definition of Māori community purposes, refer to section 218 of Te Ture Whenua Māori Act 1993)

MĀORI (FREEHOLD) LAND

Land for which the Māori Land Court has created a title and determined the beneficial owners to that land.

Freehold titles are often divided by partition order.

The status of the land will continue to be Māori land unless and until the Māori Land Court makes an order changing the status of the land.

MĀORI INCORPORATION SHARES

Shares held in a Māori incorporation.

MINOR

A person who has not yet reached the age of 20 and has not legally married.

ORDER DECLARING TRUSTS

This is the Court order created by the Māori Land Court that sets out all the terms of a trust.

It is also called a trust order.

A trust order sets out the general purpose of the trust and well as the responsibilities, rights, obligations, and limitations of the trustees.

PĀNUI – (MĀORI LAND COURT NATIONAL PĀNUI)

Our national pānui is a publically available monthly publication which:

- Lists applications currently before the Māori Land Court for hearing and includes applications which have recently been received and those that are to be heard;
- Includes the details for each application (such as the applicant and case reference number), and the hearing details (such as the venue, date and time); and
- Is produced to ensure all interested parties notified of applications that the Court is dealing with.

Any person may receive a copy of our pānui free of charge by contacting us.

PERSONAL REPRESENTATIVE

An executor, administrator, trustee of a will or a person holding a valid power of attorney.

PREFERRED CLASSES OF ALIENEE

Are defined as:

- children, and remoter issue (descendants), of an owner
- whanaunga of an owner who are, in accordance with tikanga Māori, associated with the land
- other beneficial owners of the land who are members of the hapū associated with the land
- the trustees of the persons referred to above
- the descendants of any former owner who is or was a member of the hapū associated with the land

Where a person wishes to sell or gift shares in a Māori incorporation and no member of the preferred classes listed above can acquire the shares, the Māori incorporation may acquire the shares as a last resort.

PROBATE

When the High Court confirms the appointment of an executor to administer the will of a deceased person, the Court's authority for that person to act is given in a grant of probate. (See also executor.)

PROPERTY ORDER

Property orders are granted under the Protection of Personal and Property Rights Act 1988. They are designed to protect persons who are under disability, especially mental disability. Orders are granted by the High Court.

PROSECUTE

To go to the Māori Land Court for a hearing of an application and to present the case to the Judge; to process through the Māori Land Court.

PROXY

The authority given by an owner of an interest in land to another person to vote on their behalf.

PŪTEA

In the context of a Māori land trust or incorporation, it is the concept of several people, collectively, filling a basket by contributing communally with money and other assets.

QUORUM

The minimum number of members that must be present at a meeting to make it valid.

REHEARING

A hearing again of a case which has already been decided.

REMAINDER INTEREST

An interest in an estate that becomes fully effective only when the life interest ends (often referred to as an interest in expectation).

For example, a life interest may be awarded by the Court in favour of a surviving partner of a person who hold an interest in Māori land. The children or other persons entitled are then listed as the remainderman.

(See also life interest)

RESIDUARY ESTATE

Property in a will that has not been specifically devised or bequeathed and the assets remaining in an estate of a deceased person after provision has been made for all debts, estate costs, devises, bequests, and legacies (the balance of the estate).

RESERVE CONTRIBUTION

A tract of land which by legislation or local government rules require to be reserved for a special purpose when land is subdivided.

SEPARATION ORDER

An order of the Family Court that legally recognises that a married or civil union couple have separated.

SINE DIE

This term is used for Court hearings adjourned by a Judge indefinitely. It means "without a fixed day, indefinitely".

SPOUSE

A legal, de-facto or civil union partner.

SUCCESSION

The process of transferring the Māori land shares of a deceased person to the persons entitled to receive those shares.

SUCCESSION ORDER

An order of the Māori Land Court that transfers the land interests of a deceased person to their successors.

SUCCESSOR

A person who receives, as of right, all or a share of a deceased person's estate.

TENANTS IN COMMON

People who own land together but in separate interests (co-owners). Interests, in these cases, are often unequal.

If one person dies, the other tenants in common have no automatic rights of succession to the interest that the deceased owner had.

Māori land is deemed to be held "in common" unless otherwise determined by the Court.

TESTATOR

A person who makes a will.

TIKANGA MĀORI

Māori custom.

TIPUNA/TUPUNA

Ancestor.

TITLE

The legal ownership of property and the legal evidence of a person's ownership rights.

TRUST

An obligation binding the trustee(s) to deal with property over which they have control (the trust property) for the benefit of the beneficiaries. Any beneficiary can enforce the obligation.

TRUST ORDER

An order of the Māori Land Court that sets out: the objectives of a trust; the powers, obligations, and rights of trustees; and the rights of the beneficiaries. (See also order declaring trusts)

TRUSTEE

A person bound to deal with property on behalf of the owners or beneficiaries.

The trustee becomes the legal owner when the order appointing him/her as trustee for the land is registered against the title. The beneficiaries are called the beneficial owners.

UNDIVIDED INTEREST

Māori land is often collectively owned. Each owner's share is described as an "undivided interest" where that share is not partitioned as a separate title. Each co-owner has an interest in all of the land in the title.

VEST/VESTED

A change of ownership of land gives the recipient of that interest the ownership and its associated rights. (Land may be vested in a trustee, or shares may be vested in another person.)

VESTING ORDER

An order of the Court that vests land interests in someone else, therefore affecting the ownership.

WHAKAPAPA

A person's genealogy, or family tree, linking that person to a particular family and/or ancestor.

WHĀNAU

Family. Whānau is a wider concept than just immediate family of parents and siblings – it links people of one family to a common tipuna or ancestor.

WHĀNGAI

A person adopted informally in accordance with tikanga Māori and brought up as the adopting parent's own child without formal adoption being concluded by any Court.

WILL

The directions, in legal form, for the distribution of one's property after death.