

# Transferring Māori Land Shares

## A guide

*Te Ture Whenua Māori Act 1993*

Te Ture Whenua Māori Act 1993 includes regulations about how Māori land shares can be transferred. In this pamphlet, Te Ture Whenua Māori Act 1993 will be called “the Act”.

### Introduction

This pamphlet is a guide to transferring Māori land shares by a vesting order:

- when the ownership of a Māori land block is held in shares by a group of owners
- when a land block is vested in a Māori incorporation.

For information about granting confirmation of an instrument of alienation or about transfers of whole blocks of Māori land, please contact a Māori Land Court office. Māori Land Court office addresses are listed at the end of this pamphlet.

### Glossary

To help to clarify the legal words and phrases used in this pamphlet, there is an accompanying glossary – Glossary: Te Ture Whenua Māori. When a word or phrase that is in the glossary appears in this pamphlet for the first time, it will be in bold, e.g., affidavit.

### Use of vesting orders

Except when Māori land is vested in a Māori incorporation, Māori land shares can only be transferred by a vesting order made by the Māori Land Court. For this reason, you must apply to the Māori Land Court for a vesting order if you want to transfer your shares to someone else.

When Māori land is vested in a Māori incorporation, if you want to sell or gift your shares, you must file a transfer application with the secretary of the Māori incorporation.

A vesting order can be used to transfer Māori land shares:

- from one person to another on a sale or a gift of the shares
- to the trustees of the landowners
- from a trustee, or representative, to the person beneficially entitled to the shares
- to provide a dwelling site for an owner
- between owners to facilitate a partition of the land.

### People entitled to receive Māori land shares or interests

Māori land shares can only be sold or gifted to certain people who belong to a group defined in the Act as the preferred class of alienees.

The Act recognises that blocks of Māori land are generally owned by people connected to each other and to the land through kin groups. In order to preserve the kin groups, the Act restricts the type of people to whom land can be sold or gifted. These people can be:

- the owner’s children or direct descendants
- any whānaunga of the owner who, in accordance with tikanga Māori, are associated with the land
- the other beneficial owners of shares in the same land who are members of the hapū associated with that land
- the trustees for any of the people referred to above
- anyone descended from a former owner of the land who is, or was, a member of the hapū associated with that land.



## Transferring shares

### Transferring shares as a sale or a gift

You can only transfer Māori land shares by a sale or a gift with a vesting order, unless the Māori Land Court considers it better to have a memorandum of transfer.

### Transferring shares to trustees

Māori land shares can be transferred, by a vesting order, to a trustee from a person who owns, or is entitled to own, Māori land shares.

### Transferring shares from trustees or representatives

Māori land shares can be transferred, by a vesting order, from a trustee or representative for someone else to the person who is entitled to be the beneficial owner.

### Transferring shares for a dwelling site

Māori land shares may be transferred by a vesting order to an owner to enable them to have a dwelling site partitioned out of the land. A vesting order for a dwelling site can be made in favour of a husband and wife jointly, provided that one of them belongs to the preferred class of alienees. A vesting order for a dwelling site can be cancelled after five years if the site hasn't been used for a dwelling.

### Transferring shares to facilitate partition

If owners of Māori land shares agree or arrange to allot shares on a partition, the Māori Land Court may make a vesting order to give effect to the agreement.

### Selling shares

If Māori land shares are sold, the court cannot sign or seal a vesting order unless it is satisfied

that the money has been paid to the Māori Trustee or to the court-appointed agent or trustees. A certificate, signed by the Māori Trustee or the court-appointed agent or trustee, that the money has been paid, is sufficient evidence to satisfy the court.

### Gift duty

In certain circumstances, you must pay gift duty on Māori land shares that are transferred as a gift. If you make gifts, including Māori land shares, in a twelve-month period that are worth more than \$27,000, you must pay gift duty. (If something of lesser value is given in return for a gift, then the value of the gift is the difference between the two.)

In some cases, gifts must be recorded with Inland Revenue even though they are not liable for gift duty. If the gifts made have a total value of over \$12,000 in any twelve-month period, a gift statement (IR 196) needs to be given to Inland Revenue.

Information about gift duty, including gift duty rates, is available in the Inland Revenue booklet *Gift Duty: A guide to gift duty and how to pay it*. If you would like more information, please contact Inland Revenue on 0800 527 777.

## Applying for a vesting order

You must apply to the Māori Land Court for a vesting order. You can apply if you are:

- the owner of the Māori land shares to be transferred
- the person who will receive the Māori land shares
- a trustee for either of the people mentioned above.

The applicant, or counsel for the applicant, must sign the application for the vesting order.

### Information required

The information required in an application for a vesting order must:

- state the relationship of the parties
- be accompanied by whakapapa or other documentary evidence necessary to establish that the transferee belongs to one or more of the preferred classes of alienees.

If the application involves a contract or an arrangement relating to the proposed transfer, then the contract or a written agreement between the parties must be filed with the application.

Unless the court directs otherwise, the following items must also be filed with the application:

- a certified copy of the entry in the district valuation roll for the land in which the shares to be vested are held
- a valuation of that land by a registered public valuer
- a valuation of all or any other assets attached to the land.

Where a vesting order is sought to gift Māori land shares that have a value of over \$2,000, the owner of the shares will need to give evidence, either in court or in a written affidavit or declaration, to support the application.

The standard application fee for a vesting order is \$61.

### The court hearing

The vesting order application will be considered at a Māori Land Court hearing. The owner of the shares or interests being transferred should attend. Any person who is entitled, or will be

entitled, to a beneficial interest in the land is entitled to appear and to be heard at the court hearing.

### Granting a vesting order

Before granting a vesting order to transfer shares or interests, the Māori Land Court must be satisfied that:

- any instrument of alienation has been executed and attested in the manner required by the rules of the court
- the transfer is not in breach of any trust that manages the land
- the value of the shares or interests takes into account the value of all buildings, fixtures, crops, trees, minerals, and other assets or funds relating to the land
- the value of the shares and interests takes into account the relationships or special circumstances of the parties
- the requirement to transfer the shares or interests has been first offered to one or more members of the preferred class of alienees.

## Māori incorporation shares

Māori incorporation shares are deemed, for all purposes, to be shares in the Māori land held by the incorporation.

### Share registers

The Māori incorporation is required to establish a share register, an official record of the shareholders. The share register must list the shareholders' names and addresses and the shares held by each shareholder.

The secretary for the Māori incorporation maintains the share register by noting any share transfers or successions processed by the Māori Land Court.

## Transferring Māori incorporation shares

You may transfer your Maori incorporation shares provided that:

- the shares to be transferred do not result in a shareholding less than any minimum set by the Māori incorporation
- the shares are first offered to a member of the preferred class of alienees.

As a final alternative, the shares can be offered to the Māori incorporation.

Shares can also be transferred from a parent to their children, grandchildren, or remoter issue. A shareholder's spouse can acquire shares only if they are a member of the preferred class of alienees.

Māori incorporation shares can be transferred directly through the incorporation or by an order of the Māori Land Court.

To transfer Māori incorporation shares, the transferor (the person transferring the shares) must file a transfer of shares form (form 5 of the Māori Incorporations Regulations 1994) with the secretary of the Māori incorporation.

The following information is required on the transfer form:

- the transferor's name and address
- the amount of shares to be transferred
- whether the transfer is a sale or a gift
- whether the shares are being sold and the price
- the name, the occupation, the address, and the date of birth of the transferee (the person receiving the shares).

The form must be signed by the transferor and witnessed by one other person. The witness must state his or her address and occupation.

## Committee of management

The Māori incorporation's committee of management is responsible for registering the transfer against the incorporation's share registration.

## More information

For more information about transferring Māori land shares or interests, please write to, phone, fax, email, or visit a Māori Land Court office. Māori Land Court office addresses and email addresses follow. The staff will be pleased to assist you and discuss any matters with you.

Website: [www.maorilandcourt.govt.nz](http://www.maorilandcourt.govt.nz)

## Māori Land Court offices

### Te Taitokerau district

Registry Office  
2nd Floor, Manaia House  
Rathbone Street  
PO Box 1764  
Whangarei  
Phone: (09) 983 9940  
Fax: (09) 983 9941  
Email: [mlctaitokerau@courts.govt.nz](mailto:mlctaitokerau@courts.govt.nz)

### Auckland information office

135 Kolmar Road  
PO Box 23358  
Papatoetoe  
Phone: (09) 279 5850  
Fax: (09) 279 5852  
Email: [mlcpapatoetoe@courts.govt.nz](mailto:mlcpapatoetoe@courts.govt.nz)

### Waikato Maniapoto district

Registry Office  
Level 2, BNZ Centre  
354–358 Victoria Street  
PO Box 620  
Hamilton  
Phone: (07) 957 7880  
Fax: (07) 957 7881  
Email: [mlcwaikato@courts.govt.nz](mailto:mlcwaikato@courts.govt.nz)

### Waiariki district

Registry Office  
Hauora House  
Haupapa Street  
PO Box 3012  
Rotorua  
Phone: (07) 921 7402  
Fax: (07) 921 7412  
Email: [mlcwaiariki@courts.govt.nz](mailto:mlcwaiariki@courts.govt.nz)

### Tūrangi information office

Shop 41  
Town Centre  
PO Box 273  
Tūrangi  
Phone: (07) 386 0183  
Fax: (07) 386 0183

### Aotea district

Registry Office  
Ingestre Chambers  
74 Ingestre Street  
PO Box 7178  
Wanganui  
Phone: (06) 349 0770  
Fax: (06) 349 0771  
Email: [mlcaotea@courts.govt.nz](mailto:mlcaotea@courts.govt.nz)

### T à kitimu district

Registry Office  
2nd floor, Heretaunga House  
Cnr Lyndon and Warren Streets  
PO Box 134  
Hastings  
Phone: (06) 974 7630  
Fax: (06) 974 7631  
Email: [mlctakitimu@courts.govt.nz](mailto:mlctakitimu@courts.govt.nz)

### Te Tair à whiti district

Registry Office  
Ngà Wai E Rua  
Reads Quay  
PO Box 849  
Gisborne  
Phone: (06) 869 0370  
Fax: (06) 869 0371  
Email: [mlctairawhiti@courts.govt.nz](mailto:mlctairawhiti@courts.govt.nz)

### Te Waipounamu district

Registry Office  
76 Peterborough Street  
PO Box 2200  
Christchurch  
Phone: (03) 962 4900  
Fax: (03) 962 4901  
Email: [mlctewaipounamu@courts.govt.nz](mailto:mlctewaipounamu@courts.govt.nz)

### National Office

Level 17, Fujitsu Tower  
141 The Terrace  
PO Box 23-248  
Wellington  
Phone: (04) 914 3102  
Fax: (04) 914 3100  
Email: [mlcnationaloffice@justice.govt.nz](mailto:mlcnationaloffice@justice.govt.nz)

