



ANALYSIS

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2003, No. 1

An Act—

- (a) To declare Maori an official language of the Cook Islands; and
- (b) To establish Te Kopapa Reo Maori and define its functions and powers; and
- (c) To give the Ministry of Cultural Development additional objectives and functions.

(9 April 2003)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short title and commencement – (1) This Act may be cited as the Te Reo Maori Act 2003.

(2) This Act comes into force on 1 July 2003, unless it is earlier brought into force on a date appointed by the Queen’s Representative by Order in Executive Council.

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

“Applicant” means a person who applies for a certificate of competency;

“Certificate of competency” means a certificate of competency issued under this Act;

“Communication”, in relation to Maori, means—

- (a) The oral form of Maori;
- (b) The written form of Maori;

“Financial year” has the meaning given to it in section 2 of the Ministry of Finance and Economic Management Act 1995-96;

“Kopapa Reo” means Te Kopapa Reo Maori (the Maori Language Commission) established by **section 7**;

“Maori” –

- (a) Means the Maori language (including its various dialects) as spoken or written in any island of the Cook Islands; and
- (b) Is deemed to include Pukapukan as spoken or written in Pukapuka; and
- (c) Includes Maori that conforms to the national standard for Maori approved by Kopapa Reo;

“Minister” means the Minister of Cultural Development;

“Ministry” means the Ministry of Cultural Development established by the Ministry of Cultural Development Act 1990;

“Secretary” means the Secretary of the Ministry.

3. Act binds Crown – This Act binds the Crown.

Maori as an official language

4. Maori to be an official language – Maori is an official language of the Cook Islands.

5. Effect of declaration – Nothing in **section 4**–

- (a) Affects the status of English as an official language of the Cook Islands; or
- (b) Affects any right that any person has, otherwise than by virtue of that section, to receive or impart any communication in Maori; or
- (c) Affects the right of any linguistic or dialectal community in the Cook Islands to use the language or dialect of that community.

6. Additional objectives and function of Ministry of Cultural Development –

(1) The Ministry has the following principal objectives:

- (a) To give effect to the declaration that Maori is an official language of the Cook Islands;
- (b) To bring about a status for Maori that is equal to English in the Cook Islands.

(2) The Ministry has a principal function of assisting Kopapa Reo to carry out its functions and duties under this Act (including providing secretarial and administrative services to Kopapa Reo).

Te Kopapa Reo Maori

7. Establishment and membership of Te Kopapa Reo Maori – (1) This subsection establishes a commission to be called Te Kopapa Reo Maori (the Maori Language Commission).

(2) Kopapa Reo comprises the following members appointed by the Minister:

- (a) The person for the time being holding the position of Secretary of the Ministry of Cultural Development or another position within that Ministry nominated by the Secretary;

- (b) The person for the time being holding the position of Secretary of Education or another position within the Ministry of Education nominated by the Secretary of Education;
 - (c) One person recommended by the House of Arikis;
 - (d) One person who the Minister considers to be competent to represent the interests of women; and
 - (e) One person who the Minister considers to be competent to represent the interests of youth.
- (3) Kopapa Reo is not to be regarded as an advisory or technical committee for the purposes of the Ministry of Cultural Development Act 1990.

8. Functions of Kopapa Reo – Kopapa Reo has the following functions:

- (a) To create, and update as necessary, a national standard for Maori on matters such as phonetics, grammar, vocabulary (including coining new words if necessary), orthography, and the alphabet;
- (b) To publish a notice in the *Cook Islands Gazette* and any other media considered appropriate when Kopapa Reo formally approves the standard or an update to the standard (such notice setting out where copies of the standard or update can be purchased);
- (c) To act as the national authority on the standard;
- (d) Subject to **section 13**, to grant certificates of competency and perform the functions conferred by this Act relating to such certificates;
- (e) To advise the Ministry on what Kopapa Reo considers the most effective ways to give effect to the principal objectives and principal function of the Ministry specified in **section 6**;
- (f) To consider, and report to the Secretary on, any matter relating to Maori that–
 - (i) The Secretary may from time to time refer to Kopapa Reo for its advice; or
 - (ii) Kopapa Reo considers necessary or desirable;
- (g) To perform any other functions conferred on Kopapa Reo by regulations made under this Act.

9. Kopapa Reo to report annually to Secretary – Kopapa Reo must, within one month of the end of each financial year, make a written report to the Secretary on its work during the financial year.

10. Further provisions relating to Kopapa Reo – The provisions in **Schedule 1** apply to Kopapa Reo and its affairs.

Certificates of competency

11. Kopapa Reo to grant certificates of competency – (1) Kopapa Reo may grant certificates of competency for the following:

- (a) Competency in Maori or any dialect or branch of it;
- (b) A specific competency (for example, interpretation or translation) in relation to Maori or any dialect or branch of it.

(2) On the payment of prescribed fees (if any), a certificate of competency must be granted to any applicant who satisfies Kopapa Reo that he or she is qualified to be the holder of such a certificate.

12. Qualifications for certificates of competency – For the purposes of determining whether or not an applicant is qualified to be the holder of a certificate of competency, Kopapa Reo must prepare, and publish in such manner as it thinks fit, standards and other criteria by which the relevant competency will be assessed.

13. Kopapa Reo to delegate power to grant certificates of competency – (1) Notwithstanding **section 11**, but subject to any regulations made under **section 21(1)(c)**, Kopapa Reo may from time to time delegate to any person the power to assess applicants and to grant certificates of competency.

(2) Subject to any directions given by Kopapa Reo, a person to whom Kopapa Reo delegates any power under this section may exercise that power in the same manner and with the same effect as if that power had been conferred directly by this Act and not by delegation.

(3) Kopapa Reo may not delegate a power under this section except–

- (a) By unanimous resolution of its members; and
- (b) In accordance with regulations (if any) made under this Act.

(4) A delegation made under this section–

- (a) May be revoked by Kopapa Reo at any time (without requiring unanimous resolution of its members); and
- (b) Does not prevent Kopapa Reo exercising the power delegated.

(5) Subject to the foregoing provisions of this section, Kopapa Reo must–

- (a) As soon as Kopapa Reo finds a suitable person, delegate the power referred to in subsection (1) to that person; and
- (b) As far as practicable, ensure that at any given time there is at least 1 person to whom that power is delegated.

14. Complaints against holders of certificates of competency – (1) Any person may lodge with Kopapa Reo a complaint against the holder of any certificate of competency on the ground that the holder has exhibited such incompetence as to call into question the holder's qualification to hold that certificate.

(2) Except where Kopapa Reo is satisfied that the complaint is frivolous or vexatious, Kopapa Reo must give or send a copy of the complaint to the person to whom it relates, and must give that person a reasonable opportunity to appear before Kopapa Reo, or (at that person's option) to make written submissions to Kopapa Reo, in answer to the complaint.

(3) If, after investigating any complaint under subsection (1), Kopapa Reo is satisfied that the person to whom the complaint relates is not qualified to hold the certificate of competency, it may—

- (a) Cancel the certificate of competency; or
- (b) Suspend the certificate of competency until such time as Kopapa Reo is satisfied that the person is qualified to hold the certificate.

(4) Kopapa Reo must, as soon as practicable after deciding to take any action under subsection (3), give to the person concerned notice in writing of its decision and of the reasons for it.

(5) Where Kopapa Reo decides to cancel, suspend, or endorse a certificate, it must, in the notice given under subsection (4), require the holder to surrender the certificate to Kopapa Reo for appropriate administrative action.

Miscellaneous

15. Kopapa Reo to have regard to Government policy — (1) In the performance of its functions under this Act, Kopapa Reo must have regard to the general policy of the Government in relation to Maori, as that policy is communicated to the Secretary from time to time by the Minister by notice in writing.

(2) As soon as practicable after receiving a notice under subsection (1), the Secretary must—

- (a) Forward a copy of it to Kopapa Reo; and
- (b) Publish a copy of it in the *Cook Islands Gazette*.

16. Responsibilities of other persons unaffected — Nothing in any of the foregoing provisions of this Act affects any responsibility that any Minister of the Crown or any other person had immediately before the passing of this Act for any matter relating to Maori.

17. Money to be appropriated by Parliament for purposes of this Act — All remuneration, allowances, expenses, and other expenditure payable or incurred under or in the administration of this Act are payable out of money to be appropriated by Parliament for the purpose.

18. Protection of members of Kopapa Reo — (1) No member of Kopapa Reo is personally liable for any act done or omitted by the member in good faith in the course of the operations of Kopapa Reo.

(2) Any liability that would but for this section lie against a member of Kopapa Reo lies against the Crown.

19. Offence – Every person commits an offence and is liable on conviction to a fine not exceeding \$500 who, being required under **section 14(5)** to surrender to Kopapa Reo any certificate, fails without reasonable excuse to do so.

20. Orders in Executive Council for Schedule 1 purposes – The Queen's Representative may from time to time make an Order in Executive Council for the purposes of **clause 4(2)** or **6** of **Schedule 1**.

21. Regulations – (1) The Queen's Representative may from time to time, by Order in Executive Council, make regulations for all or any of the following purposes:

- (a) Prescribing fees in respect of–
 - (i) The conducting of examinations for certificates of competency; and
 - (ii) Applications for, and the issuing of, certificates of competency; and
 - (iii) Any other service provided by Kopapa Reo in respect of applications for certificates of competency;
- (b) Prescribing the procedures to be followed in respect of applications for certificates of competency;
- (c) Restricting or otherwise regulating Kopapa Reo's power to make a delegation under **section 13**;
- (d) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(2) No regulation may be made under subsection (1)(a) or (b) except on the advice of the Minister tendered on the recommendation of Kopapa Reo.

22. Consequential amendments to Ministry of Cultural Development Act 1990 – The Ministry of Cultural Development Act 1990 is consequentially amended in the manner indicated in **Schedule 2**.

This Act is administered in the Ministry of Cultural Development.

SCHEDULE 1**Section 10****PROVISIONS APPLYING TO KOPAPA REO AND ITS AFFAIRS****1 Term of office of members**

- (1) Every member of Kopapa Reo must be appointed for a term not exceeding 3 years, but may from time to time be reappointed.
- (2) A member may resign at any time by notice in writing addressed to the Minister.
- (3) The following are deemed to have vacated office as a member:
 - (a) A member who is absent from 3 consecutive meetings of Kopapa Reo without its leave;
 - (b) A member appointed under **section 7(2)(a) or (b)** by virtue of holding a position, who, for any reason, ceases to hold the position.
- (4) The Minister may at any time remove any member from office for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.
- (5) Every member, unless the member dies, or resigns, vacates, or is removed from office, continues to hold office until the member's successor comes into office notwithstanding the expiry of the term for which the member was appointed.
- (6) The functions and powers of Kopapa Reo are not affected by any vacancy in its membership.

2 Chairman and Deputy Chairman

- (1) The Minister must from time to time appoint 1 member of Kopapa Reo its Chairman.
- (2) At its first meeting in each year, Kopapa Reo must elect another of its members to be its Deputy Chairman.
- (3) A member who holds the office of Chairman or Deputy Chairman continues in office until his or her successor is appointed or elected under subclause (1) or (2) of this clause, and is eligible for reappointment or reelection.
- (4) A member who holds the office of Chairman may at any time—
 - (a) Be removed from the office of Chairman by the Minister; or
 - (b) Resign his or her office by giving a notice to that effect to the Minister.

- (5) A member who holds the office of Deputy Chairman may at any time—
 - (a) Be removed from the office of Deputy Chairman by Kopapa Reo; or
 - (b) Resign his or her office by giving a notice to that effect to Kopapa Reo.
- (6) If a person who holds the office of Chairman ceases to be a member of Kopapa Reo, the Minister must appoint 1 member to fill that vacancy in the office of Chairman as soon as reasonably practicable.
- (7) If a person who holds the office of Deputy Chairman ceases to be a member of Kopapa Reo, Kopapa Reo must elect 1 member to fill that vacancy in the office of Deputy Chairman as soon as reasonably practicable.

3 Deputy Chairman may act for Chairman

- (1) The Deputy Chairman of Kopapa Reo has and may exercise or perform all the functions, duties, and powers of the Chairman of Kopapa Reo if—
 - (a) The Chairman is at any time incapable of acting as Chairman because of illness, absence, or any other reason; or
 - (b) There is a vacancy in the office of Chairman.
- (2) The Deputy Chairman must, while acting for the Chairman, be regarded as the Chairman.
- (3) No act done by the Deputy Chairman while acting for the Chairman and no act done by Kopapa Reo while the Deputy Chairman is acting for the Chairman, may in any proceedings be questioned on the ground that the occasion entitling the Deputy Chairman to act had not arisen or had ceased.

4 Meetings of Kopapa Reo

- (1) Subject to clause 3 and the succeeding provisions of this clause, the Chairman must—
 - (a) Convene such meetings of Kopapa Reo as the Chairman thinks necessary for the efficient performance of the functions of Kopapa Reo; and
 - (b) Appoint the time and place at which the meetings are to be held; and
 - (c) Preside at all meetings of Kopapa Reo.
- (2) The Chairman must convene meetings at such frequency as determined from time to time by the Queen's Representative by Order in Executive Council, or, in the absence of such an order, at the frequency of at least 1 meeting in each month.
- (3) Any 2 members may at any time call a special meeting of Kopapa Reo by giving each member for the time being in the Cook Islands a written notice stating—
 - (a) The time and place of the meeting; and

- (b) The business to be transacted at it.
- (4) The members must be given—
 - (a) At least 7 days' notice of the special meeting; or
 - (b) If they are satisfied that the business to be transacted is urgent, any shorter period of notice to which all members entitled to be notified agree.
- (5) No business other than that specified in a notice of special meeting may be transacted at a special meeting.
- (6) At any meeting of Kopapa Reo, the quorum necessary for the transaction of business is 3 members.
- (7) All questions arising at any meeting of Kopapa Reo must be decided by a majority of votes of the members present and voting.
- (8) The presiding member has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (9) The members present must appoint 1 of their number (“the appointee”) to preside at a meeting if—
 - (a) The Chairman and Deputy Chairman are not present; or
 - (b) There is no Chairman and no Deputy Chairman.
- (10) The appointee must, while presiding at the meeting, be regarded as the Chairman.
- (11) No act done by the appointee while presiding at the meeting and no act done by Kopapa Reo while the appointee is so presiding, may in any proceedings be questioned on the ground that the occasion requiring the appointment to be made had not arisen or had ceased.
- (12) Kopapa Reo may meet in private or in public, as it from time to time decides.
- (13) Kopapa Reo must cause such notice as it thinks fit to be given of a public meeting of Kopapa Reo to persons likely to be interested in the subject-matter of the meeting.
- (14) Subject to the provisions of this Act, Kopapa Reo may regulate its procedure in such manner as it thinks fit.

5 Assent to resolution without a meeting

- (1) A resolution in writing signed, or assented to by letter, telegram, cable, telex, or e-mail, by every member of Kopapa Reo is as valid and effectual as if it had been passed at a meeting of Kopapa Reo duly called and constituted.

- (2) Subclause (1) of this clause does not apply unless the Chairman has endorsed the resolution to the effect that the signature or assent of members is being obtained in that way due to exceptional circumstances that, in the Chairman's opinion, require urgent action.

6 Remuneration, allowances, and expenses of members of Kopapa Reo

- (1) Members of Kopapa Reo must be paid such remuneration, allowances, and expenses as determined from time to time by the Queen's Representative by Order in Executive Council.
- (2) The determination—
- (a) May be made either generally or in respect of any particular member or members of Kopapa Reo;
 - (b) Takes effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the Order in Executive Council.
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SCHEDULE 2**Section 22****CONSEQUENTIAL AMENDMENTS TO MINISTRY OF CULTURAL DEVELOPMENT ACT 1990****Section 2**

By inserting, in the appropriate alphabetical order, the following definitions:

“ “Financial year” has the meaning given to it in section 2 of the Ministry of Finance and Economic Management Act 1995-96;

“Kopapa Reo” has the meaning given to it in section 2 of the Te Reo Maori Act 2003.

By adding the following subsection:

“(2) In section 9, the expression “this Act” includes the Te Reo Maori Act 2003.”

Section 4

By inserting, after subsection (1), the following subsection:

“(1A) In addition, the Ministry has the principal objectives specified in section 6(1) of the Te Reo Maori Act 2003.”

By inserting, after the words “shall be” in subsection (2), the word “to”.

By inserting, after the expression “Audio-Visual Recording Unit” in paragraph (d) of subsection (2), the expression “and Tuanga Reo (as established by regulations made under this Act),”.

By inserting, after subsection (2), the following subsection:

“(2A) In addition, the Ministry has the principal function specified in section 6(2) of the Te Reo Maori Act 2003.”

Section 28

By inserting in subsection (1), after the words “the Ministry”, the words “and the work of Kopapa Reo”.

Sections 8, 10(1), and 11

By omitting the expression “Public Service Act 1975”, and substituting the expression “Public Service Act 1995-96”.
