

Reprint  
as at 1 October 2019



## Housing Assets Transfer Act 1993

Public Act      1993 No 50  
Date of assent      25 June 1993  
Commencement      see section 1(2)

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Housing and Urban Development.**

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**Title** *[Repealed]*

Title: repealed, on 1 October 2019, by section 33 of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

**1 Short Title and commencement**

- (1) This Act may be cited as the Housing Assets Transfer Act 1993.
- (2) This Act shall come into force on the date on which it receives the Royal assent.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**housing assets** means—

- (a) mortgages and other securities under the Maori Housing Act 1935 or the Maori Housing Amendment Act 1938 that secure the repayment of money lent, including charges under section 21 of the Maori Housing Amendment Act 1938:
- (b) land set apart under the Maori Housing Amendment Act 1938 for the purposes of the Maori Housing Act 1935 and land in respect of which any of the powers conferred by section 4(3) of the Maori Housing Amendment Act 1938 have been exercised, being land owned by the Crown and that is subject to an agreement for sale or lease by the Crown under that Act:
- (c) subleases of land granted by the Crown under the Maori Housing Amendment Act 1938:
- (d) land that is subject to an agreement for sale under section 16 of the Housing Act 1955 or a licence to occupy under section 17 of that Act:
- (e) mortgages, debentures, and other securities that secure the payment of money lent by or on behalf of the Crown pursuant to the Housing Act 1955, the Housing Corporation Act 1974, or the Kāinga Ora—Homes and Communities Act 2019

**Kāinga Ora—Homes and Communities** means Kāinga Ora—Homes and Communities established by the Kāinga Ora—Homes and Communities Act 2019

**Ministers** means the responsible Minister and the Minister of Finance

**responsible Minister** means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the

Prime Minister, is for the time being responsible for the administration of this Act

**sitting day** means a sitting day of the House of Representatives.

Section 2 **Corporation**: repealed, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 2 **housing assets** paragraph (e): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 2 **Kāinga Ora–Homes and Communities**: inserted, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

### 3 **Act to bind the Crown**

This Act shall bind the Crown.

### 4 **Exercise of powers by Ministers**

The Ministers shall, before exercising the powers conferred on them by this Act in relation to any housing assets referred to in paragraph (a) or paragraph (b) or paragraph (c) of the definition of that term in section 2, consult fully with the Minister of Maori Affairs.

### 5 **Kāinga Ora–Homes and Communities may act as agent in management of certain housing assets**

- (1) Kāinga Ora–Homes and Communities may act as agent for the Crown in the management of any housing assets referred to in paragraph (a) or paragraph (b) or paragraph (c) of section 2 on such terms and conditions and for such remuneration as may be agreed in writing from time to time between the Ministers and Kāinga Ora–Homes and Communities and, for that purpose, may exercise the powers and functions conferred on the Crown or any other person by the Maori Housing Act 1935 and the Maori Housing Amendment Act 1938.
- (2) A copy of any instrument of appointment under this section may be lodged with the Registrar-General of Land or Surveyor-General and shall, for the purposes of the Land Transfer Act 2017, be conclusive evidence of the authority of Kāinga Ora–Homes and Communities to exercise those powers and functions.
- (3) Without limiting subsection (1), Kāinga Ora–Homes and Communities may execute on behalf of the Crown a transfer to any purchaser of the estate or interest of the Crown in any land that has been sold to that purchaser pursuant to the Maori Housing Amendment Act 1938.

Section 5 heading: amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 5(1): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 5(2): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 5(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 5(3): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

## **6 Transfer of housing assets to Kāinga Ora–Homes and Communities**

- (1) The Ministers may, at any time or times, prepare a list or lists specifying housing assets which, in the opinion of the Ministers, should be vested in Kāinga Ora–Homes and Communities in accordance with this Act.
- (2) Every list prepared under subsection (1) shall—
  - (a) contain a description of each housing asset either individually or as a group or class; and
  - (b) be signed by the Ministers; and
  - (c) be laid before the House of Representatives by the responsible Minister within 12 sitting days of its being signed.
- (3) For the purposes of subsection (2)(a), a group or class of housing assets includes a group or class of such assets other than any particular asset or assets.
- (4) The Governor-General may, at any time or times, by Order in Council, vest in Kāinga Ora–Homes and Communities on a date specified in the order the housing assets specified in the order, being assets set out in a list prepared under subsection (1) and which is referred to in the order.
- (5) Every Order in Council under this section shall specify the consideration payable or to be provided by Kāinga Ora–Homes and Communities for the vesting of the housing assets.

Compare: 1990 No 105 s 6

Section 6 heading: amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 6(1): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 6(4): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 6(5): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

## **7 Additional provisions relating to vesting**

- (1) Nothing in this Act—
  - (a) shall be regarded as placing the Crown, Kāinga Ora–Homes and Communities, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
  - (b) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
  - (c) shall be regarded as placing the Crown, Kāinga Ora–Homes and Communities, or any other person in breach of any enactment or rule of law

- or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) shall release any surety from any obligation; or
  - (e) shall invalidate or discharge any contract or security.
- (2) The Registrar-General of Land and all other persons charged with the keeping of books or registers shall make such entries in their respective books or registers and do everything necessary to give effect to the vesting of any housing assets in Kāinga Ora–Homes and Communities under this Act.
  - (3) A certificate, signed by the Chief Surveyor for the land district in which the land is situated, that land described in the certificate, or described in any document on which the certificate appears, is land vested in Kāinga Ora–Homes and Communities pursuant to this Act, shall be sufficient evidence, in the absence of proof to the contrary, that the land was so vested.
  - (4) The vesting of housing assets pursuant to this Act shall take effect notwithstanding any enactment or rule of law or agreement and, in particular, but without limitation, the vesting shall take effect notwithstanding any provision contained in the Land Act 1948, the Local Government Act 2002, the Reserves Act 1977, the Public Works Act 1981, the Resource Management Act 1991, or any other enactment relating to land.
  - (5) Where, by virtue of this Act, any land vests in Kāinga Ora–Homes and Communities, the land shall vest in Kāinga Ora–Homes and Communities for an estate in fee simple subject to and together with all agreements for sale, licences, leases, agreements to lease, and mortgages thereof, and to all trusts, reservations, encumbrances, and interests existing in respect of any part of that land immediately before the land vests in Kāinga Ora–Homes and Communities.
  - (6) Without limiting subsection (5), where by virtue of this Act any land vests in Kāinga Ora–Homes and Communities and the land is at the time of vesting subject to any agreement for sale or licence, all the rights and obligations of the Crown under any such agreement or licence shall vest in Kāinga Ora–Homes and Communities.
  - (7) All housing assets that are subject to the Maori Housing Act 1935 or the Maori Housing Amendment Act 1938 or the Housing Act 1955 and that are vested in Kāinga Ora–Homes and Communities pursuant to this Act shall cease to be subject to those Acts unless otherwise expressly provided by this Act or any other Act.

Compare: 1990 No 109 s 7

Section 7(1)(a): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 7(1)(c): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 7(2): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 7(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 7(3): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 7(4): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 7(5): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 7(6): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 7(7): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

## **8 Title to housing assets vested in Kāinga Ora–Homes and Communities**

- (1) The Registrar-General of Land must, on written application by any person authorised by either of the Ministers and on payment of any prescribed fee, register Kāinga Ora–Homes and Communities as the owner, in substitution for the Crown, of the estate or the interest of the Crown in—
  - (a) land, other than land that is registered under the Land Transfer Act 2017, that is vested in Kāinga Ora–Homes and Communities pursuant to this Act; or
  - (b) land that is subject to the Land Transfer Act 2017 but for which no record of title has been issued and that is vested in Kāinga Ora–Homes and Communities pursuant to this Act.
- (2) Every application under subsection (1) must—
  - (a) state that the land has been vested in Kāinga Ora–Homes and Communities under this Act; and
  - (b) contain a description of the land that is sufficient to identify it; and
  - (c) in the case of land that has not previously been registered under the Land Transfer Act 2017, be accompanied by a certificate from the Surveyor-General in the form required by section 9(1).
- (3) The Registrar-General of Land must, on written application by any person authorised by either of the Ministers and on payment of any prescribed fee, register Kāinga Ora–Homes and Communities as owner, in substitution for the Crown, of the estate or interest of the Crown as mortgagee under any mortgage of land that is vested in Kāinga Ora–Homes and Communities pursuant to this Act.
- (4) Any other person charged with the keeping of any books or registers must, on written application by any person authorised by either of the Ministers and on payment of any prescribed fee,—
  - (a) register Kāinga Ora–Homes and Communities, in substitution for the Crown, as the mortgagee under any mortgage of land or as the holder of any other security, not being a mortgage or security registered under the

Land Transfer Act 2017, that is vested in Kāinga Ora–Homes and Communities pursuant to this Act; and

- (b) make any entries in those books or registers necessary for that purpose.
- (5) Every application under subsection (3) or (4) must—
- (a) state that the mortgage or security has been vested in Kāinga Ora–Homes and Communities under this Act; and
  - (b) contain a description of the mortgage or security that is sufficient to identify it.

Section 8: replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 8 heading: amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 8(1): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 8(1)(a): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 8(1)(b): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 8(2)(a): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 8(3): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 8(4)(a): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 8(5)(a): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

## **9 Land certification**

- (1) Before the Registrar-General of Land issues a record of title in respect of any land, other than land that is registered under the Land Transfer Act 2017, that is vested in Kāinga Ora–Homes and Communities pursuant to this Act, the Registrar-General of Land must either receive under the hand of, or request from, the chief executive within the meaning of section 4 of the Cadastral Survey Act 2002 or the Surveyor-General a certificate in a form substantially similar to the form set out in Schedule 2 of the Land Act 1948 as to the legal description of the land, any trusts and reservations affecting it, and any other matters that the Registrar-General of Land considers appropriate.
- (2) A certificate in accordance with subsection (1) must be recorded by the Registrar-General of Land in the register and is conclusive evidence to the Registrar-General of Land of the matters required to be stated in it.

Compare: 1990 No 105 s 10

Section 9(1): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 9(1): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 9(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## 10 Certification of easements

- (1) Where land is vested in Kāinga Ora–Homes and Communities pursuant to this Act subject to the reservation of or together with any easement, not being an easement previously registered under the Land Transfer Act 2017, the Director-General within the meaning of section 2 of the Survey Act 1986 or any Chief Surveyor shall include in the certificate given under section 9(1) a sufficient description of the easement and particulars as to the rights and powers, terms, covenants, conditions, or restrictions attaching thereto.
- (2) The Registrar-General of Land shall enter a memorial of the easement upon the relevant record of title by reference to the certificate in which it is described as if that certificate were the instrument creating the easement.
- (3) Where a memorial of an easement is entered upon the relevant record of title under subsection (2), the easement shall be treated for all purposes including all subsequent dealings as if it had been created under the Land Transfer Act 2017.

Compare: 1986 No 124 s 26A; 1992 No 27 s 6

Section 10(1): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 10(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 10(1): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 10(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 10(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## 11 Application of other Acts

The enactments specified in the Schedule shall, with all necessary modifications, continue to apply in relation to housing assets vested in Kāinga Ora–Homes and Communities under this Act and all agreements for sale, licences, leases, or agreements to lease to which any such assets are subject whether or not those assets remain vested in Kāinga Ora–Homes and Communities.

Section 11: amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

## 12 Provisions relating to securities and agreements

- (1) Without limiting the foregoing provisions of this Act, every reference—
  - (a) in any memorandum of mortgage or other security granted under the Maori Housing Act 1935 or the Maori Housing Amendment Act 1938 that is vested in Kāinga Ora–Homes and Communities under this Act:

- (b) in any agreement for the sale of land entered into or any lease of land granted by the Crown pursuant to the Maori Housing Amendment Act 1938, being land that is vested in Kāinga Ora–Homes and Communities under this Act:
- (c) where land leased to the Crown under the Maori Housing Amendment Act 1938 is subject to a sublease granted by the Crown that is itself vested in Kāinga Ora–Homes and Communities, in the lease or sublease of the land—

to the Crown, the Maori Land Board, the Board of Maori Affairs, the chief executive of the Iwi Transition Agency or the chief executive of the Ministry of Maori Development, as the case may be, shall be read and construed as a reference to Kāinga Ora–Homes and Communities or to any person claiming by or through Kāinga Ora–Homes and Communities.

- (2) Without limiting the foregoing provisions of this Act, every reference in any agreement for the sale of land entered into under section 16 of the Housing Act 1955 or in any licence to occupy land granted under section 17 of that Act, being land that is vested in Kāinga Ora–Homes and Communities under this Act, to Kāinga Ora–Homes and Communities shall be read and construed as a reference to Kāinga Ora–Homes and Communities in its own right and not as an agent for the Crown or to any person claiming by or through Kāinga Ora–Homes and Communities.

Section 12(1): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 12(1)(a): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 12(1)(b): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 12(1)(c): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 12(2): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

### **13 Status of certain other land**

- (1) The Governor-General may from time to time, by Order in Council, declare that land owned by the Crown and set apart under the Maori Housing Amendment Act 1938 for the purposes of the Maori Housing Act 1935, not being land that is subject to an agreement for sale by the Crown, shall, on a date specified in the order, cease to be set apart for the purposes of the Maori Housing Act 1935 and shall be disposed of under Part 3 of the Public Works Act 1981 as being land no longer required for a public work.
- (2) An Order in Council may be made under subsection (1) in relation to any class of land referred to in that subsection or in respect of any particular parcel of such land.

- (3) The Governor-General may from time to time, by Order in Council, declare that any land held by the Crown under a lease or licence and that is set apart under the Maori Housing Amendment Act 1938 for the purposes of the Maori Housing Act 1935, not being land subject to any sublease granted by the Crown under the Maori Housing Amendment Act 1938, shall, on a date specified in the order, cease to be set apart for the purposes of the Maori Housing Act 1935 and, in that event, the rights, powers, and obligations of the Crown under the lease or licence shall be exercised or performed by the person for the time being holding office as the chief executive of the Ministry of Maori Development as he or she thinks fit.
- (4) Nothing in this section applies in relation to land acquired by the Crown by way of gift pursuant to section 3(3) of the Maori Housing Amendment Act 1938.

#### **14 Kāinga Ora—Homes and Communities and others not liable for unpaid rates**

- (1) This section applies to—
  - (a) any land that is subject to an agreement for sale entered into under the Maori Housing Amendment Act 1938 or an agreement for sale or licence entered into or granted under the Housing Act 1955 and that is or was at any time vested in Kāinga Ora—Homes and Communities under this Act:
  - (b) any land that is subject to a mortgage granted under either of those Acts where that mortgage is or was at any time vested in Kāinga Ora—Homes and Communities under this Act.
- (2) Despite section 62 of the Local Government (Rating) Act 2002, Kāinga Ora—Homes and Communities as the owner or mortgagee of the land, or any subsequent owner or mortgagee of the land, is not liable for any unpaid rates and any penalties under section 57 of that Act in respect of rates due and payable as at the 30 June immediately before the vesting in Kāinga Ora—Homes and Communities of the land or mortgage.

Section 14 heading: amended, on 1 October 2019, by section 33 of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

Section 14(1)(a): amended, on 1 October 2019, by section 33 of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

Section 14(1)(b): amended, on 1 October 2019, by section 33 of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

Section 14(2): substituted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 14(2): amended, on 1 October 2019, by section 33 of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

**Schedule**  
**Application of other Acts**

s 11

**Maori Housing Act 1935**

Sections 5, 6, 11, 12, 12A, 13, and 14A

**Maori Housing Amendment Act 1938**

Section 3(4), subsections (2) and (3) of section 4, subsections (3) to (5) of section 8, sections 9, 10, 11, 12, 14, 15, 21, and 23

**Housing Act 1955**

Section 17, 18, 21 to 30, and 37

## Reprints notes

### **1** *General*

This is a reprint of the Housing Assets Transfer Act 1993 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Kāinga Ora—Homes and Communities Act 2019 (2019 No 50): section 33

Land Transfer Act 2017 (2017 No 30): section 250

Local Government Act 2002 (2002 No 84): section 262

Local Government (Rating) Act 2002 (2002 No 6): section 137(1)

Survey Amendment Act 1996 (1996 No 55): section 5