

Changes introduced by Te Ture Whenua Māori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020

Frequently asked questions – Succession

1. Why have changes been made for simple and uncontested succession applications?

Historically, succession applications have involved a sitting of the Māori Land Court. The need for a court hearing may require whānau to take time off work or travel, including for applications where all whānau members agree who should succeed. This can discourage whānau from applying for succession and has led to land interests remaining in the name of a deceased owner. Te Ture Whenua Māori Act has been updated to enable simple and uncontested succession applications to be determined by a Māori Land Court Registrar (instead of through a court hearing).

2. What is a “simple and uncontested” succession application?

Te Ture Whenua Māori Act now includes examples of matters that could be dealt with by a Māori Land Court Registrar from early 2021. However, a Registrar will be able to refer applications to a Māori Land Court Judge if they end up being more complex than expected or if anyone objects to the application.

Applicants will still be able to have their succession application dealt with by a Judge in open court if that is what they prefer.

3. How have the rights of surviving spouses/partners been reconciled with the rights of the descendants of a deceased owner?

To help whānau connect and engage with their whenua and be involved in decision-making upon the death of a land owner, descendants will be able to apply to succeed to their Māori land interests straight away.

The surviving spouse or partner of the deceased land owner will be entitled to receive income or grants from the deceased owner’s interests in Māori land, as well as occupy a family home situated on the land.

4. Why are the rights of whāngai based on the tikanga of the hapū or iwi associated with the land, rather than the tikanga of whānau?

Māori land is often owned by members of different whānau, so it would be inappropriate for the tikanga of a single whānau to determine whether whāngai should succeed to land interests. The tikanga of that whānau may differ to the other whānau associated with the land.

The Act now specifies that the tikanga of the hapū or iwi associated with the land will be considered when deciding whether whāngai should be entitled to succeed to interests in that land. In practice, when making this determination the Māori Land Court will seek views from a broad range of people, so may take into consideration the tikanga of the different whānau associated with the land.