



## A Māori Purposes Bill is an omnibus bill amending legislation relating to Māori Affairs.

The passage of the Māori Purposes Bill 2011 has resulted in the enactment of four new Acts: The Māori Trust Boards Amendment Act 2011, The Māori Purposes Act 2011, Te Ture Whenua Māori Amendment Act 2011 and the Māori Fisheries Amendment Act 2011.

These Acts, which came into force on the 16 September 2011, make a range of important changes to legislation affecting Māori:

- **The Māori Trust Boards Amendment Act 2011** has amended the Māori Trust Boards Act 1955 to provide for direct accountability between Trust Boards and their beneficiaries;
- **The Māori Purposes Act 2011** removes Crown involvement in the administration of the Pukepuke Tangiora Estate and extends the distribution period for the Estate;
- **Te Ture Whenua Māori Amendment Act 2011** sets out minor technical changes to Te Ture Whenua Māori Act 1993 and the Māori Incorporations Constitution Regulations 1994; and
- **The Māori Fisheries Amendment Act 2011** has amended the Māori Fisheries Act 2004. It enables the transfer of Mandated Iwi Organisation status and fisheries settlement assets from an existing Mandated Iwi Organisation to another separate entity of the same iwi, and exempts this transfer from the protective provisions of the Māori Fisheries Act that would require their sale.

A copy of the Regulatory Impact Statement relating to the Māori Purposes Bill produced by Te Puni Kōkiri on 25 May 2010 can be found [here](#).

### ■ THE MĀORI TRUST BOARDS AMENDMENT ACT 2011

The Māori Trust Boards Amendment Act 2011 has amended the Māori Trust Boards Act 1955 to provide for direct accountability between Trust Boards and their beneficiaries.

#### Background

Historically, Māori Trust Boards were created to receive compensation from the early settlement of grievances against the Crown. The Māori Trust Boards Act 1955 was enacted to standardise the administration of Māori Trust Boards and the use of Trust Board assets in the promotion of the welfare of their beneficiaries.

Māori Trust Boards have a wide discretion in administering their assets, so to protect the interest of their beneficiaries, the Māori Trust Boards Act 1955 required Māori Trust Boards to be accountable to the Minister of Māori Affairs for their financial arrangements. In particular, Māori Trust Boards were required to:

- Have their financial statements (including balance sheets) audited by the Auditor-General;
- Receive their audited accounts from the Auditor-General via the Minister of Māori Affairs, who was empowered to make comments on them; and



- Send their annual budget and other financial information to the Minister of Māori Affairs for approval.

In the modern environment it is more appropriate for Māori Trust Boards to be directly accountable to their beneficiaries rather than to the Minister of Māori Affairs.

#### **New Amendments**

The Māori Trust Boards Amendment Act 2011 amends the Māori Trust Boards Act 1955 to provide for direct accountability between Trust Boards and their beneficiaries, the changes:

- require each Māori Trust Board to hold an Annual General Meeting to report to its beneficiaries on its activities and plans for the future, including the presentation of audited annual accounts and budgets;
- replace the requirement for each Māori Trust Board to be audited by the Auditor-General, with a requirement that each Māori Trust Board have its financial accounts audited no less than five months after the end of the financial year to which they relate through private audit.
- remove the Minister of Māori Affairs' direct role in holding Māori Trust Boards to account, including the requirement that the Minister approve Trust Boards' annual budgets. Instead, each Māori Trust Board is now required to supply the Minister of Māori Affairs with its audited accounts for information only.

The Minister of Māori Affairs retains the power to direct an investigation into the affairs of any Māori Trust Board. This provides an avenue for beneficiaries to raise any concerns they may have with their Māori Trust Board with an external party.

## **THE MĀORI PURPOSES ACT 2011 - CHANGES TO LEGISLATION AFFECTING THE ESTATE OF PUKEPUKE TANGIORA**

The Māori Purposes Act 2011 changes the legislation affecting the Estate of Pukepukē Tangiora. It removes Crown involvement in the administration of the Estate, and extends the distribution period for the Estate.

#### **Background**

The original will of Pukepukē Tangiora came into effect in 1936. Under her will, Pukepukē Tangiora's estate, which comprised landholdings in Hawke's Bay and other taonga, was to be held for the benefit of her only son, Te Akonga Mohi, his wife and nine children. Te Akonga Mohi's children (the life beneficiaries) were granted life interests in some of the Estate assets. On the death of the last life beneficiary, the will provided for the residual estate to be held in trust and not distributed for a period of 20 years.

The terms of the will were modified by legislation at various stages throughout the 20th century. Legislation passed in 1943 and 1951 resulted in the Crown having more functions in respect of the administration of the Estate than would otherwise be usual. This included a requirement for Trustees to be appointed by the Governor-General and the ability of the Minister of Māori Affairs to approve purposes for which money could be paid to beneficiaries out of estate funds.

Legislation passed in 1943 also removed the 20-year prohibition period over the distribution of Estate assets. As a result estate assets were required to be distributed to capital beneficiaries of the Estate immediately upon the death of the last life beneficiary.

#### **Hariata Baker's Petition**

In 2005, Hariata Baker, at the time one of the last two remaining life beneficiaries, petitioned Parliament to revive Pukepukē Tangiora's will in its original form. Hariata Baker was particularly concerned that the Crown should no longer be responsible for appointing and dismissing trustees, and that the original 20-year prohibition should be reinstated.

In considering the petition, the Māori Affairs Committee on 18 August 2008 recommended that the Government make legislative provision to:

- establish a more appropriate trustee appointment process; and
- reinstate a prohibition on partitioning, selling, leasing, mortgaging, charging, or encumbering corpus land until 20 years after the death of the last life beneficiary.
- the Government response to this recommendation supported the establishment of a more appropriate trustee appointment process, but stated that more information was required before a response could be given to the Committee's recommendation regarding the 20-year prohibition.

#### New Amendments

The Māori Purposes Act 2011 removes the role of the Crown in the administration of the Estate, and instead confirms the Māori Land Court's jurisdiction to appoint and dismiss trustees and hear all matters relating to the administration of the Estate. To ensure continuity in the administration of the Estate, the Act confirms the present trustees to the Estate.

The Māori Purposes Act 2011 extends the period of distribution for the Estate to five years after the death of the last remaining life beneficiary to allow the members of the Estate sufficient time to come to an agreement regarding future Estate governance arrangements. The five-year extension is intended to allow for a robust decision-making process without unduly interfering with the legitimate expectation of the beneficiaries to inherit their interest in the Estate in accordance with the will as modified by legislation.

## TE TURE WHENUA MĀORI AMENDMENT ACT 2011

The Te Ture Whenua Māori Amendment Act 2011 has made minor technical changes to Te Ture Whenua Māori Act 1993 and the Māori Incorporations Constitution Regulations 1994 to improve the administration of these Acts. These are as follows.

- section 268(3) of Te Ture Whenua Māori Act 1993 has been amended to clarify Māori incorporations' powers of constitutional amendment under Te Ture Whenua Māori Act 1993;
- regulation 2 and Rule 4(1)(h) of Schedule 1 to the Māori Incorporations Constitution Regulations 1994 have been updated to include a reference to Māori incorporations' powers of constitutional amendments under section 268(3);
- the Māori Land Court has been granted the discretion to award interest for the recovery of debt or damages in the same manner as the District Court;
- section 81(2) of Te Ture Whenua Māori Act 1993 has been amended to state that Māori Land Court orders for the payment of money are enforceable as if they had been made in the District Court. This allows for Māori Land Court orders to be transmitted to the High Court for enforcement;
- sections 106(1) and (2) of Te Ture Whenua Māori Act 1993 which restrict the right to bequeath and inherit interests in Māori freehold land have been reworded to improve their readability; and
- sections 150A–150C of Te Ture Whenua Māori Act 1993 have been amended to clarify the forms of alienation of Māori freehold land for which copies must be sent to a Registrar of the Māori Land Court for noting.





## THE MĀORI FISHERIES AMENDMENT ACT 2011

The Māori Fisheries Amendment Act 2011 has amended the Māori Fisheries Act 2004. It enables the transfer of Mandated Iwi Organisation status and fisheries settlement assets from an existing Mandated Iwi Organisation to another separate entity of the same iwi, and exempts the asset transfer from the protective provisions of the Act that would require their sale.

### Background

The Māori Fisheries Act requires that fisheries settlement assets (being income shares in Aotearoa Fisheries Ltd and fisheries settlement quota) held by an iwi must be held by a Mandated Iwi Organisation.

Previously, if an iwi attempted to transfer the fisheries settlement assets to another separate entity of the same iwi, protective provisions of the Māori Fisheries Act required sale of the assets to the highest eligible bidder from other Mandated Iwi Organisations and Te Ohu Kai Moana Trustee Ltd.

### Legislative Change

The Māori Fisheries Amendment Act 2011 amends the Māori Fisheries Act 2004 to:

- enable the transfer of the status of a Mandated Iwi Organisation (MIO), and all fisheries settlement assets held by that MIO and its subsidiaries to another separate entity within the governance arrangements of the same iwi; and,

- exempt the transfer of assets from the provisions of the Māori Fisheries Act that would otherwise require the fisheries settlement assets that are associated with such a transfer to be offered for sale to other iwi or Te Ohu Kai Moana Trustee Limited.

The amendments improve the Māori Fisheries Act by giving better effect to the objective of the Act that an iwi retain its fisheries settlement assets. They also better enable iwi to consolidate and manage their assets under the most efficient and cost effective governance structure.

## WHERE CAN I OBTAIN COPIES OF THE NEW LEGISLATION?

Copies of these Acts are available on the New Zealand Legislation website  
<http://www.legislation.govt.nz>.



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