

Pire Whakatikatika Mahinga Ika Māori

He Pire Kāwanatanga

E ai ki tā te Komiti Whiriwhiri Take Māori i pūrongo ai

He kōrero

Tūtohutanga

Kua oti i te Komiti Whiriwhiri Take Māori te Māori Fisheries Amendment Bill te tiroiro, ā, e tūtohu ana [te nuinga] kia whakamanatia. Tēnei mātou katoa te tautoko nei i ngā menemana katoa hāunga tētahi, arā ko te rārangi 37 (me te menemana whaikiko ki te rārangi 25), e tūtohutia nei.

Kupu whakataki

Ka whakatikatika te pire i te Māori Fisheries Act 2004. Na taua Ture i whakatutuki tētahi whakataunga whakatepunga, whakataunga whakamutunga i raro i Te Tiriti o Waitangi, o ngā kerēme katoa a te iwi Māori ki ngā tikanga mahi ika. I whakatakoto te Ture i tētahi poutarāwaho whakahaerenga hei whakahaere i ngā rawa whakataunga mā, hei painga hoki mō, ngā iwi me te iwi Māori whānui. Ka whakatūria ētahi rangapū ā-ture huhua mō taua take rā, koinei ētahi:

- Ko Te Ohu Kai Moana Trust
- Ko Te Ohu Kai Moana Trustee Limited (TOKM) hei kamupene kaitiaki rangatōpū e tū ai ngā iwi hei kaupurihea
- Ko Te Pūtea Whakatupu Trustee Limited hei whakakanohi i ngā pānga a ngā uri Māori noho tāone
- Ko Te Wai Māori Trustee Limited hei kōkiri i ngā pānga a te iwi Māori ki ngā mahinga wai māori

I hiahiatia hoki e te Ture he arotake nā te hunga rāwaho, i whakaotia rā i te Poutūterangi 2015. He whakahirahira ngā panonitanga i tūtohutia ki ngā hanganga whakahaerenga o ngā rūpu whakataunga, ā, i whakamāmātia hoki ngā hātepe mō te tauhoko-hoko rawa.

I wānanga tahi a TOKM me ngā iwi mō ā te arotake tūtohutanga, ā, he huhua ngā whakataunga i whakaaetia e ngā iwi ki ngā huinga whānui o ngā kaipupurihea o TOKM. E whai ana te pire ki te whakatinana i aua whakataunga. Ko ētahi o āna mahi ko ēnei:

- He whakarerekē i nga ritenga whakahaere o ngā rōpū kia hāngai ai ki ngā tika-nga whakahaere rangatōpū matua
- He akiaki i ngā rōpū ā-iwi e whai mana ana (MIO) kia āta mau i te hoe urungi a Te Ohu Kai Moana me Aotearoa Fisheries Limited, mā te unu i ngā hunga takawaenga e whakatau kaupapa ana
- He tahuri i ngā hea whiwhinga moni o Aotearoa Fisheries Limited hei hea māori noa
- He whakamāmā i te hātepe mō te tauhokohoko rawa roherohenga mahinga ika i ahu mai i te whakataunga, i waenga i te huinga o ngā hinonga tauhokohoko whaka taunga mahinga ika.

Te whakatāretanga ā-ture

Hei wāhanga o tā mātou whakaarohanga o te pire, kua oti i a mātou te tiroiro i tōna hangai ki ngā mātāpono o te whakaturetanga kouna. Kāore ā mātou take e pā ana ana ki te hoahoanga o te pire hei whakaara ki mua i te aroaro o te Whare.

Ngā menemana e marohitia ana

Kei te pūrongo nei ngā menemana nunui e tūtohu ana mātou ki te pire i whakaurua rā. Kāore mātou e wherawhera i ngā menemana itiiti, ngā menemana hangarau rānei.

E kaha ai ngā rōpū whakakanohi iwi Māori ki te pōti ki te kopou, ki te unu hoki i ngā tumu o TOKM

Ka whakatakoto te wāhanga 44 o te Ture i te pouhere o Te Ohu Kai Moana Trustee Limited. E taukī ana me kopou rawa ngā tumu o TOKM e Te Kāwai Taumata (he rōpū whakakanohitanga i whakatūria mō tēnei take anake). Ka whakakore te pire i Te Kāwai Taumata, kia tū ai he hatepe kopounga māmā ake.

I roto i te pire i whakaurua, ka oti i te rārangi 37 o te pire taua panonitanga mā te whakatika i te wāhanga 44(2), arā ka kī me kopou rawa ngā tumu o TOKM ki tētahi huinga whānui o TOKM i muri mai i te pōti a ngā rōpū ā-iwi whaimana (MIO) me ngā rōpū ā-iwi e whakaaetia ana (RIO). Ka whakatakoto te wāhanga 44(2)(ma) e marohitia nei, e wātea ana ngā MIO me ngā RIO anake ki te pōti ki tētahi huinga whānui o TOKM, ā, kotahi noa iho te pōti ki tēnā, ki tēnā. Ka pā hoki aua tikanga ki ngā pōti hei whakatau i te tokorahi o ngā tumu o TOKM, hei unu rānei i ngā tumu o TOKM.

I whakapuaki ngā kaitāpae kōrero i te āwangawanga i te hua o taua panonitanga ki te āheinga o ngā rōpū whakakanohi iwi Māori (RMO)(kei te Whakamārama 5 o te Ture e rārangi ana) kia whai wāhi ai ki te kopounga o ngā tumu o TOKM. I raro i te Ture i te wā nei, e wātea ana aua rōpū ki te kopou ngātahi i tētahi mema ki Te Kāwai Taumata, ā, māna ngā tumu o TOKM e kopou. Ka whakakore te pire, tērā i whakaurua rā,

i te āheinga o ngā RMO kia whai wāhi ki aua whakataua, he kore nō rātou e wātea ki te pōti ki ngā hui whānui o TOKM.

Tēnei mātou te tūtohu nei kia menemanatia te rārangi 37, me te whakauru hoki i te menemana whaikiko ki te rārangi 25, kia mau tonu ai te wāhi o ngā RMO ki te kopou tumu TOKM. Ko te pānga o ngā menemana e marohi nei mātou ko te āheinga o ngā RMO kia tae atu ki ngā hui whānui o TOKM, kōrero ai. Kāore rātou e wātea ki te pōti, hāunga ngā pōti e hāngai ana ki ēnei:

- Te whakataunga o te tokomaha o ngā tumu o TOKM
- Te kopounga o tēnā tumu, o tēnā tumu o TOKM
- Te unuhanga o tētahi tumu o TOKM.

Kotahi te pōti a tēnā, a tēnā o ngā RMO e whitu. Ka whakaritea ki te tataua o ngā MIO me ngā RIO i te wā nei, ka āhua rite te mana pōti ki te nōhanga mai a tētahi mema ki Te Kāwai Taumata, ā-rahinga nei. Ki ō mātou whakaaro, koinei te huarahi tōtika rawa hei hāpai i te takune taketake o ā nga iwi whakataua, me te tiaki hoki i ngā reo o ngā RMO.

Te whakamārama i te mana whakataua utu

He ture mātāmuri te mana whakataua utu

Ka whakaurua e te rārangi 42 o te pire ngā wāhanga hou 54A ki te 54H ki te Ture e pā ana ki ngā pūtea a TOKM. Ka whakamana aua ritenga i a TOKM ki te whakataua utu ki runga i ngā MIO me ngā RIO. I raro i te wāhanga 54A(1) e marohitia nei, ka whakarite a TOKM i tētahi marohitanga utu hei whakaaroarohanga mā ngā MIO me ngā RIO mehemea ka whakahaua kia pērā:

- e tētahi whakataunga i whakaaetia e te nui o ngā MIO me ngā RIO;
- e te nuinga o ngā tumu TOKM rānei.

I raro i te wāhanga mātāmuri hou, te 54D, ka pōtitia te mōtini e ngā MIO me ngā RIO ki tētahi hui whānui o TOKM.

I tuhi reta mai te Komiti Arotake Tikanga, i arongia rā e whakaarohia whānuitia ana te mana tuku iho ki te whakataua utu hei mana ā-ture, ā, me te aha me hanga ture tuarua kē. Ko te take ia kia pā atu ki te ture tuarua hoki ko ngā ritenga whakamaru e pā kē ana ki te utu hou nei. I tūtohu rā te komiti kia menemana mātou i te pire kia āta whakatauria ai te nōhanga mai hei ture tuarua o te whakataunga whaimana kia whakaaetia, kia whakamanatia hoki te utu hou nei, e ai ki ngā take o te Legislation Act 2019.

E whakaae ana mātou ki tō te komiti whakaaro. Tēnei mātou te tūtohu nei kia whakaurua he wāhanga hoki, ko te 54D(6) me te (7), kia taukītia ai:

- he ture tuarua te whakataunga whaimana kia whakaaetia, kia whakamanatia hoki he utu pūtea; ā,
- ka pā te Legislation Act 2019 ki taua momo whakataunga anō nei he mea hanga, he mea whakamana taua whakataunga nā TOKM.

Ka tūtohu hoki mātou kia whakarerekētia ētahi o ngā kōrero o roto i aua ritenga hei whakaatu i te “tohutou” haere a ngā MIO me ngā RIO i a TOKM hei huataki i tētahi marohitanga utu. Ko te kupu o te pire i whakaurua rā, e “inoitia” ana a TOKM ki te huataki marohitanga utu, arā e mea ana e wātea ana ki te mahi i tētahi mahi e tukituki ana ki tētahi whakataunga a ōna kaupupurihea.

E mārama ai ko wai mā e wātea ana ki te pupuri i ngā hea o Aotearoa Fisheries Limited

Ka whakakorea, ka rīwhitia hoki e te 48 me te 49 o ngā rārangi i ētahi wāhanga o te Ture e pā ana ki ngā hea o Aotearoa Fisheries Limited. Ka whakaurua hoki e ngā Whakamārama 1 me te 2 o te pire ko tētahi Whakamārama 1AA hou ki roto ki te Ture. Ko te pānga kikokiko o aua ritenga he whakakore i ngā hea pōti o Aotearoa Fisheries Limited (e puritia katoatia ana e TOKM i te wā nei), me te tahuri i ngā hea whiwhi moni hei hea māori. (I tēnei wā e 80 ōrau o ngā hea whiwhi moni e puritia ana e ngā kamupene MIO pupuri rawa, ā, e 20 ōrau e TOKM). I raro i ngā rārangi 2(5) me te (6) o te Whakamārama 2 o te pire (te whakauru nei i tētahi wāhanga 2 hou ki roto ki te Whakamārama 1AA o te Ture), he rite ngā tikanga a ngā kaupupuri o ngā hea māori ki ngā tikanga e takoto ana ki te wāhanga 36(1) o te Companies Act 1993. Engari ka kore e taea aua tikanga te whakakore, te whakarerekē, te whakamōmona rānei e ai ki ngā mahi e takoto ana i roto o te wāhanga 36(2) o te Companies Act.

I whakaaro ētahi kaitāpae kōrero me āta taukī te pire ko wai mā e wātea ana ki te pupuri hea māori o Aotearoa Fisheries Limited. Ka hāngai tēnei ki te takune kaupapa here whānui, arā kia noho tonu ngā rawa whakataunga ki waenga i te kāhui o ngā hinonga tauhoko whakataunga mahinga ika. E whakaae ana mātou, ā, e tūtohu ana kia menemanatia te rārangi 49 o te pire hei whakauru i tētahi wāhanga 67A hou, e whakatau ana ka taea ngā hea māori o Aotearoa Fisheries Limited te pupuri e ēnei hunga anake:

- he kamupene pupuri-rawa nā tētahi MIO, ko tāna kamupene āpiti rānei
- ko Aotearoa Fisheries Limited, i raro i ngā āhuatanga e whakamāramatia ana i roto i te pire (hei taura ko te hokonga o ngā hea a te tokoiti, he mea whakarite nā te Companies Act)
- Ko TOKM, i runga i te ngākau pono kia whakawhitia rānōtia ngā hea ki tētahi kamupene pupuri-rawa a tētahi MIO.

I whakapuaki ētahi kaitāpae kōrero i te āwangawanga i te hātepe kopou tumu o Aotearoa Fisheries Limited i muri mai i te whakakorenga o ētahi hea pōti, me te hurihanga o ētahi hea whiwhi moni hei hea māori. Ka tūtohu hoki mātou kia menemanatia te rārangi 49 kia whakaurua he wāhanga 67B hou, hei whakaū i te whakawhitianga ki ngā hea māori o ngā tikanga e whakaritea ana i roto o te wāhanga 36(1) o te Companies Act, hāunga rā te kōrero ka kore aua tikanga e taea te whakakore, te whakarerekē, te whakamōmona rānei e ai ki ngā ritenga o roto o te wāhanga 36(2) o te Companies Act.

Ngā panonitanga ki ngā herenga arotake ā-ture

E noho ai ngā arotake hei herenga aunoa

I te wā nei, ka whakahau ngā wāhanga 114-128 o te Ture kia whakahaeretia e tētahi tangata rāwaho he arotake o ngā ritenga kāwanatanga mō ngā hinonga o roto i te Kāhui TOKM i roto i ngā tau 11 mai anō i te whakamanatanga o te Ture. Ka hura ana te arotakenga he pai atu mō ngā pānga whaipānga kia panonitia ētahi ritenga e aukati ana i hokonga atu o ngā rawa e ngā MIO, e te Kāhui TOKM hoki ki ngā rōpū ehara i te MIO, ki ētahi rōpū rānei o waho o te Kāhui, ka whakahau te Ture kia whakahaeretia tētahi atu arotake i roto i ngā tau e 5. Ka rerekē ana te āhuatanga, kāore e āhei tētahi arotake i mua mai o ngā tau e 5 mai anō i te arotake o mua, ā, me mana rawa tētahi whakatau motuhake (mā te 75 ōrau o te pōti) nā ngā MIO.

Ka rīwhitia aua wāhanga e te rārangi 68 o te pire i whakaurua. Me whakahaere he arotake i waenga i ngā tau 7 ki te 10 atu i te whakamanatanga o te pire (wāhanga 115 i marohitia), ā, ia 6 tau, ia 6 tau arotakea anō ai (wāhanga 116 i marohitia). Ka mau iho ēnei herenga mehemea ka whakamanatia te whakatau motuhake a te kamupene kaitiaki, te kamupene matua rānei e tika ana, ki tētahi hui whānui, kia whakahaeretia tētahi arotakenga.

I tūtohutia e ētahi kaitāpae kia mātua whakahaua tēnei momo arotakenga. E whakaae ana mātou. He mea nui, he whai tikanga tēnei mea, te arotakenga tūhāhā kia tūturu ai te whaitake o ngā ture, o ngā whakaritenga kāwanatanga hoki. Ka arongia hoki e mātou te uaua o te whiwhi kia 75 ōrau o te whakatau, me te aha ka raruraru pea te hātepe.

Nā reira mātou i tūtohu ai i ētahi menemana huhua ki roto o te rārangi 68 hei āta whakahau i ngā arotakenga tūhāhā, māna ka whakamanatia e ngā kaupupurihea e tika ana kia kaua e whakahaeretia tētahi arotakenga.

Te whakauru wātaka mō te whakatinanatanga o ā te arotakenga kitenga

I kōrero hoki ngā kaitāpae mō te roa o te wā kia panoni ngā ture i muri mai i tētahi arotakenga. I takea te pire nei i ngā kitenga o roto i tētahi arotakenga i te tau 2015. I whakaaetia aua kitenga e ngā kaiwhaipānga o TOKM i te tau 2016, ā, i kōrerohia ki te Minita i te tau 2017. Nā reira i roa atu ai i te rima tau kia whakaurua te pire nei ki te Whare.

I marohitia e ētahi kaitāpae kia whakaurua he herenga ki runga i te Karauna kia whakatūturu i te whakamanatanga o te whakaturetanga e ai ki ētahi wātaka i āta tautuhia.

Ahakoia e mārama ana mātou he mahi takaroa te hanga ture, e whakaae ana mātou he roa rawa te rima tau. E wawe ake ai te whakatinanatanga o ngā kitenga o ngā arotakenga ā muri nei, ka tūtohu mātou kia menemanatia te rārangi 68 kia whakaurua ai te wāhanga mātāmuri 127(3C) me te 127(7). Ka whakahau aua ritenga i te Karauna kia mahi i ngā mahi katoa e taea ana i runga i tōna ake mana hei whakauru i tētahi pire ki te Whare i roto i ngā tau e 3 atu i te inoitanga a TOKM ki te Minita kia hāpaitia ētahi menemana e whakatinana ana i ngā whakatau a ngā kaupupurihea o TOKM.

Kāore mātou e tūtohu i tētahi herenga whāiti kia whakamanatia ngā whakaturetanga e ai ki tētahi wātaka tonu. E haepapa ana ngā Minita ki te whakauru whakaturetanga ki te Pāremata, engari ko te Pāremata anake e whai mana ana ki te whakaae, ki te whakamana i tētahi pire.

Te unu i te Karauna hei rōpū rāwaho tē herea ai

Ka menemanatia te wāhanga 167 o te Ture e te rārangi 82.

Ka herea e te Ture he MIO kia kaua e hokona atu tāna roherohenga whakataunga, hāunga te hokonga ki tētahi atu MIO, tētahi atu rōpū rānei o roto o te Kāhui TOKM (wāhanga 161). Ko te tikanga ia he whakaū i te nōhanga tonutanga o ngā rawa whakataunga ki roto i te kāhui o ngā hinonga tauhoko whakataunga mahinga ika.

Ka whakarārangi te wāhanga 167 i ētahi atu herenga i runga i tā ngā MIO hokonga atu o te roherohenga whakataunga. Ka hāngai ngā herenga o roto i te wāhanga nei ki ngā tauhokonga e tuku ana ki tētahi rōpū he tikanga—hei tauira, he kirimana hoko rawa, he puna pūtea, he mōkete, he kupu taurangi rānei—mehemea ka whakamahia, ka puta ko tētahi o ēnei:

- te hokonga o tētahi roherohenga whakataunga;
- te ngaromanga i tētahi iwi o tōna pānga, mō tētahi wā roa ake i te tau, ki te moni whiwhi, te whakamatuatanga, te whakamahinga rānei o ngā pānga haonga i te tau e ahu mai ana i taua roherohenga.

Mehemea kua tautapangia tētahi hunga e whai wāhi ana ki te tauhokonga hei “rōpū rāwaho” e ai ki te Ture, ka wāwāhi taua tauhokonga i te Ture. Hei reira whakahaua ai te Kōti ki te tuku ōta hei whakatūturu ka kore aua hea roherohenga e tukuna ki tētahi hinonga ehara i te MIO, ki tētahi hinonga rānei o roto i te Kāhui TOKM. Hei tauira, ka whakahau pea ngā ōta kia whakakorea te kirimana, kia parematatia rānei ngā nama.

Ka tautuhia e te Ture te “rōpū rāwaho” hei “rōpū kāore e āhei ki te pupuri roherohenga whakataunga”. Heoi anō, ka whakarerekētia e te pire i whakaurua taua tautuhinga kia kīia ai he rōpū rāwaho te tangata ehara i te MIO, te kamupene pupuri-rawa a MIO, te kamupene mātāmuri, te Karauna rānei.

Tokomaha ngā kaitāpae i whakapuaki i te āwangawanga kei whai wāhi te Karauna ki te rārangi tangata ehara i te rōpū rāwaho. I kī ētahi mā reira te Karauna e whiwhi ai ki ngā rawa whakataunga, me te unu i ērā i te puna whakataunga, me te aha ka raruraru te whakataunga tuatahi.

E whakaae ana mātou, ā, kāore mātou e kite i te take e pai ai tā te Karauna pupuri i ngā rawa roherohenga whakataunga. Kua kīia taurangitia mai ki a mātou i whakaurua pokerehūtia tēnei. Tēnei mātou te tūtohu nei kia unuhia te Karauna i taua rārangi. Me te aha, ka noho hei rōpū rāwaho e ai ki te wāhanga 167.

Te whakaaro rerekē o te Pāti Nāhinara

Tēnei te Pāti Nāhinara te tāpae nei i tēnei whakaaro rerekē hei ātete ki ngā menemana e marohitia ana e te komiti ki te rārangi 37 me te 25. Mā aua panonitanga ngā rōpū

whakakanohi iwi Māori (“RMO”) e āhei ai ki te pōti kia kopoua ai, kia unuhia ai, kia whakatauria ai hoki te tokomaha o ngā tumu o Te Ohu Kai Moana (hui katoa, ko ngā “hātepe kopounga kāwanatanga”).

Ko ngā pūtake o te Ture ko ēnei:

- ko te whakatinana i ngā whakaaetanga o roto i te Whakaaetanga Whakataunga i te rā 23 o Mahuru 1992 i whiriwhiria rā i te wā i tū ai a Nāhinara ki te kāwanatanga; ā,
- ko te whakarite kia pai ai te whanaketanga o ngā pānga ā-rōpū, pānga takitahi hoki a ngā iwi i roto i ngā mahinga ika, te hī ika me ngā mahi e pā ana ki ngā mahinga ika, ā, i runga i te huarahi hei oranga mō ngā uri Māori katoa, i te mutunga iho.

E tutuki ai aua pūtake, ka whakatūria e te Ture tētahi poutarāwaho tohanga, poutarāwaho whakahaerenga mō ngā rawa whakataunga, mā te tohanga, mā te whakawhitianga hoki o ētahi rawa whakataunga tonu rā ki ngā iwi, me te whakahaerenga hoki o te whānuitanga o ngā rawa whakataunga. Kāore he kōrero i roto i te Ture o nāianei, te pire i whakaurua rānei, e pā ana ki ngā RMO e whitu (kei te Whakamārama 5 o te Ture e takoto ana) e whai tikanga ana ki te pupuri rawa whakataunga e noho ana hei tūāpapa mō te whakataunga o nga kerēme mahinga ika tauhokohoko i puta ake ai te whakaturetanga e hāngai ana.

I te wā nei, ka whakarite te Ture i te wāhi ki ngā iwi i te kopounga o ētahi mema tekau ki Te Kāwai Taumata, ahakoa e wātea ana ngā RMO ki te kopou i tētahi mema kotahi. Ā, ko Te Kāwai Taumata e haepapa ana ki te kopou, ki te unu tumu TOKM. Ka whakarerekē te pire i ngā hātepe kopou tumu kia tukuna he pōti kotahi ki tēnā, ki tēnā o ngā rōpū ā-iwi e 58 e tika ana (kei te Whakamārama 4 o te Ture e takoto ana). Ka tukuna hoki e ngā menemana e marohi nei te komiti kia kotahi te pōti ki tēnā me tēnā o ngā RMO e whitu, me te rite anō o te mana pōti mō ngā hātepe kopou tumu ki tō ngā iwi.

E tautoko ana ngā iwi me Te Ohu Kai Moana i te whaiwāhitanga a ngā rōpū ā-iwi ki te mana whakahaere i ngā hātepe kopou tumu, ā, kāore e tautoko i tērā momo mana mō ngā RMO. He mea āta whakarite ngā whakaaetanga whakataunga nā ngā whiriwhiringa i waenga i te Karauna me ngā iwi e pā ana ki ngā tikanga me ngā haepapa tikanga hī ika tauhokohoko Tiriti. Kāore rawa ngā RMO i pupuri i aua tikanga, i aua haepapa rānei. Ko te tukunga ki ngā RMO o te tikanga pōti i ngā hātepe kopou tumu a TOKM, kia rite tonu ai ki tā tēnā me tēnā o ngā iwi, ko te whakawhāiti i ngā tikanga me ngā haepapa a ngā iwi e hāpaitia nei ki ngā whiriwhiringa kōrero tuatahi.

Ki ō Nāhinara whakaaro, he tirohanga popoto kē a te komiti ngā panonitanga o te pire e tūtohutia nei e te komiti, e whakamanatia ai ngā tikanga pōti a ngā RMO i whakawhanuitia rawatia, hei whakatau i te kopounga o ngā tumu. Waihoki ka noho pea te Karauna hei papa mō ngā whakapaenga ā-ture tē hiahiatia ai, mō te tūraru tōrangapū hoki. Tēnei mātou te tautoko nei i te whakaaro e takoto ana i roto i te pire i te Pānui-tanga Tuatahi ōna, me te whakahē hoki i te tūtohutanga ki te menemana i taua whakaaro hoki.

Tāpiritanga

Hātepe komiti

I tukuna te Māori Fisheries Amendment Bill ki te komiti i te 9 o Poutūterangi 2023.

I karangahia e mātou ngā tāpaetanga kōrero mō te pire, ko te 13 o Paengawhāwhā 2023 te rā katinga. I whiwhi, i whakaarohia hoki e mātou he tāpaetanga mai i ngā rōpū whaipānga me ngā tāngata takitahi 10. I rongo kōrero taunaki mātou mai i ngā kaitāpae tokoono i ngā huinga ki Te Whanganui-a-Tara i te 3 me te 10 o Haratua 2023.

I whiwhi kupu tohutohu mātou mō te pire mai i te Manatū Ahu Matua me Te Tari Taake. Nā Te Tari o te Manahautū i homai kupu tohutohu mō te kounga ā-ture o te pire. Nā Te Tari Tohutohu Pāremata i āwhina ki te tuhi i te pire. I pūrongo mai te Komiti Arotake Waeture ki a mātou mō ngā mana o roto i te rārangi 42.

Ngā mema o te komiti

Arena Williams (Heamana)

Tāmati Coffey (Heamana tae atu ki te 29 o Poutūterangi 2023)

Paul Eagle

Harete Hipango

Soraya Peke-Mason (tae atu ki te 3 o Haratua 2023)

Tama Potaka

Hōn Aupito William Sio (mai anō i te 3 o Haratua 2023)

Teanau Tuiono

Rawiri Waititi

Māori Fisheries Amendment Bill

Government Bill

As reported from the Māori Affairs Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the Māori Fisheries Amendment Bill and recommends that it be passed. We recommend all amendments unanimously, except for one, in clause 37 (and the consequential amendment to clause 25), which is recommended by majority.

Introduction

This bill would amend the Māori Fisheries Act 2004. That Act implemented a full and final settlement, under Te Tiriti o Waitangi–Treaty of Waitangi, of all Māori claims to commercial fishing rights. The Act set out a governance framework to manage and administer settlement assets on behalf of, and for the benefit of, iwi and Māori. It established several statutory entities for this purpose, including:

- Te Ohu Kai Moana trust
- Te Ohu Kai Moana Trustee Limited (TOKM) to act as a corporate trustee company in which iwi are shareholders
- Te Pūtea Whakatupu Trustee Limited to represent urban Māori interests
- Te Wai Māori Trustee Limited to advance Māori freshwater fisheries interests.

The Act also required an independent review, which was completed in March 2015. It recommended major changes to the governance structures of the settlement entities, and simplified processes for trading assets.

TOKM consulted iwi about the review’s recommendations, and iwi passed several resolutions at general meetings of TOKM shareholders. The bill seeks to implement those resolutions. Among other things, it would:

- change the entities’ governance arrangements to make them consistent with standard corporate governance practice

- encourage mandated iwi organisations (MIOs) to take more direct control of Te Ohu Kai Moana and Aotearoa Fisheries Limited by removing intermediary decision-making bodies
- convert Aotearoa Fisheries Limited income shares to ordinary shares
- simplify the process for trading settlement quota assets within the pool of fisheries settlement commercial entities.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Enabling representative Māori organisations to vote to appoint and remove TOKM directors

Section 44 of the Act sets out the constitution of Te Ohu Kai Moana Trustee Limited. It states that TOKM directors must be appointed by Te Kawai Taumata (a representative entity established solely for this function). The bill would dissolve Te Kawai Taumata, in favour of a simpler appointment process.

As introduced, clause 37 of the bill would effect this change by amending section 44(2) to state that TOKM directors must be appointed at a TOKM general meeting following a vote by mandated iwi organisations (MIOs) and recognised iwi organisations (RIOs). Proposed section 44(2)(ma) specifies that only MIOs and RIOs could vote at a TOKM general meeting, and each MIO or RIO would be entitled to one vote. The same principles would apply for votes to set the number of TOKM directors or remove TOKM directors.

Submitters expressed concern about the effect this change would have on the ability of representative Māori organisations (RMOs) (listed in Schedule 5 of the Act) to have input in appointing TOKM directors. Under the Act at present, these groups can collectively appoint one member to Te Kawai Taumata, which then appoints TOKM's directors. Given that RMOs are not permitted to vote at TOKM general meetings, the bill as introduced would remove their ability to influence those decisions.

We recommend amending clause 37, and making a consequential amendment to clause 25, to ensure that RMOs retain their role in appointing TOKM directors. The effect of our proposed amendments would be that RMOs would be entitled to attend and speak at TOKM general meetings. They would not be eligible to cast a vote, except where that vote related to:

- determining the number of TOKM directors
- appointing each TOKM director

- removing a TOKM director.

Each of the seven RMOs would be entitled to one vote. When compared to the existing number of MIOs and RIOs, this would retain roughly the same proportional voting power as having one member on Te Kawai Taumata. In our view, this is the most appropriate way to uphold the original intention of iwi resolutions, while protecting RMO voices.

Clarifying levy-making powers

Levy-making power is secondary legislation

Clause 42 of the bill would insert new sections 54A to 54H into the Act regarding funding of TOKM. These provisions would empower TOKM to impose a levy on MIOs and RIOs. Under proposed section 54A(1), TOKM would prepare a levy proposal for consideration by MIOs and RIOs if directed to do so by:

- a resolution approved by a majority of MIOs and RIOs; or
- a majority of TOKM's directors.

Under new subsection 54D, the proposal would be voted on by MIOs and RIOs at a TOKM general meeting.

The Regulations Review Committee wrote to us noting that a delegated power to set levies is generally considered to be legislative, and should therefore create secondary legislation. This is so that the safeguards that apply to secondary legislation would apply to the levy. The committee recommended that we amend the bill to specify that an approved resolution to endorse and adopt a levy would be secondary legislation for the purposes of the Legislation Act 2019.

We agree with the committee's suggestion. We recommend inserting new subsections 54D(6) and (7) to state that:

- an approved resolution to endorse and adopt a funding levy is secondary legislation; and
- the Legislation Act 2019 applies to such a resolution as if the resolution was made and approved by TOKM.

We also recommend changing some of the language in these provisions to reflect the fact that MIOs and RIOs would "direct" TOKM to initiate a levy proposal. The bill as introduced described TOKM being "asked" to initiate a levy proposal, which implies that it could act contrary to a resolution of its shareholders.

Clarifying who can hold shares in Aotearoa Fisheries Limited

Clauses 48 and 49 would repeal and replace sections of the Act relating to shares in Aotearoa Fisheries Limited. Schedules 1 and 2 of the bill would also insert new Schedule 1AA into the Act. These provisions would, in effect, cancel all voting shares in Aotearoa Fisheries Limited (which are currently all held by TOKM) and convert all income shares to ordinary shares. (At present 80 percent of income shares are held by MIO asset holding companies, and 20 percent by TOKM). Under clauses

2(5) and (6) in Schedule 2 of the bill (which would insert a new part 2 into Schedule 1AA of the Act), holders of ordinary shares would have the same rights as specified in section 36(1) of the Companies Act 1993, except that those rights could not be negated, altered, or added to in any of the ways specified in section 36(2) of the Companies Act.

Some submitters considered that the bill should explicitly state who may hold ordinary shares in Aotearoa Fisheries Limited. This is in keeping with the general policy intent that settlement assets should remain within the pool of fisheries settlement commercial entities. We agree, and recommend amending clause 49 of the bill to insert new section 67A, which would specify that ordinary shares in Aotearoa Fisheries Limited could only be held by:

- an MIO's asset-holding company, or its subsidiary
- Aotearoa Fisheries Limited, in circumstances specified in the bill (such as a minority buy-out as provided for in the Companies Act)
- TOKM, on trust until it transferred the shares to an MIO's asset-holding company.

Submitters also expressed concern about the process for appointing the directors of Aotearoa Fisheries Limited after voting shares were cancelled and income shares converted to ordinary shares. We also recommend amending clause 49 to insert new section 67B, which would confirm that ordinary shares would confer the rights specified in section 36(1) of the Companies Act, except that those rights cannot be negated, altered, or added to in any of the ways specified in section 36(2) of the Companies Act.

Changes to statutory review requirements

Making reviews the default requirement

At present, sections 114–128 of the Act require an independent person to review the governance arrangements for entities in the TOKM Group within 11 years of the Act coming into force. If the review finds that beneficiary interests would be better served by changing any provisions that restrict MIOs and TOKM Group entities from selling assets to non-MIOs or entities outside the Group, the Act requires a subsequent review to occur within 5 years. In any other case, a review cannot occur sooner than 5 years after the previous review, and would require a special resolution (by 75 percent majority vote) of MIOs.

Clause 68 of the bill as introduced would replace these sections. A review would need to be conducted within 7 to 10 years of the bill being enacted (proposed section 115) and later reviews every 6 years after that (proposed section 116). These requirements would remain conditional on the relevant trustee company or parent company passing a special resolution, at a general meeting, agreeing to conduct a review.

Some submitters recommended that these reviews should be required by default. We agree. Independent reviews are important and necessary to ensure the legislation and

governance arrangements remain fit for purpose. We also note the difficulty involved with obtaining a 75 percent majority decision, which could hamper this process.

We therefore recommend several amendments in clause 68 to make independent reviews mandatory unless relevant shareholders pass a special resolution to not hold a review.

Inserting timeframes for implementing a review's findings

Submitters also commented on the slow timeframe for legislative change following a review. This bill is based on findings from a 2015 review. Those findings were agreed to by TOKM stakeholders in 2016 and communicated to the Minister in 2017. This bill has therefore taken more than five years to be introduced to the House.

Some submitters suggested inserting requirements for the Crown to ensure that legislation is enacted within specific timeframes.

Although we understand that developing legislation can take time, we agree that five years is an undue delay. To ensure that findings from future reviews are implemented more promptly, we recommend amending clause 68 to insert subsections 127(3C) and 127(7). These provisions would require the Crown to take all reasonable steps within its authority to introduce a bill to the House within 3 years of TOKM asking the Minister to promote amendments that implement resolutions from TOKM shareholders.

We do not recommend a specific requirement for legislation to be enacted within a certain timeframe. Ministers are responsible for introducing legislation to Parliament, but only Parliament can pass and enact a bill.

Removing the Crown from being an exempt third party

Clause 82 would amend section 167 of the Act.

The Act restricts an MIO from selling its settlement quota, except to another MIO or an entity within the TOKM Group (section 161). This is to ensure that settlement assets remain within the pool of fisheries settlement commercial entities.

Section 167 lists further constraints on MIOs disposing of settlement quota. The constraints in this section relate to transactions that would grant any party a right—for example, an option, security, mortgage, or guarantee—which, if exercised, could result in:

- the sale of settlement quota; or
- an iwi losing its entitlement, for a period of more than 5 years, to the income from, control, or use of annual catch entitlements arising from that quota.

If the party to a transaction is a “third party” as defined in the Act, the transaction would be a breach of the Act. In that case, the Court would be required to make orders that ensure that quota shares are not vested in any entity other than an MIO or an entity within the TOKM Group. For example, the orders might require the contract to be cancelled and any losses compensated.

The Act defines “third party” as “a party not entitled to hold settlement quota”. However, the bill as introduced would alter this definition to state that a third party is a person other than an MIO, an MIO asset-holding company or subsidiary, or the Crown.

Several submitters expressed concern that the Crown is included in this list of persons who are not third parties. Some suggested that this could enable the Crown to acquire settlement assets and remove them from the settlement pool, which could undermine the initial settlement.

We agree, and can see no reason why the Crown would need to hold settlement quota assets. We have been reassured that this drafting inclusion was inadvertent. We recommend that the Crown be removed from this list. Consequently, it would be a third party for the purposes of section 167.

National Party differing view

The National Party submits this differing view to object to the committee’s proposed amendments to clauses 37 and 25. Those changes would enable representative Māori organisations (“RMOs”) to vote to appoint, remove, and determine the number of Te Ohu Kai Moana directors (together, the “governance appointment processes”).

The Act’s purposes are to:

- implement agreements in the Deed of Settlement dated 23 September 1992 as negotiated while National was in government; and
- provide for the development of the collective and individual interests of Iwi in fisheries, fishing and fisheries-related activities in a manner that is ultimately for the benefit for all Māori.

To achieve these purposes, the Act established an allocation and management framework for the settlement assets, through allocation and transfer of specific settlement assets to Iwi, and the central management of the remainder of settlement assets. There is no specific reference in the existing Act, or in the bill as introduced, to the seven RMOs (set out in Schedule 5 of the Act) having a right to hold settlement assets which form the basis of the settlement of commercial fishing claims which led to the relevant legislation.

The Act currently provides for Iwi to have direct involvement in appointing ten members to Te Kāwai Taumata while RMOs may appoint one member. Te Kāwai Taumata is then responsible for appointing and removing TOKM directors. The bill would change the governance appointment processes to give each of the 58 relevant Iwi organisations (set out in Schedule 4 of the Act) one vote. The committee’s proposed changes would also provide one vote for each of the seven RMOs with equivalency to the vote for governance appointment processes that each Iwi enjoys.

Iwi and Te Ohu Kai Moana support Iwi organisations having direct control over the governance appointment processes, and do not support commensurate rights for RMOs. The settlement arrangements were curated through Crown and Iwi negotiations around Treaty commercial fisheries rights and responsibilities. RMOs have

never held those rights or responsibilities. Giving RMOs the ability to vote directly on TOKM's governance appointment processes, in an equivalent manner to each Iwi, covertly reduces Iwi rights and responsibilities upheld through the original negotiations. It further socialises Treaty commercial fisheries rights and responsibilities (albeit across Māori entities that are not Iwi-based).

National considers that the committee's proposed changes to the bill, enabling RMOs much-extended voting rights in determining governance appointments, is short-sighted on the part of the committee and may expose the Crown to unnecessary litigation and political risk. We support the position set out in the bill at First Reading and oppose the proposal to amend that position accordingly.

Appendix

Committee process

The Māori Fisheries Amendment Bill was referred to the committee on 9 March 2023.

We called for submissions on the bill with a closing date of 13 April 2023. We received and considered submissions from 10 interested groups and individuals. We heard oral evidence from 6 submitters at hearings in Wellington on 3 and 10 May 2023.

We received advice on the bill from the Ministry for Primary Industries and the Inland Revenue Department. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clause 42.

Committee membership

Arena Williams (Chairperson)

Tāmami Coffey (Chairperson until 29 March 2023)

Paul Eagle

Harete Hipango

Soraya Peke-Mason (until 3 May 2023)

Tama Potaka

Hon Aupito William Sio (from 3 May 2023)

Teanau Tuiono

Rawiri Waititi

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

text inserted unanimously

~~text deleted by a majority~~

~~text deleted unanimously~~

Hon Rachel Brooking

Māori Fisheries Amendment Bill

Government Bill

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Preamble

- (1) The first review of entities established under the Māori Fisheries Act 2004 was required by section 114(2) to be completed no later than the end of the 11th year after the commencement of that Act:
- (2) An independent review of the entities was completed in 2015, and a written report under section 125 was prepared by the reviewer: 5
- (3) As contemplated by section 126(1), each affected entity (except Te Pūtea Whakatapu Trustee Limited) prepared a plan specifying actions it intended to take to address the findings and recommendations of the reviewer:
- (4) Te Ohu Kai Moana Trustee Limited convened a general meeting as required by section 127(1): 10
- (5) At that general meeting, and at later general meetings, various resolutions were ~~passed~~ approved, as contemplated by section 127:

- (6) Amendments to that Act were necessary to give effect to some resolutions that had the level of mandated iwi organisations support required by section 127(3):
- (7) As required by section 127(3)(b), Te Ohu Kai Moana Trustee Limited, in reports made in 2016 and 2017 to the Minister (and that the Act is to require to be made publicly available), requested the Minister to promote those necessary amendments, and certain other amendments that were considered desirable: 5
- (8) The enactment of this legislation will implement those necessary or desirable amendments from that first review.

The Parliament of New Zealand therefore enacts as follows:

- 1 Title** 10
- This Act is the Māori Fisheries Amendment Act **2022**.
- 2 Commencement**
- (1) This Act comes into force on—
- (a) the second anniversary of the date of Royal assent; or
- (b) an earlier date set by Order in Council. 15
- (2) However, the following come into force on the day after Royal assent:
- (a) **section 9** (new **section 6A** inserted);
- (b) **section 95** (new **Schedule 1AA** inserted).
- (3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 20
- 3 Principal Act**
- This Act amends the Māori Fisheries Act 2004.

Part 1

Amendments to Preamble, Title, and Parts 1 to 6

Amendments to Preamble 25

- 4 Preamble amended**
- (1) In the Preamble, before paragraph (1), insert:
- Background to Act as enacted*
- (2) In the Preamble, paragraphs (1), (2), and (4), before “the Treaty of Waitangi”, insert “Te Tiriti o Waitangi”. 30
- (3) In the Preamble, after paragraph (15), insert:

*Background to amendments made by **Māori Fisheries Amendment Act 2022***

- (16) The first review of entities established under this Act was required by section 114(2) to be completed no later than the end of the 11th year after the commencement of this Act:
- (17) An independent review of the entities was completed in 2015, and a written report under section 125 was prepared by the reviewer: 5
- (18) As contemplated by section 126(1), each affected entity (except Te Pūtea Whakatapu Trustee Limited) prepared a plan specifying actions it intended to take to address the findings and recommendations of the reviewer:
- (19) Te Ohu Kai Moana Trustee Limited convened a general meeting as required by section 127(1): 10
- (20) At that general meeting, and at later general meetings, various resolutions were passed approved, as contemplated by section 127:
- (21) Amendments to this Act were necessary to give effect to some resolutions that had the level of mandated iwi organisations support required by section 127(3): 15
- (22) As required by section 127(3)(b), Te Ohu Kai Moana Trustee Limited, in reports made in 2016 and 2017 to the Minister (and that **section 4A** requires to be made publicly available), requested the Minister to promote those necessary amendments, and certain other amendments that were considered desirable: 20
- (23) The enactment of the **Māori Fisheries Amendment Act 2022** will implement those necessary or desirable amendments from that first review.

*Amendment to Title***5 Title of principal Act changed**

In section 1, replace “Maori” with “Māori”. 25

*Amendments to Part 1—(Purposes of Act, key concepts, and key iwi organisations)***6 Section 4 amended (Outline of Act)**

- (1) Replace section 4(3) with:
- (3) The Preamble sets out— 30
 - (a) the background to this Act as enacted; and
 - (b) the background to the amendments made by the **Māori Fisheries Amendment Act 2022** (*see also section 4A*).
- (2) Before section 4(5)(a), insert:
 - (aa) transitional, savings, and related provisions (other than transitional provisions about this Act as enacted, which are set out in Part 6); and 35
- (3) Repeal section 4(5)(h).

7 New section 4A inserted (Duty to make available reports on amendments to Act)

After section 4, insert:

4A Duty to make available reports on amendments to Act

- (1) The chief executive must make publicly available the reports— 5
- (a) on amendments to this Act; and
 - (b) made in 2016 and 2017 by Te Ohu Kai Moana Trustee Limited to the Minister; and
 - (c) mentioned in **paragraph (22)** of the Preamble to this Act.
- (2) In this section,— 10
- chief executive** means the chief executive of the Ministry
- Ministry** means the department of State that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act
- publicly available** means—
- (a) available free of charge on an Internet site administered by or on behalf of the Ministry and publicly available as far as practicable and free of charge; and 15
 - (b) available for inspection free of charge, and for purchase at a reasonable price, at an office of the Ministry in Wellington and open to the public at reasonable times on working days. 20

8 Section 5 amended (Interpretation)

- (1) In section 5(1), insert in its appropriate alphabetical order:
- AFL Group** means Aotearoa Fisheries Limited and its subcompanies
- (2) In section 5(1), definition of **Aotearoa Fisheries Limited**, after “section 60”, insert “(and *see also* **section 60(3)**, which requires references to Aotearoa Fisheries Limited, if the company changes its name, to be read as references to the company under its new name)”. 25
- (3) In section 5(1), insert in its appropriate alphabetical order:
- charitable status**, in relation to an entity, means that the entity is a charitable entity under the Charities Act 2005 30
- (4) In section 5(1), repeal the definition of **committee of representatives**.
- (5) In section 5(1), definition of **general meeting**,—
- (a) in paragraph (a)(i), after “mandated iwi organisations”, insert “and recognised iwi organisations”; and
 - (b) in paragraph (a)(i), after “mandated iwi organisation”, insert “and each 35
 - (c) repeal paragraph (a)(iii).

- (6) In section 5(1), repeal the definition of **general power of sale**.
- (7) In section 5(1), repeal the definition of **income share**.
- (8) In section 5(1), replace the definition of **Maori** with:
- Māori**—
- (a) means a person of the Māori race of New Zealand; and 5
 - (b) includes a descendant of any such person
- (9) In section 5(1), insert in their appropriate alphabetical order:
- notional iwi population**, in relation to any iwi or mandated iwi organisation, means the population of the relevant iwi as shown in column 2 of Schedule 3 (subject to sections 20(3)(a), 21(1)(b), and 23(3)(b)) 10
- ordinary share**, means a share in Aotearoa Fisheries Limited that—
- (a) becomes an ordinary share under **clause 2 of Schedule 1AA**; or
 - (b) is later issued as an ordinary share in accordance with the constitution of Aotearoa Fisheries Limited
- percentage**, for a notional iwi population, means the percentage (of total notional iwi population) shown for that notional iwi population in column 3 of Schedule 3 (*see* sections 10(3), **54C(1)(f)**, and **54H(5)(b)**) 15
- (10) In section 5(1), replace the definition of **special resolution** with:
- special resolution**,—
- (a) ~~for a general meeting of Te Ohu Kai Moana Trustee Limited, and for meetings of mandated iwi organisations and recognised iwi organisations for the purposes of **sections 115(1A), 116, 117, and 122(1A)** (which relate to review of entities), means a resolution of approved by 75% or more of the total of the votes of mandated iwi organisations and recognised iwi organisations entitled to vote, and voting, on the matter question; and~~ 20 25
 - (b) for Te Ohu Kai Moana Trustee Limited acting under section 13(1) or 35(1)(c) (*see also* section 38(3)(c)), or acting under **section 54G(1) or 54H(1)**, means a resolution approved by 75% or more of its directors entitled to vote, and voting, on the matter question; and 30
 - (e) ~~for Aotearoa Fisheries Limited and its subcompanies, means a resolution of 75% of the total of the votes of its holders of ordinary shares (who are asset-holding companies) entitled to vote, and voting, on the matter~~
 - (c) for any company (including, without limitation, Aotearoa Fisheries Limited or any of its subcompanies, Te Ohu Kai Moana Trustee Limited, Te Pūtea Whakatupu Trustee Limited, or Te Wai Māori Trustee Limited) acting under any other provision of this Act, means a resolution approved by 75% or, if a higher percentage is required by the constitution, that higher percentage, or more of the total of the votes of those shareholders entitled to vote and voting on the question 35 40

- (11) In section 5(1), repeal the definition of **specific power of sale**.
- (12) In section 5(1), repeal the definition of **Te Kawai Taumata**.
- (13) In section 5(1), definition of **Te Ohu Kai Moana Group**, delete “including Aotearoa Fisheries Limited and its subcompanies,”.
- (14) In section 5(1), replace the definition of **tikanga Maori** with: 5
tikanga Māori means Māori customary values and practices
- (15) In section 5(1), repeal the definition of **voting share**.
- 9 New section 6A inserted (Transitional, savings, and related provisions)**
 After section 6, insert:
- 6A Transitional, savings, and related provisions** 10
- (1) The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.
- (2) Transitional provisions about this Act as enacted are set out in Part 6.
- 10 Section 10 amended (Population of an iwi)**
- (1) In section 10(1)(a), after “is the notional iwi population as stated in column 2 of Schedule 3”, insert “(subject to sections 20(3)(a), 21(1)(b), and 23(3)(b))”. 15
- (2) In section 10(2)(c), before “the Treaty of Waitangi”, insert “Te Tiriti o Waitangi”.
- 11 Section 11 amended (Registered coastline entitlements)**
- In section 11(4)(c), before “the Treaty of Waitangi”, insert “Te Tiriti o Waitangi”. 20
- 12 Section 12 amended (Functions and powers of mandated iwi organisations)**
- Replace section 12(1)(b) and (c) with:
- (b) represent the iwi (for example, by attending, speaking, and voting at meetings) as contemplated by this Act; and 25
- (c) perform the other functions and duties conferred on it by or under this Act; and
- 13 Section 15 amended (Recognition of iwi governance entity)**
- In section 15(a), before “Treaty of Waitangi”, insert “Tiriti o Waitangi”. 30
- 14 Section 16 amended (Functions and powers of asset-holding companies)**
- (1) Replace section 16(1)(a) with:
- (a) be and remain wholly owned by the mandated iwi organisation that established the company, or another mandated iwi organisation of the

- same iwi if all of the shares of the asset-holding company have been transferred under **section 18E**; and
- (2) In section 16(1)(c), (2)(b), and (4)(b), replace “income shares” with “ordinary shares”.
- (3) In section 16(1)(c), after “under this Act”, insert “(including, without limitation, settlement assets transferred to that asset-holding company under sections 18B(5)(b)(ii) and **18E(1)(b) and (3)**)”.
- (4) Replace section 16(2)(a) with:
- (a) must not sell or enter into any transaction affecting any settlement quota other than in accordance with a specific or general direction from the mandated iwi organisation owning the asset-holding company as required by sections **162** and 167 and kaupapa 11 of Schedule 7; and
- (5) In section 16(4)(d), after “comply with subsection (2)”, insert “as if it were an asset-holding company”.
- 15 Section 17 amended (Constitutional documents)** 15
- After section 17(1), insert:
- (1A) The constitutional document of a mandated iwi organisation must provide for—
- (a) the types of circumstances in which the organisation may authorise sales of settlement quota—
- (i) by the mandated iwi organisation; or
- (ii) by an asset-holding company, or by a subsidiary of an asset-holding company, that is owned by the mandated iwi organisation; and
- (b) the process for approval, by the mandated iwi organisation, of those sales.
- 16 Section 18A amended (Interpretation)**
- (1) In section 18A, repeal the definition of **specified income shares**.
- (2) In section 18A, insert in its appropriate alphabetical order:
- specified ordinary shares** means the ordinary shares—
- (a) received under this Act; and
- (b) held by an asset-holding company of the existing organisation
- (3) In section 18A, definition of **specified settlement assets**, replace “income shares” with “ordinary shares”.
- 17 Section 18B amended (Requirements for recognition of new mandated iwi organisation)** 35
- (1) Replace section 18B(3) with:
- (3) The following must comply with section 17(1):

	(a) the 1 or more asset-holding companies of the new organisation, after they receive the transfer of the specified settlement assets under section 18E(3): (b) the new organisation, after the existing organisation transfers all its shares in an asset-holding company to the new organisation under section 18E(3).	5
(2)	Replace section 18B(5)(b)(ii) with: (ii) the settlement quota and ordinary shares received under this Act and held by an asset-holding company of the existing organisation are transferred— (A) to 1 or more asset-holding companies of the new organisation; or (B) when the existing organisation transfers all its shares in an asset-holding company to the new organisation.	10
18	Section 18D amended (Proposed transfer date if recognition requirements met) Repeal section 18D(3).	15
19	Section 18E replaced Replace section 18E with:	
18E	Recognition of new mandated iwi organisation and transfer of specified settlement assets	20
(1)	This section applies only if— (a) the existing organisation has given notice of a proposed transfer date under section 18D(2); and (b) before the proposed transfer date, Te Ohu Kai Moana Trustee Limited— (i) has authorised (for the purposes of section 18B(5)(b)) the transfer of the specified settlement quota— (A) to 1 or more asset-holding companies of the new organisation; or (B) when the existing organisation transfers all its shares in an asset-holding company to the new organisation; and (ii) has authorised (for the purposes of section 18B(5)(b)) the transfer of the specified ordinary shares— (A) to 1 or more asset-holding companies of the new organisation; or (B) when the existing organisation transfers all its shares in an asset-holding company to the new organisation.	25 30 35

- (2) Te Ohu Kai Moana Trustee Limited must, on the proposed transfer date,—
- (a) do the following things under section 13(1):
 - (i) recognise the new organisation as the mandated iwi organisation for the iwi in place of the existing organisation; and
 - (ii) record its recognition of the new organisation in the iwi register; and
 - (b) remove its recognition of the existing organisation from the iwi register.
- (3) The existing organisation must ensure that all the specified settlement assets are transferred to 1 or more of the asset-holding companies of the new organisation, or that the existing organisation transfers all its shares in an asset-holding company to the new organisation, in accordance with the authorisations referred to in **subsection (1)(b)(i) and (ii)**.
- (4) The new organisation must, as soon as is reasonably practicable after the specified ordinary shares have been transferred, give written notice of the transfer to Aotearoa Fisheries Limited.
- 20 Section 18F amended (Certain effects of recognition of new organisation)**
- In section 18F(4),—
- (a) replace “Sections 69 to 73” with “Sections 69, 72, and 73”; and
 - (b) replace “income shares” with “ordinary shares”.
- 21 Section 20 amended (Withdrawal of group from joint mandated iwi organisation)**
- (1) In section 20(3)(b)(ii)(A), delete “43,”.
 - (2) After section 20(4), insert:
- (4A) A joint mandated iwi organisation and a withdrawing group who determine the amount of the notional iwi population to be attributed to a withdrawing group under subsection (3)(a) must notify that amount to Te Ohu Kai Moana Trustee Limited.
- 22 Section 21 amended (Recognition of mandated iwi organisation of withdrawing group)**
- In section 21(2), delete “section 43 or”.
- 23 Section 23 amended (Voting rights)**
- (1) Repeal section 23(2).
 - (2) In section 23(3), replace “sections 115(2), 127(3), 137(2)(b), and 138(3)(b)” with “sections **54C(1)(f), 54D(4), 54G(2), 54H(5)(b), and 127(3) to (5A)**”.

24 Section 27 amended (Functions and powers of recognised iwi organisations)

- (1) Replace section 27(3) with:
- (3) A recognised iwi organisation has the functions and powers of a mandated iwi organisation, including the right—
- (a) to receive all documents, reports, and notices that must be provided to mandated iwi organisations under Part 2; and
 - (ab) to approve a strategic plan of Te Ohu Kai Moana Trustee Limited under **section 36A(3)(b)**; and
 - (ac) to determine the number of, and appoint, directors of Te Ohu Kai Moana Trustee Limited under **section 44(2)(b) and (c)**; and
 - (ad) to remove directors of Te Ohu Kai Moana Trustee Limited under **section 44(2)(fa)**; and
 - (ae) to vote at general meetings of Te Ohu Kai Moana Trustee Limited under **sections 36(1)(ca) and 44(2)(ma)**; and
 - (af) to receive surplus levy funding returned under **section 54G(2)**; and
 - (b) to participate in the process for offering annual catch entitlement provided for in section 152; and
 - (c) to participate in the process for resolving a dispute referred to in section 180(1)(b), (d), (e), (g), (h), (i), (k), or (l); and
 - (d) to represent the iwi in consultation, negotiation, and proceedings relating to a matter specified in this subsection.
- (2) In section 27(4)(d), replace “income shares” with “ordinary shares” in each place.

25 Section 29 amended (Representative Māori organisations)

~~Repeal section 29(2).~~

Replace section 29(2) with:

- (2) A representative Māori organisation is entitled to attend and to speak at, but not to vote at, a general meeting of Te Ohu Kai Moana Trustee Limited, except that a representative Māori organisation may vote at such a general meeting in accordance with—
- (a) **section 44(2)(b)** (which relates to determining the number of directors on the board); or
 - (b) **section 44(2)(c)** (which relates to appointing each director); or
 - (c) **section 44(2)(fa)** (which relates to removing a director).

Guidance note

See also **section 44(2)(ma) to (nd)**, which relates to a general meeting of Te Ohu Kai Moana Trustee Limited.

*Amendments to Part 2—(Establishment and review of new entities)***26 Part 2 heading amended**

In the Part 2 heading, delete “new”.

27 Section 30 amended (Outline of this Part)

- (1) In section 30, delete— 5
 - (a) “, in 6 subparts,”; and
 - (b) “new”.
- (2) Repeal section 30(b).
- (3) In section 30, insert as subsection (2):
- (2) This Part also provides for the funding of Te Ohu Kai Moana Trustee Limited. 10

28 Section 32 amended (Purpose of Te Ohu Kai Moana)

In section 32(c), before “the Treaty of Waitangi”, insert “Te Tiriti o Waitangi”.

29 Section 34 amended (Duties of Te Ohu Kai Moana Trustee Limited)

- (1) In section 34(g), replace “of Fisheries” with “(as those terms are defined in section 2(1) of the Fisheries Act 1996)”. 15
- (2) Repeal section 34(m).
- (3) Repeal section 34(q).

30 Section 35 amended (Functions of Te Ohu Kai Moana Trustee Limited)

- (1) In section 35(1)(c), after “fisheries-related activities,”, insert “by special resolution or other approval,”. 20
- (2) In section 35(1)(e), replace “income shares,” with “ordinary shares,”.
- (3) Repeal section 35(1)(f).

31 Section 36 amended (Trust deed of Te Ohu Kai Moana)

- (1) Replace section 36(1)(b)(ii) with: 25
 - (ii) a strategic plan (*see also* **section 36A**); and
- (2) Replace section 36(1)(c) with: 30
 - (c) require Te Ohu Kai Moana Trustee Limited to circulate a draft of the annual plan referred to in paragraph (b)(i) for comment, before its adoption by Te Ohu Kai Moana Trustee Limited (*see also* sections 37(f) and **(g), 38(4)(b)(ii), and 44(2)(faa)**), to—
 - (i) mandated iwi organisations; and
 - (ii) recognised iwi organisations; and
 - (iii) representative Māori organisations; and

- (ca) require that the constitution of Te Ohu Kai Moana Trustee Limited provides that at any general meeting of the company only mandated iwi organisations and recognised iwi organisations may vote, and each mandated iwi organisation and each recognised iwi organisation has one—1 vote, except that representative Māori organisations may also vote at such a general meeting in accordance with **section 29(2)** and with **section 44(2)(b), (c), or (fa)** (see also **section 44(2)(ma)**); and 5
- (3) In section 36(1)(e), replace “section 37(d) to (g)” with “section 37(f) and **(g)**”.
- (4) In section 36(1)(e)(i) and (ii), after “the directors”, insert “and alternate directors”. 10
- (5) Repeal section 36(1)(e)(iii) and (iv).
- (6) After section 36(1), insert:
- (1A) The trust deed must also include the contents required by—
- (a) section 37 (matters to be included in annual plan); and
 - (b) section 38 (annual report of Te Ohu Kai Moana Trustee Limited); and 15
 - (c) section 39 (consultation and other reporting obligations); and
 - (d) section 40 (obligation to establish and maintain iwi register).
- 32 New section 36A inserted (Strategic plan)**
- After section 36, insert:
- 36A Strategic plan** 20
- (1) This section applies to the strategic plan—
- (a) of Te Ohu Kai Moana Trustee Limited; and
 - (b) required by the trust deed of Te Ohu Kai Moana to be developed by Te Ohu Kai Moana Limited (*see **section 36(1)(b)(ii)***).
- (2) The strategic plan must indicate whether there is a likely need for a funding levy under **subpart 1A**. 25
- (3) Te Ohu Kai Moana Limited must submit the strategic plan for approval—
- (a) at a general meeting of Te Ohu Kai Moana Trustee Limited; and
 - (b) by mandated iwi organisations and recognised iwi organisations; and
 - (c) at least once every 3 years. 30
- (4) If the strategic plan is, when submitted for approval as required by **subsection (3)**, not approved, the current strategic plan (if any) remains in force until a new strategic plan is approved at a general meeting of Te Ohu Kai Moana Trustee Limited.
- 33 Section 37 amended (Matters to be included in annual plan)** 35
- (1) In section 37(a)(ii), replace “income shares” with “ordinary shares”.

- (2) Repeal section 37(d).
- (3) Replace section 37(e) with:
- (e) when relevant, the budget for a review under subpart 6 of Part 2 (*see section 114*); and
- (4) In section 37(f),— 5
- (a) replace “scale of fees (expressed in bands of \$10,000) that applies” with “fees that apply”; and
- (b) subparagraphs (i), (ii), and (iii), after “the directors”, insert “and alternate directors”.
- (5) Replace section 37(g) with: 10
- (g) the policy that must apply to reimbursing allowances to, or actual and reasonable expenses of, the directors, or alternate directors, as the case may be.
- 34 Section 38 amended (Annual report of Te Ohu Kai Moana Trustee Limited)** 15
- (1) Replace section 38(2) with:
- (2) In measuring its performance against the annual and strategic plans referred to in section 36(1)(b), Te Ohu Kai Moana Trustee Limited must report annually, not later than 5 months after the end of each financial year, to—
- (a) mandated iwi organisations; and 20
- (b) recognised iwi organisations; and
- (c) representative Māori organisations.
- (2) In section 38(3)(b)(ii), delete “, including Aotearoa Fisheries Limited”.
- (2A) In section 38(3)(c), replace “passed” with “approved”.
- (3) Repeal section 38(3)(e) and (h). 25
- (4) In section 38(3)(g), replace “income shares” with “ordinary shares”.
- (5) In section 38(3)(i), replace “Aotearoa Fisheries Limited, Te Pūtea Whakatupu Trustee Limited, and Te Wai Maori Trustee Limited” with “Te Pūtea Whakatupu Trustee Limited and Te Wai Māori Trustee Limited”.
- (6) Replace section 38(4)(b)(ii) and (iii) with: 30
- (ii) the fees and the reimbursing allowances or actual and reasonable expenses paid to each of the directors and alternate directors of Te Ohu Kai Moana Trustee Limited, Te Pūtea Whakatupu Trustee Limited, and Te Wai Māori Trustee Limited (*see also* sections 36(1)(b)(i) and (c), 37(f) and **(g)**, and **44(2)(faa)**). 35

35 Section 39 amended (Consultation and other reporting obligations)

In section 39(1)(b), replace “mandated iwi organisations, representative Maori organisations, and the members and alternate members of Te Kawai Taumata” with “mandated iwi organisations, recognised iwi organisations, and representative Māori organisations”.

5

36 Sections 41 to 43 repealed

Repeal sections 41 to 43.

37 Section 44 amended (Constitution of Te Ohu Kai Moana Trustee Limited)

(1) Replace section 44(2)(b), (c), and (d) with:

(b) that Te Ohu Kai Moana Trustee Limited must have a board that consists of a number of directors that is—

10

(i) at least 5, and not more than 7; and

(ii) determined, at a general meeting, by ~~the~~ mandated iwi organisations ~~and~~, recognised iwi organisations, and representative Māori organisations, and in accordance with procedures specified in the constitution (including, without limitation, a minimum level of support, and voting on a 1-vote-per-mandated iwi organisation, -recognised iwi organisation, and -representative Māori organisation basis) ~~specified in the constitution~~; and

15

(c) that each director must (unless this Act provides otherwise) be appointed, at a general meeting, by mandated iwi organisations ~~and~~, recognised iwi organisations, and representative Māori organisations, and in accordance with procedures specified in the constitution (including, without limitation, a minimum level of support, and voting on a 1-vote-per-mandated iwi organisation, -recognised iwi organisation, and -representative Māori organisation basis) ~~specified in the constitution~~; and

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25

(2) After section 44(2)(e), insert:

(ea) that a director, unless ~~ceasing to hold~~ vacating office earlier, holds office for a term of 3 years; and

(eb) that a director is eligible for reappointment; and

30

(3) Replace section 44(2)(f) and (g) with:

(f) that Te Ohu Kai Moana Trustee Limited must have, and must notify to mandated iwi organisations ~~and~~, recognised iwi organisations, and representative Māori organisations, a policy identifying the skills, experience, and attributes considered desirable for its directors, individually and collectively (and those skills, that experience, and those attributes are, for the purposes of section 151(2)(g) of the Companies Act 1993, taken to be qualifications for directors contained in the constitution of that company); and

35

- (faa) that fees for a director or alternate director are determined by a resolution ~~passed~~ approved by a majority of mandated iwi organisations and recognised iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (*see also* sections 36(1)(b)(i), (c), and (e) and 37(f) and **(g)**); and 5
- (fa) that a director may be removed, by mandated iwi organisations ~~and~~, recognised iwi organisations, and representative Māori organisations, and in accordance with procedures specified in the constitution (including, without limitation, a minimum level of support, and voting on a 1-vote-per-mandated iwi organisation, -recognised iwi organisation, and - 10 representative Māori organisation basis) ~~specified in the constitution~~; and
- (fb) that the directors may fill a vacancy in their number by appointing, with at least a minimum level of support specified in the constitution, a person who is qualified (because the person, as well as not being disqualified under section 151 of the Companies Act 1993, can be appointed in accordance with the policy required by **paragraph (f)** to hold office (unless ~~ceasing to hold~~ vacating office earlier) until the next general meeting required to be held— 15
- (i) by the trust deed of Te Ohu Kai Moana (*see* section 39(1)(a)); or 20
- (ii) as provided in the constitution; and
- (fc) that, if a vacancy means that there are not at least 5 directors, the directors must under **section 50(2)**, as soon as is reasonably practicable, fill that vacancy by appointing, with at least a minimum level of support specified in the constitution, a person who is qualified (because the person, as well as not being disqualified under section 151 of the Companies Act 1993, can be appointed in accordance with the policy required by **paragraph (f)** to hold office (unless ~~ceasing to hold~~ vacating office earlier) until the next general meeting required to be held— 25
- (i) by the trust deed of Te Ohu Kai Moana (*see* section 39(1)(a)); or 30
- (ii) as provided in the constitution; and
- (g) a procedure for the appointment of an alternate for a director to attend and vote at meetings on behalf of that director, but only while the alternate's appointment has not been terminated under the constitution; and
- (4) Replace section 44(2)(i) with: 35
- (i) that a director or alternate director of Te Ohu Kai Moana Trustee Limited must not, directly or indirectly, enter into, or perform, or both, any contract for services for any member of Te Ohu Kai Moana Trustee Group unless the director or alternate director does so in accordance with sections 139 to 144 (transactions involving self-interest) of the Companies Act 1993; and 40

- (5) Repeal section 44(2)(j).
- (6) Replace section 44(2)(n) with:
- (ma) that at any general meeting of Te Ohu Kai Moana Trustee Limited only mandated iwi organisations and recognised iwi organisations may vote, and each mandated iwi organisation and each recognised iwi organisation has 1 vote (*see also* **section 36(1)(ca)**), except that representative Māori organisations may also vote at such a general meeting in accordance with **section 29(2)** and with **paragraph (b), (c), and (fa)** of this subsection; and 5
 - (n) that Te Ohu Kai Moana Trustee Limited must give public notice of not less than 20 working days that a general meeting is to be held and the agenda for that meeting, with separate written notice to each— 10
 - (i) mandated iwi organisation; and
 - (ii) recognised iwi organisation; and
 - (iii) representative Māori organisation; and 15
 - (na) that an irregularity in a required written notice of a general meeting (*see paragraph (n)*) is waived if all the mandated iwi organisations, recognised iwi organisations, and representative Māori organisations entitled to attend that meeting do so without protest as to the irregularity, or if all such organisations agree to the waiver; and 20
 - (nb) that, subject to the constitution, the accidental omission to give notice of a general meeting to, or the failure to receive notice of a general meeting by, a mandated iwi organisation, recognised iwi organisation, or representative Māori organisation does not invalidate the proceedings at that meeting; and 25
 - (nc) that, subject to the constitution, if a general meeting is adjourned for less than 30 days, it is not necessary to give notice of the time and place of the adjourned general meeting other than by announcement at the general meeting that is adjourned; and
 - (nd) that, except as provided in this Act, and subject to the constitution, a general meeting may regulate its own procedure; and 30
- (7) Repeal section 44(3).
- 38 Sections 45 to 49 and cross-heading above section 45 repealed**
 Repeal sections 45 to 49 and the cross-heading above section 45.
- 39 Section 50 replaced** 35
 Replace section 50 with:

50	Effect of vacancy in membership of board of Te Ohu Kai Moana Trustee Limited	
(1)	The functions, duties, and powers of Te Ohu Kai Moana Trustee Limited are not affected by a vacancy in the membership of the board.	
(2)	However, if the vacancy means that there are not at least 5 directors, the directors must, as soon as is reasonably practicable, fill that vacancy (<i>see section 44(2)(fc)</i>).	5
40	Section 52 amended (Access to iwi register)	
	Replace section 52(1)(b) and (c) with:	
	(b) a member of an iwi.	10
41	Section 54 amended (Procedures for making or amending rules)	
	In section 54(1)(a), delete “sale or”.	
42	New subpart 1A of Part 2 inserted	
	After subpart 1 of Part 2, insert:	
	Subpart 1A—Funding of Te Ohu Kai Moana Trustee Limited	15
54A	Application of this subpart	
(1)	This subpart applies only if—	
(a)	Te Ohu Kai Moana Trustee Limited is asked <u>directed to start the levy funding process, and is directed to do so</u> by a resolution approved by a simple majority of the total mandated iwi organisations and recognised iwi organisations entitled to vote and voting <u>on the question whether to</u> start the levy funding process; or	20
(b)	all or a simple majority of the directors of Te Ohu Kai Moana Trustee Limited are satisfied that a funding levy is likely to be needed to enable it to perform its functions and duties efficiently and effectively in any of the years for which the funding levy would be payable.	25
(2)	Subsection (1)(a) applies even if the resolution asks for <u>directs that</u> the process to be started in respect of a funding levy proposal that is not for the purpose specified in section 54B .	
(3)	The directors of Te Ohu Kai Moana Trustee Limited may only form a view under subsection (1)(b) if a likely need for a funding levy is indicated in a strategic plan that is approved when submitted for approval under section 36A(3) .	30
(4)	If this subpart applies, Te Ohu Kai Moana Trustee Limited must—	
(a)	prepare a proposal to impose a levy on mandated iwi organisations and recognised iwi organisations; and	35
(b)	send the proposal to each organisation.	

54B Purpose of funding levy proposal

The purpose of a funding levy proposal is to provide Te Ohu Kai Moana Trustee Limited with enough funding, having regard to its likely other funding sources and likely reserves (if any), to enable it to perform its functions and duties, or any of them specified in the proposal, efficiently and effectively in the years for which the levy would be payable. 5

54C Funding levy proposal

- (1) A funding levy proposal prepared by Te Ohu Kai Moana Trustee Limited must specify—
- (a) the anticipated cost of performing the functions and duties of Te Ohu Kai Moana Trustee Limited in each of the years to which the funding levy would apply, and those years themselves (*see also subsection (2)*); and 10
 - (b) the assumptions supporting the maximum funding levies including other funding sources, use of reserves, the carrying forward of previous funding levies, and inflation; and 15
 - (c) the maximum funding levy that would be imposed in respect of each of those years; and
 - (d) the circumstances in which less than the maximum funding levy might be imposed in respect of any year; and 20
 - (e) the likely impact on the delivery of the current strategic plan if the levy proposal is not implemented; and
 - (f) that the proposed funding levy would be applied to each mandated iwi organisation and recognised iwi organisation according to the percentage that the notional population of the relevant iwi bears to the total notional iwi population; and 25
 - (g) the likely cost to each mandated iwi organisation and recognised iwi organisation; and
 - (h) the intended due dates for funding levy payments and the interest rate or interest rate formula proposed to be applied to payments in default; and 30
 - (i) any proposed methods of recovery of unpaid funding levy (including default interest) in addition to those specified in **section 54E**.
- (2) The years to which a funding levy proposal applies, as specified in the proposal, must not exceed 9 years.

54D Notice of consideration and adoption of funding levy proposal

- (1) Te Ohu Kai Moana Trustee Limited must, at least 20 working days after sending the funding proposal as required by **section 54A(4)(b)**, convene a general meeting to consider the proposal. 35

- (2) At the general meeting, the proposal may be adopted without amendment by endorsement by a resolution approved as required by **subsection (4)**.
- (3) If, at the general meeting an amendment is proposed by a mandated iwi organisation, or recognised iwi organisation, or Te Ohu Kai Moana Trustee Limited, and endorsed by a resolution approved by a majority of the total mandated iwi organisations and recognised iwi organisations entitled to vote and voting on the question, Te Ohu Kai Moana Trustee Limited must— 5
- (a) revise the proposal accordingly; and
 - (b) convene a further general meeting within 40 working days to consider the revised proposal and vote on its adoption by endorsement by a resolution approved as required by **subsection (4)**. 10
- (4) A resolution under **subsection (2) or (3)(b)** to adopt a funding levy proposal requires endorsement by a resolution approved by mandated iwi organisations and recognised iwi organisations—
- (a) that are at least 75% of mandated iwi organisations and recognised iwi organisations; and 15
 - (b) whose relevant iwi together represent at least 50% of the total notional iwi population.
- (5) If a resolution under this section to adopt a funding levy proposal is not approved, mandated iwi organisations and recognised iwi organisations must not ~~ask-direct~~ Te Ohu Kai Moana Trustee Limited under **section 54A(1)(a)** to start the levy funding process within the 2 years after the date the resolution was not approved. 20
- (6) A resolution under **subsection (2) or (3)(b)** to adopt a funding levy proposal, and that is a resolution approved as required by **subsection (4)**, is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements). 25
- (7) That Act applies as if—
- (a) Te Ohu Kai Moana Trustee Limited were the maker of the resolution; and 30
 - (b) the resolution were made by Te Ohu Kai Moana Trustee Limited approving it.

54DA Duty to pay levy

If a funding levy proposal is adopted, each mandated iwi organisation or recognised iwi organisation must pay to Te Ohu Kai Moana Trustee Limited the adopted funding levy (including any default interest) that applies to that mandated iwi organisation or recognised iwi organisation. 35

54E Collection of levy

- (1) Te Ohu Kai Moana Trustee Limited may recover any funding levy (including any default interest) from the relevant mandated iwi organisation or recognised iwi organisation—
- (a) by deducting it from any amount that Te Ohu Kai Moana Trustee Limited owes to or would otherwise be paying to the organisation; or
 - (b) as a debt due in any court of competent jurisdiction.
- (2) A funding levy may provide that if the Crown, Aotearoa Fisheries Limited, or any other party owes money to a mandated iwi organisation or recognised iwi organisation that is in default of payment of a funding levy (including any default interest) to Te Ohu Kai Moana Trustee Limited, or owes money to the asset-holding company of that mandated iwi organisation,—
- (a) Te Ohu Kai Moana Trustee Limited may request the Crown, Aotearoa Fisheries Limited, or other party to deduct all or part of the amount owed to Te Ohu Kai Moana Trustee Limited from the money payable to the organisation or asset-holding company; and
 - (b) the Crown, Aotearoa Fisheries Limited, or the other party is not obliged to comply with the request under **paragraph (a)**, but if it does so the receipt of the chief executive of Te Ohu Kai Moana Trustee Limited discharges the debt owed by the Crown, Aotearoa Fisheries Limited, or the other party to the mandated iwi organisation, recognised iwi organisation, or asset-holding company to the extent of the amount paid to Te Ohu Kai Moana Trustee Limited.

Example

A mandated iwi organisation owes Te Ohu Kai Moana \$10,000.

The Crown owes the mandated iwi organisation \$20,000.

The Crown, complying with a request by Te Ohu Kai Moana to do so, can—

- deduct \$10,000 and pay that amount to Te Ohu Kai Moana; and
- pay the mandated iwi organisation \$10,000.

54F Later funding levy proposals

- (1) Not earlier than 2 years before the expiry of a funding levy, Te Ohu Kai Moana Trustee Limited must, if it wishes the funding levy to continue in its current or an amended form, prepare and distribute to mandated iwi organisations and recognised iwi organisations a further funding levy proposal that complies with **section 54C**.
- (2) Te Ohu Kai Moana Trustee Limited may include the information referred to in **subsection (1)** in a strategic plan referred to in **section 36(1)(b)(ii)**.

54G Surplus levy funding

- (1) This section applies if Te Ohu Kai Moana Trustee Limited determines by special resolution that it holds levy funding in excess of that necessary or desirable to meet the purpose for which it was collected.
- (2) Te Ohu Kai Moana Trustee Limited must return the surplus funding—
 - (a) to the mandated iwi organisations and recognised iwi organisations that paid the funding levy; and
 - (b) in the percentage that the notional population of the relevant iwi bears to the total notional iwi population.

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54H Distribution of other surplus funds

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- (1) This section applies if Te Ohu Kai Moana Trustee Limited determines by special resolution that it holds funds (other than levy funding) in excess of those it considers necessary or desirable to meet its current and future requirements.
- (2) Te Ohu Kai Moana Trustee Limited must distribute the surplus funds to mandated iwi organisations.
- (3) Distributions in respect of mandated iwi organisations under **subsection (2)** may only be paid;—
 - (a) to a mandated iwi organisation that has charitable status; or
 - (b) if a mandated iwi organisation does not have charitable status, to an entity with charitable status nominated by the organisation to benefit the relevant iwi and its members.
- (4) If a mandated iwi organisation does not have charitable status and no nomination is made under **subsection (3)(b)**, Te Ohu Kai Moana Trustee Limited must retain the relevant surplus funds until it can comply with **subsection (3)**.
- (5) Distributions under this section must be made—
 - (a) to each mandated iwi organisation; and
 - (b) based on the percentage that the notional population of the relevant iwi bears to the total notional iwi population.
- (6) Despite **subsection (5)**, distributions under this section to an iwi listed in Schedule 3 that does not comply with section 130(3) are held in trust for the iwi by Te Ohu Kai Moana Trustee Limited under **section 153(4)**.

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43 Subpart 2 of Part 2 repealed

Repeal subpart 2 of Part 2.

44 Section 60 amended (Establishment of Aotearoa Fisheries Limited)

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- (1) Repeal section 60(2).
- (2) Replace section 60(3) with:

- (3) If Aotearoa Fisheries Limited changes its name, all references (express or implied) in the following to the company must be read as references to the company under its new name:

- (a) this Act or any other legislation:
- (b) any instrument, register, record, notice, security, document, or communication (whether approved, made, given, passed, or executed before, on, or after the commencement of this subsection).

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45 New section 60A inserted (Relationship of mandated iwi organisations and asset-holding companies with Aotearoa Fisheries Limited)

After section 60, insert:

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60A Relationship of mandated iwi organisations and asset-holding companies with Aotearoa Fisheries Limited

- (1) In exercising the rights and powers of a shareholder of Aotearoa Fisheries Limited under this Act, the constitution, or the Companies Act 1993 (including the sale of ordinary shares), an asset-holding company or subsidiary must act in accordance with the directions of the relevant mandated iwi organisation as referred to in **section 69** and **Kaupapa 11(b)** of Schedule 7.

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- (2) **Subsection (1)** does not require Aotearoa Fisheries Limited to verify whether an asset-holding company is acting in accordance with a direction referred to in that subsection, or its constitution, but Aotearoa Fisheries Limited may require a statutory declaration or evidence of compliance if it considers that to be appropriate.

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- (3) A failure to comply with **subsection (1)** does not invalidate any action taken by the asset-holding company or subsidiary or Aotearoa Fisheries Limited.

46 Section 61 amended (Duty of Aotearoa Fisheries Limited)

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- (1) In section 61(2), replace “Despite section 35(2), in” with “In”.
- (2) In section 61(3), replace “unless they do so in a manner consistent with the terms and conditions of an approval given under section 35(1)(c)” with “without the approval of a special resolution of its holders of ordinary shares”.

47 Section 62 amended (Requirements for constitution)

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- (1) Replace section 62(1)(a) with:

- (a) a requirement that a director of Aotearoa Fisheries Limited be appointed by asset-holding companies (see also section 155 of the Companies Act 1993); and
- ~~(aa) a procedure for the appointment by asset-holding companies of a director of Aotearoa Fisheries Limited; and~~

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- (ab) a requirement that Aotearoa Fisheries Limited must have at least 5, and not more than 8, directors, as determined by its shareholders by ordinary resolution; and
- (ac) a requirement that a director (unless vacating office earlier, for example, under section 156 or 157 of the Companies Act 1993)— 5
- (i) is appointed for a term not exceeding 3 years; and
- (ii) may be reappointed for any number of further terms; and
- (iii) continues in office after the expiry of the director's term until ~~the director's successor is appointed; and the first to occur of the fol-~~ 10
lowing:
- (A) the end of the next annual general meeting of Aotearoa Fisheries Limited;
- (B) the director receives written advice from Aotearoa Fisheries Limited to the effect that the vacancy is not to be filled; and
- (ad) a requirement that, if an extraordinary vacancy means that there is not at least the minimum number of directors determined under the require- 15
ment stated in **paragraph (ab)**, the directors must fill that vacancy within 3 months by appointing a qualified person to hold office until the next annual general meeting is required to be held ~~(unless ceasing to hold~~ vacating office earlier, for example, under section 156 or 157 of the 20
Companies Act 1993); and
- (ae) ~~requirements, and a procedure, for the removal of a director; and~~
- (af) a requirement that fees for a director or alternate director are determined by its shareholders by ordinary resolution; and
- (ag) a requirement that Aotearoa Fisheries Limited must have a policy about 25
expenses and allowances (not including fees) payable to its directors and alternate directors; and
- (ah) a requirement that Aotearoa Fisheries Limited must make its policy required by **paragraph (ag)** (about directors' and alternate directors' 30
expenses and allowances (not including fees)) available to a shareholder of Aotearoa Fisheries Limited, free of charge, within 10 working days of receiving a request from the shareholder (and that requirement overrides section 178 of the Companies Act 1993); and
- (2) In section 62(1)(b), after “on behalf of that director”, insert “, but only while that director holds office as a director”. 35
- (3) Replace section 62(1)(d) and (e) with:
- (ca) a provision that a director or alternate director of Aotearoa Fisheries Limited must not, directly or indirectly, enter into, or perform, or both, any contract for services for any member of AFL Group unless the director or alternate director does so in accordance with sections 139 to 40

- 144 (transactions involving self-interest) of the Companies Act 1993; and
- (cb) a provision that a director or alternate director of Aotearoa Fisheries Limited must also comply with sections 139 to 144 of the Companies Act 1993 for transactions (other than those covered by **paragraph (ca)**) in which the director or alternate director is interested (as defined in section 139 of that Act); and 5
- (d) a method by which the board of Aotearoa Fisheries Limited must address conflicts of interest (other than those covered by **paragraphs (ca) and (cb)**) that may arise for its directors and alternate directors; and 10
- (da) a requirement that Aotearoa Fisheries Limited must use its best endeavours to ensure requirements similar to those specified in **paragraphs (ca), (cb), and (d)** are included in the constitutional document of every subcompany in respect of its directors and alternate directors; and 15
- (4) In section 62(1)(f), replace “income shareholders” with “holders of ordinary shares”.
- (5) Replace section 62(1)(h), (i), (j), (k), and (l) with:
- (h) requirements that Aotearoa Fisheries Limited— 20
- (i) establish a process for an asset-holding company, or a subsidiary of an asset-holding company, to sell ordinary shares held by the asset-holding company, or subsidiary, to another asset-holding company; and
- (ii) establish a process for verifying that transfers of ordinary shares are in accordance with the provisions of **section 69** and its constitution; and 25
- (iii) maintain on its website a continuous record of all changes in shareholding updated within 1 month of the company being notified of any change (and this requirement does not limit any requirement under section 87 of the Companies Act 1993 to maintain a share register); and 30
- (i) a requirement that Aotearoa Fisheries Limited must have, and notify to shareholders, a policy—
- (i) for disposal, by itself or any of its subcompanies, of specified assets or classes of assets; and 35
- (ii) that gives a ~~preference or~~ priority to mandated iwi organisations or asset-holding companies to acquire them; and
- (iii) specifying circumstances in which that policy does not apply; and

- (iv) specifying plans or procedures for Aotearoa Fisheries Limited and Sealord Group Limited to discuss, and to make best endeavours to agree on, every proposal for, and the terms of, a preferential or priority disposal of assets in line with that policy; and
- (v) stipulating that those plans or procedures do not impose binding requirements on Aotearoa Fisheries Limited and Sealord Group Limited; and 5
- (vi) requiring assets in any disposal of that kind to be offered, for any acquisition, at market value; and
- (k) a provision enabling Aotearoa Fisheries Limited— 10
 - (i) to issue additional ordinary shares; and
 - (ia) to acquire its own shares; and
 - (ii) to establish subcompanies; and
- (l) provisions for any other matters that are required by this Act or the Companies Act 1993. 15

48 Sections 63 to 67 and cross-headings repealed

Repeal sections 63 to 67, and the cross-headings above sections 63, 66, and 67.

49 Sections 68 to 74 replaced

Replace sections 68 to 74 with:

- Ordinary shares* 20
- 67A Who may hold ordinary shares**
- Ordinary shares in Aotearoa Fisheries Limited must be held only by—
- (a) an asset-holding company of a mandated iwi organisation; or
 - (b) a subsidiary of an asset-holding company of a mandated iwi organisation; or 25
 - (c) Aotearoa Fisheries Limited, in accordance with **section 68(b)(i) or 69(2) or (2A)**; or
 - (d) Te Ohu Kai Moana Trustee Limited in trust under **section 153**, and pending transfer under section 130.
- 67B Rights and powers attaching to ordinary shares** 30
- (1) All ordinary shares in Aotearoa Fisheries Limited are shares to which section 36 of the Companies Act 1993 applies.
 - (2) In particular,—
 - (a) those ordinary shares confer on the holder the rights specified in section 36(1) of the Companies Act 1993; and 35

	(b) those rights cannot be negated, altered, or added to in any of the ways specified in section 36(2) of the Companies Act 1993.	
(3)	This section does not limit, and is not limited by, clause 2(5) and (6) of Schedule 1AA .	
68	Additional ordinary shares	5
	If Aotearoa Fisheries Limited issues, or proposes to issue, additional ordinary shares,—	
(a)	they must be offered to shareholders in proportion to the ordinary shares they hold at the date of issue, or proposed issue, of the additional shares, including, without limitation,—	10
	(i) ordinary shares transferred to, and held by, 1 or more asset-holding companies of a mandated iwi organisation under sections 18B(5)(b)(ii) and 18E(1)(b) and (3) ; and	
	(ii) ordinary shares held in trust under section 153 by Te Ohu Kai Moana Trustee Limited pending transfer under section 130; and	15
(b)	if they are unsubscribed ordinary shares, they must be offered subject, if the offer is not accepted, to being repurchased, cancelled, or withdrawn, in accordance with the constitution of Aotearoa Fisheries Limited, which must provide that,—	
	(i) if the shares for which the offer is not accepted have been issued, those shares are deemed repurchased or cancelled (as required); and	20
	(ii) if the shares for which the offer is not accepted have not been issued, those shares must be withdrawn from the proposed issue; and	25
	(iii) in neither case is the offeree entitled to any benefit or payment (whether by way of compensation or otherwise) in respect of those shares.	
69	Disposal of ordinary shares by mandated iwi organisations or by Aotearoa Fisheries Limited	30
(1)	A mandated iwi organisation may authorise and direct its asset-holding company, or a subsidiary of its asset-holding company, to sell ordinary shares held by the asset-holding company or subsidiary, but only—	
(a)	to another <u>an</u> asset-holding company, or a subsidiary of an asset-holding company, of another mandated iwi organisation (<i>see</i> section 74(1)); and	35
(b)	in accordance with the process established in the constitution of Aotearoa Fisheries Limited.	

- (2) Despite **subsection (1)**, ordinary shares may be acquired by Aotearoa Fisheries Limited under—
- (a) section 58 (company may acquire its own shares) of the Companies Act 1993; and
 - (b) the process (if any) established in the constitution of Aotearoa Fisheries Limited. 5
- (2A) In particular, ordinary shares may be acquired by Aotearoa Fisheries Limited under—
- (a) sections 110 to 112C (minority buy-out rights) of the Companies Act 1993; and 10
 - (b) the process (if any) established in the constitution of Aotearoa Fisheries Limited.
- (2B) Ordinary shares acquired by Aotearoa Fisheries Limited under **subsection (2) or (2A)** may be transferred, but—
- (a) only— 15
 - (i) to an asset-holding company, or a subsidiary of an asset-holding company, of a mandated iwi organisation; and
 - (ii) in accordance with the process (if any) established in the constitution of Aotearoa Fisheries Limited; and
 - (b) if a third party to a specified transaction exercises a right to sell, or requires the sale of, ordinary shares, only in accordance with **section 72** (and, for the purposes of this paragraph, **section 72** applies to Aotearoa Fisheries Limited as if it— 20
 - (i) held the acquired ordinary shares as an asset-holding company of a mandated iwi organisation; and therefore 25
 - (ii) were not a third party as that term is defined in **section 72(4)**.
- (3) As soon as is reasonably practicable after an asset-holding company, or a subsidiary of an asset-holding company, of a mandated iwi organisation has sold any ordinary shares held by the asset-holding company or subsidiary, the mandated iwi organisation must— 30
- (a) notify Aotearoa Fisheries Limited of the sale; and
 - (b) provide documentation to Aotearoa Fisheries Limited to establish that the sale complied with all the requirements of this Act and of the constitution of Aotearoa Fisheries Limited.
- (4) The documentation mentioned in **subsection (3)(b)** must, if Aotearoa Fisheries Limited so requires, be supported by a statutory declaration made by the mandated iwi organisation. 35

72 Other constraints on disposal of ordinary shares

- (1) If a third party to a specified transaction exercises a right to sell, or requires the sale of, ordinary shares,—
- (a) the ordinary shares may only be sold—
 - (i) ~~to another~~ an asset-holding company, or a subsidiary of an asset-holding company, of another mandated iwi organisation; and 5
 - (ii) in accordance with the process established in the constitution of Aotearoa Fisheries Limited; and
 - (b) the third party proposing to exercise the right to sell, or to require the sale, must notify the proposal to all mandated iwi organisations. 10
- (2) As soon as is reasonably practicable after a third party has exercised the right to sell, or required the sale of, ordinary shares under **subsection (1)**, it must—
- (a) notify Aotearoa Fisheries Limited of the sale; and
 - (b) provide documentation to Aotearoa Fisheries Limited to establish that the sale complied with **subsection (1)** and with the constitution of Aotearoa Fisheries Limited. 15
- (3) The documentation mentioned in **subsection (2)(b)** must, if Aotearoa Fisheries Limited so requires, be supported by a statutory declaration made by the third party involved in the specified transaction. 20
- (4) In **section 69(2B)(b)** and this section,—
- specified transaction** means a transaction (for example, granting an option, giving a mortgage, giving any other security interest, or giving a guarantee), or series of transactions, with a third party, and that could result in—
- (a) the sale of ordinary shares held by, or on behalf of, a mandated iwi organisation; or 25
 - (b) the iwi being disentitled to the income from ordinary shares; or
 - (c) the iwi being disentitled to the right to vote, or other rights, in respect of the ordinary shares, for more than 5 years
- third party** means a person other than— 30
- (a) a mandated iwi organisation; or
 - (b) an asset-holding company, or a subsidiary of an asset-holding company, of a mandated iwi organisation.

73 Remedy for breach of section 69 or 72

- (1) If a contract for the sale of ordinary shares, or a transaction or series of transactions referred to in **section 72(1)**, results in breach of **section 69 or 72**, the Court may make orders that— 35
- (a) cancel the contract or transaction:

- (b) vest in the vendor the shares that were the subject of the contract or transaction:
 - (c) vest in the buyer the consideration for the contract or transaction:
 - (d) the Court thinks fit, if the buyer has on-sold, or has granted any interest in, or given any security interest over, the shares: 5
 - (e) the costs of the applicant be met by the parties to the sale or transaction.
 - (2) Orders made under **subsection (1)** may be made—
 - (a) on the application of—
 - (i) a party to the contract for sale or transaction or series of transactions; or 10
 - (ii) an adult member of an iwi whose mandated iwi organisation is a party; or
 - (iii) a mandated iwi organisation; or
 - (iv) Aotearoa Fisheries Limited; and
 - (b) on the terms and conditions that the Court thinks fit, so long as the ordinary shares are not vested other than— 15
 - (i) in a mandated iwi organisation; or
 - (ii) in an asset-holding company, or in a subsidiary of an asset-holding company, of a mandated iwi organisation to be held by the asset-holding company or subsidiary on behalf of the mandated iwi organisation that owns the asset-holding company (*see* section 16(1)(c) and (3)). 20
 - (3) Subpart 5 (illegal contracts) of Part 2 (contracts) of the Contract and Commercial Law Act 2017 does not apply to a breach of **section 69 or 72** of this Act.
- 74 Exceptions to restrictions on disposal of ordinary shares** 25
- (1) **Section 69** does not apply to transfers of ordinary shares between or among—
 - (a) asset-holding companies wholly owned by the same mandated iwi organisation; or
 - (b) subsidiaries of asset-holding companies that are wholly owned by asset-holding companies wholly owned by the same mandated iwi organisation; or 30
 - (c) an asset-holding company wholly owned by a mandated iwi organisation, and a subsidiary of an asset-holding company that is wholly owned by an asset-holding company wholly owned by the same mandated iwi organisation. 35
 - (2) If an asset-holding company ceases to be wholly owned by a mandated iwi organisation, or a subsidiary of an asset-holding company of a mandated iwi organisation ceases to be wholly owned by an asset-holding company wholly

owned by the same mandated iwi organisation, the ordinary shares held by the asset-holding company or by the subsidiary must be—

- (a) treated as the property of the mandated iwi organisation; and
- (b) held, as required by section 16(1)(c) and (3), by—
 - (i) another asset-holding company wholly owned by the mandated iwi organisation; or
 - (ii) another subsidiary of an asset-holding company that is wholly owned by the same mandated iwi organisation.

50 Section 75 and cross-heading above section 75 replaced

Replace section 75 and the cross-heading above section 75 with: 10

Payment of dividends

51 Section 76 amended (Payment of dividends by Aotearoa Fisheries Limited)

- (1) In section 76(1) and (2), replace “income shareholders” with “holders of ordinary shares”.
- (2) In section 76(2), replace “consolidated group net profit after tax” with “AFL Group net profit after tax”. 15
- (3) Replace section 76(5) with:
- (5) In subsection (2),—
 - AFL Group** has the meaning given to it in section 5
 - AFL Group net profit after tax** does not include— 20
 - (a) asset revaluations; or
 - (b) unrealised capital gains or losses; or
 - (c) unrealised gains or losses from financial instruments.
- (6) However, this section does not apply in respect of any year for which the holders of ordinary shares have so resolved, and in that case the directors may authorise distributions in accordance with section 52 of the Companies Act 1993. 25
- (7) A resolution for the purposes of **subsection (6)** is invalid unless supported by a simple majority of the votes of those shareholders entitled to vote and voting on the question. 30

52 Section 77 replaced

Replace section 77 with:

77 Circumstances when payments not required

Section 76(2) does not apply to the extent that compliance would put Aotearoa Fisheries Limited, a subcompany, or any directors or alternate directors of either, in breach of any obligation under the Companies Act 1993. 35

53 Section 79 amended (Establishment of Te Putea Whakatupu Trust)

In section 79(2), replace “rule” with “rules”.

54 Section 84 amended (Contents of trust deed of Te Putea Whakatupu Trust)

In section 84(1)(a), after “that the directors”, insert “and alternate directors”.

55 Section 86 amended (Reporting obligations of Te Putea Whakatupu Trustee Limited)

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Replace section 86(1)(b)(iv) and (v) with:

(iv) the fees and reimbursing allowances or actual and reasonable expenses paid to the directors and alternate directors of Te Pūtea Whakatupu Trustee Limited; and

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(v) contracts for service entered into between the following parties that are, or include, the following (whether or not those contracts for service are also entered into by any other party, or by any other parties):

(A) Te Pūtea Whakatupu Trustee Limited; and

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(B) all or any of, or a person who contracts to provide the services of all or any of, its directors or alternate directors; and

56 Section 87 amended (Constitution of Te Putea Whakatupu Trustee Limited)

(1) In section 87(2)(b), replace “3 directors” with “at least 3, and not more than 5, directors”.

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(2) Replace section 87(2)(d), (e), and (f) with:

(d) that a director (unless vacating office earlier, for example, under section 156 or 157 of the Companies Act 1993)—

(i) is appointed for a term not exceeding 3 years; and

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(ii) may be reappointed for any number of further terms; and

(iii) continues in office after the expiry of the director’s term until the director’s successor is appointed; and the first to occur of the following:

(A) the end of the next general meeting of Te Ohu Kai Moana Trustee Limited;

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(B) the director receives written advice from Te Ohu Kai Moana Trustee Limited to the effect that the vacancy is not to be filled; and

(da) a procedure for the appointment of an alternate for a director to attend and vote at meetings on behalf of that director, but only while that director holds office as a director; and

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- (db) that fees for a director or alternate director are determined by a resolution approved by a majority of mandated iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (see also sections 36(1)(b)(i), **(c)**, and (e) and 37(f) and **(g)**); and 5
- (e) that a director or alternate director of Te Pūtea Whakatupu Trustee Limited must not, directly or indirectly, enter into, or perform, or both, any contract for services for Te Pūtea Whakatupu Trustee Limited unless the director or alternate director does so in accordance with sections 139 to 144 (transactions involving self-interest) of the Companies Act 1993; and 10
- (ea) that a director or alternate director of Te Pūtea Whakatupu Trustee Limited must also comply with sections 139 to 144 of the Companies Act 1993 for transactions (other than those covered by **paragraph (e)**) in which the director or alternate director is interested (as defined in section 139 of that Act); and 15
- (f) a method by which the board of Te Pūtea Whakatupu Trustee Limited must address conflicts of interest (other than those covered by **paragraphs (e) and (ea)**) that may arise for its directors and alternate directors; and 20
- (3) In section 87(2)(g)(i), replace “3” with “a majority of directors”.
- 57 Section 89 repealed (Eligibility for office of director)**
Repeal section 89.
- 58 Section 90 amended (Payments to Te Pūtea Whakatupu Trustee Limited)**
In section 90(6), replace “income shares” with “ordinary shares”. 25
- 59 Section 91 amended (Interpretation)**
In section 91, definition of **freshwater fisheries**, delete “or activities conducted under the Freshwater Fish Farming Regulations 1983”.
- 60 Section 96 amended (Contents of trust deed of Te Wai Māori Trust)**
In section 96(1)(a), after “that the directors”, insert “and alternate directors”. 30
- 61 Section 99 amended (Reporting obligations of Te Wai Māori Trustee Limited)**
Replace section 99(1)(b)(iv) and (v) with:
- (iv) the fees and reimbursing allowances or actual and reasonable expenses paid to the directors and alternate directors of Te Wai Māori Trustee Limited; and 35
- (v) contracts for service entered into between the following parties that are, or include, the following (whether or not those contracts

for service are also entered into by any other party, or by any other parties):

(A) Te Wai Māori Trustee Limited; and

(B) all or any of, or a person who contracts to provide the services of all or any of, its directors or alternate directors; and

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62 Section 100 amended (Constitution of Te Wai Māori Trustee Limited)

(1) In section 100(2)(b), replace “3 directors” with “at least 3, and not more than 5, directors”.

(2) Replace section 100(2)(d), (e), and (f) with:

(d) that a director (unless vacating office earlier, for example, under section 156 or 157 of the Companies Act 1993)—

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(i) is appointed for a term not exceeding 3 years; and

(ii) may be reappointed for any number of further terms; and

(iii) continues in office after the expiry of the director’s term until the director’s successor is appointed; and the first to occur of the following:

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(A) the end of the next general meeting of Te Ohu Kai Moana Trustee Limited;

(B) the director receives written advice from Te Ohu Kai Moana Trustee Limited to the effect that the vacancy is not to be filled; and

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(da) a procedure for the appointment of an alternate for a director to attend and vote at meetings on behalf of that director, but only while that director holds office as a director; and

(db) that fees for a director or alternate director are determined by a resolution approved by a majority of mandated iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (see also sections 36(1)(b)(i), (c), and (e) and 37(f) and (g)); and

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(e) that a director or alternate director of Te Wai Māori Trustee Limited must not, directly or indirectly, enter into, or perform, or both, any contract for services for Te Wai Māori Trustee Limited unless the director or alternate director does so in accordance with sections 139 to 144 (transactions involving self-interest) of the Companies Act 1993; and

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(ea) that a director or alternate director of Te Wai Māori Trustee Limited must also comply with sections 139 to 144 of the Companies Act 1993 for transactions (other than those covered by **paragraph (e)**) in which the director or alternate director is interested (as defined in section 139 of that Act); and

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- (f) a method by which the board of Te Wai Māori Trustee Limited must address conflicts of interest (other than those covered by **paragraphs (e) and (ea)**) that may arise for its directors and alternate directors; and
- (3) In section 100(2)(g)(i), replace “3” with “a majority of directors”.
- (4) In section 100(2)(i), replace “Te Putea Whakatatupu Trust” with “Te Wai Māori Trust”. 5
- 63 Section 102 repealed (Eligibility for office of director)**
Repeal section 102.
- 64 Section 103 amended (Payments to Te Wai Māori Trustee Limited)**
In section 103(7), replace “income shares” with “ordinary shares”. 10
- 65 Section 104 amended (Interpretation)**
In section 104, definition of **restrictions on the disposal of settlement assets**, paragraph (a), replace “income shares” with “ordinary shares”.
- 66 Section 106 amended (Subsequent audits)**
In section 106(b), replace “income shares” with “ordinary shares”. 15
- 66A Section 112 amended (Procedure for auditor and entity audited)**
- (1) Replace section 112(1)(b) with:
- (b) distribute the audit report to—
- (i) each entity that is subject to audit; and
- (ii) Te Ohu Kai Moana Trustee Limited, in the case of an audit of Te Pūtea Whakatupu Trustee Limited or Te Wai Māori Trustee Limited; and 20
- (iii) all mandated iwi organisations, all recognised iwi organisations, all representative Māori organisations, and Te Ohu Kai Moana Trustee Limited, in the case of an audit of Aotearoa Fisheries Limited. 25
- (2) Replace section 112(2)(b) with:
- (b) provide a copy of that plan to Te Ohu Kai Moana Trustee Limited and, in the case of an audit of Aotearoa Fisheries Limited, also provide a copy of that plan to all mandated iwi organisations, to all recognised iwi organisations, and to all representative Māori organisations. 30
- 67 Section 113 amended (Procedure for Te Ohu Kai Moana Trustee Limited)**
- (1) In section 113(1) and (2), after “an audit report under section 112(1)”, insert “in respect of an audit of Te Pūtea Whakatupu Trustee Limited or Te Wai Māori Trustee Limited”. 35

- (2) In section 113(1), replace “to the members and alternate members of Te Kawai Taumata, to all mandated iwi organisations, and to all representative Maori organisations” with “to all mandated iwi organisations, to all recognised iwi organisations, and to all representative Māori organisations”.

- (3) In section 113(1)(c), delete “in the case of an audit of Aotearoa Fisheries Limited, Te Pūtea Whakatupu Trustee Limited, or Te Wai Māori Trustee Limited,”. 5

- (4) In section 113(2)(c), after “mandated iwi organisations or”, insert “recognised iwi organisations or”.

68 Sections 114 to 128 and cross-headings replaced 10

Replace sections 114 to 128, and the cross-headings above sections 114, 116, 121, 125, and 128, with:

Requirement for review of entities

114 Independent reviews

- (1) Independent reviews must be conducted, in accordance with this subpart, and to the extent that they are required under this subpart, of— 15
- (a) the members of the Te Ohu Kai Moana Group (as defined in section 5, and therefore including, without limitation,—
 - (i) Te Pūtea Whakatupu Trustee Limited (*see* section 87(1)(a)(ii)); 20
 - and
 - (ii) Te Wai Māori Trustee Limited (*see* section 100(1)(a)(ii)); and
 - (b) the members of the AFL Group (as so defined).
- (2) In this subpart, **principal company** means, depending on which of the Groups the entity under review, or potentially under review, is a member of,— 25
- (a) Te Ohu Kai Moana Trustee Limited; or
 - (b) Aotearoa Fisheries Limited.

115 Initiation of reviews

- (1) The relevant ~~company or~~ principal company must start and proceed with a review under this subpart of each of the entities referred to in **subsection (4)** in the period— 30
- (a) starting 7 years after this section’s commencement; and
 - (b) ending 10 years after this section’s commencement.
- (1A) However, a review under this subpart of that entity ~~proceeds only if a resolution referred to in subsection (2) is passed in respect of that entity within those 10 years.~~ must be started and proceeded with under subsection (1) unless the shareholders of the relevant principal company determine by a special resolution within those 10 years that the review is not to proceed. 35

- (2) ~~The start date of each review is determined by a special resolution of the relevant company or principal company, and if no such resolution is passed, the review does not proceed.~~
- (3) ~~The directors of each relevant company or principal company must ensure that—~~ 5
- (a) ~~a special resolution proposing a start date for a review of the company, or of all or any entities in the relevant Group, is put at every annual meeting of the relevant company or principal company at which it might be passed; and~~
- (b) ~~the notice of the meeting contains the views of the directors of the relevant company or principal company as to whether or not the special resolution should be passed.~~ 10
- (4) The entities to which this section applies are—
- (a) Te Ohu Kai Moana Trustee Limited, and every other member (for example, Te Pūtea Whakatupu Trustee Limited, and Te Wai Māori Trustee Limited) of the Te Ohu Kai Moana Group (taken together): 15
- (b) Aotearoa Fisheries Limited, and every other member of the AFL Group (taken together).
- 116 Later reviews**
- ~~At least 6 years after the completion of a review of an entity under **section 115** (or not earlier than **1 October 2035** if no such review proceeds) there must be a review of the entity if a special resolution to that effect under **section 115(2) and (3)** is passed by the relevant company or principal company.~~ 20
- 116 Later reviews** 25
- (1) The relevant principal company must before the deadline start and proceed with a review under this subpart of an entity to which this section applies.
- (2) However, the review is not required if the shareholders of the relevant principal company determine by a special resolution before the deadline that the review is not to proceed. 30
- (3) This section applies to—
- (a) an entity that is the subject of a review under **section 115**, in which case the deadline is 6 years after the completion of that review;
- (b) an entity that would have been the subject of a review under **section 115** but for a special resolution under **section 115(1A)**, in which case the deadline is **1 October 2035**; 35
- (c) an entity that is the subject of a review under this section, in which case the deadline is 6 years after the completion of that review;

(d)	an entity that would have been the subject of a review under this section but for a special resolution under subsection (2) , in which case the deadline is 6 years after the deadline for that earlier review under this section that did not proceed.	
117	Joint reviews	5
	If the <u>shareholders of the relevant principal companies</u> each <u>pass-approve</u> at their annual <u>general meetings</u> an appropriate special resolution under section 415(2) and (3) <u>this section</u> , a review over a specified period of all or any members of one group must be conducted jointly with a review over the same specified period of all or any members of the other group.	10
118	Costs of reviews	
(1)	The costs of each review (other than a joint review) must be met by the relevant company or principal company.	
(2)	The costs of each joint review must be met in reasonable shares by both relevant principal companies.	15
119	Terms of reference	
(1)	The principal company must set the terms of reference for the review, which must include—	
(a)	the date for the commencement of the review; and	
(b)	the date by which the review report must be presented under section 125(1) (which must be not later than 9 months after the commencement date set under paragraph (a)).	20
(2)	Before finalising the terms of reference for the review, the principal company must, for the purposes of consultation,—	
(a)	provide the draft terms of reference to—	25
(i)	all mandated iwi organisations, recognised iwi organisations, and representative Māori organisations, and the other principal company; and	
(ii)	every entity under review; and	
(b)	allow 20 working days for written comments to be provided to the principal company.	30
(3)	The terms of reference must be consistent with the requirements of sections 122 and 124 .	
	<i>Conduct of review</i>	
121	Reviewer	35
(1)	Every review conducted under this subpart must be carried out by an independent person—	

- (a) appointed by the principal company or, if there is a joint review, the principal companies; and
- (b) appropriately qualified to conduct the review.
- (2) In carrying out a review, the reviewer must—
 - (a) maintain the appropriate degree of impartiality and independence; and 5
 - (b) take all reasonable steps to ensure that the reviewer’s judgment is not impaired by any relationship with, or interest in, the entity under review.
- (3) The independence of a reviewer is not compromised merely because that person has a beneficial interest under this Act.
- 122 Scope of review 10**
- (1) Every review conducted under **section 115** must consider and report on—
 - (a) the effect on the entity under review of the governance arrangements provided for by or under this Act as those arrangements relate to—
 - (i) the performance of that entity in achieving its duties and functions; and 15
 - (ii) the ability of that entity to deliver benefits to the beneficiaries of the entity; and
 - (iii) the ability of that entity to contribute to achieving the purposes of this Act and the purpose of Te Ohu Kai Moana; and
 - (b) the effect of the restrictions on the disposal of settlement assets as they relate to the ability of— 20
 - (i) mandated iwi organisations (and their asset-holding companies and subsidiaries of the asset-holding companies) to deliver benefits to the members of their iwi; and
 - (ii) Aotearoa Fisheries Limited to deliver benefits to its shareholders; and 25
 - (c) whether, without creating an inconsistency with the purposes of this Act or with the purpose of Te Ohu Kai Moana, the interests of the beneficiaries of the Deed of Settlement would be better served by changes to 1 or both of the following: 30
 - (i) the governance arrangements of an entity;
 - (ii) the restrictions on the disposal of settlement assets; and
 - (d) the desirability or otherwise of winding up all or any of Te Ohu Kai Moana Trustee Limited, Te Pūtea Whakatupu Trustee Limited, Te Wai Māori Trustee Limited and their related trusts, or Aotearoa Fisheries Limited. 35
- (1A) Every review conducted under **section 116** must consider and report on as many all of the matters specified in **subsection (1)** as are unless any of those matters are specified in the a special resolution approved in respect of that

review by shareholders of the relevant principal company as matters that are not to be included in the review.

(2) In this section,—

beneficiary of an entity means—

- (a) in the case of Te Ohu Kai Moana Trustee Limited, the beneficiaries of the Deed of Settlement; and 5
- (b) in the case of Aotearoa Fisheries Limited, its shareholders; and
- (c) in the case of Te Pūtea Whakatupu Trustee Limited and Te Wai Māori Trustee Limited, those individuals and groups entitled to apply for distributions provided for under the distribution policy of the relevant trust deed 10

governance arrangements include—

- (a) the procedures and criteria to appoint or remove the directors of Te Ohu Kai Moana Trustee Limited, Aotearoa Fisheries Limited, Te Pūtea Whakatupu Trustee Limited, and Te Wai Māori Trustee Limited; and 15
- (b) the ownership structure of each entity, including the shareholding structure of Aotearoa Fisheries Limited; and
- (c) the procedural requirements that enable the beneficiaries of an entity to hold directors accountable for performing their directors' duties; and
- (d) the provisions required by this Act for the constitution and the trust deed (if any) of an entity. 20

124 Limits to recommendations that may be made

- (1) A reviewer must not recommend a change to the requirement in the trust deeds of Te Ohu Kai Moana, Te Pūtea Whakatupu Trust, or Te Wai Māori Trust that, upon termination, the trust assets or funds be distributed to iwi in the percentages specified in column 3 of Schedule 3. 25
- (2) If, in conducting a review under **section 115 or 116**, a reviewer finds that the interests of the beneficiaries of the Deed of Settlement would be better served by changes to section 161(1) or 168 or both (which impose restrictions on disposal of settlement quota),— 30
 - (a) the reviewer must—
 - (i) include the finding in the review report; but
 - (ii) not recommend that the restrictions be changed; and
 - (b) a later review must be carried out, at a time determined by Te Ohu Kai Moana Trustee Limited ~~without the need for a further special resolution,~~ 35

but not later than 5 years after the completion of the review that made those findings.
- (3) If, in conducting a review of Te Pūtea Whakatupu Trustee Limited or Te Wai Māori Trustee Limited under **section 115 or 116**, a reviewer finds that the

entity continues to fulfil its purpose under this Act, the reviewer must not recommend that the relevant trust be wound up.

- (4) If a reviewer makes findings of the kind referred to in **subsections (2) or (3)**, mandated iwi organisations and recognised iwi organisations must not amend a recommendation to achieve a change to the restriction.

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Procedure after completion of review

125 Report on review

- (1) As soon as practicable after conducting a review under **section 115 or 116 or 124(2)(b)**, a reviewer must—

- (a) prepare a written report that includes—

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- (i) the findings made in the review; and
(ii) the recommendations of the reviewer; and

- (b) present the review report to—

- (i) the relevant company or principal company or, if there is a joint review, the principal companies; and
(ii) each entity under review.

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- (2) As soon as practicable after receiving the review report, the principal company must distribute the report to—

- (a) the other principal company (unless it is a report on a joint review, and so already presented under **subsection (1)(b)(i)**); and
(b) all mandated iwi organisations, recognised iwi organisations, and representative Māori organisations.

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126 Consideration of review report by entity under review

- (1) Not later than 40 working days after receiving a review report under **section 125(1)**, the entity under review may prepare a plan specifying any actions that that entity intends to take to address the findings and recommendations of the reviewer.

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- (2) A plan prepared under **subsection (1)** must be distributed to—

- (a) both principal companies; and
(b) all mandated iwi organisations, recognised iwi organisations, and representative Māori organisations.

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127 Consideration of review report

General meeting

- (1) At a general meeting of the relevant company or principal company convened not later than 60 working days after the distribution of a review report under **section 125(2)** in respect of any entity in the relevant group, that company or principal company must make provision on the agenda for consideration of—

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- (a) the review report; and
 - (b) any plan prepared under **section 126(1)** by the entity under review; and
 - (c) any comments from mandated iwi organisations, recognised iwi organisations, representative Māori organisations or the other principal company on the review report or on any plan. 5
- Te Ohu Kai Moana Trustee Limited*
- (2) If the general meeting referred to in **subsection (1)** is a meeting of Te Ohu Kai Moana Trustee Limited, the mandated iwi organisations and recognised iwi organisations may resolve to— 10
 - (a) adopt all or some of the recommendations set out in the review report; or
 - (b) adopt all or part of any plan prepared under **section 126(1)**; or
 - (c) without creating an inconsistency with the purposes of this Act or the purpose of Te Ohu Kai Moana, amend, and adopt as amended, any of those recommendations. 15
 - (3) **Subsections (3A) and (3B)** apply if 75% or more of the mandated iwi organisations, representing over 50% of the total notional iwi population, ~~support~~ approve a resolution made under **subsection (2)** in respect of any entity in the Te Ohu Kai Moana Group (see also **subsection (5)** on resolutions under **subsection (2)** that affect Aotearoa Fisheries Limited). 20
 - (3A) If this subsection applies in accordance with **subsection (3)**, the entity under review must—
 - (a) within a reasonable time seek to implement the resolutions (for example, by seeking shareholder support for a resolution amending the constitution of the entity) to the extent that they are not inconsistent with this Act or any other legislation or rule of law; and 25
 - (b) include in its next annual plan a description of any action required as a result of the resolutions implemented under **paragraph (a)**.
 - (3B) If this subsection applies in accordance with **subsection (3)**, and if amendments to the Act are required, Te Ohu Kai Moana Trustee Limited must ~~request~~ ask the Minister to promote the necessary amendments. 30
 - (3C) The Crown must take all reasonable steps within the Crown's authority to introduce to the House of Representatives, within 3 years after Te Ohu Kai Moana Trustee Limited asks the Minister to promote the necessary amendments, a Bill whose purpose is, or includes, to promote the necessary amendments. 35
- Aotearoa Fisheries Limited*
- (4) **Subsection (4A)** applies if—
 - (a) the general meeting referred to in **subsection (1)** is a general meeting of Aotearoa Fisheries Limited; and 40

- (b) a resolution ~~supported in respect of all or any of the matters considered under **subsection (1)** is approved~~ by 75% or more of the shareholders of Aotearoa Fisheries Limited representing 50% or more of the total notional iwi population ~~is passed in respect of any of the matters considered.~~ 5
- (4A) If this subsection applies in accordance with **subsection (4)**, Aotearoa Fisheries Limited must implement the resolution unless it is inconsistent with this Act, or any other legislation or rule of law.
- (5) **Subsection (5A)** applies if a resolution under **subsection (2)** affects Aotearoa Fisheries Limited, whether by requiring amendments to its constitution, or changes to its operation or governance or otherwise. 10
- (5A) If this subsection applies in accordance with **subsection (5)**, Aotearoa Fisheries Limited must put the matter before its next general meeting, and implement the matter if it is—
- (a) not inconsistent with this Act, or any other legislation or rule of law; and 15
- (b) ~~passed~~ approved by a resolution supported by 75% or more of the shareholders of Aotearoa Fisheries Limited representing 50% or more of the total notional iwi population.
- (6) If a resolution of Aotearoa Fisheries Limited referred to in **subsection (4) or (5)** is ~~passed~~ approved as required by **subsection (4)(b) or (5A)(b)** but cannot be implemented because it is inconsistent with this Act, Aotearoa Fisheries Limited must notify Te Ohu Kai Moana Trustee Limited, and Te Ohu Kai Moana Trustee Limited must ask the Minister to promote the necessary amendments. 20
- (7) The Crown must take all reasonable steps within the Crown's authority to introduce to the House of Representatives, within 3 years after Te Ohu Kai Moana Trustee Limited asks the Minister to promote the necessary amendments, a Bill whose purpose is, or includes, to promote the necessary amendments. 25
- 127A Other reviews not precluded** 30
- (1) Nothing in this subpart limits—
- (a) section 109 (management review by shareholders) of the Companies Act 1993; or
- (b) the ability of the directors or shareholders of any member of the Te Ohu Kai Moana Group or the AFL Group, or of Te Pūtea Whakatupu Trustee Limited or Te Wai Māori Trustee Limited, to initiate a review of the structure, operations, or governance of any entity at any time. 35
- (2) A review mentioned in **subsection (1)(b)** need not be conducted in accordance with this subpart.

*Requirement to provide information***128 Information requested by auditor or reviewer**

Information requested by or on behalf of the auditor in relation to an audit conducted under section 105 or 106, or by or on behalf of the reviewer in relation to a review conducted under **section 115 or 116**, must be provided promptly by the person or entity that—

- (a) has or controls the information; or
- (b) is contractually entitled to the information; or
- (c) can obtain the information by reasonable effort.

Amendments to Part 3—(Allocation and transfer of settlement assets) 10**69 Section 130 amended (Duty to allocate and transfer settlement assets)**

In section 130(1)(c), replace “income shares” with “ordinary shares”.

70 Sections 137 and 138 repealed

Repeal sections 137 and 138.

71 Section 139 and cross-heading above section 139 repealed 15

Repeal section 139 and the cross-heading above section 139.

72 Section 151 amended (Transfer of allocated settlement quota)

Replace section 151(3)(b) and (c) with:

- (b) to be transferred to an asset-holding company of the mandated iwi organisation.

73 Section 153 replaced (When settlement assets must be held in trust)

Replace section 153 with:

153 When settlement assets and surplus funds (other than surplus levy funding) must be held in trust*Settlement assets* 25

- (1) Unless Te Ohu Kai Moana Trustee Limited exercises its discretion under section 135(1), it must hold in trust for each iwi that does not comply with section 130(3)—

- (a) the ordinary shares that would otherwise be transferred to each mandated iwi organisation; and
- (b) any dividends that relate to those shares.

- (2) Te Ohu Kai Moana Trustee Limited must hold in trust for each iwi all dividends and associated tax credits to which **clause 4 of Schedule 1AA** applies

	until those dividends and associated tax credits are transferred under clauses 3(3) and 4 of Schedule 1AA .	
(3)	Te Ohu Kai Moana Trustee Limited is entitled to withhold from any dividends held in trust under subsection (1)(b) or (2) the reasonable costs incurred in administering the ordinary shares and dividends.	5
	<i>Surplus funds (other than surplus levy funding)</i>	
(4)	Te Ohu Kai Moana Trustee Limited must also hold in trust for each iwi that does not comply with section 130(3) any distributions of surplus funds to that iwi under section 54H .	
(5)	If an iwi mentioned in subsection (4) complies with section 130(3), Te Ohu Kai Moana Trustee Limited must promptly distribute to that iwi's mandated iwi organisation the funds (including any income on the funds) held in trust under subsection (4) .	10
(6)	Te Ohu Kai Moana Trustee Limited is entitled to withhold from any income on funds held in trust under subsection (4) the reasonable costs incurred in administering the funds.	15
74	Section 154 amended (Status of settlement assets)	
	In section 154(1), replace "income shares" with "ordinary shares".	
	<i>Amendments to Part 4— (Settlement quota interests, sales and exchanges of settlement quota, related restrictions, and option to purchase)</i>	20
75	Section 155 amended (Outline of this Part)	
(1)	Repeal section 155(e).	
(2)	In section 155(f), delete "sale or".	
76	Section 156 repealed (Interpretation)	
	Repeal section 156.	25
77	Sections 157 to 159 replaced	
	Replace sections 157 to 159 with:	
157	Registration of settlement quota interests	
(1)	Te Ohu Kai Moana Trustee Limited must, in accordance with section 152A of the Fisheries Act 1996, apply to the chief executive of the Ministry (as those terms are defined in section 2(1) of the Fisheries Act 1996) for registration of settlement quota interests—	30
(a)	within 20 working days after the appointed day and before any transactions are made involving the specified shares, against—	
(i)	quota shares listed in Schedule 1; and	35

- (ii) quota shares allocated, before the appointed day, under section 44 of the Fisheries Act 1996; and
- (b) against further quota shares allocated under section 44 of the Fisheries Act 1996 after the appointed day.
- (2) The quota shares referred to in **subsection (1)** become settlement quota when the settlement quota interest is registered under section 152A of the Fisheries Act 1996. 5
- 158 General restriction on transfer of settlement quota**
- (1) Settlement quota must not be transferred except—
- (a) by a transfer authorised by Te Ohu Kai Moana Trustee Limited under **section 18E(1)(b)(i)** for the purposes of **section 18B(5)(b)**; or 10
- (b) to an entity permitted by section 161(1) to acquire settlement quota; or
- (c) as ordered by the Court; or
- (d) through forfeiture to the Crown under the Fisheries Act 1996; or
- (e) in accordance with an approved exchange for non-settlement quota as contemplated by **section 173**. 15
- (2) Every transfer of settlement quota must be notified—
- (a) by the transferor and transferee jointly; and
- (b) to the chief executive of the Ministry (as those terms are defined in section 2(1) of the Fisheries Act 1996); and 20
- (c) in the form, if any, approved for the purposes of this subsection by that chief executive.
- 159 Quota may be treated as settlement quota**
- (1) A mandated iwi organisation may declare any quota owned by the asset-holding company of that mandated iwi organisation to be settlement quota. 25
- (2) A declaration must not be made under **subsection (1)** until the mandated iwi organisation has obtained the approval of any party that holds a mortgage or caveat registered against the quota.
- 78 Section 160 amended (Application for registration)**
- (1) Replace section 160(1) and (2) with: 30
- (1) This section applies if—
- (a) Te Ohu Kai Moana Trustee Limited is acting in accordance with its duty under **section 157**; or
- (b) a mandated iwi organisation has made a declaration under **section 159(1)**; or 35

- (c) Te Ohu Kai Moana Trustee Limited has consented to a proposal for an exchange under section 174 of settlement quota for quota other than settlement quota.
- (2) If **subsection (1)(a)** applies, Te Ohu Kai Moana Trustee Limited and the registered owner of the quota jointly (or Te Ohu Kai Moana Trustee Limited alone if it is the registered owner of the quota) must— 5
- (a) request the chief executive of the Ministry (as those terms are defined in section 2(1) of the Fisheries Act 1996) to register a settlement quota interest against the quota shares; and
- (b) specify which quota management stock is the subject of the request; and 10
- (c) specify the number of quota shares to which the request applies.
- (2A) If **subsection (1)(b)** applies, the mandated iwi organisation must notify Te Ohu Kai Moana Trustee Limited of the declaration made under **section 159(1)**, and Te Ohu Kai Moana Trustee Limited must—
- (a) request the chief executive of the Ministry (as those terms are defined in section 2(1) of the Fisheries Act 1996) to register a settlement quota interest against the quota shares; and 15
- (b) specify which quota management stock is the subject of the request; and
- (c) specify the number of quota shares to which the request applies.
- (2) In section 160(3)(a), replace “of Fisheries” with “(as those terms are defined in section 2(1) of the Fisheries Act 1996)”. 20
- 79 Section 161 amended (Restrictions on disposal of settlement quota)**
- (1) Before section 161(1), insert:
- Disposal by mandated iwi organisation*
- (2) In section 161(1)(a)(ii), replace “Te Ohu Kai Moana Group” with “AFL Group”. 25
- (3) Repeal section 161(2).
- (4) Replace section 161(3) and (4) with:
- (3) If an entity within AFL Group or a mandated iwi organisation sells or relinquishes control over a subsidiary, subcompany, asset-holding company, or subsidiary of an asset-holding company that holds settlement quota, that quota must be treated as the property of Aotearoa Fisheries Limited or of the mandated iwi organisation, as appropriate. 30
- Disposal after transfer as ordered by Court or through forfeiture to Crown*
- (4) **Subsections (5) and (6)** apply to settlement quota transferred under **section 158(1)(b) or (c) or (d)**— 35
- (a) as ordered by the Court, and to an entity not permitted by **subsection (1)** to acquire settlement quota; or

- (b) through forfeiture to the Crown under the Fisheries Act 1996.
- (5) The entity or the Crown must not—
- (a) sell that settlement quota, except to—
- (i) a mandated iwi organisation; or
- (ii) an entity within AFL Group; or
- (b) gift that settlement quota. 5
- (6) The entity or the Crown must sell that settlement quota under **subsection (5)** within, or as soon as is reasonably practicable after, 12 months after the date on which it was transferred to the entity or the Crown under **section 158(1)(b) or (c)**. 10
- 80 Section 162 replaced (Prerequisites to sale of settlement quota)**
- Replace section 162 with:
- 162 Constitutional document must authorise sale of settlement quota**
- A mandated iwi organisation may sell settlement quota only if—
- (a) its constitutional document expressly permits it to sell settlement quota; and 15
- (b) the transaction complies with the requirements of the constitutional document.
- 81 Sections 163 to 166 and cross-heading above section 163 repealed**
- Repeal sections 163 to 166 and the cross-heading above section 163. 20
- 82 Section 167 amended (Other constraints on disposal)**
- (1) In section 167(1), replace “by way of, for example, granting an option, security, mortgage, or guarantee” with “(for example, by way of granting an option, giving a mortgage, giving any other security interest, or giving a guarantee)”.
- (2) After section 167(2), insert: 25
- (2A) In particular, before a transaction referred to in subsection (1) is entered into, section 162 (as applied by subsection (2) of this section) must be complied with as follows:
- (a) the transaction must be of a type permitted by the mandated iwi organisation’s constitutional document; and 30
- (b) the transaction must comply with the requirements of that constitutional document.
- (3) In section 167(3), replace “sections 161(1) and 163 to 166 apply” with “section 161(1) applies”.
- (4) Replace section 167(4) with: 35
- (4) In this section, **third party** means a person other than—

	(a) a mandated iwi organisation; or	
	(b) an asset-holding company, or a subsidiary of an asset-holding company, of a mandated iwi organisation; or,	
	(c) the Crown.	
83	Section 168 amended (Application of this subpart to Te Ohu Kai Moana Group)	5
(1)	In the heading to section 168, replace “Te Ohu Kai Moana Group” with “AFL Group”.	
(2)	In section 168(1),—	
	(a) replace “Te Ohu Kai Moana Group” with “AFL Group”; and	10
	(b) replace “sections 161(1) and 163 to 166 apply” with “section 161(1) applies”.	
(3)	Repeal section 168(2).	
84	Section 169 repealed (When sale of settlement quota must be allowed)	
	Repeal section 169.	15
85	Section 170 amended (Remedy for breach of requirements under this subpart)	
	In section 170(1) and (3), delete “or rules made under section 176”.	
86	Sections 171 and 172 and cross-headings repealed	
	Repeal sections 171 and 172 and the cross-headings above sections 171 and 172.	20
87	Section 173 replaced (Exception for quota exchanges)	
	Replace section 173 with:	
173	Exception for quota exchanges	
(1)	Subpart 2 does not apply to the exchange of settlement quota for any other quota of the same market value with a party that is—	25
	(a) not a mandated iwi organisation; and	
	(b) not an entity within the AFL Group.	
(2)	To avoid doubt, settlement quota may be used in exchanges with parties other than those entitled to hold settlement quota.	30
(3)	However, an exchange under this section is subject to section 174 (<i>see also section 160(1)(c)</i> of this Act and section 152A of the Fisheries Act 1996).	
88	Section 174 amended (Procedure and criteria for exchange)	
	Replace section 174(4) and (5) with:	

- (4) If Te Ohu Kai Moana Trustee Limited is satisfied that the requirements of subsection (3) are met, and allows the proposed exchange, it must ensure that, after the exchange, settlement quota interests—
- (a) are registered against any non-settlement quota received in the exchange; and
 - (b) are removed from the settlement quota provided in the exchange.

5

89 Subpart 4 heading in Part 4 amended

In Part 4, in the subpart 4 heading, delete “sales and”.

90 Section 176 amended (Additional rules)

- (1) In section 176(1), delete “sale or”.
- (2) Repeal section 176(2)(a) to (f) and (i).
- (3) In section 176(2)(h), replace “158 to 169 and 173” with “160”.

10

Amendments to Part 5—(Dispute resolution)

91 Section 180 amended (Application of this Part to specified decisions)

Repeal section 180(1)(i).

15

Amendments to Part 6—(Transitional and miscellaneous provisions, repeal, and amendments)

92 Section 188 amended (Outline of this Part)

In section 188, insert as subsection (2):

- (2) **Schedule 1AA** sets out transitional, savings, and related provisions from the **Māori Fisheries Amendment Act 2022** and later amendments.

20

93 Section 195 amended (Payment of taxation refunds (if any))

In section 195(3)(b), replace “consolidated group” with “AFL Group” in each place.

94 Section 212 amended (Protection of names)

Repeal section 212(1)(b).

25

Part 2

Amendments to schedules, and consequential amendments to other legislation

Amendments to schedules

- 95 New Schedule 1AA inserted** 5
 Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.
- 96 Schedule 1AA amended**
 In **Schedule 1AA**,—
- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and 10
 - (b) make all necessary consequential amendments.
- 97 Schedule 3 amended**
 In the Schedule 3 heading, after “ss 5, 10”, insert “, **54H(5)**”.
- 98 Schedule 7 amended**
- (1) In Schedule 7, kaupapa 1(1), replace “elect” with “participate in the election of 1 or more of”. 15
 - (2) In Schedule 7, replace kaupapa 2(a) with:
 - (a) have voting rights—
 - (i) in elections for the appointment of 1 or more of the directors, trustees, or other officeholders of the mandated iwi organisation in accordance with the constitutional documents; and 20
 - (ii) on amendments to the constitutional documents of the mandated iwi organisation; and
 - (iii) on the recognition of a new mandated iwi organisation in place of the existing mandated iwi organisation; and 25
 - (iv) on any other matter specified in the constitutional documents as a matter on which they have voting rights; and
 - (3) In Schedule 7, kaupapa 4(3), replace “, section 18 (which relates to changing a constitutional document), section 70 (which relates to the disposal of income shares), or by sections 159 or 162 (which relate to the conversion and disposal of settlement quota),” with “or by section 18 (which relates to changing a constitutional document),”. 30
 - (4) In Schedule 7, kaupapa 7(2)(a)(iv)(F), replace “income shares” with “ordinary shares”.
 - (5) In Schedule 7, after kaupapa 7(2)(a)(v)(C), insert: 35
 - (D) with Aotearoa Fisheries Limited; and

- (6) In Schedule 7, kaupapa 7(2)(b)(ii), after “sales and exchanges of settlement quota”, insert “and the acquisition of shares in Aotearoa Fisheries Limited”.
- (7) In Schedule 7, kaupapa 9(2), replace “income shares” with “ordinary shares”.
- (8) In Schedule 7, repeal kaupapa 10.
- (9) In Schedule 7, replace kaupapa 11 with: 5

Kaupapa 11

Every mandated iwi organisation must—

- (a) exercise strategic governance over its asset-holding companies, any subsidiary of an asset-holding company, and any fishing company or joint venture referred to in kaupapa 9; and 10
- (b) direct the exercise of the rights of a shareholder in Aotearoa Fisheries Limited held by any of its asset-holding companies or their subsidiaries; and
- (c) exercise strategic governance over the process to examine and approve annual plans that set out—
 - (i) the key strategies for the use and development of iwi fisheries assets: 15
 - (ii) the expected financial return on the assets:
 - (iii) any programme to—
 - (A) manage the sale of annual catch entitlements derived from the settlement quota held by asset-holding companies or their subsidiaries: 20
 - (B) reorganise the settlement quota held by asset-holding companies or their subsidiaries by buying and selling or exchanging settlement quota in accordance with this Act.

99 Schedule 8 repealed

Repeal Schedule 8.

25

Consequential amendments to other legislation

100 Other legislation amended consequentially

Amend the legislation in **Schedule 3** as indicated in that schedule.

Schedule 1
New Schedule 1AA inserted

s 95

Schedule 1AA
Transitional, savings, and related provisions

5

s 6A

Part 1
**Provisions relating to Māori Fisheries Amendment Act 2022 and
that come into force on day after Royal assent**

- | | | |
|-----|---|----|
| 1 | Aotearoa Fisheries Limited issue of income shares to Te Ohu Kai Moana Trustee Limited | 10 |
| (1) | Within 6 months starting on the date of Royal assent of the Māori Fisheries Amendment Act 2022 , Te Ohu Kai Moana Trustee Limited must exercise a put option to sell to Aotearoa Fisheries Limited redeemable preference shares— | 15 |
| | (a) in Aotearoa Fisheries Limited; and
(b) held by Te Ohu Kai Moana Trustee Limited. | |
| (2) | As soon as is reasonably practicable after, and in satisfaction of, the exercise of the put option, Aotearoa Fisheries Limited must issue income shares in Aotearoa Fisheries Limited to Te Ohu Kai Moana Trustee Limited. | 20 |
| (3) | Income shares issued to Te Ohu Kai Moana Trustee Limited under this clause are subject to the following (when in force): | |
| | (a) clause 2 (shares in Aotearoa Fisheries Limited): | |
| | (b) clause 3 (allocation and transfer of shares held by Te Ohu Kai Moana Trustee Limited). | 25 |

Schedule 2

New Part 2 inserted into Schedule 1AA

s 96

Part 2	
Provisions relating to Māori Fisheries Amendment Act 2022 and that come into force on second anniversary of Royal assent or earlier date set	
2	Shares in Aotearoa Fisheries Limited
	<i>Voting shares cancelled</i>
(1)	All voting shares in Aotearoa Fisheries Limited are cancelled.
	<i>Available subscribed capital carried instead by income shares</i>
(2)	The available subscribed capital , in subclause (3) , means available subscribed capital carried by voting shares in Aotearoa Fisheries Limited—
	(a) under section 75(8) of this Act; and
	(b) immediately before the repeal, on the commencement of this clause, of section 75(8) of this Act.
(3)	The available subscribed capital is, after the commencement of this clause, taken to be carried instead by income shares in Aotearoa Fisheries Limited.
(4)	Subclause (3) applies despite—
	(a) subclause (1) cancelling all voting shares in Aotearoa Fisheries Limited; and
	(b) the Māori Fisheries Amendment Act 2022 repealing section 75(8) of this Act.
	<i>Income shares become ordinary shares</i>
(5)	All income shares in Aotearoa Fisheries Limited (including those referred to in clause 1) are ordinary shares to which section 36 of the Companies Act 1993 applies.
(6)	In particular,—
	(a) those ordinary shares confer on the holder the rights specified in section 36(1) of the Companies Act 1993; and
	(b) those rights cannot be negated, altered, or added to in any of the ways specified in section 36(2) of the Companies Act 1993.
(7)	For the purposes of income tax, goods and services tax, any tax duty levy, and any other charge imposed or provided for under the Inland Revenue Acts or any other enactment, subclause (5) is—
	(a) a variation of the shareholder rights of the income shares; and

	(b) not a cancellation of income shares and issue of ordinary shares.	
	<i>Pre-commencement rights and actions unaffected</i>	
(8)	Nothing in, or required by, this clause affects the following:	
	(a) rights—	
	(i) of the holder of a voting share, or an income share, in Aotearoa Fisheries Limited; and	5
	(ii) that accrued before the commencement of this clause; and	
	(iii) whose enjoyment or exercise, before that commencement, is not inconsistent with subclauses (1) and (5) :	
	(b) actions taken—	10
	(i) by the holder of a voting share, or an income share, in Aotearoa Fisheries Limited; and	
	(ii) before the commencement of this clause.	
3	Allocation and transfer of shares held by Te Ohu Kai Moana Trustee Limited	15
	<i>Application</i>	
(1)	This clause applies to income shares held by Te Ohu Kai Moana Trustee Limited that become ordinary shares under clause 2 .	
	<i>Allocation</i>	
(2)	The shares must be allocated by Te Ohu Kai Moana Trustee Limited—	20
	(a) to the other holders of ordinary shares, with each being allocated a proportion the same as the proportion they hold of the total number of ordinary shares; or	
	(b) to the relevant iwi's mandated iwi organisation and in accordance with section 130(1), if Te Ohu Kai Moana Trustee Limited exercises its discretion under section 135(1)(a) to allocate the shares in accordance with section 130(1) to the relevant iwi's mandated iwi organisation; or	25
	(c) to Te Ohu Kai Moana Trustee Limited to hold on trust under section 153(1) for the relevant iwi, if Te Ohu Kai Moana Trustee Limited—	30
	(i) does not exercise its discretion, described in paragraph (b) of this subsection, under section 135(1)(a); and	
	(ii) must under section 153(1) hold the shares (and any dividends that relate to the shares) on trust for the relevant iwi.	
	<i>Transfer</i>	35
(3)	Te Ohu Kai Moana Trustee Limited must transfer the allocated shares,—	
	(a) if subclause (2)(a) or (b) applies (and despite section 135(1)(a)), on the date on which this clause comes into force; or	

	(b) if subclause (2)(c) applies, on the date on which the relevant iwi becomes entitled to receive them under section 130(1)(c) and (3).	
4	Allocation and transfer of dividends and associated tax credits	
(1)	This clause applies to dividends and associated tax credits received—	
	(a) by Te Ohu Kai Moana Trustee Limited; and	5
	(b) in respect of shares that must be allocated and transferred under clause 3(2) and (3) ; and	
	(c) before allocation or transfer under clause 3(2) or (3) of those shares.	
(2)	The dividends and associated tax credits must also be allocated and transferred under clause 3(2) and (3) in the same way as those shares.	10
5	Transferee not liable to income tax for transfer itself	
(1)	This clause applies to a transfer from a transferor (person A) to a transferee (person B) that is—	
	(a) a transfer of shares under clause 3(3) ; or	
	(b) a transfer of dividends and associated tax credits under clauses 3(3) and 4 .	15
(2)	The transfer itself (disregarding any later dealings with the transferred shares, or the transferred dividends or associated tax credits) is not assessable income (as defined in sections BD 1(5) and YA 1 of the Income Tax Act 2007) of person B.	20
6	Value of transferred shares for purposes of liability to tax for later dealings	
(1)	This clause applies—	
	(a) to ordinary shares the subject of a transfer under clause 3(3) ; and	
	(b) for the purposes of determining any person's liability to pay any kind of tax for any dealings with the ordinary shares after the transfer.	25
(2)	Those ordinary shares must, for those purposes, be taken to have been acquired by the transferee at their market value at the time of the transfer.	
7	Shareholder continuity	
(1)	This clause applies to ordinary shares that—	30
	(a) were income shares held by Te Ohu Kai Moana Trustee Limited; and	
	(b) become ordinary shares under clause 2 ; and	
	(c) a transferee receives under a transfer under clause 3(3)(a) or (b) .	
(2)	For the purposes of the continuity provisions (as defined in section YA 1 of the Income Tax Act 2007), the transferee must be taken, on and after the date of	35

the transfer, to have held the ordinary shares without interruption since Te Ohu Kaimoana Trustee Limited acquired the income shares.

8 Available subscribed capital

The reference in section 154(1) to settlement assets transferred under Part 3 of this Act must be taken to include—

- (a) the value—
 - (i) of ordinary shares that are transferred under **clause 3(3)**; and
 - (ii) when they become ordinary shares under **clause 2(2)**;
- (b) the value—
 - (i) of dividends and associated tax credits that are transferred under **clauses 3(3) and 4**; and
 - (ii) when they are so transferred.

9 Transitional directors of Te Ohu Kai Moana Trustee Limited

Transitional directors

- (1) This clause applies to a director (who, in this clause, is called a **transitional director**)—
 - (a) of Te Ohu Kai Moana Trustee Limited; and
 - (b) appointed by Te Kawai Taumata; and
 - (c) in office immediately before the commencement of this clause.
- (2) The transitional director remains in office until—
 - (a) the director's successor is appointed after the director's term expires (*see* section 47(2)(b) as repealed by the **Māori Fisheries Amendment Act 2022**); or
 - (b) the director earlier ceases to hold office (for example, because of resignation, disqualification, death, or any other extraordinary vacancy), or is earlier removed from office under the constitution of Te Ohu Kai Moana Trustee Limited (*see also* **section 44(2)(fa)**).
- (3) Remuneration to the transitional director is subject to a fees for a director determination—
 - (a) made by a resolution ~~passed~~approved by a majority of mandated iwi organisations and recognised iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (*see* **section 44(2)(faa)**); and
 - (b) determining those fees with effect from, or from a time after, the making of the determination.

Alternates of transitional directors

- (4) This clause applies also to an alternate director—

	(a) of a transitional director; and	
	(b) in office immediately before the commencement of this clause.	
(5)	The alternate director remains in office, and may attend and vote at meetings on behalf of the transitional director, only while the appointment of the alternate director has not been terminated under the constitution of Te Ohu Kai Moana Trustee Limited (<i>see</i> section 44(2)(g)).	5
(6)	Remuneration to the alternate director is subject to a fees for an alternate director determination—	
	(a) made by a resolution passed <u>approved</u> by a majority of mandated iwi organisations <u>and recognised iwi organisations</u> entitled to vote and voting <u>on the question</u> at a general meeting of Te Ohu Kai Moana Trustee Limited (<i>see</i> section 44(2)(faa)); and	10
	(b) determining those fees with effect from, or from a time after, the making of the determination.	
10	Te Kawai Taumata dissolved	15
	<i>Dissolution</i>	
(1)	Te Kawai Taumata is dissolved on the commencement of this clause.	
	<i>Members and alternate members</i>	
(2)	No member, or alternate member, of Te Kawai Taumata—	
	(a) continues to hold office after Te Kawai Taumata is dissolved; or	20
	(b) is entitled to any compensation for ceasing to hold <u>vacating</u> office because Te Kawai Taumata is dissolved.	
11	Transitional directors of Aotearoa Fisheries Limited	
	<i>Transitional directors</i>	
(1)	This clause applies to a director (who, in this clause, is called a transitional director)—	25
	(a) of Aotearoa Fisheries Limited; and	
	(b) appointed under section 63 for any term; and	
	(c) in office immediately before the commencement of this clause.	
(2)	The transitional director remains in office (both before and after determinations are made under the requirement stated in section 62(1)(ab)) until—	30
	(a) the director's successor is appointed after the director's term expires (<i>see</i> section 62(1)(ac)(iii)); or	
	(b) the director earlier ceases to hold office (for example, because of resignation, disqualification, death, or any other extraordinary vacancy), or is earlier removed from office under the constitution of Aotearoa Fisheries Limited (<i>see also</i> section 62(1)(ae)) <u>or section 156 of the Companies Act 1993</u> .	35

- (3) The transitional director may be reappointed for any number of further terms.
- (4) Remuneration to the transitional director is subject to a fees for a director determination—
- (a) made by shareholders of Aotearoa Fisheries Limited in accordance with the requirement mentioned in **section 62(1)(af)**; and 5
 - (b) determining those fees with effect from, or from a time after, the making of the determination.
- Alternates of transitional directors*
- (5) This clause applies also to an alternate director—
- (a) of a transitional director; and 10
 - (b) in office immediately before the commencement of this clause.
- (6) The alternate director remains in office, and may attend and vote at meetings on behalf of the transitional director, only while the appointment of the alternate director has not been terminated under the constitution of Aotearoa Fisheries Limited (*see* section 62(1)(b)). 15
- (7) Remuneration to the alternate director is subject to a fees for an alternate director determination—
- (a) made by shareholders of Aotearoa Fisheries Limited in accordance with the requirement mentioned in **section 62(1)(af)**; and
 - (b) determining those fees with effect from, or from a time after, the making of the determination. 20
- 12 Transitional directors of Te Pūtea Whakatupu Trustee Limited**
- Transitional directors*
- (1) This clause applies to a director (who, in this clause, is called a **transitional director**)— 25
- (a) of Te Pūtea Whakatupu Trustee Limited; and
 - (b) appointed for a term not exceeding 4 years; and
 - (c) in office immediately before the commencement of this clause.
- (2) The transitional director remains in office until—
- (a) the director's successor is appointed after the director's term expires (*see* section 87(2)(d)(iii)); or 30
 - (b) the director earlier ceases to hold office (for example, because of resignation, disqualification, death, or other extraordinary vacancy), or is earlier removed from office under the constitution of Te Pūtea Whakatupu Trustee Limited (*see also* section 87(2)(c)). 35
- (3) The transitional director may be reappointed for any number of further terms (even though, when last appointed, the director could only be reappointed for 1 further term).

(3A)	<u>Remuneration to the transitional director is subject to a fees for a director determination—</u>	
(a)	<u>made by a resolution approved by a majority of mandated iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (see section 87(2)(db)); and</u>	5
(b)	<u>determining those fees with effect from, or from a time after, the making of the determination.</u>	
	<i>Alternates of transitional directors</i>	
(4)	This clause applies also to an alternate director—	
(a)	of a transitional director; and	10
(b)	in office immediately before the commencement of this clause.	
(5)	The alternate director remains in office, and may attend and vote at meetings on behalf of the transitional director, only while the appointment of the alternate director has not been terminated under the constitution of Te Pūtea Whakatupu Trustee Limited (see section 87(2)(da)).	15
(6)	<u>Remuneration to the alternate director is subject to a fees for an alternate director determination—</u>	
(a)	<u>made by a resolution approved by a majority of mandated iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (see section 87(2)(db)); and</u>	20
(b)	<u>determining those fees with effect from, or from a time after, the making of the determination.</u>	
13	Transitional directors of Te Wai Māori Trustee Limited	
	<i>Transitional directors</i>	
(1)	This clause applies to a director (who, in this clause, is called a transitional director)—	25
(a)	of Te Wai Māori Trustee Limited; and	
(b)	appointed for a term not exceeding 4 years; and	
(c)	in office immediately before the commencement of this clause.	
(2)	The transitional director remains in office until—	30
(a)	the director's successor is appointed after the director's term expires (see section 100(2)(d)(iii)); or	
(b)	the director earlier ceases to hold office (for example, because of resignation, disqualification, death, or any other extraordinary vacancy), or is earlier removed from office under the constitution of Te Wai Māori Trustee Limited (see also section 100(2)(c)).	35

- (3) The transitional director may be reappointed for any number of further terms (even though, when last appointed, the director could only be reappointed for 1 further term).
- (3A) Remuneration to the transitional director is subject to a fees for a director determination— 5
- (a) made by a resolution approved by a majority of mandated iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (see **section 100(2)(db)**); and
- (b) determining those fees with effect from, or from a time after, the making of the determination. 10
- Alternates of transitional directors*
- (4) This clause applies also to an alternate director—
- (a) of a transitional director; and
- (b) in office immediately before the commencement of this clause.
- (5) The alternate director remains in office, and may attend and vote at meetings on behalf of the transitional director, only while the appointment of the alternate director has not been terminated under the constitution of Te Wai Māori Trustee Limited (see **section 100(2)(da)**). 15
- (6) Remuneration to the alternate director is subject to a fees for an alternate director determination— 20
- (a) made by a resolution approved by a majority of mandated iwi organisations entitled to vote and voting on the question at a general meeting of Te Ohu Kai Moana Trustee Limited (see **section 100(2)(db)**); and
- (b) determining those fees with effect from, or from a time after, the making of the determination. 25
- 14 Rules relating to sale of settlement quota under Part 4**
- (1) This clause applies to any rules—
- (a) relating to sale of settlement quota under Part 4 of this Act; and
- (b) made before the commencement of this clause; and
- (c) revoked— 30
- (i) because of the repeal of their empowering provisions; and
- (ii) with effect on the commencement of this clause.
- (2) The revocation of those rules does not affect their earlier operation.

Schedule 3

Consequential amendments

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Fisheries Act 1996 (1996 No 88)

In section 50(1A) and (1B), replace “sections 161 (except subsection (2)) and 163 of the Maori Fisheries Act 2004” with “section 161 of the Māori Fisheries Act 2004”. 5

In section 78(12)(ab), replace “income shares in Aotearoa Fisheries Limited” with “ordinary shares in Aotearoa Fisheries Limited”.

In section 79(6)(b), replace “income shares in Aotearoa Fisheries Limited” with “ordinary shares in Aotearoa Fisheries Limited”. 10

Replace section 132(1)(c) with:

- (c) in the case of quota shares subject to a settlement quota interest registered under section 152A, the transfer is under **section 158** of the Māori Fisheries Act 2004; and

Replace section 140(5A) with: 15

(5A) In addition to giving the notice under subsection (1), if any of the quota shares are subject to a settlement quota interest registered under section 152A, the mortgagee must, after serving notice on the quota owner, immediately serve a copy of the notice on the chief executive.

(5B) If the mortgagee fails or refuses to serve a copy of the notice on the chief executive as required by **subsection (5A)**, the power conferred by the mortgage to sell the quota shares that are subject to that registered settlement quota interest does not become, or is not deemed to have become, exercisable under subsection (1). 20

(5C) Despite **subsection (5B)**, failure to comply with **subsection (5A)** does not in itself prevent money secured by a mortgage from being payable, or being deemed to have become payable. 25

In section 140A(1), replace “sections 161 (except subsection (2)) and 163 of the Maori Fisheries Act 2004” with “section 161 of the Māori Fisheries Act 2004”.

In section 152A(a), replace “section 160(2) of the Maori Fisheries Act 2004” with “**section 160(2) or (2A)** of the Māori Fisheries Act 2004”. 30

Replace section 152B(2)(a)(i) with:

- (i) in accordance with **section 160(1)(b)** of the Māori Fisheries Act 2004, or authorised by Te Ohu Kai Moana Trustee Limited and the registered owner under **section 160(1)(a) or (c)** of the Māori Fisheries Act 2004; or 35

In section 256(11A), replace “sections 161 (except subsection (2)) and 163 of the Maori Fisheries Act 2004” with “section 161 of the Māori Fisheries Act 2004”.

Ngati Porou Claims Settlement Act 2012 (2012 No 31)

In section 133, insert as subsection (2):

- (2) Subsection (1) does not affect or limit the application to the constitutional document of Te Runanganui of **section 17(1A)** of the Māori Fisheries Act 2004 (as inserted by the Māori Fisheries Amendment Act **2022**).

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Legislative history

20 December 2022

Introduction (Bill 222–1)

8 March 2023

First reading and referral to Māori Affairs Committee