

# **Māori Fisheries Amendment Bill**

Government Bill

As reported from the committee of the whole House



**Key to symbols used in reprinted bill**

**As reported from the committee of the whole House**

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*Hon Shane Jones*

# **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 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 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—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 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 recognised iwi organisation”; and 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 the purposes of **sections 115(1A), 116, 117, and 122(1A)** (which relate to review of entities), means a resolution 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 question; and 20
- (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 question; and 25
- (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 30 35
- (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:  
**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)** 5  
 After section 6, insert:
- 6A Transitional, savings, and related provisions**
- (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)** 10
- (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))”.
- (2) In section 10(2)(c), before “the Treaty of Waitangi”, insert “Te Tiriti o Waitangi”.
- 11 Section 11 amended (Registered coastline entitlements)** 15  
 In section 11(4)(c), before “the Treaty of Waitangi”, insert “Te Tiriti o Waitangi”.
- 12 Section 12 amended (Functions and powers of mandated iwi organisations)**
- Replace section 12(1)(b) and (c) with: 20
- (b) represent the iwi (for example, by attending, speaking, and voting at meetings) as contemplated by this Act; and
- (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)** 25  
 In section 15(a), before “Treaty of Waitangi”, insert “Tiriti o Waitangi”.
- 14 Section 16 amended (Functions and powers of asset-holding companies)**
- (1) Replace section 16(1)(a) with: 30
- (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
- (5) In section 16(4)(d), after “comply with subsection (2)”, insert “as if it were an asset-holding company”. 10

### 15 Section 17 amended (Constitutional documents)

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— 15
- (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. 20

### 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— 25
- (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) 30

- (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)**: 35



- (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)**.
- (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.
- 18 Section 18D amended (Proposed transfer date if recognition requirements met)**  
Repeal section 18D(3).
- 19 Section 18E replaced**  
Replace section 18E with:
- 18E Recognition of new mandated iwi organisation and transfer of specified settlement assets**
- (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.
- (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. 5
- (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)**. 10
- (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),— 15
- (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.”. 20
- (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. 25
- 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). 30
- (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: 35
- (3) A recognised iwi organisation has the functions and powers of a mandated iwi organisation, including the right—

<p>(a) to receive all documents, reports, and notices that must be provided to mandated iwi organisations under Part 2; and</p> <p>(ab) to approve a strategic plan of Te Ohu Kai Moana Trustee Limited under <b>section 36A(3)(b)</b>; and</p> <p>(ac) to determine the number of, and appoint, directors of Te Ohu Kai Moana Trustee Limited under <b>section 44(2)(b) and (c)</b>; and</p> <p>(ad) to remove directors of Te Ohu Kai Moana Trustee Limited under <b>section 44(2)(fa)</b>; and</p> <p>(ae) to vote at general meetings of Te Ohu Kai Moana Trustee Limited under <b>sections 36(1)(ca) and 44(2)(ma)</b>; and</p> <p>(af) to receive surplus levy funding returned under <b>section 54G(2)</b>; and</p> <p>(b) to participate in the process for offering annual catch entitlement provided for in section 152; and</p> <p>(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</p> <p>(d) to represent the iwi in consultation, negotiation, and proceedings relating to a matter specified in this subsection.</p>	<p>5</p> <p>10</p> <p>15</p>
<p>(2) In section 27(4)(d), replace “income shares” with “ordinary shares” in each place.</p>	<p></p>
<p><b>25 Section 29 amended (Representative Māori organisations)</b></p> <p>Replace section 29(2) with:</p>	<p>20</p>
<p>(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—</p> <p>(a) <b>section 44(2)(b)</b> (which relates to determining the number of directors on the board); or</p> <p>(b) <b>section 44(2)(c)</b> (which relates to appointing each director); or</p> <p>(c) <b>section 44(2)(fa)</b> (which relates to removing a director).</p>	<p>25</p>
<p><b>Guidance note</b></p> <p>See <i>also</i> <b>section 44(2)(ma) to (nd)</b>, which relates to a general meeting of Te Ohu Kai Moana Trustee Limited.</p>	<p>30</p>
<p><i>Amendments to Part 2 (Establishment and review of new entities)</i></p>	
<p><b>26 Part 2 heading amended</b></p> <p>In the Part 2 heading, delete “new”.</p>	<p>35</p>

- 27 Section 30 amended (Outline of this Part)**
- (1) In section 30, delete—
- (a) “, in 6 subparts,”; and
- (b) “new”.
- (2) Repeal section 30(b). 5
- (3) In section 30, insert as subsection (2):
- (2) This Part also provides for the funding of Te Ohu Kai Moana Trustee Limited.
- 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)** 10
- (1) In section 34(g), replace “of Fisheries” with “(as those terms are defined in section 2(1) of the Fisheries Act 1996)”.
- (2) Repeal section 34(m).
- (3) Repeal section 34(q).
- 30 Section 35 amended (Functions of Te Ohu Kai Moana Trustee Limited)** 15
- (1) In section 35(1)(c), after “fisheries-related activities,”, insert “by special resolution,”.
- (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)** 20
- (1) Replace section 36(1)(b)(ii) with:
- (ii) a strategic plan (*see also section 36A*); and
- (2) Replace section 36(1)(c) with:
- (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— 25
- (i) mandated iwi organisations; and
- (ii) recognised iwi organisations; and
- (iii) representative Māori organisations; and 30
- (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 1 vote, except that representative Māori organisations may also vote at 35

- 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
- (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”. 5
- (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 10
- (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** 15
- (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**. 20
- (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. 25
- (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)** 30
- (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 35

- (4) In section 37(f),—
- (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
- (5) Replace section 37(g) with:
- (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)** 10
- (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— 15
    - (a) mandated iwi organisations; and
    - (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”. 20
  - (3) Repeal section 38(3)(e) and (h).
  - (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”. 25
  - (6) Replace section 38(4)(b)(ii) and (iii) with:
    - (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)**). 30
- 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”. 35

**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— 5
- (i) at least 5, and not more than 7; and
  - (ii) determined, at a general meeting, by mandated iwi organisations, 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); and 10

- (c) that each director must (unless this Act provides otherwise) be appointed, at a general meeting, by mandated iwi organisations, 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); and 15 20

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

- (ea) that a director, unless vacating office earlier, holds office for a term of 3 years; and
- (eb) that a director is eligible for reappointment; and 25

(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, 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 30
- (faa) that fees for a director or alternate director are determined by a resolution 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 35

- (fa) that a director may be removed, by mandated iwi organisations, 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); and 5
- (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 vacating office earlier) until the next general meeting required to be held— 10
- (i) by the trust deed of Te Ohu Kai Moana (*see* section 39(1)(a)); or
- (ii) as provided in the constitution; and 15
- (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 vacating office earlier) until the next general meeting required to be held— 20
- (i) by the trust deed of Te Ohu Kai Moana (*see* section 39(1)(a)); or
- (ii) as provided in the constitution; and 25
- (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: 30
- (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 35
- (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 organisa- 40



- tion 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
- (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— 5
- (i) mandated iwi organisation; and
- (ii) recognised iwi organisation; and
- (iii) representative Māori organisation; and 10
- (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 15
- (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 20
- (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 25
- (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** 30  
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. 35
- (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 (*see section 44(2)(fc)*).

**40 Section 52 amended (Access to iwi register)**

Replace section 52(1)(b) and (c) with:

- (b) a member of an iwi.

**41 Section 54 amended (Procedures for making or amending rules)**

In section 54(1)(a), delete “sale or”.

5

**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

**54A Application of this subpart**

- (1) This **subpart** applies only if—

10

- (a) Te Ohu Kai Moana Trustee Limited is directed to start the levy funding process, and is directed to do so by a resolution approved by a simple majority of the total mandated iwi organisations and recognised iwi organisations entitled to vote and voting on the question whether to start the levy funding process; or

15

- (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.

- (2) **Subsection (1)(a)** applies even if the resolution directs that the process be started in respect of a funding levy proposal that is not for the purpose specified in **section 54B**.

20

- (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)**.

25

- (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

- (b) send the proposal to each organisation.

30

**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.

35

**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 5
  - (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 10
  - (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
  - (e) the likely impact on the delivery of the current strategic plan if the levy proposal is not implemented; and 15
  - (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 20
  - (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
  - (i) any proposed methods of recovery of unpaid funding levy (including default interest) in addition to those specified in **section 54E**. 25
- (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. 30
- (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— 35

- (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)**.
- (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— 5
- (a) that are at least 75% of mandated iwi organisations and recognised iwi organisations; and
- (b) whose relevant iwi together represent at least 50% of the total notional iwi population. 10
- (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 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. 15
- (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). 20
- (7) That Act applies as if—
- (a) Te Ohu Kai Moana Trustee Limited were the maker of the resolution; and
- (b) the resolution were made by Te Ohu Kai Moana Trustee Limited approving it. 25
- 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. 30
- 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 35
- (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 5
- (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. 10

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**Example** 15

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. 20
- 

**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**. 25
- (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. 30
- (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 35
- (b) in the percentage that the notional population of the relevant iwi bears to the total notional iwi population.

**54H Distribution of other surplus funds**

- (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. 5
- (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. 10
- (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)**. 15
- (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. 20
- (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)**.

**43 Subpart 2 of Part 2 repealed**

Repeal subpart 2 of Part 2. 25

**44 Section 60 amended (Establishment of Aotearoa Fisheries Limited)**

- (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: 30
- (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). 35

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

After section 60, insert:

**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.
- (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.
- (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)**

- (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)**

- (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
- (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)—
- (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 first to occur of the following:
- (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 requirement 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 vacating office earlier, for example, under section 156 or 157 of the Companies Act 1993); and 5
- (af) a requirement that fees for a director or alternate director are determined by its shareholders by ordinary resolution; and 10
- (ag) a requirement that Aotearoa Fisheries Limited must have a policy about 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' 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 15 20
- (2) In section 62(1)(b), after “on behalf of that director”, insert “, but only while that director holds office as a director”.
- (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 144 (transactions involving self-interest) of the Companies Act 1993; and 25
- (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 30
- (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 35
- (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 40



- of every subcompany in respect of its directors and alternate directors;  
and
- (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: 5
- (h) requirements that Aotearoa Fisheries Limited—
- (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 10
- (ii) establish a process for verifying that transfers of ordinary shares are in accordance with the provisions of **section 69** and its constitution; and
- (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 15
- (i) a requirement that Aotearoa Fisheries Limited must have, and notify to shareholders, a policy— 20
- (i) for disposal, by itself or any of its subcompanies, of specified assets or classes of assets; and
- (ii) that gives a priority to mandated iwi organisations or asset-holding companies to acquire them; and
- (iii) specifying circumstances in which that policy does not apply; and 25
- (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 30
- (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— 35
- (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.

**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**

5

Replace sections 68 to 74 with:

*Ordinary shares*

**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 10
- (b) a subsidiary of an asset-holding company of a mandated iwi organisation; or
- (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. 15

**67B Rights and powers attaching to ordinary shares**

- (1) All ordinary shares in Aotearoa Fisheries Limited are shares to which section 36 of the Companies Act 1993 applies.
- (2) In particular,— 20
- (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.
- (3) This section does not limit, and is not limited by, **clause 2(5) and (6) of Schedule 1AA**. 25

**68 Additional ordinary shares**

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,— 30
- (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 35

- (ii) ordinary shares held in trust under **section 153** by Te Ohu Kai Moana Trustee Limited pending transfer under section 130; and
- (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,— 5
- (i) if the shares for which the offer is not accepted have been issued, those shares are deemed repurchased or cancelled (as required); and
- (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 10
- (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. 15
- 69 Disposal of ordinary shares by mandated iwi organisations or by Aotearoa Fisheries Limited**
- (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— 20
- (a) to an asset-holding company, or a subsidiary of an asset-holding company, of another mandated iwi organisation (*see section 74(1)*); and
- (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— 25
- (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. 30
- (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
- (b) the process (if any) established in the constitution of Aotearoa Fisheries Limited. 35
- (2B) Ordinary shares acquired by Aotearoa Fisheries Limited under **subsection (2) or (2A)** may be transferred, but—
- (a) only—

- (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—
- (i) held the acquired ordinary shares as an asset-holding company of a mandated iwi organisation; and therefore
- (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—
- (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.
- 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 an asset-holding company, or a subsidiary of an asset-holding company, of another mandated iwi organisation; and
- (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.
- (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.

- (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.
- (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
  - (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—
- (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—
- (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:
  - (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
    - (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—

- (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)).
  - (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. 5
- 74 Exceptions to restrictions on disposal of ordinary shares**
- (1) **Section 69** does not apply to transfers of ordinary shares between or among— 10
    - (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 15
    - (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.
  - (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— 20
    - (a) treated as the property of the mandated iwi organisation; and 25
    - (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. 30

**50 Section 75 and cross-heading above section 75 replaced**

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

*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”. 35

- (2) In section 76(2), replace “consolidated group net profit after tax” with “AFL Group net profit after tax”.
- (3) Replace section 76(5) with:
- (5) In subsection (2),—
- AFL Group** has the meaning given to it in section 5 5
- AFL Group net profit after tax** does not include—
- (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. 10
- (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. 15

## 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. 20

## 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) 25

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)

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 30
- (v) contracts for service entered into between the following parties (whether or not those contracts for service are also entered into by any other party, or by any other parties): 35
  - (A) Te Pūtea Whakatupu 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

<b>56</b>	<b>Section 87 amended (Constitution of Te Pūtea Whakatupu Trustee Limited)</b>	5
(1)	In section 87(2)(b), replace “3 directors” with “at least 3, and not more than 5, directors”.	
(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)—	10
(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 first to occur of the following:	
(A)	the end of the next general meeting of Te Ohu Kai Moana Trustee Limited:	15
(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	20
(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 ( <i>see also</i> sections 36(1)(b)(i), <b>(c)</b> , and (e) and 37(f) and <b>(g)</b> ); and	25
(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	30
(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 <b>paragraph (e)</b> ) in which the director or alternate director is interested (as defined in section 139 of that Act); and	35
(f)	a method by which the board of Te Pūtea Whakatupu Trustee Limited must address conflicts of interest (other than those covered by <b>para-</b>	40



- graphs (e) and (ea))** that may arise for its directors and alternate directors; and
- (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. 5
- 58 Section 90 amended (Payments to Te Putea Whakatupu Trustee Limited)**  
In section 90(6), replace “income shares” with “ordinary shares”.
- 59 Section 91 amended (Interpretation)**  
In section 91, definition of **freshwater fisheries**, delete “or activities conducted under the Freshwater Fish Farming Regulations 1983”. 10
- 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”.
- 61 Section 99 amended (Reporting obligations of Te Wai Māori Trustee Limited)**  
Replace section 99(1)(b)(iv) and (v) with: 15
- (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
- (v) contracts for service entered into between the following parties (whether or not those contracts for service are also entered into by any other party, or by any other parties): 20
- (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 25
- 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)— 30
- (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 first to occur of the following: 35

- (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 5
- (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 10
- (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 15
- (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 20
- (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 25
- (3) In section 100(2)(g)(i), replace “3” with “a majority of directors”.
- (4) In section 100(2)(i), replace “Te Putea ~~Whakatapu~~ Whakatapu Trust” with “Te Wai Māori Trust”.
- 63 Section 102 repealed (Eligibility for office of director)** 30  
Repeal section 102.
- 64 Section 103 amended (Payments to Te Wai Māori Trustee Limited)**  
In section 103(7), replace “income shares” with “ordinary shares”.
- 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”. 35
- 66 Section 106 amended (Subsequent audits)**  
In section 106(b), replace “income shares” with “ordinary shares”.

**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
  - (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.

(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.

**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”.
- (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,”.
- (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**

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—

- (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)); and
- (ii) Te Wai Māori Trustee Limited (*see* section 100(1)(a)(ii)); and 5
- (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,—
- (a) Te Ohu Kai Moana Trustee Limited; or
- (b) Aotearoa Fisheries Limited. 10
- 115 Initiation of reviews**
- (1) The relevant 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—
- (a) starting 7 years after this section’s commencement; and 15
- (b) ending 10 years after this section’s commencement.
- (1A) However, a review under this subpart of that entity 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. 20
- (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):
- (b) Aotearoa Fisheries Limited, and every other member of the AFL Group (taken together). 25
- 116 Later reviews**
- (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: 35
- (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**:

- (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. 5

### 117 Joint reviews

If the shareholders of the relevant principal companies each approve at their annual general meetings an appropriate special resolution under this section, 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. 15
- (2) The costs of each joint review must be met in reasonable shares by both relevant principal companies.

### 119 Terms of reference

- (1) The principal company must set the terms of reference for the review, which must include— 20
  - (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)**).
- (2) Before finalising the terms of reference for the review, the principal company must, for the purposes of consultation,— 25
  - (a) provide the draft terms of reference to—
    - (i) all mandated iwi organisations, recognised iwi organisations, and representative Māori organisations, and the other principal company; and 30
    - (ii) every entity under review; and
  - (b) allow 20 working days for written comments to be provided to the principal company.
- (3) The terms of reference must be consistent with the requirements of **sections 122 and 124**. 35

*Conduct of review***121 Reviewer**

- (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 5
  - (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
  - (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. 10
- (3) The independence of a reviewer is not compromised merely because that person has a beneficial interest under this Act.

**122 Scope of review**

- (1) Every review conducted under **section 115** must consider and report on— 15
- (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
    - (ii) the ability of that entity to deliver benefits to the beneficiaries of the entity; and 20
    - (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— 25
    - (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 30
  - (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:
    - (i) the governance arrangements of an entity: 35
    - (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.
- (1A) Every review conducted under **section 116** must consider and report on all of the matters specified in **subsection (1)** unless any of those matters are specified in 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. 5
- (2) In this section,— 10
- beneficiary of an entity** means—
- (a) in the case of Te Ohu Kai Moana Trustee Limited, the beneficiaries of the Deed of Settlement; and
- (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 15
- 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 20
- (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 25
- (d) the provisions required by this Act for the constitution and the trust deed (if any) of an entity.
- 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. 30
- (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),— 35
- (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, 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 Whakatapu 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. 5
- (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. 10

*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— 15
  - (a) prepare a written report that includes—
    - (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 20
    - (ii) each entity under review.
- (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 25
  - (b) all mandated iwi organisations, recognised iwi organisations, and representative Māori organisations.

**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. 30
- (2) A plan prepared under **subsection (1)** must be distributed to—
  - (a) both principal companies; and 35
  - (b) all mandated iwi organisations, recognised iwi organisations, and representative Māori organisations.



**127 Consideration of review report***General meeting*

- (1) At a general meeting of the relevant 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 principal company must make provision on the agenda for consideration of— 5
- (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. 10
- 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, mandated iwi organisations and recognised iwi organisations may resolve to— 15
- (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. 20
- (3) **Subsections (3A) and (3B)** apply if 75% or more of the mandated iwi organisations, representing over 50% of the total notional iwi population, 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). 25
- (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 30
  - (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 ask the Minister to promote the necessary amendments. 35
- (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 amend- 40

	ments, a Bill whose purpose is, or includes, to promote the necessary amendments.	
	<i>Aotearoa Fisheries Limited</i>	
(4)	<b>Subsection (4A)</b> applies if—	
	(a) the general meeting referred to in <b>subsection (1)</b> is a general meeting of Aotearoa Fisheries Limited; and	5
	(b) a resolution in respect of all or any of the matters considered under <b>subsection (1)</b> is approved by 75% or more of the shareholders of Aotearoa Fisheries Limited representing 50% or more of the total notional iwi population.	10
(4A)	If this subsection applies in accordance with <b>subsection (4)</b> , Aotearoa Fisheries Limited must implement the resolution unless it is inconsistent with this Act, or any other legislation or rule of law.	
(5)	<b>Subsection (5A)</b> applies if a resolution under <b>subsection (2)</b> affects Aotearoa Fisheries Limited, whether by requiring amendments to its constitution, or changes to its operation or governance or otherwise.	15
(5A)	If this subsection applies in accordance with <b>subsection (5)</b> , 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	20
	(b) 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 <b>subsection (4) or (5)</b> is approved as required by <b>subsection (4)(b) or (5A)(b)</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.	25
(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.	30
<b>127A</b>	<b>Other reviews not precluded</b>	35
(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	40

	Limited or Te Wai Māori Trustee Limited, to initiate a review of the structure, operations, or governance of any entity at any time.	
(2)	A review mentioned in <b>subsection (1)(b)</b> need not be conducted in accordance with this subpart.	
	<i>Requirement to provide information</i>	5
<b>128</b>	<b>Information requested by auditor or reviewer</b>	
	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 <b>section 115 or 116</b> , must be provided promptly by the person or entity that—	10
	(a) has or controls the information; or	
	(b) is contractually entitled to the information; or	
	(c) can obtain the information by reasonable effort.	
	<i>Amendments to Part 3 (Allocation and transfer of settlement assets)</i>	
<b>69</b>	<b>Section 130 amended (Duty to allocate and transfer settlement assets)</b>	15
	In section 130(1)(c), replace “income shares” with “ordinary shares”.	
<b>70</b>	<b>Sections 137 and 138 repealed</b>	
	Repeal sections 137 and 138.	
<b>71</b>	<b>Section 139 and cross-heading above section 139 repealed</b>	
	Repeal section 139 and the cross-heading above section 139.	20
<b>72</b>	<b>Section 151 amended (Transfer of allocated settlement quota)</b>	
	Replace section 151(3)(b) and (c) with:	
	(b) to be transferred to an asset-holding company of the mandated iwi organisation.	
<b>73</b>	<b>Section 153 replaced (When settlement assets must be held in trust)</b>	25
	Replace section 153 with:	
<b>153</b>	<b>When settlement assets and surplus funds (other than surplus levy funding) must be held in trust</b>	
	<i>Settlement assets</i>	
(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)—	30
	(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 <b>clause 4 of Schedule 1AA</b> applies until those dividends and associated tax credits are transferred under <b>clauses 3(3) and 4 of Schedule 1AA</b> .	5
	(3) Te Ohu Kai Moana Trustee Limited is entitled to withhold from any dividends held in trust under <b>subsection (1)(b) or (2)</b> the reasonable costs incurred in administering the ordinary shares and dividends. <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 <b>section 54H</b> .	10
	(5) If an iwi mentioned in <b>subsection (4)</b> 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 <b>subsection (4)</b> .	15
	(6) Te Ohu Kai Moana Trustee Limited is entitled to withhold from any income on funds held in trust under <b>subsection (4)</b> the reasonable costs incurred in administering the funds.	
<b>74</b>	<b>Section 154 amended (Status of settlement assets)</b> In section 154(1), replace “income shares” with “ordinary shares”.	20
	<i>Amendments to Part 4 (Settlement quota interests, sales and exchanges of settlement quota, related restrictions, and option to purchase)</i>	
<b>75</b>	<b>Section 155 amended (Outline of this Part)</b>	
	(1) Repeal section 155(e).	25
	(2) In section 155(f), delete “sale or”.	
<b>76</b>	<b>Section 156 repealed (Interpretation)</b> Repeal section 156.	
<b>77</b>	<b>Sections 157 to 159 replaced</b> Replace sections 157 to 159 with:	30
<b>157</b>	<b>Registration of settlement quota interests</b>	
	(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—	35

- (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
  - (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. 5
- (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. 10
- 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
  - (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**.
- (2) Every transfer of settlement quota must be notified— 20
- (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
  - (c) in the form, if any, approved for the purposes of this subsection by that chief executive. 25
- 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.
- (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. 30
- 78 Section 160 amended (Application for registration)**
- (1) Replace section 160(1) and (2) with:
- (1) This section applies if—
- (a) Te Ohu Kai Moana Trustee Limited is acting in accordance with its duty under **section 157**; or
- 35

- (b) a mandated iwi organisation has made a declaration under **section 159(1)**; or
- (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. 5
- (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—
- (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 10
- (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.
- (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— 15
- (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 20
- (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)”.
- 79 Section 161 amended (Restrictions on disposal of settlement quota)**
- (1) Before section 161(1), insert: 25
- Disposal by mandated iwi organisation*
- (2) In section 161(1)(a)(ii), replace “Te Ohu Kai Moana Group” with “AFL Group”.
- (3) Repeal section 161(2).
- (4) Replace section 161(3) and (4) with: 30
- (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. 35
- 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)(c) or (d)**—

- (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** 15
- A mandated iwi organisation may sell settlement quota only if—
- (a) its constitutional document expressly permits it to sell settlement quota; and
- (b) the transaction complies with the requirements of the constitutional document. 20
- 81 Sections 163 to 166 and cross-heading above section 163 repealed**
- Repeal sections 163 to 166 and the cross-heading above section 163.
- 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)”. 25
- (1A) In section 167(1)(b), replace “5 years” with “10 years”.
- (2) After section 167(2), insert:
- (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: 30
- (a) the transaction must be of a type permitted by the mandated iwi organisation’s constitutional document; and
- (b) the transaction must comply with the requirements of that constitutional document. 35

- (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:
- (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.
- 83 Section 168 amended (Application of this subpart to Te Ohu Kai Moana Group)**
- (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
  - (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.
- 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.
- 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—
- (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.
- (3) However, an exchange under this section is subject to section 174 (*see also section 160(1)(c)* 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.
- 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”.
- Amendments to Part 5 (Dispute resolution)*
- 91 Section 180 amended (Application of this Part to specified decisions)**  
 Repeal section 180(1)(i).
- 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.
- 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).

## 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— 15
- (i) the key strategies for the use and development of iwi fisheries assets:
- (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**

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**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**

- |          |   |    |
|----------|---|----|
| <b>1</b> | <b>Aotearoa Fisheries Limited issue of income shares to Te Ohu Kai Moana Trustee Limited</b>  | 10 |
| (1)      | Within 6 months starting on the date of Royal assent of the Māori Fisheries Amendment Act <b>2022</b> , 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)      | <b>clause 2</b> (shares in Aotearoa Fisheries Limited):   |    |
| (b)      | <b>clause 3</b> (allocation and transfer of shares held by Te Ohu Kai Moana Trustee Limited).   | 25 |

**Schedule 2**  
**New Part 2 inserted into Schedule 1AA**

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<b>Part 2</b>	
<b>Provisions relating to Māori Fisheries Amendment Act 2022 and that come into force on second anniversary of Royal assent or earlier date set</b>	5
<b>2 Shares in Aotearoa Fisheries Limited</b>	
<i>Voting shares cancelled</i>	
(1) All voting shares in Aotearoa Fisheries Limited are cancelled.	10
<i>Available subscribed capital carried instead by income shares</i>	
(2) The <b>available subscribed capital</b> , in <b>subclause (3)</b> , 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.	15
(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) <b>Subclause (3)</b> applies despite—	
(a) <b>subclause (1)</b> cancelling all voting shares in Aotearoa Fisheries Limited; and	20
(b) the <b>Māori Fisheries Amendment Act 2022</b> 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 <b>clause 1</b> ) are ordinary shares to which section 36 of the Companies Act 1993 applies.	25
(6) In particular,—	
(a) those ordinary shares confer on the holder the rights specified in section 36(1) of the Companies Act 1993; and	30
(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, <b>subclause (5)</b> is—	35
(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 <b>subclauses (1) and (5)</b> :	
	(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.	
<b>3</b>	<b>Allocation and transfer of shares held by Te Ohu Kai Moana Trustee Limited</b>	15
	<i>Application</i>	
(1)	This clause applies to income shares held by Te Ohu Kai Moana Trustee Limited that become ordinary shares under <b>clause 2</b> .	
	<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 <b>section 153(1)</b> for the relevant iwi, if Te Ohu Kai Moana Trustee Limited—	30
	(i) does not exercise its discretion, described in <b>paragraph (b)</b> of this subsection, under section 135(1)(a); and	
	(ii) must under <b>section 153(1)</b> 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 <b>subclause (2)(a) or (b)</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.	
<b>8</b>	<b>Available subscribed capital</b>	
	The reference in section 154(1) to settlement assets transferred under Part 3 of this Act must be taken to include—	5
	(a) the value—	
	(i) of ordinary shares that are transferred under <b>clause 3(3)</b> ; and	
	(ii) when they become ordinary shares under <b>clause 2(2)</b> ;	
	(b) the value—	
	(i) of dividends and associated tax credits that are transferred under <b>clauses 3(3) and 4</b> ; and	10
	(ii) when they are so transferred.	
<b>9</b>	<b>Transitional directors of Te Ohu Kai Moana Trustee Limited</b>	
	<i>Transitional directors</i>	
(1)	This clause applies to a director (who, in this clause, is called a <b>transitional director</b> )—	15
	(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—	20
	(a) the director's successor is appointed after the director's term expires ( <i>see</i> section 47(2)(b) as repealed by the <b>Māori Fisheries Amendment Act 2022</b> ); 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 ( <i>see also</i> <b>section 44(2)(fa)</b> ).	25
(3)	Remuneration to the transitional director is subject to a fees for a director determination—	
	(a) made by a resolution 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 ( <i>see</i> <b>section 44(2)(faa)</b> ); and	30
	(b) determining those fees with effect from, or from a time after, the making of the determination.	35
	<i>Alternates of transitional directors</i>	
(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 (*see* **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 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 10
- (b) determining those fees with effect from, or from a time after, the making of the determination.
- 10 Te Kawai Taumata dissolved** 15
- Dissolution*
- (1) Te Kawai Taumata is dissolved on the commencement of this clause.
- Members and alternate members*
- (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 vacating office because Te Kawai Taumata is dissolved.
- 11 Transitional directors of Aotearoa Fisheries Limited**
- Transitional directors*
- (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 (*see* **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 or section 156 of the Companies Act 1993. 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) Remuneration to the transitional director is subject to a fees for a director determination—
- (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 87(2)(db)*); and 5
  - (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 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 Whakatapu Trustee Limited (*see section 87(2)(da)*). 15
- (6) Remuneration to the alternate director is subject to a fees for an alternate director determination—
- (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 87(2)(db)*); and 20
  - (b) determining those fees with effect from, or from a time after, the making of the determination.
- 13 Transitional directors of Te Wai Māori Trustee Limited**
- Transitional directors*
- (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
- 13A Constraints on transactions**
- (1) Section 167(1)(b) as amended by the Māori Fisheries Amendment Act 2022 applies only to transactions entered into on or after the commencement of this clause.
- (2) Transactions entered into before that commencement continue to be subject to section 167(1)(b) as in force immediately before that commencement. 30
- 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 35
- (c) revoked—
- (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

8 March 2023

7 July 2023

30 April 2024

22 May 2024

Introduction (Bill 222–1)

First reading and referral to Māori Affairs Committee

Reported from Māori Affairs Committee (Bill 222–2)

Second reading

Committee of the whole House (Bill 222–3)