

Papawai and Kaikokirikiri Trusts Amendment Bill

Private Bill

Explanatory note

The Preamble sets out the purpose of this Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. This Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 specifies that this Bill amends the Papawai and Kaikokirikiri Trusts Act 1943.

Clause 4 amends section 2, which concerns interpretation. The amendments repeal the definition of Church of England, replace the definition of financial year, and insert definitions of Bishop of Te Upoko o Te Ika and tangata whenua of Wairarapa.

Clause 5 replaces sections 4 and 5 with *new sections 4, 4A, and 5*. *New section 4* provides that the Papawai and Kaikokirikiri Trusts Board must have 8 members (4 members appointed by the Bishop of Te Upoko o Te Ika and 4 members, being tangata whenua of Wairarapa, appointed or elected by tangata whenua of Wairarapa in accordance with a process adopted and publicly notified by the Board). *New section 4A* specifies the term of office for members of the Board. Once the membership of the Board is determined, the term of office of 2 members will expire each year. No member of the Board may serve a term that exceeds 4 years, but each member of the Board is, if still qualified, eligible to hold office again. *New section 5* provides for vacancies.

Clause 6 amends section 7, which deals with meetings of the Board. The amendments change “Chairman” to “Chairperson” as a consequence of the changes set out in *clause 7*.

Clause 7 amends section 8, which concerns chairing the Board. The amendments provide that the Board must appoint from its members a Chairperson and a Deputy Chairperson. They also specify when the Deputy Chairperson may exercise and perform the powers and duties of the Chairperson.

Clause 8 replaces section 10(3). *New section 10(3)* specifies that no oral contract may be made by or on behalf of the Board.

Clause 9 amends section 12, which concerns the application of trust moneys. The amendment adjusts the purposes to which income may be applied.

Clause 10 repeals section 13(3) to (5).

Clause 11 replaces section 14. *New section 14* sets out the powers of the Board to sell or lease lands.

Clause 12 repeals section 14A(1) and (3).

Clause 13 amends section 15, which concerns the investment of trust funds. The amendment adjusts the provision that specifies the circumstances in which certain moneys may be invested in other investments.

Clause 14 replaces section 16. *New section 16* provides that members of the Board are entitled, under certain circumstances, to receive payment from the funds of the Board for any reasonable travelling, accommodation, and other expenses that they incur to attend business meetings of the Board and its subcommittees. A meeting fee or honoraria may also be paid under certain circumstances.

Clause 15 amends section 18, which concerns annual reports. The amendment specifies that copies of the report must be provided to the Bishop of Te Upoko o Te Ika.

Alastair Scott

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Contents

		Page
	Preamble	
1	Title	2
2	Commencement	2
3	Principal Act	2
4	Section 2 amended (Interpretation)	2
5	Sections 4 and 5 replaced	2
	4 Members of Board	3
	4A Term of office	3
	5 Vacancies	4
6	Section 7 amended (Meetings of Board)	4
7	Section 8 amended (Chairman and Deputy Chairman)	4
8	Section 10 amended (Contracts of Board)	5
9	Section 12 amended (Application of trust moneys)	5
10	Section 13 amended (Scholarships)	5
11	Section 14 replaced (Powers of Board to sell or lease lands)	5
	14 Powers of Board to sell or lease lands	5
12	Section 14A amended (Leasing of certain Kaikokirikiri lands)	6
13	Section 15 amended (Investment of trust funds, etc)	6
14	Section 16 replaced (Travelling expenses)	6
	16 Payments for attending business meetings of Board and its subcommittees	6
15	Section 18 amended (Annual report, including statement of accounts)	6

Preamble

The Papawai and Kaikokirikiri Trusts Act 1943 (the **principal Act**) restricts the powers of the Papawai and Kaikokirikiri Trusts Board. The Papawai and Kaikokirikiri Trusts Board wishes to—

- (a) describe better the relationship between Papawai and Kaikokirikiri Trusts Board, the Bishop of Te Upoko o Te Ika, and tangata whenua of Wairarapa; and 5
- (b) establish a more robust nomination process of Board members; and
- (c) provide a fairer distribution of funds for tangata whenua of Wairarapa; and
- (d) facilitate the long-term development of lands.

Attaining these objectives requires amendments to the principal Act: 10

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Papawai and Kaikokirikiri Trusts Amendment Act **2015**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 15

3 Principal Act

This Act amends the Papawai and Kaikokirikiri Trusts Act 1943 (the **principal Act**).

4 Section 2 amended (Interpretation) 20

- (1) In section 2, repeal the definitions of **Church of England** and **financial year**.
- (2) In section 2, insert in their appropriate alphabetical order:

Bishop of Te Upoko o Te Ika—

- (a) means the Bishop appointed under that title by the Anglican Church in Aotearoa, New Zealand and Polynesia, commonly known as the Church of England, or the Bishop of any replacement diocese; and 25
- (b) includes any person acting as the Bishop when the Bishop is, for any reason, unavailable

financial year means a period of 12 months ending on the day in any year that the Board determines 30

tangata whenua of Wairarapa means an individual who has a whakapapa to the tīpuna rangatira who established historical kinship groups in Wairarapa

5 Sections 4 and 5 replaced

Replace sections 4 and 5 with:

4 Members of Board

- (1) The Board must have 8 members, consisting of—
- (a) 4 members appointed by the Bishop of Te Upoko o Te Ika; and
 - (b) 4 members, being tangata whenua of Wairarapa, appointed or elected by tangata whenua of Wairarapa in accordance with a process adopted and publicly notified by the Board. 5
- (2) The chairperson of the Board—
- (a) must be a member of the Board; and
 - (b) must be appointed annually at the first meeting of the Board following its annual general meeting; and 10
 - (c) may hold office until the end of the next annual general meeting.

4A Term of office

- (1) Despite anything in **section 4**,—
- (a) the members of the Board holding office on the commencement of this section continue to hold office until the end of the annual general meeting of the Board held in **2015**; and 15
 - (b) the Bishop of Te Upoko o Te Ika must, in relation to members of the Board to be appointed in **2015** under **section 4(1)(a)**, appoint—
 - (i) 1 person to hold office for a term of 4 years; and
 - (ii) 1 person to hold office for a term of 3 years; and 20
 - (iii) 1 person to hold office for a term of 2 years; and
 - (iv) 1 person to hold office for a term of 1 year; and
 - (c) the tangata whenua of Wairarapa must, in relation to members of the Board to be appointed or elected in **2015** under **section 4(1)(b)**, appoint or elect— 25
 - (i) 1 person to hold office for a term of 4 years; and
 - (ii) 1 person to hold office for a term of 3 years; and
 - (iii) 1 person to hold office for a term of 2 years; and
 - (iv) 1 person to hold office for a term of 1 year.
- (2) A member of the Board whose term has expired ceases to be a member of the Board but is, if still qualified, eligible to hold office again. 30
- (3) When the term of office of any member of the Board expires, the office must be filled in the manner in which the office was originally filled under **section 4**.
- (4) A person who takes office as a member of the Board under **section 4** after **2015** may hold office for a term of 4 years. 35

- 5 Vacancies**
- (1) The office of a member of the Board becomes vacant if the member—
- (a) dies; or
 - (b) resigns his or her office by written notice to the Board; or
 - (c) is declared bankrupt; or 5
 - (d) is convicted of any offence punishable by a term of imprisonment of 1 year or more; or
 - (e) becomes a person subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or becomes a special patient as defined in section 2(1) of that Act; or 10
 - (f) becomes a person in respect of whom an order is made pursuant to the Protection of Personal and Property Rights Act 1988; or
 - (g) is absent from 4 consecutive meetings of the Board without the leave of the Board. 15
- (2) When the office of any member of the Board becomes vacant, the vacancy must be filled in the manner in which that office was originally filled.
- (3) A person who takes office as a member of the Board under **subsection (2)** may hold office for the residue of the term for which his or her predecessor would have held office if the vacancy had not occurred. 20
- (4) A vacancy does not affect the powers of the Board, provided that the Board has a quorum.
- 6 Section 7 amended (Meetings of Board)**
- (1) In section 7(1), replace “Chairman” with “Chairperson”.
- (2) In section 7(1A), replace “Chairman” with “Chairperson” in each place. 25
- (3) In section 7(2), replace “6 members” with “5 members”.
- 7 Section 8 amended (Chairman and Deputy Chairman)**
- (1) In the heading to section 8, replace “**Chairman**” with “**Chairperson**” in each place.
- (2) Replace section 8(1) with: 30
- (1) The Board must appoint from its members a Chairperson and a Deputy Chairperson of the Board.
- (1A) During any vacancy in the office of Chairperson, or whenever the Chairperson is unable to act, whether by reason of absence or otherwise, the Deputy Chairperson may exercise and perform all the powers and duties of the Chairperson. 35
- (3) In section 8(2), replace “Chairman” with “Chairperson” in each place.
- (4) In section 8(3), replace “Chairman” with “Chairperson”.

8 Section 10 amended (Contracts of Board)

Replace section 10(3) with:

- (3) No oral contract may be made by or on behalf of the Board.

9 Section 12 amended (Application of trust moneys)

Replace section 12(3) to (6) with:

- (3) The Board must appropriate income for each financial year to a fund to be called the Papawai and Kaikokirikiri Scholarship Fund, which may be available only for the following purposes:

- (a) the provision of scholarships for the post-primary education of children who have whakapapa in relation to the tangata whenua of Wairarapa:
- (b) the provision of books, clothing, and other equipment for the holders of scholarships, and the making of grants for those purposes and generally for the purpose of assisting the parents or guardians of any holders of scholarships to provide for their education:
- (c) the making of grants to the governing bodies of any schools at which any such scholarships are tenable or at which any such children are educated:
- (d) the establishment, furnishing, maintenance, and management of a school or schools in the Wairarapa district for children, including provision for residential accommodation.

10 Section 13 amended (Scholarships)

Repeal section 13(3) to (5).

11 Section 14 replaced (Powers of Board to sell or lease lands)

Replace section 14 with:

14 Powers of Board to sell or lease lands

- (1) This section applies to the lands described in the Schedule, namely, the Clareville land, the Papawai land, and the Kaikokirikiri land.
- (2) The Board may sell the Clareville land, but not the Papawai land or the Kaikokirikiri land, by public auction or by private contract, and on the terms and conditions that the Board thinks fit, with power to buy in or rescind or vary any contract of sale.
- (3) To avoid doubt, the Board may not consent to the sale of or otherwise permanently alienate the Papawai land or the Kaikokirikiri land.
- (4) The Board may lease the Clareville land, the Papawai land, and the Kaikokirikiri land, in whole or in part, and on the terms and conditions that the Board thinks fit.

- 12 Section 14A amended (Leasing of certain Kaikokirikiri lands)**
Repeal section 14A(1) and (3).
- 13 Section 15 amended (Investment of trust funds, etc)**
Replace section 15(1) with:
- (1) Any moneys belonging to the Board and available for investment may be invested in any investments for the time being authorised by law for the investment of trust funds in the purchase of lands. 5
- (1A) Subject to section 14A, any investment made under **subsection (1)** may be varied from time to time.
- 14 Section 16 replaced (Travelling expenses)** 10
Replace section 16 with:
- 16 Payments for attending business meetings of Board and its subcommittees**
- (1) The members of the Board are entitled to receive payment from the funds of the Board for any reasonable travelling, accommodation, and other expenses that they incur to attend— 15
- (a) business meetings of the Board; and
- (b) business meetings of any subcommittees of the Board.
- (2) The members of the Board may also be paid a meeting fee or honoraria that the Board has approved at its annual general meeting.
- (3) However, no meeting fee or honoraria may be payable to a member of the Board if that member has determined or materially influenced the amount of the meeting fee or honoraria. 20
- 15 Section 18 amended (Annual report, including statement of accounts)**
Replace section 18(3) with:
- (3) Copies of the report must be provided to the Bishop of Te Upoko o Te Ika. 25