

Te Pire Whakatikatika i Te Poari Pou Tiaki ā-Motu o Waitangi

Pire Kāwanatanga

Tērā nā Te Komiti Whiriwhiri Take Māori i whakatakoto

Ngā Kōrero

Tūtohutanga

Kua āta tirohia e Te Komiti Whiriwhiri Take Māori Te Pire Whakatikatika i Te Poari Pou Tiaki ā-Motu o Waitangi, ā, ka tūtohu te nuinga kia whakamanahia me ngā whakatikatika kua whakaaturia.

Kupu Whakataki

Whakatika ai Te Pire Whakatikatika i Te Poari Pou Tiaki ā-Motu o Waitangi i Te Ture Poari Pou Tiaki ā-Motu o Waitangi o te tau 1932 (Te Ture), ā, i hua mai tērā i tētahi arotakenga o Te Ture e Te Manatū mō Te Ahurea, mō Taonga Tuku Iho i te tau 2006 ki te tau 2008.

Ka mea te pire kia tangohia te morea e pā ana ki te mematanga *ex officio* o Te Poari Pou Tiaki ā-Motu o Waitangi (Te Poari), mā te whakakapi i aua momo mema mā ngā mema tapaina. He papātanga ake te morea, he papātanga rānei ka kitea atu i waenganui i ngā tūranga kaitiaki o Te Kāwana Tianara, o ngā Minita.

Rapu ai te pire ki te whakatika i Te Ture kia tangohia atu ai Te Pirimia, Te Kāwanana Tianara, Te Minita Papa Atawahai, Te Minita Whanaketanga Māori i te mematanga o Te Poari; ā, me te waihanga i tētahi kohinga māngaitanga Karauna kei roto Te Pirimia, Te Minita Toi, Ahurea, Taonga Tuku Iho, Te Minita Whanaketanga Māori, ki te whakatairangi pānga pai me te kimi huarahi whitiwhitinga kōrero, whitiwhitinga whakaaro i waenganui i Te Kāwanatanga me Te Poari. Hoatu wāhi ai hoki te pire mō Te Kāwanatanga Tianara ka hiahia ana a ia kia noho hei whakaruruhau whakahōnore o Te Pou Tiaki ā-Motu o Waitangi, ā, mō ngā mema Pāremata e rua ka riro mā Te Pirimia tētahi e whakaingoa, mā Te Kaiārahi o Te Mautohenga hoki, kia whakaingoa-tia ki Te Poari.

I roto i ētahi atu whakatikatika e whakaarohia ana mō Te Ture, ko tērā wāhanga hoki mō ngā mema o Te Poari e kī ana, kia pupuri wā e toru tau rātou, ā, kia kaua te katoa o te wā mahi e roa atu i ngā tau e iwa. Ka waiho mai ngā Mema Pāremata e rua ki waho nā te mea, mutu kē ai o rāua wā, pēnā nā Te Kaunihera Mana Whakahaere rāua i whakaingoatia, tērā rānei, ka mutu ana te wā o te pāremata i whakaingoatia rā rāua i roto. Ka riro mā te pire ngā wāhanga i roto tekiona 2 o Te Ture e whakahou, e whakauru mai hoki he tekiona here i Te Karauna ki Te Ture, ā, me te hanga i ētahi atu paku whakatikatika kia mārāma ai Te Ture

Ka kapi e tā mātou kōrero ngā whakatikatika ka whakatakotoria e mātou.

Ngā mana o Te Poari me ngā whiunga

I roto i tā rātou tāpaetanga ka tono Te Poari kia houtu he mana ki a rātou kia whiwhi moni ai, kia whiwhi ngaherehere paina ai mō rātou ake, kia whakaherea, kia whakamahia i runga i te whenua a Te Poari, i runga i te whenua Tuku Iho a Waitangi e noho pā tata atu ana, ā, me te whakakapōreihana i tētahi hinonga nā rātou ake katoa, kia whakahaerea hei āhuatanga arumoni. Ka tono anō hoki kia wetea atu ngā aukatinga kei runga i ngā wā rīhi e pā ana ki te whenua a Te Pou Tiaki.

Nā, hei kōwhiringa kē atu mō ngā whakahounga nei, ka kī mai a ia, kia whakanohoa he mana whānui ki te wāhi o te mana takitahi, kia tukua ai he mana ki tētahi tangata noa ki te whakatutuki i tāna e hiahia ana.

Tāpiri atu ki ngā mana kua whakarārangitia i runga nei, ka tono Te Poari kia whakapikia ngā whiunga mō ngā hara i raro i Te Ture, tae atu ki ngā whatinga e pā ana ki ngā ture ā-rohe i raro i Te Ture.

Ngā mema o Te Poari

Ka whakarōrohia te tirohanga i roto i te tāpaetanga a Arapeta Hamilton, i whakatakotoria rā ki mua i a mātou, arā, he huhunu te hanga o Te Poari i te wā nei nā te rerekē rawa atu o te māngaitanga mō ngā whānau Pākehā me ngā whānau Māori. Kotahi te mema mō ia whānau Pākehā e toru, ā, kotahi noa mō ngā whānau Māori e whā.

Kua tohu mai Te Manatū mō Te Ahurea, mō Te Taonga Tuku Iho ki a matou, e mea ana a ia ki te arotake i te hanga o Te Poari. Ka haere whānui te arotakenga, ā, mā taua arotakenga e whai ake ngā mānukanuka kua whakaaratia ake e pā ana ki te māngaitanga. Kīhai he tohu ki a mātou mō te wā me te anga o te arotakenga, ā, kaha ana tā mātou akiaki kia whakahaerea taua arotakenga i nāianei tonu.

Ki a mātou nei, me whāia kēngia he wāhanga whakapiki i te māngaitanga mō ngā whānau Māori mā te whakatika i tekiona 2 o Te Ture kia whiwhi ai ia whānau e whā i tāna ake māngai. Kei te mārāma mātou, ka tino whakapikia e tēnei te kaute o ngā mema i runga i Te Poari.

Te roanga atu o te wā mahi mā ngā mema o Te Poari

Hoatu wāhi ai a rara e 10(3) mō tētahi mema o Te Poari kua 9 tau, neke atu a ia e mahi ana i te wā i mana ai te pire, kua tika a ia mō tētahi wā e 3 tau i tua atu. He

wāhanga whakawhitinga tēnei ka pā ki ngā mema o Te Poari i te wā nei kua eke kē ki taua taumata wā mahi, ā, ka tukua hoki aua mema e 9 tau neke atu e mahi ana. Ka tukua hoki aua mema kia tū mō tētahi atu wā tau e 3 i tua atu, ahakoa te rara hou e 9A(e) o te whakaaetanga pou tiaki, tērā e aukati atu ana i te mematanga o Te Poari ki ngā tau aru atu e 9.

Ahakoa tā mātou whakaaroaro i ngā whakarerekētanga i tua atu mō rara 10, ko te tūmanako ia mā te arotakenga ēnei e whai ake.

Te whakahounga taitara

Nā, ka tūtohu mātou kia whakatikaina te kōrerotanga i tekiona hou e 4A(1)(c), arā, a “Minita Take Māori” ki “Minita Whanaketanga Māori” nā te mea, ko tērā kē hoki te taitara o Te Minita i nāianei.

Tāpiritanga

Hātepe o te komiti

I tonoa Te Pire Whakatikatika i Te Poari Pou Tiaki ā-Motu o Waitangi ki te komiti, i te iwa o Paenga-whāwhā tau 2014. Ko te 14 o Haratua tau 2014 te rā i kati ai ngā tāpaetanga. I whiwhi, i whakaaroarohia e mātou ngā tāpetanga e toru nō mai i ngā kohinga whai pānga me te hunga takitahi. E rua ngā tāpaetanga i rongohia e mātou, ā, ko tētahi o ēnei i wānangahia ā-waeatia.

I whiwhi whakamaherehere mātou nō mai i Te Manatū mō Te Ahurea, mō Te Taonga Tuku Iho.

Ngā mema of te komiti, ko

Tūtehounuku Kōrako (Heamana)

Hōnore Chester Borrows

Mārama Fox

Joanne Hayes

Hōnore Nanaia Mahuta

Pita Paraone

Rino Tirikātene

Mētīria Tūrei

Waitangi National Trust Board Amendment Bill

Government Bill

As reported from the Māori Affairs Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the Waitangi National Trust Board Amendment Bill and unanimously recommends that it be passed with the amendments shown.

Introduction

The Waitangi National Trust Board Amendment Bill amends the Waitangi National Trust Board Act 1932 (the Act), and is the result of a review of the Act by the Ministry for Culture and Heritage in 2006 to 2008.

The bill is intended to remove the risk associated with *ex officio* membership of the Waitangi National Trust Board (the Board), by replacing such members with nominated members. The risk is one of actual or perceived conflict between the constitutional and trustee roles of the Governor-General and Ministers.

The bill seeks to amend the Act to remove the Prime Minister, the Governor-General, the Minister of Conservation, and the Minister for Māori Development from the membership of the Board; and to create a Crown representative group consisting of the Prime Minister, the Minister for Arts, Culture and Heritage, and the Minister for Māori Development, in order to foster good relations and facilitate communication between the Government and the Board. It provides for the Governor-General, if she or he so chooses, to be an honorary patron of the Waitangi National Trust, and two Members of Parliament, one appointed by the Prime Minister and one appointed by the Leader of the Opposition, to be appointed to the Board.

Further amendments proposed to the Act include provision for Board members to hold terms of three years and to serve no longer than nine years in total, with the exclusion of the two Members of Parliament, whose terms end if they are appointed to the Executive Council, or if the parliamentary term in which they are appointed to the

Board ends. The bill would update provisions in section 2 of the Act concerning ineligibility for representative membership of the Board, introduce a section binding the Crown to the Act, and make some other minor amendments to clarify the Act.

Our commentary covers the amendments we propose.

Powers of the Board and penalties

The Board requested in their submission powers to borrow money, to own, manage, and operate forestry on the Board's land and the neighbouring Waitangi Endowment land, and to incorporate a wholly-owned subsidiary to undertake commercial activities. It also asked that restrictions on the terms of leases of Trust land be removed.

It suggested, as an alternative to these changes, that individual powers be replaced by a general power to do anything a natural person is permitted to do.

In addition to the powers listed above, the Board requested increases to penalties for offences under the Act and breaches of bylaws made under the Act.

Board members

We considered the view put to us in the submission from Arapeta Hamilton that the current makeup of the Board is unfair, as there is a disparity between the representation of Pākehā families, which is one for each of three families, and of Māori families, where there is just one member representing four families.

The Ministry for Culture and Heritage has indicated to us that it intends to review the makeup of the Board. The review will be wide-ranging and will address the concerns that have been raised regarding representation. We have had no indication of the proposed timing and structure of the review, and strongly urge that it be undertaken immediately.

We consider that provision should be made for increasing the representation of Māori families, by amending section 2 of the Act so that each of the four families would have its own representative. We are aware that this would greatly increase the number of Board members.

Length of service of Board members

Proposed clause 10(3) provides for a member of the Board who has served for more than 9 years at the time the bill comes into force, to be eligible for another term of 3 years. This is a transitional provision that applies to current members of the Board who had already served more than 9 years and will allow those members to serve one additional 3 year term despite new clause 9A(e) of the trust deed, which limits membership of the Board to 9 consecutive years.

We considered additional changes to clause 10, however, we expect the review will address these.

Title update

We recommend that the reference in new section 4A(1)(c) to “Minister of Māori Affairs” be amended to “Minister for Māori Development” to reflect the Minister’s current title.

Appendix

Committee process

The Waitangi National Trust Board Amendment Bill was referred to the committee on. The closing date for submissions was 14 May 2014. We received and considered three submissions from interested groups and individuals. We heard two submissions, one of which was by teleconference.

We received advice from the Ministry for Culture and Heritage.

Committee membership

Tutehounuku Korako (Chairperson)

Hon Chester Borrows

Marama Fox

Joanne Hayes

Hon Nanaia Mahuta

Pita Paraone

Rino Tirikatene

Metiria Turei

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Maggie Barry

Waitangi National Trust Board Amendment Bill

Pire Kāwanatanga

Government Bill

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act	2

Part 1

Amendments to principal Act

<u>3A</u> Section 2 amended (Waitangi National Trust Board incorporated)	<u>2</u>
4 Section 3 amended (Powers of Board)	2
5 Section 4 amended (Effect of deed of trust)	2
6 New sections 4A and 4B inserted	3
4A Crown representatives group	3
4B Nominated members of Board	3
7 New section 11 inserted (Act binds the Crown)	3
11 Act binds the Crown	3
8 Schedule 1 amended	3

Part 2

Miscellaneous provisions

9 Effect of amendments	4
10 Transitional provisions	4

Schedule

Amendments to Schedule 1

5

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Waitangi National Trust Board Amendment Act **2013**.

2 Commencement

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

5

3 Principal Act

This Act amends the Waitangi National Trust Board Act 1932 (the **principal Act**).

Part 1**Amendments to principal Act**

10

3A Section 2 amended (Waitangi National Trust Board incorporated)

After section 2(2), insert:

(3) When the term of office of the representative member holding the position first held by Riri Maihi Kawiti ends in accordance with **section 10(2) of the Waitangi National Trust Board Amendment Act 2013**,—

15

(a) that position is disestablished; and

(b) the Board must appoint as representative members of the Board—

(i) a member of the family of Hone Heke; and

(ii) a member of the family of Maihi Kawiti; and

(iii) a member of the family of Tamati Waka Nene; and

20

(iv) a member of the family of Pomare.

(4) The appointments referred to in **subsection (3)(b)** must be—

(a) made by resolution duly passed at a meeting of the Board specially called for the purpose; and

(b) confirmed at a subsequent meeting of the Board.

25

(5) Upon confirmation of the appointments referred to in **subsection (3)(b)**, all the provisions of the declaration or deed of trust relating to members of the Board (as far as they are applicable and with any necessary modifications) apply with respect to the persons appointed as if they had been appointed by the declaration or deed of trust to be representative members of the Board.

30

4 Section 3 amended (Powers of Board)

Repeal section 3(2).

5 Section 4 amended (Effect of deed of trust)

Repeal section 4(2).

6 New sections 4A and 4B inserted

After section 4, insert:

4A Crown representatives group

- (1) The Crown representatives group in relation to the Board comprises—
 - (a) the Prime Minister; and 5
 - (b) the Minister for Arts, Culture and Heritage; and
 - (c) the Minister of Māori Affairs for Māori Development.
- (2) The functions of the Crown representatives group are—
 - (a) to foster good relations between the Government and the Board; and
 - (b) to facilitate the exchange of information between the Government and the Board on matters relevant to the trust. 10

4B Nominated members of Board

- (1) The nominated members of the Board consist of—
 - (a) 1 member appointed by the Prime Minister to represent the Government; and 15
 - (b) 1 member appointed by the Leader of the Opposition, following consultation with the leader of each party that is not in Government or in coalition with the Government.
 - (2) A nominated member’s term ends—
 - (a) if he or she is appointed to the Executive Council; or 20
 - (b) at the end of the parliamentary term in which he or she is appointed to the Board.
 - (3) Despite **subsection (2)**, a nominated member ceases to be a member of the Board if he or she ceases to be a member of the House of Representatives. 25
- Compare: 1996 No 46 s 7

7 New section 11 inserted (Act binds the Crown)

After section 10, insert:

11 Act binds the Crown

This Act binds the Crown.

8 Schedule 1 amended

Amend Schedule 1 of the principal Act as set out in the Schedule of this Act.

Part 2

Miscellaneous provisions

9 Effect of amendments

The deed or declaration of trust referred to in the principal Act has effect as if amended directly in the manner provided in the Schedule of this Act. 5

10 Transitional provisions

- (1) This section applies to any person who was a representative member of the Board on the day immediately before the day on which this Act comes into force.
- (2) That person's term in office ends on the next triennial anniversary of his or her appointment to office that occurs after the coming into force of this Act. 10
- (3) A person who, at the end of his or her term in office under **subsection (2)**, has served 9 or more years as a representative member is eligible for reappointment for 1 further term of 3 years despite **clause 9A(e)** of the trust deed.

Schedule Amendments to Schedule 1

s 8

Clause 3

Repeal clause 3.

5

Clauses 4 and 5

Replace clauses 4 and 5 with:

4 Nominated members

The nominated members of the Board shall consist of 2 members of the House of Representatives appointed under **section 4B** of the Waitangi National Trust Board Act 1932.

10

5 Honorary patron

The Governor-General shall, at his or her pleasure, be an honorary patron of the trust.

Clause 6

Repeal clause 6.

15

Clause 8

Replace clause 8 with:

8 Terms of office of representative member

(1) A representative member holds office for a term of 3 years unless the member's position becomes vacant at an earlier date under **subclause (2)**.

20

(2) A representative member's term in office ends, and the position of that member becomes vacant, if he or she—

(a) becomes bankrupt:

(b) becomes a person prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any of the following:

25

(i) Companies Act 1993:

(ii) Securities Act 1978:

(iii) Securities Markets Act 1988:

30

(iv) Takeovers Act 1993:

(c) becomes subject to a property order under section 31 of the Protection of Personal and Property Rights Act 1988:

Clause 8—continued

- (d) is convicted of an offence punishable by imprisonment for a term of 1 year or more:
 - (e) is sentenced to imprisonment for any offence:
 - (f) resigns in writing to the Chairman:
 - (g) is absent without leave of the Board from 3 consecutive Board meetings: 5
 - (h) dies.
- (3) Except where a representative member’s position becomes vacant under **sub-clause (2)**, the representative member continues in office after the expiry of his or her term in office until a successor is appointed (or the member is reappointed) under clause 9. 10

New clause 9A

After clause 9, insert:

9A Eligibility to be representative member

A person is ineligible to be a representative member if he or she—

- (a) is an undischarged bankrupt: 15
- (b) is a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any of the following:
 - (i) Companies Act 1993:
 - (ii) Securities Act 1978: 20
 - (iii) Securities Markets Act 1988:
 - (iv) Takeovers Act 1993:
- (c) is subject to a property order under section 31 of the Protection of Personal and Property Rights Act 1988:
- (d) has been convicted of an offence punishable by imprisonment for a term of 1 year or more, or has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty that was imposed: 25
- (e) has served as a representative member for 9 or more years.

Clause 10 30

Insert as the clause heading to clause 10 “**Succession to Joseph Gordon Coates**”.

Clause 12

In clause 12, replace “members of the Board other than life members and *ex officio* members” with “representative members”.

Clause 15

Replace clause 15(xviii) with:

(xviii) pay the actual and reasonable costs of travel, accommodation, and meals incurred by any member of the Board in travelling from or to his or her usual place of residence to or from a meeting of the Board.

5

Legislative history

7 November 2013
9 April 2014

Introduction (Bill 169–1)
First reading and referral to Māori Affairs Committee