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as at 23 December 2023



# Maori Commercial Aquaculture Claims Settlement Act 2004

Public Act 2004 No 107  
Date of assent 21 December 2004  
Commencement see section 2

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### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry for Primary Industries.**

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**1 Title**

This Act is the Maori Commercial Aquaculture Claims Settlement Act 2004.

## 2 Commencement

Except as provided in section 60(5), this Act comes into force on 1 January 2005.

### *Preliminary provisions*

## 3 Purpose of Act

The purpose of this Act is to—

- (a) provide a full and final settlement of Maori claims to commercial aquaculture on or after 21 September 1992; and
- (b) provide for the allocation and management of aquaculture settlement assets.

## 4 Interpretation

In this Act, unless the context otherwise requires,—

**allocate**, in relation to settlement assets,—

- (a) means to determine the settlement assets to be transferred to an iwi aquaculture organisation; but
- (b) does not include the transfer of those assets to the iwi aquaculture organisation

**anticipated new space** means the amount of space in the coastal marine area that the Minister anticipates will become new space after the commencement of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011

**aquaculture activities** has the same meaning as in section 2(1) of the Resource Management Act 1991

**aquaculture agreement** has the same meaning as in section 186ZD of the Fisheries Act 1996

**aquaculture settlement area** means space in the coastal marine area declared in a *Gazette* notice under section 12 to be an aquaculture settlement area

**authorisation** has the same meaning as in section 165C of the Resource Management Act 1991

**coastal marine area** has the same meaning as in section 2(1) of the Resource Management Act 1991

**coastal permit** has the same meaning as in section 2(1) of the Resource Management Act 1991

**commercial aquaculture** means an aquaculture activity undertaken for the purpose of sale

**commercial fishing** has the same meaning as in section 2(1) of the Fisheries Act 1996

**iwi** has the same meaning as in the Maori Fisheries Act 2004

**iwi aquaculture organisation** means an iwi aquaculture organisation recognised under section 33

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**new space**—

- (a) means space that, after the commencement of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011, first becomes subject to a coastal permit to occupy the space for the purpose of aquaculture activities that has commenced under section 116A of the Resource Management Act 1991; and
- (b) does not include—
  - (i) space that is pre-commencement space as defined in section 20; or
  - (ii) space in respect of which a regional council is or was required to comply with sections 44B to 44D and, if necessary, section 44E of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; or
  - (iii) any space that has been transferred to the trustee as a settlement asset before the commencement of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011

**occupy** has the same meaning as in section 2(1) of the Resource Management Act 1991

**public notice** has the same meaning as in section 2(1) of the Resource Management Act 1991

**recognised iwi organisation** has the same meaning as in section 5 of the Maori Fisheries Act 2004

**region** means the region of a regional council or the district of a unitary authority under the Local Government Act 2002

**regional agreement** means an agreement of a kind described in section 29A (whether entered into before, on, or after the date of commencement of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010)

**regional council** has the same meaning as in section 2(1) of the Resource Management Act 1991

**relevant iwi**, in relation to an allocation of assets, means those iwi in a region who, in the trustee's opinion, are directly affected by the allocation

**reservation** has the same meaning as in section 186C of the Fisheries Act 1996

**sale** includes—

- (a) every method of disposition for valuable consideration, including barter; and
- (b) the disposition to an agent for sale on consignment; and
- (c) offering or attempting to sell, or receiving or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and
- (d) disposal by way of gambling (as that term is defined in section 4(1) of the Gambling Act 2003); and
- (e) the use by a person of fish, aquatic life, or seaweed as bait in that person's commercial fishing operations; and
- (f) any other use by a person of fish, aquatic life, or seaweed as part of that person's commercial activities

**space** has the same meaning as in section 2(1) of the Resource Management Act 1991

**trustee** means Te Ohu Kai Moana Trustee Limited, a company established in accordance with section 33 of the Maori Fisheries Act 2004.

Section 4 **anticipated new space**: inserted, on 1 October 2011, by section 4(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **aquaculture activities**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **aquaculture management area**: repealed, on 1 October 2011, by section 4(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **aquaculture settlement area**: inserted, on 1 October 2011, by section 4(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **authorisation**: substituted, on 1 October 2011, by section 4(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **authorisation**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **coastal marine area**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **coastal permit**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **iwi**: inserted, on 1 October 2011, by section 4(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **Minister**: inserted, on 1 October 2011, by section 4(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **new space**: substituted, on 1 October 2011, by section 4(3) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **new space** paragraph (a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **occupy**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **public notice**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **region**: inserted, on 1 October 2011, by section 4(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 4 **regional agreement**: inserted, on 30 March 2010, by section 5 of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

Section 4 **regional council**: inserted, on 28 September 2008, by section 4(6) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2008 (2008 No 94).

Section 4 **regional council**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 4 **relevant iwi**: inserted, on 12 April 2022, by section 4 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

Section 4 **space**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

## 5 Meaning of settlement assets

- (1) In this Act, unless the context otherwise requires, **settlement assets**—
- (a) means authorisations relating to aquaculture activities, coastal permits to occupy space for aquaculture activities, or the financial equivalent of the authorisations or the permits, transferred or paid or to be transferred or paid to the trustee under this Act or the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; and
  - (aa) includes any authorisations provided to the trustee by a regional council in accordance with an Order in Council under section 165K, or a notice in the *Gazette* under section 165N, of the Resource Management Act 1991, for the purpose of giving effect to the Crown's obligations under this Act; and
  - (ab) includes payments of money and the transfer of any other benefit to the trustee or an iwi aquaculture organisation under a regional agreement; and
  - (b) includes any authorisation held by the trustee, an iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region if—
    - (i) the authorisation was transferred in exchange for an authorisation referred to in paragraph (a) or received under a previous transfer to which this paragraph applied; and

- (ii) notice of both transfers was received by the regional council on the same day; and
    - (iii) the authorisations exchanged related to the same amount of space in the same region; and
    - (iv) the authorisation transferred to the trustee or an iwi aquaculture organisation related to the occupation of space for aquaculture activities; and
  - (c) includes any coastal permits held by the trustee, an iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations, being coastal permits obtained from authorisations referred to in paragraph (a) or paragraph (b); and
  - (d) includes any coastal permit held by the trustee, an iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region if—
    - (i) the coastal permit was transferred in exchange for a coastal permit specified in paragraph (a) or paragraph (c) or received under a previous transfer to which this paragraph applied; and
    - (ii) notice of both transfers was received by the regional council on the same day; and
    - (iii) the coastal permits exchanged related to the same amount of space in the same region; and
    - (iv) the coastal permits transferred related to the occupation of space for aquaculture activities.
- (2) However, an authorisation or coastal permit ceases to be a settlement asset if the authorisation or coastal permit is transferred to another person unless the authorisation or coastal permit is transferred—
- (a) from the trustee to an iwi aquaculture organisation or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region; or
  - (b) from an iwi aquaculture organisation or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region to another iwi aquaculture organisation or company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region.

Section 5(1)(a): amended, on 1 October 2011, by section 5(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 5(1)(aa): inserted, on 1 October 2011, by section 5(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 5(1)(aa): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).



Section 5(1)(ab): inserted, on 30 March 2010, by section 6 of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

## **6 Settlement of claims**

- (1) The claims specified in subsection (2) are fully and finally settled, satisfied, and discharged.
- (2) Subsection (1) applies to all claims (current and future)—
  - (a) by Maori in respect of commercial aquaculture activities arising on or after 21 September 1992 in the coastal marine area—
    - (i) whether the claims are founded on rights arising by or in common law (including customary law and aboriginal title), the Treaty of Waitangi, statute, or otherwise; and
    - (ii) whether in respect of sea, or coastal, aquaculture activities, including any commercial aspect of traditional aquaculture activities; and
    - (iii) whether or not the claims have been the subject of adjudication by the courts or any recommendation from the Waitangi Tribunal; and
  - (b) in respect of, or directly or indirectly based on, rights and interests of Maori in aquaculture activities on or after 21 September 1992.
- (3) The obligations of the Crown to Maori in respect of commercial aquaculture activities on or after 21 September 1992 are fulfilled, satisfied, and discharged.
- (4) No court or tribunal has jurisdiction to inquire into—
  - (a) the validity of the claims:
  - (b) the existence of rights and interests of Maori in commercial aquaculture activities on or after 21 September 1992:
  - (c) the quantification or the adequacy of the benefits to Maori provided by or under this Act.

## **6A Relationship of Act to Marine and Coastal Area (Takutai Moana) Act 2011**

- (1) Nothing done under or for the purposes of this Act is to be treated as a matter that may be taken into account in determining, under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011, whether customary marine title exists in a specified area of the common marine and coastal area.
- (2) Without limiting subsection (1), the provision of authorisations under section 13 is not to be used—
  - (a) as evidence that an applicant group did not hold a specified area of the common marine and coastal area in accordance with tikanga for the purposes of section 58(1)(a) of the Marine and Coastal Area (Takutai Moana) Act 2011; or

- (b) as evidence of a substantial interruption of the exclusive use and occupation of a specified area of the common marine and coastal area for the purposes of section 58(1)(b) of the Marine and Coastal Area (Takutai Moana) Act 2011.

Section 6A: inserted, on 1 October 2011, by section 6 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

*Provision and transfer of settlement assets to trustee that are representative of 20% of new space*

Heading: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

**7 Purpose of sections 8 to 18**

The purpose of sections 8 to 18 is to require the Crown to provide for, and transfer to the trustee, settlement assets that are representative of 20% of the new space.

Section 7: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

**8 Crown's obligations apply on regional basis**

The Crown's obligations under sections 9 to 18 apply and must be satisfied on the basis that they apply separately to each region.

Section 8: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

**9 Crown's obligations in respect of new space**

- (1) The Crown must ensure that the trustee is provided with settlement assets that are representative of 20% of the new space by way of 1 or more of the following:
- (a) the provision of authorisations to apply to occupy space in the coastal marine area for the purpose of aquaculture activities and any payment required by section 13(4):
  - (b) the payment of a financial equivalent of that space:
  - (c) entering into 1 or more regional agreements under section 10.
- (2) The settlement assets provided under subsection (1)(a) must be representative of 20% of the anticipated new space.

Section 9: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

**10 Regional agreements relating to new space**

- (1) The Crown may enter into 1 or more agreements (including by deed) in respect of 1 or more regions if the Crown and the parties referred to in section 29A(2) all agree that the Crown's obligations under section 9 will be satisfied in respect of the regions on the terms set out in the agreement or the agreements.

- (2) Section 29A(3), (4), (6), and (7) apply to an agreement entered into under this section.
- (3) An agreement under this section may provide for settlement of the Crown's obligations on any basis acceptable to the Crown and the other parties.

Section 10: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## 11 Settlement in negotiation period

- (1) The Crown must use its best endeavours to negotiate and enter into regional agreements under section 10 that provide for the Crown to meet its obligations under section 9.
- (2) The Crown must do so within the following periods:
  - (a) within 2 years after the commencement of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 for the following:
    - (i) the Northland region:
    - (ii) the east coast of the Waikato region, which is to be treated as a separate region:
    - (iii) the Tasman region:
    - (iv) the Marlborough region:
  - (b) for all other regions, whichever is the later of the following:
    - (i) within 3 years after the commencement of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011; or
    - (ii) within 2 years after the receipt of the first resource consent application for the purpose of aquaculture activities after the commencement of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (not being an application to which section 165ZH of the Resource Management Act 1991 applies).
- (3) The Minister may, by notice in the *Gazette*, extend a period specified in subsection (2).
- (4) The Minister may not give a notice under subsection (3) unless the Minister—
  - (a) has consulted the trustee and the iwi aquaculture organisations, mandated iwi organisations, or recognised iwi organisations with whom the regional agreement under section 10 is being negotiated; and
  - (b) is satisfied that reasonable steps have been taken to negotiate an agreement and that the proposed extension is likely to enable a regional agreement under section 10 in respect of the initial settlement period to be entered into.
- (5) If, at the conclusion of the relevant period specified in subsection (2) (or any extension), there is no regional agreement under section 10 that relates to settlement in a region, the Crown must—

- (a) arrange, in accordance with section 13, for authorisations in any relevant aquaculture settlement areas in the region to be provided to the trustee in accordance with section 9(1)(a); but
- (b) if insufficient authorisations are available to be provided to the trustee to meet the Crown's obligations as set out in section 9, pay the difference to the trustee in accordance with section 9(1)(b).

Section 11: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 11(2)(b)(ii): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 11(5)(a): amended, on 5 December 2013, by section 4 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2013 (2013 No 125).

## 12 **Gazetting space for settlement purposes**

- (1) For the purposes of preserving space to be used for meeting the Crown's obligations under section 9, the Minister may, by notice in the *Gazette*, declare space in the coastal marine area to be an aquaculture settlement area that is required to meet the obligations.
- (2) The Minister—
  - (a) may, by notice in the *Gazette*, add to or remove space from an aquaculture settlement area; and
  - (b) must, if the Crown's obligations are settled in respect of a region, remove, by notice in the *Gazette*, the space from an aquaculture settlement area that is not required to meet the obligations.
- (3) Section 165E of the Resource Management Act 1991 applies in respect of applications for coastal permits made in an aquaculture settlement area.
- (4) In determining whether an aquaculture settlement area will be representative for the purposes of meeting the Crown's obligations under section 9, the Minister must take into account—
  - (a) the suitability of the space for aquaculture activities; and
  - (b) the overall productive capacity of the anticipated new space available for aquaculture activities in each region.
- (5) To avoid doubt, the Minister may exercise his or her powers under this section before the preparation of a plan under section 14.

Section 12: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 12(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

### **13 Allocation of authorisations in aquaculture settlement area**

- (1) This section applies if the Crown is required, either under a regional agreement under section 10 or by section 11(5), to provide authorisations for space in an aquaculture settlement area to the trustee.
- (2) The Minister must direct the regional council in whose region the relevant aquaculture settlement area is located to provide authorisations for aquaculture activities in the space to the trustee (whether or not the regional coastal plan would otherwise require a different allocation).
- (3) A regional council must comply with a direction made under subsection (2).
- (4) As soon as practicable after giving a direction under subsection (2), the Minister must,—
  - (a) if an assessment under section 14(4)(d)(iv) shows a difference in value under that provision, consult the trustee about whether a payment of the difference is required; and
  - (b) if the Minister decides that such a payment should be made, make the payment to the trustee.
- (5) Clause 3(1)(b) of Schedule 1 does not apply to the provision of authorisations under this section.
- (6) To avoid doubt, section 165R of the Resource Management Act 1991 applies in relation to the provision of authorisations under this section.

Section 13: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 13(6): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

### **14 Preparation of plan**

- (1) The Minister must, by 31 December 2012, have started preparing a plan that—
  - (a) provides an assessment of the progress made by the Crown in complying with section 9; and
  - (b) to the extent that the Crown has not complied with section 9, provides how the Crown is going to comply with that provision; and
  - (c) establishes processes and methods for determining the value of the settlement assets to be delivered under section 9.
- (2) In preparing the plan, the Minister must consult—
  - (a) the trustee; and
  - (b) all iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations—
    - (i) whose area of interest includes a part of the coastal marine area; and

- (ii) in relation to which the Crown has not, by 31 December 2012, satisfied its obligations under this Act.
- (3) As soon as practicable after completing the plan, the Minister must provide copies to the relevant regional council, the trustee, and the relevant iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations.
- (4) Without limiting subsection (1)(c), the processes and methods must—
  - (a) avoid increasing the demand for coastal permits, which would increase the value of space; and
  - (b) reduce the risk of collusion; and
  - (c) be cost effective for the Crown; and
  - (d) enable an assessment to be made of the following:
    - (i) the amount of anticipated new space in the region; and
    - (ii) the value that would be representative of each of the types of aquaculture expected to be developed in the anticipated new space in the region; and
    - (iii) the overall productive capacity of the anticipated new space available for aquaculture activities in each region; and
    - (iv) the difference in value between—
      - (A) the costs of obtaining, pursuant to an authorisation granted under this Act, a resource consent under the Resource Management Act 1991 that could commence under section 116A of that Act; and
      - (B) the costs of obtaining the resource consent pursuant to an authorisation had the authorisation been granted in relation to an aquaculture management area as at 1 January 2005.

Section 14: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 14(4)(d)(iv)(A): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

## 15 Review of plan

- (1) The Minister must begin a review of the plan prepared under section 14—
  - (a) by 31 December 2017; and
  - (b) after that date, at intervals of not more than 5 years.
- (2) However, the Minister must begin a review of the plan prepared under section 14 at any time that it appears that the amount of anticipated new space is likely to change significantly.

Section 15: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## **16 Response to review of plan**

- (1) If the plan prepared under section 14 or a review of the plan prepared under section 15 shows that the Crown needs to take action in order to meet its obligations under section 9, the Crown may do so under section 9(1)(a), (b), or (c), as appropriate.
- (2) Before taking action under subsection (1), the Crown must consult—
  - (a) the trustee; and
  - (b) the relevant iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations of affected iwi.

Section 16: substituted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## **16A When authorisations allocated to trustee lapse**

- (1) Section 165T of the Resource Management Act 1991 does not apply to settlement assets.
- (2) However, a settlement asset that is an authorisation does lapse if—
  - (a) a resource consent application for aquaculture activities has been declined in respect of the space that is subject to the authorisation; or
  - (b) a resource consent has been cancelled under section 116A(3) or (7) of the Resource Management Act 1991.
- (3) If an authorisation that is a settlement asset is transferred and (as a result of the transfer) it ceases to be a settlement asset, the authorisation lapses 2 years after the date on which the holder gives a notice of transfer of the authorisation to the regional council under section 165S of the Resource Management Act 1991.

Section 16A: inserted, on 1 October 2011, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 16A(1): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 16A(2)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 16A(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

## **17 Expiry, lapsing, or cancellation of coastal permit to occupy space for aquaculture activities**

- (1) This section applies if—
  - (a) the trustee, iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisa-

tions in the region holds a coastal permit for space that is a settlement asset; and

- (b) the coastal permit expires, lapses, or is cancelled.
- (2) The holder of the coastal permit must be treated as if the holder holds an authorisation under section 13 in relation to the space that was subject to the coastal permit.

Section 17(2): replaced, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

## **18 Limitations on disposal of settlement assets**

- (1) The trustee must not transfer settlement assets except to—
- (a) an iwi aquaculture organisation in accordance with sections 48 and 49; or
  - (b) another person in accordance with a direction by an iwi aquaculture organisation entitled to have the settlement assets transferred to it in accordance with sections 48 and 49.
- (2) However, the trustee must not transfer settlement assets to another person unless satisfied that the iwi aquaculture organisation has complied with section 50.

*Allocation of aquaculture space, or financial equivalent, to trustee equivalent to 20% of pre-commencement space in coastal marine area*

## **19 Purpose of sections 20 to 31**

The purpose of sections 20 to 31 is to provide for the Crown to allocate to the trustee space, or the financial equivalent, that is equivalent to 20% of certain space in the coastal marine area.

## **20 Interpretation**

In sections 22 to 31, **pre-commencement space** means—

- (a) space that—
  - (i) first became the subject of a lease or licence under the Marine Farming Act 1971 to occupy for aquaculture activities during the period beginning on 21 September 1992 and ending on the close of 31 December 2004; and
  - (ii) at the close of 31 December 2004 is still the subject of a lease or licence under the Marine Farming Act 1971; and
- (b) space—
  - (i) that is the subject of an application under section 46 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 that is granted; and



- (ii) in relation to which a permit under section 67J or section 67P of the Fisheries Act 1983 is subsequently granted; and
- (c) space that, at the close of 31 December 2004, is subject to an application for a permit under section 67J or section 67Q(2)(a) of the Fisheries Act 1983 which is subsequently granted; and
- (d) space that—
  - (i) became the subject of a permit granted under section 67J or section 67Q(2)(a) of the Fisheries Act 1983 during the period beginning on 21 September 1992 and ending on the close of 31 December 2004, and the permit that was granted is for aquaculture activities; and
  - (ii) at the close of 31 December 2004 is still subject to a permit granted under sections 67J or 67Q(2)(a) of the Fisheries Act 1983; and
- (e) space in relation to which section 8(b) applies.

Section 20(c): amended, on 13 December 2006, by section 4(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2006 (2006 No 79).

Section 20(d)(i): amended, on 13 December 2006, by section 4(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2006 (2006 No 79).

Section 20(d)(i): amended, on 13 December 2006, by section 4(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2006 (2006 No 79).

Section 20(d)(ii): amended, on 13 December 2006, by section 4(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2006 (2006 No 79).

## 21 Crown's obligations apply on regional basis

The Crown's obligations under sections 22 to 31 apply and must be satisfied on the basis that they apply separately to each regional coastline as defined in Schedule 1 and each harbour listed in Schedule 2.

## 22 Crown's obligations

- (1) The Crown must ensure that the trustee is provided with space in the coastal marine area for the purpose of aquaculture activities equivalent to 20% of pre-commencement space.
- (2) The Crown must use its best endeavours to comply with subsection (1) by the close of 31 December 2014.
- (3) Subsection (1) must be complied with in 1 or more of the following ways:
  - (a) *[Repealed]*
  - (b) by purchasing and transferring to the trustee on or after 1 January 2008 established marine farms:
  - (ba) by entering into a regional agreement:
  - (c) by paying to the trustee on or after 1 January 2013 amounts equivalent, in part or in full, to the value of the pre-commencement space.

- (3A) If a regional agreement includes a provision of a kind referred to in section 29A(3)(b) or is otherwise conditional, the Crown is taken to have complied with subsection (1) in the way specified in subsection (3)(ba) only if the agreement becomes unconditional.
- (4) To avoid doubt, subsection (3) does not require the Crown at any particular time to comply with subsection (1) in any particular way or combination of ways specified in subsection (3).

Section 22(3)(a): repealed, on 1 October 2011, by section 9 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 22(3)(ba): inserted, on 30 March 2010, by section 7(1) of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

Section 22(3A): inserted, on 30 March 2010, by section 7(2) of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

## 23 Preparation of plan

- (1) The Minister must, by 31 December 2007, have started preparing a plan that—
- (a) provides an assessment of the progress made by the Crown in complying with section 22; and
  - (b) to the extent that the Crown has not complied with section 22, provides how the Crown is going to comply with that provision.
- (2) In preparing the plan, the Crown must consult all iwi aquaculture organisations and recognised iwi organisations—
- (a) whose area of interest includes a part of the coastal marine area; and
  - (b) in relation to which the Crown has not, by 31 December 2007, satisfied its obligations under this Act.
- (3) As soon as practicable after completing the plan, the Minister must provide copies to the trustee, iwi aquaculture organisations, and recognised iwi organisations.

Section 23(1): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 23(3): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## 24 Review of plan

The Minister must, by 31 December 2012, have started a review of the plan prepared under section 23.

Section 24: amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## 25 Additional allocation of space to iwi

*[Repealed]*

Section 25: repealed, on 1 October 2011, by section 10(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## **26 Regional Council may retain proportion of tender remuneration**

*[Repealed]*

Section 26: repealed, on 1 October 2011, by section 11 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## **27 Purchase of coastal permits by the Crown**

- (1) The Crown may purchase coastal permits for the purpose of complying with section 22.
- (2) The Crown must use its best endeavours to ensure that on 31 December 2014 the average value of all coastal permits for a region or harbour listed in Schedule 2 purchased by it and transferred to the trustee during the period beginning on 1 January 2008 and ending on the close of 31 December 2014 is not less than the average value of all coastal permits authorising the occupation of coastal space for aquaculture in the region or harbour.
- (3) Before purchasing a coastal permit under subsection (1), the Minister must establish processes and methods for determining the appropriate value of the coastal permit.
- (4) Without limiting subsection (3), the processes and methods must—
  - (a) avoid increasing demand for coastal permits which would increase the value of the space; and
  - (b) reduce the risk of collusion among sellers of coastal permits; and
  - (c) be cost effective for the Crown; and
  - (d) assess the average current value of space in the part of the coastal marine area concerned.

Section 27(3): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## **28 Payment of financial equivalent**

Before making a payment under section 22(3)(c), the Minister must have regard to section 27(2) and must go through the process and apply the methods referred to in section 27(3) and (4) to establish what the appropriate payment should be.

Section 28: amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

## **29 Purchase of coastal permits to occupy space for aquaculture activities, including purchase of improvements**

- (1) If the Crown purchases a coastal permit to occupy space for aquaculture activities and the purchase includes improvements in the space, the Crown—
  - (a) is not required to allocate the improvements to the trustee; but
  - (b) may provide to the trustee a right of first refusal to purchase the improvements.

- (2) If the Crown does provide to the trustee a right of first refusal to purchase the improvements, the trustee may do so only if it has the agreement of the iwi aquaculture organisations concerned.
- (3) The trustee must not transfer the improvements to an iwi aquaculture organisation except in accordance with sections 48 and 49.
- (4) A right of first refusal to purchase the improvements expires—
  - (a) on a date specified in the right of first refusal for that purpose; or
  - (b) if no date is specified, then 30 days after the right of first refusal is given to the trustee.

### **29A Regional agreements**

- (1) The Crown may enter into an agreement (including by deed) in respect of 1 or more regions of regional councils, or of 1 or more harbours listed in Schedule 2, with the parties specified in subsection (2) if the Crown and those parties all agree that the Crown's obligation under section 22(1) will be satisfied in respect of those regions and harbours on the terms set out in the agreement.
- (2) The parties referred to in subsection (1) are—
  - (a) the iwi aquaculture organisations of all iwi whose area of interest includes a region or harbour covered by the agreement; or
  - (b) for any iwi referred to in paragraph (a) that do not have iwi aquaculture organisations, the recognised iwi organisations of those iwi.
- (3) A regional agreement must include—
  - (a) the trustee as a party to the agreement in order to confirm that the agreement has been entered into by the parties specified in subsection (2); or
  - (b) a provision that the agreement is conditional on the trustee confirming that the agreement has been entered into by those parties.
- (4) To avoid doubt, a regional agreement is enforceable as a contract in accordance with its terms.
- (5) Section 22(3)(c) does not prevent the Crown from making a payment to the trustee under a regional agreement before 1 January 2013.
- (6) No court or tribunal has jurisdiction to inquire into the quantification or the adequacy of the benefits to be provided by or under a regional agreement.
- (7) However, subsection (6) does not exclude the jurisdiction of a court or tribunal in respect of the interpretation or enforcement of a regional agreement.

Section 29A: inserted, on 30 March 2010, by section 8 of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

### **30 Entry on iwi aquaculture register**

- (1) When the trustee receives settlement assets under this Act, it must record the settlement assets in the iwi aquaculture register.

- (2) Any settlement assets in an aquaculture management area in a harbour listed in Schedule 2 must be recorded as harbour settlement assets.
- (3) All other settlement assets must be recorded as coastal settlement assets.
- (4) Information recorded in the register under this section must include the type of asset, the size of the asset, the location of the asset, and the region of the regional council in which the asset is located.

### **31 Registered entitlements to settlement assets**

- (1) An iwi aquaculture organisation, in order to obtain settlement assets under this Act, must be a party to an agreement referred to in section 45(4) or must make claims for settlement assets allocation entitlements for its iwi in accordance with Schedule 1.
- (2) Settlement assets allocation entitlements must be—
  - (a) determined by the trustee in accordance with section 45(4) or Schedule 1; and
  - (b) recorded by the trustee on the iwi aquaculture register.
- (3) Registered settlement assets allocation entitlements are created under this Act for the sole purpose of calculating the amount of settlement assets to be allocated to iwi under this Act.
- (4) A registered settlement assets allocation entitlement binds the iwi concerned in relation to the allocation of settlement assets within the regional coastline or harbour concerned as determined by the trustee in accordance with section 45(4) or Schedule 1.
- (5) However, the registered settlement assets allocation entitlements do not—
  - (a) bind the iwi to which they relate or any other iwi in any matter that is before the Waitangi Tribunal, the Maori Land Court, or any other court, other than under this Act; or
  - (b) bind, compromise, advantage or disadvantage, or operate as a precedent for any other matter; or
  - (c) affect any customary rights, aboriginal title rights, or any rights arising under the Treaty of Waitangi in relation to any other matter.

Section 31(4): substituted, on 30 March 2010, by section 9 of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

#### *Iwi aquaculture organisations*

### **32 Functions and powers of iwi aquaculture organisations**

- (1) Under this Act, an iwi aquaculture organisation must—
  - (a) act for the benefit of all the members of the iwi, irrespective of where those members reside; and
  - (b) perform the functions and duties conferred on it by or under this Act.

- (2) An iwi aquaculture organisation may—
- (a) directly receive and hold, on behalf of its iwi, settlement assets allocated to the iwi by the trustee under this Act;
  - (b) if relevant, enter into agreements with other iwi aquaculture organisations in relation to the allocation of settlement assets;
  - (ba) enter into regional agreements;
  - (c) establish companies to undertake aquaculture activities;
  - (d) perform other functions contemplated by or provided for by or under this Act.
- (3) An iwi aquaculture organisation must not undertake commercial aquaculture activities except through a separate enterprise that is responsible to the organisation.

Section 32(2)(ba): inserted, on 30 March 2010, by section 10 of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

### 33 Recognition of iwi aquaculture organisations

- (1) The trustee must recognise an iwi aquaculture organisation and record its recognition in the iwi aquaculture register only if—
- (a) the iwi aquaculture organisation is a mandated iwi organisation under the Maori Fisheries Act 2004; and
  - (b) the trustee is satisfied that the constitution of the organisation authorises the organisation to act on behalf of its iwi in relation to aquaculture claims and settlement assets under this Act; and
  - (c) in the case of a joint mandated iwi organisation (as defined in section 5 of the Maori Fisheries Act 2004), the trustee is satisfied that the constitution of the organisation includes a process for determining the division of settlement assets between the organisation and a withdrawing group (as defined in section 19 of that Act).
- (2) The trustee must recognise a new iwi aquaculture organisation and record its recognition in the iwi aquaculture register in place of another iwi aquaculture organisation (an **existing iwi aquaculture organisation**) if—
- (a) the new iwi aquaculture organisation is entitled to be recognised under subsection (1); and
  - (b) before becoming a mandated iwi organisation under the Māori Fisheries Act 2004, the existing iwi aquaculture organisation notified the members of the iwi of the proposed replacement and of the effect of that replacement in terms of subsections (3) and (4).
- (3) On and from the time when the new iwi aquaculture organisation is recognised in place of the existing iwi aquaculture organisation under subsection (2), all rights and interests of the existing iwi aquaculture organisation under this Act become the rights and interests of the new iwi aquaculture organisation.

- (4) Without limiting subsection (3),—
- (a) any regional agreement entered into under section 10 by the existing iwi aquaculture organisation is to be treated as having been entered into by the new iwi aquaculture organisation; and
  - (b) any entitlement, claim, agreement, or written statement in respect of the allocation of settlement assets made or entered into by the existing iwi aquaculture organisation is to be treated as having been made or entered into by the new iwi aquaculture organisation; and
  - (c) any settlement assets held by the existing iwi aquaculture organisation become the settlement assets of the new iwi aquaculture organisation; and
  - (d) any settlement assets held by an enterprise under section 32(3) for the existing iwi aquaculture organisation are to be held for the new iwi aquaculture organisation.
- (5) To avoid doubt, section 50 does not apply to settlement assets that become the settlement assets of the new iwi aquaculture organisation by subsections (3) and (4).

Section 33(2): added, on 1 October 2011, by section 12 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 33(3): added, on 1 October 2011, by section 12 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 33(4): added, on 1 October 2011, by section 12 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 33(5): added, on 1 October 2011, by section 12 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

### *Maori Commercial Aquaculture Settlement Trust*

#### **34 Maori Commercial Aquaculture Settlement Trust established**

This section establishes a trust to be called the Maori Commercial Aquaculture Settlement Trust (**the trust**).

#### **35 Purpose of trust**

The purpose of the trust is to—

- (a) receive settlement assets from the Crown or regional councils; and
- (b) hold and maintain settlement assets on trust until they are transferred to an iwi aquaculture organisation; and
- (c) allocate settlement assets to iwi on the basis of a model set out in this Act; and
- (d) facilitate steps by iwi to meet the requirements for the allocation of settlement assets; and

- (e) perform any functions that are necessary or desirable to facilitate consultation between the Crown and iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations for the purposes of sections 8 to 18.

Section 35(d): amended, on 1 October 2011, by section 13(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 35(e): added, on 1 October 2011, by section 13(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

### **36 Annual plan**

The trustee must prepare an annual plan.

### **37 Trustee of trust**

The trustee is the trustee of the trust.

### **38 Duties of trustee**

- (1) The trustee must administer the settlement assets in accordance with this Act, including performing the following duties:
  - (a) allocating and transferring settlement assets:
  - (b) holding and administering settlement assets pending their allocation and transfer:
  - (c) determining allocation entitlements:
  - (d) maintaining an iwi aquaculture register and providing access to the register:
  - (e) facilitating steps by iwi organisations to be recognised as iwi aquaculture organisations:
  - (f) facilitating steps by iwi aquaculture organisations to reach agreement—
    - (i) under section 45(4); and
    - (ii) about coastline and harbour claims for settlement assets allocation entitlements; and
    - (iii) about the allocation and transfer of settlement assets:
  - (g) notifying coastal endpoints in the *Gazette*.
- (2) The trustee may undertake additional activities for related or ancillary purposes (such as facilitating and co-ordinating the development and use of settlement assets, and representing the interests of iwi) if the iwi concerned agree to the trustee doing so.
- (2A) The trustee may also enter into a regional agreement or otherwise agree to be bound by a regional agreement, and perform obligations and exercise rights under or in relation to the agreement.
- (2B) The trustee, in performing its functions under section 35(e), must consult the iwi aquaculture organisations, mandated iwi organisations, and recognised iwi



organisations of those iwi that it considers, on reasonable grounds, have an interest in the relevant region.

- (3) The reasonable costs and expenses of the trustee in performing its duties under subsection (1) or its obligations referred to in subsections (2A) and (2B) are to be paid out of money appropriated by Parliament for that purpose.

Section 38(2A): inserted, on 30 March 2010, by section 11(1) of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

Section 38(2B): inserted, on 1 October 2011, by section 14(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 38(3): amended, on 1 October 2011, by section 14(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 38(3): amended, on 30 March 2010, by section 11(2) of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

### **39 Reporting requirements of trustee**

- (1) In measuring its performance against the annual plan, the trustee must report annually, not later than 5 months after the end of each financial year, to iwi aquaculture organisations, recognised iwi organisations, and the chief executive of the Ministry of Fisheries.
- (2) In each annual report, the trustee must describe key activities undertaken by the trustee in relation to settlement assets and include the trustee's audited financial statements.

### **40 Reporting obligation**

- (1) The trustee must—
- (a) hold a general meeting, not later than 8 months after the end of each financial year, to discuss and address issues arising from the annual report; and
  - (b) provide, in a timely manner, to iwi aquaculture organisations, recognised iwi organisations, and the chief executive of the Ministry of Fisheries—
    - (i) the minutes of every general meeting; and
    - (ii) the annual report required by section 39, together with information on where the report is publicly available; and
    - (iii) the annual plan required by section 36.
- (2) This section does not limit any reporting obligations arising under any other enactment or rule of law.

### **41 Obligation to establish and maintain iwi aquaculture register**

- (1) The trustee must establish and maintain an iwi aquaculture register.
- (2) The purpose of the iwi aquaculture register is to provide a record, in respect of each iwi, of the matters set out in subsection (3).

- (3) Without limiting the scope of the iwi aquaculture register, the trustee must record in the iwi aquaculture register its decisions regarding—
- (a) its recognition of iwi aquaculture organisations; and
  - (b) its determinations of settlement assets allocation entitlements; and
  - (c) the receipt of settlement assets from the Crown, including—
    - (i) their description and location; and
    - (ii) how they are recorded under section 30(2) and (3); and
    - (iii) any decisions of the trustee that affect the potential value and risk profile of the settlement assets; and
    - (iv) allocation of settlement assets to iwi aquaculture organisations or their nominees and the transfer of settlement assets to iwi aquaculture organisations or their nominees; and
    - (v) transfer of settlement assets by or to iwi organisations; and
    - (vi) any changes in the status of settlement assets; and
    - (vii) the details required by section 51.

#### **42 Documentation relating to iwi aquaculture register**

The trustee must preserve, for not less than 12 years after the date when the document comes into existence, every document relevant to the iwi aquaculture register, in respect of—

- (a) documents submitted in making a claim under section 31; and
- (b) records of the process by which settlement assets allocation entitlements are determined by the trustee; and
- (c) other documents that the trustee considers relevant to the matters set out in section 41.

#### **43 Access to iwi aquaculture register**

The iwi aquaculture register must be available for access upon request by—

- (a) an iwi aquaculture organisation;
- (b) a member of an iwi that has an iwi aquaculture organisation;
- (c) a recognised iwi organisation;
- (d) the chief executive of the Ministry of Fisheries;
- (e) the chief executive of a regional council.

*Allocation of settlement assets*

**44 Determinations and allocations generally**

- (1) The trustee must make its determinations as to settlement assets allocation entitlements and its allocation of settlement assets separately on the basis of the region of each regional council and each harbour listed in Schedule 2.
- (2) However, if a written agreement referred to in section 45(4) covers more than 1 region or harbour, the trustee may make its determinations as to settlement assets allocation entitlements and its allocation of settlement assets collectively on the basis of the regions and harbours covered by the agreement.
- (3) For a region or harbour, the trustee must make either—
  - (a) a single determination for all of the settlement assets of the region or harbour; or
  - (b) 1 or more determinations for the settlement assets of the region or harbour covered by a regional agreement and a single determination for all the other settlement assets of the region or harbour.
- (4) The trustee may amend a determination to give effect to a written agreement referred to in section 45(4) to the extent that the agreement relates to settlement assets under a regional agreement that was entered into after the written agreement and, if it does so, the amendment becomes a determination of settlement assets allocation entitlements.

Section 44: substituted, on 30 March 2010, by section 12 of the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8).

**45 Allocation of assets to iwi of region**

- (1) For the purposes of this section and sections 46 to 51,—
  - (a) in the case of the Waikato and Manawatu–Wanganui regions, the east coast and west coast of each region are to be treated as separate regions:
  - (b) in any case where the boundaries of a region change after settlement assets are created but before they are allocated, the settlement assets must be allocated on the basis of the boundaries of the region as at the time the settlement assets were created.
- (2) Settlement assets must be allocated—
  - (a) only to iwi whose territory abuts the coastline of the region in which the assets are situated; and
  - (b) in accordance with settlement assets allocation entitlements determined and registered under section 31.
- (3) The trustee must not determine settlement assets allocation entitlements in relation to a region until all iwi entitled to make a claim for assets in the region have had iwi aquaculture organisations recognised by the trustee, except in circumstances where the trustee exercises the discretion under section 49B.

- (4) During the period specified in subsection (4A), the trustee may determine settlement assets allocation entitlements only on the basis of a written agreement of all the iwi aquaculture organisations for the region.
- (4A) The period is 12 months after—
- (a) the trustee has recognised iwi aquaculture organisations for all the iwi of the region; and
  - (b) the first of the settlement assets for the region has been allocated to the trustee.
- (5) Before determining the settlement assets allocation entitlements on the basis of a written agreement referred to in subsection (4), the trustee must be satisfied that all iwi aquaculture organisations for the region are parties to the agreement.

Section 45(1): substituted, on 1 October 2011, by section 15(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 45(3): amended, on 12 April 2022, by section 5 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

Section 45(4): amended, on 1 October 2011, by section 15(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 45(4A): inserted, on 1 October 2011, by section 15(3) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

#### **46 Criteria for agreement**

In reaching an agreement for the purposes of sections 48 and 49, the iwi aquaculture organisations must have regard to—

- (a) whether all iwi will be treated equitably based on the value and quality of the settlement assets to be transferred to them; and
- (b) the desirability of allocating settlement assets that are of an economic size.

#### **47 Basis of allocation of settlement assets**

- (1) The trustee must determine settlement assets allocation entitlements in accordance with this section and Schedule 1 if,—
- (a) by the end of the 12-month period specified in section 45(4A), the iwi aquaculture organisations have not made a written agreement; and
  - (b) at any time after the end of the 12-month period specified in section 45(4A), an iwi aquaculture organisation notifies the trustee in writing that it does not intend to enter into a written agreement.
- (2) When allocating coastal settlement assets, the trustee must allocate to each iwi the same proportion of settlement assets for the regional coastline that the iwi coastline bears to the total regional coastline as described in a settlement assets allocation entitlement determined in accordance with section 31 and Schedule 1.

- (3) The trustee must allocate to an iwi whose territory abuts a harbour specified in Schedule 2 settlement assets in the harbour.
- (4) If more than 1 iwi has its territory abutting a harbour specified in Schedule 2, the iwi aquaculture organisations of those iwi must take all reasonable steps—
  - (a) to consult each other:
  - (b) to agree on the proportion of the harbour settlement assets for the harbour that must be attributed to each iwi and used subsequently by the iwi aquaculture organisation of each iwi in submitting claims for settlement assets allocation entitlements for that harbour.
- (5) If, after negotiating in good faith, the iwi aquaculture organisations cannot reach agreement under subsection (4), they may enter into the dispute resolution process provided for in sections 52 to 55.

Section 47(1): substituted, on 1 October 2011, by section 16 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

#### **48 Allocation of settlement assets**

- (1) This section applies when all settlement assets allocation entitlements in relation to a regional coastline or harbour have been determined.
- (2) A settlement asset may be allocated only in accordance with—
  - (a) an agreement of the iwi aquaculture organisations of all the relevant iwi; or
  - (b) failing that agreement,—
    - (i) a determination under sections 52 to 55; or
    - (ii) an exercise of the trustee’s discretion under section 49B.
- (3) After the allocation of a settlement asset under subsection (2), the trustee must transfer the settlement assets to the iwi aquaculture organisations concerned in accordance with the agreement, determination, or exercise of discretion, as the case may be.
- (4) However, subsection (3) does not prevent the trustee from transferring a settlement asset in accordance with section 50.

Section 48(2)(b): replaced, on 12 April 2022, by section 6(1) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

Section 48(3): amended, on 12 April 2022, by section 6(2) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

#### **49 Partial allocation of settlement assets**

- (1) An iwi aquaculture organisation may request the trustee to make a partial allocation of settlement assets if—
  - (a) the iwi’s allocation entitlement for the settlement assets has been determined, but the entitlement of 1 or more other iwi to the settlement assets is yet to be determined; or

- (b) the iwi's allocation entitlement to a portion, but not all, of the settlement assets has been determined; or
  - (c) the trustee has earlier made an allocation and transfer under section 49B(1) and subsequently the relevant iwi aquaculture organisations have reached agreement on allocation of the residual assets.
- (2) The trustee may make a partial allocation of settlement assets only in accordance with—
- (a) an agreement of the iwi aquaculture organisations of all the relevant iwi; or
  - (b) failing that agreement,—
    - (i) a determination under sections 52 to 55; or
    - (ii) an exercise of the trustee's discretion under section 49B.
- (3) If the trustee makes a partial allocation of settlement assets under this section, the trustee—
- (a) must transfer settlement assets to any iwi aquaculture organisation—
    - (i) whose entitlement to the assets has been determined; or
    - (ii) in respect of which the trustee's discretion has been exercised in accordance with section 49B and who has requested in writing that the trustee do so; but
  - (b) must not transfer settlement assets in respect of which the conditions set out in paragraph (a)(i) or (ii) have not been met.
- (4) However, subsection (3) does not prevent the trustee from transferring a settlement asset in accordance with section 50.
- (5) A partial allocation under subsection (2) must specify the relevant iwi aquaculture organisations with respect to the residual assets.

Section 49: replaced, on 12 April 2022, by section 7 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

#### **49A Circumstances in which trustee has discretion to allocate and transfer assets**

The discretion provided to the trustee in section 49B may be exercised—

- (a) when the period specified in section 45(4A)—
  - (i) has expired at least 12 months earlier; or
  - (ii) has not commenced because—
    - (A) the trustee has not recognised an iwi aquaculture organisation for 1 or more iwi of the region; and
    - (B) 24 months have passed since the first of the settlement assets for the region was allocated to the trustee; and

- (b) if any iwi aquaculture organisation does not hold the registered settlement assets allocation entitlements—
  - (i) that are determined and registered under section 31, as referred to in section 45(2)(b); or
  - (ii) that are determined in accordance with section 49B, as referred to in section 48(2)(b)(ii); or
  - (iii) that are determined in accordance with sections 52 to 55, as referred to in section 49(2)(b)(i); or
  - (iv) by the agreement of the iwi aquaculture organisations of all the relevant iwi in respect of the allocation of the settlement assets.

Section 49A: inserted, on 12 April 2022, by section 7 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

#### **49B Discretion to allocate and transfer assets**

- (1) In the circumstances specified in section 49A, the trustee may, in accordance with section 48(3), allocate and transfer any settlement assets to any iwi aquaculture organisation.
- (2) However, a transfer of settlement assets under subsection (1) must be made in proportion to the length of coastline of the relevant iwi who agree on a partial allocation and that the trustee is satisfied is unlikely to be disputed.
- (3) This section overrides anything to the contrary in sections 44 to 49.

Section 49B: inserted, on 12 April 2022, by section 7 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

#### **49C Limitations applying if iwi aquaculture organisation receives settlement assets under section 49B**

- (1) An iwi aquaculture organisation, or a new organisation recognised in place of that organisation under section 33(2), to which settlement assets in the form of authorisations or coastal permits are transferred under section 49B—
  - (a) must not sell, exchange, or otherwise transfer the assets until it holds registered settlement assets allocation entitlements for the assets; and
  - (b) must transfer the relevant portion of those assets to another iwi aquaculture organisation that becomes entitled to any portion of the assets, as a result of holding a registered settlement assets allocation entitlement,—
    - (i) without consideration or compensation; and
    - (ii) within 12 months after being notified of the entitlement.
- (2) This section applies in addition to, and does not limit, section 50.

Section 49C: inserted, on 12 April 2022, by section 7 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

**49D Notification of determination to allocate and transfer assets under section 49B**

When the trustee has determined to allocate and transfer assets in accordance with section 49B, the trustee must notify, in writing, the iwi aquaculture organisations of the relevant iwi and, if a relevant iwi does not have an iwi aquaculture organisation, any recognised iwi organisation of the iwi, of—

- (a) the nature of the determination that has been made; and
- (b) the principal reasons for the determination; and
- (c) the right to dispute the determination under section 49E.

Section 49D: inserted, on 12 April 2022, by section 7 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

**49E Implementation of determination**

- (1) The trustee must not implement a determination made under section 49B unless—
  - (a) 30 working days have passed since notice of the determination was given under section 49D; and
  - (b) within that time, no iwi aquaculture organisation of a relevant iwi or recognised iwi organisation (for a relevant iwi that does not have an iwi aquaculture organisation) has initiated the dispute resolution process under sections 53 to 55.
- (2) A dispute under section 52(ca) must be notified within the period referred to in subsection (1)(a) to—
  - (a) the trustee; and
  - (b) the iwi aquaculture organisations of all relevant iwi; and
  - (c) the recognised iwi organisation of a relevant iwi that does not have an iwi aquaculture organisation.
- (3) Despite subsection (1), the trustee may implement a determination under section 49B at any time—
  - (a) to the extent that it can be implemented without depriving an iwi aquaculture organisation of a relevant iwi or recognised iwi organisation (for a relevant iwi that does not have an iwi aquaculture organisation) that disputes the determination of the benefit of the dispute resolution process under sections 53 to 55 or any remedy available under the process; or
  - (b) if the iwi aquaculture organisation of each relevant iwi or each recognised iwi organisation (for relevant iwi that do not have an iwi aquaculture organisation) notifies the trustee in writing within the period referred to in subsection (1)(a) that the organisation does not intend to invoke the dispute resolution process.



- (4) A waiver notified in accordance with subsection (3)(b) is binding on the iwi aquaculture organisation or recognised iwi organisation that issues it.

Section 49E: inserted, on 12 April 2022, by section 7 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

## **50 Transfer of authorisations or coastal permits**

- (1) An iwi aquaculture organisation or a company under the Companies Act 1993 that is wholly owned by the iwi aquaculture organisation may transfer or ask the trustee to transfer authorisations or coastal permits that are settlement assets only if, before the transfer, the iwi aquaculture organisation or company has—
- (a) given notice of the proposed transfer to the adult members of the iwi; and
  - (b) obtained the prior approval of not less than 75% of the adult members of the iwi who vote—
    - (i) at a general meeting of the iwi aquaculture organisation called for the purpose; or
    - (ii) by postal ballot.
- (2) However, subsection (1) does not apply to a transfer of settlement assets by the iwi aquaculture organisation or trustee if the settlement assets are transferred to a company under the Companies Act 1993 that is wholly owned by—
- (a) the iwi aquaculture organisation; or
  - (b) the iwi aquaculture organisation and other iwi aquaculture organisations in the region, but only if the transfer is approved by the iwi aquaculture organisation before the settlement assets are transferred.
- (3) A notice given under subsection (1)(a) must specify—
- (a) the approximate proportion of the total value of settlement assets held by the iwi aquaculture organisation that is affected by the proposed transfer; and
  - (b) the settlement assets affected by the proposed transfer; and
  - (c) a reasonable estimate of the likely market value of the settlement assets affected.
- (4) An approval obtained under subsection (1)(b) may authorise the iwi aquaculture organisation or company to transfer or ask the trustee to transfer—
- (a) specified settlement assets; or
  - (b) not more than a specified proportion of settlement assets.
- (5) An approval obtained under subsection (1)(b)—
- (a) has effect on and from the date on which it is given; and
  - (b) expires 12 months after that date.

- (6) This section applies subject to sections 135 and 165S of the Resource Management Act 1991.
- (7) In this section,—
- adult** means a person who is 18 years of age or over
- general meeting** means an annual or special meeting of an iwi aquaculture organisation that—
- (a) all adult members of the iwi are entitled to attend; and
- (b) complies with the constitutional documents of the iwi aquaculture organisation

**member of an iwi** has the same meaning as in section 5 of the Maori Fisheries Act 2004.

Section 50(2): substituted, on 1 October 2011, by section 17 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 50(6): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

## 51 Transfer of settlement assets to be entered on iwi aquaculture register

- (1) The trustee must enter on the iwi aquaculture register details of every transfer of settlement assets made by the trustee or an iwi aquaculture organisation that is subject to section 50(1).
- (2) For the purpose of subsection (1), an iwi aquaculture organisation must notify the trustee of the details of a transfer of settlement assets that is subject to section 50(1) as soon as practicable after the transfer is made.

### *Dispute resolution*

## 52 Application

Sections 53 to 55 apply to disputes between the following parties over the following matters:

- (a) between the trustee and an iwi over whether an organisation should be recognised or continue to be recognised by the trustee as an iwi aquaculture organisation:
- (b) between iwi aquaculture organisations over information to be used to support a claim under Schedule 1:
- (c) between the trustee and 1 or more iwi aquaculture organisations over a determination of settlement assets allocation entitlements under section 45(4) or of a coastline or harbour settlement assets allocation entitlement under Schedule 1:
- (ca) between the trustee and 1 or more iwi aquaculture organisations or a recognised iwi organisation (for a relevant iwi that does not have an iwi aquaculture organisation) over an exercise of the trustee's discretion

under section 49B (including, with respect to a partial allocation under section 49, the trustee's specification of which iwi aquaculture organisations are relevant iwi aquaculture organisations under section 49(5)):

- (d) between iwi aquaculture organisations over the proportional allocation of entitlements to be attributed to iwi in relation to a harbour listed in Schedule 2:
- (e) between iwi aquaculture organisations over the allocation of settlement assets under section 48 or section 49:
- (f) between an adult member of an iwi and the iwi over whether, in relation to a matter within the scope of this Act, a decision, act, or omission of the iwi's aquaculture organisation complies or is consistent with this Act or the constitutional documents or policies of the iwi aquaculture organisation.

Section 52(ca): inserted, on 12 April 2022, by section 8 of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15).

### **53 Resolution of disputes**

If a dispute arises in relation to a matter referred to in section 52 and the parties are unable, within a reasonable time, to resolve the dispute, they must, acting in good faith,—

- (a) endeavour to agree on a process for resolving the dispute, including (but not limited to) all or any of the following:
  - (i) further negotiations:
  - (ii) mediation:
  - (iii) determination of the dispute by an independent expert; and
- (b) before proceeding to take any other action under this subpart, engage in the process agreed under paragraph (a).

### **54 Reference to Maori Land Court**

- (1) This section applies if resolution is unable to be reached under section 53.
- (2) A party to a dispute may refer the dispute to the Maori Land Court under section 26P of Te Ture Whenua Maori Act 1993 to obtain—
  - (a) advice on an appropriate dispute resolution process for the purposes of section 53:
  - (b) a non-binding ruling on a question of fact or law to assist in the conduct of the dispute resolution process.
- (3) The Maori Land Court may make a determination under section 26Q of Te Ture Whenua Maori Act 1993 if, on a reference to it under subsection (2), it is of the view that the parties have taken reasonable steps to resolve a dispute resolution process provided for under section 53.

**55 Effect of right to make reference to Maori Land Court**

- (1) This section applies to a dispute that may be referred to the Maori Land Court under section 54.
- (2) Until the dispute has been determined under section 26Q of Te Ture Whenua Maori Act 1993 and all rights of appeal for that matter have been exercised in full, a person who is a party to the matter or order must not—
  - (a) apply for review under the Judicial Review Procedure Act 2016; or
  - (b) commence proceedings for a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision.

Section 55(2)(a): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

*Miscellaneous provisions***56 Further redress if disproportionate reduction in space in relation to settlement assets**

- (1) This section applies if—
  - (a) a regional coastal plan is changed; and
  - (b) the change has the effect of reducing space available in the coastal marine area for aquaculture activities; and
  - (c) the effect of the reduction in relation to settlement assets of an iwi aquaculture organisation in a region is disproportionately greater than the overall reduction of space in the region for aquaculture activities.
- (2) If this section applies, the iwi aquaculture organisation may apply to the Minister to provide for redress.
- (3) If the Minister is satisfied that there has been a disproportionate effect as referred to in subsection (1)(c), the Minister must provide redress by way of financial equivalent.

Section 56(2): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 56(3): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

**57 Aquaculture settlement register**

- (1) The chief executive of the Ministry of Fisheries must keep and maintain an aquaculture settlement register, and enter in the register information prescribed by regulations.
- (2) The chief executive is not required to verify the accuracy of the information entered in the register.

## 58 Regulations

- (1) The Governor-General may by Order in Council make regulations—
- (a) requiring regional councils, the trustee, and iwi aquaculture organisations to provide information to the chief executive of the Ministry of Fisheries in order to assist the Crown to meet its obligations under this Act; and
  - (b) providing for the chief executive of the Ministry of Fisheries to keep the information provided under paragraph (a) in a register; and
  - (c) providing for—
    - (i) annual reports and annual plans to be prepared by the trustee; and
    - (ii) the auditing of the operations of the trust; and
    - (iii) additional requirements in relation to the trustee’s accountability to iwi aquaculture organisations; and
    - (iv) additional requirements in relation to keeping and maintaining the aquaculture settlement register; and
    - (v) any other additional requirements in relation to the role of the trustee under this Act; and
  - (d) providing for notation referring to settlement space on authorisations and coastal permits transferred to the trustee for allocation to iwi aquaculture organisations.
- (2) Regulations made under subsection (1)(c) may be made only on the recommendation of the Minister after consulting the trustee.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 58(2): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 58(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 59 Certain harbours to be added to Schedule 2

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 2 to add references to Admiralty Bay, Port Gore, and Port Underwood.

- (2) The Minister must make a recommendation under subsection (1) as soon as practicable after the relevant details about Admiralty Bay, Port Gore, and Port Underwood have been determined.
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 59(1): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 59(2): amended, on 1 October 2011, by section 4(4) of the Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69).

Section 59(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **60 Amendments to Foreshore and Seabed Act 2004**

- (1)–(4) *Amendment(s) incorporated in the Act(s).*
- (5) Subsection (1) is deemed to have come into force on the commencement of section 18 of the Foreshore and Seabed Act 2004.

## Schedule 1

### Methodology for determination of settlement assets allocation entitlements

ss 21, 31, 47, 52

#### 1 Overview of methodology and status of examples

The methodology by which the allocation entitlement of iwi must be determined in respect of settlement assets comprises—

- (a) the process set out in clauses 2 to 10 which must be followed in making determinations under section 45; and
- (b) a geographic information system computation model, described in clauses 11 to 13, that is based on—
  - (i) a specified map database of the coastline of New Zealand; and
  - (ii) specified decision rules; and
  - (iii) matters relevant to creating and maintaining the computation model.

#### 2 Interpretation

In this schedule,—

**affected iwi** means, in relation to a coastal or harbour allocation claim, an iwi whose iwi aquaculture organisation has made, or is likely to make, claims that abut, overlap, or are contained within, the specified points used by the claimant iwi

**coastal boundary point** means any point on the mean high-water mark whose co-ordinates are defined under the Fisheries Act 1996

**coastal endpoint** means a point on the mean high-water mark that is determined by the description of a regional planning area in the relevant deposited plan notified in the *Gazette* under the Local Government Act 2002

**harbour entrance point** means a point on the mean high-water mark on either the northern or southern entrance point of a harbour listed in Schedule 2

**regional coastline** means—

- (a) the coastline of the planning area of a regional council; and
- (b) in the case of the Manawatu-Wanganui or Waikato regional councils, the coastlines of the east coast and west coast of the planning area separately.

## Part 1

### Determination of allocation entitlements

#### *Process for making allocation entitlement claim*

#### **3 Method of making claim for allocation entitlement**

- (1) To enable the trustee to make a determination of the settlement assets allocation entitlements of an iwi as required by section 45, the iwi aquaculture organisation of the iwi must submit to the trustee—
  - (a) a coastal claim for each regional coastline the rohe of the iwi abuts, that is not within any of the harbours listed in Schedule 2; and
  - (b) a harbour claim for each harbour listed in Schedule 2 within which the rohe of the iwi abuts high-water mark.
- (2) Each claim must identify—
  - (a) the regional coastline or harbour to which the claim pertains; and
  - (b) 2 specified points on the coastline, each of which must be—
    - (i) a coastal boundary point; or
    - (ii) a coastal endpoint; or
    - (iii) a harbour entrance point; or
    - (iv) a point on the mean high-water mark with co-ordinates certified by a registered cadastral surveyor; and
  - (c) a percentage representing the proportion of the coastline between the 2 specified points that the iwi aquaculture organisation is claiming for that regional coastline or harbour; and
  - (d) all affected iwi for that claim.
- (3) In the case of a harbour claim, for the purposes of subclause (2)(b), the points must be the entrance points of the harbour.
- (4) A group of claims submitted by an iwi aquaculture organisation under this clause may cover all, or only some, of the claims that the iwi is entitled to make.

#### **4 Endorsements required in support of claim**

- (1) Any claim submitted under clause 3 must be accompanied by endorsements from the iwi aquaculture organisation of each iwi that is an affected iwi in respect of the claim.
- (2) Endorsements may be presented in the form of either or both of the following:
  - (a) copies of signed multi-party iwi aquaculture organisation agreements that include the affected iwi;
  - (b) signed written statements from the iwi aquaculture organisations of the affected iwi.



- (3) Agreements or statements presented under subclause (2) must set out—
- (a) the regional coastlines and harbours for which the iwi is an affected iwi for the purpose of the claims being made; and
  - (b) for each regional coastline and harbour the agreement of the iwi aquaculture organisation of the affected iwi to the specified point or points in respect of which it is an affected iwi; and
  - (c) for each regional coastline and harbour for which the iwi aquaculture organisation of the affected iwi has made, or intends to make, a claim for a settlement assets allocation entitlement between the specified points identified by the claimant, the agreement of the iwi aquaculture organisation of the affected iwi to the percentage submitted by the claimant iwi.
- (4) The co-ordinates of all specified points, except harbour entrance points, coastal endpoints, or coastal boundary points, must be supported in a report from a registered cadastral surveyor.
- (5) If any part of a claim has been the subject of dispute resolution under clause 7, the documentation of that process may be used to support a claim instead of the endorsements referred to in subclause (1), but the documentation must clearly set out the information required under subclause (3).

## **5 Agreements**

Before an iwi aquaculture organisation submits a claim under clause 3 to the trustee, it must take reasonable steps to reach agreements, in relation to the data required by clause 3(2), with every affected iwi as to the matters set out under clause 4(3).

## **6 Registration of agreements**

- (1) An iwi aquaculture organisation may, at any time, request the trustee to verify and subsequently place on the iwi aquaculture register any agreement made by iwi aquaculture organisations relating to aquaculture claims to which it is a party.
- (2) If a request is made under subclause (1), the trustee must attempt to verify the agreement by the application of the procedures set out in clause 8.
- (3) If the trustee is able to verify an agreement under subclause (2), it must record the details of the agreement on the iwi aquaculture register.
- (4) The registration of an agreement under this clause binds the parties to the terms of the agreement for any coastline claims to which it is relevant, unless the agreement is withdrawn by written consent of all the parties.

## **7 Dispute resolution**

- (1) If an iwi aquaculture organisation is unable to reach an agreement required by clause 5, the dispute must be resolved in accordance with sections 52 to 55.

- (2) Once resolutions are reached under the dispute resolution process,—
- (a) the points and percentages settled in that process must be included in any relevant claim submitted under clause 3(1); and
  - (b) the signed documentation of the resolution of the dispute must be included with the endorsements of the claim required by clause 4(1).

*Process for verifying claims and determining entitlements*

**8 Verification of claim for entitlement**

- (1) After receiving a claim under clause 3, the trustee must—
- (a) attempt to verify that all the data required by clause 3 has been supplied for each regional coastline or harbour for which a claim is made; and
  - (b) attempt to verify that each specified point is—
    - (i) a coastal boundary point; or
    - (ii) a coastal endpoint; or
    - (iii) a harbour entrance point; or
    - (iv) shown as a co-ordinate that has been provided by, and is supported in a report from, a registered cadastral surveyor; and
  - (c) satisfy itself that,—
    - (i) for each claim, there are endorsements as required by clause 4(1); and
    - (ii) if a claim is for less than 100% of the coastline between specified points, the total of the percentages assigned to the iwi in the agreement supporting that claim is 100%; and
    - (iii) if any part of a claim has been the subject of a dispute resolution process in accordance with clause 7, there is appropriately authorised documentation of the outcome of the process to support the claim.
- (2) If the trustee is not able to verify an aspect of a claim, it must refer that matter back to the claimant.
- (3) A claimant may clarify the matter referred to it under subclause (2) and resubmit its coastline claim.

**9 Determination of coastal entitlements**

- (1) Before the determination of a coastal settlement assets allocation entitlement under this clause, the trustee must determine the length of the relevant regional coastline by applying the relevant 2 coastal endpoints, as notified in the *Gazette*, as input to the computation model described in Part 2 of this schedule.

- (2) When the trustee has verified the matters set out in clause 8(1)(a) and (b) and is satisfied of the matters set out in clause 8(1)(c), it must determine coastal settlement assets allocation entitlements as follows:
- (a) for each claim, the data representing the 2 specified points must be applied as input to the computation model to produce output that represents the coastline length between the 2 points; and
  - (b) using the length of the relevant regional coastline determined under subclause (1), the percentage of the regional coastline represented by the result obtained from the calculation under paragraph (a) must be determined; and
  - (c) the result obtained from the determination under paragraph (b) must be multiplied by the percentage set out in the claim, as required by clause 3(2)(c).
- (3) For each claim, the results obtained from calculations made under subclause (2)(c) describe the settlement asset allocation entitlement for the claimant iwi for the regional coastline that is the subject of the claim.

#### **10 Determination of harbour entitlements**

If, in relation to a harbour claim, the trustee has verified the matters set out in clause 8(1)(a) and (b) and is satisfied about the matters set out in clause 8(1)(c), the trustee must determine the harbour settlement assets allocation entitlement of the claimant to be the percentage set out in the claim as required by clause 3(2)(c).

## **Part 2 Computation model**

#### **11 Requirement for computation model**

- (1) Before making the first calculation of coastline lengths to be used to determine allocation entitlements for the purposes of section 45, the trustee must ensure that an appropriate computation model is created for the purpose of calculating coastline lengths between 2 specified co-ordinates on the mean high-water mark.
- (2) The trustee must ensure that, after the first application under clause 9 of the computation model to produce results to be used to determine a coastline entitlement, there are no alterations to—
- (a) the software, algorithms, or computer code of the model; or
  - (b) the specified baselines; or
  - (c) the specified decision rules; or
  - (d) the hardware platform for the model.

- (3) Subclause (2) does not exclude alterations to the model unless the alteration would mean that a recalculation of a coastline length, using the input data used for a completed determination under clause 9, would produce an output differing from the original result by more than 1%.
- (4) The trustee must ensure that the records of all input data applied to, and output data derived from, the computation model for determining coastline entitlements are preserved for not less than 10 years.

## 12 Specified baselines

- (1) The computation model used for determining allocation entitlements must use the following baselines:
  - (a) the map database created for the purpose by Land Information New Zealand from the 1:50 000 topographical map series; and
  - (b) the coastal endpoints as notified in the *Gazette* for each regional coastline; and
  - (c) the harbour entrance points listed in Schedule 2.
- (2) Coastlines must be defined along the line of the mean high-water mark.
- (3) If the regional planning area of a regional council is altered and, as a result, the coastal endpoints referred to in subclause (1)(b) no longer represent the points where the boundary of the regional planning area intersects the coastline, then the trustee must—
  - (a) redefine the coastal endpoints accordingly; and
  - (b) notify the new coastal endpoints in the *Gazette*; and
  - (c) recalculate the allocation entitlements of the iwi concerned in accordance with subclause (4).
- (4) For the purposes of subclause (3)(c), the trustee must—
  - (a) recalculate the allocation entitlements of the iwi concerned by using the data from the original verified claims of each iwi together with the new coastal endpoints; and
  - (b) record these new entitlements on the iwi aquaculture register together with the date of registration; and
  - (c) record the cancellation of the entitlements being replaced and the relevant date; and
  - (d) use the new entitlements only for the allocation of settlement assets received after the date on which the alteration to the planning area becomes operative.

## 13 Decision rules for computation model

The calculation of coastline lengths must be based on the following decision rules in relation to the specified geographical features:

*River mouth*

- (a) rivers are cut off where the mean high-water mark meets the natural entrance points of the river, and the distance across the river mouth is included in the coastline length:

*Bays*

- (b) a bay is an indentation of the coast—
  - (i) the area of which is not less than the area of a semicircle with a diameter drawn across the mouth of the indentation; and
  - (ii) the length of the diameter referred to in subparagraph (i) is 10 km or less:
- (c) the straight line drawn across the mouth of a bay is substituted for the actual coastline of the bay in the calculation of coastline length:
- (d) the presence of islands at the mouth of, or within, an indentation does not affect the calculations necessary to determine whether an indentation is a bay:

*Offshore islands*

- (e) an offshore island is a naturally formed area of land that, at mean high-water tides, is—
  - (i) surrounded by water; but
  - (ii) not submerged by water:
- (f) the coastlines of the following offshore islands must be counted as coastlines of the relevant regional coastlines:
  - (i) Stewart/Rakiura:
  - (ii) Great Barrier/Aotea:
  - (iii) Motiti:
- (g) the coastlines of other offshore islands must be counted as part of the relevant regional coastline if the trustee is satisfied that 1 or more iwi have—
  - (i) ahi kaaroa (both long-term and current habitation on the island); and
  - (ii) a traditional and separate fishery associated with the island; and
  - (iii) current occupation of the island, as shown by the presence of marae and other communal structures:

*Chatham Islands*

- (h) for the purpose of calculating the coastline in the Chatham Islands, only the coastlines of the following islands are relevant:
  - (i) Chatham Island; and
  - (ii) Pitt Island.

## Schedule 2

### Harbours and harbour entrance points

s 11(4)

Harbours	Entrance	Longitude	Latitude
<i>North Island</i>			
Parengarenga	North	172°59.355'	34°31.343'
	South	172°59.417'	34°31.846'
Houhora	North	173°09.348'	34°49.544'
	South	173°09.264'	34°49.641'
Rangaunu	North	173°15.772'	34°53.061'
	South	173°17.153'	34°51.843'
Mangonui	North	173°31.480'	34°58.927'
	South	173°31.680'	34°58.798'
Whangaroa	North	173°45.418'	35°0.127'
	South	173°46.011'	35°0.413'
Upper Bay of Islands—Te Puna Inlet	North	174°04.088'	35°11.740'
	South	174°04.244'	35°12.779'
Upper Bay of Islands—Waikare Inlet	North	174°04.665'	35°14.709'
	South	174°06.704'	35°15.135'
Whangaruru	North	174°22.531'	35°22.755'
	South	174°22.167'	35°24.886'
Whangarei	North	174°31.791'	35°51.841'
	South	174°30.057'	35°50.585'
Mangawhai	North	174°27.790'	35°53.984'
	South	174°27.674'	35°54.479'
Whitianga	North	175°44.852'	36°47.563'
	South	175°46.086'	36°49.305'
Tairua	North	175°52.061'	37°0.413'
	South	175°51.798'	37°0.527'
Tauranga—Katikati entrance	North	175°59.492'	37°28.002'
	South	175°59.745'	37°28.455'
Tauranga—Mt Maunganui entrance	North	176°09.646'	37°38.252'
	South	176°10.086'	37°38.246'
Ohiwa	North	177°08.751'	37°59.276'
	South	177°09.629'	37°59.377'
Aotea and Kawhia—Kawhia	North	174°46.862'	38°05.191'
	South	174°46.460'	38°05.391'
Aotea and Kawhia—Aotea	North	174°47.829'	38°01.084'
	South	174°47.981'	38°01.189'
Raglan	North	174°50.465'	37°48.089'
	South	174°50.497'	37°48.318'
Port Waikato	North	174°42.540'	37°22.049'
	South	174°42.312'	37°22.460'
Manukau	North	174°31.848'	37°02.052'

Harbours	Entrance	Longitude	Latitude
	South	174°32.507'	37°02.950'
Kaipara	North	174°09.438'	36°23.270'
	South	174°11.705'	36°25.989'
Hokianga	North	173°21.416'	35°31.511'
	South	173°21.822'	36°32.553'
<i>Marlborough Sounds</i>			
Admiralty Bay	North	173°54.440'	40°55.712'
	South	173°51.334'	40°55.882'
Croisilles Harbour	North	173°40.262'	41°02.322'
	South	173°35.629'	41°03.211'
Pelorus Sound	North (Clay Point)	174°01.398'	40°54.737'
	South (Alligator Head)	174°09.531'	40°58.180'
Port Gore	North	174°13.927'	40°59.255'
	South	174°18.789'	40°59.716'
Port Underwood	North	174°7.181'	41°21.152'
	South	174°5.411'	41°21.261'
Queen Charlotte Sound (northern entrance)	North (Cape Jackson)	174°18.896'	40°59.742'
	South (Cape Koamaru)	174°22.957'	41°05.389'
Queen Charlotte South (East and West Head entrance)	North (East Head)	174°19.358'	41°12.748'
	South (West Head)	174°18.913'	41°12.918'

Schedule 2 *Marlborough Sounds* Admiralty Bay: inserted, on 4 May 2006, by clause 4 of the Maori Commercial Aquaculture Claims Settlement (Schedule 2) Order 2006 (SR 2006/88).

Schedule 2 *Marlborough Sounds* Port Gore: inserted, on 4 May 2006, by clause 4 of the Maori Commercial Aquaculture Claims Settlement (Schedule 2) Order 2006 (SR 2006/88).

Schedule 2 *Marlborough Sounds* Port Underwood: inserted, on 4 May 2006, by clause 4 of the Maori Commercial Aquaculture Claims Settlement (Schedule 2) Order 2006 (SR 2006/88).

## Notes

### 1 *General*

This is a consolidation of the Maori Commercial Aquaculture Claims Settlement Act 2004 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### 2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### 3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### 4 *Amendments incorporated in this consolidation*

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Natural and Built Environment Act 2023 (2023 No 46): section 805(1)

Maori Commercial Aquaculture Claims Settlement Amendment Act 2022 (2022 No 15)

Secondary Legislation Act 2021 (2021 No 7): section 3

Judicial Review Procedure Act 2016 (2016 No 50): section 24

Maori Commercial Aquaculture Claims Settlement Amendment Act 2013 (2013 No 125)

Maori Commercial Aquaculture Claims Settlement Amendment Act 2011 (2011 No 69)

Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (2010 No 8)

Maori Commercial Aquaculture Claims Settlement Amendment Act 2008 (2008 No 94)

Maori Commercial Aquaculture Claims Settlement Amendment Act 2006 (2006 No 79)

Maori Commercial Aquaculture Claims Settlement (Schedule 2) Order 2006 (SR 2006/88)