



Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010

Public Act 2010 No 8
Date of assent 29 March 2010
Commencement see section 2

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**Maori Commercial Aquaculture Claims
Settlement (Regional Agreements)
Amendment Act 2010**

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2010 No 8

13 Basis of allocation of settlement assets 5

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended**
This Act amends the Maori Commercial Aquaculture Claims Settlement Act 2004.
- 4 Purpose**
The purpose of this Act is to provide the Crown with an additional way of complying with its obligation under section 22(1) of the principal Act in respect of pre-commencement space; and, to that end, this Act incorporates provisions into the principal Act that deal with regional agreements.

**Part 1
Amendments relating to preliminary
provisions of principal Act**

- 5 Interpretation**
Section 4 is amended by inserting the following definition in its appropriate alphabetical order:
“**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)”.

6 Meaning of settlement assets

Section 5(1) is amended by inserting the following paragraph after paragraph (a):

“(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”.

Part 2
Amendments relating to remaining provisions of principal Act

7 Crown’s obligations

(1) Section 22(3) is amended by inserting the following paragraph after paragraph (b):

“(ba) by entering into a regional agreement.”.

(2) Section 22 is amended by inserting the following subsection after subsection (3):

“(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.”

8 New section 29A inserted

The following section is inserted after section 29:

“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.”

9 Registered entitlements to settlement assets

Section 31 is amended by repealing subsection (4) and substituting the following subsection:

- “(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.”

10 Functions and powers of iwi aquaculture organisations

Section 32(2) is amended by inserting the following paragraph after paragraph (b):

“(ba) enter into regional agreements:”.

11 Duties of trustee

- (1) Section 38 is amended by inserting the following subsection after subsection (2):

- “(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.”
- (2) Section 38(3) is amended by inserting “or its obligations referred to in subsection (2A)” after “subsection (1)”.

12 New section 44 substituted

Section 44 is repealed and the following section substituted:

“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.”

13 Basis of allocation of settlement assets

Section 47 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) If by the end of the 12-month period specified in section 45(4) the iwi aquaculture organisations for a region have not made a written agreement for all of the settlement assets of the re-

gion, the trustee must determine, in accordance with this section and Schedule 1, settlement assets allocation entitlements for any settlement assets for which no written agreement has been made.”

Legislative history

13 May 2009	Introduction (Bill 31–1)
16 June 2009	First reading and referral to Māori Affairs Committee
28 August 2009	Reported from Māori Affairs Committee (Bill 31–2)
8 December 2009	Second reading
23 March 2010	Committee of the whole House
24 March 2010	Third reading
29 March 2010	Royal assent

This Act is administered by the Ministry of Fisheries.
