



Maori Fisheries Amendment Act 2011

Public Act 2011 No 74
Date of assent 15 September 2011
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Maori Fisheries Amendment Act 2011.

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 Fisheries Act 2004.

4 New heading and sections 18A to 18G inserted

The following heading and sections are inserted after section 18:

“New mandated iwi organisation may replace existing mandated iwi organisation

“18A Interpretation

In sections 18A to 18G,—

“**existing organisation** has the meaning given by section 18B(1)

“**new organisation** has the meaning given by section 18B(1)

“**specified income shares** means the income shares received under this Act and held by an asset-holding company of the existing organisation

“**specified settlement assets** means the specified settlement quota and specified income shares of the existing organisation

“**specified settlement quota** means the settlement quota received under this Act and held by an asset-holding company of the existing organisation.

“18B Requirements for recognition of new mandated iwi organisation

- “(1) An organisation may be recognised as the mandated iwi organisation (**new organisation**) of an iwi in place of the existing mandated iwi organisation (**existing organisation**) if the requirements of this section, and section 18C (if applicable), are met.
- “(2) The new organisation must—
- “(a) meet the criteria in section 14, and have 1 or more asset-holding companies (as required by section 12(1)(d)); or
 - “(b) have met the criteria in section 15 before the commencement of this Act.
- “(3) The 1 or more asset-holding companies of the new organisation that are to receive the transfer of the specified settlement assets under section 18E(3) must comply with section 17(1).
- “(4) The existing organisation must—
- “(a) notify the proposal to have the new organisation recognised to the adult members of the iwi in accordance with subclause (4) of kaupapa 4 of Schedule 7; and
 - “(b) obtain approval for the proposal from not less than 75% of the adult members of the iwi who vote—
 - “(i) at a general meeting of the existing organisation called for the purpose; or
 - “(ii) by postal ballot.
- “(5) A notice given under subsection (4)(a) must—
- “(a) specify the name of the new organisation; and
 - “(b) state that, if the proposal is approved and Te Ohu Kai Moana Trustee Limited is satisfied that the requirements for recognition are met and authorises the transfer of the relevant settlement assets, the following things may happen:
 - “(i) the new organisation is recognised as the mandated iwi organisation for the iwi in place of the existing organisation; and
 - “(ii) the settlement quota and income shares received under this Act and held by an asset-holding company of the existing organisation are transferred to an asset-holding company of the new organisation.

“18C Requirements relating to constitutional documents of new organisation

- “(1) This section applies if the new organisation seeks recognition by meeting the criteria in section 14.
- “(2) The existing organisation is responsible for ensuring that the constitutional documents of the new organisation comply with section 17 (as required by section 14(b)).
- “(3) The existing organisation must first have the constitutional documents approved by Te Ohu Kai Moana Trustee Limited for the purposes of section 17(2)(a)(i).
- “(4) The existing organisation must then have the constitutional documents ratified for the purposes of section 17(2)(b)(i).
- “(5) The constitutional documents must be ratified at the same general meeting, or by the same postal ballot, that approves the proposal to have the new organisation recognised.
- “(6) Notice of the proposed ratification must be given together with notice of the proposal to have the new organisation recognised, in accordance with subclause (4) of kaupapa 4 of Schedule 7 (and despite section 17(3)).

“18D Proposed transfer date if recognition requirements met

- “(1) As soon as is reasonably practicable after Te Ohu Kai Moana Trustee Limited is satisfied that the requirements of section 18B, and section 18C (if applicable), are met, it must give written notice of that fact to the existing organisation.
- “(2) The existing organisation may, after receiving the written notice, give Te Ohu Kai Moana Trustee Limited at least 3 months’ written notice of the date on which the specified settlement assets are proposed to be transferred under section 18E(3) (the **proposed transfer date**).
- “(3) The proposed transfer date must be no later than 15 months after the date upon which the proposal to have the new organisation recognised was approved under section 18B(4).

“18E Recognition of new mandated iwi organisation and transfer of specified settlement assets

- “(1) This section applies only if—

- “(a) the existing organisation has given notice of a proposed transfer date under section 18D(2); and
 - “(b) before the proposed transfer date, Te Ohu Kai Moana Trustee Limited—
 - “(i) has authorised (for the purposes of section 158(1)(a)) the transfer of the specified settlement quota to 1 or more asset-holding companies of the new organisation; and
 - “(ii) has authorised the transfer of the specified income shares to 1 or more asset-holding companies of the new organisation.
- “(2) Te Ohu Kai Moana Trustee Limited must, on the proposed transfer date,—
- “(a) do the following things under section 13(1):
 - “(i) recognise the new organisation as the mandated iwi organisation for the iwi in place of the existing organisation; and
 - “(ii) record its recognition of the new organisation in the iwi register; and
 - “(b) remove its recognition of the existing organisation from the iwi register.
- “(3) The existing organisation must ensure that all the specified settlement assets are transferred to the 1 or more asset-holding companies of the new organisation on the proposed transfer date in accordance with the authorisations referred to in subsection (1)(b).
- “(4) Te Ohu Kai Moana Trustee Limited must contribute its part of the joint application required by section 158(2) to transfer the specified settlement quota.
- “(5) The new organisation must, as soon as is reasonably practicable after the specified income shares have been transferred, give written notice of the transfer to Aotearoa Fisheries Limited.

“18F Certain effects of recognition of new organisation

- “(1) From the time that a new organisation is recognised in place of an existing organisation under section 18E(2),—
- “(a) the new organisation is the mandated iwi organisation of the relevant iwi for the purposes of this Act; and

- “(b) any registered coastline entitlement held by the existing organisation is to be treated as a registered coastline entitlement held by the new organisation; and
 - “(c) any coastline claim, agreement, or written statement of the existing organisation under Part 1 of Schedule 6 is to be treated as a coastline claim, agreement, or written statement of the new organisation.
- “(2) However, to avoid doubt, section 136(1)(b) does not require the specified settlement quota to be transferred to the new organisation under that provision.
- “(3) Subpart 2 of Part 4 does not apply to, and section 136(1)(a) does not prevent, the transfer of the specified settlement quota under section 18E(3).
- “(4) Sections 69 to 73 do not apply to the transfer of the specified income shares under section 18E(3).

“18G Remedy if specified settlement assets not transferred

- “(1) This section applies if all the specified settlement assets are not transferred on the proposed transfer date as required by section 18E(3).
- “(2) The Court may make orders as it thinks fit, including—
- “(a) an order to cancel a transaction or contract for the transfer of any specified settlement assets:
 - “(b) an order to vest any specified settlement assets in an asset-holding company of the existing organisation or of the new organisation:
 - “(c) an order to vest any consideration for the transaction or contract in the new organisation:
 - “(d) an order directing Te Ohu Kai Moana Trustee Limited—
 - “(i) to recognise the new organisation as the mandated iwi organisation for the iwi in place of the existing organisation in accordance with section 18E(2)(a) and (b); or
 - “(ii) to reverse any such recognition so that the existing organisation is reinstated as the mandated iwi organisation for the iwi:

- “(e) any other order, if the new organisation has on-sold, or has granted any interest in or security over, any specified settlement assets:
 - “(f) an order that the costs of the applicant be met by the parties to the transaction or contract.
- “(3) Orders made under subsection (2) may be made—
- “(a) on the application of—
 - “(i) a party; or
 - “(ii) an adult member of an iwi whose mandated iwi organisation is a party; or
 - “(iii) a mandated iwi organisation; or
 - “(iv) Te Ohu Kai Moana Trustee Limited; and
 - “(b) on the terms and conditions that the Court thinks fit, so long as the result is the following:
 - “(i) all specified settlement assets are vested in an asset-holding company of either the existing organisation or the new organisation; and
 - “(ii) that organisation is recognised as the mandated iwi organisation for the iwi.
- “(4) If Te Ohu Kai Moana Trustee Limited reverses recognition of the new organisation in accordance with an order of the Court,—
- “(a) the recognition of the existing organisation is to be treated as having continued as if the new organisation had never been recognised; and
 - “(b) the effects under section 18F(1) of recognising the new organisation are to be treated as if they had never occurred.”

5 Interpretation

The definition of **joint mandated iwi organisation** in section 19 is amended by inserting “, or a new organisation recognised in place of that organisation under section 18E(2),” after “section 13(1)”.

6 Discretion to allocate and transfer

Section 135(1) is amended by inserting “, or the iwi’s first mandated iwi organisation (for a mandated iwi organisation that

replaced another organisation under section 18E(2)),” after “when it”.

7 Limitations applying if mandated iwi organisation receives settlement quota under section 135

Section 136(1) is amended by inserting “, or a new organisation recognised in place of that organisation under section 18E(2),” after “the mandated iwi organisation”.

8 Restrictions on disposal of settlement quota

Section 161(2) is amended by adding “of the relevant iwi”.

9 Schedule 7 amended

(1) Paragraph (a) of kaupapa 2 of Schedule 7 is amended by inserting the following subparagraph after subparagraph (ii):

“(iia) on the recognition of a new mandated iwi organisation in place of the existing mandated iwi organisation; and”.

(2) Kaupapa 4 of Schedule 7 is amended by adding the following subclause:

“(4) However, in the case of a general meeting of a mandated iwi organisation required by section 18B(4) (which relates to recognition of a new organisation in place of the existing organisation), the meeting must be notified by both—

“(a) a public notice that includes—

“(i) the information required under subclause (1); and

“(ii) advice that a vote is to be taken to approve the proposal to have the new organisation recognised in place of the existing organisation; and

“(iii) if the new organisation seeks recognition by meeting the criteria in section 14, advice that a vote is to be taken to ratify the constitutional documents of the new organisation; and

“(b) a private notice, sent to every adult member on the register of iwi members, that includes—

“(i) the information required for the public notice; and

- “(ii) a copy of the ballot paper for the vote or votes to be taken at the meeting; and
 - “(iii) advice as to the address to which, and the date by which, the completed ballot paper must be returned.”
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Legislative history

13 September 2011	Divided from Māori Purposes Bill (Bill 234–1), third reading
15 September 2011	Royal assent

This Act is administered by the Ministry of Agriculture and Forestry.
