



Te Ture kia Unuhia te Hara kai Runga i a Rua Kēnana 2019

Rua Kēnana Pardon Act 2019

Public Act 2019 No 84
Date of assent 21 December 2019
Commencement see section 2

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2019**

Kupu whakataki/
Preamble

Rua Kēnana Pardon Act 2019

2019 No 84

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Kupu whakataki/Preamble

Kupu whakataki

Kia kotahi te Ture mō ngā iwi e rua

E ai ki ngā kōrero kua oti nei te whakatakoto ki roto i te kawenata ki waenga i te Karauna me ngā kohinga o Ngā Toenga o Ngā Tamariki a Iharaira me Ngā Uri o Maungapōhatu i waitohua i te 9 o Mahuru 2017 ki roto i te tipuna whare o Tānenuiārangi, Maungapōhatu (kai roto i te **kawenata**),—

- (a) e ai ki te Rōpū Whakamana i te Tiriti o Waitangi i te pūrongo mō ngā kohinga uiui o Te Urewera, he tūkino kaha i whiua e ngā pirihihana ki te hau kāinga o Maungapōhatu. Hai tā te Taraipiunara anō, kāore i whakaaetia i raro i te ture te whakarau i a Rua Kēnana nō te mea he Rātapu te rā o te whakaraunga:
- (b) i muri i ēnei tūkino a te Karauna ka pakaru, korekore nui te hapori o Maungapōhatu tae rawa mai ki ēnei rā, kai te pakaru tonu te hā o te hapori, kāore anō kia ora mai anō. Kai te rongu tonu Ngā Toenga o Ngā Tamariki a Iharaira me te hapori o Maungapōhatu me ngā uri o Rua Kēnana i te mamae kino, i te whakamā me te whakaparahako i te whakaekenga o ngā pirihihana; nā konei ka takahia te ora, te ōhanga me te hapori me te taha wairua o ngā tāngata:
- (c) ko te wawata me te hiahia o Ngā Toenga o Ngā Tamariki a Iharaira me ngā Uri o Maungapōhatu, o ngā uri tonu a Rua Kēnana, tērā kia whakahokia mai te āhua ake, te mana me te ingoa rangatira o tēnei tipuna, o rātau anō hoki.

Te Taura Whiu Kau

E ai ki ngā kōrero kua oti nei te whakatakoto ki roto i te Kawenata, ko te kaitito i tēnei waiata ko Rua Kēnana i tana whiua, i tana mauheretanga ki te whare herehere o Mautini, e whakaatu nei i tana ngākau tangi mō tōna iwi i pēhia kinohia e te ringa o te Karauna i te whakaekenga o te tau 1916:

Kāore te whakamā i ahau ki te taura whiu kau
I kitea e au he karauna kīngi

Ka ū ki Maungapōhatu
Mekameka i aku ringa ka pai e te iwi ka rite ngā karaipiture
Nuku mai e te tikanga hai hoa moe ake
Kia au ake ai taku moe i te whare i i
Tākiri mai ko te ata ka puta atu ki waho
Ka titiro noa atu ki waho ki te moana
E tatari atu ana i te ope o ngā Anahera
I waiho ai au hai maungārongo
Te pau te tanga mai i te Raiti weera i i
E muri ahiahi takoto ki te moenga
Ka haramai te aroha ki āku tamariki
Paia mai ngā rongo mōhou e Mere
He teke māwhera ki rau o te tangata
Waiho atu e hine hai whenua reiti
Kāti au ka huri ka rau
Maewa noa i i

Preamble

Let there be one law for both peoples

As set out in the introduction to the agreement between the Crown and Ngā Toenga o Ngā Tamariki a Iharaira me Ngā Uri o Maungapōhatu Charitable Trust dated 9 September 2017 (the **agreement**),—

- (a) the Waitangi Tribunal concluded in its Te Urewera inquiry that the police used excessive force against the Maungapōhatu community. The Tribunal also found that the arrest of Rua Kēnana was unlawful, being effected on a Sunday:
- (b) the Maungapōhatu Community went into decline after these events and has never recovered. Ngā Toenga o Ngā Tamariki a Iharaira, the Maungapōhatu Community, and the descendants of Rua Kēnana have carried the deep hurt, shame, and stigma of this invasion and its resulting economic, social, and spiritual impacts:
- (c) it is the aspiration of Ngā Toenga o Ngā Tamariki a Iharaira and the descendants of Rua Kēnana to restore the character, mana, and reputation of their tupuna and of themselves.

Te Taura Whiu Kau

As set out in the agreement, the following waiata was composed by Rua Kēnana from within the walls of Mount Eden prison, recording his lament for those of his people who suffered at the hands of the Crown as the result of the 1916 invasion:

Void of shame to use a cow lasso
Permeating my sight is the badge of the King
Ascending Maungapōhatu
Although my hands are locked in chains, the people know the scriptures have spoken
These introduced customs must be moved aside
To caress my sleep within this sanctuary
When the dawn is finally realised I emerged outside

And gazed upon the open expanse of the ocean
Where the assembly of Angels awaits
Who left me as a Martyr of peace
Whose light is consumed as that of a lighthouse
I lie in bed as the dusk descends
My love for my children advances towards me
The news concerning Mere has arrived
Where your vagina was torn open by the gang rape
Alas my dear put the land aside to be rented
Enough said, my vision for prosperity
Will be everlasting

**Nō reira, ka whakaturetia e te Pāremata o Niu Tīreni ēnei e whai ake nei/
The Parliament of New Zealand therefore enacts as follows:**

1 Taitara

Ko tēnei Ture ko Te Ture kia Unuhia te Hara kai Runga i a Rua Kēnana 2019.

2 Te tīmatanga

Ka mana tēnei Ture hai te rā ka whai i muri atu i te rangi ka whakaaetia te Ture nei e te Upoko Ariki o Niu Tīreni.

Ngā wehenga takamua

3 Te aronga

Ko te aronga o tēnei Ture, ko te whakamana ā-ture i te kawenata ki waenga i te Karauna me te Tarahiti o Ngā Toenga o Ngā Tamariki a Iharaira me Ngā Uri o Maungapōhatu i waitohua rā i te 9 o Mahuru 2017 (ko te **kawenata**).

4 Ko te whai pānga o te Ture

- (1) Ko ngā wehenga e rārangi iho nei e whakaatu ana i te kawenata:
- (a) kai te wehenga 6 ko te kohinga kōrero ā-hītori e pā ana ki te whiu hara e unuhia nei:
 - (b) kai te wehenga 7 ko ngā whakaaetanga a te Karauna ki ngā uri whakaheke katoa o Rua Kēnana me te Hāhi Iharaira:
 - (c) kai te wehenga 8 ko te whakapāha a te Karauna ki ngā uri o Rua Kēnana me Ngā Toenga o Ngā Tamariki a Iharaira:
 - (d) kai te wehenga 9 ko te unuhanga o te hara kai runga i a Rua Kēnana me te whakapuakitanga tērā ka whakahokia te āhua ake, te mana me te ingoa rangatira o Rua Kēnana, o ōna uri, me Ngā Toenga o Ngā Tamariki a Iharaira.
- (2) Ka whakapūmau kaha tēnei Ture i ēnei āhuatanga.

5 Ka herea te Karauna e te Ture

Ka herea te Karauna e tēnei Ture.

Te kohinga kōrero ā-hītori

6 Ngā whiu hara ki runga i a Rua ka unuhia

- (1) I te marama o Ākuhata i te tau 1916 ka whiua te hara ki runga i a Rua mō tana ātete i te whai a te pirihihana ki te whakarau i a ia i te marama o Pēpuere i te tau 1916. Ko te pūtake o tēnei whai ki te whakarau i a ia, ko te wārati hopu nā tētahi Kaiwhakawā i whakaputa i te marama o Hānuere i te tau 1916. Koia anō i whiua a Rua ki te whare herehere mō tōna kore e aro atu ki ngā kaiwhakawā i te marama o Mei i te tau 1915 mō te hoko waipiro kāre he raihana.
- (2) I whakapono kaha a Rua kua whiua kētia a ia mō aua hara, inarā koinei tana kōrero ki ngā pirihihana i whai ki te whakarau i a ia. Ko ngā whakawhiu hara tuatahi ki a Rua nō te tau 1911, i ngā whakapae hē e rima e pā ana ki te hoko waipiro. I taua wā, he mea whaina a Rua mō ngā mea e whā o aua whakawhiunga hara, ko te mea tuarima i meatia kia noho tārewa, ki te hiahiatia ka taea tērā hara te tiki atu ki te whiu i a Rua. Nō te marama o Mei i te tau 1915 ka whiua a ia mō tēnei hara me ētahi hara hou e rima mō te hoko waipiro te take. Ka whiua a Rua ki te whare herehere mō ngā marama e toru mō te whakapae hē i mahue mai i te tau 1911; kāore ia i whiua mō ngā hara hou e rima o te tau 1915, heoi, ka puritia tonutia te mana ki te whiu i a Rua mō ērā whakawhiunga. I te tau 1915 i mau a Rua ki te whare herehere, ā, nō te marama o Ākuhata ka hoki ia ki Maungapōhatu.
- (3) I te marama o Hānuere i te tau 1916 ka karangatia a Rua ki te aroaro o te Kaiwhakawā mō ngā whakapae hē i whakaarahia i te tau 1915. I mea atu a Rua ki ngā pirihihana kāore a ia e wātea kia haere ake, ko te wā hoki tēnei o te hauhake kai, ā, ka tonu a ia kia hikina te kēhi mō te wā ka tū anō te kōti. Ki te whakaaro o te Kaiwhakawā kai te whakahāwea a Rua i te kōti, nā reira i whakahau te Kaiwhakawā kia whiua a Rua ki te whare herehere, me te whiu atu o ētahi whaina mō ngā hara mai te tau 1915. Ka puta te wārati e whakahau ana kia whakaraua a Rua. Whāia, i te marama o Pēpuere i te tau 1916 ka haere ētahi pirihihana ki te whakarau i a ia.
- (4) I te haerenga atu o ngā pirihihana tokorua ki te whakarau i a ia i te marama o Pēpuere i te tau 1916 i kī atu a Rua ki a rāua kua whiua kētia a ia ki te whare herehere mō ngā hara i puta i te tau 1915, nā reira kāore a ia mō te haere noa i tō rāua taha. Kāore ngā pirihihana rā i hiahia ki te hiki i te ringa kaha ki a ia, nā reira ka wehe noa atu rāua ka noho iho ko Rua. Koinei te takenga o ētahi anō whakapae hē, mō te ātete a Rua i tana whakaraunga, mō te whana hoki ki te kāwanatanga, he take i ara ake i ngā whakapae, i te takahi atu a ngā pirihihana ki te whakarau i a ia, ka puta i a Rua ētahi kupu hāpai i te iwi Tiamana.
- (5) Nō te rā 2 o Āperira i te tau 1916 ka whakaeke te ope tauā pirihihana mau pū, e 70 rātau, ki Maungapōhatu ki te whakarau i a Rua. Nā konei ka pakaru te riri o ngā pū, ka mate te tama a Rua, a Toko Rua, rāua ko tana irāmutu, ko Te Maipi. Tokotoru ngā tāngata o Maungapōhatu, ā, tokowhā ngā pirihihana i

taotū. E toru tekau mā tahi ngā tāne o Maungapōhatu i whakaraua, i puritia mō ngā rā e toru. Nō te 5 o Āperira ka wehe ngā pirihihana i Maungapōhatu me ā rātou mauhere tokoono, ko Rua rātou ko Tioke, ko Makarini, ko Pukepuke, ko Tūtara, ko Tahu. Heria katoatia ai rātou ki Ākarana.

- (6) E 47 rā te roa o te whakawātanga i a Rua, ko te whakawā takaroa rawa atu i Aotearoa i mua i te tau 1977. I whakakāhoretia te whakapae hē mō tana whiu i te kupu whana ki te kāwanatanga i te marama o Pēpuere i te tau 1916, i te toronga atu o te ringa o te ture ki te whakarau i a ia. I porowhiua e te Kaiwhakawā ki rahaki ngā whakapae hē e whā i ara ake i ngā raruraru o te rā 2 o Āperira i te tau 1916, e rua atu ngā whakapae hē mai i taua rā kāore i taea e te hunga whakawā te whakatau. Heoi, i whiua a Rua mō tana “ātete”, i hua ake i te whai a te ture ki te whakarau i a ia i te marama o Pēpuere i te tau 1916. I te marama o Hepetema i te tau 1916 ka unuhia ngā whakapae hē i runga i ngā tāne tokorima i mauherea i te taha i a Rua; heoi, kua pau kē te hia marama e noho mauhere ana rātou.
- (7) I mauherea a Rua mō ngā marama tekau mā waru, mō te ātetetanga i tana whakarau i te marama o Pēpuere i te tau 1916. Nō te whakaohonga o tētahi whiu i te noho tārewa mai i te marama o Mei i te tau 1915, ka matika ngā pirihihana ki te whakarau i a Rua. Kāore i te marama te take i ara ake te whiu nei; mai i te putanga o te whiu noho tārewa nei i te marama o Mei i te tau 1915 tatū rawa iho ki te aranga ake o te whiu nei i te marama o Hānuere i te tau 1916, kāore a Rua i hāmenetia mō tētahi hara hou. He mate tino nui i puta ake i te whakawhiu kino ki runga i a Rua me te whakapono o Ngā Iharaira. Tekau mā waru marama a Rua i te whare herehere ki Mautini. Nā te taumaha o te whiu i a Rua, ka tukua e te tokowaru o te hunga nā rātou tana kēhi i whakawā he reta ki te *Auckland Star*. Ko tēnei te wā ka tīmata te paheketanga haere o Ngā Iharaira i ngā tau, arā, whai muri iho i te wakarautanga i a Rua.
- (8) I te whakaekenga o Maungapōhatu i tūkinu rawatia a Rua e te Karauna. Ko ētahi o ngā putanga kētanga i ahu mai i ngā whakawhiunga ko te whakatoihara i te whānau me te hapori me te rongō kino e piri tonu ana ki te whānau. Kua tae ki te wā kia unuhia te hara kai runga i a Rua, kia whakahokia tōna mana me tōna ingoa rangatira ki a ia me āna uri.

Ngā whakaaetanga, te whakapāha, te unuhanga me te whakapuakitanga kia whakahokia te āhua ake, te mana, me te ingoa rangatira

7 Ngā whakaaetanga a te Karauna

- (1) E whai iho nei ko ngā whakaaetanga a te Karauna ki ngā uri o Rua Kēnana me Ngā Toenga o Ngā Tamariki a Iharaira me ngā Uri o Maungapōhatu.
- (2) Ka whakaae te Karauna—
 - (a) nā te whakarau, te pupuri, te whakaharanga me te whiu i a Rua Kēnana kua tūkinotia tōna āhua ake, tōna mana me tōna rangatira tae rawa ki te

āhua ake, te mana me te rangatiratanga o Ngā Toenga o Ngā Tamariki a Iharaira me ngā Uri o Maungapōhatu:

- (b) kai te rongo tonu ngā uri o Rua Kēnana, Ngā Toenga o Ngā Tamariki a Iharaira me ngā Uri o Maungapōhatu i te mamae kino, te whakamā me te tauhae i te whakaekenga o Maungapōhatu i te tau 1916.

8 Te whakapāha a te Karauna

Kāore he ārikarika o te whakapāha a te Karauna ki ngā uri o Rua Kēnana me Ngā Toenga o Ngā Tamariki a Iharaira me ngā Uri o Maungapōhatu mō—

- (a) te tūkino i te āhua ake, te mana me te ingoa rangatira o Rua Kēnana, o ōna uri, o Ngā Toenga o Ngā Tamariki a Iharaira me Ngā Uri o Maungapōhatu:
- (b) te mamae kino, te whakamā me te tauhae kino i pā ki a rātou i te whakaekenga o Maungapōhatu i te tau 1916.

9 Te unuhanga me te whakapuakitanga tērā ka whakahokia te āhua ake, te mana, me te ingoa rangatira

Ko tēnei unuhanga hara i a Rua Kēnana mō te whakaharanga i hua mai i tana “ātete” ki tana whakaraunga. Ka whakapuakina te whakahokinga o te āhua ake, te mana me te ingoa rangatira o Rua Kēnana, ōna uri, me Ngā Toenga o Ngā Tamariki a Iharaira me ngā Uri o Maungapōhatu.

1 Title

This Act is the Rua Kēnana Pardon Act 2019.

2 Commencement

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

Preliminary provisions

3 Purpose

The purpose of this Act is to recognise in statute the agreement between the Crown and Ngā Toenga o Ngā Tamariki a Iharaira me Ngā Uri o Maungapōhatu Charitable Trust dated 9 September 2017 (the **agreement**).

4 Effect of Act

- (1) The following sections reflect the agreement:
 - (a) section 6 is the historical background to the conviction for which the pardon is granted:
 - (b) section 7 is the acknowledgements made by the Crown to the descendants of Rua Kēnana and the Iharaira Faith:

- (c) section 8 is the apology given by the Crown to the descendants of Rua Kēnana and Ngā Toenga o Ngā Tamariki a Iharaira:
 - (d) section 9 is the pardon for Rua Kēnana, and the declaration that the character, mana, and reputation of Rua Kēnana, his uri, and Ngā Toenga o Ngā Tamariki o Iharaira Faith are restored.
- (2) This Act gives effect to those matters.

5 Act binds the Crown

This Act binds the Crown.

Historical background

6 Conviction for which the pardon shall be granted

- (1) In August 1916, Rua was convicted of “moral resistance” to a police attempt to arrest him in February 1916. The attempted arrest was based on warrants a Magistrate had issued in January 1916 committing him to prison as a result of his having been sentenced to imprisonment as punishment for May 1915 convictions for selling alcohol without a licence.
- (2) Rua believed he had already been punished for these crimes and informed the police of this when they sought to arrest him. He had first been convicted on 5 liquor charges in 1911. At the time Rua was fined for 4 of the convictions, and ordered to come up for sentence if called upon on the fifth charge. No sentence was imposed on this charge until May 1915, when Rua was convicted of 5 new liquor charges. Rua was sentenced to 3 months in prison on the outstanding 1911 charge and ordered to come up for sentence if called upon for the fresh 1915 convictions. Rua served time in prison in 1915 before returning to Maungapōhatu in August 1915.
- (3) In January 1916, Rua was summoned to appear before a Magistrate on the 1915 charges. Rua advised the police that he was busy with harvesting, and requested that his case be adjourned until the next court session. The Magistrate treated this reply as contempt of court, and in Rua’s absence imposed a prison sentence and fines in relation to the 1915 charges. A warrant of commitment to imprisonment was issued, which led to the attempt to arrest Rua in February 1916.
- (4) Rua told the constables sent to arrest him in February 1916 that he had already served a prison sentence for the 1915 convictions, and would not voluntarily accompany them. The constables were not prepared to use force against him, and did not physically require Rua to come with them. Nevertheless, this incident ultimately led to further charges against Rua for resisting arrest and also for using seditious language arising from pro-German statements Rua was alleged to have made during the police attempt to arrest him.
- (5) On 2 April 1916, a police contingent of 70 armed men came to Maungapōhatu to arrest Rua. This led to an exchange of gunfire in which Rua’s son Toko Rua

and another young man, Te Maipi, were killed. Three other Maungapōhatu residents and 4 police officers were wounded. Thirty-one Maungapōhatu men were arrested, and held for up to 3 days. On 5 April, the police left Maungapōhatu with Rua and 5 other prisoners, Tioke, Makarini, Pukepuke, Tūtara, and Tahu, who were all taken to Auckland.

- (6) Rua’s 47-day trial was the longest in New Zealand history before 1977. He was acquitted on the charge of using seditious language arising from the February 1916 attempt to arrest him. Four of the charges arising from the events of 2 April 1916 were thrown out by the Judge, while the jury was unable to reach a verdict on 2 other charges. However, he was convicted of “moral resistance” to the attempted arrest in February 1916. The charges against the other 5 men arrested with Rua were dropped in September 1916 after they had spent several months in prison.
- (7) Rua spent 18 months in prison because of his conviction for morally resisting arrest in February 1916. The police attempted to arrest him due to the reactivation of a suspended sentence imposed in May 1915. It is unclear why this sentence was reactivated as Rua was not charged with any new offence between the imposition of the suspended sentence in May 1915 and the reactivation of this sentence in January 1916. The seriousness of this issue is compounded by the severity of the consequences which flowed for Rua and the Ihairaira Faith from this arrest. Rua served 18 months in prison, and the severity of his sentence was the subject of protest in a letter to the *Auckland Star* by 8 members of the jury which convicted Rua. The Ihairaira Faith went into a serious long decline after the events arising from Rua’s arrest.
- (8) In regard to the Maungapōhatu invasion, the Crown’s treatment of Rua was unreasonable. The convictions caused severe prejudice to his whānau and the community, and his whānau have suffered ongoing stigma. It is now appropriate for Rua to be pardoned and for his mana and reputation, and that of his uri, to be restored.

Acknowledgements, apology, pardon, and declaration to restore character, mana, and reputation

7 Crown acknowledgements

- (1) The Crown makes the following acknowledgements to the descendants of Rua Kēnana and the Ihairaira Faith.
- (2) The Crown acknowledges that—
 - (a) the arrest, detention, conviction, and sentence of Rua Kēnana have caused lasting damage to his character, mana, and reputation and to the character, mana, and reputation of Ngā Toenga o Ngā Tamariki a Ihairaira:

- (b) Ngā Toenga o Ngā Tamariki a Iharaira, including the descendants of Rua Kēnana, have suffered deep hurt, shame, and stigma as a result of the Maungapōhatu invasion.

8 Crown apology

The Crown unreservedly apologises to the descendants of Rua Kēnana and Ngā Toenga o Ngā Tamariki a Iharaira for—

- (a) the lasting damage to the character, mana, and reputation of Rua Kēnana, his uri, and Ngā Toenga o Ngā Tamariki o Iharaira:
- (b) the deep hurt, shame, and stigma suffered by them as a result of the invasion of Maungapōhatu.

9 Pardon and declaration to restore character, mana, and reputation

This pardon is provided to Rua Kēnana for the conviction he sustained for moral resistance to arrest. The restoration of the character, mana, and reputation of Rua Kēnana, his uri, and Ngā Toenga o Ngā Tamariki o Iharaira Faith is declared.

Legislative history

22 August 2019
12 September 2019
21 November 2019
18 December 2019
21 December 2019

Introduction (Bill 157–1)
First reading and referral to Māori Affairs Committee
Reported from Māori Affairs Committee
Second reading, third reading
Royal assent

This Act is administered by Te Puni Kōkiri.