

## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Tuesday, 8 December 1992

## TREATY OF WAITANGI (FISHERIES CLAIMS) SETTLEMENT BILL

*Proposed Amendments*

Hon. DOUG KIDD, in Committee, to move the following amendments:

*Clause 1:* To omit from line 23 on page 5 the word "This", and substitute the words "Except as provided in subsection (3) of this section, this".

To add the following subclause:

(3) **Section 7A** of this Act shall come into force on the day on which this Act receives the Royal assent.

*Clause 2:* To insert in line 5 on page 6, after the name "Paul," the name "David Higgins".

*Clause 6:* To omit from line 40 on page 6 the expression "3.1.5", and substitute the expression "3.1".

*New clause 7A:* To insert, after clause 7, the following clause:

**7A. Payment of special dividend by Aotearoa Fisheries Limited**—(1) The board of directors of Aotearoa Fisheries Limited is hereby deemed to have declared a special dividend of \$17,500,000 in favour of the Maori Fisheries Commission, which special dividend shall be payable to the Commission not later than 5 days after receipt by Aotearoa Fisheries Limited of a notice from the Commission requesting payment of that amount.

(2) For the avoidance of doubt, it is hereby declared that no person shall be liable either civilly or criminally by reason only of the company's payment to the Commission of the amount specified in subsection (1) of this section.

*Clause 8:* To omit from lines 10 and 31 on page 7, and also from lines 38 and 39 on that page, the words "as Maori".

*Clause 9:* To omit from line 3 on page 8 the words "as Maori".

To omit from line 7 on that page the words "where appropriate".

To omit paragraph (b) from lines 10 to 14 on that page, and substitute the following paragraph:

(b) The Minister, acting in accordance with the principles of the Treaty of Waitangi, shall—

(i) Consult with tangata whenua about; and

(ii) Develop policies to help recognise—

use and management practices of Maori in the exercise of non-commercial fishing rights; and

To omit from line 15 on that page the words ", where appropriate,".

*Clause 10:* To omit paragraph (a) from line 43 on page 8.

To insert, after line 18 on page 9, the following paragraph:

(ja) *C.J. Pile v Attorney-General* (C.P. No. 110/88).

*Clause 12:* To omit subclauses (2) to (4) from lines 1 to 22 on page 10.

*Clause 14:* To omit from lines 36 to 38 on page 10 the words “, as adopted at the annual general meeting of the Commission held on the 29th day of July 1992”, and substitute the words “as set out in **Schedule 1A** to this Act”.

*New clauses 15A to 15c:* To insert, after clause 15, the following clauses:

**15A. Powers**—(1) Section 9 (2) of the principal Act is hereby amended by adding the following paragraph:

“(1) After giving consideration to the matters referred to in section 6 (e) (i) of this Act and reporting to the Minister on those matters under section 6 (e) (iv) of this Act, and subject to subsection (4) of this section, to give effect to the scheme (if any) included in the report furnished to the Minister under the said section 6 (e) (iv) (being the scheme providing for the distribution of the assets held by the Commission before the Settlement Date defined in the Deed of Settlement and being the assets referred to in clause 4.5.2 of that deed).”

(2) Section 9 of the principal Act is hereby amended by adding the following subsection:

“(4) The Minister may, at any time and from time to time, but not later than 30 days after the date of the receipt of the Commission’s report under subsection (2) (i) of this section, request the Commission to reconsider all or any part of the proposed distribution under subsection (2) (i) of this section; and the Commission shall reconsider its proposed distribution of assets, amend the proposal, and report further to the Minister accordingly.”

**15B. New Schedule 1A inserted**—The principal Act is hereby amended by inserting, after the First Schedule, the **Schedule 1A** set out in the Schedule to this Act.

**15c. Repeals**—(1) Sections 7 (4), 7 (7), 18, 20, and 21 of the principal Act are hereby repealed.

(2) Notwithstanding the expiry of the transition period specified in the principal Act, subsections (1), (2), (3), (5), and (6) of section 7 of the principal Act shall be deemed to continue to have effect until the Commission effects the distribution of assets under section 9 (2) (i) of the principal Act (as added by section 15A (1) of this Act).

*Clause 16:* To omit from lines 3 to 5 on page 12 the words “Payment Period referred to in the definition of the term ‘transition period’ in section 2 of the principal Act”, and substitute the words “settlement period”.

To omit from line 12 on that page the words “Payment Period”, and substitute the words “settlement period”.

To add the following subclause:

(3) For the purposes of this section, “settlement period” means the period commencing on the 23rd day of September 1992 and ending with the earlier of the following:

- (a) The expiry of the Payment Period as defined in the Deed of Settlement between the Crown and Maori dated the 23rd day of September 1992 (being the period commencing on the Settlement Date and ending with the close of the Third Instalment Payment Date as defined in the said Deed of Settlement);
- (b) The date on which the scheme for the distribution of the benefits of the settlement provided for in the said Deed of Settlement (as referred to in clause 4.5.4.2 of that deed) takes effect.

*Clause 30:* To omit paragraph (b) from lines 1 and 2 on that page, and substitute the following paragraphs:

- “(b) Empower the Minister to declare any part of New Zealand fisheries waters to be a mataitai reserve, by notice in the *Gazette* given after consultation by the Minister and the tangata whenua with the local community and having regard to the sustainable management of the fish, aquatic life, and seaweed in the reserve:
- “(c) Provide for such matters as may be necessary or desirable for the sustainable management of the fish, aquatic life, and seaweed in mataitai reserves, including general restrictions and prohibitions in respect of the taking of fish, aquatic life, or seaweed:
- “(d) Empower any Maori Committee constituted by or under the Maori Community Development Act 1962, any marae committee, or any kaitiaki of the tangata whenua to make bylaws restricting or prohibiting the taking of fish, aquatic life, or seaweed:
- “(e) Empower any such Maori Committee, marae committee, or kaitiaki to allow the taking of fish, aquatic life, or seaweed to continue for purposes which sustain the functions of the marae concerned, notwithstanding any such bylaws.”

To omit from line 7 on page 15 the word “subsection” where it secondly occurs, and substitute the word “subsections”.

To insert, after line 10 on page 15, the following subsection:

- “(3B) The following provisions shall apply in respect of bylaws made under regulations made under subsection (1c) (d) of this section:
  - “(a) Every restriction and every prohibition imposed on individuals by such bylaws shall apply generally to all individuals:
  - “(b) Bylaws shall not come into force until they have been approved by the Minister and have been gazetted:
  - “(c) The publication in the *Gazette* of bylaws purporting to have been approved by the Minister under this subsection shall be conclusive evidence that the bylaws have been duly made and approved under this section.”

*Clause 33:* To insert in line 11 on page 16, after the word “kaitiaki”, the words “of the tangata whenua”.

*Schedule added:* To add the following Schedule:

Section 15a

**SCHEDULE**

NEW SCHEDULE 1A INSERTED INTO MAORI FISHERIES ACT 1989

"SCHEDULE 1A

RESOLUTIONS ADOPTED AT HUI-A-TAU ON 25 JULY 1992

**ALLOCATION**

*AUTHORITY*

- 1 That the hui endorse the decision made by the Commission to seek legislative authority to further secure the Commission's intention to allocate its assets to iwi.

*METHOD*

- 2 That MFC examine the alternative methods to allocate, consult with iwi, and have prepared discussion material to enable agreement to be reached on the optimum method for allocation.

*LEGAL RIGHTS: 50%*

- 3 That MFC ensure that no allocation of the 10% be made before the position of the pursuit of the legal rights of iwi to secure the complete 50% is secure.

*EVENT OF DELAY*

- 4 That the hui agree that, in the event of significant delay to the implementation of the allocation strategy the MFC hold a further tender of MFC/AFL quota for the 1992/93 fishing year only.

*AOTEAROA FISHERIES LIMITED (AFL)*

- 5 That MFC allocate the assets of AFL as part of the allocation strategy.

*AFL CASH & OTHER ASSETS*

- 6 That MFC allocate the assets of AFL, cash, and other assets on the same basis as the quota is allocated.

**MAORI FISHERY NEGOTIATORS (MFN)**

*BUDGET (6)*

- 7 That this hui supports the continued funding of the MFN up to \$350,000 for the next year on terms to be agreed by the MFC/MFN.

*MANDATE*

- 8 That this hui affirms the fact that the negotiators represent all the interests of all iwi in the negotiations with and litigation against the Crown.

**MAORI FISHERIES COMMISSION**

*FUTURE*

- 9 That the future of the MFC be subject to further consideration by MFC/iwi and a position paper be circulated to iwi by October 1992.

**MAORI CONGRESS**

*BUDGET*

- 10 That the Congress and the negotiators meet with the Commission to discuss the servicing and financial requirements of the negotiating process.

(Signed)

Tipene O'Regan CHAIRMAN".

*Preamble:* To omit from line 1 on page 5 the expression "29th", and substitute the expression "25th".

To insert in line 3 on that page, after the word "resolutions", the words ", and would be empowered to allocate those assets".

To omit from line 9 on that page the words "completion of the deed", and substitute the words "implementation of the deed through legislation and the continuing relationship between the Crown and Maori".

To omit from line 16 on that page the words ", where appropriate,".

#### EXPLANATORY NOTE

This Supplementary Order Paper amends the Treaty of Waitangi (Fisheries Claims) Settlement Bill as follows:

- (a) *Clause 1* is amended to provide that new *clause 7A* shall come into force when the Bill receives the Royal assent:
- (b) *Clause 6* is amended to clarify a cross-reference:
- (c) *New clause 7A* provides for Aotearoa Fisheries Limited to pay \$17,500,000 to the Treaty of Waitangi Fisheries Commission as a special dividend:
- (d) *Clause 8* is amended to remove words now regarded as inappropriate:
- (e) *Clause 9* is amended to achieve greater clarity:
- (f) *Clause 10* is amended in a minor respect only:
- (g) *Clause 12* is amended by removing provisions that are now dealt with in *new clause 15c* and the amendments to *clause 16*:
- (h) *Clause 14* is amended to refer to the new *Schedule* (which sets out resolutions adopted at a hui held on 25 July 1992):
- (i) *New clause 15A* amends section 9 of the Maori Fisheries Act 1989 by providing for the allocation of pre-Settlement Date assets held by the Treaty of Waitangi Fisheries Commission. A requirement to report to the Minister is also included:
- (j) *New clause 15B* inserts into the Maori Fisheries Act 1989 new *Schedule 1A*.
- (k) *New clause 15c* effects consequential repeals to the Maori Fisheries Act 1989:
- (l) *Clause 16* is amended by including a definition of the term "settlement period":
- (m) *Clause 30* is amended to empower regulations—
  - (i) Providing for the sustainable management of mataitai reserves; and
  - (ii) Empowering Maori Committees, marae committees, or kaitiaki to make bylaws imposing prohibitions or restrictions applying to all persons in mataitai reserves.
 Such bylaws must be approved by the Minister of Fisheries and be gazetted.