

# House of Representatives

# Supplementary Order Paper

Tuesday, 11 October 2016

## Māori Purposes Bill

### *Proposed amendments*

Hon Te Ururoa Flavell, in Committee, to move the following amendments:

#### *Clause 10*

In *clause 10* (page 20, line 29), replace “the Schedule” with “**Schedule 1**”.

#### *New Part 3*

After *Part 2* (page 21, after line 8), insert:

### **Part 3**

#### **Amendments to Te Ture Whenua Maori Act 1993**

##### **14 Principal Act**

This Part amends Te Ture Whenua Maori Act 1993 (the **principal Act**).

##### **15 Section 4 amended (Interpretation)**

(1) In section 4, replace the definition of **financial statements** with:

**financial statements,—**

- (a) in relation to a large Maori incorporation, has the same meaning as in section 6 of the Financial Reporting Act 2013; and
- (b) in the case of any other Maori incorporation, means financial statements that at least comply with the minimum requirements prescribed for companies under section 21C of the Tax Administration Act 1994 (regardless of whether the incorporation is exempt from those requirements)

- (2) In section 4, repeal the definition of **non-GAAP standard**.
- (3) In section 4, repeal the definition of **specified not-for-profit entity**.
- (4) In section 4, insert in its appropriate alphabetical order:  
**large**, in relation to a Maori incorporation, has the meaning set out in **section 276A(5)**

**16 New section 4A inserted (Transitional, savings, and related provisions)**

After section 4, insert:

**4A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

**17 Section 276 amended (Accounting records to be kept)**

Replace section 276(1)(c) with:

- (c) will enable the financial statements of the incorporation to be readily and properly audited (if those statements are required to be audited).

**18 Section 276A amended (Financial statements must be prepared)**

- (1) Replace section 276A(2) with:
- (2) The financial statements must,—
  - (a) in the case of a large Maori incorporation, be prepared in accordance with generally accepted accounting practice; and
  - (b) in any other case, include a statement signed by the secretary of the incorporation to the effect that the secretary is satisfied that the financial statements give a reasonable representation of the financial position and financial performance of the incorporation.
- (2) After section 276A(4), insert:
- (5) In this Act, a Maori incorporation is **large** in respect of a financial year if, in each of the 2 preceding financial years, the total revenue of the Maori incorporation and its subsidiaries (if any) exceeds \$10 million.

**19 Section 277 amended (Appointment and duties of auditor)**

- (1) In section 277(1), replace “Maori incorporation (except the Maori incorporations referred to in subsection (1A))” with “large Maori incorporation”.
- (2) Repeal section 277(1A) and (6A).

- (3) In section 277(2), after “annual general meeting”, insert “of a large Maori incorporation”.
- (4) In section 277(4) and (9), replace “Maori incorporation” with “large Maori incorporation”.

**20 Section 278 amended (Appointment of share valuer)**

- (1) Replace section 278(2) with:
  - (2) No person may be appointed as the share valuer unless that person would be qualified to be appointed or to act as the auditor of the Maori incorporation under section 36 of the Financial Reporting Act 2013 (which applies with all necessary modifications as if the incorporation were a specified entity).
- (2) In section 278(4), replace “statement of financial position (as disclosed by the statement of financial position and the statement annexed to it” with “financial statements (as disclosed by those statements and the accompanying statement”.
- (3) In section 278(4)(a) and (b), replace “statement of financial position” with “financial statements”.

**21 New Schedule 1AA inserted**

Insert the **Schedule 1AA** set out in **Schedule 2** of this Act as the first schedule to appear after the last section of the principal Act.

**22 Consequential amendments to Maori Incorporations Constitution Regulations 1994**

- (1) This section amends the Maori Incorporations Constitution Regulations 1994.
- (2) In Schedule 1, replace rule 6(b) with:
  - (b) to receive and consider the financial statements, and the other reports and statements required by section 276A of the Act to accompany the financial statements, and, if thought fit, to adopt the same after hearing the auditor’s report (if any):
- (3) In Schedule 1, replace rule 10(3) with:
  - (3) If any annual general meeting lapses, the chairperson must promptly transmit the financial statements and the other reports and statements referred to in **rule 6(b)** to the Registrar.

*New Schedule 2 inserted*

After the *Schedule* (after page 52), insert as *Schedule 2*:

**Schedule 2**  
**Transitional, savings, and related provisions for**  
**amendments to Te Ture Whenua Maori Act 1993**

s 21

**Schedule 1AA**  
**Transitional, savings, and related provisions**

s 4A

**Part 1**  
**Provisions relating to Māori Purposes Act 2015**

**1 Application of financial reporting amendments**

- (1) This Act and the Maori Incorporations Constitution Regulations 1994, as amended by **sections 15 to 22** of the Māori Purposes Act **2015**, apply to a Maori incorporation in relation to financial years that commence on or after the commencement of this clause.
- (2) This Act and the Maori Incorporations Constitution Regulations 1994, as in force before the commencement of this clause, continue to apply to a Maori incorporation in relation to financial years that commenced before the commencement of this clause as if the Māori Purposes Act **2015** had not been enacted.
- (3) This clause is subject to **clause 2**.

**2 Financial reporting preparation requirements must be treated as satisfied**

- (1) This clause—
  - (a) applies to the financial years of a Maori incorporation that commenced on or after 1 April 2014 (which is the commencement date of amendments to this Act made by the Financial Reporting (Amendments to Other Enactments) Act 2013); but
  - (b) does not apply to the financial years of a Maori incorporation that commence on or after the commencement of this clause.
- (2) The financial statements of a Maori incorporation (other than a large Maori incorporation) for a financial year to which this clause applies must be treated as complying with section 276A(2) (as in force before the commencement of this clause) unless the financial statements are false or misleading in a material particular.

- (3) In this clause, **financial statements** has the same meaning as in section 6 of the Financial Reporting Act 2013.

### Explanatory note

This Supplementary Order Paper amends the Māori Purposes Bill to include amendments to Te Ture Whenua Maori Act 1993 (the **1993 Act**) in *new Part 3*.

The amendments relate to financial reporting requirements for Māori incorporations. The main effects are as follows:

- currently, section 276A of the 1993 Act requires a Māori incorporation to prepare financial statements in accordance with generally accepted accounting practice or a non-GAAP standard (issued by the External Reporting Board). This is considered to set a higher, and in some cases an unachievable, compliance standard for financial reporting as compared to similar entities. Section 276A is amended so that—
  - large Māori incorporations must prepare financial statements in accordance with generally accepted accounting practice. An incorporation is large if it had more than \$10 million of revenue in each of the 2 preceding financial years:
  - other Māori incorporations must prepare financial statements that include a statement signed by the secretary to the effect that the secretary is satisfied that the financial statements give a reasonable representation of the financial position and financial performance of the incorporation:
- section 277 of the 1993 Act is amended so that an audit requirement only applies to a large Māori incorporation:
- a transitional provision (in *new Schedule 1AA*) will be included to provide relief for financial years that commenced on or after 1 April 2014 (but not financial years to which the new requirements will apply). In this case, the financial statements of a non-large Māori incorporation will be treated as complying with the 1993 Act unless the financial statements are false or misleading in a material particular. 1 April 2014 is the date on which section 276A was inserted into the 1993 Act under the Financial Reporting (Amendments to Other Enactments) Act 2013.

*New Part 3* includes a number of consequential amendments relating to these amendments (including amendments to the Maori Incorporations Constitution Regulations 1994).

**Departmental disclosure statement**

Te Puni Kōkiri considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.