

House of Representatives

Supplementary Order Paper

Tuesday, 28 February 2012

Ngati Porou Claims Settlement Bill

Proposed amendments

Hon Christopher Finlayson, in Committee, to move the following amendments:

Clause 82

After *clause 82(4)* (after line 15 on page 66), insert:

- (4A) The Minister must not change the name of a reserve site under section 16(10) of the Reserves Act 1977 without the written consent of the administering body of the site, and section 16(10A) of that Act does not apply to the proposed change.

Clause 129

In *clause 129(1)*, definition of **assets and liabilities**, *paragraph (a)*, replace “, the Porou Ariki Trust,” (lines 12 and 13 on page 87) with “(including as trustee of the Porou Ariki Trust)”.

In *clause 129(1)*, definition of **relevant subsidiaries**, *paragraph (b)*, replace “Seafood” (line 10 on page 88) with “Seafoods”.

In *clause 129(1)*, after the definition of **reorganisation** (after line 14 on page 88), insert:

taxable income has the meaning given in section YA 1 of the Income Tax Act 2007.

Clause 132

In *clause 132(1)(a)*, replace “and the Porou Ariki Trust” (line 13 on page 89) with “(including as trustee of the Porou Ariki Trust)”.

In *clause 132(2)*, after “Te Runanga” (line 18 on page 89), insert “(including as trustee of the Porou Ariki Trust)”.

New clause 141A

After *clause 141* (after line 5 on page 93), insert:

141A Continuation of proceedings

- (1) An action, arbitration, proceeding, or cause of action that was pending or existing by, against, or in favour of Te Runanga before the commencement of this Act may be continued and enforced by, against, or in favour of the trustee.
- (2) It is not necessary to amend a pleading, writ, or other document to continue the action, arbitration, proceeding, or cause of action.

Clause 142(2)

In *clause 142(2)*, replace “48G of the Evidence Act 1908” (line 12 on page 93) with “4(1) of the Evidence Act 2006”.

Clause 151

Replace *clause 151(4) to (6)* (lines 8 to 25 on page 96) with:

- (4) **Subsection (5)** applies if income of Te Runanga—
 - (a) is derived from a financial arrangement, trading stock, revenue account property, or depreciable property; and
 - (b) is exempt income of Te Runanga but is not exempt income of the trustee.
- (5) The trustee must be treated as having acquired the financial arrangement, trading stock, revenue account property, or depreciable property on the day that it becomes the trustee’s property for a consideration that is its market value on that day.
- (6) The trustee must identify the undistributed charitable amounts, using the following formula:

$$x - y$$

where—

- x is the total amounts derived by Te Runanga that, but for the application of sections CW 41 and CW 42 of the Income Tax Act 2007, would have been taxable income derived by Te Runanga before the commencement of this Act
 - y is the amounts described in x that have been distributed before the commencement of this Act.
- (6A) The undistributed charitable amounts described in **subsection (6)** are excluded from the corpus of the trustee for the purposes of the Income Tax Act 2007, to the extent to which they are otherwise included but for this subsection.
 - (6B) If the trustee distributes an undistributed charitable amount to a person, that amount is treated as beneficiary income for the purposes of the Income Tax Act 2007, unless **subsection (6C)** applies.

- (6C) If the trustee distributes an undistributed charitable amount for a charitable purpose, the distribution is exempt income of the recipient.

Clause 157

Replace *clause 157* (lines 7 to 11 on page 98) with:

157 Amendment to Electoral (Iwi Organisation and Other Māori Organisation) Regulations 2012

- (1) This section amends the Electoral (Iwi Organisation and Other Māori Organisation) Regulations 2012.
- (2) In the Schedule, delete the item relating to Te Rūnanga o Ngāti Porou.
- (3) In the Schedule, insert, in its appropriate alphabetical order, “Te Rūnanganui o Ngāti Porou”.

Explanatory note

This Supplementary Order Paper proposes to amend the Ngāti Porou Claims Settlement Bill as reported back by the Maori Affairs Select Committee in the following ways:

- *new clause 82(4A)* clarifies that despite section 16 of the Reserves Act 1977, the Minister must not amend the name of a reserve vested under *Part 2* without the consent of the administering body of the Reserve; and
- a definition of **taxable income** is included in *clause 129(1)*; and
- *new clause 141A* is a further transitional provision; and
- technical corrections are made to *clauses 129 and 142*; and
- *clause 157* is amended to reflect the recently made Electoral (Iwi Organisations and Other Māori Organisations) Regulations 2012.

The Supplementary Order Paper also amends the transitional provisions in *Part 4* as follows:

- in *clauses 129 and 132*, the amendments clarify the status of the Porou Ariki Trust in the transition of governance arrangements from Te Runanga to the trustee; and
- in *clause 151*, *new subclauses (4) to (6C)* clarify the operation and effect of the transitional tax rules that apply to the re-organisation of the Ngāti Porou governance structure. Specifically, the changes—
 - ensure that relevant deductions are made when calculating the value of any undistributed retained earnings, by expressing the value as a taxable amount; and

- establish that the tax treatment of the undistributed retained earnings, when distributed by the trustee, is based on the purpose of the distribution rather than on the tax status of the recipient.
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