

Departmental Disclosure Statement

Māori Purposes Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Te Puni Kōkiri.

Te Puni Kōkiri certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

27 November 2024

Contents

Part One: General Policy Statement 3

Part Two: Background Material and Policy Information 5

Part Three: Testing of Legislative Content..... 6

Part Four: Significant Legislative Features 9

Part One: General Policy Statement

A Māori Purposes Bill is an omnibus Bill that enables minor, technical, and non-controversial amendments to legislation relating to Māori affairs. A Māori Purposes Bill may also deal with authorisations, transfers, and validations in respect of Māori land and property.

This Māori Purposes Bill reflects an ongoing programme of work to improve the way the Government engages with the Māori sector by ensuring mechanisms exist to support a strong Māori sector. Modernising legislation is a key factor for ensuring the Māori sector is well-positioned to accelerate Māori economic development and increase social well-being opportunities.

The amendments in this Bill seek to make legislation more efficient and fit for purpose, reduce unnecessary administrative burdens on Māori entities, and enable increased autonomy. The amendments also address technical issues within statutes.

The Bill proposes amendments to the following legislation:

- the Maori Community Development Act 1962 and the Maori Community Development Regulations 1963 to clarify that meetings can be held electronically and enable co-chairperson arrangements; and
- the Maori Purposes Fund Act 1934–35 and Maori Purposes Fund Regulations 1937 to clarify that meetings for the Māori Purposes Fund Board can be held electronically and modernise requirements for reporting to Parliament; and
- the Maori Soldiers Trust Act 1957 to clarify that meetings can be held electronically for the Māori Soldiers Trust Committee and district committees, modernise language and quorum requirements, allow members to continue in office until their successor is appointed, and update how the public can access reports on the Trust's annual activities; and
- the Maori Trust Boards Act 1955 to clarify that meetings can be held electronically and improve the operation, administration, and appointment processes of Māori Trust Boards; and
- the Māori Trustee Act 1953 and the Māori Trustee Regulations 2009 to amend how distributable income from Common Fund investments is calculated, prescribe a threshold amount of distributable income for reporting to account holders, modernise language and terms, and update references to repealed legislation; and
- Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 to update language, clarify the purpose of Te Mātāwai, enable co-chairperson arrangements, and further support te reo Māori revitalisation; and
- Te Ture Whenua Maori Act 1993, the Maori Incorporations Constitution Regulations 1994, and the Maori Reservations Regulations 1994 to clarify that meetings for Māori land trusts and Māori incorporations can be held electronically, enable the appointment of co-chairpersons, clarify the powers of the Māori Land Court when considering contractual matters before it, confer on the Court powers relating to minors' contracts, and replace the section that gives the Māori Land Court jurisdiction to exercise powers relating to easement and covenant matters relating to Māori freehold land.

This Māori Purposes Bill also repeals the Maori Purposes Act 1939, the Maori Purposes Act 1945, and the Maori Purposes Act 1973 because these Acts no longer have any operative provisions.

While the amendments in this Bill are minor, technical, and non-controversial, it is expected that they will have a significant impact on the entities involved, who will be able to operate more effectively with fit-for-purpose legislation.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>Review of Te Ture mō Te Reo Māori 2016 Steering Group, November 2022: https://www.tpk.govt.nz/documents/download/documents-3009-A/Te%20Ture%20m%C5%8D%20Te%20Reo%20M%C4%81ori%202016%20Review%20Report.pdf</p> <p>This review informed the amendments to Te Ture mō Te Reo Māori 2016 contained in this Bill.</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Māori Purposes Bill makes minor, technical, and non-controversial amendments to Māori affairs legislation. The primary legislation being amended is Te Ture Whenua Maori Act 1993, the Māori Trustee Act 1953, the Maori Trust Boards Act 1955, the Maori Purposes Fund Act 1934-35, the Maori Soldiers Trust Act 1957, the Maori Community Development Act 1962, and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016. The Bill also makes consequential amendments to the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003.

We have checked that none of the legislation being amended implements a treaty or requires Ministers or officials "to have regard to," "take into account," or act in a way "consistent with" international obligations. We have considered Appendix 3 of the Legislation Advisory Committee Guidelines on Process and Content and Process of Legislation (2001 edition) and are satisfied that none of the legislation being amended gives effect to international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The Māori Purposes Bill makes minor, technical, and non-controversial amendments to Māori affairs legislation.

The proposed amendments contribute to Māori wellbeing and development by improving the way the Government engages with the Māori sector, by ensuring mechanisms exist to support a strong Māori sector, which is coordinated, coherent, and fit-for-purpose. Modernising legislation is a key lever available to the government to ensure the Māori sector is well-positioned to accelerate Māori economic development and social wellbeing opportunities. This is consistent with the principles of the Treaty of Waitangi.

The Bill has been developed to be consistent with Treaty principles of partnership, participation, protection and rangatiratanga. Te Puni Kōkiri has consulted with the Māori entities affected by the policy given effect to in the Bill.

The Māori Land Court, Te Tumu Paeroa, New Zealand Māori Council and the Māori Trust Boards have confirmed their support for the proposed amendments relevant to their entities.

Te Mātāwai has been involved throughout the development and drafting of amendments to Te Ture mō Te Reo Māori 2016 and approves of proposed amendments.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

The Bill has been provided to the Ministry of Justice for consideration of compliance with the New Zealand Bill of Rights Act. The Ministry of Justice will provide advice to the Attorney-General. This is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice will be accessible on the Ministry's website at:

<https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/advice/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES
<p>Clause 114 of the Bill replaces section 22B of Te Ture Whenua Maori Act 1993 (TTWMA). This section currently gives the Māori Land Court jurisdiction to exercise powers relating to easement and covenant matters relating to Māori freehold land. This section is being replaced to ensure that the powers apply whether or not an application is made to the court. Te Puni Kōkiri has consulted the Māori Land Court regarding this change.</p> <p>Clause 115 extends the scope of section 24A of TTWMA to allow the Māori Land Court and Māori Appellate Court to consider any contractual matters under part 2 of the Contract and Commercial Law Act 2017 (CCLA) if a matter is before the court under its general jurisdiction. Clauses 119 and 120 amend the definition of court in the CCLA. Together, these amendments will confer powers on the Māori Land Court and Māori Appellate Court that other courts currently have when dealing with minors' contracts. Subpart 6 of the CCLA deals with minors' contracts, and confers powers on specified courts, which are currently the High Court, the District Court, and the Disputes Tribunal. Section 24A of TTWMA is silent on the powers of the Māori Land Court in regard to Subpart 6.</p>	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<p>Yes, Te Puni Kōkiri sought feedback from the Ministry of Justice, who provided their support for changes to section 24A of Te Ture Whenua Maori Act 1993. The Māori Land Court also supports these proposed changes.</p>	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The Māori Land Court, Te Tumu Paeroa, New Zealand Māori Council and the eight Māori Trust Boards have confirmed their support for the proposed amendments relevant to their entities.</p> <p>The Māori Purposes Fund Board has been consulted on the changes to the Maori Purposes Fund Act 1934-35.</p> <p>Te Mātāwai has been involved throughout the development and drafting of amendments to Te Ture mō Te Reo Māori 2016 and approves of the proposed amendments to this Act.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
<p>The policy details have been consulted on with relevant agencies and third parties (as set out in answers above) to determine their workability. No further testing was considered necessary given the straightforward, minor, technical, and non-controversial nature of the proposed amendments.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
<p>Yes, the Bill makes amendments to validate co-chair arrangements for entities in the following Acts:</p> <p>Te Ture mō Te Reo Māori 2016 (co-chairs of Te Mātāwai)</p> <p>Te Ture Whenua Māori Act 1993 (co-chairs of Māori incorporations and Māori reservations)</p> <p>Maori Community Development Act 1962 (co-chairs of Māori Associations).</p> <p>These validation clauses are necessary to validate the co-chair arrangements used, or possibly in use, by entities under these Acts. Co-chair arrangements are common practice in te ao Māori, and appointments are made in the same manner as a single chairperson. Entities have been operating under the assumption that co-chairs are possible under chairperson provisions, and this Bill validates these existing arrangements (and also enables co-chairs for these entities going forward).</p> <p>We are not aware of the existing co-chairperson arrangements having negatively impacted the ability of the entities to carry out their functions. In our opinion, no-one will be negatively affected by the validation.</p> <p>Each validation provision applies as narrowly as possible to achieve its objective. The validations are confined to validating the appointment and actions carried out by co-chairpersons that would have been valid if made by a single chairperson. Without the validation, the decisions made by the co-chairpersons could be open to challenge, including the exercise by Te Mātāwai of important statutory functions under Te Ture mō te Reo Māori 2016 and the Māori Television Service Act 2003.</p>	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p>The Bill amends a power to make delegated legislation that could amend an Act and creates a power to make delegated legislation that could amend an Act, Clause 107 amends section 45 of Te Ture mō Te Reo Māori 2016 ("the Act") to amend one power and create another.</p> <p>Schedule 2 of the Act lists court and tribunals before which Māori may be spoken. Schedule 4 lists regional clusters of iwi (to be renamed kāhui-ā-iwi).</p> <p>Section 45(1) of the Act currently allows the Governor-General, by Order in Council, on the recommendation of the Minister and the Minister for Courts, to make regulations to amend Schedule 2 by adding or removing the name of a court tribunal. Section 45(2) provides that the Ministers may make such a recommendation only if, in their opinion, that schedule does not include a court or tribunal that ought to be included. The Bill will amend section 45 so that the Ministers may make a recommendation to remove a court or tribunal only if, in their opinion, that schedule includes a court or tribunal that ought not to be included.</p> <p>The amended section 45 will also empower the Governor-General, by Order in Council, to make regulations to amend Schedule 3 of the Act by amending the name of a kāhui or adding or removing the name of an iwi in a kāhui.</p> <p>Iwi are grouped into different clusters or kāhui to allow Te Mātāwai to better support those particular regions for investment purposes. Over time the member iwi that form these kāhui can change. Currently the Schedule would need to be changed through an amendment to the Act.</p> <p>Sufficient safeguards are built into this proposal, in that the views of both iwi and Te Mātāwai must be sought before a change is recommended. Further, the governance group of Te Mātāwai are iwi representatives. This provides assurance that no iwi will have their name added or removed from Schedule 3 of the Act without their express input.</p>	

We consider this proposal consistent with chapter 15 of the Legislation Guidelines (2021 edition). There is a need for flexibility, the empowering provision is limited, and the safeguards reflect the significance of the power.

Definition of Terms in Acts

The Bill defines the meaning of terms in Acts by inserting a modern definition, or replacing the existing definition, of “Minister” in the Maori Community Development Act 1962, Maori Purposes Fund Act 1934-35, and the Maori Soldiers Trust Act 1957.

The Bill inserts a definition of Minister in the Māori Trustee Act 1953 as “Minister means Minister for Māori Development” and amends the existing definition of Minister in Te Ture Whenua Maori Act 1993 to “Minister for Māori Development.” We have consulted with the Cabinet Office on this change.

The Bill amends section 2 of the Māori Trustee Act 1953 to replace references to the repealed Maori Affairs Act 1953 with Te Ture Whenua Maori Act 1993 (TTWMA). This means that terms used in the Māori Trustee Act 1953 that are defined in TTWMA carry the same meaning.

Clause 97 of the Bill amends the definition of whakahaerenga ā-ture (legal proceeding) in section 7(7) of the Māori language version of Te Ture mō Te Reo Māori 2016. This amendment is a consequential amendment already made to the English version by the Coroners Amendment Act 2023.

4.8. Does this Bill create or amend any other powers to make delegated legislation?

NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?

NO