

APPENDIX 1

MAORI FISHERIES BILL
PROPOSAL FOR LEGISLATION BY THE TREATY OF
WAITANGI FISHERIES COMMISSION UNDER
SECTION 6(e)(ii) MAORI FISHERIES ACT 1989



TREATY OF WAITANGI
FISHERIES COMMISSION

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Maori Fisheries Bill 2003

MAORI FISHERIES BILL 2003

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Attached at end of Bill:

Diagram of Chatham Zone and FMAs 4 and 6 for clause 53(b)

Diagrams of Juridical Bay concepts for Schedule 6

WHEREAS—

- A. **By the Treaty of Waitangi the Crown confirms and guarantees to the chiefs, tribes, and individual Maori full exclusive and undisturbed possession and te tino rangatiratanga of their fisheries; and**
- B. **Maori claimed in proceedings in the High Court and in various claims to the Waitangi Tribunal that the quota management system introduced by the Fisheries Amendment Act 1986 was unlawful and in breach of the principles of the Treaty of Waitangi, or had no application to Maori fisheries (including commercial fisheries), and obtained from the High Court and Court of Appeal, by way of interim relief, a declaration declaring that the Crown ought not take further steps to bring the fisheries within the quota management system; and**
- C. **The Maori Fisheries Act 1989, an Act to “make better provision for the recognition of Maori fishing rights secured by the Treaty of Waitangi” (which came into force on 20 December 1989), provides for the transfer from the Crown to the Maori Fisheries Commission of quota totalling 10 percent of the total allowable commercial catches for all species then subject to the quota management system (which transfer was required to be effected in instalments over the period ending with the close of 31 October 1992); and**
- D. **A Deed of Settlement dated 23 September 1992 was entered into between the Crown and Sir Graham Latimer, the Honourable Matiu Rata, Richard Dargaville, Sir Tipene O'Regan, Cletus Maanu Paul, and Whatarangi Winiata, together with other persons who negotiated with the Crown on behalf of iwi, the New Zealand Maori Council, the National Maori Congress, and other representatives of iwi, whereby it was agreed between the parties that agreements in the Deed, the implementation of the Deed through legislation and the continuing relationship between the Crown and Maori would constitute a full and final settlement of all Maori claims to commercial fishing rights**

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and would change the status of non-commercial fishing rights so that they no longer give rise to rights in Maori or obligations on the Crown having legal effect but would continue to be subject to the principles of the Treaty of Waitangi and give rise to Treaty obligations on the Crown; and

- E. **The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, an Act “to give effect to the settlement of claims relating to Maori fishing rights” (which came into force on 23 December 1992), provides for the implementation of the Deed of Settlement including:**
- (a) **payment by the Crown to Maori of a sum of \$150 million to be used for the development and involvement of Maori in the New Zealand fishing industry, including participation in a joint venture with Brierley Investments Limited to acquire Sealord Products Limited, a major fishing company; and**
 - (b) **empowering the making of regulations recognising and providing for customary food gathering and the special relationship between the tangata whenua and places of importance for customary food gathering (including tauranga ika and mahinga mataitai), to the extent that such food gathering is not commercial in any way nor involves commercial gain or trade; and**
 - (c) **reconstituting the Maori Fisheries Commission as the Treaty of Waitangi Fisheries Commission; and**
 - (d) **empowering the Treaty of Waitangi Fisheries Commission, after considering how best to give effect to the resolutions adopted by the Annual General Meeting of the Commission on 25 July 1992 and reporting to the Minister, to allocate the assets held by the Commission at the settlement date specified in the Deed; and**
 - (e) **empowering the Treaty of Waitangi Fisheries Commission, after consultation with Maori, to devise and report to the Minister on a new Maori Fisheries Act to include a scheme for the allocation of the**

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Commission's assets other than those referred to in paragraph E(d);

- F. Section 44 of the Fisheries Act 1996 (which came into force on 1 October 1997) provides, in accordance with clause 3.2 of the Deed of Settlement, for the Treaty of Waitangi Fisheries Commission on behalf of Maori to be allocated 20 percent of total new quota for each stock brought within the quota management system; and**
- G. The Treaty of Waitangi Fisheries Commission, having examined the alternative methods to allocate, produced discussion material, and consulted with iwi and Maori, has developed and reported to the Minister of Fisheries on a scheme for the allocation of the assets held by the Commission at the settlement date specified in the Deed; and**
- H. The Treaty of Waitangi Fisheries Commission, having consulted with iwi and Maori, has developed and reported to the Minister of Fisheries on a new Maori Fisheries Act, which includes a scheme for the allocation of the Commission's assets other than those referred to in paragraph G; and**
- I. The Treaty of Waitangi Fisheries Commission's scheme and proposed new Maori Fisheries Act, includes provision for:**
 - (a) the classification of assets, including quota, held by the Commission; and**
 - (b) the allocation of quota, including quota for new species brought within the quota management system, to mandated iwi organisations; and**
 - (c) the establishment of a trust, Te Ohu Kai Moana, to advance the interests of and to ultimately benefit Maori particularly in the development of fisheries and fishing in a manner that furthers the agreements expressed in the Deed of Settlement; and**
 - (d) the establishment of an electoral college, Te Kawai Taumata, to represent iwi and certain Maori**

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organisations in relation to appointments to Te Ohu Kai Moana; and

- (e) the establishment of a company, Aotearoa Fisheries Limited, to hold and centrally manage the Commission's interests in various companies on behalf of iwi; and**
 - (f) the establishment of a trust, Te Putea Whakatupu Trust, to assist all Maori; and**
 - (g) the establishment of a trust, Te Wai Maori Trust, to assist freshwater fisheries initiatives; and**
 - (h) the allocation of specified amounts of money to mandated iwi organisations, Te Putea Whakatupu Trust and Te Wai Maori Trust; and**
 - (i) limitations on the sale and exchange of allocated quota and income shares in Aotearoa Fisheries Limited by Te Ohu Kai Moana and mandated iwi organisations; and**
 - (j) minimum requirements for the accountability, representation and constitutions of mandated iwi organisations; and**
 - (k) the periodic review of the structure and governance of the entities referred to in paragraphs I(c) to (g); and**
 - (l) the recognition of iwi as the final beneficiaries of Te Ohu Kai Moana, Te Putea Whakatupu Trust and Te Wai Maori Trust; and**
 - (m) the establishment of dispute resolution procedures, including provision for the involvement of the Maori Land Court;**
- J. The Treaty of Waitangi Fisheries Commission's scheme is to be implemented through a new Maori Fisheries Act, which is required to be developed by the Treaty of Waitangi Fisheries Commission under section 6(e)(ii) of the Maori Fisheries Act**

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1989 and this Act results from the Commission's performance of that obligation.

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Maori Fisheries Act **2003**.

2 Commencement

This Act comes into force on **1 July 2003**.

**Part 1
Preliminary Provisions**

3 Purpose

The purpose of this Act is to provide an enduring framework to:

- (a) allocate some PRESA and POSA to iwi; and
- (b) enable control and management of other PRESA and POSA in common –

for the development of Maori interests in the business and activities of fishing and fisheries in a manner that is ultimately for the benefit of all Maori.

4 Interpretation

In this Act, unless the context otherwise requires-

adult member of an iwi means a person who is of or over the age of 18 years and who affiliates to the iwi by whakapapa

allocated quota means any quota allocated by the Commission or Te Ohu Kai Moana to a mandated iwi organisation and includes –

- (a) any such quota even though it may have been transferred to another mandated iwi organisation or purchased by Te Ohu Kai Moana or a member of its group; and

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- (b) any quota that becomes allocated quota under **section 65(2)(a)**.

appointed day means a day which is a day not later than **1 October 2003** specified by the Governor General by Order in Council made on the recommendation of the Minister after consulting the Commission

Aotearoa Fisheries Limited means the company of that name incorporated under the Companies Act 1993 by the Commission; and is not the company of the same name referred to in section 12 of the Maori Fisheries Act 1989

coastline relating to an iwi means the coastline that is agreed or determined under this Act for the purpose of calculating the allocation of quota to that iwi

Commission means the Treaty of Waitangi Fisheries Commission established under section 4 of the Maori Fisheries Act 1989

Commissioner means a director of the Corporate Trustee

Corporate Trustee means Te Ohu Kai Moana Corporate Trustee Limited established under **section 12** to be the trustee of Te Ohu Kai Moana

Deed of Settlement means the Deed of Settlement dated 23 September 1992 signed between the Crown and Maori and referred to in the Treaty of Waitangi (Fisheries Settlement) Claims Act 1992; and **Settlement** has a corresponding meaning.

deepwater quota means the quota classified as deepwater quota under **section 5**

designated quota means quota held by a mandated iwi organisation that is not allocated quota and after approval of a properly constituted hui-a-iwi, the mandated iwi organisation has requested Te Ohu Kai Moana to treat as allocated quota for the purposes of **Part 8**

freshwater quota means the quota classified as freshwater quota under **section 5**

group in relation to Te Ohu Kai Moana means any subsidiary, trust, or entity over which Te Ohu Kai Moana has effective control and includes any company or entity in which Te Ohu Kai Moana directly or indirectly controls 50 percent or more of

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the votes or directly or indirectly has the right to appoint half or more of the trustees or directors (however described).

harbour quota means quota referred to in **section 54**

income share means an income share in Aotearoa Fisheries Limited referred to in **section 27(2)(b)**

Inland Revenue Acts has the same meaning as in section 3(1) of the Tax Administration Act 1994

inshore quota means the quota classified as inshore quota under **section 5** and includes harbour quota

iwi means an iwi described in **Schedule 4** and includes all members of that iwi; and where **Schedule 4** provides for iwi in Hauraki and Te Arawa to be regarded as combined, means the combined iwi

mandated iwi organisation, in relation to an iwi, means an organisation recognised by Te Ohu Kai Moana under **section 9** as the representative organisation of that iwi

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

POSA means post-Settlement assets being those assets held by the Commission or Te Ohu Kai Moana on behalf of Maori on or after the commencement of this Part that are not PRESA; and includes the 20 percent of quota for any new stock brought under the quota management system (as agreed in clause 3.2 of the Deed of Settlement and given effect to by section 44 of the Fisheries Act 1996);

POSA quota means POSA quota described in **Part 2 and Part 3 of Schedule 1**; and includes the 20 percent of quota for any new stock brought under the quota management system (as agreed in clause 3.2 of the Deed of Settlement and given effect to by section 44 of the Fisheries Act 1996);

PRESA means pre-Settlement assets being those assets held by the Commission or Te Ohu Kai Moana on behalf of Maori on or after the commencement of this Part that are described as PRESA in **Schedule 2**.

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PRESA money means the amount stated in **Schedule 2** as being PRESA money

quota means individual transferable quota, expressed as quota shares, (both as defined in the Fisheries Act 1996) that are PRESA quota or POSA quota

recognised iwi organisation means an organisation recognised by Te Ohu Kai Moana under **section 10** as the recognised iwi organisation for an iwi;

representative Maori organisation means an organisation specified for the purpose in **Schedule 5**

Subcompany means a company, trust, or entity over which Aotearoa Fisheries Limited has effective control, irrespective of whether or not it is a subsidiary of Aotearoa Fisheries Limited; and includes

- (a) a company that is a subsidiary of a Subcompany or a company, trust, or entity over which the Subcompany has effective control; and
- (b) a company, entity or trust in which Aotearoa Fisheries Limited directly or indirectly controls 50 percent or more of the votes or directly or indirectly has the right to appoint half or more of the directors, or office holders (however described) -

and **director of a Subcompany** means a director, trustee or officeholder (however described)

special resolution in respect of Te Ohu Kai Moana means a resolution approved by 75 percent or more of the Commissioners entitled to vote on the motion

stock and **quota management stock** have the same meaning as in section 2(1) of the Fisheries Act 1996

subsidiary has the same meaning as in the Companies Act 1993

Te Kawai Taumata means the electoral college established under **section 22**

Te Ohu Kai Moana means the trust established by the Commission under **section 12**

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Te Putea Whakatupu Corporate Trustee means Te Putea Whakatupu Corporate Trustee Limited established under **section 35** to be the trustee of Te Putea Whakatupu Trust.

Te Putea Whakatupu Trust means the trust established by Te Ohu Kai Moana under **section 35**

Te Wai Maori Corporate Trustee means Te Wai Maori Corporate Trustee Limited established under **section 40** to be the trustee of Te Wai Maori Trust.

Te Wai Maori Trust means the trust established by Te Ohu Kai Moana under **section 40**

voting share means a voting share in Aotearoa Fisheries Limited referred to in **section 27(2)(a)** that does not have any entitlement to distributions from Aotearoa Fisheries Limited.

5 Classification of quota

- (1) PRESA quota or POSA quota described as “DW” in **column 2 of Part 1 or column 2 of Part 2 of Schedule 1** is deepwater quota.
- (2) PRESA quota or POSA quota described as “IN” in **column 2 of Part 1 or column 2 of Part 2 of Schedule 1** is inshore quota.
- (3) POSA quota described as “FW” in **column 2 of Part 2 of Schedule 1** is freshwater quota.
- (4) Where the Minister responsible for the administration of the Fisheries Act 1996 declares under section 18 of that Act that a stock is subject to the quota management system Te Ohu Kai Moana must determine and publish in the *Gazette* the appropriate description for the stock in accordance with **subsections (5) and (6)** and **subsections (1) to (3)** apply as if Schedule 1 had been amended accordingly.
- (5) For the purposes of **subsection (4)**:
 - (a) stock that Te Ohu Kai Moana determines, on the basis of biological or anecdotal evidence, is clearly deepwater stock must be described as “DW” as in **column 2 of Part 2 of Schedule 1**;

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- (b) stock that Te Ohu Kai Moana determines, on the basis of biological or anecdotal evidence, is clearly inshore stock must be described as “IN” as in **column 2 of Part 2 of Schedule 1**;
 - (c) stock that Te Ohu Kai Moana determines, on the basis of biological or anecdotal evidence, is clearly freshwater stock must be described as “FW” as in **column 2 of Part 2 of Schedule 1**.
- (6) For the purposes of **subsection (4)**, where Te Ohu Kai Moana is unable to make a determination under **subsection (5)**, or where biological or anecdotal evidence suggests that a particular stock may be taken between the depths of 200 metres and 400 metres, Te Ohu Kai Moana must consider the most recent 5 years of available commercial catch histories for that stock and –
- (a) where at least 75 percent of the stock is taken in depths greater than 300 metres, must determine that it is deepwater stock and describe it as “DW” as in **column 2 of Part 2 of Schedule 1**;
 - (b) where at least 75 percent of the stock is taken in depths of 300 metres or less, must determine that it is inshore stock and describe it as “IN” as in **column 2 of Part 2 of Schedule 1**;
 - (c) where neither **paragraph (a) or (b)** applies, must make a determination and describe it accordingly as in **column 2 of Part 2 of Schedule 1** based on:
 - (i) the fishing gear used to take the stock; and
 - (ii) the location where the stock was taken.

6 Definition of population of an iwi

- (1) For the purposes of this Act -
- (a) the **population of an iwi** means the population of the iwi as stated in **column 2 of Schedule 4**;

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- (b) the percentage that the population of each iwi comprises of the total notional Maori population is as stated in **column 3 of Schedule 4**
- (2) The **population of an iwi** applies for the purposes of this Act irrespective of any multiple iwi affiliations and any census or other data.
- (3) The definition of the **population of an iwi**, for the purposes of this Act -
 - (a) does not bind the iwi to which it relates or any other iwi in any matter that is before the Waitangi Tribunal, the Maori Land Court or any other Court other than under this Act;
 - (b) does not bind, compromise, advantage or disadvantage or operate as a precedent for any other matter between iwi;
 - (c) is not intended to disturb or affect any customary rights, aboriginal title rights, or any rights arising from the Treaty of Waitangi in relation to any other matter.

7 Coastlines

- (1) Coastlines are determined in this Act for the purpose of calculating the allocations of quota to iwi and for no other purpose under this Act or any other Act unless the parties agree.
- (2) A determination of coastline for the purposes of this Act:
 - (a) does not bind the iwi to which it relates or any other iwi in any matter that is before the Waitangi Tribunal, the Maori Land Court or any other Court other than under this Act;
 - (b) does not bind, compromise, advantage or disadvantage or operate as a precedent for any other matter between iwi;
 - (c) is not intended to disturb or affect any customary rights, aboriginal title rights, or any rights arising from the Treaty of Waitangi in relation to any other matter.
- (3) The length or percentage of coastline to be attributed to iwi and the coastlines of quota management areas must be determined

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for the purposes of this Act in accordance with the formulae and otherwise as described in **Schedule 6**.

- (4) Mandated iwi organisations may agree on specified lengths of coastline or specified percentages of coastline (totalling 100 percent) between two defined points to be allocated to those iwi without applying the percentages to the physical coastline.
- (5) Iwi can have different coastlines or percentages of coastline attributed to them for different quota management stocks.

8 Agreements as to coastline

- (1) Each mandated iwi organisation that claims that any specified length or percentage of coastline properly relates to its iwi for the purposes of the allocation of any or all quota management stocks must take all reasonable steps to consult and agree with mandated iwi organisations of other affected iwi as to the extent of the coastlines relating to their respective iwi.
- (2) Where all the mandated iwi organisations of affected iwi are in agreement as to the attribution of coastlines of a quota management area or fisheries management area relating to an iwi or all relevant iwi, for any or all quota management stocks, the mandated iwi organisations must file the terms of the agreement with Te Ohu Kai Moana.
- (3) Where a mandated iwi organisation asserts there is no other affected iwi with coastline in any quota management area or fisheries management area the mandated iwi organisation may file that assertion and supporting evidence with Te Ohu Kai Moana.
- (4) If Te Ohu Kai Moana by special resolution, endorses the assertion of the mandated iwi organisation then the endorsed assertion has the status of a coastline agreement under this Act.
- (5) For the purposes of this section an affected iwi is an iwi whose rohe or part of a rohe abuts the relevant fisheries management area or quota management area, as the case requires.

9 Mandated iwi organisations

- (1) Te Ohu Kai Moana may, by special resolution, recognise one mandated iwi organisation for each iwi if satisfied that the criteria for recognition are met.
- (2) A mandated iwi organisation-

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- (a) represents its iwi at any meeting to appoint a member of Te Kawai Taumata;
 - (b) is entitled to acquire and hold income shares in Aotearoa Fisheries Limited;
 - (c) is entitled to receive and hold on behalf of its iwi, any allocated quota and other assets allocated to that iwi by Te Ohu Kai Moana; and
 - (d) may receive distributions from Te Putea Whakatupu Trust and Te Wai Maori Trust.
 - (e) must perform the duties and may perform the functions conferred on it by this Act.
- (3) The criteria for recognition, and continued recognition, as a mandated iwi organisation for the purposes of this Act are-
- (a) the organisation must be a company, a trust or incorporated society whose constitution, trust deed or rules complies with and implements the kaupapa contained in **Schedule 7**;
 - (b) in respect of matters relating to this Act and assets received under it, the directors or trustees of the organisation must be able to demonstrate that they continue to have the confidence of the majority of those adult members of the iwi who vote at a properly constituted hui or general or special meetings to act on their behalf;
 - (c) the constitutional documents of the organisation must -
 - (i) permit, but not require, the organisation to benefit Maori other than members of the iwi, or the community generally, if the directors or trustees consider that to be appropriate; and
 - (ii) be approved by Te Ohu Kai Moana.
 - (d) such other criteria in respect of the organisation or its constitutional documents prescribed by Te Ohu Kai Moana from time to time and published in the *Gazette*.

10 Recognised iwi organisations

- (1) In this section, **specified purpose** means all the roles of a mandated iwi organisation under this Act, except –
 - (a) the right to receive PRESA and POSA;
 - (b) the right to receive money under **sections 59 and 60**;
 - (c) the right to purchase allocated quota;
 - (d) the right to receive or purchase income shares and receive distributions relating to income shares;
 - (e) the right to agree coastlines or enter into agreements for freshwater quota or harbour quota;
 - (f) the right to nominate an entity with charitable status to receive distributions on the winding up of Te Ohu Kai Moana, Aotearoa Fisheries Limited, Te Putea Whakatupu Trust or Te Wai Maori Trust.
- (2) If Te Ohu Kai Moana considers that an iwi that does not have a mandated iwi organisation should have a recognised iwi organisation, Te Ohu Kai Moana may recognise a company, trust, or other entity as a recognised iwi organisation for all specified purposes for that iwi.
- (3) A recognised iwi organisation has all the functions, duties, powers and rights of a mandated iwi organisation for all specified purposes and represents its iwi for all specified purposes as if it were a mandated iwi organisation. References in this Act to the directors or trustees of a mandated iwi organisation include the office holders (however described) of a recognised iwi organisation.
- (4) Te Ohu Kai Moana may, notwithstanding the constitutional documents of any recognised iwi organisation, require the directors, trustees or officeholders of a recognised iwi organisation to demonstrate that they have the confidence of the majority of those adult members of the iwi who vote at a properly constituted hui or general or special meetings to act on their behalf.
- (5) Te Ohu Kai Moana, mandated iwi organisations and recognised iwi organisations must recognise and deal with recognised iwi

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organisations as the mandated iwi organisation for that iwi for all specified purposes (including representing that iwi in all consultation, negotiation and proceedings in respect of those matters) as if the recognised iwi organisation were a mandated iwi organisation until there is a mandated iwi organisation for the iwi.

11 Representative Maori organisations

- (1) The organisations specified in **Schedule 5** are representative Maori organisations for the purposes of this Act.
- (2) A representative Maori organisation is entitled to participate in the appointment of one member of Te Kawai Taumata as provided for in this Act.

Part 2
Te Ohu Kai Moana

12 Te Ohu Kai Moana and Corporate Trustee to be established

The Commission must establish a trust to be known as Te Ohu Kai Moana, and the Corporate Trustee, before the appointed day.

13 Purpose

- (1) The purpose of Te Ohu Kai Moana is to advance the interests of, and to ultimately benefit, Maori particularly in the development of fisheries and fishing in a manner that furthers the agreements expressed in the Deed of Settlement and to give effect to this Act; and Te Ohu Kai Moana is to apply its funds under **section 18** accordingly.
- (2) Te Ohu Kai Moana is not subject to any enactment or rule of law restricting the period for which a trust may run.
- (3) Distributions and grants of assistance by Te Ohu Kai Moana contemplated by this Act do not affect the charitable status of Te Ohu Kai Moana and are not subject to income tax, goods and services tax or gift duty.

14 Trust Deed of Te Ohu Kai Moana

The trust deed of Te Ohu Kai Moana must-

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- (a) specify the purpose of Te Ohu Kai Moana as stated in **section 13**, those of its permitted activities that are specified in **section 16**, and any other permitted activities;
- (b) empower the Corporate Trustee to make all decisions of Te Ohu Kai Moana;
- (c) provide for the amendment of the trust deed including the addition of further purposes and permitted activities, in each case in a way that does not jeopardise the charitable status of the trust;
- (d) require Te Ohu Kai Moana to:
 - (i) develop an annual strategic plan for the group and circulate that plan to mandated iwi organisations, recognised iwi organisations and representative Maori organisations for comment prior to its adoption by Te Ohu Kai Moana;
 - (ii) report annually within six months of the end of each financial year to mandated iwi organisations, representative Maori organisations and recognised iwi organisations (and notify public availability of the report), measuring performance against the strategic plan, describing the key activities undertaken by Te Ohu Kai Moana and its subsidiaries and trusts and including audited financial statements and the matters specified in **sections 18(2), 38(3) and 43(3)**;
 - (iii) hold a hui-a-tau within eight months of the end of financial year to discuss and address issues arising from that report.
- (e) empower Te Ohu Kai Moana to perform any functions or exercise any powers conferred on it by this Act or any other Act; and
- (f) provide for the dissolution of the trust and the distribution of the assets of the trust, including capital and accumulated income, on dissolution in the proportions specified in **column 3 of Schedule 4 for the relevant iwi**–

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- (i) to mandated iwi organisations if they have charitable status; or
- (ii) by payment to an entity with charitable status nominated by the relevant mandated iwi organisation to benefit that iwi; or
- (iii) where a nomination is not made, to an entity with charitable status nominated by the Corporate Trustee to benefit that iwi.

15 Te Ohu Kai Moana Corporate Trustee Limited

The Corporate Trustee must be a company formed under the Companies Act 1993 as Te Ohu Kai Moana Corporate Trustee Limited-

- (a) with only one share that has no voting or distribution rights and is to be held by the chairperson of the Corporate Trustee;
- (b) whose constitution provides that its only roles are to act as Trustee of Te Ohu Kai Moana and control and manage its assets, and to perform any other functions conferred by this Act or any other Act on it or on Te Ohu Kai Moana;
- (c) whose constitution provides for Te Kawai Taumata to appoint and remove 7 directors to be known as Commissioners as contemplated by this Act;
- (d) whose constitution requires that all Commissioners must be Maori and, having regard to the purposes of Te Ohu Kai Moana and the role of the Corporate Trustee, that the Commissioners collectively have commercial expertise and business skills and are well versed in matters of tikanga Maori;
- (e) whose constitution provides a mechanism for its amendment, and the dissolution of the Corporate Trustee.

16 Permitted activities

In furtherance of its purpose, Te Ohu Kai Moana may engage in but is not confined to -

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- (a) fostering, promoting, commissioning and funding research and conservation of fisheries particularly where those activities are not the responsibility of other entities;
- (b) protecting and enhancing the interests of Maori, particularly in relation to fisheries and fishing, and related activities;
- (c) administering PRESA and POSA under this Act, including -
 - (i) allocating PRESA and POSA
 - (ii) managing assets on behalf of iwi, on a transitional basis where there is no mandated iwi organisation;
 - (iii) maintaining an iwi register including details of the mandated iwi organisations for the purposes of this Act and recording, verifying, and implementing agreements between iwi as contemplated by this Act, or assertions under **section 8**, for the coastlines and distribution of quota and other assets;
 - (iv) assisting mandated iwi organisations to establish a register of those who affiliate to the iwi by whakapapa (including those living outside the rohe) and their addresses and dates of birth;
 - (v) funding projects that assist iwi and providing other assistance to facilitate and expedite implementation of this Act and compliance with the requirements of Te Ohu Kai Moana;
- (d) acquiring and disposing of income shares and quota and entering into annual catch entitlement agreements; and
- (e) any other activity contemplated for Te Ohu Kai Moana by this Act or any other Act.

17 Capacity of Te Ohu Kai Moana

- (1) For the purpose of performing its functions under this Act or any other Act, Te Ohu Kai Moana -

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- (a) has full capacity to carry out, undertake or fund, any business or activity, do any act, or enter into any transaction; and
 - (b) for the purposes of **paragraph (a)**, has full rights, powers, and privileges.
- (2) **Subsection (1)** applies subject to—
- (a) the provisions of this Act and any other enactment;
 - (b) the trust deed of Te Ohu Kai Moana and the constitution of the Corporate Trustee; and
 - (c) the general law.

18 Application of funds

- (1) Te Ohu Kai Moana may apply its funds only for the purpose of Te Ohu Kai Moana or by way of distributions or grants of assistance to recognised iwi organisations, mandated iwi organisations, Te Putea Whakatupu Trust and Te Wai Maori Trust or otherwise as contemplated by this Act that are consistent with the purpose of Te Ohu Kai Moana.
- (2) Te Ohu Kai Moana may maintain reserve funds to the extent that it considers prudent. In each annual report, Te Ohu Kai Moana must separately describe each reserve, the reason why it is held, and any proposed applications of those reserves.

19 Application of public law to Te Ohu Kai Moana

- (1) Te Ohu Kai Moana and the Corporate Trustee are not public entities as defined in section 2(1) of the Public Finance Act 1989 or section 4 of the Public Audit Act 2001.
- (2) Te Ohu Kai Moana and the Corporate Trustee are not subject to the Official Information Act 1982.
- (3) For the purposes of the Judicature Amendment Act 1972 and the common law, none of Te Ohu Kai Moana, the Corporate Trustee, or any Commissioner is exercising a statutory power or public function when they make or decline to make any decision or take any action under or contemplated by this Act or the trust deed of Te Ohu Kai Moana where there is provision to refer or appeal the decision or action to the Maori Land Court.

20 Appointment of Commissioners of Corporate Trustee

- (1) The Minister of Maori Affairs must appoint the 7 initial Commissioners and those Commissioners must be current members of the Commission in order to ensure appropriate continuity.
- (2) On the day that the appointments of Commissioners are made under **subsection (1)**, the appointments of the other 4 members of the Commission expire without any right to compensation for loss of office.
- (3) In making the appointments the Minister may consult whomever he or she considers appropriate.
- (4) Commissioners hold office for terms of 4 years except that three initial Commissioners specified by the Minister hold office for a term of 2 years.
- (5) Any Commissioner who has held office for two consecutive terms is not eligible for reappointment as a Commissioner within 2 years after ceasing to hold office.
- (6) A Commissioner whose term of office referred to in **subsection (4)** has expired continues in office until his or her successor is appointed under the constitution of the Corporate Trustee.
- (7) Any term of office of a commissioner of the Commission is not to be treated as a term of office of a Commissioner of Te Ohu Kai Moana for the purposes of **subsections (4) and (5)**.
- (8) Any Commissioner who becomes a member of Te Kawai Taumata ceases to be eligible to be a Commissioner, and must be treated as having resigned.

21 Removal of Commissioners

- (1) Any Commissioner, (except an initial Commissioner) may be removed from office at any time by Te Kawai Taumata acting in accordance with the constitution of the Corporate Trustee
- (2) Any initial Commissioner may be removed from office by the Minister; and the successor to that Commissioner must be appointed under the constitution of the Corporate Trustee.
- (3) Every Commissioner vacates office if disqualified under section 151(2) of the Companies Act 1993.

22 Te Kawai Taumata to be electoral college

- (1) Te Ohu Kai Moana must establish Te Kawai Taumata as an electoral college which is to have up to 11 members, each of whom must be Maori.
- (2) Te Ohu Kai Moana is responsible for the ongoing servicing of Te Kawai Taumata.
- (3) The sole function of Te Kawai Taumata is to appoint and remove Commissioners in accordance with the constitution of the Corporate Trustee.
- (4) **Schedule 8** applies to Te Kawai Taumata and its members.

23 Membership of Te Kawai Taumata

- (1) One member of Te Kawai Taumata, and an alternate for that member, may be appointed by each of the regional groupings of iwi set out in **Schedule 4**.
- (2) One member of Te Kawai Taumata, and an alternate for that member, may be appointed by representative Maori organisations acting jointly.
- (3) Each member of Te Kawai Taumata holds office for 4 years and is eligible for reappointment, but no member may hold office for more than 2 consecutive terms. A member holds office until his or her successor is appointed, except if removed from office.
- (4) For the purpose of appointing the initial members of Te Kawai Taumata and subsequently as appointments fall due, the mandated iwi organisation of the first named iwi in each group set out in **Schedule 4** has the duty to:
 - (a) appoint a time and place for the holding of a meeting at which every iwi in the group is invited to be represented by its mandated iwi organisation; and
 - (b) give all mandated iwi organisations in the same group 10 working days notice of the meeting described in **paragraph (a)**, or such other period of notice as has previously been agreed between them.

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- (c) advise the Corporate Trustee of the name of the person, and the alternate, appointed by the group of iwi to Te Kawai Taumata.
- (5) For the purpose of appointing the initial members and alternate members of Te Kawai Taumata and subsequently as appointments fall due, the first-named representative Maori organisation in **Schedule 5** has the duty to:
 - (a) appoint a time and place for the holding of a meeting at which each representative Maori organisation is invited to be represented by one representative; and
 - (b) give every other representative Maori organisation 10 working days notice of the meeting described in **paragraph (a)**, or such other period of notice as has previously been agreed between them;
 - (c) advise the Corporate Trustee of the name of the person, and the alternate, appointed by the representative Maori organisations to Te Kawai Taumata.
- (6) The only purpose of and business at the meetings referred to in **subsections (4)(a)** and **(5)(a)** is the appointment of a member and alternate member of Te Kawai Taumata.
- (7) At the meetings referred to in **subsections (4)(a) and 5(a)**, each mandated iwi organisation or representative Maori organisation has one vote.

24 Alternate members of Te Kawai Taumata

- (1) An alternate member may act in place of the member if the member is unable by illness, absence or other reason to act as a member.
- (2) **Sections 23(3), 25, and 26** apply to and in respect of alternate members as if they were members.
- (3) The removal from office, death, or resignation of a member does not cause the removal from office of his or her alternate member.

25 Eligibility for membership of Te Kawai Taumata

- (1) No person can be appointed to Te Kawai Taumata by mandated iwi organisations unless at least a majority of the mandated iwi organisations in the group have voted in favour of that person.
- (2) In the case of Ngapuhi, the person to be appointed to Te Kawai Taumata must have been voted for by at least a majority of the directors, trustees, or officeholders of the mandated iwi organisation.
- (3) No person can be appointed to Te Kawai Taumata by representative Maori organisations unless at least a majority of the representative Maori organisations have voted in favour of that person.
- (4) Any Maori is eligible for appointment to Te Kawai Taumata except if that person is a Commissioner, a director of Aotearoa Fisheries Limited or any Subcompany, or a trustee of Te Putea Whakatupu Trust or Te Wai Maori Trust.
- (5) No person who is, or has within the previous 2 years been, a member of Te Kawai Taumata is eligible to be a Commissioner, a director of Aotearoa Fisheries Limited or any Subcompany, or a trustee of Te Putea Whakatupu Trust or Te Wai Maori Trust.

26 Removal of members

- (1) A member may be removed from office at any time by a majority of the mandated iwi organisations or representative Maori organisations that are entitled to appoint that member.
- (2) Any mandated iwi organisation of an iwi that is entitled to participate under **section 23(4)(a)** in a meeting to appoint a member of Te Kawai Taumata may convene another meeting to decide whether that member should be removed from office.
- (3) Any mandated iwi organisation that convenes a meeting under **subsection (2)** must:
 - (a) appoint a time and place for the meeting; and
 - (b) give all mandated iwi organisations in the same group 14 days notice of the meeting described in **paragraph (a)**, or such other period of notice as has previously been agreed between the parties; and

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- (c) give the member concerned 10 working days notice of the meeting described in **paragraph (a)** and its purpose and a reasonable opportunity to be heard; and
 - (d) advise the Corporate Trustee of the outcome of the meeting described in **paragraph (a)**.
- (4) Any representative Maori organisation that is entitled to participate in a meeting to appoint a member of Te Kawai Taumata under **section 23(4)(a)** may convene another meeting to decide whether that member should be removed from office.
- (5) Any representative Maori organisation that convenes a meeting under **subsection (4)** must:
- (a) appoint a time and place for the meeting; and
 - (b) give every other representative Maori organisation 10 working days notice of the meeting described in **paragraph (a)**, or such other period of notice as has previously been agreed between the parties; and
 - (c) give the member concerned 10 working days notice of the meeting described in **paragraph (a)** and its purpose and a reasonable opportunity to be heard; and
 - (d) advise the Corporate Trustee of the outcome of the meeting described in **paragraph (a)**.
- (6) The only purpose of and business at the meetings referred to in **subsections (3) and (5)** is removal of a member of Te Kawai Taumata.
- (7) At the meetings referred to in **subsections (3) and (5)**, each mandated iwi organisation or representative Maori organisation has one vote.

Part 3

Aotearoa Fisheries Limited

27 Shares in Aotearoa Fisheries Limited

- (1) A principal purpose of Aotearoa Fisheries Limited is to receive and commercially manage assets on behalf of beneficiaries under the Deed of Settlement.

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- (2) Aotearoa Fisheries Limited must have –
 - (a) 125,000 voting shares, or more if following review under Part 6 it is determined that voting shares be issued to mandated iwi organisations
 - (b) 125,000 income shares.
- (3) Te Ohu Kai Moana acting through the Corporate Trustee must retain control of all the voting shares in Aotearoa Fisheries Limited until a review that complies with **section 46** for the transfer or issue of voting shares to mandated iwi organisations is implemented as contemplated by **Part 2(8) of Schedule 9**.
- (4) All income shares must be held by Te Ohu Kai Moana in the name of the Corporate Trustee in the first instance.
- (5) Te Ohu Kai Moana must-
 - (a) retain 20 percent of income shares; and
 - (b) hold the other 80 percent of income shares in trust for iwi and allocate them to iwi in accordance with **Part 7**.

28 Directorship restrictions

- (1) The constitution of Aotearoa Fisheries Limited must provide for at least 5 directors and that no more than 2 directors of that company may be persons who are Commissioners or full time employees of Te Ohu Kai Moana.
- (2) Commissioners or full time employees of Te Ohu Kai Moana must not be more than 40 percent of the directors of any one Subcompany.
- (3) If a breach of **subsection (2)** occurs, the most recent Commissioner or full time employee of Te Ohu Kai Moana to be appointed as a director of the Subcompany must:
 - (a) resign the directorship; or
 - (b) resign as Commissioner or full time employee of Te Ohu Kai Moana -but the breach does not invalidate any action or decision of the Subcompany.
- (4) **Subsection (3)** does not apply to a breach of **subsection (2)** arising from the occurrence of an extraordinary vacancy in the office of director of a Subcompany if the vacancy is filled in a timely manner.

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- (5) Where a Subcompany is an entity other than a company the term **director in subsections (2) to (4)** means a trustee or other office holder of the entity.

29 Distributions of assets to Aotearoa Fisheries Limited

- (1) On the appointed day Te Ohu Kai Moana must distribute, without charge, to Aotearoa Fisheries Limited or to one or more Subcompanies, all POSA that has not already been distributed by the Commission to all or any of them; except -
- (a) POSA quota; and
 - (b) quota described in **Part 3 of Schedule 1**; and
 - (c) any entities that hold that POSA quota; and
 - (d) shares in any other subsidiary of Te Ohu Kai Moana that owns quota; and
 - (e) shares in Te Kupenga Limited; and
 - (f) such other assets that continue to be held by Te Ohu Kai Moana including administrative and research assets and information that Te Ohu Kai Moana reasonably needs in order to perform its functions and exercise its powers.
- (2) Distributions of POSA by the Commission or Te Ohu Kai Moana to Aotearoa Fisheries Limited or to a Subcompany are not subject to income tax, goods and services tax, gift duty or any tax, duty levy, or other charge imposed or provided for under the Inland Revenue Acts or any other enactment; and for the purposes of the Inland Revenue Acts the value of the POSA is included in the available subscribed capital of Aotearoa Fisheries Limited or the Subcompany.
- (3) Despite **subsection (2)**, distributions of POSA by Te Ohu Kai Moana to Aotearoa Fisheries Limited or a Subcompany are to be regarded as distributions to a company or trust (depending on the nature of the Subcompany) that, on behalf of beneficiaries under the Deed of Settlement receives and manages assets that are distributed to the company or trust by

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the Commission so long as there is no dilution of the entitlements of the holders of income shares.

30 Distributions of income by Aotearoa Fisheries Limited

- (1) Aotearoa Fisheries Limited can only make distributions to holders of its income shares.
- (2) Aotearoa Fisheries Limited must ensure that at least 40 percent of its consolidated group net profit after tax as determined in accordance with generally accepted accounting principles, is distributed to the holders of its income shares.
- (3) Aotearoa Fisheries Limited must use its best endeavours to-
 - (a) ensure that the constitution of every Subcompany requires distributions so that in total Aotearoa Fisheries Limited receives a sufficient amount to enable it to comply with **subsection (2)**; or
 - (b) ensure that the distribution is achieved by other means.
- (4) **Subsections (2) and (3)** do not apply to the extent that compliance would put Aotearoa Fisheries Limited, the Subcompany, or any directors of either in breach of any obligation imposed by the Companies Act 1993.
- (5) **Subsections (2) and (3)** do not apply until the payments under **section 38(2)** to Te Putea Whakatupu Trust and under **section 43(1)** to Te Wai Maori Trust have been made.
- (6) In **subsection (2)**, the term **consolidated group net profit after tax** does not include -
 - (a) asset revaluations:
 - (b) unrealised capital gains or losses:
 - (c) unrealised gains or losses from financial instruments arising from the recognition of instruments at commitment rather than settlement date.

31 Powers restricted

- (1) Neither Aotearoa Fisheries Limited nor any Subcompany is limited in its functions or powers by any limitation in the purposes, permitted activities or powers of the Corporate

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Trustee or Te Ohu Kai Moana, but their functions and powers may be limited by their constitutions.

- (2) A Subcompany that is under the effective control of Aotearoa Fisheries Limited may only engage in any significant activity that is not related to fishing with the authority of a special resolution of Aotearoa Fisheries Limited.

32 Additional requirements in constitution

The constitution of Aotearoa Fisheries Limited must provide that:

- (a) distributions on a winding up must be to holders of income shares, and not holders of voting shares;
- (b) the constitution must not be amended in a way that affects the rights attached to or dilutes the entitlements of the holders income shares without the approval of the holders of at least 75% of those shares;
- (c) the company must provide formal unaudited half yearly financial statements and audited yearly financial statements and an accompanying report direct to the holders of income shares.

33 Constraints on disposal of income shares

- (1) Income shares may only be held by Te Ohu Kai Moana and mandated iwi organisations; and a mandated iwi organisation may sell the income shares held by it only to Te Ohu Kai Moana or another mandated iwi organisation.
- (2) A mandated iwi organisation may sell income shares only if the organisation selling the shares has notified the potential sale to all adult members of the iwi and has obtained the prior approval of 75 percent of adult members of the iwi who vote at a hui-a-iwi or through other mechanisms required by the constitution, trust deed or rules of the mandated iwi organisation.
- (3) Every notice of a potential sale of income shares must specify a reasonable estimate of the net present value or likely sale price of the shares and the number of shares for which approval to sell is sought.

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- (4) Any approval for the sale of income shares is valid for a maximum period of 15 months from the date on which it is given.
- (5) A mandated iwi organisation may sell income shares to any other mandated iwi organisation or Te Ohu Kai Moana but only if the shares are offered to Te Ohu Kai Moana and every other mandated iwi organisation.
- (6) Te Ohu Kai Moana may sell income shares acquired under this section to a mandated iwi organisation but only pursuant to a special resolution and only if the shares are offered to every mandated iwi organisation.
- (7) Te Ohu Kai Moana must not sell any income share held by it under **section 27(5)**.
- (8) Te Ohu Kai Moana must ensure that the constitution of Aotearoa Fisheries Limited specifies a process for the sale of income shares.
- (9) No iwi may sell any income share allocated to it under **Part 7** within 2 years after the date on which it is allocated to that iwi by Te Ohu Kai Moana under **Part 7**.
- (10) In this section, the sale of an income share includes any transaction or series of transactions that could, if the rights under it or them were exercised, result in the income shares ceasing to be owned by the mandated iwi organisation, or the iwi not being entitled to the income from the income shares for a period of more than 5 years.
- (11) Any contract for the sale of income shares that is in breach of this section is an illegal contract for the purposes of the Illegal Contracts Act 1970.

34 Exception for income shares sold to wholly controlled entities

- (1) **Section 33** does not apply to the sale of any income share by a mandated iwi organisation to any entity that is and remains wholly owned and controlled by the mandated iwi organisation; but that section does apply to any sale by that entity except where-
 - (a) the sale is back to the mandated iwi organisation; or

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- (b) the sale is to another entity wholly owned and controlled by the mandated iwi organisation.
- (2) **Section 33** does not apply to the sale of any income share by Te Ohu Kai Moana to any entity that is and remains wholly owned and controlled by Te Ohu Kai Moana; but that section does apply to any sale by that entity except where –
 - (a) the sale is back to Te Ohu Kai Moana; or
 - (b) the sale is to another entity wholly owned and controlled by Te Ohu Kai Moana.

Part 4

Te Putea Whakatupu Trust

35 Establishment

- (1) Te Ohu Kai Moana must establish a trust to be known as Te Putea Whakatupu Trust, and Te Putea Whakatupu Corporate Trustee Limited.
- (2) Te Putea Whakatupu Corporate Trustee Limited must have only one share which has no distribution rights and must be held by Te Ohu Kai Moana.
- (3) Te Putea Whakatupu Trust is not subject to any enactment or rule of law restricting the period for which a trust may run.

36 Purpose

The purpose of Te Putea Whakatupu Trust is to receive and manage assets on behalf of beneficiaries under the Deed of Settlement in order -

- (a) to promote educational and training programmes, courses and schemes within New Zealand for Maori with a view to providing educational and training opportunities for Maori with application to the fishing industry;
- (b) to fund skills development in the fishing industry, especially in relation to young Maori and Maori in need of reskilling;

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- (c) to promote research into and the advancement generally of Maori with special emphasis on fisheries, and to-
 - (i) promote the expansion of educational opportunities of Maori by offering scholarships and grants or funding scholarships and grants to enable Maori students to meet the entry requirements of wananga, universities or other tertiary institutions in New Zealand or overseas; and
 - (ii) establish scholarships and grants, or fund scholarships and grants by wananga, universities or other tertiary institutions in New Zealand, with a view to encouraging Maori to develop and further their education and skills.
- (d) to foster and promote research and development into matters affecting Maori fishing in wananga, universities or other tertiary institutions in New Zealand:
- (e) to promote and facilitate access to-
 - (i) education and training courses;
 - (ii) conferences; and
 - (iii) presentations and other learning experiencesfor Maori who are already working or wish to work in the fishing industry:
- (f) generally to do all acts, matters and things that promote the purposes set out in **paragraphs (a) to (e)**, with a commitment to ensure that benefits are made available as widely as possible to Maori and in doing so the trustees may have regard to the extent to which iwi are promoting or are able to promote those purposes to members of their iwi.

37 Trustees

- (1) Te Putea Whakatupu Corporate Trustee must have 3 directors, to be known as the Trustees of Te Putea Whakatupu Trust.
- (2) The Trustees of Te Putea Whakatupu Trust must be appointed by Te Ohu Kai Moana.

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- (3) The criteria for appointment as a Trustee of Te Putea Whakatupu must be specified in the trust deed of Te Putea Whakatupu Trust, but must include:
 - (a) the need to have as trustees a mix of Maori well versed in matters of tikanga Maori, experienced in working with Maori and Maori organisations, and with expertise and experience in human resource development, education and training;
 - (b) due regard to the particular role played by urban Maori organisations in providing assistance and services to urban Maori, including those who do not associate with their iwi.
- (4) No more than one Commissioner may be a Trustee of Te Putea Whakatupu Trust.
- (5) Any Trustee of Te Putea Whakatupu Trust who becomes a director of Aotearoa Fisheries Limited, or any Subcompany, or a member of the Te Kawai Taumata, or a trustee of Te Wai Maori Trust ceases to be eligible to hold office as a Trustee of Te Putea Whakatupu Trust, and must be treated as having resigned.
- (6) Te Putea Whakatupu Corporate Trustee must not have any function other than to be the trustee of the Te Putea Whakatupu Trust.

38 Payments from Te Ohu Kai Moana to Te Putea Whakatupu Trust

- (1) Te Ohu Kai Moana must pay to Te Putea Whakatupu Trust up to \$1 million by 31 October in each calendar year.
- (2) Te Ohu Kai Moana must pay Te Putea Whakatupu Trust \$20 million on a date to be determined by Te Ohu Kai Moana in its sole discretion but which must be no later than **31 October** that occurs 5 years after the commencement of this Act; and after the date of that payment no further amounts are payable under **subsection (1)**.
- (3) Te Ohu Kai Moana may, but is not obliged to, distribute other money to Te Putea Whakatupu Trust. In each annual report Te Ohu Kai Moana must separately describe any such distribution.

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- (4) No payment from Te Ohu Kai Moana to Te Putea Whakatupu Trust is subject to income tax, goods and services tax, gift duty or any tax, duty, levy or other charge imposed or provided for under the Inland Revenue Acts or any other enactment.
- (5) Te Putea Whakatupu Trust is not entitled to allocations of quota or income shares from Te Ohu Kai Moana.

39 Te Putea Whakatupu Trust Deed

- (1) For carrying out the purpose of Te Putea Whakatupu Trust in **section 36**, the trust deed for Te Putea Whakatupu Trust must-
 - (a) provide for the appointment, removal and rotation of the Trustees of Te Putea Whakatupu Trust;
 - (b) empower Te Putea Whakatupu Corporate Trustee to make all decisions of Te Putea Whakatupu Trust;
 - (c) prohibit Te Putea Whakatupu Trust from undertaking in its own right any business other than business that is absolutely necessary for the carrying out of the purposes of Te Putea Whakatupu Trust;
 - (d) provide for the remuneration of the Trustees of Te Putea Whakatupu Trust;
 - (e) require the Trustees of Te Putea Whakatupu Trust to obtain the approval of Te Ohu Kai Moana to the annual plan and assistance policy of Te Putea Whakatupu Trust;
 - (f) prohibit the Trustees of Te Putea Whakatupu Trust from distributing capital;
 - (g) require the Trustees of Te Putea Whakatupu Trust to report annually to Te Ohu Kai Moana:
 - (i) within 5 months after the end of each financial year;
 - (ii) measuring the performance of Te Putea Whakatupu Trust against its approved annual plan;
 - (iii) measuring payments of assistance funding by Te Putea Whakatupu Trust against its approved distribution policy;
 - (iv) including any other information required by Te Ohu Kai Moana in order to meet its reporting obligations, or otherwise:

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- (h) require the Trustees of Te Putea Whakatupu Trust to keep separate accounts of their activities and the payment of assistance and for the audit of those accounts:
- (i) specify the manner in which the trust deed may or must be varied and the restrictions on its variation which must include a prohibition on any variation that may jeopardise its charitable status:
- (j) specify the powers of investment (and any prohibited investment) of the Trustees of Te Putea Whakatupu Trust:
- (k) empower the Trustees of Te Putea Whakatupu Trust to make grants of assistance to Maori, recognised iwi organisations, and mandated iwi organisations and representative Maori organisations, subject to any conditions stated in the trust deed or specified by the Trustees, but not so as to jeopardise the charitable status of Te Putea Whakatupu Trust:
- (l) contain such other matters as Te Ohu Kai Moana may require, but not so as to jeopardise the charitable status of Te Putea Whakatupu Trust:
- (m) provide for the circumstances giving rise to termination and that on the termination of Te Putea Whakatupu Trust the assets must be distributed to or through mandated iwi organisations in the proportions specified in **column 3 of Schedule 4**, for the relevant Iwi by payment to an entity with charitable status nominated by each of the relevant mandated iwi organisations or, where a nomination is not or cannot be made, to an entity or entities with charitable status and similar purposes nominated by the Trustees of Te Putea Whakatupu Trust to benefit that iwi alone or together with similar iwi:
- (n) require the Trustees of Te Putea Whakatupu Trust to have the role and performance of Te Putea Whakatupu Trust independently reviewed initially after six years and thereafter in conjunction with the reviews conducted under **section 45** to determine whether its purposes could be better achieved through other mechanisms.

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- (2) The trust deed of Te Putea Whakatupu Trust may provide that the Trustees of Te Putea Whakatupu Trust may act on any matter or class of matter only with the approval of Te Ohu Kai Moana; but the granting or withholding of any approval does not make Te Ohu Kai Moana or any Commissioner liable for any act or omission of the Trustees.
- (3) Distributions and grants of assistance from Te Putea Whakatupu Trust to Maori or to recognised iwi organisations, mandated iwi organisations or representative Maori organisations do not affect the charitable status of Te Putea Whakatupu Trust irrespective of whether or not the recipient has charitable status.

Part 5

Te Wai Maori Trust

40 Establishment

- (1) Te Ohu Kai Moana must establish a trust to be known as Te Wai Maori Trust, and Te Wai Maori Corporate Trustee Limited.
- (2) Te Wai Maori Corporate Trustee Limited must have only one share which has no distribution rights and must be held by Te Ohu Kai Moana.
- (3) Te Wai Maori Trust is not subject to any enactment or rule of law restricting the period for which a trust may run.

41 Purpose

The purpose of Te Wai Maori Trust is to receive and manage assets on behalf of beneficiaries under the Deed of Settlement so as to co-ordinate and fund initiatives that will assist the development of Maori freshwater fishing interests including:

- (a) to undertake or arrange for the undertaking of research, development and education for the benefit of Maori freshwater fishing interests;
- (b) to promote and enhance the habitat and nourishment of freshwater fisheries in lakes and rivers which have traditionally supported iwi and been the location for marae of those iwi;

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- (c) to use its resources, to directly or indirectly benefit Maori freshwater fishing interests –
but not in any manner that jeopardises its charitable status.

42 Trustees

- (1) Te Wai Maori Corporate Trustee must have three directors, to be known as the Trustees of Te Wai Maori Trust.
- (2) The Trustees of Te Wai Maori Trust must be appointed by Te Ohu Kai Moana.
- (3) The criteria for appointment as a Trustee of Te Wai Maori Trust must be specified in the trust deed of Te Wai Maori Trust, but must include:
 - (a) the need to have as trustees a mix of Maori well versed in matters of tikanga Maori, experienced in working with Maori, and Maori organisations, and with expertise in freshwater fisheries;
 - (b) due regard to the importance of representation of those iwi with a special interest in freshwater fisheries.
- (4) No more than one Commissioner may be a Trustee of Te Wai Maori Trust.
- (5) Any Trustee of Te Wai Maori Trust who becomes a director of Aotearoa Fisheries Limited, or any Subcompany, or a member of Te Kawai Taumata, or a trustee of Te Putea Whakatupu Trust ceases to be eligible to hold office as a Trustee of Te Wai Maori Trust, and must be treated as having resigned.
- (6) Te Wai Maori Corporate Trustee must not have any function other than to be the trustee of Te Wai Maori Trust.

43 Payments from Te Ohu Kai Moana to Te Wai Maori Trust

- (1) Te Ohu Kai Moana must pay Te Wai Maori Trust \$10 million on a date to be determined by Te Ohu Kai Moana in its sole discretion but which must be no later than the **31 October** that occurs 5 years after the commencement of this Act.
- (2) At the end of the 5 year period described in **subsection (1)** Te Ohu Kai Moana must pay to Te Wai Maori Trust a minimum of \$1 million each subsequent year until such time as Te Wai Maori Trust has received a total of \$20 million from Te Ohu Kai Moana.

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- (3) Te Ohu Kai Moana may, but is not obliged to, distribute other money to Te Wai Maori Trust. In each annual report, Te Ohu Kai Moana must describe any such payment.
- (4) No payment from Te Ohu Kai Moana to Te Wai Maori Trust is subject to income tax, goods and services tax, gift duty or any tax, duty, levy or other charge imposed or provided for under the Inland Revenue Acts or any other enactment.
- (5) Te Wai Maori Trust is not entitled to allocations of quota or income shares from Te Ohu Kai Moana.

44 Te Wai Maori Trust Deed

- (1) For carrying out the purposes of Te Wai Maori Trust in **section 41**, the trust deed for Te Wai Maori Trust must-
 - (a) provide for the appointment, removal and rotation of Te Wai Maori Trustees:
 - (b) empower Te Wai Maori Corporate Trustee to make all decisions of Te Wai Maori Trust:
 - (c) prohibit Te Wai Maori Trust from undertaking in its own right any business other than business that is absolutely necessary for the carrying out of the purposes of Te Wai Maori Trust:
 - (d) provide for the remuneration of the Trustees of Te Wai Maori Trust:
 - (e) require the Trustees of Te Wai Maori Trust to obtain the approval of Te Ohu Kai Moana to the annual plan and assistance policy of Te Wai Maori Trust:
 - (f) prohibit the Trustees of the Te Wai Maori Trust from distributing capital;
 - (g) require the Trustees of Te Wai Maori Trust to report annually to Te Ohu Kai Moana:
 - (i) within 5 months after the end of each financial year;
 - (ii) measuring the performance of Te Wai Maori Trust against its approved annual plan;
 - (iii) measuring any assistance granted by Te Wai Maori Trust against its approved assistance policy;

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- (iv) including any other information required by Te Ohu Kai Moana;
 - (h) require the Trustees of Te Wai Maori Trust to keep separate accounts of their activities and grants of assistance and for the audit of those accounts:
 - (i) specify the manner in which the trust deed may or must be varied and the restrictions on its variation which must include a prohibition on any variation that may jeopardise its charitable status:
 - (j) specify the powers of investment (and any prohibited investment) of the Trustees of Te Wai Maori Trust:
 - (k) empower the Trustees of Te Wai Maori Trust to make grants of assistance to Maori, recognised iwi organisations and to mandated iwi organisations, subject to any conditions stated in the trust deed or specified by the Trustees of Te Wai Maori Trust:
 - (l) contain such other matters as Te Ohu Kai Moana may require but not so as to jeopardise the charitable status of Te Wai Maori Trust:
 - (m) provide for the circumstances giving rise to termination and that on the termination of Te Wai Maori Trust the assets must be distributed to or through mandated iwi organisations in the proportions specified in **column 3 of Schedule 4**, by payment to an entity with charitable status nominated by each of the relevant mandated iwi organisations or, where a nomination is not or cannot be made, to an entity or entities with charitable status and similar purposes nominated by the Trustees of Te Wai Maori Trust to benefit that iwi alone or together with similar iwi:
 - (n) require the Trustees of Te Wai Maori Trust to have the role and performance of Te Wai Maori Trust independently reviewed initially after six years and thereafter in conjunction with the reviews conducted under **section 45** to determine whether its purposes could be better achieved through other mechanisms.
- (2) The trust deed of Te Wai Maori Trust may provide that the Trustees of Te Wai Maori Trust may act on any matter or class of matter only with the approval of Te Ohu Kai Moana; but the

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granting or withholding of any approval does not make Te Ohu Kai Moana or any Commissioner liable for any act or omission of the Trustees.

- (3) Distributions and grants of assistance from Te Wai Maori Trust to Maori, recognised iwi organisations, mandated iwi organisations or representative Maori organisations do not affect the charitable status of Te Wai Maori Trust irrespective of whether or not the recipient has charitable status.

Part 6
Reviews

45 Review of Te Ohu Kai Moana and Aotearoa Fisheries Limited

- (1) Te Ohu Kai Moana must conduct an initial review of the governance structure of Te Ohu Kai Moana and Aotearoa Fisheries Limited as at and as soon as practicable after the date that is 12 years after the commencement of this Act.
- (2) Following the initial review in **subsection (1)**, Te Ohu Kai Moana must conduct further reviews of the governance structure of Te Ohu Kai Moana and Aotearoa Fisheries Limited at intervals of no less than 5 years and no more than 10 years as agreed at the initial review in **subsection (1)** or any subsequent review under this section.
- (3) The purpose of the reviews referred to in **subsection (1)** is to ascertain whether the governance arrangements relating to Te Ohu Kai Moana (including Te Kawai Taumata) and Aotearoa Fisheries Limited reasonably serve the interests of beneficiaries of the Deed of Settlement and, where appropriate, to recommend amendments to this Act, the Trust Deed of Te Ohu Kai Moana, or the constitution of Aotearoa Fisheries Limited.
- (4) The reviews must address the matters specified in **Part 1 of Schedule 9** and any other matters that Te Ohu Kai Moana believes should also be addressed.
- (5) The procedure for the conduct of reviews is specified in **Part 2 of Schedule 9**.

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- (6) If any review finds that the restrictions on the sale of allocated quota or designated quota has a negative impact on the structures, accountability, values, or performance of Te Ohu Kai Moana or Aotearoa Fisheries Limited then in respect of the restrictions that review may only recommend that the restrictions be reviewed at a further review to be held no sooner than five years after the review that made that finding.
- (7) At that further review, consideration must include an analysis of the impact of the restrictions on sales, the underlying economic value and whether the risk to economic value and durability of the Settlement can more appropriately be addressed by other measures.

46 Restrictions on and outcomes from reviews

- (1) A review under **section 45** may consider whether voting shares in Aotearoa Fisheries Limited should be transferred or issued to mandated iwi organisations, but no review may consider or recommend that voting shares be transferred or issued to any other person or entity, or that Aotearoa Fisheries Limited be wound up or liquidated.
- (2) Where a review proposes that voting shares in Aotearoa Fisheries Limited be transferred or issued to mandated iwi organisations, the basis of transfer or issue of the voting shares must be the proportion of income shares held by mandated iwi organisations at the date of transfer or issue of the voting shares.
- (3) Without limiting the matters that may be considered in any review, recommendations from the review may address:
 - (a) the criteria for appointment of Commissioners, Te Kawai Taumata members, trustees of Te Putea Whakatupu Trust and Te Wai Maori Trust and directors of Aotearoa Fisheries Limited;
 - (b) the governance of Te Ohu Kai Moana, Te Kawai Taumata, Te Putea Whakatupu Trust, Te Wai Maori Trust and Aotearoa Fisheries Limited;
 - (c) the relationships between and processes relating to mandated iwi organisations, Te Ohu Kai Moana, Te

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Kawai Taumata, Te Putea Whakatupu Trust, Te Wai Maori Trust and Aotearoa Fisheries Limited;

- (d) the role and performance of Te Putea Whakatupu Trust and Te Wai Maori Trust and the appropriate achievement of their purposes;
- (e) the timing of future reviews.

Part 7

Allocation of Quota and Other Assets

47 Allocations generally

- (1) Te Ohu Kai Moana must allocate PRESA and POSA to iwi only when -
 - (a) the iwi has a mandated iwi organisation;
 - (b) the organisation holds agreements for coastlines under **section 8** with all other affected iwi for all quota management stocks irrespective of whether or not coastlines are relevant to the allocation of the PRESA or POSA;
 - (c) the mandated iwi organisation has satisfied Te Ohu Kai Moana that it has on its iwi register the number of members specified in **column 4 of Schedule 4**.
- (2) **Subsection (1)** does not apply to allocations in the form of financial assistance to iwi to meet their obligations under this Act as contemplated by **section 48(d)**, but Te Ohu Kai Moana may require demonstrated progress towards the matters described in **subsection (1)** before granting that assistance.
- (3) Te Ohu Kai Moana may disregard non compliance with **paragraph (b) or (c) of subsection (1)** for the purposes of allocating PRESA money under **section 48(f)** and income shares under **section 49(1)** at any time more than 2 years after the mandated iwi organisation has been recognised under **section 9**.

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- (4) Te Ohu Kai Moana may disregard non compliance with **paragraph (b) or (c) of subsection (1)** for the purpose of allocating PRESA quota and POSA quota at any time more than 2 years after the mandated iwi organisation has been recognised under **section 9**; but
- (a) so much of the allocation as is based on coastlines of the iwi may only be allocated to the extent that Te Ohu Kai Moana is satisfied that the coastline of the iwi is unlikely to be disputed; and
 - (b) so much of the allocation as is based on population of the iwi may not be allocated unless an allocation of quota will be made under **paragraph (a)** in respect of the same fishstock.
- (5) Any quota allocated under **subsection (4)** is allocated subject to the following conditions –
- (a) that the mandated iwi organisation is not entitled to sell or swap that quota until the mandated iwi organisation holds an agreement for that coastline under **section 7** with all other affected iwi.
 - (b) that the mandated iwi organisation must (and is hereby empowered to) transfer the quota without compensation to another mandated iwi organisation if it is determined that the other mandated iwi organisation is entitled to that quota on the basis of the final agreements for coastlines for that quota management stock.
- (6) Te Ohu Kai Moana may treat a mandated iwi organisation as complying with **subsection (1)(c)**, subject to such conditions (if any) as Te Ohu Kai Moana considers appropriate, if it is satisfied that the organisation has made and is continuing to make reasonable efforts to comply with the requirement, and special circumstances exist that make it appropriate in the opinion of Te Ohu Kai Moana to allocate PRESA or POSA even though the requirement has not been fully met.
- (7) Allocated quota and income shares allocated to a mandated iwi organisation under this Act must be allocated to a company or trust as contemplated by **Kaupapa 9 of Schedule 7** and all

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references in this Act or any other Act to a mandated iwi organisation in respect of allocated quota or income shares include that company or trust. For the purposes of the Inland Revenue Acts, the value of the allocated quota or income shares held in a company is included in the available subscribed capital of the company.

- (8) Allocations of PRESA and POSA by Te Ohu Kai Moana to mandated iwi organisations, companies or trusts contemplated by **Kaupapa 9 of Schedule 7**, Te Putea Whakatupu Trust or Te Wai Maori Trust are not subject to income tax, goods and services tax, gift duty, or any tax duty levy, or other charge imposed or provided for under the Inland Revenue Acts or any other enactment.

48 PRESA money allocations

PRESA money received by Te Ohu Kai Moana must be allocated by Te Ohu Kai Moana, in the following manner as required by this Act or in the absence of a requirement as Te Ohu Kai Moana considers appropriate: -

- (a) \$20 million to Te Putea Whakatupu Trust without addition of earnings;
- (b) \$10 million to Te Wai Maori Trust without addition of earnings;
- (c) \$5 million plus earnings to Te Ohu Kai Moana as a *capital reserve*
- (d) up to \$18 million plus earnings on so much of that amount as is not already spent, to fund Te Ohu Kai Moana in the performance of its functions, including assistance to iwi to meet their obligations under this Act;
- (e) payments to iwi under **sections 59 and 60** without addition of earnings or other adjustment;

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- (f) the remaining PRESA money to be allocated to iwi, in the percentage proportions specified alongside each iwi in **column 3 of Schedule 4**.

49 Allocation of POSA that is income shares

- (1) Te Ohu Kai Moana must allocate the income shares in Aotearoa Fisheries Limited referred to in **section 27(5)(b)** to mandated iwi organisations in the proportions specified alongside the relevant iwi in **column 3 of Schedule 4**.
- (2) Te Ohu Kai Moana must hold the income shares referred to in **section 27(5)(b)** and distributions in respect of them (less expenses) separately in trust for each iwi that does not comply with **section 47(1)** unless it exercises its discretion under **section 47(3)**.

50 Allocation of quota and sales of ACE

- (1) Te Ohu Kai Moana must allocate in accordance with **this Part** all quota described in **Parts 1 and 2 of Schedule 1** and all POSA quota received directly from the Crown under section 44 of the Fisheries Act 1996.
- (2) Transfer of ownership of allocated quota from Te Ohu Kai Moana to a mandated Iwi organisation can only take effect at the commencement of a fishing year for the relevant fishstock; and until the transfer of that ownership, Te Ohu Kai Moana may sell annual catch entitlements to recognised iwi organisations or mandated iwi organisations on such terms and conditions that Te Ohu Kai Moana thinks fit.
- (3) Where the Crown transfers POSA quota to Te Ohu Kai Moana after the commencement of this Part, the obligation to allocate the quota must be complied with by the start of the next fishing year after the fishing year in which the quota is transferred but only if the restrictions in **section 47** do not apply.

51 Allocation of inshore quota

- (1) Except as provided in **sections 53 to 57**, in respect of inshore quota for each quota management stock available to Te Ohu Kai

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Moana for allocation from time to time, Te Ohu Kai Moana must allocate the quota to mandated iwi organisations proportionately according to their coastlines (as determined under this Act) that are within the quota management area concerned.

- (2) Where the coastline of a fisheries management area is wholly within the coastline of a quota management area, Te Ohu Kai Moana must allocate the quota on the basis of coastlines as determined under this Act for the fisheries management area, even if coastlines for other parts of the quota management area have not yet been determined under that section.

52 Allocation of deepwater quota

Except as provided in **sections 53 and 55 to 57**, in respect of deepwater quota for each quota management stock available to Te Ohu Kai Moana for allocation, from time to time Te Ohu Kai Moana must allocate the quota to mandated iwi organisations proportionately as follows-

- (a) 25 percent of the quota management stock on the same basis as the allocation of inshore quota;
- (b) 75 percent of the quota management stock by the percentage stated in **column 3 of Schedule 4** that the population of the iwi bears to the notional Maori population.

53 Chatham Island allocations

Te Ohu Kai Moana must allocate quota for quota management stocks available to it for allocation within the Chatham Zone from time to time to mandated iwi organisations on the following basis-

- (a) there is to be a Chatham Zone comprising the area within 200 nautical miles of the baseline of the territorial sea around the Chatham Islands as determined under the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:
- (b) there is to be an overlap area which is the area that is within the Chatham Zone and also within the area that would be within 200 nautical miles of the baseline of the

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territorial sea around New Zealand if the Chatham Islands were not part of New Zealand. **(Cross reference to the map which would be in a Schedule. Copy attached to this Bill).**

- (c) where a quota management area is wholly or partly within the Chatham Zone the quota management stock attributed to the Chatham Zone is

$$\frac{a}{b} \times c$$

a = the amount of the fishstock taken by commercial fishers in the Chatham Zone based on

- (i) for those fishstocks introduced into the quota management before 1 October 1999, data available from the fishing years commencing 1 October 1990 to 30 October 2001 inclusive
- (ii) for those fishstocks introduced into the quota management system after 1 October 1999, the most recent 5 years of available commercial catch histories for that stock

b = the total commercial catch taken for that fishstock for the relevant period described in a above in that quota management area

c = the quota for that fishstock available to Te Ohu Kai Moana for allocation in that quota management area

- (d) inshore quota for each quota management stock within the Chatham Zone must be allocated to the mandated iwi organisations of Ngati Mutunga (Chathams) and Moriori according to their proportionate coastlines of the Chatham Islands:
- (e) deepwater quota for each quota management stock within the Chatham Zone must be allocated-

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- (i) as to 50 percent, among the mandated iwi organisations of Ngati Mutunga (Chathams) and Moriori according to their proportionate coastlines of the Chatham Islands;
- (ii) as to 50 percent, among all mandated iwi organisations according to the percentage stated in **column 3 of Schedule 4** that the population of the relevant iwi bears to the notional Maori population.

54 Allocation of quota within harbours

- (1) Te Ohu Kai Moana must allocate harbour quota to mandated iwi organisations with rohe abutting any harbour specified in **Schedule 3** in accordance with an agreement made by all those mandated iwi organisations.
- (2) The PRESA harbour quota to be allocated under **subsection (1)** are specified in **Schedule 3**.
- (3) Te Ohu Kai Moana may, by notice in the *Gazette* specify POSA harbour quota for any fishstock for any harbour specified in **Schedule 3**; or specify that there is no harbour quota for a fishstock for a harbour or harbours.
- (4) Quota for allocation under **section 51** is reduced by the quota allocated or to be allocated under this section.
- (5) **Sections 7 and 8** (except **section 7(3)**) apply in all respects to harbours specified in **Schedule 3** and iwi with rohe abutting those harbours as if the shorelines relating to those rohe were coastlines.

55 Allocation of quota in quota management areas coinciding with FMA 4

Where a quota management area for a fishstock coincides completely with fisheries management area 4, Te Ohu Kai Moana must allocate the quota for the fishstock that is in that quota management area and outside the Chatham fishery described in **section 53** to mandated iwi organisations by the percentage stated in **column 3 of Schedule 4** that the population of the relevant iwi bears to the notional Maori population.

56 Allocation of quota in quota management areas coinciding with FMA 6

Where a quota management area for a fishstock coincides completely with fisheries management area 6, Te Ohu Kai Moana must allocate the quota that it has available for allocation for that fishstock to each mandated iwi organisation by the percentage stated in **column 3 of Schedule 4** that the population of the iwi bears to the notional Maori population.

57 Allocation of quota in quota management areas coinciding with FMA 10

Te Ohu Kai Moana must allocate quota in accordance with this **Part** the quota described in **Part 3 of Schedule 1** only when satisfied that there is a viable total allowable commercial catch for the relevant fishstock; and all such quota must be allocated to each mandated iwi organisation by the percentage stated in **column 3 of Schedule 4** that the population of the relevant iwi bears to the notional Maori population.

58 Allocation of freshwater quota

- (1) Te Ohu Kai Moana must allocate freshwater quota -
 - (a) in accordance with any agreement between the mandated iwi organisations of all iwi whose rohe is wholly or partially within the quota management area;
 - (b) if there is no agreement then to those iwi whose rohe is wholly or partially within the quota management area by the percentage of each iwi's population residing within the quota management area in proportion to the total population of all iwi whose rohe is wholly or partially within the quota management area who reside within the quota management area; with the residing population of each of these Iwi according to the 2001 Census.
- (2) **Sections 7(1) and (2) and section 8** apply to agreements under **subsection (1)(a)** as if they were agreements or determinations relating to coastlines.

59 Additional cash in lieu of PRESA quota shortfalls

For those fishstocks shown in **Part 1 of Schedule 1** that do not show a holding of 10,000,000 shares, Te Ohu Kai Moana must pay the amount (if any) in **column 4 of Schedule 1** (without the addition of earnings) to the various iwi concerned in proportion to their relative shares of the fishstock when the iwi receive the related allocated quota.

60 Specific cash allocations to certain iwi

- (1) Te Ohu Kai Moana must, at the time the relevant mandated iwi organisation becomes entitled to receive PRESA under **section 47**, pay to the mandated iwi organisation of:
 - (a) Te Atiawa ki Whakarongotai, the sum of \$398,039
 - (b) Ngai Takoto, the sum of \$556,184
 - (c) Ngati Whare, the sum of \$585,234
 - (d) Ngati Maru, the sum of \$463,348
 - (e) Ngati Hauiti, the sum of \$385,247
 - (f) Ngati Pukenga, the sum of \$264,544
 - (g) Ngati Manawa, the sum of \$72,841
- (2) The payments under **subsection (1)** are in addition to any other entitlements of the iwi under this Act.

Part 8

Sales and Swaps of Allocated Quota

61 Interpretation

In this Part –

allocated quota includes **designated quota**

sell includes granting any annual catch entitlement which (together with any rights of renewal, options or other rights if exercised) could apply for more than 5 years; and **sale** has a corresponding meaning

Te Ohu Kai Moana includes the Te Ohu Kai Moana group; except in **sections 62(10), (11), 63, 64 and 66**

62 Restrictions on disposal of allocated quota

- (1) No mandated iwi organisation may enter into any transaction or series of transactions (whether by way of security, guarantee, gift or otherwise) that could, if the rights under it or them were exercised, result in the allocated quota ceasing to be owned by any mandated iwi organisation or result in the granting of annual catch entitlements that would amount to a sale.
- (2) No mandated iwi organisation that owns allocated quota may –
 - (a) sell that quota other than in accordance with this section and the procedure established under **section 64**; or
 - (b) gift that quota.
- (3) No mandated iwi organisation may sell any allocated quota –
 - (a) other than to Te Ohu Kai Moana or another mandated iwi organisation; and
 - (b) without first giving Te Ohu Kai Moana and every other mandated iwi organisation an opportunity to bid for the allocated quota.
- (4) No mandated iwi organisation may sell any allocated quota unless it has owned that allocated quota or allocated quota of some other kind for at least two years. This subsection does not apply to designated quota.
- (5) A mandated iwi organisation may sell allocated quota to another mandated iwi organisation or Te Ohu Kai Moana only if the organisation selling the quota has
 - (a) notified the potential sale to all adult members of the iwi; and
 - (b) has obtained the prior approval of 75 percent of adult members of the iwi who vote at a hui-a-iwi or through other mechanisms required by the constitution, trust deed, or rules of the mandated iwi organisation.
- (6) Every notice of a potential sale of allocated quota must specify a reasonable estimate of the market value of the allocated quota and the amount of quota for which approval to sell is sought.

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- (7) Any approval for the sale of income shares is valid for a maximum period of 15 months from the date on which it is given.
- (8) No mandated iwi organisation may sell any allocated quota that is inshore quota without first giving Te Ohu Kai Moana and every other mandated iwi organisation whose iwi has coastline within the relevant quota management area and holds a coastline agreement for the relevant quota management area the opportunity to purchase at the highest price bid under **subsection (3)**.
- (9) No mandated iwi organisation may sell any allocated quota that is freshwater quota without giving Te Ohu Kai Moana and every other mandated iwi organisation whose rohe is wholly or partially within the relevant quota management area the opportunity to purchase at the highest price bid under **subsection (3)**.
- (10) Te Ohu Kai Moana may intervene in any transaction for the sale of quota where it considers that there has been a breach of this Part or the procedure published under **section 64**.
- (11) Where Te Ohu Kai Moana intervenes under **subsection (10)**, it may take any action or actions and give such directions as it considers necessary to ensure that quota is sold in accordance with this Part and the procedure published under **section 64**.
- (12) Where Te Ohu Kai Moana acquires allocated quota under this section the restrictions and procedures under this Part except **subsection (5)**, that apply to mandated iwi organisations apply to Te Ohu Kai Moana as if it were a mandated iwi organisation.
- (13) Te Ohu Kai Moana may sell allocated quota only pursuant to a special resolution and in accordance with the procedure established under **section 64**.
- (14) Any contract for the sale of allocated quota that is in breach of this section is an illegal contract for the purposes of the Illegal Contracts Act 1970.

63 Caveat over allocated quota

- (1) Te Ohu Kai Moana must register under section 147(2) of the Fisheries Act 1996, and maintain, caveats over the quota shares of all allocated quota.

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- (2) Te Ohu Kai Moana must withdraw the relevant caveat on the sale or exchange of allocated quota in accordance with this Part, and must register a new caveat over the relevant quota shares once in the name of the new owner.

64 Procedure for sale of quota

Te Ohu Kai Moana must establish and publish in the *Gazette* a procedure that must be followed for the sale and purchase of allocated quota. The procedure may include (but is not limited to)-

- (a) requirements for the making of decisions by a mandated iwi organisation to sell allocated quota;
- (b) provision for notice to parties eligible to purchase the allocated quota; including notice periods and deadlines for responses to offers, and the form and content of the notices;
- (c) provision prohibiting the mandated iwi organisation from accepting any price other than the highest unconditional price offered, and any exceptions to that requirement;
- (d) provision for determining the purchaser where more than one mandated iwi organisation wishes to purchase the allocated quota at the same price; and
- (e) provision for the payment or deduction of the reasonable costs or charges associated with the procedure and the process required by **section 62**.

65 Exception for quota swaps

- (1) **Sections 62 and 64** do not apply to the exchange at fair market value of allocated quota-
- (a) for other allocated quota; or
 - (b) for other quota that is not allocated quota with any other party whether or not that party is Te Ohu Kai Moana or a mandated iwi organisation.
- (2) Where any allocated quota is exchanged for quota that is not allocated quota,
- (a) the quota that is not allocated quota becomes allocated quota;

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- (b) the allocated quota ceases to be allocated quota and Te Ohu Kai Moana must withdraw the relevant caveat;
 - (c) the recipient must notify Te Ohu Kai Moana immediately; and
 - (d) Te Ohu Kai Moana must register a caveat over the relevant quota shares as required by **section 63(1)**
- (3) Where allocated quota is exchanged for allocated quota, both quotas remain allocated quota, and Te Ohu Kai Moana must maintain caveats over all the relevant quota shares.
- (4) Te Ohu Kai Moana may intervene in any transaction for the exchange of quota where it considers that there has been a breach of this Part or the procedure published under **section 66**.
- (5) Where Te Ohu Kai Moana intervenes under **subsection (4)**, it may take any action or actions and give such directions as it considers necessary to ensure that quota is exchanged in accordance with this Part and the procedure published under **section 66**.
- (6) Any contract for the exchange of quota that is in breach of this section is an illegal contract for the purposes of the Illegal Contracts Act 1970.

66 Procedure for quota swaps

Te Ohu Kai Moana must establish and publish in the *Gazette* a procedure that must be followed for the exchange of allocated quota. The procedure may include (but is not limited to)–

- (a) requirements for the making of decisions by a mandated iwi organisation to exchange allocated quota;
- (b) provision for determining fair market value of the allocated quota and the resolution of disputes as to that value;
- (c) provision for the payment or deduction of the reasonable costs or charges associated with the procedure and the process required by **section 65**.

67 Exception for quota sold to wholly controlled entities

- (1) **Section 62** does not apply to the sale of quota to any person or entity that is and remains wholly owned and controlled by the mandated iwi organisation; but those sections do apply to any sale by that person or entity as if it were the mandated iwi organisation except where-
- (a) the sale is back to the mandated iwi organisation; or
 - (b) the sale is to another person or entity wholly owned and controlled by the mandated iwi organisation.
- (2) **Section 62** does not apply to transactions between members of the Te Ohu Kai Moana group; but those sections do apply to any sale of allocated quota by any member of that group to any mandated iwi organisation.

Part 9

Dispute Resolution

68 Meaning of specified issue

In this Part **specified issue** means–

- (a) an issue arising under **section 5** between Te Ohu Kai Moana and one or more mandated iwi organisations as to the classification of quota by Te Ohu Kai Moana;
- (b) an issue arising under **section 7** between mandated iwi organisations or between Te Ohu Kai Moana and one or more mandated iwi organisations as to the length or percentage of coastline to be attributed to an iwi;
- (c) an issue arising under **section 8** between Te Ohu Kai Moana and one or more mandated iwi organisations as to an assertion made under **section 8(3)** or a decision in relation to a special resolution made under **section 8(4)**;
- (d) an issue arising under **section 9** between Te Ohu Kai Moana and one or more mandated iwi organisations as to:
 - (i) whether an organisation seeking recognition or claiming continued recognition as a mandated iwi organisation meets the criteria for recognition in **section 9(3)**; or

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- (ii) which of two or more organisations claiming to be qualified to be recognised as a mandated iwi organisation should be given recognition by Te Ohu Kai Moana under **section 9(1)**;
- (e) an issue arising under **section 10** between Te Ohu Kai Moana or an adult member of an iwi and one or more recognised iwi organisations as to whether a recognised iwi organisation has failed to comply with **section 10(4)**;
- (f) an issue arising under **section 10** between Te Ohu Kai Moana and one or more recognised iwi organisations as to whether a recognised iwi organisation has failed to remedy any breach of a condition of any assistance given by Te Ohu Kai Moana to the recognised iwi organisation.
- (g) an issue arising out of the verification contemplated by **section 16(c)(iii)** of a coastline agreement or assertion as to coastline.
- (h) an issue arising under **section 23 or section 26** between one or more mandated iwi organisations, or between one or more representative Maori organisations, or between any combination of those organisations, or between a person who has been removed from Te Kawai Taumata and a mandated iwi organisation or a representative Maori organisation as to compliance with the requirements for the calling or conduct of meetings.
- (i) an issue arising under **section 54** between mandated iwi organisations or between Te Ohu Kai Moana and one or more mandated iwi organisations as to harbour quota to be allocated to an iwi;
- (j) an issue arising under **section 58** between Te Ohu Kai Moana and one or more mandated iwi organisations as to freshwater quota to be allocated to an iwi;
- (k) an issue arising under **clause 8 of Schedule 6** between Te Ohu Kai Moana and one or more mandated iwi organisations claiming coastline in a quota management area as to whether or not the coastline of an island should be included in the coastline of that quota management area;
- (l) an issue raised by an adult member of an iwi alleging that any decision, act or omission of the mandated iwi

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organisation of that iwi concerning a matter or matters addressed in this Act is contrary to this Act or the constitutional documents or policies of the mandated iwi organisation;

69 Resolution of specified issues

- (1) Where the parties cannot agree on a specified issue, they must endeavour to agree on and engage in good faith in a dispute resolution process.
- (2) Where—
 - (a) the parties cannot agree on a dispute resolution process; or
 - (b) the dispute resolution process timetable is not being complied with; or
 - (c) the dispute resolution process does not resolve the specified issue—any of the parties to the dispute may refer the matter to Te Ohu Kai Moana which may, but except as provided in **subsection (3)** is not obliged to, make a decision in respect of the matter.
- (3) Te Ohu Kai Moana must make a decision under **subsection (2)** in respect of the specified issues described in **section 68(d)**.
- (4) Any party to a dispute may refer any decision of Te Ohu Kai Moana under **subsection (2) or (3)** to the Maori Land Court under **section 26A(2)** of Te Ture Whenua Maori Act 1993 for review and determination.
- (5) Where Te Ohu Kai Moana declines to make a decision under **subsection (2)** it must refer the matter to the Maori Land Court under **section 26A(2)** of Te Ture Whenua Maori Act 1993 for determination.

70 Determinations as to coastline

In resolving an issue described in **section 68(b)**, Te Ohu Kai Moana or the Maori Land Court may attribute coastlines to iwi by specifying lengths of coastline or specifying percentages of coastline (totalling 100 percent) between two defined points to be allocated to iwi without applying the percentages to the physical coastline, irrespective of the basis sought by the mandated iwi organisations concerned.

71 Further powers concerning mandated iwi organisations

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- (1) Irrespective of whether the processes in **section 69** have been followed, Te Ohu Kai Moana may apply to the Maori Land Court under **section 26A(2)** of Te Ture Whenua Maori Act 1993 for an order denying or suspending recognition of a mandated iwi organisation on the ground that it fails to meet one or more of the criteria set out in **section 9(3)** (other than **paragraph (c)(ii)**).
- (2) An application under **subsection (1)** must be accompanied by a detailed submission explaining why, in the opinion of Te Ohu Kai Moana, an organisation has failed to meet one or more of the criteria for recognition set out in **section 9(3)** (other than **paragraph (c)(ii)**).
- (3) An application under **subsection (1)** may be accompanied by an application for the protection of assets held by the organisation concerned.

72 Other powers not limited

Nothing in **section 69 or 71** prevents Te Ohu Kai Moana from taking any action that a mandated iwi organisation or a recognised iwi organisation has, by acceptance of any assistance from Te Ohu Kai Moana, agreed that Te Ohu Kai Moana may take for breach of any condition of that assistance.

Part 10

Transfer from Commission to Te Ohu Kai Moana

73 Interpretation

In this Part, unless the context otherwise requires,—

existing undertaking means—

- (a) all PRESA and POSA and other assets held, managed, or controlled by the Commission immediately before the appointed day; and
- (b) all rights and liabilities of the Commission

liabilities means liabilities, debts, charges, duties, and obligations of the Commission (whether present or future, actual

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or contingent, or payable or to be observed or performed in New Zealand or elsewhere)

transferred employee means a person employed by the Commission immediately before the appointed day who becomes an employee of Te Ohu Kai Moana or Aotearoa Fisheries Limited on the appointed day

74 Vesting of existing undertaking

On the appointed day the existing undertaking vests in Te Ohu Kai Moana and the Commission is consequentially dissolved.

75 References in instruments

- (1) A reference (express or implied) to the Commission in any enactment (other than this Act), or in any instrument, register, record, notice, security, document, or communication made, given, passed, or executed before or on the appointed day, must be read as a reference to Te Ohu Kai Moana.
- (2) A reference (express or implied) to an officer of the Commission in any enactment, or in any instrument, register, record, notice, security, document, or communication made, given, passed, or executed before or on the appointed day must be read as a reference to—
 - (a) the corresponding employee of Te Ohu Kai Moana; or
 - (b) if there is no corresponding employee, such other employee of Te Ohu Kai Moana as it thinks fit.
- (3) This section is subject to **section 91**.

76 Status of contracts and other instruments

- (1) Consents, agreements, conveyances, deeds, leases, licences, other instruments, undertakings, notices and any binding rulings made under section 91 of the Tax Administration Act 1994 (whether in writing or not), entered into by, made with, given to or by, or addressed to the Commission (whether alone or with another person) before the appointed day and having effect immediately before the appointed day (**contracts and other instruments**) are subject to **subsection (2)**.
- (2) The contracts and other instruments are binding on, and enforceable by, against, or in favour of, Te Ohu Kai Moana and

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have effect for the purposes of the Inland Revenue Acts as if Te Ohu Kai Moana and not the Commission had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed.

77 Status of existing securities

- (1) A security held by the Commission as security for a debt or other liability to the Commission incurred before the appointed day—
 - (a) is available to Te Ohu Kai Moana as security for the discharge of that debt or liability; and
 - (b) if the security extends to future or prospective debts or liabilities, is available as security for the discharge of debts or liabilities to Te Ohu Kai Moana incurred on or after the appointed day.
- (2) Te Ohu Kai Moana is entitled to the same rights and priorities, and is subject to the same liabilities, in relation to the security as the Commission would be if this Act had not been passed.

78 Continuation of proceedings

- (1) An action, arbitration, proceeding, or cause of action that was pending or existing by, against, or in favour of the Commission, or to which the Commission was a party, before the appointed day may be continued and enforced by, against, or in favour of Te Ohu Kai Moana.
- (2) It is not necessary to amend a pleading, writ, or other document to continue the action, arbitration, proceeding, or other cause of action.

79 Effect of Act

Nothing effected or authorised by **this Part** of this Act—

- (a) places the Commission, Te Ohu Kai Moana, or any other person in breach of contract or confidence, or breach of trust, or makes any of them liable for a civil wrong; or
- (b) entitles a person to terminate, cancel, or amend a contract or arrangement, or to accelerate the performance of an obligation, or to impose a penalty or increased charge; or

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- (c) places the Commission, Te Ohu Kai Moana, or any other person in breach of an enactment, a rule of law, or a provision of a contract that prohibits, restricts, or regulates the assignment or transfer of an asset, right, or liability or the disclosure of information; or
- (d) releases a surety from an obligation; or
- (e) invalidates or discharges a contract or surety.

80 Books and documents to remain evidence

- (1) A document, matter, or thing that would have been admissible in evidence for or against the Commission is, on and after the appointed day, admissible in evidence for or against Te Ohu Kai Moana.
- (2) For the purpose of this section, **document** has the meaning given to it by section 2(1) of the Evidence Amendment Act (No 2) 1980.

81 Registers

- (1) The Registrar General of Land, FishServe or any other person charged with keeping books or registers is not required to change the name of the Commission to Te Ohu Kai Moana or the Corporate Trustee in the books or registers, or in a document, solely because of the provisions of **this Part** of this Act.
- (2) If Te Ohu Kai Moana presents an instrument referred to in **subsection (3)** to a registrar or other person, the presentation of that instrument by Te Ohu Kai Moana is, in the absence of proof to the contrary, sufficient evidence that the property is vested in Te Ohu Kai Moana, or the Corporate Trustee on behalf of Te Ohu Kai Moana, as specified in the instrument.
- (3) For the purposes of this section, the instrument need not be an instrument of transfer, but must—
 - (a) be executed or purport to be executed by Te Ohu Kai Moana or the Corporate Trustee; and
 - (b) relate to an existing undertaking held, managed, or controlled by the Commission immediately before the appointed day; and

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- (c) be accompanied by a certificate by Te Ohu Kai Moana or the Corporate Trustee that the property became vested in Te Ohu Kai Moana or the Corporate Trustee by virtue of the provisions of this Act.

82 Liability of employees and agents

- (1) A person who, at any time before the appointed day, held office as a member of the Commission or who was an officer, employee, agent, or representative of the Commission is not personally liable in respect of an act or thing done or omitted to be done by him or her before the appointed day in the exercise or bona fide purported exercise of an authority conferred by or under the Maori Fisheries Act 1989, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, or any other enactment.
- (2) This section applies only—
 - (a) in the absence of actual fraud; and
 - (b) if the act or omission does not amount to an offence.

83 Transfer of existing employees

On the appointed day, each employee of the Commission becomes an employee of Te Ohu Kai Moana or Aotearoa Fisheries Limited, as determined by the Commission.

84 Terms and conditions of employment of transferred employees

- (1) The employment of a transferred employee must be on terms and conditions no less favourable to the transferred employee than those applying to the employee immediately before the appointed day.
- (2) **Subsection (1)**—
 - (a) continues to apply to the terms and conditions of employment of a transferred employee until those terms and conditions are varied by agreement between the transferred employee and Te Ohu Kai Moana or Aotearoa Fisheries Limited, as the case requires; and
 - (b) does not apply to a transferred employee who receives any subsequent appointment with Te Ohu Kai Moana or Aotearoa Fisheries Limited.

85 Continuity of employment

For the purposes of every enactment, law, determination, contract, and agreement relating to a transferred employee—

- (a) the contract of employment of that employee that applied immediately before the transfer in respect of that person's employment by Te Ohu Kai Moana or Aotearoa Fisheries Limited is deemed to have been unbroken; and
- (b) the employee's period of service with Te Ohu Kai Moana or Aotearoa Fisheries Limited, and every other period of service that is recognised by the Commission as continuous service, is deemed to have been a period of service with Te Ohu Kai Moana or Aotearoa Fisheries Limited.

86 No compensation for technical redundancy

A transferred employee is not entitled to receive any payment or any other benefit solely on the ground that—

- (a) the position held by the employee with the Commission has ceased to exist; or
- (b) the employee has ceased, as a result of the transfer to Te Ohu Kai Moana or Aotearoa Fisheries Limited, to be an employee of the Commission.

87 Application of the Inland Revenue Acts

- (1) For the purposes of the Inland Revenue Acts, binding rulings under those Acts, and any other enactment that imposes or provides for the collection of a tax, duty, levy or other charge, the Commission and Te Ohu Kai Moana as represented by the Corporate Trustee are the same person.
- (2) For the purposes of the Inland Revenue Acts, Te Ohu Kai Moana and the Corporate Trustee must be treated as having held all voting interests and market value interests that they receive from the Commission under this Act at all times since the interests were acquired by the Commission.

Part 11

Repeals, Amendments and Miscellaneous Provisions

88 Commission has powers of Te Ohu Kai Moana

- (1) In the period between the commencement of this Act and the appointed day, the Commission has all the functions, duties and powers of Te Ohu Kai Moana.
- (2) Any matter or consideration commenced before the appointed day by the Commission may be continued by Te Ohu Kai Moana as if they were the same entity.

89 Name protection

- (1) No body may be incorporated or registered, under any enactment or in any other manner under any specified name as to be likely to mislead any person.
- (2) No person other than the person to whom the name applies under this Act may, either alone or with any other person or persons –
 - (a) trade or carry on business under a specified name; or
 - (b) trade or carry on business under any other name, knowing that the name so resembles a specified name as to be likely to mislead any person.
- (3) Every person who contravenes **subsection (2)** commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues.
- (4) It is a defence in any prosecution for an offence against **subsection (3)** if the defendant proves that, either alone or with any other person or persons, the defendant has carried on business continuously under the name to which the prosecution relates from any date before the commencement of this Act.
- (5) For the purposes of this section, a specified name is any of the following –
 - (a) Te Ohu Kai Moana
 - (b) Te Ohu Kai Moana Corporate Trustee Limited

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- (c) Te Kawai Taumata
- (d) Aotearoa Fisheries Limited
- (e) Te Putea Whakatupu Trust
- (f) Te Putea Whakatupu Corporate Trustee Limited
- (g) Te Wai Maori Trust
- (h) Te Wai Maori Corporate Trustee

90 Enactments repealed

- (1) The Maori Fisheries Act 1989 is repealed on and from the appointed day.
- (2) The following enactments are consequentially repealed on and from the appointed day:
 - (a) Sections 12 to 20 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992
 - (b) So much of Schedule 1 to the Company Law Reform (Transitional Provisions) Act 1994 as relates to the Maori Fisheries Act 1989
 - (c) Section 314(2)(h) of the Fisheries Act 1996
 - (d) So much of the Schedule to the Stamp Duties Abolition Act 1999 as relates to the Maori Fisheries Act 1989
 - (e) The Maori Fisheries Amendment Act 2001
 - (f) So much of Part 1 of Schedule 2 to the Human Rights Amendment Act 2001 as relates to the Maori Fisheries Act 1989.

91 Acts amended

- (1) The enactments listed in **Part 1 of Schedule 10** are amended in the manner set out in that Schedule on and from the appointed day.
- (2) The enactment listed in **Part 2 of Schedule 10** is amended in the manner set out in that Schedule.

**Schedule 1
Quota**

**Part 1
PRESA Quota**

Fishstock	Description	PRESA Shares to be Allocated	Value of PRESA Shares Shortfall
BAR1	IN	9,154,221	\$128,860
BAR4	IN	9,988,235	\$201
BAR5	IN	10,000,000	NIL
BAR7	IN	9,778,523	\$21,479
BCO1	IN	9,709,368	\$380
BCO2	IN	10,000,000	NIL
BCO3	IN	6,267,975	\$84,758
BCO4	IN	9,481,931	\$26,062
BCO5	IN	9,900,993	\$13,505
BCO7	IN	10,000,000	NIL
BCO8	IN	10,000,000	NIL
BNS1	IN	8,612,700	\$287,865
BNS2	IN	9,720,632	\$48,800
BNS3	DW	6,760,168	\$359,621
BNS7	DW	10,000,000	NIL
BNS8	DW	7,500,000	\$12,115
BYX1	IN	10,000,000	NIL
BYX2	IN	10,000,000	NIL
BYX3	DW	10,000,000	NIL
BYX7	DW	6,708,074	\$5,639
BYX8	DW	10,000,000	NIL
CRA1	IN	9,303,231	\$173,508
CRA2	IN	10,000,000	NIL
CRA3	IN	10,000,000	NIL
CRA4	IN	10,000,000	NIL
CRA5	IN	10,000,000	NIL
CRA6	IN	10,000,000	NIL
CRA7	IN	10,000,000	NIL

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CRA8	IN	10,000,000	NIL
CRA9	IN	10,000,000	NIL
ELE1	IN	10,000,000	NIL
ELE2	IN	10,000,000	NIL
ELE3	IN	9,014,095	\$68,177
ELE5	IN	10,000,000	NIL
ELE7	IN	10,000,000	NIL
FLA1	IN	9,947,865	\$2,144
FLA2	IN	10,000,000	NIL
FLA3	IN	10,000,000	NIL
FLA7	IN	9,975,407	\$722
GMU1	IN	9,833,593	\$5,255
GMU2	IN	10,000,000	NIL
GMU3	IN	10,000,000	NIL
GMU7	IN	10,000,000	NIL
GUR1	IN	10,000,000	NIL
GUR2	IN	9,999,145	NIL
GUR3	IN	10,000,000	NIL
GUR7	IN	9,957,921	\$1,146
GUR8	IN	10,000,000	NIL
HAK1	DW	9,812,104	\$35,467
HAK4	DW	10,000,000	NIL
HAK7	DW	10,000,000	NIL
HOK1	DW	10,000,000	NIL
HPB1	IN	7,695,508	\$185,302
HPB2	IN	9,906,085	\$5,036
HPB3	IN	9,756,192	\$10,784
HPB4	IN	10,000,000	NIL
HPB5	IN	9,986,705	\$480
HPB7	IN	10,000,000	NIL
HPB8	IN	9,997,503	NIL
JDO1	IN	10,000,000	NIL
JDO2	IN	10,000,000	NIL
JDO3	IN	10,000,000	NIL
JDO7	IN	10,000,000	NIL
JMA7	DW	9,999,919	NIL
LIN1	IN	9,800,907	\$3,162
LIN2	IN	10,000,000	NIL
LIN3	IN	9,624,660	\$91,377
LIN4	DW	10,000,000	NIL
LIN5	DW	8,849,370	\$208,971
LIN6	DW	10,000,000	NIL
LIN7	DW	7,662,577	\$515,887
MOK1	IN	9,935,296	\$1,359

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MOK3	IN	8,347,091	\$5,940
MOK4	IN	9,529,436	\$346
MOK5	IN	9,690,100	\$245
OEO1	DW	10,000,000	NIL
OEO3A	DW	10,000,000	NIL
OEO4	DW	10,000,000	NIL
OEO6	DW	10,000,000	NIL
ORH1	DW	10,000,000	NIL
ORH2A	DW	10,000,000	NIL
ORH2B	DW	10,000,000	NIL
ORH3A	DW	10,000,000	NIL
ORH3B	DW	8,096,630	\$2,750,865
ORH7A	DW	10,000,000	NIL
ORH7B	DW	10,000,000	NIL
PAU1	IN	9,948,187	NIL
PAU2	IN	8,243,390	\$675,362
PAU3	IN	7,356,874	\$532,730
PAU4	IN	9,199,401	\$549,003
PAU5A	IN	10,000,000	NIL
PAU5B	IN	10,000,000	NIL
PAU5D	IN	10,000,000	NIL
PAU6	IN	10,000,000	NIL
PAU7	IN	10,000,000	NIL
PHC1	IN	10,000,000	NIL
RCO1	IN	7,377,282	\$2,218
RCO2	IN	9,999,640	NIL
RCO3	IN	9,995,723	\$1,252
RCO7	IN	9,997,841	\$134
SCH1	IN	9,776,953	\$17,139
SCH2	IN	10,000,000	NIL
SCH3	IN	9,999,845	NIL
SCH4	IN	10,000,000	NIL
SCH5	IN	9,712,027	\$19,339
SCH7	IN	10,000,000	NIL
SCH8	IN	10,000,000	NIL
SKI1	IN	9,999,348	NIL
SKI2	IN	9,991,507	\$214
SKI3	IN	9,986,884	NIL
SKI7	IN	10,000,000	NIL
SNA1	IN	9,934,489	\$131,360
SNA2	IN	8,829,327	\$62,026
SNA3	IN	9,758,514	NIL
SNA7	IN	9,017,500	\$23,586
SNA8	IN	8,465,133	\$740,949

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SPO1	IN	9,932,318	\$3,903
SPO2	IN	9,998,056	NIL
SPO3	IN	7,926,166	\$167,993
SPO7	IN	9,421,999	\$23,455
SPO8	IN	9,721,290	\$8,035
SQU1J	IN	10,000,000	NIL
SQU1T	DW	9,999,982	NIL
SQU6T	DW	10,000,000	NIL
STA1	IN	10,000,000	NIL
STA2	IN	4,352,632	\$5,198
STA3	IN	10,000,000	NIL
STA4	IN	9,332,654	\$12,960
STA5	IN	10,000,000	NIL
STA7	IN	10,000,000	NIL
STA8	IN	10,000,000	NIL
SWA1	DW	9,625,469	\$28,930
SWA3	DW	9,197,787	\$103,471
SWA4	DW	9,999,998	NIL
TAR1	IN	9,894,046	\$18,795
TAR2	IN	10,000,000	NIL
TAR3	IN	9,999,401	NIL
TAR4	IN	10,000,000	NIL
TAR5	IN	10,000,000	NIL
TAR7	IN	9,987,230	\$743
TAR8	IN	10,000,000	NIL
TRE1	IN	9,996,105	\$276
TRE2	IN	9,997,388	NIL
TRE3	IN	7,314,815	\$1,044
TRE7	IN	9,999,754	NIL
WAR1	IN	10,000,000	NIL
WAR2	IN	9,994,202	\$128
WAR3	IN	10,000,000	NIL
WAR7	IN	9,999,795	NIL
WAR8	IN	9,999,141	NIL
Totals		1,444,584,253	8,185,701

* For allocation of this inshore quota see **sections 55, 56 and 57**

For allocation of this deepwater quota see **sections 55, 56 and 57**

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Where fewer than 10,000,000 shares are shown, for any fishstock, see **section 59**. Where the amount shown in column 4 alongside fewer than 10,000,000 is NIL that is because the value is less than \$100.

Part 2
POSA Quota

Fishstock	Description	POSA Shares to be Allocated	
ANC1	IN	20,000,000	
ANC2	IN	20,000,000	
ANC3	IN	20,000,000	
ANC4	IN	20,000,000	
ANC7	IN	20,000,000	
ANC8	IN	20,000,000	
ANG11	FW	20,000,000	
ANG12	FW	20,000,000	
ANG13	FW	20,000,000	
ANG14	FW	20,000,000	
ANG15	FW	20,000,000	
ANG16	FW	20,000,000	
BUT1	IN	20,000,000	
BUT2	IN	20,000,000	
BUT3	IN	20,000,000	
BUT4	IN	20,000,000	
BUT5	IN	20,000,000	
BUT6	DW	20,000,000	
BUT7	IN	20,000,000	
CDL1	DW	20,000,000	
CDL2	DW	20,000,000	
CDL3	DW	20,000,000	
CDL4	DW	20,000,000	
CDL5	DW	20,000,000	
CDL6	DW	20,000,000	
CDL7	DW	20,000,000	
CDL8	DW	20,000,000	
CDL9	DW	20,000,000	
COC1A	IN	20,000,000	

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COC7A	IN	20,000,000	<i>(Shares expected to be received from Crown 1 October 2003)</i>
COC7B	IN	20,000,000	<i>(Shares expected to be received from Crown 1 October 2003)</i>
EMA1	IN	20,000,000	
EMA2	IN	20,000,000	
EMA3	IN	20,000,000	
EMA7	IN	20,000,000	
FRO1	DW	20,000,000	
FRO2	DW	20,000,000	
FRO3	DW	20,000,000	
FRO4	DW	20,000,000	
FRO5	DW	20,000,000	
FRO6	DW	20,000,000	
FRO7	DW	20,000,000	
FRO8	DW	20,000,000	
FRO9	DW	20,000,000	
GAR1	IN	20,000,000	
GAR2	IN	20,000,000	
GAR3	IN	20,000,000	
GAR4	IN	20,000,000	
GAR7	IN	20,000,000	
GAR8	IN	20,000,000	
GSH1	IN	20,000,000	
GSH2	IN	20,000,000	
GSH3	IN	20,000,000	
GSH4	DW	20,000,000	
GSH5	DW	20,000,000	
GSH6	DW	20,000,000	
GSH7	DW	20,000,000	
GSH8	DW	20,000,000	
GSH9	DW	20,000,000	
GSP1	DW	20,000,000	
GSP5	DW	20,000,000	
GSP7	DW	20,000,000	
JMA1	IN	19,999,098	
JMA3	DW	19,999,978	
OYS7	IN	20,000,000	
OYU5	IN	20,000,000	
PAD1	IN	20,000,000	
PAD2	IN	20,000,000	
PAD3	IN	20,000,000	

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PAD4	IN	20,000,000	
PAD5	IN	20,000,000	
PAD6	IN	20,000,000	
PAD7	IN	20,000,000	
PAD8	IN	20,000,000	
PAD9	IN	20,000,000	
PIL1	IN	20,000,000	
PIL2	IN	20,000,000	
PIL3	IN	20,000,000	
PIL4	IN	20,000,000	
PIL7	IN	20,000,000	
PIL8	IN	20,000,000	
QSC3	IN	20,000,000	
RBV1	IN	20,000,000	
RBV2	IN	20,000,000	
RBV3	IN	20,000,000	
RBV4	IN	20,000,000	
RBV5	IN	20,000,000	
RBV6	DW	20,000,000	
RBV7	IN	20,000,000	
RBV8	IN	20,000,000	
RBV9	IN	20,000,000	
RIB1	DW	20,000,000	
RIB2	DW	20,000,000	
RIB3	DW	20,000,000	
RIB4	DW	20,000,000	
RIB5	DW	20,000,000	
RIB6	DW	20,000,000	
RIB7	DW	20,000,000	
RIB8	DW	20,000,000	
RIB9	DW	20,000,000	
SBW1	DW	20,000,000	
SBW6A	DW	20,000,000	
SBW6B	DW	20,000,000	
SBW6I	DW	20,000,000	
SBW6R	DW	20,000,000	
SCA1	IN	20,000,000	
SCA4	IN	20,000,000	<i>(Shares expected to be received from Crown 1 October 2003)</i>
SCACS	IN	20,000,000	
SPE1	IN	20,000,000	
SPE2	IN	20,000,000	
SPE3	IN	20,000,000	

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SPE4	DW	20,000,000	
SPE5	DW	20,000,000	
SPE6	DW	20,000,000	
SPE7	DW	20,000,000	
SPE8	DW	20,000,000	
SPE9	DW	20,000,000	
SPR1	IN	20,000,000	
SPR3	IN	20,000,000	
SPR4	IN	20,000,000	
SPR7	IN	20,000,000	
SUR1A	IN	20,000,000	(Shares expected to be received from Crown 1 October 2003)
SUR1B	IN	20,000,000	(Shares expected to be received from Crown 1 October 2003)
SUR2A	IN	20,000,000	(Shares expected to be received from Crown 1 October 2003)
SUR2B	IN	20,000,000	(Shares expected to be received from Crown 1 October 2003)
SUR3	IN	20,000,000	
SUR4	IN	20,000,000	
SUR5	IN	20,000,000	
SUR7A	IN	20,000,000	
SUR7B	IN	20,000,000	
TRU1	IN	20,000,000	
TRU2	IN	20,000,000	
TRU3	IN	20,000,000	
TRU4	IN	20,000,000	
TRU5	IN	20,000,000	
TRU6	DW	20,000,000	
TRU7	IN	20,000,000	
TRU8	IN	20,000,000	
TRU9	IN	20,000,000	
WWA1	DW	20,000,000	
WWA2	DW	20,000,000	
WWA3	DW	20,000,000	
WWA4	DW	20,000,000	
WWA5	DW	20,000,000	
WWA6	DW	20,000,000	
WWA7	DW	20,000,000	
WWA8	DW	20,000,000	
WWA9	DW	20,000,000	

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YEM1	IN	20,000,000	
YEM2	IN	20,000,000	
YEM3	IN	20,000,000	
YEM4	IN	20,000,000	
YEM5	IN	20,000,000	
YEM6	DW	20,000,000	
YEM7	IN	20,000,000	
YEM8	IN	20,000,000	
YEM9	IN	20,000,000	
Total		3,139,999,076	

* For the allocation of this inshore quota see **sections 55, 56 and 57**

For the allocation of this deepwater quota see **sections 55, 56 and 57**

Part 3
FMA 10 FISHSTOCKS

FMA 10 Fishstocks	
ANC10	20,000,000
BAR10	10,000,000
BCO10	10,000,000
BNS10	10,000,000
BUT10	20,000,000
BYX10	10,000,000
CDL10	20,000,000
CRA10	10,000,000
ELE10	10,000,000

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EMA10	20,000,000
FLA10	10,000,000
FRO10	20,000,000
GAR10	20,000,000
GMU10	10,000,000
GSH10	20,000,000
GUR10	10,000,000
HAK10	10,000,000
HOK10	10,000,000
HPB10	10,000,000
JDO10	10,000,000
JMA10	10,000,000
LIN10	10,000,000
MOK10	10,000,000
OEO10	10,000,000
ORH10	10,000,000
PAD10	20,000,000
PAU10	10,000,000
PIL10	20,000,000
RBY10	20,000,000
RCO10	10,000,000
RIB10	20,000,000
SCH10	10,000,000
SKI10	10,000,000

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SNA10	10,000,000
SPE10	20,000,000
SPO10	10,000,000
SPR10	20,000,000
SQU10T	10,000,000
STA10	10,000,000
SWA10	10,000,000
TAR10	10,000,000
TRE10	10,000,000
TRU10	20,000,000
WAR10	10,000,000
WWA10	20,000,000
YEM10	20,000,000
Total	620,000,000

Schedule 2

PRESA defined

PRESA

1. Quota and money described in **Part 1 of Schedule 1**. This includes quota transferred from Charisma Limited and an allowance of \$8,185,701 which is the value assigned in **Part 1 of Schedule 1** to the shortfall from the 10 percent policy target for all PRESA fishstocks.
2. \$40,420,000 representing the value of Moana Pacific Limited shares attributed to POSA.
3. \$3,121,000 representing the value attributed to sales of quota in excess of the 10 percent policy target for all PRESA fishstocks

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where that quota was purchased as a result of commercial market transactions.

4. \$32,967,000 representing retained earnings and operations over the period of operations of the Maori Fisheries Commission from 20 December 1989 to **30 September 2002** inclusive except for the allowance of \$8,185,701 in **paragraph 1**.

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Schedule 3

Harbours and harbour quota fishstocks

PRESA QUOTA FOR FISHSTOCKS IN HARBOURS
(expressed as quota shares)

FISHSTOCKS	BC07	ELE7	FLA1	FLA7	GMU1	GUR1	RCO7	SCH1	SCH7	SNA1	SNA7	SPO1	SPO7	TRE1
HARBOURS														
Parengarenga			34,000		50,000					2,000				40,000
Houhora			8,000		20,000									
Rangaunu			34,000		50,000					2,000				20,000
Mangonui			34,000		60,000					2,000				30,000
Whangaroa			34,000											26,000
Upper Bay of Islands			17,000		50,000					4,000				13,000
Whangaruru			17,000		20,000					4,000				13,000
Whangarei			168,000		300,000			75,000		22,000		64,000		467,000
Mangawhai			16,000		30,000					4,000				3,000
Whitianga														
Tairua														
Tauranga			51,000		2,000					27,000				467,000
Ohiwa														30,000
Aotea & Kawhia			24,000		50,000					4,000				13,000
Raglan			24,000		50,000					4,000				13,000
Port Waikato			16,000		700,000									13,000
Manukau			827,000		1,749,000	9,000		100		7,000		667,000		125,000
Kaipara			1,238,000		2,446,700	15,000		430,000		3,900		459,300		124,100
Hokianga			80,000		80,000			45,000		18,000		64,000		66,000
Marlborough Sounds	160,000	590,000		96,000			16,000		94,000		250,000		90,000	

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Schedule 4

Iwi

Name of iwi⁽¹⁾ and Group	Population	% of notional Maori population	Number of members required to be on iwi register before PRESA or POSA can be allocated
A TAITOKERAU			
Ngati Whatua	13,113	1.931%	3000
Te Rarawa	11,998	1.767%	2800
Te Aupouri	8,168	1.203%	2100
Ngati Kahu	7,244	1.067%	1900
Ngati Kuri	4,841	0.713%	1400
Ngati Wai	4,115	0.606%	1300
Ngapuhi/Ngati Kahu ki Whaingaroa	2,040	0.300%	800
Ngai Takoto	509	0.075%	200
	52,028	7.661%	
B NGAPUHI			
Ngapuhi	107,242	15.791%	10900
	107,242	15.791%	
C TAINUI			
Waikato	46,526	6.851%	7300
Ngati Maniapoto	30,857	4.543%	5300
Hauraki (twelve iwi) ⁽²⁾	13,622	2.006%	3100
Ngati Raukawa (ki Waikato)	9,051	1.333%	2300
	100,056	14.733%	
D TE ARAWA WAKA			
Te Arawa (ten iwi) ⁽³⁾	40,533	5.968%	6600
Tuwharetoa	34,226	5.040%	5700
	74,759	11.008%	
E MATAATUA			
Tuhoe	29,726	4.377%	5100
Ngati Awa	13,252	1.951%	3000
Ngaiterangi	10,451	1.539%	2500

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Name of iwi ⁽¹⁾ and Group	Population	% of notional Maori population	Number of members required to be on iwi register before PRESA or POSA can be allocated
Whakatohea	10,107	1.488%	2500
Ngati Ranginui	6,631	0.976%	1700
Ngai Tai	2,266	0.334%	900
Ngati Manawa	1,567	0.231%	600
Ngati Pukenga	1,243	0.183%	500
Ngati Whare	701	0.103%	300
	75,944	11.182%	
F POROURANGI			
Ngati Porou	63,613	9.367%	9000
Te Whanau a Apanui	10,113	1.489%	2500
	73,726	10.856%	
G TAKITIMU			
Ngati Kahungunu	53,478	7.874%	8000
Te Aitanga a Mahaki	4,501	0.663%	1400
Rongowhakaata	3,728	0.549%	1300
Ngai Tamanuhiri	1,207	0.178%	500
	62,914	9.264%	
H HAUAURU			
Te Atiawa (Taranaki)	14,147	2.083%	3200
Te Atihaunui a Paparangi	9,780	1.440%	2400
Taranaki	6,001	0.884%	1600
Ngati Ruanui	5,675	0.836%	1500
Rangitane (North Island)	3,321	0.489%	1200
Nga Rauru	3,285	0.484%	1200
Nga Ruahine	3,276	0.482%	1200
Ngati Apa (North Island)	2,461	0.362%	900
Muaupoko	1,901	0.280%	800
Ngati Mutunga (Taranaki)	1,652	0.243%	700

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Name of iwi ⁽¹⁾ and Group	Population	% of notional Maori population	Number of members required to be on iwi register before PRESA or POSA can be allocated
Ngati Tama (Taranaki)	1,201	0.177%	500
Ngati Hauiti	1,039	0.153%	400
Ngati Maru (Taranaki)	907	0.134%	400
	54,646	8.046%	
I TE MOANA O RAUKAWA			
Ngati Raukawa (ki te Tonga)	19,698	2.900%	3900
Ngati Toa (Wellington)	4,955	0.730%	1400
Te Atiawa (Te Tau Ihu)	1,965	0.289%	800
Ngati Kuia	1,266	0.186%	500
Rangitane (Te Tau Ihu)	1,258	0.185%	500
Ngati Koata	885	0.130%	400
Ngati Rarua	805	0.119%	400
Ngati Apa ki te Waipounamu	649	0.096%	300
Ngati Tama (Te Tau Ihu)	628	0.092%	300
Atiawa ki Whakarongotai	493	0.073%	200
Ngati Toa (Te Tau Ihu)	247	0.036%	100
	34,610	5.096%	

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J	WAIPOUNAMU/RE KOHU			
	Ngai Tahu	41,496	6.110%	6700
	Ngati Mutunga (Chathams)	1,132	0.167%	500
	Moriori	601	0.088%	300
		43,229	6.365%	

(1) **Note this list could change during the development of the Bill – there are a range of entities within existing iwi who continue to assert that they should be recognised as iwi in their own right – the Commission is undertaking a process with each.**

(2) The twelve Hauraki iwi to be treated as one iwi for the purposes of this Act are:

Ngati Hako
 Ngati Hei
 Ngati Maru
 Ngati Paoa
 Patukirikiri
 Ngati Porou ki Harataunga, ki Mataora
 Ngati Pukenga ki Waiiau
 Ngati Rahiri Tumutumu
 Ngai Tai
 Ngati Tamatera
 Ngati Tara Tokanui
 Ngati Whanaunga

(3) The ten Te Arawa iwi to be treated as one iwi for the purposes of this Act are:

Ngati Pikiāo
 Ngati Rangiteaorere
 Ngati Rangitihī

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Ngati Rangiwewehi
Tapuika
Tarawhai
Tuhourangi
Uenuku-Kopako / Ngati Whakaue
Waitaha
Ngati Tahu

**Schedule 5
Representative Maori Organisations**

Federation of Maori Authorities
Manukau Urban Maori Authority
Maori Women's Welfare League
New Zealand Maori Council
Te Runanga o Nga Maata Waka Incorporated
Te Runanganui o te Upoko o Te Ika Association Incorporated
Te Whanau O Waipareira Trust

**Schedule 6
Coastlines**

1 Te Ohu Kai Moana to define coastlines

- (1) Te Ohu Kai Moana must define the lengths of coastlines for the purposes of this Act, and make the definitions and related determinations available to all relevant representative iwi organisations, and generally.
- (2) There must be definitions of the lengths of coastlines for each quota management area for each fish stock.

2 End points

The end points of the coastlines for each quota management area are the points on the coastline defined in or under the Fisheries Act 1996 for that quota management area.

3 Definitive Dates

For any quota management area Te Ohu Kai Moana may specify a definitive date, and for the purposes of determining coastlines any changes to the quota management area under the Fisheries Act 1996 must be disregarded unless Te Ohu Kai Moana changes the definitive date.

4 Mean high-water mark

Coastlines must be defined along the line of the mean high-water mark.

5 Verification and certification

Before adopting a definition of a coastline for a quota management area, Te Ohu Kai Moana must have the measurements verified and certified by an independent third party. The verification and certification is confined to the measurement of bays, river mouths, and coastlines (including coastlines of islands) described by Te Ohu Kai Moana and does not extend to decisions of Te Ohu Kai Moana under **clause 8** as to whether any coastline of any island should or should not be included in any coastline measurement.

6 River Mouths

Rivers are cut off where the mean high-water mark meets the natural entrance points and the distance across the river mouth is included in the coastline.

7 Bays

- (1) A bay is an indentation of the coast such that its area is not less than that of the semi-circle whose diameter is a line drawn across the mouth of the indentation (for the purposes of which definition —
- (a) The area of an indentation shall be taken to be the area bounded by the high-water mark around the shore of the indentation and the straight line joining the high-water marks of its natural entrance points; and
 - (b) Where, because of the presence of islands, an indentation has more than one mouth, the length of the diameter of the

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semi-circle referred to is the sum of the lengths of the straight lines drawn across each of the mouths; and

- (c) In calculating the area of an indentation, the area of any islands lying within it must be treated as part of the area of the indentation).
- (2) Where the straight line or lines drawn across the mouth or mouths of a bay are 10 km or less in total then the following provisions apply:
- (a) If the surface area of the semi-circle referred to in **paragraph (1)** is smaller than the water surface area of the bay (including any islands) measured along the mean high-water mark then the line that is the diameter of the semi-circle is included in the coastline;

[Figure 1 based on page 170 of Ahu Whakamua attached to this Bill.]

- (b) If the surface area of the semi-circle referred to in **paragraph (1)** is greater than the water surface area of the bay (including any islands) measured along the mean high-water mark then the coastline of the bay is included in the coastline.

[Figure 2 based on page 170 of Ahu Whakamua attached to this Bill.]

8 Islands

- (1) An island is a naturally formed area of land that is surrounded by, and above water at mean high-water tides.
- (2) The coastlines of the following islands must be counted as coastlines of the relevant quota management areas:

Stewart/Rakiura
Great Barrier

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- (3) The coastlines of other islands must be counted as coastlines of the relevant quota management area if Te Ohu Kai Moana is satisfied that one or more iwi have:
- (a) ahi kaaroa (long term and current habitation on the island)
 - (b) a traditional and separate fishery associated with the island
 - (c) current occupation of the island by marae and other communal structures

9 Islands within bays

Where a coastline is a straight line across the mouth of a bay, the coastlines of islands within the bay are not to be counted.

10 Chatham Islands

In defining the coastlines of the Chatham Islands for the purposes of the Chatham Zone and quota management areas, Te Ohu Kai Moana must count the coastlines of only the following islands:

Chatham
Pitt

Schedule 7

Criteria for recognition and continued recognition of mandated iwi organisation

Iwi Representation Principles and Requirements

The constitutional documents of the mandated iwi organisation must:

Kaupapa 1: Acknowledge the mandated iwi organisation's obligation to act ultimately for the benefit of all members of the iwi for fisheries settlement purposes irrespective of where they reside.

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Kaupapa 2: Provide that membership, expressed as the right to participate in choosing directors, trustees or officeholders according to the nature of the mandated iwi organisation, is a right open to all adult members of the iwi.

Kaupapa 3: Provide that adult members of the iwi have the opportunity at intervals not exceeding 5 years to elect directors, trustees or officeholders according to the nature of the mandated iwi organisations. Not all positions need be elected at once, but no person can hold any office for more than 5 years without an election.

Kaupapa 4: Provide that voting rights in iwi elections and matters relating to constitutional amendments are available to adult members of the iwi and any other persons permitted to vote under the constitution, trust deed or rules of the mandated iwi organisation (members) and are able to be exercised in accordance with the agreed electoral system of that iwi. Issues relating to whangai are for determination according to the tikanga of each iwi. Accordingly the matter of whangai membership and voting rights remains at the discretion of each mandated iwi organisation.

Kaupapa 5: Provide that those entitled to vote have the right to request and exercise a personal postal vote in any process which elects directors, trustees or officeholders according to the nature of mandated iwi organisation, or considers amendments to the constitution, trust deed or rules. If the mandated iwi organisation has electronic voting facilities then electronic voting must be allowed but cannot be mandatory.

Kaupapa 6: Provide that the mandated iwi organisation must have and maintain a register of those who affiliate to the iwi by whakapapa (members) including contact details and dates of birth and make ongoing efforts to add members to that register and keep it current.

Kaupapa 7: Provide that the organisation is accountable to all the members of the iwi (including those not living within its rohe) for its performance by providing planning and reporting systems to allow adult members of the iwi to measure the performance of the directors, trustees or officeholders and management of the organisation against previously published

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objectives. These systems must include holding a hui-a-tau (AGM) at which it will provide to iwi members:

- (a) an annual plan, including objectives;
- (b) an annual report including the efforts of the mandated iwi organisation to increase the number of registered members and comparing performance against objectives in the previous annual plan;
- (c) annual audited accounts;
- (d) a report on the performance of the asset holding company or trust that receives the allocated quota and income shares;
- (e) any proposal by that company or trust to rationalise those fisheries assets; and
- (f) any proposal to change the constitution or trust deed of that company or trust, or any fish harvesting company.

Kaupapa 8: Provide a dispute resolution mechanism to deal with disputes within the iwi relating to matters arising under this Act.

Iwi Fisheries Assets - Ownership Principles and Requirements

The constitutional documents of the mandated iwi organisation must:

Kaupapa 9: Provide that a company or trust separate from but responsible to and wholly owned or controlled by the mandated iwi organisation must be established to receive the allocated quota and income shares of the iwi, and that company or trust must provide any financial return on the use of those assets only to the mandated iwi organisation.

Kaupapa 10: Provide that where the iwi wishes to have its own fishing operation to harvest, process or market fish or be involved in a joint venture to harvest, process or market fish, a company separate from but responsible to the iwi organisation must be established to undertake those operations and that company must provide all returns on its operations direct to the

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mandated iwi organisation. That company must be a separate entity from the company or trust that receives the allocated quota and income shares of the iwi.

Kaupapa 11: Provide that in the company or trust established to receive the allocated quota and income shares of the iwi, the directors, trustees or officeholders that are also elected members of the mandated iwi organisation must not exceed more than 40 percent of the total number of directors or trustees.

Kaupapa 12: Provide that the mandated iwi organisation must exercise strategic governance over the company or trust that receives the allocated quota and income shares of the iwi and any fishing harvesting company and as part of that exercise must agree on annual plans that set out:

- the key strategies for the development of iwi fisheries assets;
- the expected financial return on the assets;
- any proposals to rationalise the assets to advance the strategies and/or improve the financial returns;
- any proposals to change the constitution or trust deed of the company or trust.

Kaupapa 13: Any proposals to change the constitution or deed of the company or trust that receives the allocated quota and income shares or any fishing harvesting, processing or marketing company must not be inconsistent with **Kaupapa 9 to 12** and must have the approval of at least 75 percent of the elected representatives of the mandated iwi organisation, and must be reported to all members.

Kaupapa 14: Any proposal to change the constitution, trust deed or rules of a mandated iwi organisation in respect of any matter to which **Kaupapa 1 to 12** relate, or to change the constitution or trust deed of a company or trust to which **Kaupapa 13** relates –

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- (a) cannot be made within 2 years after the date on which the mandated iwi organisation is recognised by Te Ohu Kai Moana;
- (b) can only be promoted if the mandated iwi organisation resolves that the change is ultimately for the benefit of all members of the iwi;
- (c) must be notified to all individuals entitled to vote at a hui-a-tau or other special or general meeting to consider the issue;
- (d) must be carried by at least a 75 percent majority of votes cast at that hui-a-tau or special or general meeting; and
- (e) must be reported in the next annual report or earlier general communication to members.

Schedule 8
Te Kawai Taumata

1 Chairperson and Deputy Chairperson of Te Kawai Taumata

- (1) Te Kawai Taumata must elect 1 of its members as its chairperson, and another member as its deputy chairperson.
- (2) The chairperson of Te Kawai Taumata must at all times act within the authority of the College and in accordance with its directions.
- (3) If the chairperson or deputy chairperson vacates office as a member, or resigns from office, Te Kawai Taumata must elect an existing member to hold the office.

2 Meetings

- (1) Te Kawai Taumata may hold meetings as necessary to appoint or remove Commissioners.
- (2) The chairperson must determine the date, time, and place of each meeting of the College and must give not less than 7 working days' written notice to members and alternate members of-

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- (a) the date, time, and place of the meeting; and
 - (b) the agenda for the meeting.
- (3) Notice need not be given under **subclause (2)**-
- (a) to a member who for the time being is absent from New Zealand; or
 - (b) in respect of an adjourned meeting.
- (4) If all members who are entitled to receive notice give their consent, the requirement to notify a meeting may be waived.
- (5) It is the responsibility of a member to notify the appropriate alternate members, and the chairperson, if the member is unable to attend any meeting.

3 Teleconference meetings

- (1) A meeting may be conducted by teleconference or by any means of communication that allows the members reasonably to participate in the proceedings.
- (2) All the provisions in this Act relating to the meetings of Te Kawai Taumata apply to a meeting held in accordance with this clause.

4 Quorum

- (1) A quorum for a meeting of Te Kawai Taumata is
 - (a) not less than 6 members.
- (2) No business may be transacted at a meeting of Te Kawai Taumata at any time when a quorum is not present.

5 Conduct of meetings

- (1) At all meetings of Te Kawai Taumata, the chairperson must preside.
- (2) If the chairperson is not present-
 - (a) the deputy chairperson, if present, must preside; or
 - (b) if the deputy chairperson is not present, the members present must elect 1 of their number to be the chairperson of the meeting.

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- (3) A record must be kept in the minute book of all decisions taken at every meeting, signed by the chairperson of the meeting.
- (4) The signed minutes of the proceedings of a meeting are evidence-
 - (a) of the proceedings; and
 - (b) unless the contrary is proved, that the meeting was properly convened and the proceedings were properly conducted.

6 Voting

- (1) Except as provided in **subclause (3)**, each member present has 1 vote.
- (2) All questions arising at a meeting must be decided by a majority of the votes cast by the members present.
- (3) In the case of an equality of votes, the chairperson or member presiding has a second or casting vote.
- (4) A written resolution signed by all the members is effective for all purposes as a resolution passed at a meeting of Te Kawai Taumata and may comprise more than 1 copy of the resolution, each signed by 1 or more of the members of Te Kawai Taumata.

7 Special provisions where meeting called to remove Commissioner

Where a meeting is called to remove a Commissioner –

- (a) the Commissioner concerned must be given 10 working days notice of the meeting and its purpose and be given a reasonable opportunity to be heard; and
- (b) **Subclause 6(4)** does not apply.

8 Vacancies or irregularities in appointment

- (1) Despite a vacancy in its membership, Te Kawai Taumata may perform its functions, provided there is a quorum.
- (2) The decisions and transactions of Te Kawai Taumata are not affected if a member's appointment is defective.

9 Remuneration for members of Te Kawai Taumata

The members of Te Kawai Taumata are entitled to receive from Te Ohu Kai Moana—

- (a) remuneration determined by Te Ohu Kai Moana; and
- (b) payment of reimbursing allowances or actual and reasonable expenses incurred in undertaking the function of Te Kawai Taumata as approved by Te Ohu Kai Moana

Schedule 9

Review of Te Ohu Kai Moana (including Te Kawai Taumata) and Aotearoa Fisheries Limited

Part 1

Matters to be reviewed

The matters to be considered at any review are:

- (1) The governance structure of Te Ohu Kai Moana and Aotearoa Fisheries Limited, including -
 - (a) Te Kawai Taumata and associated processes and costs;
 - (b) the processes and appointment criteria for Commissioners and directors of Aotearoa Fisheries Limited;
 - (c) the operation of, and experience with, the appointment criteria for Commissioners and directors of Aotearoa Fisheries Limited and the associated processes;
 - (d) the levels of interaction by Aotearoa Fisheries Limited with mandated iwi organisations;
 - (e) the accountability of Aotearoa Fisheries Limited to mandated iwi organisations, including the quality of information provided and quality of reporting to mandated iwi organisations.

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- (f) the effectiveness of the relationship between Te Ohu Kai Moana and Aotearoa Fisheries Limited.
- (2) The performance of Aotearoa Fisheries Limited, including but not limited to-
- (a) increase in shareholder value;
 - (b) dividend performance;
- and analysis of these could examine variability and where possible benchmark the performance against other participants in the fishing industry and/ or other similar entities.
- (3) The outcomes of the allocation process, including -
- (a) shareholder participation and concentration;
 - (b) iwi interaction with Aotearoa Fisheries Limited such as joint ventures or management contracts in relation to quota or aquaculture;
 - (c) Aotearoa Fisheries Limited's position within and relationships with the fishing industry; and
 - (d) the effectiveness of relationships of Te Ohu Kai Moana and Aotearoa Fisheries Limited with Government.
- (4) A review of the performance of mandated iwi organisations (income shareholders) including but not limited to:-
- (a) annual audited financial statements;
 - (b) increase in shareholder value;
 - (c) dividend performance; and
- and analysis of these could examine variability and where possible benchmark the performance against other participants in the fishing industry and/ or other similar entities.
- (5) The outcomes for mandated iwi organisations from the allocation process, including -

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- (a) effectiveness of the process of recognition of mandated iwi organisations
- (b) mandated Iwi organisations interactions, such as contractual arrangements within the iwi fishing industry and with the fishing industry generally; and
- (c) the accountability of mandated iwi organisations to iwi members, including the quality of information provided and quality of reporting to iwi members particularly as to performance measured against published plans and strategies.

Part 2

Procedure for Review

The procedure for each review must include the following steps:

- (1) Te Ohu Kai Moana must provide a draft terms of reference to mandated iwi organisations for comment within a reasonable time.
- (2) Following consideration of any comments from mandated iwi organisations, Te Ohu Kai Moana must determine the terms of reference for the review.
- (3) Te Ohu Kai Moana must conduct a public process to appoint a reviewer (which may be an individual or organisation) and take into account any proposals from mandated iwi organisations as to who should or should not be appointed.
- (4) The reviewer must consult mandated iwi organisations and other parties interested in the review, including Te Ohu Kai Moana and Aotearoa Fisheries Limited.
- (5) The reviewer must make preliminary recommendations to Te Ohu Kai Moana.
- (6) After consultation between the reviewer and Te Ohu Kai Moana, the final reviewer's report and any response from Te Ohu Kai Moana must be provided by Te Ohu Kai Moana to

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mandated iwi organisations for comment within a reasonable time.

- (7) Following consideration of any comments from mandated iwi organisations Te Ohu Kai Moana must prepare recommendations for any proposed changes, an implementation plan, and appropriate resolutions, and provide them to mandated iwi organisations for consideration at a hui-a-tau. Proposed changes may be put forward in resolutions in combinations as Te Ohu Kai Moana considers appropriate.
- (8) Where a resolution promoted by Te Ohu Kai Moana has the support at a hui-a-tau of at least 75 percent of mandated iwi organisations representing more than 50 percent of the notional Maori population as shown in **Schedule 4** then Te Ohu Kai Moana must implement the resolutions to the extent that it is able, and if amendments to this Act are required, must request the Minister to promote those amendments.

Schedule 10

Part 1

Amendments to other Acts

Fisheries Act 1996

(1996 No. 88)

Repeal the definition of Commission in section 2 and substitute:

“Te Ohu Kai Moana means the trust established under section 12 of the Maori Fisheries Act 2003”.

Omit from section 26(6) the words “the Commission” and substitute the name, “Te Ohu Kai Moana”.

Omit from section 30(2)(a) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from section 31(2) the words “the Commission” where they appear twice and substitute in each occasion the name “Te Ohu Kai Moana”.

Omit from section 31(2) the words “the Commission’s” and substitute the name “Te Ohu Kai Moana’s”.

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Omit from section 44(1) the word “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from section 48(1) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Add to section 50 the following subsection:

“(3) Where the Crown owns allocated quota or designated quota within the meaning of the **Maori Fisheries Act 2003** as a result of forfeiture under sections 58, 61, 255C or 255D, the Crown must sell that quota within a reasonable period to a mandated iwi organisation or Te Ohu Kai Moana.”

Omit from section 52(3)(d)(i), (ii) and (iii) the words “the Commission” and substitute in each case the name “Te Ohu Kai Moana”.

Omit from section 52(4)(c) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from the heading of section 55 the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from section 55 the words “the Commission” where they appear twice and substitute in each case the name “Te Ohu Kai Moana”.

Insert in section 59, after subsection (2),

“(2A) Nothing in subsection (1) prevents any person from owning more than the permitted number of quota shares where

“(a) immediately prior to allocation of allocated quota under the **Maori Fisheries Act 2003** the person did not own more than the permitted number of quota shares; and

“(b) after allocation under that Act, the reason the person owns more than the permitted number of quota shares is the ownership of quota shares resulting from that allocation –

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but except as may be permitted by any consent granted under section 60 of this Act, no such person may acquire any more such quota.”

Insert in section 59, after subsection (10),

“(10A) For the purposes of subsection (10)(e) a person is not a beneficiary of Te Putea Whakatupu Trust, Te Wai Maori Trust or a trust that holds allocated quota within the meaning of the **Maori Fisheries Act 2003**, or any mandated iwi organisation that controls that trust .”

Omit from section 59(11) the words “the Commission” and substitute in each case the name “Te Ohu Kai Moana”.

Insert in section 74, after paragraph (a),

“(aa) following the allocation of allocated quota under **Part 7 of the Maori Fisheries Act 2003** the commercial fisher owns all the annual catch entitlement generated from all the quota for the relevant stock allocated to an iwi under that Part, and that entitlement is not sufficient to satisfy the requirements of subsection (1);or”

Omit from section 78(12)(a) and (b) the words “the Commission” and substitute in each case the name “Te Ohu Kai Moana”.

Omit from section 79(6)(a) and (b) the words “the Commission” and substitute in each case the name “Te Ohu Kai Moana”.

Add to section 147 the following subsection:

“(2) A caveat may in accordance with **section 63 of the Maori Fisheries Act 2003**, be registered over any quota shares at the request of Te Ohu Kai Moana”.

Delete at the end of section 149(c) the expression “,-” and substitute the expression “; or”.

Insert after section 149(c) the following paragraph:

“(d) Te Ohu Kai Moana requests that a caveat be lodged on the approval form,-”

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Add at the end of section 151(3) the words “or **section 63 of the Maori Fisheries Act 2002**”.

Omit from section 255(4) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from section 255(5) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from section 343(1)(b) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from section 343(2B) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Omit from section 343(2C) the words “the Commission” and substitute the name “Te Ohu Kai Moana”.

Income Tax Act 1994

(1994 No 164)

Omit from sections HI1A and HI1B the words “Treaty of Waitangi Fisheries Commission” and substitute the name “Te Ohu Kai Moana”.

Part 2

Amendments to Te Ture Whenua Maori Act 1993

Insert after section 26 the following sections:

“26A Jurisdiction of Court under Maori Fisheries Act 2003

“(1) The Court has exclusive jurisdiction to advise on all matters referred to it under a dispute resolution process referred to in **section 69(1)** of the **Maori Fisheries Act 2003**.

“(2) The Court has exclusive jurisdiction to hear and determine, by order, all applications, claims, disputes and questions referred to it under **sections 69(4), 69(5), 71(1) or 72** of the **Maori Fisheries Act 2003**.

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- “(3) The Court must determine any application under **subsection (1) or (2)** by applying the same criteria as would be applied under the **Maori Fisheries Act 2003**.
- “(4) Nothing in **subsection (1) or (2)** limits the right of any person to appeal against any decision of the Court.
- “(5) A request for advice under **subsection (1)** or an application for a determination under **subsection (2)** is an application within the ordinary jurisdiction of the Court, and the Court has the power and authority to give advice and make determinations as the Court thinks proper.
- “(6) The Court does not have jurisdiction under this section unless it is satisfied that **section 69(1)** of the **Maori Fisheries Act 2003** has been complied with by the parties.
- “(7) Where a dispute resolution process contemplated by that section has not been agreed or has not been complied with the Court must order the parties to engage in a dispute resolution process on terms prescribed by the Court unless the Court believes, for specified reasons, that such a process is inappropriate.
- “(8) Nothing in this section restricts any other right of any person to bring proceedings in the Court.

“26B Procedure regarding requests for advice under Maori Fisheries Act 2003

- “(1) The jurisdiction in **section 26A(1)** is exercised by written request to the Chief Judge by the party or parties seeking the advice.
- “(2) The Chief Judge may address the request or may allocate the request to another Judge, and must do 1 or the other within 20 working days of receiving the request.
- “(3) The Judge addressing a request for advice may (but is not obliged to) do 1 or more of the following things, before supplying the advice sought:
 - “(a) exercise the powers in section 67 for the purpose expressed in that section:
 - “(b) consult with the requestor and parties affected by the advice:
 - “(c) refer some or all of the issues arising from the request to a mediator for mediation:

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“(d) appoint one or more additional members (not being Judges of the Maori Land Court) to be known as pukenga who have knowledge of relevant tikanga Maori or other expertise for the purpose of assisting with the request for advice.

“26C Procedure regarding applications for determination under Maori Fisheries Act 2003

“(1) The jurisdiction in **section 26A(2)** is exercised on written application to the Chief Judge by the party or parties seeking the determination.

“(2) The Chief Judge may address the application or may allocate the application to another Judge and must do 1 or the other within 20 working days of receiving the application.

“(3) The Judge addressing an application for a determination may (but is not obliged to) do 1 or more of the following things:

“(a) determine the issue and order accordingly, if **subsection (5)** applies:

“(b) refer the application to the Court for hearing and determination:

“(c) exercise the powers in section 67 for the purpose expressed in that section:

“(d) refer some or all of the issues arising from the application to a mediator for mediation:

“(e) appoint one or more additional members (not being Judges of the Maori Land Court) to be known as pukenga who have knowledge of relevant tikanga Maori or other expertise for the purpose of providing advice on the application:

“(f) dismiss or defer consideration of the application, if **subsection (6)** applies.

“(4) The Judge may choose not to address an application if the Judge is satisfied that the issues it presents are governed by another enactment or are more appropriately addressed in another forum.

“(5) The Judge may make a determination under **subsection (3)(a)** if the Judge is satisfied that the applicant has taken reasonable steps to notify those parties affected by the application of the application.

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- “(6) The Judge may dismiss or defer consideration of an application under **subsection (3)(f)** if—
- “(a) it is vexatious, frivolous or an abuse of the Court, or fails to satisfy rules of court; or
 - “(b) it does not present serious issues for determination; or
 - “(c) the Judge considers it appropriate to dismiss or defer consideration of the application for another reason.

“26D Procedure regarding applications referred to Court

- “(1) Where any matter is referred to the Maori Land Court for hearing and determination under **section 26C(3)(b)** the Court may (but it is not obliged to) do one or more of the following things:

- (a) determine the issue and order accordingly if **subsection (3)** applies;
- (b) exercise the powers in section 67 for the purpose expressed in that section:

[Note: it seems section 69 Te Ture Whenua Maori Act 1993 “evidence in proceedings” would automatically apply.]

- (c) dismiss or defer consideration of the application if **subsection (5)** applies;
 - (d) request a report from Te Ohu Kai Moana on any matter the Court considers appropriate.
- “(2) The Maori Land Court may choose not to address an application if the Court is satisfied that the issues it presents are governed by another enactment or are more appropriately addressed in another forum.
- “(3) The Maori Land Court may make a determination under **subsection (1)(a)** if the Court is satisfied that the applicant has taken reasonable steps to notify those parties affected by the application of the application.
- “(4) Where any matter is referred to the Maori Land Court for hearing and determination under **section 26C(3)(b)**, the Court may, of its own motion or at the request of any party to the proceeding, appoint one or more additional members (not being Judges of the Maori Land Court) to be known as pukenga who have knowledge of relevant tikanga Maori or other expertise to assist the Court.

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- “(5) The Maori Land Court may dismiss or defer consideration of an application under **subsection (1)(c)** if –
- (a) it is vexatious, frivolous or an abuse of the Court, or fails to satisfy rules of court; or
 - (b) it does not present serious issues for determination; or
 - (c) the Maori Land Court considers it appropriate to dismiss or defer consideration of the application for another reason.
- “(6) Nothing in this section limits the powers of Te Ohu Kai Moana under the **Maori Fisheries Act 2003**.

“26E Appointment of mediator

- “(1) A Judge who decides to refer issues to a mediator under **section 26B(3)(c), section 26C(3)(d), or section 26H(3)(a)** must consult the parties affected by the application about who to appoint as mediator.
- “(2) The parties affected by the application may, by agreement among them, appoint as mediator a person or persons with the skills and experience to undertake mediation on issues arising under the Maori Fisheries Act 2003.
- “(3) The Judge must appoint a mediator if a mediator is not appointed by agreement under **subsection (2)**.
- “(4) The Judge must be satisfied, before appointing a mediator, that the mediator has the skills and experience to undertake mediation on issues arising under the Maori Fisheries Act 2003.
- “(5) A Judge other than the Judge addressing an application may be a mediator; a Judge acting as a mediator is, however, to be treated as acting judicially, and retains the same immunities as when acting as a Judge.
- “(6) Despite **subsection (5)**, a Judge who acts as a mediator must not sit as a Judge of the Court on some or all of the same issues.

“26F Conduct of mediation

- “(1) A Judge may advise a mediator of the issues that need to be addressed at mediation.
- “(2) The following persons are entitled to attend and participate in a mediation:

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- (a) parties affected and their representatives;
 - (b) any other person with the leave of the Judge addressing the application.
- “(3) A mediator may
- “(a) follow those procedures (structured or unstructured) and do those things the mediator considers appropriate to resolve the issues referred to the mediator promptly and effectively; and
 - “(b) receive any information, statement, admission, document, or other material, in any way or form the mediator thinks fit, whether or not it would be admissible in judicial proceedings.
- “(4) Written and oral material presented at or for the mediation must be kept confidential by the mediator and those participating in the mediation unless the party who produces the material consents to its disclosure.
- “(5) A party may not be sued for defamation for statements made in mediation.
- “(6) Statements made and material presented at mediation are admissible in a subsequent mediation of the same issues but are not admissible in other proceedings before a person acting judicially unless the parties participating in the mediation consent to the admission of the statement or material.

“26G Successful mediation

- “(1) If some or all of the issues referred to mediation are resolved at mediation, the mediator must—
- (a) record the terms of that resolution; and
 - (b) deliver them to the Judge.
- “(2) The Judge may include the terms of resolution so delivered in an order signed by the Judge and sealed with the seal of the Court.

“26H Unsuccessful mediation

- “(1) If some or all of the issues referred to mediation are not resolved by mediation and the mediator believes that those issues are unlikely to be resolved, the mediator must—
- “(a) report that lack of resolution to the Judge; and
 - “(b) state the issues that are unresolved and any issues that have been resolved.

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- “(2) The parties affected participating in the mediation may, if mediation fails and they all agree, withdraw and discontinue the application.
- “(3) Subject to **subsection (2)**, the Judge must, on receiving a report under **subsection (1)**, either—
 - “(a) refer some or all of the unresolved issues to a mediator for mediation; or
 - “(b) refer the unresolved issues to the Court for hearing and determination or for the provision of advice, as the case may be.
- “(4) A Judge referring unresolved issues to the Court under **subsection (3)(b)** may be the Judge of the Maori Land Court that hears the matter or provides advice.

“26I Orders and interim orders

- “(1) In making orders under **sections 26A to 26H**, the Judge or the Court, as the case may be, may do 1 or more of the following:
 - (a) incorporate or restate the terms of an agreement reached by the persons participating in an application:
 - (b) incorporate the terms that express the outcome of mediation:
 - (c) specify that the order applies for general or specific purposes:
 - (d) specify the purpose or purposes for which the order is made:
 - (e) specify a date after which the order ceases to have effect:
 - (f) vary the constitutional documents of a mandated iwi organisation:
 - (g) remove any or all directors, trustees or officeholders from office:
 - (h) appoint new or additional directors, trustees or officeholders to a mandated iwi organisation, or direct how new or additional directors, trustees or officeholders are to be appointed or elected to a mandated iwi organisation:
 - (i) make such other orders as are contemplated by the **Maori Fisheries Act 2003** or as the Judge or Court considers appropriate.

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- “(2) In addition to the matters set out in **subsection (1)**, the Judge or the Court as the case may be, may order whenever it considers it appropriate or at the request of Te Ohu Kai Moana:
- “(a) that any or all distributions under the **Maori Fisheries Act 2003** (including income shares and distributions in respect of them) to or by one or more of the parties to the proceeding be suspended until further notice, being no later than such time as the matter is finally resolved by the Court;
 - “(b) that an asset or assets held by a representative iwi organisation be protected.

“26J Proceedings involving pukenga

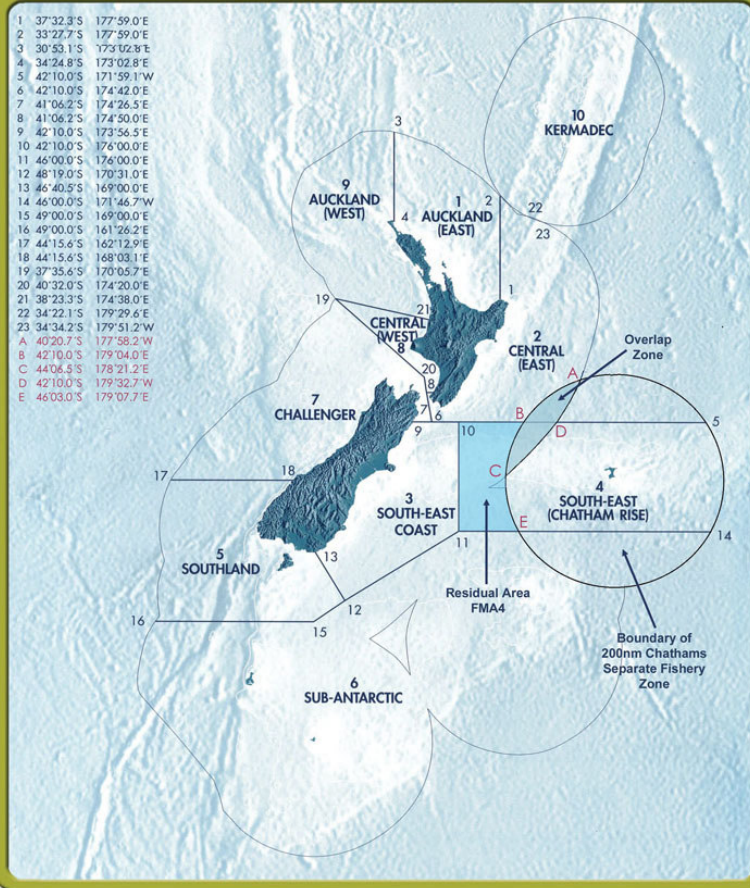
Where pukenga are appointed under section **26B(3)(d)**, or **26C(3)(e)** or **26D(4)** the proceedings and processes of the Court cannot be challenged on appeal or in any other proceedings on the grounds that a pukenga had a tribal affiliation or other relationship with any of the parties unless it is shown that the pukenga acted in bad faith.”

Insert in section 34, after the words “appointed under”, the words “**section 26B(3) or section 26C(3) or section 26D(4)** or”.

Insert in section 35, after the words “appointed under” the words “**section 26B(3) or section 26C(3) or section 26D(4)** or”.

Insert in section 36(1), after the words “Maori Land Court under”, the words “**section 26D(4)** or”.

Chatham Zone



Coastline Calculations > Juridical Bay Formula

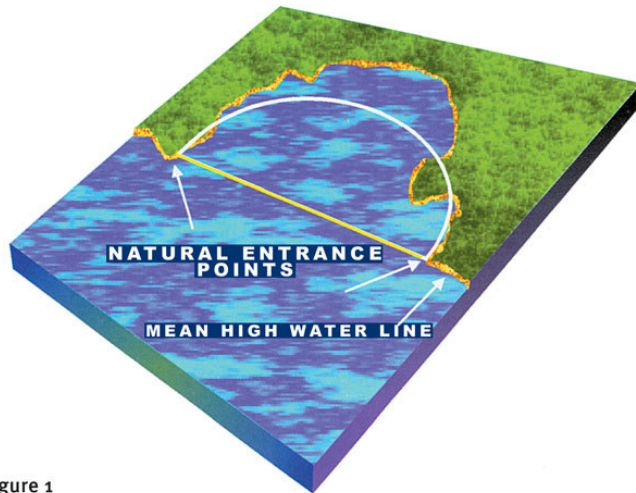


Figure 1

Coastline Calculations > Juridical Bay Formula

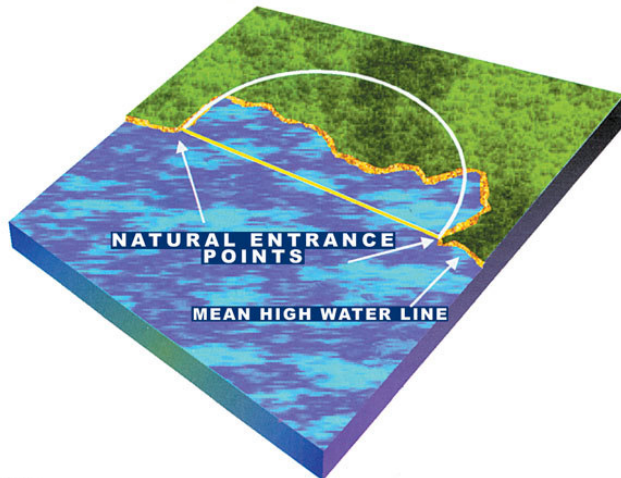


Figure 2