

**Reprint
as at 1 January 2014**



**Whanganui Iwi (Whanganui
(Kaitoke) Prison and Northern
Part of Whanganui Forest)
On-account Settlement Act 2011**

Public Act 2011 No 51
Date of assent 22 July 2011
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

Part 2

Transfer of Whanganui (Kaitoke) Prison and northern part of Whanganui Forest and related matters

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Preamble

- (1) The Treaty of Waitangi was signed in 1840. The terms of the Treaty of Waitangi in English and Māori are set out in Schedule 1 of the Treaty of Waitangi Act 1975:
- (2) Recitals (3) and (4) of this Preamble present, in summary form, the background to the Deed of On-account Settlement of Historical Claims of Whanganui Iwi in relation to the Whanganui Kaitoke Prison and Part of the Whanganui Forest (the **deed of on-account settlement**) entered into by Whanganui Iwi and the Crown:
- (3) The agreement between the Crown and the Southern Whanganui Cluster/Tupoho working party (the **working party**) to enter into an on-account settlement was an outcome of discussions between Ngāti Apa (North Island) and the working party about aspects of the Ngāti Apa (North Island) settlement package as contained in the agreement in principle between Ngāti Apa (North Island) and the Crown (the **agreement in principle**):
- (4) After Ngāti Apa (North Island) had consulted with neighbouring iwi on the agreement in principle, the Crown and the working party signed the deed of on-account settlement on 31 July 2009. Whanganui Iwi and the Crown agree that the value of the transfer of the assets under the deed of on-account settlement will be taken into account when the Crown makes

an offer of redress for the final settlement of the Whanganui Iwi historical claims:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Whanganui Iwi (Whanganui (Kaitoke) Prison and Northern Part of Whanganui Forest) On-account Settlement Act 2011.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Preliminary provisions**

3 Purpose

The purpose of this Act is to give effect to certain provisions of the deed of on-account settlement of the Whanganui Iwi historical claims.

4 Interpretation

In this Act, unless the context otherwise requires,—

business day means the period from 9 am to 5 pm on any day of the week other than—

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and
- (b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and
- (ba) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) the day observed as the anniversary of the province of Wellington

Crown has the meaning given to it in section 2(1) of the Public Finance Act 1989

Crown forestry assets means the meaning given to it in section 2(1) of the Crown Forest Assets Act 1989

deed of on-account settlement means the deed of on-account settlement of historical claims of Whanganui Iwi in relation to the Whanganui Kaitoke Prison and part of the Whanganui Forest between the working party on behalf of Whanganui Iwi, the trustees of the Pakaitore Trust, and the Crown dated 31 July 2009 and as amended from time to time

Ngāti Apa agreement in principle means the agreement in principle between Ngāti Apa (North Island) and the Crown dated 12 July 2007

Ngāti Apa (North Island) has the same meaning given to it by section 11 of the Ngāti Apa (North Island) Claims Settlement Act 2010

Ngāti Apa (North Island) Deed of Settlement means the deed of settlement of historical claims between Ngāti Apa (North Island) and the Crown dated 8 October 2008 and as amended from time to time

northern part of the Whanganui Forest means the site described as the northern part of the Whanganui Forest (including trees) or the northern part of the Whanganui Forest (excluding trees) as applicable in Part 4 of the Schedule of the deed of on-account settlement

Pakaitore Trust means the whenua tōpū trust established by an order of the Maori Land Court dated 28 February 2007 as amended by order of the Maori Land Court dated 21 July 2009

trustees means the trustees of the Pakaitore Trust in their capacity as trustees of the Pakaitore Trust

trustees' interest in the Whanganui (Kaitoke) Prison means an undivided half share in the fee simple estate in the Whanganui (Kaitoke) Prison

unlicensed Crown forest land has the same meaning given to it by section 10 of the Ngāti Apa (North Island) Claims Settlement Act 2010

Whanganui Forest transfer date means the later of—

- (a) 30 business days after the date on which the working party gives notice in accordance with clause 3.3.2 of the deed of on-account settlement that it elects that the

trustees acquire the northern part of the Whanganui Forest; or

- (b) the actual deferred selection settlement date for the unlicensed Crown forest land under the Ngāti Apa (North Island) Deed of Settlement

Whanganui (Kaitoke) Prison means the site described as—

- (a) Whanganui Prison in Part 4 of the Schedule of the deed of on-account settlement; and
- (b) Whanganui (Kaitoke) Prison in clause 3 of the Corrections (Whanganui (Kaitoke) Prison) Notice 2008

Whanganui Iwi—

- (a) means ngā uri o Te Awa Tupua o Whanganui; and
- (b) includes all descendants of the Tupuna Rohe o Whanganui

working party means the working party of representatives of the Southern Whanganui Cluster and Te Runanga o Tupoho formed to engage with Ngāti Apa (North Island) on the redress set out in the Ngāti Apa (North Island) agreement in principle.

Section 4 **business day** paragraph (ba): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

5 Meaning of Whanganui Iwi historical claims

In this Act, **Whanganui Iwi historical claims** means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the date on which the deed of on-account settlement becomes unconditional under clause 6.1 of that deed) that Whanganui Iwi had at, or at any time before, that date, or may have at any time after that date, and that—

- (a) is, or is founded on, a right arising—
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law (including aboriginal title or customary law); or
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
- (b) arises from, or relates to, acts or omissions before 21 September 1992—

- (i) by, or on behalf of, the Crown; or
- (ii) by or under legislation; but
- (c) does not include claims relating to the Whanganui River.

6 Act binds the Crown
This Act binds the Crown.

Part 2
Transfer of Whanganui (Kaitoke) Prison and northern part of Whanganui Forest and related matters

7 Northern part of Whanganui Forest ceases to be Crown forest land
On and from the Whanganui Forest transfer date, the northern part of the Whanganui Forest ceases to be Crown forest land and any Crown forestry assets associated with that land cease to be Crown forestry assets.

8 Application of Ngāti Apa (North Island) Claims Settlement Act 2010 to transfers

- (1) Subpart 1 of Part 3 of the Ngāti Apa (North Island) Claims Settlement Act 2010 (which relates to the transfer of commercial redress properties) applies with any necessary modifications to the transfer of the trustees' interest in the Whanganui (Kaitoke) Prison and the transfer of the northern part of the Whanganui Forest to the trustees, in order to give effect to Parts 2 and 3 respectively of the deed of on-account settlement.
- (2) Subpart 4 of Part 3 of the Ngāti Apa (North Island) Claims Settlement Act 2010 (which relates to access to protected sites) applies with any necessary modifications to the transfer of the northern part of the Whanganui Forest to the trustees, in order to give effect to Part 3 of the deed of on-account settlement.

9 Certain enactments do not apply to transfer of northern part of Whanganui Forest

- (1) On and from the Whanganui Forest transfer date, nothing in the enactments listed in subsection (2) applies—
- (a) to the northern part of the Whanganui Forest; or
 - (b) for the benefit of Whanganui Iwi.
- (2) The enactments are—
- (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975;
 - (b) Part 3 of the Crown Forest Assets Act 1989.

10 Termination of obligations

Sections 7 and 8(2) do not apply in respect of the northern part of the Whanganui Forest if the Crown's obligations terminate under clause 3.7 of the deed of on-account settlement.

Access to deed of on-account settlement

11 Access to deed of on-account settlement

The chief executive of the Ministry of Justice must make copies of the deed of on-account settlement available—

- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington on any business day; and
 - (b) free of charge on an Internet site maintained by, or on behalf of, the Ministry of Justice.
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Reprints notes

1 *General*

This is a reprint of the Whanganui Iwi (Whanganui (Kaitoke) Prison and Northern Part of Whanganui Forest) On-account Settlement Act 2011 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8
