



# Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Amendment Act 2013

Public Act 2013 No 99  
Date of assent 27 November 2013  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Amendment Act 2013.

**2 Commencement**

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

**3 Principal Act**

This Act amends the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 (the **principal Act**).

**Part 1**

**Amendments to main provisions**

**4 Section 3 amended (Purpose)**

(1) In section 3(b), replace “ngā tikanga Māori” with “ōna tikanga”.

(2) Replace section 3(c) with:

“(c) the transfer of spectrum management rights to Te Pūtahi Paoho:

“(ca) the management of the transferred spectrum management rights and related spectrum licences in a manner that ensures that the Service has the opportunity to establish a free-to-air digital terrestrial television network for the purpose of performing its functions:”.

**5 Section 5 amended (Outline of Act)**

(1) In section 5(3), replace “4 subparts” with “5 subparts”.

(2) In section 5(3)(b), replace “ngā tikanga Māori” with “ōna tikanga”.

(3) After section 5(3)(b), insert:

“(ba) subpart 2A sets out provisions relating to—

“(i) the transfer of the spectrum management rights by the Crown to Te Pūtahi Paoho; and

“(ii) the use and exercise of those rights; and

- “(iii) the issuing of spectrum licences to the Service for the purpose of establishing a digital terrestrial television network to protect and promote te reo Māori me ōna tikanga; and
- “(iv) the issuing of spectrum licences to licensees other than the Service.”.

**6 Section 6 amended (Interpretation)**

In section 6, insert in their appropriate alphabetical order:

“**broadcasting** has the same meaning as in section 2(1) of the Broadcasting Act 1989 and **broadcast** has a corresponding meaning

“**delivery platform** means any technical method for screening media content

“**digital terrestrial television network** means a facility by which television programmes are broadcast using digital technology from land-based stations

“**ōna tikanga**, in relation to te reo Māori, means accepted or customary usage”.

**7 Section 8 replaced (Functions of Service)**

Replace section 8 with:

**“8 Functions of Service**

“(1) The principal function of the Service is to contribute to the protection and promotion of te reo Māori me ōna tikanga through the provision, in te reo Māori and English, of a high-quality, cost-effective television service that informs, educates, and entertains viewers, and enriches New Zealand’s society, culture, and heritage.

“(2) The Service must also—

“(a) ensure that during prime time it broadcasts mainly in te reo Māori; and

“(b) ensure that at other times it broadcasts a substantial proportion of its programmes in te reo Māori; and

“(c) ensure that, in its programming, the Service has regard to the needs and preferences of—

“(i) young people; and

- “(ii) children participating in te reo Māori immersion education; and
- “(iii) all persons learning te reo Māori; and
- “(iv) persons whose first language is te reo Māori and persons with a high level of proficiency in te reo Māori; and
- “(d) provide broadcast services that are technically available throughout New Zealand and practicably accessible to as many people as is reasonably possible.
- “(3) The Service may undertake other functions that contribute to the protection and promotion of te reo Māori.
- “(4) In performing its functions, the Service may provide a range of content and services on a choice of delivery platforms.”

**8 Section 15 amended (Functions of Te Pūtahi Paoho)**

Replace section 15(e) with:

- “(e) to safeguard the UHF right in accordance with section 23; and
- “(f) to manage spectrum management rights in accordance with subpart 2A.”

**9 New section 20A inserted (Expiry of subpart 2)**

In Part 2, after the subpart 2 heading, insert:

**“20A Expiry of subpart 2**

This subpart expires and is repealed at the close of 30 November 2013.”

**10 New subpart 2A inserted**

After section 24, insert:

“Subpart 2A—Provisions relating to  
spectrum management rights

*“Transfer of spectrum management rights to Te  
Pūtahi Paoho*

**“24A Interpretation**

In this subpart, unless the context otherwise requires,—

“**manager** means Te Pūtahi Paoho or any subsequent manager of the whole or any part of the spectrum management rights

“**Secretary for Radiocommunications** means the chief executive of the department responsible for the administration of the Radiocommunications Act 1989

“**spectrum licence** means a licence granted under section 48(1) of the Radiocommunications Act 1989 in relation to any part of the range of frequencies covered by the spectrum management rights

“**spectrum management rights** means the management rights transferred under section 24B(1)(a).

“**24B Transfer of spectrum management rights**

- “(1) Before 1 December 2013, the responsible Ministers must—
- “(a) direct the Secretary for Radiocommunications to, and the Secretary must, transfer from the Crown to Te Pūtahi Paoho management rights to two 8 MHz ultra high frequency ranges, within the limits of 502 to 694 MHz, for the period from 1 December 2013 to 30 November 2033; and
  - “(b) execute a deed setting out the terms and conditions under which Te Pūtahi Paoho must exercise the spectrum management rights.
- “(2) The deed may be modified by written agreement between the responsible Ministers, on behalf of the Crown, and Te Pūtahi Paoho.
- “(3) The responsible Ministers must consult the Minister responsible for the administration of the Radiocommunications Act 1989 before—
- “(a) executing the deed under subsection (1)(b); or
  - “(b) modifying the deed under subsection (2).
- “(4) The deed may, by agreement, provide that if Te Pūtahi Paoho breaches 1 or more specified terms or conditions (a serious breach), the responsible Ministers may require Te Pūtahi Paoho to transfer the spectrum management rights to the Crown, and in such a case Te Pūtahi Paoho must transfer the spectrum management rights as required by the responsible Ministers.

**“24C Aggregation of management rights**

“(1) This section applies if—

“(a) the Secretary for Radiocommunications has filed a notice of transfer under the Radiocommunications Act 1989 directing the Registrar or Deputy Registrar of Radio Frequencies to transfer the rights referred to in section 24B(1)(a); and

“(b) those rights consist of successive records of management rights.

“(2) The Registrar or Deputy Registrar of Radio Frequencies must aggregate those rights, on the application of the Secretary for Radiocommunications, if—

“(a) the records of management rights have—

“(i) the same power floors; and

“(ii) the same protection limits; and

“(iii) the same adjacent frequencies emission limits; and

“(iv) the same conditions applying to spectrum licences created in relation to those records; and

“(b) the commencement date of the successive record or records is no more than 1 day after the expiry date of the preceding record or records.

“(3) In subsection (2), **adjacent frequencies emission limit**, **power floor**, **protection limit**, and **record of management rights** have the meanings given to them in section 2(1) of the Radiocommunications Act 1989.

“Compare: 1989 No 148 s 47A

**“24D Management of spectrum management rights**

“(1) The manager must manage the spectrum management rights in a manner that enables the Service to perform its functions.

“(2) A manager may only transfer or mortgage the whole or any part of the spectrum management rights with the agreement of the responsible Ministers (which may be subject to any conditions that the responsible Ministers consider appropriate).

**“24E Resolution of disagreement between responsible Ministers and Te Pūtahi Paoho**

- “(1) If the responsible Ministers and Te Pūtahi Paoho are unable to agree on any matter for which their joint agreement is required under the deed required by section 24B(1), they must, for the purpose of endeavouring to reach agreement on that matter, appoint a mediator in accordance with clauses 13 and 14 of Schedule 1.
- “(2) Clauses 15 to 20 of Schedule 1 apply to any mediation commenced under this section.

**“24F Issue of spectrum licences to Service**

- “(1) As soon as practicable after the transfer of spectrum management rights under section 24B(1)(a), the Service must—
- “(a) request that the manager issue 1 or more spectrum licences to the Service; or
  - “(b) notify the manager that it does not wish to have spectrum licences issued to it.
- “(2) The manager must grant spectrum licences for the Service—
- “(a) as soon as practicable after a request is made by the Service;
  - “(b) for the maximum period (until the expiry date of the spectrum management rights), unless the Service specifies otherwise.
- “(3) The manager—
- “(a) must not charge the Service for—
    - “(i) the grant of a spectrum licence for the Service; or
    - “(ii) the transfer of a spectrum licence to the Service;but
  - “(b) may charge the Service an administrative fee to cover the cost of granting a spectrum licence for, or transferring a spectrum licence to, the Service.

**“24G Issue of spectrum licences generally**

- “(1) The manager must not grant a spectrum licence in favour of a person other than the Service unless—
- “(a) the manager has offered to grant a spectrum licence on the same terms in favour of the Service; and
  - “(b) the Service has declined the offer; and



- “(c) the responsible Ministers have agreed to the grant.
- “(2) When the manager grants a spectrum licence, the manager must, in accordance with section 49(1)(g) of the Radiocommunications Act 1989, specify that the licence may only be transferred to another person with the consent of the manager.
- “(3) The manager must not consent to the transfer of a spectrum licence to a person other than the Service unless—
  - “(a) the Service has been offered the spectrum licence; and
  - “(b) the Service has declined the offer; and
  - “(c) the responsible Ministers have agreed to the transfer.
- “(4) If the manager is the holder of a spectrum licence, the manager must not transfer the licence to a person other than the Service unless—
  - “(a) the manager has offered to transfer the licence to the Service; and
  - “(b) the Service has declined the offer; and
  - “(c) the responsible Ministers have agreed to the transfer.
- “(5) In giving consent under subsection (1)(c), (3)(c), or (4)(c), the responsible Ministers may impose any conditions as they see fit.

**“24H Use of spectrum licences and income from spectrum licences**

- “(1) The Service must use any spectrum licences that it holds under this subpart for the purpose of establishing a digital terrestrial television network to be used to—
  - “(a) protect and promote te reo Māori me ōna tikanga; and
  - “(b) broadcast the Service’s programmes.
- “(2) Revenue or benefits in kind received by the manager from any other spectrum licence granted under this subpart must be used for purposes consistent with the protection and promotion of te reo Māori me ōna tikanga.”

**11 Section 29 amended (Contents of statement of intent)**

- (1) In section 29(1)(g), replace “particular” with “various”.
- (2) Replace section 29(1)(k) with:
  - “(k) the strategies proposed by the Service for language quality assurance:

- “(l) the anticipated annual content to be broadcast in te reo Māori during prime time and other times:
  - “(m) details of the Service’s plan for the development of te reo Māori:
  - “(n) any other proposed operating policies.”
- (3) After section 29(2)(b)(iii), insert:
- “(iia) a statement of borrowings or financial leases, or similar liabilities; and”.

**12 Section 41 amended (Contents of annual report)**

Replace section 41(2)(h) with:

- “(h) details of any indemnity provided by the Service, during the financial year, to any member, office holder, or employee; and
- “(i) details of any insurance cover effected by the Service during the financial year in respect of the liability or costs of any member, office holder, or employee; and
- “(j) any direction given in writing to the Service by a responsible Minister under any enactment during the financial year; and
- “(k) any direction given to the Service in writing by the chairperson of Te Pūtahi Paoho under this Act during the financial year; and
- “(l) details of any act by the Service—
  - “(i) that is an act that a natural person of full age and capacity can do and is done contrary to, or outside the authority of, any Act or done otherwise than for the purpose of performing the Service’s functions; and
  - “(ii) for which a person dealing with the Service takes actions to enforce; and
- “(m) any other information that the board considers necessary to enable an informed assessment of the performance of the Service for that financial year.”

**13 Section 56 replaced (Review of Act)**

Replace section 56 with:

**“56 Review of Act**

- “(1) The responsible Ministers may, from time to time, review the operation and effectiveness of this Act in accordance with the terms of reference set by the responsible Ministers.
- “(2) Prior to commencing a review under subsection (1), the responsible Ministers must consult with Te Pūtahi Paoho on the terms of reference for the review.
- “(3) A review under subsection (1) must be completed within 12 months of its commencement.
- “(4) The responsible Ministers must—
- “(a) prepare a report on any review commenced under subsection (1); and
  - “(b) present the report to the House of Representatives within 18 months after the commencement of the review.”

**Part 2**

**Amendments to Schedules 1 and 2**

**Subpart 1—Amendments to Schedule 1**

**14 Purpose of this subpart**

This subpart amends Schedule 1 of the principal Act.

**15 Clause 4 amended (Meetings)**

After clause 4(2), insert:

- “(2A) Notice of a meeting may be given by post, personal delivery, or electronic communication.”

**16 Clause 5 amended (Teleconference meetings)**

Replace clause 5(1) with:

- “(1) A meeting may be conducted by means of audio, audio and visual, or electronic communication, provided that—
- “(a) all of the members who wish to participate in the meeting have access to the technology necessary to participate in the meeting; and
  - “(b) a quorum of members can simultaneously communicate with each other throughout the meeting.”

**17 Clause 8 amended (Voting)**

Replace clause 8(4) with:

- “(4) A resolution signed or assented to in writing by all members (whether sent by post, personal delivery, or electronic communication) is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.
- “(5) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.”

Subpart 2—Amendments to Schedule 2

**18 Purpose of this subpart**

This subpart amends Schedule 2 of the principal Act.

**19 Clause 4 amended (Method of appointment of directors of board)**

In clause 4(4)(a)(i), after “interests”, insert “(including monetary value, if quantifiable)”.

**20 Clause 6 replaced (Meaning of interested)**

Replace clause 6 with:

**“6 Meaning of interested**

- “(1) A director is **interested** in a transaction of, or another matter relating to, the Service if the director—
- “(a) may derive a financial benefit from the transaction or matter; or
  - “(b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the transaction or matter; or
  - “(c) may have a financial interest in a person to whom the transaction or matter relates; or
  - “(d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the transaction or matter relates; or
  - “(e) is interested in the transaction or matter because this Act so provides; or
  - “(f) is otherwise directly or indirectly interested in the transaction or matter.

- “(2) However, a director is not interested in a transaction or matter—
- “(a) just because he or she is a member or an officer of a wholly owned subsidiary of the Service or of a subsidiary that is owned by the Service together with any Crown entity or entities; or
  - “(b) because he or she receives an indemnity, insurance cover, remuneration, or other benefits authorised under any Act; or
  - “(c) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under any Act; or
  - “(d) if this Act otherwise provides that he or she is not interested.
- “(3) In this clause, **matter** means—
- “(a) the Service’s performance of its functions or exercise of its powers; or
  - “(b) a negotiation, arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Service.”

**21 Clause 8 replaced (Method of disclosure)**

Replace clause 8 with:

**“8 Method of disclosure**

- “(1) A director required to disclose an interest under clause 7 must—
- “(a) make the disclosure—
    - “(i) to the chairperson of the board; or
    - “(ii) if the director is the chairperson, to the responsible Ministers and the chairperson of Te Pūtahi Paoho; and
  - “(b) ensure that the interest is entered in the interests register.
- “(2) The chairperson of the board must ensure that an interests register is established and maintained for the purpose of sub-clause (1)(b).”

**22 Clause 9 amended (Consequences of interest)**

- (1) In clause 9(b), replace “is made.” with “is made; and”.

- (2) After clause 9(b), insert:
- “(c) must not sign any document effecting, or relating to, entry into the transaction or the initiation of the matter.”

**23 Clause 11 amended (Removal from office)**

After clause 11(1), insert:

- “(1A) A copy of the notice must be provided to the Service.”

**24 Clause 12 amended (Resignation)**

- (1) In clause 12(1), delete “, as the case may be”.

- (2) Replace clause 12(2) with:

- “(2) A copy of the notice must be provided to—
- “(a) the Service; and
  - “(b) the responsible Ministers, if the notice was given to Te Pūtahi Paoho; and
  - “(c) Te Pūtahi Paoho, if the notice was given to the responsible Ministers.”

**25 New clause 20A inserted (Unanimous written resolutions)**

After clause 20, insert:

**“20A Unanimous written resolutions**

- “(1) A resolution signed or assented to by all members in writing (whether sent by post, personal delivery, or electronic communication) is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.
- “(2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.”

**26 Clause 24 amended (Immunity of directors and employees)**

In clause 24(1)(b),—

- (a) after “by him or her”, insert “in good faith”; and
- (b) delete “, unless done in bad faith”.

**27 Clause 25 replaced (Indemnity for directors and employees)**

Replace clause 25 with:

**“25 Indemnities for directors and employees**

The Service may indemnify a director or an employee for costs incurred in defending or settling any claim or proceedings relating to acts or omissions by the director or employee done, or omitted to be done, in good faith in—

- “(a) the performance or intended performance of the Service’s functions or duties; or
- “(b) the exercise or intended exercise of the Service’s powers.

“Compare: 2004 No 115 s 122; 1993 No 105 s 162”.

**28 New clauses 25A and 25B inserted**

After clause 25, insert:

**“25A Insurance for liability of director**

“(1) The Service may, directly or indirectly, pay the costs of insurance for a director in relation to his or her acts done, or omitted to be done, in good faith in—

- “(a) the performance or intended performance of the Service’s functions or duties; or
- “(b) the exercise or intended exercise of the Service’s powers.

“(2) The Service must not pay the costs of insurance for acts or omissions that are—

- “(a) done, or omitted to be done, in bad faith; or
- “(b) not related to the performance or intended performance of the Service’s functions or the exercise or intended exercise of the Service’s powers.

**“25B Saving of judicial protections from liability**

A Judge who is appointed as a director has the same immunities and limitations or other protections from liability when acting as a director as he or she would have as a Judge.”

**29 Clause 26 amended (Ability to delegate)**

(1) Replace clause 26(1) with:

“(1) The board may, by resolution and written notice to the relevant person or persons, delegate any of the functions, powers,

or duties of the board or the Service, either generally or specifically, to any of the following:

- “(a) a director:
- “(b) the chief executive, an employee, or an office holder of the Service:
- “(c) a committee established by resolution of the board:
- “(d) any other person approved by a responsible Minister:
- “(e) any combination of persons listed in paragraphs (a) to (d).”

(2) After clause 26(4)(d), insert:

- “(da) any other function or power that this Act does not allow to be delegated; or”.

**30 Clause 27 amended (Effect of delegation)**

Replace clause 27(2)(a) with:

- “(a) may be revoked—
  - “(i) at will by resolution of the board, with written notice to the delegate; or
  - “(ii) by any other method provided for in the delegation.”.

**31 Clause 33 amended (Restrictions on borrowing)**

In clause 33, insert as subclauses (2) and (3):

- “(2) However, the Service may, without the prior approval of the responsible Ministers or the chairperson of Te Pūtahi Paoho, borrow, and have borrowings in total of, an amount equivalent to no more than 5% of its net tangible assets.
- “(3) In subclause (2), **net tangible assets** means total tangible assets less total liabilities measured in accordance with generally accepted accounting practice.”

**32 Clause 41 amended (Personnel policy)**

After clause 41(b), insert:

- “(ba) make that policy available to its employees; and”.



- 33 Clause 42 amended (Meaning of good employer)**  
In clause 42(1)(g), after “women”, insert “and ethnic or minority groups”.

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**Legislative history**

9 August 2012	Introduction (Bill 44–1)
20 March 2013	First reading and referral to Māori Affairs Committee
30 August 2013	Reported from Māori Affairs Committee (Bill 44–2)
19 November 2013	Second reading, committee of the whole House, third reading
27 November 2013	Royal assent

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This Act is administered by Te Puni Kōkiri.

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