

# **Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Amendment Bill**

Government Bill

As reported from the Māori Affairs  
Committee

## **Commentary**

### **Recommendation**

The Māori Affairs Committee has examined the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Amendment Bill and recommends that it be passed with the amendments shown.

### **Introduction**

The Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Amendment Bill proposes amendments to the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003. The Act required that a review of its operation and effectiveness be carried out by 2009. This bill is the result of the findings of this review.

Following the review panel's report, the Government, in consultation with the Māori Television Electoral College, Te Pūtahi Paoho, decided to introduce legislation to amend the Act. The amendments proposed relate to the functions of the Māori Television Service, management of the UHF spectrum, operational matters, accountabil-

ity documents and language planning, borrowing and investment by the Service, provision for future reviews of the Act, and some miscellaneous matters.

Our commentary covers the amendments we propose.

### **Spectrum management rights**

We recommend amending clause 10 of the bill to insert new section 24DA into the Act allowing the appointment of a mediator if the responsible Ministers and Te Pūtahi Paoho cannot resolve any disagreement about the administration of spectrum management rights that would require their joint determination.

We also recommend technical amendments to sections 24B(4), 24D, and 24F relating to spectrum management rights to reflect the Crown–Māori relationship and to improve the clarity and workability of the legislation.

Concern was raised regarding the membership and the governance of Te Pūtahi Paoho. We consider that the current situation exposes Te Pūtahi Paoho to criticism, as some of the constituent groups appear to be defunct. We recommend that this issue be addressed with some urgency, and we were assured by relevant officials that this was being addressed. We recognise that the relationship between the Crown, Ministers, and Te Pūtahi Paoho needs to be clarified, which would be achieved through the amendments we recommend.

### **Review of the Act**

We recommend inserting new section 56(1A) (clause 13) so that responsible Ministers would be required to consult Te Pūtahi Paoho when setting the terms of reference for any review of this legislation. We believe consultation would benefit the working relationship between the two parties.

## **Appendix**

### **Committee process**

The Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Amendment Bill was referred to the committee on 20 March 2013. The closing date for submissions was 2 May 2013. We received, considered, and heard one submission.

We received advice from the Ministry of Māori Development and Ministry of Business, Innovation and Employment.

### **Committee membership**

Hon Tau Henare (chairperson)

Te Ururoa Flavell

Hone Harawira

Claudette Hauiti

Brendan Horan

Hon Shane Jones

Hon Nanaia Mahuta

Katrina Shanks

Rino Tirikatene

Metiria Turei

Nicky Wagner

Jonathan Young

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# **Pire Whakatikatika i Te Aratuku Whakaata Irirangi Māori**

Pire Kāwanatanga

Te pūrongo nā te Komiti Whiriwhiri Take  
Māori i whakatakoto

## **Ngā Kōrero**

### **Tūtohutanga**

Kua āta tirohia e te Komiti Whiriwhiri Take Māori te Pire Whakatikatika i Te Aratuku Whakaata Irirangi Māori, ā, ka tūtohu kia whakamanahia me ngā whakatikatika kua whakaatūria.

### **Kupu Whakataki**

Ka whakatakoto te Pire Whakatikatika i Te Aratuku Whakaata Irirangi Māori i ētahi whakatikatika mō te Ture Te Aratuku Whakaata Irirangi Māori o te tau 2003. Ko tā te Ture i hiahiatia, kia whakahaerea he arotakenga o āna mahi me tōna tōtika mā te tau 2009. Ko te pire nei te hua o ngā whakataunga i puta ake i tēnei arotakenga.

Whai ake i te pūrongo a te rōpū arotake, ka kimi tohutohu te Kāwanatanga i Te Pūtahi Paoho kātahi ka whakatau, kia kōkuhua he hanganga ture hei whakatika i te Ture. Ka pā ngā whakatikatika e whakatakotoria ana ki ngā mahi a Te Aratuku Whakaata Irirangi Māori, ki te whakahaerenga o te tūāwhiorangi UHF, ki ngā take mahi, ki ngā tuhinga whakamāramatanga me te reo whakatakoto

mahere, tono, penapena a Te Aratuku, te hoatu wāhi mō ngā arotakenga o te Ture ā tōna wā, ā, me ētahi atu momo take kē.

Kapi ai i ā mātou kōrero ngā whakatikatika ka whakatakotoria e mātou.

### **Ngā tika mō te whakahaerenga tūāwhiorangi**

Ka tūtohu mātou kia whakatikaina a rara 10 o te pire kia whakaurua ai he tekione hou 24DA ki roto i te Ture. Mā tērā e tukua ai he kaitakawaenga kia whakaingoatia ka kore ana he Minita haepapa me Te Pūtahi Paoho e kaha ki te whakatatū whakahēnga e pā ana ki te whakahaere o ngā tika mō te whakahaerenga tūāwhiorangi, kei a rāua tahi nei hoki te mana whakataunga mō tērā.

Ka tūtohu whakatikatika hangarau hoki mātou ki ngā tekione 24B(4), 24D me 24F e pā ana ki ngā tika mō te whakahaerenga tūāwhiorangi i te mea, ko tērā hoki te hononga Karauna- Māori, ā, ki te whakapai ake hoki i te mārāma me te whakamahinga o te hanganga ture.

I whakaarahia he māharahara mō ngā mema o Te Pūtahi Paoho me tāna tiaki kaupapa. Ki a mātou nei, nā te āhuatanga o Te Pūtahi Paoho i te wā nei i puare ai a ia ki te whakahēnga i te mea, te āhua nei kua kore kē ētahi o ngā kohinga mana. Ka tūtohu mātou kia tere tonu te whai ake i tēnei take. Ka whakatūturu mai anō ētahi āpiha e pā ana, kei te whaitia ake tēnei. Ka whakaae mātou me tino mārāma rawa atu te hononga i waenganui i te Karauna, ngā Minita me Te Pūtahi Paoho. Ka tutuki ērā mā roto i ngā whakatikatika e tūtohutia ake nei e mātou.

### **Arotakenga o te Ture**

Ka tūtohu mātou kia whakaurua he tekione hou 56(1A) (rara13), kia tino kimi tohutohu ai ngā Minita haepapa i Te Pūtahi Paoho, ka whakatakotoria ana he tikanga whakahaere kia arotakengia te hanganga ture nei. Ki a mātou nei, ka whai painga te mahi hononga i waenganui i ngā taha e rua nei e te kiminga tohutohu.

## Tāpiritanga

### Hātepe komiti

I tonoa te Pire Whakatikatika i Te Aratuku Whakaata Irirangi Māori ki te komiti i te 20 o Poutū-te-rangi o te tau 2013. Ko te 2 o Haratua o te tau 2013 te rā i kati ai ngā tāpaetanga. Kotahi te tāpaetanga i whiwhi, i whakaaroarohia e mātou.

I whiwhi whakamaherehere mātou mai i Te Puni Kōkiri me Te Manatū Hikina Whakatutuki.

### Ko ngā mema o te komiti, ko

Hōnore Tau Hēnare (heamana)

Te Ururoa Flavell

Hone Harawira

Claudette Hauiti

Brendan Horan

Hōnore Shane Jones

Hōnore Nanaia Mahuta

Katrina Shanks

Rino Tirikātene

Mētīria Tūrei

Nicky Wagner

Jonathan Young

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~

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*Hon Dr Pita Sharples*

# **Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Amendment Bill**

Government Bill

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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 **2012**.

**2 Commencement**

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This Act comes into force on 3 December 2012.

**3 Principal Act**

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

**Part 1**

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**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:

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“(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.”.

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**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

30

“(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 10

“**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 15

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

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

Replace section 8 with: 20

**“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. 25

“(2) The Service must also—

“(a) ensure that during prime time it broadcasts mainly in te reo Māori; and 30

“(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 35

- “(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 5  
“(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. 10
- “(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)** 15  
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)** 20  
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** 25  
After section 24, insert:  
“Subpart 2A—Provisions relating to spectrum management rights  
“*Transfer of spectrum management rights to Te Pūtahi Paoho* 30
- “**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 5

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

“**24B Transfer of spectrum management rights** 10

“(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 15

“(b) execute a deed setting out the terms and conditions under which Te Pūtahi Paoho must exercise the spectrum management rights. 20

“(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— 25

“(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 ~~direct~~ 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 ~~directed~~ required by the responsible Ministers. 30 35

**“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 5

“(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— 10

“(a) the records of management rights have—

“(i) the same power floors; and

“(ii) the same protection limits; and 15

“(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. 20

“(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. 25

“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. 30

~~“(2) The manager must not transfer or mortgage the whole or any part of the spectrum management rights without the consent of the responsible Ministers.~~

~~“(3) In giving consent under **subsection (2)**, the responsible Ministers may impose any conditions they see fit. 35~~

“(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).

**“24DA 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.** 5 10
- “(2) Clauses 15 to 20 of Schedule 1 apply to any mediation commenced under this section.**

**“24E 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—** 15
- “(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—** 20
- “(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.** 25
- “(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** 30
  - “(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.**

**“24F 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 5

“(b) the Service has declined the offer; and

“(c) ~~the manager has obtained the consent~~ of 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. 10

“(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 15

“(b) the Service has declined the offer; and

“(c) ~~the manager has obtained the consent~~ of 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— 20

“(a) the manager has offered to transfer the licence to the Service; and

“(b) the Service has declined the offer; and

“(c) ~~the manager has obtained the consent~~ of the responsible Ministers have agreed to the transfer. 25

“(5) In giving consent under **subsection (1)(c), (3)(c), or (4)(c)**, the responsible Ministers may impose any conditions as they see fit.

**“24G Use of spectrum licences and income from spectrum licences 30**

“(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 35

“(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) 5**

(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: 10

“(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: 15

“(iiia) 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 20

“(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 25

“(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 30

“(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 35

- 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.” 5
- 13 Section 56 replaced (Review of Act)**  
Replace section 56 with:
- “56 Review of Act”** 10
- “(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.
- “(1A) 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. 15
- “(2) A review under **subsection (1)** must be completed within 12 months of its commencement.
- “(3) The responsible Ministers must—
- “(a) prepare a report on any review commenced under **subsection (1)**; and 20
- “(b) present the report to the House of Representatives within 18 months after the commencement of the review.”
- Part 2** 25
- 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)** 30  
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)** 10  
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. 15
- “(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** 20  
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)”. 25
- 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— 30
- “(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 5
- “(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 10
- “(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 15
- “(b) because he or she receives an indemnity, insurance cover, remuneration, or other benefits authorised under any Act; or 20
- “(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 25
- “(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 30
- “(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: 35
- “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)**.” 5
- 22 Clause 9 amended (Consequences of interest)** 10  
(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)** 15  
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: 20  
“(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
- 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 30  
(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) 5**

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) 10**

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— 15

- “(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. 20

“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— 25

- “(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. 30

“(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.” 5

**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: 10

“(a) a director:

“(b) the chief executive, an employee, or an office holder of the Service: 15

“(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)**.” 20

(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: 25

“(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.”. 30

**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,

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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.” 5

**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”. 10

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**Legislative history**

9 August 2012  
20 March 2013

Introduction (Bill 44-1)  
First reading and referral to Maori Affairs  
Committee

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