

House of Representatives

Supplementary Order Paper

Tuesday, 2 May 2017

Te Ture Whenua Māori Bill

Proposed amendments to SOP No 279

Hon Te Ururoa Flavell, in Committee, to move the following amendments:

Clause 36

In *clause 36(1)(c)* (page 52), replace “common use or benefit” with “common use and benefit”.

Clause 71C

Replace *clause 71C(5)* (page 83) with:

- (5) If there are no persons entitled to the property under **subsection (1)(c)**,—
- (a) for property that is a parcel of Māori freehold land, **section 295** applies; or
 - (b) for property that is an individual freehold interest in a parcel of Māori freehold land, **section 296** applies; or
 - (c) for any other property, it becomes ownerless property.

Clause 99

In *clause 99(2)(b)* (page 97), delete “or other trust (other than a governance body)”.

After *clause 99(2)(b)* (page 97), insert:

- (ba) if it is owned by the trustees of any other trust (other than a governance body) unless permitted by the terms of the trust;
or

Clause 102

In *clause 102(2)(b)* (page 100), replace “or other trust (other than a governance body)” with “; or”.

After *clause 102(2)(b)* (page 100), insert:

- (c) the trustees of any other trust (other than a governance body) unless permitted by the terms of the trust.

Clause 105

In *clause 105(2)(b)* (page 102), delete “or other trust (other than a governance body)”.

After *clause 105(2)(b)* (page 102), insert:

- (ba) if it is owned by the trustees of any other trust (other than a governance body) unless permitted by the terms of the trust;
or

Schedule 1

In *Schedule 1, clause 18(1A)(c)* (page 334), replace “trustee’s” with “trustees”.

In *Schedule 1*, replace *clause 23(2) and (3)* (page 337) with:

- (2) The trust continues in force in accordance with the terms of the trust under the Act or instrument constituting the trust or any variation of those terms made before the commencement date.
- (3) The terms of the trust—
 - (a) continue in force as if Te Ture Whenua Maori Act 1993 had not been repealed; and
 - (b) are not affected by anything in **Parts 1 to 9**.
- (3A) The terms of the trust may be varied in accordance with—
 - (a) the terms of the trust; or
 - (b) if the terms of the trust do not provide for their variation, the process that applied immediately before the commencement date.
- (3B) If the trust is constituted under an Act other than Te Ture Whenua Maori Act 1993, the Act under which the trust is constituted continues to apply to the trust and its trustees despite anything in **Parts 1 to 9**.
- (3C) To avoid doubt, **Parts 1 to 9** apply to a matter if the matter is not provided for in the terms of the trust or an Act that applies by virtue of **subclause (3B)**.

In *Schedule 1*, after *clause 23(4)* (page 337), insert:

- (5) Despite **subclauses (2) to (3C)**, in the case of the Wi Pere Trust referred to in section 4(1) of the Māori Purposes (Wi Pere Trust) Act 1991,—

- (a) the trust continues in accordance with that Act; and
- (b) the powers, rights, and duties of the Wi Pere Trust Board established by section 6(1) of that Act may be exercised and performed in accordance with that Act and with **Parts 1 to 9** as applied and modified by that Act.

Schedule 8

In *Schedule 8, Part 1*, after the item relating to the Māori Purposes Act 2011 (page 409), insert:

Māori Purposes (Wi Pere Trust) Act 1991 (1991 No 38)

In section 3, replace the definition of **1993 Act** with:

2017 Act means **Parts 1 to 9 of Te Ture Whenua Māori Act 2016**

In section 3, replace the definition of **general land** with:

general land means private land that is not Māori land

In section 3, definition of **Māori freehold land**, replace “section 4 of the 1993 Act” with “**section 5** of the **2017 Act**”.

In section 3, insert in their appropriate alphabetical order:

Māori land has the same meaning given to Māori land in **section 5** of the **2017 Act**

Māori land register has the same meaning given to Māori land register in **section 5** of the **2017 Act**

private land has the same meaning given to private land in **section 5** of the **2017 Act**

In section 9(3),—

- (a) replace “Registrar of the Māori Land Court” with “chief executive responsible for the Māori land register”; and
- (b) replace “records of the court are” with “register is”.

In section 18, replace “undivided beneficial interest” with “individual freehold interest (as defined in **section 6** of the **2017 Act**)”.

In section 20(f), after “property”, insert “; and”.

After section 20(f), insert:

- (g) all amendments to the Māori land register that relate to Māori freehold land that is trust property.

In section 21(1) and (2), replace “Registrar of the Māori Land Court” with “chief executive responsible for the Māori land register”.

In section 21(2), replace “order of the court” with “amendment to the Māori land register”.

Māori Purposes (Wi Pere Trust) Act 1991 (1991 No 38)—*continued*

In section 30(3),—

- (a) replace “Registrar of the Māori Land Court” with “chief executive responsible for the Māori land register”; and
- (b) replace “records of the court are” with “register is”.

In section 32(3),—

- (a) replace “Registrar of the Māori Land Court” with “chief executive responsible for the Māori land register”; and
- (b) replace “records of the court are” with “register is”.

In the heading to section 33, replace “1993 Act” with “**2017 Act**”.

In section 33(1), (2), and (3), replace “1993 Act” with “**2017 Act**”.

Replace section 34(a) with:

- (a) an order under **section 25 or 27** of the **2017 Act**; and

In section 34(b), replace “section 134 of the 1993 Act” with “**section 24** of the **2017 Act**”.

In section 35(1), replace “1993 Act” with “**2017 Act**”.

Repeal section 36(f).

Replace section 38 with:

38 Alienation of Māori freehold land

- (1) The trust board has the capacity to dispose of Māori freehold land that is trust property if—
 - (a) the disposition would be permitted under **Part 4** of the **2017 Act**; or
 - (b) the disposition is an alienation that is permitted by section 33, 39, or 40.
- (2) In this section, **dispose of** and **disposition** have the same meanings as in **section 5** of the **2017 Act**.

Repeal section 40(6).

In section 41(3), replace “section 26(2) of the 1993 Act” with “**section 308(3) and (4)** of the **2017 Act**”.

In Schedule 1, clause 1.1, definition of **beneficial interest**, replace “undivided beneficial interest” with “individual freehold interest (as defined in **section 6** of **Parts 1 to 9** of **Te Ture Whenua Māori Act 2016**)”.

In Schedule 1, clause 1.1, definition of **ordinary resolution**,—

- (a) replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9** of **Te Ture Whenua Māori Act 2016**”; and
- (b) replace “50%” with “a different majority”.

Māori Purposes (Wi Pere Trust) Act 1991 (1991 No 38)—*continued*

In Schedule 1, clause 1.1, definition of **special resolution**,—

- (a) replace “Te Ture Whenua Maori Act 1993 requires a sale or gift” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016** requires a sale”; and
- (b) replace “75%” with “a different majority”.

In Schedule 1, clause 9.6, replace “Māori Land Court register” with “Māori land register”.

In Schedule 1, clause 13.2(b), replace “Te Ture Whenua Maori Act 1993” with “**Parts 1 to 9 of Te Ture Whenua Māori Act 2016**”.

Replace Schedule 4 with:

Schedule 4		
Application of provisions of 2017 Act to Māori freehold land that is trust property		
Provision of 2017 Act	Applies	Modifications
Part 1 (except sections 5 and 6)	No	
Sections 5 and 6	Yes	
Part 2	Yes	Part 2 applies as if the trust were a governance body. In addition to the jurisdiction conferred by sections 25 and 27 , the court may make an order under 1 or both of those sections if the order is necessary to correct an error or omission in Schedule 2 or 3 of this Act.
Part 3	No	
Part 4 (except section 103(1)(b))	Yes	Part 4 applies as if the trust were a governance body. Subject to sections 22 to 27 of this Act.
Section 103(1)(b)	No	
Part 5	No	
Part 6 (except sections 206 to 211)	No	
Sections 206 to 211	Yes	Sections 206 to 211 apply as if the trust were a governance body.
Part 7 (except sections 246 to 247)	Yes	Subject to sections 22 to 27 of this Act.
Sections 246 to 247	No	
Part 8	Yes	Section 300 applies subject to sections 22 to 27 of this Act. Section 308 applies subject to section 41 of this Act.

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Māori Purposes (Wi Pere Trust) Act 1991 (1991 No 38)—*continued*

Provision of 2017 Act	Applies	Modifications
Part 9	No	A requirement that a dispute be dealt with under Part 9 does not apply.

Explanatory note

This Supplementary Order Paper amends SOP No 279, which amends Te Ture Whenua Māori Bill. Most of the amendments are to the part of the Bill that will become Te Ture Whenua Māori Act 2017.

Clause 36 is amended so that a term is expressed consistently throughout the Act.

Clause 71C is amended to ensure that, if a whānau trust is terminated, any trust property in Māori freehold land does not vest in the Crown as ownerless property.

Clauses 99, 102, and 105 are amended so that a parcel of Māori freehold land held by a trust that is not a whānau trust or governance body may be sold, exchanged, or gifted if permitted by the terms of the trust.

Schedule 1 (transitional provisions) is amended to correct the punctuation in *clause 18* and to change *clause 23* in 2 ways. *Clause 23* deals with trusts over Māori land that are not affected by the other transitional provisions for trusts. The first change to *clause 23* ensures that these trusts can continue to operate under their current terms of trust, but that Te Ture Whenua Māori Act 2017 will apply if a matter is not provided for in the terms of trust or in other legislation governing the trust. The second change to *clause 23* ensures that the Wi Pere Trust is governed by the Māori Purposes (Wi Pere Trust) Act 1991 (as renamed and amended by the Māori Purposes Bill) and by Te Ture Whenua Māori Act 2017 as applied and modified by that Act.

The final amendment is to the part of the Bill that will become Te Ture Whenua Māori (Repeals and Amendments) Act 2017. *Schedule 8* is amended to add consequential amendments to the Māori Purposes (Wi Pere Trust) Act 1991. The consequential amendments update that Act so that it works when Te Ture Whenua Māori Act 1993 is replaced by Te Ture Whenua Māori Act 2017.