

# Waitangi National Trust Board Amendment Bill

Government Bill

## Explanatory note

### General policy statement

The Waitangi National Trust Board Act 1932 incorporates the Waitangi National Trust Board (the **Board**), which administers the Waitangi Treaty Grounds and associated lands. The Act also gives statutory effect to the Waitangi National Trust deed (the **Trust Deed**), which is replicated in Schedule 1 of the Act.

During 2006 to 2008, the Ministry for Culture and Heritage led a review of the Act, which identified a potential for conflict between the constitutional and trusteeship roles of the Governor-General and Ministers as *ex officio* members of the Board. The review also identified a need for the Trust Deed and the Act to provide fixed terms of appointment for Board members.

The Bill addresses those issues by—

- removing the provision in the Trust Deed for the Governor-General, Prime Minister, Minister of Conservation, and Minister of Māori Affairs to be *ex officio* members of the Board;
- providing for the Governor-General to be an honorary patron of the trust at his or her pleasure;
- creating a Crown representatives group comprising the Prime Minister, the Minister for Arts, Culture and Heritage, and the

Minister of Māori Affairs to foster good relations and information sharing between the Government and the Board:

- providing for the appointment to the Board of 2 nominated members who are Members of Parliament: 1 to represent the Government and 1 to represent the Opposition parties;
- providing for representative members of the Board to hold office for 3 year terms with a maximum of 9 years in total.

In addition, the Bill makes other minor amendments to modernise provisions of the Trust Deed.

The Bill is intended to create a clear separation between the Government and the Board, while providing a means to ensure a positive working relationship through—

- the Governor-General's patronage of the trust; and
- the creation of a Crown representatives group; and
- the appointment of 2 Members of Parliament as full members of the Board.

### **Departmental disclosure statement**

The Ministry for Culture and Heritage is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2013&no=169&>.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides that this Bill comes into force on the day after the date on which it receives the Royal Assent.

*Clause 3* provides that the Bill amends the Waitangi National Trust Board Act 1932 (the **principal Act**).

## Part 1

### Amendments to principal Act

*Clause 4* repeals section 3(2), as a result of an amendment by *clause 8* to clause 15 of the Trust Deed.

*Clause 5* repeals section 4(2), as a result of an amendment by *clause 8* to clause 8 of the Trust Deed.

*Clause 6* inserts *new sections 4A and 4B*. *New section 4A* provides for a new Crown representatives group for the Waitangi National Trust Board (the **Board**) comprising the Prime Minister, the Minister for Arts, Culture and Heritage, and the Minister of Māori Affairs. *New section 4B* provides for 2 Members of Parliament to be nominated members of the Board: 1 to represent the Government and 1 to represent the Opposition parties.

*Clause 7* inserts *new section 11*, which provides that the principal Act binds the Crown.

*Clause 8* provides for the amendments to the Trust Deed, set out in the *Schedule*, to apply.

The amendments—

- repeal clause 3, which is now spent:
- replace clause 4 of the Trust Deed to provide for 2 Members of Parliament to be nominated members of the Board:
- replace clause 5 to provide for the Governor-General to be the honorary patron of the Board at his or her pleasure:
- repeal clause 6, which relates to *ex officio* members, as a result of the amendment to clause 4 to replace *ex officio* members with nominated members:
- replace clause 8, to prescribe terms of office for representative members and to revise the provisions relating to vacancies in the offices of representative members:
- insert *new clause 9A*, to prescribe eligibility criteria for representative members:
- amend clause 10 to insert a heading:
- amend clause 12, to remove the reference to life members and *ex officio* members of the Board as a result of the amendments (noted above) to clauses 4 and 5 of the Trust Deed:

- revise clause 15(xviii), which provides for reimbursement of travel costs for Board members travelling to and from Board meetings.

## **Part 2**

### **Miscellaneous provisions**

*Clause 9* provides that the amendments made in this Bill to the Trust Deed, a copy of which is found in Schedule 1 of the principal Act, have effect as if the Trust Deed were amended directly.

*Clause 10* provides transitional provisions for people serving as representative members of the Board when the Act comes into force. The clause provides for their term in office to end on the date that would be the end of their term if they were already serving 3-year (or consecutive 3-year) terms.

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*Hon Christopher Finlayson*

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

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|----------|---|----|
| <b>1</b> | <b>Title</b><br>This Act is the Waitangi National Trust Board Amendment Act <b>2013</b> .                         |    |
| <b>2</b> | <b>Commencement</b><br>This Act comes into force on the day after the date on which it receives the Royal Assent. | 5  |
| <b>3</b> | <b>Principal Act</b><br>This Act amends the Waitangi National Trust Board Act 1932 (the <b>principal Act</b> ).   | 10 |

**Part 1**

**Amendments to principal Act**

- |             |  |    |
|-------------|--|----|
| <b>4</b>    | <b>Section 3 amended (Powers of Board)</b><br>Repeal section 3(2).   |    |
| <b>5</b>    | <b>Section 4 amended (Effect of deed of trust)</b><br>Repeal section 4(2).   | 15 |
| <b>6</b>    | <b>New sections 4A and 4B inserted</b><br>After section 4, insert:   |    |
| <b>“4A</b>  | <b>Crown representatives group</b>   |    |
| <b>“(1)</b> | The Crown representatives group in relation to the Board comprises—  | 20 |
|             | <b>“(a)</b> the Prime Minister; and  |    |
|             | <b>“(b)</b> the Minister for Arts, Culture and Heritage; and   |    |
|             | <b>“(c)</b> the Minister of Māori Affairs.   |    |
| <b>“(2)</b> | The functions of the Crown representatives group are—  | 25 |
|             | <b>“(a)</b> to foster good relations between the Government and the Board; and   |    |
|             | <b>“(b)</b> to facilitate the exchange of information between the Government and the Board on matters relevant to the trust. | 30 |

**“4B Nominated members of Board**

“(1) The nominated members of the Board consist of—

“(a) 1 member appointed by the Prime Minister to represent the Government; and

“(b) 1 member appointed by the Leader of the Opposition, following consultation with the leader of each party that is not in Government or in coalition with the Government. 5

“(2) A nominated member’s term ends—

“(a) if he or she is appointed to the Executive Council; or 10

“(b) at the end of the parliamentary term in which he or she is appointed to the Board.

“(3) Despite **subsection (2)**, a nominated member ceases to be a member of the Board if he or she ceases to be a member of the House of Representatives. 15

“Compare: 1996 No 46 s 7”.

**7 New section 11 inserted (Act binds the Crown)**

After section 10, insert:

**“11 Act binds the Crown**

This Act binds the Crown.” 20

**8 Schedule 1 amended**

Amend Schedule 1 of the principal Act as set out in the Schedule of this Act.

**Part 2**

**Miscellaneous provisions**

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**9 Effect of amendments**

The deed or declaration of trust referred to in the principal Act has effect as if amended directly in the manner provided in the Schedule of this Act.

**10 Transitional provisions**

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(1) This section applies to any person who was a representative member of the Board on the day immediately before the day on which this Act comes into force.

- (2) That person's term in office ends on the next triennial anniversary of his or her appointment to office that occurs after the coming into force of this Act.
  - (3) A person who, at the end of his or her term in office under **subsection (2)**, has served 9 or more years as a representative member is eligible for reappointment for 1 further term of 3 years despite **clause 9A(e)** of the trust deed. 5
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**Schedule**  
**Amendments to Schedule 1**

**s 8**

**Clause 3**

Repeal clause 3.

**Clauses 4 and 5**

Replace clauses 4 and 5 with:

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**“4 Nominated members**

The nominated members of the Board shall consist of 2 members of the House of Representatives appointed under **section 4B** of the Waitangi National Trust Board Act 1932.

**“5 Honorary patron**

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The Governor-General shall, at his or her pleasure, be an honorary patron of the trust.”

**Clause 6**

Repeal clause 6.

**Clause 8**

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Replace clause 8 with:

**“8 Terms of office of representative member**

**“(1)** A representative member holds office for a term of 3 years unless the member’s position becomes vacant at an earlier date under **subclause (2)**.

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**“(2)** A representative member’s term in office ends, and the position of that member becomes vacant, if he or she—

**“(a)** becomes bankrupt:

**“(b)** becomes a person prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any of the following:

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**“(i)** Companies Act 1993:

**“(ii)** Securities Act 1978:

**“(iii)** Securities Markets Act 1988:

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**“(iv)** Takeovers Act 1993:

**Clause 8**—*continued*

- “(c) becomes subject to a property order under section 31 of the Protection of Personal and Property Rights Act 1988:
- “(d) is convicted of an offence punishable by imprisonment for a term of 1 year or more: 5
- “(e) is sentenced to imprisonment for any offence:
- “(f) resigns in writing to the Chairman:
- “(g) is absent without leave of the Board from 3 consecutive Board meetings:
- “(h) dies. 10
- “(3) Except where a representative member’s position becomes vacant under **subclause (2)**, the representative member continues in office after the expiry of his or her term in office until a successor is appointed (or the member is reappointed) under clause 9.” 15

**New clause 9A**

After clause 9, insert:

**“9A Eligibility to be representative member**

A person is ineligible to be a representative member if he or she— 20

- “(a) is an undischarged bankrupt:
- “(b) is a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any of the following: 25
- “(i) Companies Act 1993:
- “(ii) Securities Act 1978:
- “(iii) Securities Markets Act 1988:
- “(iv) Takeovers Act 1993:
- “(c) is subject to a property order under section 31 of the Protection of Personal and Property Rights Act 1988: 30
- “(d) has been convicted of an offence punishable by imprisonment for a term of 1 year or more, or has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, 35  
or otherwise suffered the penalty that was imposed:

**New clause 9A**—*continued*

“(e) has served as a representative member for 9 or more years.”

**Clause 10**

Insert as the clause heading to clause 10 “**Succession to Joseph Gordon Coates**”.

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**Clause 12**

In clause 12, replace “members of the Board other than life members and *ex officio* members” with “representative members”.

**Clause 15**

Replace clause 15(xviii) with:

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“(xviii) pay the actual and reasonable costs of travel, accommodation, and meals incurred by any member of the Board in travelling from or to his or her usual place of residence to or from a meeting of the Board.”