



Maori Commercial Aquaculture Claims Settlement Act 2004

Public Act 2004 No 107
 Date of assent 21 December 2004
 Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Maori Commercial Aquaculture Claims Settlement Act 2004.

2 Commencement

Except as provided in section 60(5), this Act comes into force on 1 January 2005.

Preliminary provisions

3 Purpose of Act

The purpose of this Act is to—

- (a) provide a full and final settlement of Maori claims to commercial aquaculture on or after 21 September 1992; and

- (b) provide for the allocation and management of aquaculture settlement assets.

4 Interpretation

In this Act, unless the context otherwise requires,—

allocate, in relation to settlement assets,—

- (a) means to determine the settlement assets to be transferred to an iwi aquaculture organisation; but
- (b) does not include the transfer of those assets to the iwi aquaculture organisation

aquaculture activities has the same meaning as in section 2(1) of the Resource Management Act 1991

aquaculture agreement has the same meaning as in section 186ZD of the Fisheries Act 1996

aquaculture management area has the same meaning as in section 2(1) of the Resource Management Act 1991

authorisation has the same meaning as in section 165A of the Resource Management Act 1991

coastal marine area has the same meaning as in section 2(1) of the Resource Management Act 1991

coastal permit has the same meaning as in section 2(1) of the Resource Management Act 1991

commercial aquaculture means an aquaculture activity undertaken for the purpose of sale

commercial fishing has the same meaning as in section 2(1) of the Fisheries Act 1996

iwi aquaculture organisation means an iwi aquaculture organisation recognised under section 33

new space, in relation to an aquaculture management area,—

- (a) means—
 - (i) available space as defined in section 165A of the Resource Management Act 1991; and
 - (ii) space in the aquaculture management area that, at the date on which the relevant regional coastal plan becomes operative, is subject to an application to which section 150B(2) of the Resource Management Act 1991 applies; but

- (b) does not include space referred to in paragraph (a)(ii) if the moratorium under Part 6A of the Resource Management Act 1991 came to an end before 31 December 2004; and
- (c) does not include space that, at any time since the establishment of the aquaculture management area, has been the subject of—
 - (i) a coastal permit authorising occupation for aquaculture activities; or
 - (ii) a deemed coastal permit under the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; and
- (d) does not include space that, at any time since the establishment of the aquaculture management area, has been available for applications for coastal permits or allocation of authorisations whether or not a coastal permit was granted or an authorisation was allocated for that space; and
- (e) does not include space in an aquaculture management area if—
 - (i) the regional coastal plan provides for the space to be used only in emergencies; and
 - (ii) the space may be used only by registered fish farmers who hold coastal permits to undertake aquaculture activities in the coastal marine area; and
 - (iii) the space may be used by the fish farmers referred to in subparagraph (ii) only while the space to which their coastal permits relate cannot be used for aquaculture activities

occupy has the same meaning as in section 2(1) of the Resource Management Act 1991

public notice has the same meaning as in section 2(1) of the Resource Management Act 1991

recognised iwi organisation has the same meaning as in section 5 of the Maori Fisheries Act 2004

reservation has the same meaning as in section 186C of the Fisheries Act 1996

sale includes—

- (a) every method of disposition for valuable consideration, including barter; and
- (b) the disposition to an agent for sale on consignment; and
- (c) offering or attempting to sell, or receiving or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and
- (d) disposal by way of gambling (as that term is defined in section 4(1) of the Gambling Act 2003); and
- (e) the use by a person of fish, aquatic life, or seaweed as bait in that person's commercial fishing operations; and
- (f) any other use by a person of fish, aquatic life, or seaweed as part of that person's commercial activities

space has the same meaning as in section 2(1) of the Resource Management Act 1991

trustee means Te Ohu Kai Moana Trustee Limited, a company established in accordance with section 33 of the Maori Fisheries Act 2004.

5 Meaning of settlement assets

- (1) In this Act, unless the context otherwise requires, **settlement assets**—
- (a) means authorisations relating to aquaculture activities, coastal permits to occupy space for aquaculture activities, or the financial equivalent of the authorisations or the permits, transferred or paid or to be transferred or paid to the trustee under this Act; and
 - (b) includes any authorisation held by the trustee, an iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region if—
 - (i) the authorisation was transferred in exchange for an authorisation referred to in paragraph (a) or received under a previous transfer to which this paragraph applied; and
 - (ii) notice of both transfers was received by the regional council on the same day; and
 - (iii) the authorisations exchanged related to the same amount of space in the same region; and

- (iv) the authorisation transferred to the trustee or an iwi aquaculture organisation related to the occupation of space for aquaculture activities; and
 - (c) includes any coastal permits held by the trustee, an iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations, being coastal permits obtained from authorisations referred to in paragraph (a) or paragraph (b); and
 - (d) includes any coastal permit held by the trustee, an iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region if—
 - (i) the coastal permit was transferred in exchange for a coastal permit specified in paragraph (a) or paragraph (c) or received under a previous transfer to which this paragraph applied; and
 - (ii) notice of both transfers was received by the regional council on the same day; and
 - (iii) the coastal permits exchanged related to the same amount of space in the same region; and
 - (iv) the coastal permits transferred related to the occupation of space for aquaculture activities.
- (2) However, an authorisation or coastal permit ceases to be a settlement asset if the authorisation or coastal permit is transferred to another person unless the authorisation or coastal permit is transferred—
- (a) from the trustee to an iwi aquaculture organisation or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region; or
 - (b) from an iwi aquaculture organisation or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region to another iwi aquaculture organisation or company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the same region.

6 Settlement of claims

- (1) The claims specified in subsection (2) are fully and finally settled, satisfied, and discharged.

- (2) Subsection (1) applies to all claims (current and future)—
 - (a) by Maori in respect of commercial aquaculture activities arising on or after 21 September 1992 in the coastal marine area—
 - (i) whether the claims are founded on rights arising by or in common law (including customary law and aboriginal title), the Treaty of Waitangi, statute, or otherwise; and
 - (ii) whether in respect of sea, or coastal, aquaculture activities, including any commercial aspect of traditional aquaculture activities; and
 - (iii) whether or not the claims have been the subject of adjudication by the courts or any recommendation from the Waitangi Tribunal; and
 - (b) in respect of, or directly or indirectly based on, rights and interests of Maori in aquaculture activities on or after 21 September 1992.
- (3) The obligations of the Crown to Maori in respect of commercial aquaculture activities on or after 21 September 1992 are fulfilled, satisfied, and discharged.
- (4) No court or tribunal has jurisdiction to inquire into—
 - (a) the validity of the claims:
 - (b) the existence of rights and interests of Maori in commercial aquaculture activities on or after 21 September 1992:
 - (c) the quantification or the adequacy of the benefits to Maori provided by or under this Act.

*Allocation of authorisations to trustee for new space for
aquaculture activities*

7 Purpose of sections 9 to 18

The purpose of sections 9 to 18 is to provide for the allocation of authorisations in respect of 20% of new space in aquaculture management areas.

8 Sections 9 to 18 not to apply in certain cases

Sections 9 to 18 do not apply to an aquaculture management area in a regional coastal plan if—

- (a) the plan was notified before the commencement of this Act; and

- (b) to the extent that the rules in the plan provide for space in the aquaculture management area to be available for the transfer of coastal permits for aquaculture activities.

9 Allocation of authorisations to trustee

- (1) Before a regional coastal plan or a change to a regional coastal plan that provides for aquaculture activities in new space becomes operative, the regional council must, by public notice, identify 20% of the new space for allocation to the trustee.
- (2) However, a regional council may, for the purposes of subsection (1), identify new space that comprises or includes new space in the region concerned in an aquaculture management area established under section 165C(1)(b) of the Resource Management Act 1991.
- (3) The new space identified under subsection (1) must be representative of all the new space being established in the region by the regional coastal plan or the change to the regional coastal plan.
- (4) The regional council must allocate to the trustee authorisations for the new space identified under subsection (1) as soon as practicable after the date on which the new space becomes available for applications for coastal permits or allocation of authorisations.
- (5) For the purposes of this section, new space that is subject to an application to which section 150B(2) of the Resource Management Act 1991 applies must be treated as available for allocation of authorisations on the operative date of the regional coastal plan concerned.
- (6) If new space in an aquaculture management area includes space that is subject to a reservation relating to commercial fishing, the representative space allocated to the trustee must include 20% of the new space that is subject to the reservation and that is representative of all the new space subject to a reservation.
- (7) In identifying whether space is representative for the purposes of this section, a regional council must have regard to—
 - (a) the overall productive capacity of the new space available for applications for coastal permits or the allocation of authorisations; and

- (b) the provisions of the plan that relate to the new space available for applications for coastal permits or the allocation of authorisations.
- (8) An application to which section 150B(2) of the Resource Management Act 1991 applies is cancelled on and from the operative date of the plan to the extent that the space to which it applies as been identified as the subject of an authorisation to be allocated to the trustee under subsection (1) or has been identified as part of an aquaculture management area established under section 165C(1)(b) of the Resource Management Act 1991.
- (9) This section applies subject to sections 10 and 11.

10 Space to be allocated must be of economic size

- (1) The new space identified under section 9 must be of an economic size.
- (2) However, if it is not possible for a regional council to comply with subsection (1), the regional council must identify new space that is of an economic size even though the new space is not representative.
- (3) However, if it is not possible for a regional council to comply with subsection (2), the regional council must identify new space that comprises a single area.
- (4) New space identified under subsection (2) or subsection (3) must not have less than average productive capacity compared with the new space it was originally intended to be representative of.

11 Allocation of authorisations to trustee in relation to staged developments and harbours

- (1) For the purposes of section 9, if the new space available for applications for coastal permits or allocation of authorisations in an aquaculture management area includes space in a staged development or a harbour, then—
 - (a) to comply with section 9(1), the public notice given by the regional council must identify 20% of the new space separately for each stage of the staged development or harbour; and

- (b) to comply with section 9(3), that space must be representative of the new space available at each stage of the staged development or harbour; and
 - (c) to comply with section 9(4), the regional council must allocate to the trustee authorisations for that space.
- (2) The identification of space in a staged development under section 9(1) is to be treated as an interim identification and any necessary adjustments may be made at the time that authorisations for the space for that stage are made available for applications for coastal permits or allocation of authorisations.
- (3) If the space to which a staged development applies is not made available for the allocation of authorisations or applications for coastal permits, the regional council must not allocate authorisations for that space to the trustee.
- (4) In this section,—

harbour means a harbour listed in Schedule 2

staged development means provision in a regional coastal plan or the Resource Management Act 1991 for space in an aquaculture management area to become available for application for coastal permits or allocation of authorisations on a date later than the operative date of the regional coastal plan.

12 Appeal to Environment Court against regional council's decision

- (1) The following persons may appeal to the Environment Court against a decision of a regional council under any of sections 9, 10, or 11:
 - (a) an iwi aquaculture organisation;
 - (b) a recognised iwi organisation;
 - (c) any other person who has an interest in aquaculture activities in the region concerned greater than the public generally.
- (2) An appeal under this section must be filed within 15 working days after the public notice is given under section 9(1).
- (3) The Environment Court may confirm, amend, or cancel the decision of the regional council appealed against.

13 Certain provisions of Resource Management Act 1991 do not apply

- (1) Section 165J(2), (4), and (7) of the Resource Management Act 1991 does not apply to the allocation of authorisations under section 9.
- (2) No Order in Council may be made under section 165O of the Resource Management Act 1991 for the purposes of this Act.

14 Application for coastal permits for occupation of new space subject to reservation relating to commercial fishing

- (1) This section applies to new space if—
 - (a) authorisations for the new space have been allocated to the trustee under section 9; and
 - (b) the new space is subject to a reservation relating to commercial fishing.
- (2) The only person who may apply for a coastal permit to occupy the new space for aquaculture activities is the holder of—
 - (a) an authorisation for new space; and
 - (b) an aquaculture agreement registered under section 186ZH of the Fisheries Act 1996.

15 Time within which iwi aquaculture organisation may lodge aquaculture agreement

- (1) This section applies if—
 - (a) authorisations for new space have been allocated to the trustee under section 9; and
 - (b) the new space is subject to a reservation relating to commercial fishing.
- (2) The trustee must notify in writing the chief executive of the Ministry of Fisheries as soon as practicable after—
 - (a) the trustee has recognised iwi aquaculture organisations for all the iwi with an interest in the authorisations; and
 - (b) the trustee has determined the entitlements for all those iwi in relation to the regional coastline or harbour to which the aquaculture management area belongs.
- (3) The chief executive must, as soon as practicable after receiving the notice, notify in writing the trustee and every iwi aquaculture organisation and the regional council concerned of the receipt of the notice.

- (4) A notice given by the chief executive under subsection (3) has the same effect as if the notice were given under section 165G(2)(a) of the Resource Management Act 1991.

16 When authorisations allocated to trustee lapse

- (1) Section 165N of the Resource Management Act 1991 does not apply to settlement assets.
- (2) However, a settlement asset that is an authorisation does lapse if the space that is subject to the authorisation ceases to be part of an aquaculture management area.
- (3) If an authorisation that is a settlement asset is transferred and (as a result of the transfer) it ceases to be a settlement asset, the authorisation lapses 2 years after the date on which the holder gives a notice of transfer of the authorisation to the regional council under section 165M of the Resource Management Act 1991.

17 Expiry, lapsing, or cancellation of coastal permit to occupy space for aquaculture activities

- (1) This section applies if—
- (a) the trustee, iwi aquaculture organisation, or a company under the Companies Act 1993 wholly owned by 1 or more iwi aquaculture organisations in the region holds a coastal permit for space that is a settlement asset; and
 - (b) the coastal permit expires, lapses, or is cancelled.
- (2) The holder of the coastal permit is to be treated as if the holder holds an authorisation allocated under section 9 in relation to the space that was subject to the coastal permit.

18 Limitations on disposal of settlement assets

- (1) The trustee must not transfer settlement assets except to—
- (a) an iwi aquaculture organisation in accordance with sections 48 and 49; or
 - (b) another person in accordance with a direction by an iwi aquaculture organisation entitled to have the settlement assets transferred to it in accordance with sections 48 and 49.
- (2) However, the trustee must not transfer settlement assets to another person unless satisfied that the iwi aquaculture organisation has complied with section 50.

Allocation of aquaculture space, or financial equivalent, to trustee equivalent to 20% of pre-commencement space in coastal marine area

19 Purpose of sections 20 to 31

The purpose of sections 20 to 31 is to provide for the Crown to allocate to the trustee space, or the financial equivalent, that is equivalent to 20% of certain space in the coastal marine area.

20 Interpretation

In sections 22 to 31, **pre-commencement space** means—

- (a) space that—
 - (i) first became the subject of a lease or licence under the Marine Farming Act 1971 to occupy for aquaculture activities during the period beginning on 21 September 1992 and ending on the close of 31 December 2004; and
 - (ii) at the close of 31 December 2004 is still the subject of a lease or licence under the Marine Farming Act 1971; and
- (b) space—
 - (i) that is the subject of an application under section 46 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 that is granted; and
 - (ii) in relation to which a permit under section 67J or section 67P of the Fisheries Act 1983 is subsequently granted; and
- (c) space that, at the close of 31 December 2004, is subject to an application for a permit under section 67J or section 67Q of the Fisheries Act 1983 which is subsequently granted; and
- (d) space that—
 - (i) became the subject of a permit granted under section 67J or section 67Q of the Fisheries Act 1983 during the period beginning on 21 September 1992 and ending on the close of 31 December 2004; and
 - (ii) at the close of 31 December 2004 is still subject to a permit granted under sections 67J or 67Q of the Fisheries Act 1983; and
- (e) space in relation to which section 8(b) applies.

21 Crown's obligations apply on regional basis

The Crown's obligations under sections 22 to 31 apply and must be satisfied on the basis that they apply separately to each regional coastline as defined in Schedule 1 and each harbour listed in Schedule 2.

22 Crown's obligations

- (1) The Crown must ensure that the trustee is provided with space in the coastal marine area for the purpose of aquaculture activities equivalent to 20% of pre-commencement space.
- (2) The Crown must use its best endeavours to comply with subsection (1) by the close of 31 December 2014.
- (3) Subsection (1) must be complied with in 1 or more of the following ways:
 - (a) by the making of Orders in Council under section 25:
 - (b) by purchasing and transferring to the trustee on or after 1 January 2008 established marine farms:
 - (c) by paying to the trustee on or after 1 January 2013 amounts equivalent, in part or in full, to the value of the pre-commencement space.
- (4) To avoid doubt, subsection (3) does not require the Crown at any particular time to comply with subsection (1) in any particular way or combination of ways specified in subsection (3).

23 Preparation of plan

- (1) The Minister of Fisheries must, by 31 December 2007, have started preparing a plan that—
 - (a) provides an assessment of the progress made by the Crown in complying with section 22; and
 - (b) to the extent that the Crown has not complied with section 22, provides how the Crown is going to comply with that provision.
- (2) In preparing the plan, the Crown must consult all iwi aquaculture organisations and recognised iwi organisations—
 - (a) whose area of interest includes a part of the coastal marine area; and
 - (b) in relation to which the Crown has not, by 31 December 2007, satisfied its obligations under this Act.

- (3) As soon as practicable after completing the plan, the Minister of Fisheries must provide copies to the trustee, iwi aquaculture organisations, and recognised iwi organisations.

24 Review of plan

The Minister of Fisheries must, by 31 December 2012, have started a review of the plan prepared under section 23.

25 Additional allocation of space to iwi

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Fisheries, direct a regional council to—
- (a) identify, at the same time that the council identifies space under section 9 and in addition to the space identified under section 9, a specified percentage (being not more than 20%) of the new space available for application for coastal permits or allocation of authorisations; and
 - (b) allocate authorisations for the identified new space to the trustee.
- (2) The Minister may make a recommendation at any time after the commencement of this Act, but if the Order in Council is made within 3 months before the regional coastal plan concerned becomes operative, the Order in Council does not apply to the identification of space for the trustee under section 9.
- (3) An Order in Council made under subsection (1) does not affect any allocation advertised, or application for a coastal permit made, before the Order in Council comes into force.
- (4) New space identified under this section must not include any new space that is subject to a reservation relating to commercial fishing.
- (5) New space identified under this section must be representative of all new space being established by the regional coastal plan concerned. For the purposes of this section, sections 9(7), 10, 11, and 12 apply with all necessary modifications.
- (6) This section does not apply to space in an aquaculture management area established in response to a request under section 165Z of the Resource Management Act 1991.

26 Regional Council may retain proportion of tender remuneration

If new space to be allocated by tender is allocated to the trustee under section 9 or section 25, a regional council may retain a proportion of the tender remuneration calculated in accordance with the following formula:

$$a = \frac{b}{100\% - c} \times 0.5$$

where—

- a is the money that the regional council may retain
- b is the total tender money received in the tender concerned
- c is the percentage of space allocated to the trustee.

27 Purchase of coastal permits by the Crown

- (1) The Crown may purchase coastal permits for the purpose of complying with section 22.
- (2) The Crown must use its best endeavours to ensure that on 31 December 2014 the average value of all coastal permits for a region or harbour listed in Schedule 2 purchased by it and transferred to the trustee during the period beginning on 1 January 2008 and ending on the close of 31 December 2014 is not less than the average value of all coastal permits authorising the occupation of coastal space for aquaculture in the region or harbour.
- (3) Before purchasing a coastal permit under subsection (1), the Minister of Fisheries must establish processes and methods for determining the appropriate value of the coastal permit.
- (4) Without limiting subsection (3), the processes and methods must—
 - (a) avoid increasing demand for coastal permits which would increase the value of the space; and
 - (b) reduce the risk of collusion among sellers of coastal permits; and
 - (c) be cost effective for the Crown; and
 - (d) assess the average current value of space in the part of the coastal marine area concerned.

28 Payment of financial equivalent

Before making a payment under section 22(3)(c), the Minister of Fisheries must have regard to section 27(2) and must go through the process and apply the methods referred to in section 27(3) and (4) to establish what the appropriate payment should be.

29 Purchase of coastal permits to occupy space for aquaculture activities, including purchase of improvements

- (1) If the Crown purchases a coastal permit to occupy space for aquaculture activities and the purchase includes improvements in the space, the Crown—
 - (a) is not required to allocate the improvements to the trustee; but
 - (b) may provide to the trustee a right of first refusal to purchase the improvements.
- (2) If the Crown does provide to the trustee a right of first refusal to purchase the improvements, the trustee may do so only if it has the agreement of the iwi aquaculture organisations concerned.
- (3) The trustee must not transfer the improvements to an iwi aquaculture organisation except in accordance with sections 48 and 49.
- (4) A right of first refusal to purchase the improvements expires—
 - (a) on a date specified in the right of first refusal for that purpose; or
 - (b) if no date is specified, then 30 days after the right of first refusal is given to the trustee.

30 Entry on iwi aquaculture register

- (1) When the trustee receives settlement assets under this Act, it must record the settlement assets in the iwi aquaculture register.
- (2) Any settlement assets in an aquaculture management area in a harbour listed in Schedule 2 must be recorded as harbour settlement assets.
- (3) All other settlement assets must be recorded as coastal settlement assets.

- (4) Information recorded in the register under this section must include the type of asset, the size of the asset, the location of the asset, and the region of the regional council in which the asset is located.

31 Registered entitlements to settlement assets

- (1) An iwi aquaculture organisation, in order to obtain settlement assets under this Act, must be a party to an agreement referred to in section 45(4) or must make claims for settlement assets allocation entitlements for its iwi in accordance with Schedule 1.
- (2) Settlement assets allocation entitlements must be—
- (a) determined by the trustee in accordance with section 45(4) or Schedule 1; and
 - (b) recorded by the trustee on the iwi aquaculture register.
- (3) Registered settlement assets allocation entitlements are created under this Act for the sole purpose of calculating the amount of settlement assets to be allocated to iwi under this Act.
- (4) A registered settlement assets allocation entitlement binds the iwi concerned in relation to all allocations of settlement assets within the regional coastline or harbour concerned.
- (5) However, the registered settlement assets allocation entitlements do not—
- (a) bind the iwi to which they relate or any other iwi in any matter that is before the Waitangi Tribunal, the Maori Land Court, or any other court, other than under this Act; or
 - (b) bind, compromise, advantage or disadvantage, or operate as a precedent for any other matter; or
 - (c) affect any customary rights, aboriginal title rights, or any rights arising under the Treaty of Waitangi in relation to any other matter.

Iwi aquaculture organisations

32 Functions and powers of iwi aquaculture organisations

- (1) Under this Act, an iwi aquaculture organisation must—
- (a) act for the benefit of all the members of the iwi, irrespective of where those members reside; and

- (b) perform the functions and duties conferred on it by or under this Act.
- (2) An iwi aquaculture organisation may—
- (a) directly receive and hold, on behalf of its iwi, settlement assets allocated to the iwi by the trustee under this Act;
 - (b) if relevant, enter into agreements with other iwi aquaculture organisations in relation to the allocation of settlement assets;
 - (c) establish companies to undertake aquaculture activities;
 - (d) perform other functions contemplated by or provided for by or under this Act.
- (3) An iwi aquaculture organisation must not undertake commercial aquaculture activities except through a separate enterprise that is responsible to the organisation.

33 Recognition of iwi aquaculture organisations

The trustee must recognise an iwi aquaculture organisation and record its recognition in the iwi aquaculture register only if—

- (a) the iwi aquaculture organisation is a mandated iwi organisation under the Maori Fisheries Act 2004; and
- (b) the trustee is satisfied that the constitution of the organisation authorises the organisation to act on behalf of its iwi in relation to aquaculture claims and settlement assets under this Act; and
- (c) in the case of a joint mandated iwi organisation (as defined in section 5 of the Maori Fisheries Act 2004), the trustee is satisfied that the constitution of the organisation includes a process for determining the division of settlement assets between the organisation and a withdrawing group (as defined in section 19 of that Act).

Maori Commercial Aquaculture Settlement Trust

34 Maori Commercial Aquaculture Settlement Trust established

This section establishes a trust to be called the Maori Commercial Aquaculture Settlement Trust (**the trust**).

35 Purpose of trust

The purpose of the trust is to—

- (a) receive settlement assets from the Crown or regional councils; and
- (b) hold and maintain settlement assets on trust until they are transferred to an iwi aquaculture organisation; and
- (c) allocate settlement assets to iwi on the basis of a model set out in this Act; and
- (d) facilitate steps by iwi to meet the requirements for the allocation of settlement assets.

36 Annual plan

The trustee must prepare an annual plan.

37 Trustee of trust

The trustee is the trustee of the trust.

38 Duties of trustee

- (1) The trustee must administer the settlement assets in accordance with this Act, including performing the following duties:
 - (a) allocating and transferring settlement assets:
 - (b) holding and administering settlement assets pending their allocation and transfer:
 - (c) determining allocation entitlements:
 - (d) maintaining an iwi aquaculture register and providing access to the register:
 - (e) facilitating steps by iwi organisations to be recognised as iwi aquaculture organisations:
 - (f) facilitating steps by iwi aquaculture organisations to reach agreement—
 - (i) under section 45(4); and
 - (ii) about coastline and harbour claims for settlement assets allocation entitlements; and
 - (iii) about the allocation and transfer of settlement assets:
 - (g) notifying coastal endpoints in the *Gazette*.
- (2) The trustee may undertake additional activities for related or ancillary purposes (such as facilitating and co-ordinating the development and use of settlement assets, and representing

the interests of iwi) if the iwi concerned agree to the trustee doing so.

- (3) The reasonable costs and expenses of the trustee in performing its duties under subsection (1) are to be paid out of money appropriated by Parliament for that purpose.

39 Reporting requirements of trustee

- (1) In measuring its performance against the annual plan, the trustee must report annually, not later than 5 months after the end of each financial year, to iwi aquaculture organisations, recognised iwi organisations, and the chief executive of the Ministry of Fisheries.
- (2) In each annual report, the trustee must describe key activities undertaken by the trustee in relation to settlement assets and include the trustee's audited financial statements.

40 Reporting obligation

- (1) The trustee must—
 - (a) hold a general meeting, not later than 8 months after the end of each financial year, to discuss and address issues arising from the annual report; and
 - (b) provide, in a timely manner, to iwi aquaculture organisations, recognised iwi organisations, and the chief executive of the Ministry of Fisheries—
 - (i) the minutes of every general meeting; and
 - (ii) the annual report required by section 39, together with information on where the report is publicly available; and
 - (iii) the annual plan required by section 36.
- (2) This section does not limit any reporting obligations arising under any other enactment or rule of law.

41 Obligation to establish and maintain iwi aquaculture register

- (1) The trustee must establish and maintain an iwi aquaculture register.
- (2) The purpose of the iwi aquaculture register is to provide a record, in respect of each iwi, of the matters set out in subsection (3).

- (3) Without limiting the scope of the iwi aquaculture register, the trustee must record in the iwi aquaculture register its decisions regarding—
- (a) its recognition of iwi aquaculture organisations; and
 - (b) its determinations of settlement assets allocation entitlements; and
 - (c) the receipt of settlement assets from the Crown, including—
 - (i) their description and location; and
 - (ii) how they are recorded under section 30(2) and (3); and
 - (iii) any decisions of the trustee that affect the potential value and risk profile of the settlement assets; and
 - (iv) allocation of settlement assets to iwi aquaculture organisations or their nominees and the transfer of settlement assets to iwi aquaculture organisations or their nominees; and
 - (v) transfer of settlement assets by or to iwi organisations; and
 - (vi) any changes in the status of settlement assets; and
 - (vii) the details required by section 51.

42 Documentation relating to iwi aquaculture register

The trustee must preserve, for not less than 12 years after the date when the document comes into existence, every document relevant to the iwi aquaculture register, in respect of—

- (a) documents submitted in making a claim under section 31; and
- (b) records of the process by which settlement assets allocation entitlements are determined by the trustee; and
- (c) other documents that the trustee considers relevant to the matters set out in section 41.

43 Access to iwi aquaculture register

The iwi aquaculture register must be available for access upon request by—

- (a) an iwi aquaculture organisation;
- (b) a member of an iwi that has an iwi aquaculture organisation;
- (c) a recognised iwi organisation:

- (d) the chief executive of the Ministry of Fisheries;
- (e) the chief executive of a regional council.

Allocation of settlement assets

44 Entitlements to be determined and allocations to be made on regional basis

The trustee must make its determinations as to settlement assets allocation entitlements and its allocation of settlement assets separately on the basis of the region of each regional council and each harbour listed in Schedule 2.

45 Allocation of assets to iwi of region

- (1) For the purposes of this section and sections 46 to 51, in the case of the Waikato and Manawatu-Wanganui regions, the east coast and west coast of each region are to be treated as separate regions.
- (2) Settlement assets must be allocated—
 - (a) only to iwi whose territory abuts the coastline of the region in which the assets are situated; and
 - (b) in accordance with settlement assets allocation entitlements determined and registered under section 31.
- (3) The trustee must not determine settlement assets allocation entitlements in relation to a region until all iwi entitled to make a claim for assets in the region have had iwi aquaculture organisations recognised by the trustee.
- (4) During the 12 months after the trustee has recognised iwi aquaculture organisations for all the iwi of a region, the trustee may determine settlement assets allocation entitlements only on the basis of a written agreement of all the iwi aquaculture organisations for the region.
- (5) Before determining the settlement assets allocation entitlements on the basis of a written agreement referred to in subsection (4), the trustee must be satisfied that all iwi aquaculture organisations for the region are parties to the agreement.

46 Criteria for agreement

In reaching an agreement for the purposes of sections 48 and 49, the iwi aquaculture organisations must have regard to—

- (a) whether all iwi will be treated equitably based on the value and quality of the settlement assets to be transferred to them; and
- (b) the desirability of allocating settlement assets that are of an economic size.

47 Basis of allocation of settlement assets

- (1) If by the end of the 12-month period specified in section 45(4) the iwi aquaculture organisations have not made a written agreement, the trustee must determine settlement assets allocation entitlements in accordance with this section and Schedule 1.
- (2) When allocating coastal settlement assets, the trustee must allocate to each iwi the same proportion of settlement assets for the regional coastline that the iwi coastline bears to the total regional coastline as described in a settlement assets allocation entitlement determined in accordance with section 31 and Schedule 1.
- (3) The trustee must allocate to an iwi whose territory abuts a harbour specified in Schedule 2 settlement assets in the harbour.
- (4) If more than 1 iwi has its territory abutting a harbour specified in Schedule 2, the iwi aquaculture organisations of those iwi must take all reasonable steps—
 - (a) to consult each other:
 - (b) to agree on the proportion of the harbour settlement assets for the harbour that must be attributed to each iwi and used subsequently by the iwi aquaculture organisation of each iwi in submitting claims for settlement assets allocation entitlements for that harbour.
- (5) If, after negotiating in good faith, the iwi aquaculture organisations cannot reach agreement under subsection (4), they may enter into the dispute resolution process provided for in sections 52 to 55.

48 Allocation of settlement assets

- (1) This section applies when all settlement assets allocation entitlements in relation to a regional coastline or harbour have been determined.

- (2) A settlement asset may be allocated only in accordance with—
 - (a) an agreement of the iwi aquaculture organisations of all the relevant iwi; or
 - (b) failing that agreement, a determination made under sections 52 to 55.
- (3) After the allocation of a settlement asset under subsection (2), the trustee must transfer the settlement assets to the iwi aquaculture organisations concerned in accordance with the agreement or determination, as the case may be.
- (4) However, subsection (3) does not prevent the trustee from transferring a settlement asset in accordance with section 50.

49 Partial allocation of settlement assets

- (1) An iwi aquaculture organisation may request the trustee to make a partial allocation of settlement assets if the iwi's allocation entitlement for the settlement assets has been determined, but the entitlement of 1 or more other iwi to the settlement assets is yet to be determined.
- (2) The trustee may make a partial allocation of settlement assets only in accordance with—
 - (a) an agreement of the iwi aquaculture organisations of all the relevant iwi; or
 - (b) failing that agreement, a determination under sections 52 to 55.
- (3) If the trustee makes a partial allocation of settlement assets under this section, the trustee—
 - (a) must transfer settlement assets to the iwi aquaculture organisations whose entitlement to the assets has been determined; but
 - (b) must not transfer settlement assets to the iwi aquaculture organisations whose entitlement to the assets has not been determined.
- (4) However, subsection (3) does not prevent the trustee from transferring a settlement asset in accordance with section 50.

50 Transfer of authorisations or coastal permits

- (1) An iwi aquaculture organisation or a company under the Companies Act 1993 that is wholly owned by the iwi aquaculture organisation may transfer or ask the trustee to transfer

authorisations or coastal permits that are settlement assets only if, before the transfer, the iwi aquaculture organisation or company has—

- (a) given notice of the proposed transfer to the adult members of the iwi; and
 - (b) obtained the prior approval of not less than 75% of the adult members of the iwi who vote—
 - (i) at a general meeting of the iwi aquaculture organisation called for the purpose; or
 - (ii) by postal ballot.
- (2) However, subsection (1) does not apply to a transfer of settlement assets by the iwi aquaculture organisation or trustee if the settlement assets are transferred to a company under the Companies Act 1993 that is wholly owned by the iwi aquaculture organisation.
- (3) A notice given under subsection (1)(a) must specify—
- (a) the approximate proportion of the total value of settlement assets held by the iwi aquaculture organisation that is affected by the proposed transfer; and
 - (b) the settlement assets affected by the proposed transfer; and
 - (c) a reasonable estimate of the likely market value of the settlement assets affected.
- (4) An approval obtained under subsection (1)(b) may authorise the iwi aquaculture organisation or company to transfer or ask the trustee to transfer—
- (a) specified settlement assets; or
 - (b) not more than a specified proportion of settlement assets.
- (5) An approval obtained under subsection (1)(b)—
- (a) has effect on and from the date on which it is given; and
 - (b) expires 12 months after that date.
- (6) This section applies subject to sections 135 and 165M of the Resource Management Act 1991.
- (7) In this section,—
- adult** means a person who is 18 years of age or over
- general meeting** means an annual or special meeting of an iwi aquaculture organisation that—
- (a) all adult members of the iwi are entitled to attend; and

- (b) complies with the constitutional documents of the iwi aquaculture organisation

member of an iwi has the same meaning as in section 5 of the Maori Fisheries Act 2004.

51 Transfer of settlement assets to be entered on iwi aquaculture register

- (1) The trustee must enter on the iwi aquaculture register details of every transfer of settlement assets made by the trustee or an iwi aquaculture organisation that is subject to section 50(1).
- (2) For the purpose of subsection (1), an iwi aquaculture organisation must notify the trustee of the details of a transfer of settlement assets that is subject to section 50(1) as soon as practicable after the transfer is made.

Dispute resolution

52 Application

Sections 53 to 55 apply to disputes between the following parties over the following matters:

- (a) between the trustee and an iwi over whether an organisation should be recognised or continue to be recognised by the trustee as an iwi aquaculture organisation:
- (b) between iwi aquaculture organisations over information to be used to support a claim under Schedule 1:
- (c) between the trustee and 1 or more iwi aquaculture organisations over a determination of settlement assets allocation entitlements under section 45(4) or of a coastline or harbour settlement assets allocation entitlement under Schedule 1:
- (d) between iwi aquaculture organisations over the proportional allocation of entitlements to be attributed to iwi in relation to a harbour listed in Schedule 2:
- (e) between iwi aquaculture organisations over the allocation of settlement assets under section 48 or section 49:
- (f) between an adult member of an iwi and the iwi over whether, in relation to a matter within the scope of this Act, a decision, act, or omission of the iwi's aquaculture organisation complies or is consistent with this Act or

the constitutional documents or policies of the iwi aquaculture organisation.

53 Resolution of disputes

If a dispute arises in relation to a matter referred to in section 52 and the parties are unable, within a reasonable time, to resolve the dispute, they must, acting in good faith,—

- (a) endeavour to agree on a process for resolving the dispute, including (but not limited to) all or any of the following:
 - (i) further negotiations:
 - (ii) mediation:
 - (iii) determination of the dispute by an independent expert; and
- (b) before proceeding to take any other action under this subpart, engage in the process agreed under paragraph (a).

54 Reference to Maori Land Court

- (1) This section applies if resolution is unable to be reached under section 53.
- (2) A party to a dispute may refer the dispute to the Maori Land Court under section 26P of Te Ture Whenua Maori Act 1993 to obtain—
 - (a) advice on an appropriate dispute resolution process for the purposes of section 53:
 - (b) a non-binding ruling on a question of fact or law to assist in the conduct of the dispute resolution process.
- (3) The Maori Land Court may make a determination under section 26Q of Te Ture Whenua Maori Act 1993 if, on a reference to it under subsection (2), it is of the view that the parties have taken reasonable steps to resolve a dispute resolution process provided for under section 53.

55 Effect of right to make reference to Maori Land Court

- (1) This section applies to a dispute that may be referred to the Maori Land Court under section 54.
- (2) Until the dispute has been determined under section 26Q of Te Ture Whenua Maori Act 1993 and all rights of appeal for that

matter have been exercised in full, a person who is a party to the matter or order must not—

- (a) apply for review under Part I of the Judicature Amendment Act 1972; or
- (b) commence proceedings for a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision.

Miscellaneous provisions

56 Further redress if disproportionate reduction in space in relation to settlement assets

- (1) This section applies if—
 - (a) a regional coastal plan is changed; and
 - (b) the change has the effect of reducing space available in the coastal marine area for aquaculture activities; and
 - (c) the effect of the reduction in relation to settlement assets of an iwi aquaculture organisation in a region is disproportionately greater than the overall reduction of space in the region for aquaculture activities.
- (2) If this section applies, the iwi aquaculture organisation may apply to the Minister of Fisheries to provide for redress.
- (3) If the Minister of Fisheries is satisfied that there has been a disproportionate effect as referred to in subsection (1)(c), the Minister must provide redress by way of financial equivalent.

57 Aquaculture settlement register

- (1) The chief executive of the Ministry of Fisheries must keep and maintain an aquaculture settlement register, and enter in the register information prescribed by regulations.
- (2) The chief executive is not required to verify the accuracy of the information entered in the register.

58 Regulations

- (1) The Governor-General may by Order in Council make regulations—
 - (a) requiring regional councils, the trustee, and iwi aquaculture organisations to provide information to the chief executive of the Ministry of Fisheries in order to assist the Crown to meet its obligations under this Act; and

- (b) providing for the chief executive of the Ministry of Fisheries to keep the information provided under paragraph (a) in a register; and
 - (c) providing for—
 - (i) annual reports and annual plans to be prepared by the trustee; and
 - (ii) the auditing of the operations of the trust; and
 - (iii) additional requirements in relation to the trustee's accountability to iwi aquaculture organisations; and
 - (iv) additional requirements in relation to keeping and maintaining the aquaculture settlement register; and
 - (v) any other additional requirements in relation to the role of the trustee under this Act; and
 - (d) providing for notation referring to settlement space on authorisations and coastal permits transferred to the trustee for allocation to iwi aquaculture organisations.
- (2) Regulations made under subsection (1)(c) may be made only on the recommendation of the Minister of Fisheries after consulting the trustee.

59 Certain harbours to be added to Schedule 2

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Fisheries, amend Schedule 2 to add references to Admiralty Bay, Port Gore, and Port Underwood.
- (2) The Minister of Fisheries must make a recommendation under subsection (1) as soon as practicable after the relevant details about Admiralty Bay, Port Gore, and Port Underwood have been determined.

60 Amendments to Foreshore and Seabed Act 2004

- (1) Section 18(1)(b) of the Foreshore and Seabed Act 2004 is amended by adding the words “or an estate in fee simple held by a local authority”.
- (2) Section 34(4) of the Foreshore and Seabed Act 2004 is amended by adding the words “and section 6 of the Maori Commercial Aquaculture Claims Settlement Act 2004”.

- (3) Section 49(1) of the Foreshore and Seabed Act 2004 is amended by inserting, after paragraph (a), the following paragraph:
- “(ab) that involves the exercise of any right or interest of Maori in commercial aquaculture activities on or after 21 September 1992, being a right or interest declared to be settled in section 6 of the Maori Commercial Aquaculture Claims Settlement Act 2004; or”.
- (4) Section 73(1) of the Foreshore and Seabed Act 2004 is amended by inserting, after paragraph (c), the following paragraph:
- “(ca) that involves the exercise of any right or interest of Maori in commercial aquaculture activities on or after 21 September 1992, being a right or interest declared to be settled in section 6 of the Maori Commercial Aquaculture Claims Settlement Act 2004; or”.
- (5) Subsection (1) is deemed to have come into force on the commencement of section 18 of the Foreshore and Seabed Act 2004.
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Schedule 1

Methodology for determination of settlement assets allocation entitlements

1 Overview of methodology and status of examples

The methodology by which the allocation entitlement of iwi must be determined in respect of settlement assets comprises—

- (a) the process set out in clauses 2 to 10 which must be followed in making determinations under section 45; and
- (b) a geographic information system computation model, described in clauses 11 to 13, that is based on—
 - (i) a specified map database of the coastline of New Zealand; and
 - (ii) specified decision rules; and
 - (iii) matters relevant to creating and maintaining the computation model.

2 Interpretation

In this schedule,—

affected iwi means, in relation to a coastal or harbour allocation claim, an iwi whose iwi aquaculture organisation has made, or is likely to make, claims that abut, overlap, or are contained within, the specified points used by the claimant iwi

coastal boundary point means any point on the mean high-water mark whose co-ordinates are defined under the Fisheries Act 1996

coastal endpoint means a point on the mean high-water mark that is determined by the description of a regional planning area in the relevant deposited plan notified in the *Gazette* under the Local Government Act 2002

harbour entrance point means a point on the mean high-water mark on either the northern or southern entrance point of a harbour listed in Schedule 2

regional coastline means—

- (a) the coastline of the planning area of a regional council; and

- (b) in the case of the Manawatu-Wanganui or Waikato regional councils, the coastlines of the east coast and west coast of the planning area separately.

Part 1

Determination of allocation entitlements

Process for making allocation entitlement claim

3 Method of making claim for allocation entitlement

- (1) To enable the trustee to make a determination of the settlement assets allocation entitlements of an iwi as required by section 45, the iwi aquaculture organisation of the iwi must submit to the trustee—
 - (a) a coastal claim for each regional coastline the rohe of the iwi abuts, that is not within any of the harbours listed in Schedule 2; and
 - (b) a harbour claim for each harbour listed in Schedule 2 within which the rohe of the iwi abuts high water mark.
- (2) Each claim must identify—
 - (a) the regional coastline or harbour to which the claim pertains; and
 - (b) 2 specified points on the coastline, each of which must be—
 - (i) a coastal boundary point; or
 - (ii) a coastal endpoint; or
 - (iii) a harbour entrance point; or
 - (iv) a point on the mean high-water mark with coordinates certified by a registered cadastral surveyor; and
 - (c) a percentage representing the proportion of the coastline between the 2 specified points that the iwi aquaculture organisation is claiming for that regional coastline or harbour; and
 - (d) all affected iwi for that claim.
- (3) In the case of a harbour claim, for the purposes of subclause (2)(b), the points must be the entrance points of the harbour.
- (4) A group of claims submitted by an iwi aquaculture organisation under this clause may cover all, or only some, of the claims that the iwi is entitled to make.

Part 1—*continued***4 Endorsements required in support of claim**

- (1) Any claim submitted under clause 3 must be accompanied by endorsements from the iwi aquaculture organisation of each iwi that is an affected iwi in respect of the claim.
- (2) Endorsements may be presented in the form of either or both of the following:
 - (a) copies of signed multi-party iwi aquaculture organisation agreements that include the affected iwi;
 - (b) signed written statements from the iwi aquaculture organisations of the affected iwi.
- (3) Agreements or statements presented under subclause (2) must set out—
 - (a) the regional coastlines and harbours for which the iwi is an affected iwi for the purpose of the claims being made; and
 - (b) for each regional coastline and harbour the agreement of the iwi aquaculture organisation of the affected iwi to the specified point or points in respect of which it is an affected iwi; and
 - (c) for each regional coastline and harbour for which the iwi aquaculture organisation of the affected iwi has made, or intends to make, a claim for a settlement assets allocation entitlement between the specified points identified by the claimant, the agreement of the iwi aquaculture organisation of the affected iwi to the percentage submitted by the claimant iwi.
- (4) The co-ordinates of all specified points, except harbour entrance points, coastal endpoints, or coastal boundary points, must be supported in a report from a registered cadastral surveyor.
- (5) If any part of a claim has been the subject of dispute resolution under clause 7, the documentation of that process may be used to support a claim instead of the endorsements referred to in subclause (1), but the documentation must clearly set out the information required under subclause (3).

5 Agreements

Before an iwi aquaculture organisation submits a claim under clause 3 to the trustee, it must take reasonable steps to reach

Part 1—*continued*

agreements, in relation to the data required by clause 3(2), with every affected iwi as to the matters set out under clause 4(3).

6 Registration of agreements

- (1) An iwi aquaculture organisation may, at any time, request the trustee to verify and subsequently place on the iwi aquaculture register any agreement made by iwi aquaculture organisations relating to aquaculture claims to which it is a party.
- (2) If a request is made under subclause (1), the trustee must attempt to verify the agreement by the application of the procedures set out in clause 8.
- (3) If the trustee is able to verify an agreement under subclause (2), it must record the details of the agreement on the iwi aquaculture register.
- (4) The registration of an agreement under this clause binds the parties to the terms of the agreement for any coastline claims to which it is relevant, unless the agreement is withdrawn by written consent of all the parties.

7 Dispute resolution

- (1) If an iwi aquaculture organisation is unable to reach an agreement required by clause 5, the dispute must be resolved in accordance with sections 52 to 55.
- (2) Once resolutions are reached under the dispute resolution process,—
 - (a) the points and percentages settled in that process must be included in any relevant claim submitted under clause 3(1); and
 - (b) the signed documentation of the resolution of the dispute must be included with the endorsements of the claim required by clause 4(1).

*Process for verifying claims and determining entitlements***8 Verification of claim for entitlement**

- (1) After receiving a claim under clause 3, the trustee must—

Part 1—*continued*

- (a) attempt to verify that all the data required by clause 3 has been supplied for each regional coastline or harbour for which a claim is made; and
 - (b) attempt to verify that each specified point is—
 - (i) a coastal boundary point; or
 - (ii) a coastal endpoint; or
 - (iii) a harbour entrance point; or
 - (iv) shown as a co-ordinate that has been provided by, and is supported in a report from, a registered cadastral surveyor; and
 - (c) satisfy itself that,—
 - (i) for each claim, there are endorsements as required by clause 4(1); and
 - (ii) if a claim is for less than 100% of the coastline between specified points, the total of the percentages assigned to the iwi in the agreement supporting that claim is 100%; and
 - (iii) if any part of a claim has been the subject of a dispute resolution process in accordance with clause 7, there is appropriately authorised documentation of the outcome of the process to support the claim.
- (2) If the trustee is not able to verify an aspect of a claim, it must refer that matter back to the claimant.
- (3) A claimant may clarify the matter referred to it under sub-clause (2) and resubmit its coastline claim.

9 Determination of coastal entitlements

- (1) Before the determination of a coastal settlement assets allocation entitlement under this clause, the trustee must determine the length of the relevant regional coastline by applying the relevant 2 coastal endpoints, as notified in the *Gazette*, as input to the computation model described in Part 2 of this schedule.
- (2) When the trustee has verified the matters set out in clause 8(1)(a) and (b) and is satisfied of the matters set out in clause 8(1)(c), it must determine coastal settlement assets allocation entitlements as follows:

Part 1—*continued*

- (a) for each claim, the data representing the 2 specified points must be applied as input to the computation model to produce output that represents the coastline length between the 2 points; and
 - (b) using the length of the relevant regional coastline determined under subclause (1), the percentage of the regional coastline represented by the result obtained from the calculation under paragraph (a) must be determined; and
 - (c) the result obtained from the determination under paragraph (b) must be multiplied by the percentage set out in the claim, as required by clause 3(2)(c).
- (3) For each claim, the results obtained from calculations made under subclause (2)(c) describe the settlement asset allocation entitlement for the claimant iwi for the regional coastline that is the subject of the claim.

10 Determination of harbour entitlements

If, in relation to a harbour claim, the trustee has verified the matters set out in clause 8(1)(a) and (b) and is satisfied about the matters set out in clause 8(1)(c), the trustee must determine the harbour settlement assets allocation entitlement of the claimant to be the percentage set out in the claim as required by clause 3(2)(c).

Part 2
Computation model**11 Requirement for computation model**

- (1) Before making the first calculation of coastline lengths to be used to determine allocation entitlements for the purposes of section 45, the trustee must ensure that an appropriate computation model is created for the purpose of calculating coastline lengths between 2 specified co-ordinates on the mean high-water mark.
- (2) The trustee must ensure that, after the first application under clause 9 of the computation model to produce results to be used to determine a coastline entitlement, there are no alterations to—

Part 2—*continued*

- (a) the software, algorithms, or computer code of the model; or
 - (b) the specified baselines; or
 - (c) the specified decision rules; or
 - (d) the hardware platform for the model.
- (3) Subclause (2) does not exclude alterations to the model unless the alteration would mean that a recalculation of a coastline length, using the input data used for a completed determination under clause 9, would produce an output differing from the original result by more than 1%.
- (4) The trustee must ensure that the records of all input data applied to, and output data derived from, the computation model for determining coastline entitlements are preserved for not less than 10 years.

12 Specified baselines

- (1) The computation model used for determining allocation entitlements must use the following baselines:
- (a) the map database created for the purpose by Land Information New Zealand from the 1:50 000 topographical map series; and
 - (b) the coastal endpoints as notified in the *Gazette* for each regional coastline; and
 - (c) the harbour entrance points listed in Schedule 2.
- (2) Coastlines must be defined along the line of the mean high-water mark.
- (3) If the regional planning area of a regional council is altered and, as a result, the coastal endpoints referred to in subclause (1)(b) no longer represent the points where the boundary of the regional planning area intersects the coastline, then the trustee must—
- (a) redefine the coastal endpoints accordingly; and
 - (b) notify the new coastal endpoints in the *Gazette*; and
 - (c) recalculate the allocation entitlements of the iwi concerned in accordance with subclause (4).
- (4) For the purposes of subclause (3)(c), the trustee must—
- (a) recalculate the allocation entitlements of the iwi concerned by using the data from the original verified

Part 2—*continued*

claims of each iwi together with the new coastal endpoints; and

- (b) record these new entitlements on the iwi aquaculture register together with the date of registration; and
- (c) record the cancellation of the entitlements being replaced and the relevant date; and
- (d) use the new entitlements only for the allocation of settlement assets received after the date on which the alteration to the planning area becomes operative.

13 Decision rules for computation model

The calculation of coastline lengths must be based on the following decision rules in relation to the specified geographical features:

River mouth

- (a) rivers are cut off where the mean high-water mark meets the natural entrance points of the river, and the distance across the river mouth is included in the coastline length:

Bays

- (b) a bay is an indentation of the coast—
 - (i) the area of which is not less than the area of a semicircle with a diameter drawn across the mouth of the indentation; and
 - (ii) the length of the diameter referred to in subparagraph (i) is 10 km or less:
- (c) the straight line drawn across the mouth of a bay is substituted for the actual coastline of the bay in the calculation of coastline length:
- (d) the presence of islands at the mouth of, or within, an indentation does not affect the calculations necessary to determine whether an indentation is a bay:

Offshore islands

- (e) an offshore island is a naturally formed area of land that, at mean high-water tides, is—
 - (i) surrounded by water; but
 - (ii) not submerged by water:
- (f) the coastlines of the following offshore islands must be counted as coastlines of the relevant regional coastlines:

Part 2—*continued*

- (i) Stewart/Rakiura:
- (ii) Great Barrier/Aotea:
- (iii) Motiti:
- (g) the coastlines of other offshore islands must be counted as part of the relevant regional coastline if the trustee is satisfied that 1 or more iwi have—
 - (i) ahi kaaroa (both long-term and current habitation on the island); and
 - (ii) a traditional and separate fishery associated with the island; and
 - (iii) current occupation of the island, as shown by the presence of marae and other communal structures:

Chatham Islands

- (h) for the purpose of calculating the coastline in the Chatham Islands, only the coastlines of the following islands are relevant:
 - (i) Chatham Island; and
 - (ii) Pitt Island.
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Schedule 2

Harbours and harbour entrance points

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Harbours	Entrance	Longitude	Latitude
<i>North Island</i>			
Parengarenga	North	172°59.355'	34°31.343'
	South	172°59.417'	34°31.846'
Houhora	North	173°09.348'	34°49.544'
	South	173°09.264'	34°49.641'
Rangaunu	North	173°15.772'	34°53.061'
	South	173°17.153'	34°51.843'
Mangonui	North	173°31.480'	34°58.927'
	South	173°31.680'	34°58.798'
Whangaroa	North	173°45.418'	35°0.127'
	South	173°46.011'	35°0.413'
Upper Bay of Islands— Te Puna Inlet	North	174°04.088'	35°11.740'
	South	174°04.244'	35°12.779'
Upper Bay of Islands— Waikare Inlet	North	174°04.665'	35°14.709'
	South	174°06.704'	35°15.135'
Whangaruru	North	174°22.531'	35°22.755'
	South	174°22.167'	35°24.886'
Whangarei	North	174°31.791'	35°51.841'
	South	174°30.057'	35°50.585'
Mangawhai	North	174°27.790'	35°53.984'
	South	174°27.674'	35°54.479'
Whitianga	North	175°44.852'	36°47.563'
	South	175°46.086'	36°49.305'
Tairua	North	175°52.061'	37°0.413'
	South	175°51.798'	37°0.527'
Tauranga—Katikati entrance	North	175°59.492'	37°28.002'
	South	175°59.745'	37°28.455'
Tauranga—Mt Maunganui entrance	North	176°09.646'	37°38.252'
	South	176°10.086'	37°38.246'
Ohiwa	North	177°08.751'	37°59.276'
	South	177°09.629'	37°59.377'
Aotea and Kawhia—Kawhia	North	174°46.862'	38°05.191'
	South	174°46.460'	38°05.391'
Aotea and Kawhia—Aotea	North	174°47.829'	38°01.084'
	South	174°47.981'	38°01.189'
Raglan	North	174°50.465'	37°48.089'
	South	174°50.497'	37°48.318'
Port Waikato	North	174°42.540'	37°22.049'
	South	174°42.312'	37°22.460'
Manukau	North	174°31.848'	37°02.052'
	South	174°32.507'	37°02.950'
Kaipara	North	174°09.438'	36°23.270'
	South	174°11.705'	36°25.989'

Harbours	Entrance	Longitude	Latitude
Hokianga	North	173°21.416'	35°31.511'
	South	173°21.822'	36°32.553'
<i>Marlborough Sounds</i>			
Croisilles Harbour	North	173°40.262'	41°02.322'
	South	173°35.629'	41°03.211'
Pelorus Sound	North (Clay Point)	174°01.398'	40°54.737'
	South (Alligator Head)	174°09.531'	40°58.180'
Queen Charlotte Sound (northern entrance)	North (Cape Jackson)	174°18.896'	40°59.742'
	South (Cape Koamaru)	174°22.957'	41°05.389'
Queen Charlotte South (East and West Head entrance)	North (East Head)	174°19.358'	41°12.748'
	South (West Head)	174°18.913'	41°12.918'

Legislative history

14 December 2004	Divided from Aquaculture Reform Bill (Bill 181–2), third reading
21 December 2004	Royal assent

This Act is administered in the Ministry of Fisheries.
