

## Part 15

### South Island Landless Natives Act

#### 445 Purpose of this Part

The purpose of this Part is to provide for the legislative matters contemplated by section 15 (South Island Landless Natives Act) of the deed of settlement.

#### 446 Interpretation

In this Part, unless the context otherwise requires,—

**ancillary claims trustees** has the meaning given to it in section 339

**Minister** means the Minister in Charge of Treaty of Waitangi Negotiations

**original beneficiaries** means the persons listed in the Native Land Register compiled by Mackay and Smith and referred to in the Appendix to the Journals of the House of Representatives of New Zealand 1905, Volume III, G-2 in relation to the SILNA lands; and, where the context requires, means the original beneficiaries of one of the SILNA lands

**SILNA lands** means the following lands:

- (a) the Hawea/Wanaka land:
- (b) the Whakapoai land:
- (c) the Port Adventure land:
- (d) the Toi Toi land;—

being the lands described by those names in Schedule 117 and, where the context requires, **SILNA land** means one of those blocks of land

**successor** means any person entitled to succeed, pursuant to clause 15.6.2 of the deed of settlement, to the beneficial interest of an original beneficiary in a SILNA land.

*Claim 14 (Hawea/Wanaka)*

**447 Property description**

In sections 448 and 449, **Hawea/Wanaka substitute land** means the land described by that name in Schedule 117.

**448 Revocation of Hawea/Wanaka substitute land's current reserve status**

The reservation of the Hawea/Wanaka substitute land as a reserve is revoked on the settlement date.

**449 Vesting of Hawea/Wanaka substitute land**

- (1) The Minister may, by notice in the *Gazette*, vest the Hawea/Wanaka substitute land in the manner and with the status (including, if appropriate, the status of Māori freehold land) formally notified to the Minister by the recording officer in accordance with section 455(5).
- (2) The Minister must arrange for the notice referred to in subsection (1) to be published in the *Gazette* as soon as practicable after the recording officer gives to the Minister, in accordance with section 455(5), formal notification relating to the Hawea/Wanaka substitute land.

*Claim 33 (Whakapoai)*

**450 Property descriptions**

In sections 451 and 452,—

**Whakapoai land** means the land described by that name in Schedule 117

**Whakapoai substitute land** means the area, or areas, of land identified pursuant to clause 15.3.2(b)(i) of the deed of settlement by the Crown and the persons appointed as representatives by the successors to the Whakapoai land pursuant to clause 15.7.3 of the deed of settlement, in order to provide redress for Claim 33 (Whakapoai).

**451 Vesting of Whakapoai land or Whakapoai substitute land**

- (1) The Minister may take one of the following actions:
- (a) vest, by notice in the *Gazette*, the Whakapoai land in the manner and with the status (including, if appropriate, the status of Māori freehold land) formally notified to the Minister by the recording officer in accordance with section 455(5), subject to—
    - (i) the Whakapoai land being leased back to the Crown (acting through the Minister of Conservation) on the terms set out in attachment 15.1 of the deed of settlement; and
    - (ii) compensation being paid by the Crown to the successors to the Whakapoai land in accordance with clause 15.3.2(a) of the deed of settlement:
  - (b) vest, by notice in the *Gazette*, the Whakapoai substitute land in the manner and with the status (including, if appropriate, the status of Māori freehold land) formally notified to the Minister by the recording officer in accordance with section 455(5);
  - (c) provide an alternative form of redress to those set out in paragraphs (a) and (b) in accordance with clause 15.3.2(b)(ii) of the deed of settlement.
- (2) The Minister must, as soon as practicable after receiving the notice in accordance with section 455(5) of the decisions of the successors concerned as to which one of the actions referred to in subsection (1) is to be taken, take that action.

**452 Lease of Whakapoai land**

- (1) The Crown may lease back the Whakapoai land on the terms set out in attachment 15.1 of the deed of settlement, notwithstanding anything to the contrary in the Land Act 1948 or any other statutory provisions governing the transfer of Crown land and the entry by the Crown into a lease of land.
- (2) If the Minister takes the action set out in section 451(1)(a),—
- (a) the Governor-General may declare the Whakapoai land to be a national park to which the National Parks Act 1980 applies in accordance with section 7 of that Act, notwithstanding anything to the contrary in the National Parks Act 1980; and

- (b) the Whakapoai land will be managed by the Crown as part of the Kahurangi National Park as if the Whakapoai land were constituted a national park under the National Parks Act 1980.
- (3) If the Minister takes either of the actions set out in section 451(1)(b) and (c), the Whakapoai land is deemed to be—
  - (a) declared to be a national park under the National Parks Act 1980; and
  - (b) added to the Kahurangi National Park,—  
as if it had been declared and added pursuant to section 7 of the National Parks Act 1980, notwithstanding anything to the contrary in section 8 of that Act.
- (4) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to any lease back of the Whakapoai land to the Crown.

*Claim 92 (Port Adventure)*

**453 Provision of redress for successors to Port Adventure land**

- (1) In this section, **adjoining land** and **Port Adventure land** mean the lands described by those names in Schedule 117.
- (2) The Minister may take one of the following actions:
  - (a) vest, by notice in the *Gazette*, the Port Adventure land in the manner and with the status (including, if appropriate, the status of Māori freehold land) formally notified to the Minister by the recording officer in accordance with section 455(5):
  - (b) vest, by notice in the *Gazette*, the Port Adventure land (with boundaries redefined and surveyed in accordance with clause 15.4.2(b)(i) of the deed of settlement) in the manner and with the status (including, if appropriate, the status of Māori freehold land) formally notified to the Minister by the recording officer in accordance with section 455(5):
  - (c) provide an alternative form of redress to those set out in paragraphs (a) and (b) in accordance with clause 15.4.2(b)(ii) of the deed of settlement.
- (3) In order to allow for the creation of alternative boundaries to the Port Adventure land pursuant to subsection (2)(b), the Min-

ister of Conservation may, in his or her discretion, by notice in the *Gazette*, do any 1 or more of the following:

- (a) change the classification or purpose of the whole or part of the adjoining land:
  - (b) revoke the reservation of the whole or part of the adjoining land as a nature reserve or scenic reserve:
  - (c) remove the status of conservation area managed for conservation purposes from the whole or part of the adjoining land.
- (4) The Minister must, as soon as practicable after receiving the notice in accordance with section 455(5) of the decisions of the successors concerned as to which one of the actions referred to in subsection (2) is to be taken, take that action.

#### *Claim 92 (Toi Toi)*

#### **454 Provision of redress for successors to Toi Toi land**

- (1) In this section **adjoining land** and **Toi Toi land** mean the lands described by those names in Schedule 117.
- (2) The Minister may take one of the following actions:
  - (a) vest, by notice in the *Gazette*, the Toi Toi land in the manner and with the status (including, if appropriate, the status of Māori freehold land) formally notified to the Minister by the recording officer in accordance with section 455(5):
  - (b) vest, by notice in the *Gazette*, the Toi Toi land (with boundaries redefined and surveyed in accordance with clause 15.5.2(b)(i) of the deed of settlement) in the manner and with the status (including, if appropriate, the status of Māori freehold land) formally notified to the Minister by the recording officer in accordance with section 455(5):
  - (c) provide an alternative form of redress to those set out in paragraphs (a) and (b) in accordance with clause 15.5.2(b)(ii) of the deed of settlement.
- (3) In order to allow for the creation of alternative boundaries to the Toi Toi land pursuant to subsection (2)(b), the Minister of Conservation may, in his or her discretion, by notice in the *Gazette*, do any 1 or more of the following:

- (a) change the classification or purpose of the whole or part of the adjoining land:
  - (b) revoke the reservation of the whole or part of the adjoining land as a nature reserve or scenic reserve:
  - (c) remove the status of conservation area managed for conservation purposes from the whole or part of the adjoining land.
- (4) The Minister must, as soon as practicable after receiving the notice in accordance with section 455(5) of the decisions of the successors concerned as to which one of the actions referred to in subsection (2) is to be taken, take that action.

*Miscellaneous matters*

**455 Miscellaneous matters to give effect to SILNA redress**

- (1) The Minister of Māori Affairs and the Maori Land Court may undertake any actions prescribed for them in section 15 of the deed of settlement, notwithstanding the fact that the SILNA lands, or land being dealt with in substitution for a SILNA land, are not Māori freehold land.
- (2) The Maori Land Court may give notice in the Panui of every Maori Land Court District, and in such other way as the Maori Land Court considers appropriate, in order to identify the successors to the SILNA lands in accordance with clauses 15.6.2 and 15.6.3 of the deed of settlement.
- (3) For the purposes only of clauses 15.6 and 15.7 of the deed of settlement, the successors to a SILNA land are, in relation to that land, deemed to be owners—
  - (a) within the meaning of section 170 of Te Ture Whenua Maori Act 1993, for the purposes of that Act; and
  - (b) within the meaning of regulation 2 of the Maori Assembled Owners Regulations 1995, for the purposes of those regulations.
- (4) If the successors to a SILNA land do not make a decision in accordance with the procedures set out in the Maori Assembled Owners Regulations 1995 to adopt any one of the options listed in clause 15.7.5 of the deed of settlement, they must be deemed to have chosen the option which received the most votes in accordance with those procedures.

- (5) The recording officer of each meeting of successors to a SILNA land must report to the Minister, under the procedure set out in regulation 48 of the Maori Assembled Owners Regulations 1995, the decisions of the successors made under clause 15.7.2 or clause 15.7.4, and clause 15.7.5 of the deed of settlement.
- (6) The Registrar may (and must, upon instruction from the Minister) take such steps as are necessary on the Registrar's part to give effect to section 15 of the deed of settlement.

Section 455(6): amended, on 1 February 1999, pursuant to section 31(2) of the Land Transfer (Automation) Amendment Act 1998 (1998 No 123).

*Claim 16 (South Westland)*

**456 South Westland land to vest in ancillary claims trustees**

- (1) In this section, **Awarua site**, **Okahu site**, and **Whakapohai site** mean the lands described by those names in Schedule 117.
- (2) The fee simple estate in the following land:
- (a) Awarua site:
  - (b) Okahu site:
  - (c) Whakapohai site;—
- is vested in the ancillary claims trustees on the date that is 30 business days after the settlement date.

**457 Pāringa River site to vest in ancillary claims trustees**

- (1) In this section, **Pāringa River site** means the land described by that name in Schedule 117.
- (2) The Pāringa River site ceases to be a conservation area on the date that is 30 business days after the settlement date.
- (3) The fee simple estate in the Pāringa River site is vested in the ancillary claims trustees on the date that is 30 business days after the settlement date.
- (4) Before the Maori Land Court makes a vesting order in relation to the Pāringa River site pursuant to section 346(1), the ancillary claims trustees must have entered into, and presented for registration with the Registrar, a Ngā Whenua Rāhui kawenata relating to the protection of the Pāringa River site in the form set out in attachment 15.2 of the deed of settlement.

- (5) The Ngā Whenua Rāhui kawenata referred to in subsection (4) is deemed to be entered into under section 77A of the Reserves Act 1977, notwithstanding the fact that the Pāringa River site is not Māori land.
- (6) Notwithstanding section 77A(1)(b) of the Reserves Act 1977, the owner of the Pāringa River site may only terminate the Ngā Whenua Rāhui kawenata with the written agreement of the Minister of Conservation.
- (7) The Registrar must, in accordance with section 77A of the Reserves Act 1977, register the Ngā Whenua Rāhui kawenata referred to in subsection (4) as soon as it is executed and presented for registration by the ancillary claims trustees (and, if no certificate of title has been issued under the Land Transfer Act 1952, until such title is issued, may constitute it a folium of the register).

Section 457(4): amended, on 1 February 1999, pursuant to section 31(2) of the Land Transfer (Automation) Amendment Act 1998 (1998 No 123).

Section 457(7): amended, on 1 February 1999, pursuant to section 31(2) of the Land Transfer (Automation) Amendment Act 1998 (1998 No 123).

**458 Okahu replacement site to vest in ancillary claims trustees**

- (1) In this section, **Okahu replacement site** means the land described by that name in Schedule 117.
- (2) Okahu replacement site ceases to be a conservation area on the date that is 30 business days after the settlement date.
- (3) The fee simple estate in Okahu replacement site is vested in the ancillary claims trustees on the date that is 30 business days after the settlement date.
- (4) Before the Maori Land Court makes a vesting order in relation to Okahu replacement site pursuant to section 346(1), the ancillary claims trustees must have entered into and presented for registration with the Registrar, a Ngā Whenua Rāhui kawenata relating to the protection of Okahu replacement site in the form set out in attachment 15.3 of the deed of settlement.
- (5) The Ngā Whenua Rāhui kawenata referred to in subsection (4) is deemed to be entered into under section 77A of the Reserves Act 1977, notwithstanding the fact that Okahu replacement site is not Māori land.

- (6) Notwithstanding section 77A(1)(b) of the Reserves Act 1977, the owner of Okahu replacement site may only terminate the Ngā Whenua Rāhui kawenata with the written agreement of the Minister of Conservation.
- (7) The Registrar must, in accordance with section 77A of the Reserves Act 1977, register the Ngā Whenua Rāhui kawenata referred to in subsection (4) as soon as it is executed and presented for registration by the ancillary claims trustees (and, if no certificate of title has been issued under the Land Transfer Act 1952, until such title is issued, may constitute it a folium of the register).

Section 458(4): amended, on 1 February 1999, pursuant to section 31(2) of the Land Transfer (Automation) Amendment Act 1998 (1998 No 123).

Section 458(7): amended, on 1 February 1999, pursuant to section 31(2) of the Land Transfer (Automation) Amendment Act 1998 (1998 No 123).