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Digest No. 1716

Whanganui Iwi (Wanganui (Kaitoke) Prison and Northern Part of Wanganui Forest) On-account Settlement Bill 2009

Date of Introduction:	25 August 2009
Portfolio:	Treat of Waitangi Negotiations
Select Committee:	As at 15 October, 1st Reading not held.
Published: 15 October 2009 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of the Bill is to give effect to the deed of on-account settlement (the deed) in which the Crown and Whanganui Iwi agree to the transfer of assets on on-account settlement of the Whanganui Iwi historical claims.

[Bills Digest No 1714](#) on the *Ngāti Apa (North Island) Claims Settlement Act 2009* is relevant to this Bills Digest.

Background

The preamble of the Bill sets out the background to the to the Deed of On-account Settlement of Historical Claims of Whanganui Iwi in relation to the Whanganui Kaitoke Prison and Part of the Whanganui Forest (the deed of on-account settlement) entered into by Whanganui Iwi and the Crown as follows:

"The agreement between the Crown and the Southern Whanganui Cluster/Tupoho working party (the working party) to enter into an on-account settlement was an outcome of discussions between Ngāti Apa (North Island) and the working party about aspects of the Ngāti Apa (North Island) settlement package as contained in the agreement in principle between Ngāti Apa (North Island) and the Crown (the agreement in principle)" (*Preamble to the Bill, Recital (3)*).

"After Ngāti Apa (North Island) had consulted with neighbouring iwi on the agreement in principle, the Crown and the working party signed the deed of on-account settlement on 31 July 2009. Whanganui Iwi and the Crown agree that the value of the transfer of the assets under the deed of on-account settlement will be taken into account when the Crown makes an offer of redress for the final settlement of the Whanganui Iwi historical claims" (*Preamble to the Bill, Recital (4)*).

Main Provisions

Definition of "deed of on-account settlement"

The Bill defines the term "deed of on-account settlement" as " ... the deed of on-account settlement of historical claims of Whanganui Iwi in relation to the Whanganui Kaitoke Prison and part of the Whanganui Forest between the working party on behalf of Whanganui Iwi, the trustees of the Pakaitore Trust, and the Crown dated 31 July 2009 and as amended from time to time" (*Part 1, Clause 4, definition of "deed of on account settlement"*).

Part of Wanganui forest

The Bill provides that on and from the "Wanganui Forest transfer date", the northern part of the Wanganui Forest ceases to be Crown forest land under the Crown Forest Assets Act 1989 and also any Crown forestry assets associated with the land cease to be Crown forestry assets in terms of that Act (*Part 2, Clause 7*).

Application of Ngāti Apa (North Island) Claims Settlement Bill to transfers

The Bill applies certain provisions of the Ngāti Apa (North Island) Claims Settlement Bill 2009 (see [Bills Digest No 1714](#)) to the transfer of the interest of the trustees (i.e. the trustees of the Pakaitore Trust in their capacity as trustees of the Pakaitore Trust") in the Wanganui (Kaitoke) Prison (i.e. an undivided half share in the fee simple estate in the Wanganui (Kaitoke) Prison) and the northern part of the Wanganui Forest to the trustees (*Part 2, Clause 8*).

Certain powers of Waitangi Tribunal not to apply to northern part of Wanganui forest

The Bill provides that the powers of the Waitangi Tribunal to make mandatory recommendations for the return of the Northern part of the Wanganui Forest to the Whanganui Iwi under Sections 8A-8HJ of the Treaty of Waitangi Act 1975 and Part 3 of the Crown Forest Assets Act 1989 do not apply to the transfer of the northern part of the Wanganui Forest to the trustees (*Part 2, Clause 9*).

Termination of obligations in relation to forest

The Bill provides that Clauses 7 and 8(2) of the Bill do not apply in respect of the northern part of the Whanganui Forest if the Crown's obligations terminate under clause 3.7 of the deed. Clause 3.7 of the deed provides that all obligations of the Crown under the deed in relation to the northern part of the Whanganui Forest immediately cease in certain circumstances which include:

- where the Crown's obligations cease in respect of the Ngāti Apa Whanganui Forest under clause 7.31 of the Ngāti Apa deed (which relates to the ceasing of Crown obligations in relation to a deferred selection property under that deed where the Ngāti Apa governance entity does not proceed in purchasing that deferred selection property);
- the agreement in respect of the Ngāti Apa Whanganui Forest under the Ngāti Apa deed is cancelled for failure to settle; or
- the working party informs the Crown that it is not interested in the trustees acquiring the northern part of the Whanganui forest (*Part 2, Clause 10; Clause 3.7 of the Deed of On-Account Settlement*).

Copies of the deed of on-account settlement

The Bill provides that the chief executive of the Ministry of Justice must make copies of the deed of on-account settlement available for inspection free of charge, and for purchase at a reasonable price,

at the head office of the Ministry of Justice in Wellington on any business day. The deed of on-account settlement must also be made available free of charge on an Internet site maintained by or on behalf of the Ministry of Justice (*Part 2, Clause 11*).

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