

## In Confidence

Office of the Minister for Māori Development  
Chair, Cabinet Legislation Committee

# TE TURE WHENUA MAORI (SUCCESSION, DISPUTE RESOLUTION, AND RELATED MATTERS) AMENDMENT ACT 2020 COMMENCEMENT ORDER 2026

## Proposal

1. This paper seeks authorisation for submission to the Executive Council of Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020 Commencement Order 2026 (the **Commencement Order**).

## Policy

2. The Commencement Order is administrative and does not require any new policy decisions.
3. The Commencement Order commences section 98M(2) to (5) of Te Ture Whenua Maori Act 1993 (the **Act**). These provisions were inserted in the Act by Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020 (the **Amendment Act**).
4. Section 2 of the Amendment Act provides that:

*“(1) This Act comes into force on the later of the following:*

*(a) 1 October 2020:*

*(b) immediately after the 6-month period that starts on the date of Royal assent.*

*(2) However, section 22, as it relates to section 98M(2) to (5) of the principal Act, comes into force on a single date set by Order in Council, which must be on or after the date on which the rest of this Act comes into force.”*

5. The date of Royal assent of the Amendment Act was 6 August 2020, so the 6-month period following Royal assent ended on 6 February 2021. Consequently, all provisions in the Amendment Act, apart from section 98M(2) to (5) came into force on that date.

6. Section 98M of the Act provides:

**“98M Appointment of mediator**

- (1) Either 1 or 2 persons must be appointed as the mediator, each with the skills and experience to mediate the issues referred to them.
- (2) The chief executive must record a list of persons whom the chief executive has approved as mediators under this Part.
- (3) The parties to a dispute may appoint the mediator by agreement—
  - (a) from the list of approved persons; or
  - (b) from beyond that list if—
    - (i) the parties consider that it is justified in the circumstances; and
    - (ii) the appointment is approved by the chief executive and the Judge or Registrar who referred the issues to a mediator.
- (4) If the parties do not agree on the mediator, the Judge or Registrar who referred the issues to a mediator must, after consulting the parties, appoint the mediator—
  - (a) from the list of approved persons; or
  - (b) from beyond that list if the appointment is approved by the chief executive.
- (5) In this section, chief executive means the chief executive of the Ministry of Justice.”

7. The Amendment Act provided for commencement of section 98M(2) to (5) by Order in Council to give the Ministry of Justice time to prepare for the new mediation service. The Ministry of Justice has completed these preparations and has advised my officials that it is ready for section 98M(2) to (5) to commence.

8. Note that the Act also provides for the making of rules of the Maori Land Court (**the Court**) for the purposes of facilitating the prompt, inexpensive, and just dispatch of the business of the Court. My officials have also submitted a Cabinet paper seeking authorisation for submission to the Executive Council of the Māori Land Court Amendment Rules 2026 (the **Amendment Rules**). The Amendment Rules contain details about the appointment of mediators and how mediation will be conducted. If approved by the Executive Council, I propose that the Amendment Rules will come into force on the same date as that set by the Commencement Order.

## **Timing and 28-day rule**

9. A waiver of the 28-day rule is not sought. The Commencement Order sets a commencement date of 30 April 2026, which is 28 days after the Commencement Order is notified in the Gazette.

## **Compliance**

10. The Commencement Order complies with each of the following:
  - 10.1 the principles of the Treaty of Waitangi;
  - 10.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
  - 10.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 10.4 the principles and guidelines set out in the Privacy Act 2020;
  - 10.5 relevant international standards and obligations;
  - 10.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
11. The statutory requisite for the making of the Commencement Order is that the commencement date set by the Commencement Order must be on or after the date on which the rest of the Amendment Act comes into force. Since the rest of the Amendment Act came into force on 6 February 2021 this requirement has been met.

## **Regulations Review Committee**

12. There are no grounds for the Regulations Review Committee to draw the Commencement Order to the attention of the House of Representatives as a Standing Order requirement.

## **Certification by Parliamentary Counsel**

13. The Commencement Order has been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

## **Impact Analysis**

14. An Order that provides solely for the commencement of existing legislation is exempt from needing a Regulatory Impact Assessment (the exemption at paragraph 30.4 of CO (24) 7). The Commencement Order is therefore exempt.

## Publicity

15. The Ministry of Justice has called for expressions of interest for mediators to be included in the list of mediators that the Chief Executive of the Ministry of Justice is required to prepare under section 98M(2).

## Proactive release

16. I propose to release the paper proactively within 30 business days, subject to redaction as appropriate under the Official Information Act 1982.

## Consultation

17. The Ministry of Justice has been consulted on the Commencement Order and this paper.

## Recommendations

I recommend that the Cabinet Legislation Committee:

1. **authorise** the submission to the Executive Council of Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020 Commencement Order 2026 (the **Commencement Order**);
2. **note** that the Commencement Order brings into force on 30 April 2026 section 22 of Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020 (the **Amendment Act**), to the extent that it inserts new section 98M(2) to (5) into Te Ture Whenua Maori Act 1993;
3. **note** that section 2 of the Amendment Act requires that the commencement date set by the Commencement Order must be on or after the date on which the rest of the Act comes into force;
4. **note** that the rest of the Amendment Act came into force on 6 February 2021 so this requirement has been met.

Authorised for lodgement

Hon Tama Potaka

Minister for Māori Development