



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p>2. New Zealand Day to be a day of commemoration</p> <p>3. Observance of New Zealand Day</p>	<p>4. Application to awards and industrial agreements</p> <p>5. Public holiday for Northland</p> <p>6. Act to bind the Crown</p> <p>7. Repeals and consequential amendments</p> <p>Schedule</p>
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1973, No. 27

An Act to make provision for the observance of the 6th day of February in each year as a public holiday to commemorate the signing of the Treaty of Waitangi

[19 October 1973]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the New Zealand Day Act 1973.

2. New Zealand Day to be a day of commemoration—In commemoration of the signing on the 6th day of February 1840, at Waitangi, of the Treaty known as the Treaty of Waitangi (a copy of which is set out in the Schedule to this Act), the 6th day of February in each year shall be known as New Zealand Day.

3. Observance of New Zealand Day—(1) New Zealand Day shall be observed as a public holiday throughout New Zealand on the day of the week on which it falls.

(2) Where New Zealand Day falls on a Saturday or a Sunday, it shall be observed as a Saturday or a Sunday.

4. Application to awards and industrial agreements—

(1) The terms of employment of any worker contained in any Act, award, or industrial agreement shall include or be deemed to include provision for the observance of New Zealand Day as if it were a holiday to be allowed on pay.

(2) Where in any Act, award, or industrial agreement provision is made for the transfer of the granting of a holiday, or of the observance of certain hours of labour, or of the payment of certain rates of wages on New Zealand Day to any other day instead of New Zealand Day, that provision shall be void and of no effect:

Provided that nothing in this section shall affect any provision permitting or requiring an employer to grant a holiday on any other day instead of New Zealand Day where the worker is required to work on New Zealand Day at ordinary rates of wages.

(3) In this section—

“Act” includes any regulation, rule, or order made under any Act:

“Award or industrial agreement” includes any instrument or contract relating to the terms of employment of any worker; and, in relation to workers employed by the Crown, also includes any determination or order relating to the terms of their employment.

5. Public holiday for Northland—(1) The Minister of Internal Affairs shall, by notice in the *Gazette*, appoint a day specified in the notice to be observed as a public holiday in Northland (being that portion of the North Island north of the southern boundary for the time being of the County of Otamatea).

(2) Before issuing a notice under subsection (1) of this section, the Minister of Internal Affairs shall consult with all the territorial local authorities whose districts are situated in Northland.

(3) The provisions of section 4 of the Public Holidays Act 1955, section 26 of the Factories Act 1946 (as substituted by section 5 of the Factories Amendment Act 1972), and section 150A of the Industrial Conciliation and Arbitration Act 1954 (as inserted by section 2 of the Industrial Conciliation and Arbitration Amendment Act 1965) shall apply with respect to the public holiday appointed under subsection (1) of this section as if it were the anniversary of a province.

(4) Where in any Act, award, or industrial agreement affecting workers employed in Northland reference is made to Anniversary Day or the day of the anniversary of the Province of Auckland, then, in relation to Northland, the reference shall be deemed a reference to the day appointed under subsection (1) of this section.

6. Act to bind the Crown—This Act shall bind the Crown.

7. Repeals and consequential amendments—(1) The following enactments are hereby repealed:

(a) The Waitangi Day Act 1960:

(b) The Waitangi Day Amendment Act 1963.

(2) Section 95 of the Industrial Relations Act 1973 is hereby amended—

(a) By omitting from subsection (1) and also from subsection (3) the words “10 whole holidays”, and substituting in each case the words “11 whole holidays”:

(b) By inserting in subsection (2), after the words “reigning Sovereign”, the words “New Zealand Day,”.

(3) While the Industrial Conciliation and Arbitration Act 1954 continues in force, section 150A thereof (as inserted by section 2 of the Industrial Conciliation and Arbitration Amendment Act 1965) shall be read as if it had been amended—

(a) By omitting from subsection (1) and also from subsection (3) the words “ten whole holidays”, and substituting in each case the words “11 whole holidays”:

(b) By inserting in subsection (2), after the words “reigning Sovereign”, the words “New Zealand Day,”.

(4) Section 26 of the Factories Act 1946 (as substituted by section 5 of the Factories Amendment Act 1972) is hereby amended by inserting in subsection (1), after paragraph (i), the following paragraph:

“(ia) New Zealand Day:”.

(5) The Banking Act 1908 is hereby amended by adding to the Third Schedule (as substituted by section 8 (1) of the Statutes Amendment Act 1946) the words “New Zealand Day”.

(6) Section 3 of the Banking Amendment Act 1935 is hereby amended by omitting the words "Anzac Day when Anzac Day", and substituting the words "Anzac Day or New Zealand Day when Anzac Day or, as the case may be, New Zealand Day".

SCHEDULE

THE TREATY OF WAITANGI

HER MAJESTY VICTORIA Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorized to treat with the Aboriginies of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of those islands—Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorize me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

ARTICLE THE FIRST

The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.

ARTICLE THE SECOND

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

SCHEDULE—*continued*

ARTICLE THE THIRD

In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.

W. HOBSON Lieutenant Governor.

Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof: in witness of which we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi this Sixth day of February in the year of Our Lord One thousand eight hundred and forty.

[Here follow signatures, dates, etc.]

This Act is administered in the Department of Internal Affairs.
