



## Treaty of Waitangi Act 1975

1975

- Citation:** No 114  
**Date of Assent:** 10 October, 1975  
**Commencement:** Date of Assent
- Repeal:** Still in Force  
**Amendments:** 1977, No 178.  
1985, No 148: See separate record.  
1986, No 114.  
1988, No 105: See separate record.  
1988, No 233: See separate record.  
1989, No 99: See separate record.  
s39 amends s5 – Functions of the tribunal include the power to make recommendations in relation to Crown forestry assets.  
s40 inserts new ss8HA – 8HI relating to recommendations of the Tribunal in relation to Crown forest land.  
1990, No 105: See separate record.  
See Part IV amendments.  
s42 inserts new section in s5 – Functions of tribunal to make recommendations relating to land transferred under the New Zealand Railways Corporation Restructuring Act 1990.  
s43 inserts new s8HJ recommendations in relation to land vested under the New Zealand Railways Corporation Restructuring Act 1990.  
1992, No 121: See separate record.  
s40 amends s6 – jurisdiction of Tribunal to consider claims – no jurisdiction to inquire into commercial fishing and related matters.  
1993, No 92: s3 amends s6 – Jurisdiction of Tribunal to consider claims. Tribunal shall not recommend the return to Maori ownership of any private land or the acquisition by the Crown of any private land.
- Type of Legislation:** Public  
**Subject:** ToW/Principles of ToW reference
- Relevant Sections:** *Long Title:* reference to practical application of the ToW and the principles of the Treaty.  
s2: Treaty defined as both the English and Maori texts (as set out in the first schedule)  
s4: Waitangi Tribunal established.

*Relevant Sections and Commentary continued over page*



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s5: Two primary functions of Tribunal...

- a) to inquire and make recommendations on any claims submitted to the tribunal under s6 of this Act.
- b) to examine and report upon any proposed legislation referred to the tribunal.

In exercising these functions Tribunal to consider both texts of the ToW. Tribunal to have exclusive authority to determine the meaning and effect of the ToW as embodied in the two texts and to decide issues raised by their differences.

s6: Any Maori may submit a claim to the Tribunal where he feels that he, or a group of Maori to which he belongs, is likely to be prejudicially affected...

- a) by any Act, regulations in force,
- b) by any policy or practice currently adopted by the Crown,
- c) by any act which is done or omitted by or on behalf of the Crown after the commencement of this Act.

If the Tribunal finds a claim well founded it may submit recommendations to the Crown.

No jurisdiction in respect of anything done or omitted before the commencement of this Act or in respect of any Bill that has been introduced into Parliament (unless referred to the Tribunal under s8).

s7: Tribunal may refuse to inquire into claim.

s8: Tribunal shall examine any proposed legislation referred to it.

In the case of a Bill before the House of Representatives, the proposed legislation may be referred by resolution of the House. In the case of proposed regulations any Minister may refer them to the Tribunal.

s9: Right to petition Parliament unaffected.

**Commentary:** This Act was introduced by Rata, as Minister for Maori Affairs, as a Bill that gave “statutory acknowledgement of the principles of the treaty”, and as fulfilling the Labour Government’s election promise to ratify the Treaty of Waitangi. The Waitangi Tribunal is given sole authority to determine the meaning and effect of the Treaty and to hear claims relating to any future actions of the Crown. Rata had hoped to include a power of retrospective investigation but was not able to convince his caucus. The failure to provide for inquiry into historic grievances led to comments like the following, read during the Debates, from a submission by Nga Tamatoa, “this Bill allows no remedy for us to rectify even some of our past grievances,

*Commentary and Cross Reference continued next page*



does nothing to ameliorate present injustices, and provides no guarantee of protection against future wrongdoings". The Tribunal was not convened until 1977 and from 1975 to 1984 it received only 14 claims although Treaty issues figured prominently in debates and protests during that period.

**Cross Reference:** NZPD vol 401 (1975) 4342 - 4346, 4495 - 4500  
NZPD vol 402 (1975) 5406 - 5408.