



## Treaty of Waitangi Amendment Act 1985

- Citation:** No 148
- Date of Assent:** 9 December, 1985
- Commencement:** Act to come into force 28 days after the date of assent.
- Repeal:** Still in Force
- Amendments:** –
- Type of Legislation:** Public
- Subject:** ToW/Principles of ToW reference
- Relevant Sections:**
- s2:* Waitangi Tribunal to consist of Chairman (Chief Judge of Maori Land Court) and 6 others, 4 to be Maori.
  - s3:* Jurisdiction of Tribunal extended back to 6 February, 1840.
  - s4:* New Maori text substituted in principal Act.
  - s7:* Tribunal may commission research and receive reports in evidence.
  - s10:* New Maori text substituted in Waitangi Day Act 1976.
- Commentary:** The Act changes the nature of the Waitangi Tribunal in two major respects, first, by making its jurisdiction retrospective, and secondly improving its ability to function by expanding its membership and allowing it to commission its own research. In the 9 years since its establishment the Tribunal had dealt with only 4 out of 14 claims before it, and Tirikatene-Sullivan said that the lack of research resources had been part of the problem, and that it also hampered the ability of potential claimants to fund a claim. Extending the jurisdiction back to 1840 fulfilled the original intention of Rata when legislating for the Tribunal in 1975 so that it could address past grievances. This led to claims that the Torrens system of land title registration would be weakened amid fears that private land might be recommended for return. The Tribunal however, is only an investigative body with a power of recommendation and is given no powers of decision as to appropriate remedies in the event that it finds in favour of claimants.
- The Maori text of the Treaty of Waitangi is now authentic to the text signed at Waitangi in 1840 and replaces the flawed and mistake-ridden Schedule contained in the 1975 Act (and in the Waitangi Day Act 1976) which was commented upon by the Waitangi Tribunal in its Motunui-Waitara Report.

*Cross Reference continued next page*



- Cross Reference:** NZPD vol 460 (1985) 2702 - 2713  
NZPD vol 464 (1985) 5647 - 5650  
NZPD vol 465 (1985) 6059 - 6084  
NZPD vol 468 (1985) 8626 - 8631  
Waitangi Tribunal *Report of the Waitangi Tribunal  
on the Motunui-Waitara Claim* Wai 6 (1983)  
(Waitangi Tribunal, Wellington, 1989).