



State-Owned Enterprises Act 1986

- Citation:** No 124
- Date of Assent:** 18 December, 1986
- Commencement:** Most of Act on Date of Assent. ss32(1), 33 and the Third, Fifth and Sixth Schedules shall come into force 1 April, 1987.
- Repeal:** Still in Force
- Amendments:** 1988, No 105. See separate record.
 1988, No 162: See s4 – Personnel policy to reflect recognition of the aims and aspirations of Maori people, their employment requirements and the need for greater involvement of Maori people as employees of Radio New Zealand and Television New Zealand.
 1990, No 83: – New Zealand Timberlands (Bay of Plenty) Ltd.
 1992, No 27: See s9 resumption of Wahi Tapu.
- Type of Legislation:** Public
- Subject:** ToW/Principles of ToW reference
 Status of Land
- Relevant Sections:** s9: Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi.
 s23(10): Transfer of Crown assets and liabilities to State enterprises. Where prior to this Act coming into force Maori land was leased to the Crown under a lease administered by the Minister of Forests, the leasehold interest shall not be transferred to a State enterprise.
 s27: Where, prior to this Act coming into force, there has been a claim lodged with the Waitangi Tribunal for land which is transferred to a State Enterprise, the land shall continue to be part of the claim. On completion of the hearing and the findings having been upheld, the Gov-Gen may declare the the land is to be resumed by the Crown.
- Commentary:** The special provisions for land under investigation by the Waitangi Tribunal were included in the Bill at a late stage, just prior to the Third Reading, as a result of an interim report to the Minister of Maori Affairs by the Waitangi Tribunal (which was considering the Muriwhenua claims at that time). While the Act protects possible Maori rights in regard to land already subject to a claim before the Waitangi Tribunal, no provision is made for future claims to land which ceases to be owned by the Crown when it is transferred to a State-Owned Enterprise. After the passing of this Act, and prior to the asset transfers due to occur on 1 April 1987, the New Zealand Maori Council commenced proceedings in which it successfully

Commentary and Cross Reference continued next page



argued before the Court of Appeal that the protections granted under s27 were insufficient to satisfy the requirements of s9 that the Crown may not act in a manner inconsistent with the principles of the Treaty of Waitangi. See the Treaty of Waitangi (State Enterprises) Act 1988, the preamble of which sets out the history of the court case and the compromise reached which resulted in that Act.

Cross Reference: NZPD vol 476 (1986) 6074 - 6085, 6119 - 6138, 6192 - 6201

New Zealand Maori Council v Attorney – General [1987] 1NZLR 641.