

**Reprint  
as at 1 February 1992**



**Treaty of Waitangi (State  
Enterprises) Act 1988**

Public Act    1988 No 105  
Date of assent    30 June 1988  
Commencement    see section 1(2)

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Justice.**

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**An Act—**

- (a) to give effect to an agreement entered into between the New Zealand Maori Council and Graham Stanley Latimer and the Crown in settlement of an application for judicial review made by the New Zealand Maori Council and Graham Stanley Latimer; and
- (b) to make to the Treaty of Waitangi Act 1975, the State-Owned Enterprises Act 1986, and the Legal Aid Act 1969 the amendments proposed in that agreement; and
- (c) to protect existing and likely future claims before the Waitangi Tribunal relating to land presently in Crown ownership; and
- (d) to give better effect to the objects of the State-Owned Enterprises Act 1986, and to ensure compliance with section 9 of that Act

## **Preamble**

Whereas—

- (a) the Crown intended, following the establishment of certain State enterprises under the State-Owned Enterprises Act 1986, to transfer certain land to those enterprises; and
- (b) the New Zealand Maori Council and Graham Stanley Latimer and the Iwi represented by them believed that the transfer of some or all of that land would constitute a breach by the Crown of section 9 of the State-Owned Enterprises Act 1986, which provides that nothing in that Act permits the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi; and
- (c) the New Zealand Maori Council and Graham Stanley Latimer, in furtherance of that belief, filed in the High Court at Wellington on 30 March 1987 an application for judicial review; and
- (d) by order of the High Court the application for judicial review was, on 1 April 1987, removed into the Court of Appeal; and
- (e) the Court of Appeal, on 29 June 1987,—
  - (i) made a declaration that the transfer of assets to State enterprises without establishing any system to consider in relation to particular assets or particular categories of assets whether such transfer would be inconsistent with the principles of the Treaty of Waitangi would be unlawful; and
  - (ii) gave certain directions concerning the preparation by the Crown of a scheme of safeguards, which was to be lodged in the Court of Appeal after it had been submitted to the New Zealand Maori Council for agreement or comment; and
  - (iii) made a further declaration (which might be varied or discharged at any time on the motion of the Crown) that in the meantime the Crown ought not to take any further action affecting

- any of the assets referred to in the statement of claim, by way of transfer of assets or long-term agreement or arrangement, that is or would be consequential on the exercise of statutory powers conferred by the State-Owned Enterprises Act 1986; and
- (f) after extensive negotiations between the New Zealand Maori Council and Graham Stanley Latimer and the Crown, there has not been agreement on a system, of the type described in paragraph (e)(i), to apply, as was contended for by the New Zealand Maori Council and Graham Stanley Latimer, before the transfer of assets to State enterprises but there has been agreement on an alternative system of safeguards, to apply after the transfer of assets to State enterprises, so that, in the public interest, the transfers authorised by the State-Owned Enterprises Act 1986 may take place as soon as practicable; and
  - (g) it is essential, in order to protect the position of Maori claimants and to ensure compliance with section 9 of the State-Owned Enterprises Act 1986, that there be safeguards—
    - (i) including power for the Waitangi Tribunal to make a binding recommendation for the return to Maori ownership of any land or interests in land transferred to State enterprises under that Act; and
    - (ii) requiring the Waitangi Tribunal to hear any claim relating to any such land or interests in land as if it or they had not been so transferred; and
    - (iii) precluding State enterprises and their successors in title from being heard by the Waitangi Tribunal on claims relating to land or interests in land so transferred; and
  - (h) the New Zealand Maori Council and Graham Stanley Latimer and the Crown have agreed that amendments to the Treaty of Waitangi Act 1975, the State-Owned Enterprises Act 1986, and the Legal Aid Act 1969 are required in order to allow the transfers and to protect

- existing or likely future claims before the Waitangi Tribunal; and
- (i) the Crown has agreed to submit for the consideration of Parliament a Bill containing the amendments agreed on; and
  - (j) the New Zealand Maori Council and Graham Stanley Latimer and the Crown have informed the Court of Appeal of the nature of those amendments; and
  - (k) the Court of Appeal has, by consent of the parties to the application for judicial review, discharged both the directions given by it to the Crown and the consequential interim declaration made by it in relation to those directions; and
  - (l) it is desirable that the agreement between the New Zealand Maori Council and Graham Stanley Latimer and the Crown be given effect to and that the amendments proposed in that agreement to the Treaty of Waitangi Act 1975, the State-Owned Enterprises Act 1986, and the Legal Aid Act 1969 be made.

**1 Short Title and commencement**

- (1) This Act may be cited as the Treaty of Waitangi (State Enterprises) Act 1988.
- (2) This Act shall be deemed to have come into force on 9 December 1987.

**Part 1  
Amendments to Treaty of Waitangi Act  
1975**

**2 This Part to be read with Treaty of Waitangi Act 1975**

This Part shall be read together with and deemed part of the Treaty of Waitangi Act 1975 (in this Part referred to as “the principal Act”).

**3 Functions of Tribunal**

*Amendment(s) incorporated in the Act(s).*

- 4 New sections inserted**  
*Amendment(s) incorporated in the Act(s).*
- 5 Power of Tribunal to commission research and receive report in evidence**  
*Amendment(s) incorporated in the Act(s).*
- 6 Director**  
*Amendment(s) incorporated in the Act(s).*
- 7 New clauses inserted**  
*Amendment(s) incorporated in the Act(s).*
- 8 Repeal**  
*Amendment(s) incorporated in the Act(s).*

**Part 2**  
**Amendments to State-Owned Enterprises**  
**Act 1986**

- 9 This Part to be read with State-Owned Enterprises Act 1986**  
This Part and the Schedule shall be read together with and deemed part of the State-Owned Enterprises Act 1986 (in this Part referred to as “the principal Act”).
- 10 New sections substituted**  
*Amendment(s) incorporated in the Act(s).*
- 11 New Schedule 2A inserted**  
*Amendment(s) incorporated in the Act(s).*
- 12 Amendments to Maori Affairs Act 1953**  
*[Repealed]*  
Section 12: repealed, on 25 October 1989, by section 42(3)(b) of the Crown Forest Assets Act 1989 (1989 No 99).

**Part 3**  
**Amendments to Legal Aid Act 1969**

*[Repealed]*

Part 3: repealed, on 1 February 1992, by section 159(2) of the Legal Services Act 1991 (1991 No 71).

**13 This Part to be read with Legal Aid Act 1969**

*[Repealed]*

Section 13: repealed, on 1 February 1992, by section 159(2) of the Legal Services Act 1991 (1991 No 71).

**14 Interpretation**

*[Repealed]*

Section 14: repealed, on 1 February 1992, by section 159(2) of the Legal Services Act 1991 (1991 No 71).

**15 Scope of legal aid**

*[Repealed]*

Section 15: repealed, on 1 February 1992, by section 159(2) of the Legal Services Act 1991 (1991 No 71).

**16 Applications in respect of claims before Waitangi Tribunal**

*[Repealed]*

Section 16: repealed, on 1 February 1992, by section 159(2) of the Legal Services Act 1991 (1991 No 71).

**17 Transitional provision**

*[Repealed]*

Section 17: repealed, on 1 February 1992, by section 159(2) of the Legal Services Act 1991 (1991 No 71).

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**Schedule**

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**New Schedule 2A of State-Owned  
Enterprises Act 1986**

*Amendment(s) incorporated in the Act(s).*

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**Notes****1 *General***

This is a reprint of the Treaty of Waitangi (State Enterprises) Act 1988. The reprint incorporates all the amendments to the Act as at 1 February 1992, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

**2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.



For a detailed list of the editorial conventions, *see* <http://www.pco.parliament.govt.nz/legislation/reprints.shtml> or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

## **5** *List of amendments incorporated in this reprint (most recent first)*

Legal Services Act 1991 (1991 No 71): section 159(2)

Crown Forest Assets Act 1989 (1989 No 99): section 42(3)(b)

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