

# **Treaty of Waitangi Amendment Act 2003**

Public Act 2003 No 13  
Date of assent 9 April 2003

## **Contents**

	Page
1 Title	1
2 Commencement	2
3 Validation in respect of certain inquiries	2
4 Schedule 2 amended	2
5AA Chairperson may appoint replacement presiding officer	2
5AB Chairperson may appoint replacement member	2
5AC Conditions applying to replacement appointments	2
5AD Chairperson may appoint acting presiding officer	3
5AE Conditions applying to appointment of acting presiding officer	4

---

### **The Parliament of New Zealand enacts as follows:**

#### **1 Title**

- (1) This Act is the Treaty of Waitangi Amendment Act 2003.
- (2) In this Act, the Treaty of Waitangi Act 1975 is called “the principal Act”.

## **2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

## **3 Validation in respect of certain inquiries**

The Tribunal is deemed to be, and to have always been, constituted in accordance with the principal Act for the purpose of inquiring into, and making recommendations on, the claims heard in the following inquiries:

- (a) the Hauraki inquiry (Wai 686):
- (b) the Kaipara inquiry (Wai 674):
- (c) the Wellington Tenths inquiry (Wai 145).

## **4 Schedule 2 amended**

Schedule 2 of the principal Act is amended by inserting, after clause 5, the following clauses:

### **“5AA Chairperson may appoint replacement presiding officer**

“(1) For the purposes of an inquiry into a particular claim or other matter under section 5(1), the Chairperson may appoint another member of the Tribunal or a Judge of the Maori Land Court to replace a presiding officer or former presiding officer holding office under clause 5(1)(a).

“(2) Clause 5(2) and (3) applies to a replacement appointment under subclause (1).

### **“5AB Chairperson may appoint replacement member**

For the purposes of an inquiry into a particular claim or other matter under section 5(1), the Chairperson may appoint another member of the Tribunal to replace a member or former member holding office under clause 5(1)(b).

### **“5AC Conditions applying to replacement appointments**

“(1) An appointment made under clause 5AA or clause 5AB may be made before or after the Tribunal has begun to inquire into a particular claim or other matter under section 5(1).

“(2) The power conferred on the Chairperson by clauses 5AA and 5AB may be exercised only if-

- “(a) the presiding officer or member holding office under clause 5(1) has ceased to hold office-
    - “(i) as provided for in clause 2; or
    - “(ii) in the case of a Judge of the Maori Land Court, as provided for in section 12 of Te Ture Whenua Maori Act 1993:
  - “(b) the personal circumstances of the presiding officer or member holding office under clause 5(1) make that person unable by reason of his or her physical or mental condition to continue to participate in the inquiry into the particular claim or other matter:
  - “(c) it would be unreasonable to expect the presiding officer or member holding office under clause 5(1) to continue to participate in the inquiry into the particular claim or other matter because of his or her personal circumstances.
- “(3) If the Tribunal has commenced its inquiry into the particular claim or other matter, the Chairperson must not exercise the power conferred by clause 5AA or clause 5AB unless-
- “(a) there is an adequate record of the inquiry that has already been heard by the Tribunal; and
  - “(b) it is reasonable to expect the person appointed to the Tribunal under clause 5AA or clause 5AB to review the record of that inquiry.
- “(4) For the avoidance of doubt, the power conferred by clauses 5AA and 5AB may be exercised even if the relevant circumstance under subclause (2) arose before the commencement of the Treaty of Waitangi Amendment Act 2003.

**“5AD Chairperson may appoint acting presiding officer**

- “(1) The Chairperson may appoint an acting presiding officer if the presiding officer appointed under clause 5(1)(a) for the purposes of the particular claim or other matter under section 5(1) is temporarily unable to be present for the whole or part of a sitting because of-
- “(a) his or her illness; or
  - “(b) unforeseen circumstances that prevent his or her attendance.

- “(2) Only a member of the Tribunal who is a barrister or solicitor of the High Court of at least 7 years’ standing is qualified for appointment under subclause (1).
- “(3) In making an appointment under this clause, the Chairperson must fix and state the period for which the acting presiding officer is appointed.

**“5AE Conditions applying to appointment of acting presiding officer**

- “(1) The power conferred on the Chairperson by clause 5AD may be exercised only if, in the opinion of the Chairperson, the Tribunal can, with an acting presiding officer, properly continue to exercise its functions to inquire into the particular claim or other matter.
- “(2) A person appointed to be an acting presiding officer under clause 5AD has, while that person is the acting presiding officer, the powers of a presiding officer under this Act.”

---

**Legislative history**

1 April 2003

Divided from Maori Purposes Bill (No 2), Third reading

---