

TREATY OF WAITANGI AMENDMENT BILL

EXPLANATORY NOTE

General Policy Statement

This Bill amends the Treaty of Waitangi Act 1975 to extend the class of persons who may be Chairperson of the Waitangi Tribunal to include a High Court Judge and a retired High Court Judge as well as the Chief Judge of the Maori Land Court.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement of the Bill. The Bill comes into force on the date it receives the Royal assent.

Clause 2 amends section 4 (2) of the principal Act by inserting a new *paragraph (a)* that provides that the Chairperson of the Waitangi Tribunal must be a High Court Judge, a retired High Court Judge, or the Chief Judge of the Maori Land Court and must be appointed by the Governor-General on the recommendation of the Minister of Maori Affairs after consultation with the Minister of Justice. Section 4 (2) (a) now requires the Chairperson of the Waitangi Tribunal to be the Chief Judge of the Maori Land Court. *Clause 2* also inserts a new *subsection (2A)* in section 4 providing that the Chairperson is to be appointed for a term not exceeding 5 years and may from time to time be reappointed.

Clause 3 amends section 4A (1) of the principal Act to make it clear that the term "Judge" includes the Chief Judge of the Maori Land Court.

Clause 4 amends section 4B as a consequence of the amendments to section 4 and section 4A.

Clause 5 provides that the person who holds office as Chairperson at the commencement of this Act, continues in office until that person vacates office as Chief Judge of the Maori Land Court.

Hon Tau Henare

TREATY OF WAITANGI AMENDMENT

ANALYSIS

Title	
1. Short Title and commencement	4. Appointment of Judge not to affect tenure, etc
2. Waitangi Tribunal	5. Continuation in office of Chairperson of Tribunal
3. Deputy Chairperson	

A BILL INTITULED

An Act to amend the Treaty of Waitangi Act 1975

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the Treaty of Waitangi Amendment Act 1998 and is part of the Treaty of Waitangi Act 1975* (“the principal Act”).

(2) This Act comes into force on the date on which this Act receives the Royal assent.

10 **2. Waitangi Tribunal**—(1) Section 4 (2) of the principal Act is amended by repealing paragraph (a) and substituting the following paragraph:

15 “(a) A Judge or retired Judge of the High Court or the Chief Judge of the Maori Land Court, and the Judge is both a member of the Tribunal and its Chairperson, and is appointed by the Governor-General on the recommendation of the Minister of Maori Affairs made after consultation with the Minister of Justice:”.

20 (2) Section 4 of the principal Act is amended by inserting, after subsection (2A), the following subsections:

 “(2B) The Chairperson of the Tribunal appointed under subsection (2) (a) holds office for such term not exceeding 5 years as the Governor-General specifies in the instrument appointing

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that Chairperson, and the Chairperson may from time to time be reappointed.

“(2c) Where the Chairperson of the Tribunal is the Chief Judge of the Maori Land Court and he or she ceases to hold office as Chief Judge during the term of his or her appointment as Chairperson, that person’s appointment as Chairperson also ceases at that time.” 5

3. Deputy Chairperson—Section 4A (1) of the principal Act is amended by inserting, after the words “Judge”, the words “(including the Chief Judge)”. 10

4. Appointment of Judge not to affect tenure, etc—The principal Act is amended by repealing section 4B, and substituting the following section:

“4B. The appointment of a Judge as Chairperson, the deputy of the Chairperson, or as a member of the Tribunal or service by that Judge as Chairperson, the deputy of the Chairperson, or a member of the Tribunal, does not affect the Judge’s tenure of the judicial office or the Judge’s rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as a Judge (including those in relation to superannuation) and, for all purposes, the Judge’s service as a member is service as a Judge.” 15 20

5. Continuation in office of Chairperson of Tribunal—The person who holds office as Chairperson at the commencement of this Act continues in office until such time as that person vacates office as Chief Judge of the Maori Land Court, but may be appointed Chairperson of the Tribunal under section 4 (2) (a) of the principal Act (as substituted by section 2 (1) of this Act). 25