



Explainer: What the Treaty clause review means for Māori and Aotearoa New Zealand

This short guide explains the Government's review of laws that refer to Te Tiriti o Waitangi/The Treaty of Waitangi (Te Tiriti)¹, why many Māori and human rights experts are concerned, and what points can be raised in submissions or public discussion. The review is important because it has a direct impact on areas such as health, education, child welfare, environment, local government, and data, so the effects could be felt in everyday systems rather than only in courts or Parliament.

What is the Government proposing?

The Government recently announced a programme of work to remove or replace references to the principles of Te Tiriti (Treaty clauses) across 19 statutes.² A significant feature of the programme is the proposal that Treaty clauses should impose no higher standard of obligations than to “take into account”.

The Government is proposing:

- Amending references where a Treaty standard is needed to a standard no higher than “take into account”.
- Replacing broad provisions with descriptive provisions.
- Standardising drafting of provisions, including ensuring a reference to both the Treaty of Waitangi and te Tiriti o Waitangi is used in all instances.

The 19 Acts affected are:

- Climate Change Response Act 2002
- Criminal Cases Review Commission Act 2019
- Crown Pastoral Land Act 1998
- Data and Statistics Act 2022
- Digital Identity Services Trust Framework Act 2023
- Education and Training Act 2020

- Energy Efficiency and Conservation Act 2000
- Environment Act 1986
- Exclusive Economic Zone and Continental Shelf Act 2012
- Hazardous Substances and New Organisms Act
- Land Transport Management Act 2003
- Local Government Act 2002
- Mental Health and Wellbeing Commission Act 2020
- Oranga Tamariki Act 1989
- Organic Products and Production Act 2023
- Pae Ora (Healthy Futures) Act 2022
- Plant Variety Rights Act 2022
- Smokefree Environments and Regulated Products Act 1990
- Taumata Arowai – Water Services Regulator Act 2020

A table showing the specific changes proposed to sections of each Act, is listed as Appendix A of the Cabinet paper, which can be viewed [here](#).

Why is the Government doing this?

The Government has stated that the review aims to reduce uncertainty and support compliance. The stated purpose is to ensure that “where it is appropriate to encapsulate te Tiriti o Waitangi/the Treaty of Waitangi or the Treaty relationship in legislation,” provisions are “clear about how the Treaty applies.”

That sounds technical, but it is not just about tidy drafting. Treaty clauses are one of the main ways Parliament tells Ministers, departments, boards, and agencies that they must take Te Tiriti seriously when making decisions. If those clauses are weakened (i.e. by downgrading Treaty standards) or removed, Māori rights and interests may have less practical protection in the daily operation of the law.

Why does this matter?

The review reaches into core systems that affect whānau and communities, including the Pae Ora (Healthy Futures) Act 2022, the Education and Training Act 2020, the Oranga Tamariki Act 1989, climate and environmental laws, local government law, water regulation, and justice and data statutes. In simple terms, this means the review could affect health policy, education decisions, care and protection processes, environmental management, local participation, and access to remedies.

For many Māori, Treaty clauses are not abstract legal wording. They are a key mechanism to remind the state that Te Tiriti creates real obligations of partnership, active protection, respect for rangatiratanga, equity, and redress. Removing those reminders and/or expressly changing statutory directions to agencies from “give effect” to “take into account” will create uncertainty. This may result in agencies misinterpreting the law and adopting decision making processes that do not fulfill their binding legal Te Tiriti and human rights obligations. This could result in the protection and fulfillment of Māori rights and interests being limited.

Is the government engaging with Māori?

The Minister of Justice committed to engage with the National Iwi Chairs Forum prior to a Bill being introduced to Parliament and referred to a select committee for public submissions. However, this was only after key Cabinet decisions on the proposals had been made. This limited engagement does not fulfill the Government’s Te Tiriti and human rights obligations and fails to provide for Māori tino rangatiratanga.

Why are human rights concerns being raised?

Te Tiriti is our founding constitutional agreement and a uniquely Aotearoa New Zealand statement of human rights. It has been described as the promises of peoples “to take the best possible care of each other”.

Unilateral legislative moves that distort, narrow or remove Te Tiriti obligations have significant constitutional implications, breach the Tiriti agreement and human rights, and go against the spirit of care and respect that Te Tiriti embodies. Any consideration of Te Tiriti (or other instruments of constitutional importance) should be founded in a Tiriti and human rights consistent framework, and be co-designed with adequate time and resourcing for Māori participation. This has not been the case here.

Te Tiriti reflects and aligns with human rights including in relation to dignity, equality and equity, participation, belonging, accountable duty-bearers, and effective remedies. This review stems from the coalition agreement where it is one of several commitments to reverse measures claimed to have “eroded the principle of equal citizenship”.³ This type of framing of “equality before the law” suggests that Māori-specific Treaty protections are unfair. But in human rights law, equality does not always mean treating everyone exactly the same. Real equality often needs different protections or decision-making arrangements for groups who have distinct rights and who have been harmed by long-term structural inequality.⁴

The UN Committee on the Elimination of Racial Discrimination recently reviewed New Zealand’s human rights compliance in this area and affirmed the importance and role of Te Tiriti to achieving substantive equality and meeting New Zealand’s human rights obligations.

The Committee urged the Government to uphold its commitment to Te Tiriti as a constitutional framework, counter misinformation and divisive narratives and promote public understanding of its role in advancing harmony and equality.⁵

What do international standards say?

Indigenous peoples' rights including self-determination and participation in decision-making are protected in the core international human rights instruments to which New Zealand is a party, including the International Covenant on Civil and Political Rights and the Convention on the Elimination of all forms of Racial Discrimination.

The United Nations Declaration on the Rights of Indigenous Peoples provides a clear articulation of how existing international human rights norms and principles apply to Indigenous Peoples. It affirms rights to self-determination, participation in decision-making, culture, redress, and free, prior and informed consent in matters affecting indigenous peoples. New Zealand endorsed the United Nations Declaration on the Rights of Indigenous Peoples in 2010.

The UN Committee on the Elimination of Racial Discrimination has also recently called on New Zealand to “uphold its commitment to the Treaty of Waitangi as a constitution framework for equal participation and partnership between Māori and the Crown” and to “preserve and strengthen co-governance and partnership arrangements under the Treaty.” The Committee specifically

raised concerns about the review and urged the Government “to engage Māori consistently with free, prior and informed consent” in any such processes. In plain language, the Committee is warning New Zealand not to roll back Māori rights protections through unilateral state action.

Why do people compare this to the Treaty Principles Bill?

Many people see the review as part of the same wider project as the defeated Treaty Principles Bill. The Tribunal found the Bill was developed in breach of Treaty principles, was not evidence-based, and would have distorted the meaning of Te Tiriti in ways that significantly prejudiced Māori.

The current review raises similar concerns because it also involves the Crown seeking to change how Te Tiriti works in the law, despite Māori opposition and serious warnings from the Tribunal and rights bodies. Even if the way the interpretation of obligations are being altered is different, many critics say the effect is similar: reducing the force of Treaty obligations without Māori agreement. The Tribunal made similar findings in relation to the review in its 2024 report and these findings would equally apply to the current proposals.

The Tribunal also noted the similarities in its report on the Education and Training Act, one of the laws affected by these proposals. The Tribunal noted that:⁶

What is being proposed here has a similar purpose, in that it seeks to dilute and potentially remove from various pieces of legislation statutory expressions of the crown's treaty obligations to Māori. While less of a blatant attempt to redefine the crown's treaty obligations, what cabinet has agreed to unilaterally is similarly unjust and belies the solemn obligations the crown agreed to when it signed the treaty.

What are the biggest risks?

There are at least three major risks.

- Weaker protection for Māori rights in practice, because agencies may consider that they have fewer or lower legal duties to act consistently with Te Tiriti.
- More litigation, because Tiriti-related issues will not disappear; they will shift into harder legal arguments about fairness, discrimination, settlements, statutory purpose, and administrative law.
- Greater racial tension, because framing Māori rights as a threat to equality can deepen division and normalise misinformation about Te Tiriti.

Having a say on the proposals

In its education report noted above, the Waitangi Tribunal noted a pattern of behaviour from the Crown seeking to redefine and minimise its treaty obligations, and that:⁷

The proposed reforms to treaty provisions are out of step with the forward momentum demonstrated by successive Governments in Aotearoa New Zealand in the last 50 years. This momentum has generally been characterised by a desire to honour Aotearoa New Zealand's founding document, not denigrate it, and to work to perfect the treaty partnership...

The Government instead appears to want to relegate the treaty from being central to Aotearoa New Zealand's identity, history, and public life, to a place where it must only be taken 'into account'.

This reversal of progress is also out of step with the views of many New Zealanders. In recent research the Commission found that a majority of New Zealanders view the protection of Te Tiriti and human rights as important, value positive Crown/Māori relationships, and think it's important that the Crown and Maori work together to decide how Te Tiriti is honoured.⁸ When the Treaty Principles Bill risked creating "the worst, most comprehensive breach of the Treaty / te Tiriti in modern times",⁹ hundreds of thousands of New Zealanders spoke up.

The current proposals represent a similar risk to our constitutional foundations, and to the enjoyment of human rights across a range of sectors. While a bill has not yet been introduced, key decisions have been made and the intentions, and risks are clear. People don't need to wait for a bill to take action or to have a say on these proposals.

The Commission is releasing its submission in advance of a bill, both to state our position and to provide information about the human rights basis for this, that others may wish to draw on when considering their own position.

Based on the Commission's human rights and Tiriti analysis, the following points are key points of concern:

1. The Commission opposes the repeal or weakening of Treaty clauses, because these clauses help protect Māori rights and interests in real-life systems.
2. The review is not a neutral drafting exercise, because it may change how much weight decision-makers give to Te Tiriti.
3. In line with human rights and Tiriti standards, Māori must be involved as Treaty partners in any redesign of Treaty clauses, not merely consulted after decisions are already shaped.
4. Point out that the Waitangi Tribunal has already found the review would breach Treaty principles if it proceeded as planned. Changes made to scope and engagement with the National Iwi Chairs Forum after decisions have been made do little to address the Tribunal's concerns.

5. Human rights and Tiriti standards – including recent recommendations by the UN Committee on the Elimination of Racial Discrimination and by the Waitangi Tribunal – support stronger Māori participation and protection of rights.
6. The proposed changes will risk increased litigation, uncertainty, and racial division rather than deliver clarity.

A plain-language message

At its heart, this issue is simple. The Government says it wants clarity, but many Māori, legal experts, the Waitangi Tribunal, the Human Rights Commission, and international bodies say the review risks doing the opposite: weakening protections, reducing accountability, and increasing conflict. Te Tiriti is not a side issue or a drafting inconvenience; it is part of the constitutional and human rights foundation of Aotearoa.

You can find more information to inform your understanding, and empower your ability to articulate your views at our Tiriti toolkit, A Tatou Korero, at www.tikatangata.org.nz.

Background: What has happened to date?

In September 2024 the Government agreed to review references to Treaty principles in legislation. The purpose of the review was “to ensure that where it is appropriate to encapsulate the Treaty or the Treaty relationship in legislation, the provisions are clear as to how the Treaty applies in the context of each legislative regime, to reduce uncertainty and support

better compliance.” Treaty settlement Acts and Acts that are being actively considered by agencies (policy work underway or replacement expected) were excluded from the scope of the review.

At the same time the Treaty Principles Bill (Bill) was progressing through Parliament. The Bill intended to codify three core principles into law:

- The government’s right to govern all citizens equally.
- Universal rights under the law.
- Māori rights limited negotiated Treaty settlements.

Waitangi Tribunal Findings

The Bill was subject to an urgent Waitangi Tribunal Inquiry. The Tribunal found that the substance of the Bill and the process proposed by the Crown for its development was an abuse of its Kawanatanga powers. The Bill did not progress past Select Committee.

- The Waitangi Tribunal found, in the same report, that the Crown’s Treaty clause review policy breached the principles of partnership, active protection, equity, redress, good government, and the article 2 guarantee of rangatiratanga. The Tribunal noted that the policy was predetermined, lacked engagement with Māori, and would result in amendments to or repeals of Treaty clauses, thereby reducing protections for Māori and limiting their ability to realise Treaty rights through the justice system.

Advisory Group report and proposed work programme

In May 2025, the Government agreed to establish an Advisory Group on whether to retain, amend or repeal references to the Treaty principles, and on engagement. Twenty-three Acts were considered as part of this review.

- The Government considered the Advisory Group’s report and has now decided to proceed with a work programme that repeals or amends references to Te Tiriti across 19 Acts administered by 11 agencies.

Additional Resources

Ministry of Justice, “Review of legislation including reference to the principles of the Treaty of Waitangi”, <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/review-of-legislation-including-reference-to-the-principles-of-the-treaty-of-waitangi/>.

Waitangi Tribunal (2024) [Ngā Mātāpono – The Principles: The Interim Report of the Tomokia Ngā Tatau o Matangireia – The Constitutional Kaupapa Inquiry Panel on the Crown’s Treaty Principles Bill and Treaty Clause Review Policies](#) (Wai 3300, Waitangi Tribunal Report, 2024)

Waitangi Tribunal (2025) [Ngā Mātāpono – The Principles: Part III of the Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown’s Treaty Principles Bill and Treaty Clause Review Policies](#) (Wai 3300, Waitangi Tribunal Report, 2025)

Waitangi Tribunal (2026) Hūtia te Rito o te Harakeke, Kei Hea te Kōmako e kō? Interim Stage One Report of the Education and Training Amendment Act and te Mātaiaho Urgent Inquiry (Wai 3553, Waitangi Tribunal Report, 2026)

Cabinet Office. (2025, 9 December). CAB.001.0134: Review of references to the principles of the Treaty of Waitangi in legislation: next steps [Cabinet Paper]. Ministry of Justice. <https://www.justice.govt.nz/assets/Documents/Publications/Providing-certainty-on-legislative-references-to-the-Treaty-of-Waitangi.pdf>.

Committee on the Elimination of Racial Discrimination (2025) Concluding observations on the twenty-third and twenty-fourth periodic reports of New Zealand, CERD/C/NZL/CO/23-24 (5 December 2025)

Te Kāhui Tika Tangata Human Rights Commission, Shadow report to the UN Committee on the Elimination of Racial Discrimination, 20 October 2025.

Te Kāhui Tika Tangata Human Rights Commission, Submission on the Principles of the Treaty of Waitangi Bill, 8 November 2024.

Te Kāhui Tika Tangata Human Rights Commission, Submission on the Regulatory Standards Bill, 23 June 2025.

Footnotes

1. This paper refers to “Treaty clauses” and “Treaty standards” in relation to relevant statute and government materials. It refers to “Te Tiriti” as the constitutional agreement itself, as this is the document signed by the vast majority of Rangatira, and which reflects the agreement reached
2. Cabinet Office. (2026, 23 February). CAB-26-MIN-0048.01: Review of references to the principles of the Treaty of Waitangi in legislation: next steps [Cabinet Minute]. Retrieved 23 June 2026 from <https://www.justice.govt.nz/assets/Documents/Publications/Providing-certainty-on-legislative-references-to-the-Treaty-of-Waitangi.pdf>.

Cabinet Office. (2025, 9 December). CAB.001.0134: Review of references to the principles of the Treaty of Waitangi in legislation: next steps [Cabinet Paper]. Ministry of Justice. Retrieved 23 June 2026 from <https://www.justice.govt.nz/assets/Documents/Publications/Providing-certainty-on-legislative-references-to-the-Treaty-of-Waitangi.pdf>. Hon Paul Goldsmith. (15 May 2026). Ensuring Treaty references are consistent. New Zealand Government. <https://www.beehive.govt.nz/release/ensuring-treaty-references-are-consistent>.

See also: Ministry of Justice, “Review of legislation including reference to the principles of the Treaty of Waitangi”, [justice.govt.nz](https://www.justice.govt.nz).

3. New Zealand National Party and New Zealand First (2023) Coalition Agreement at p 10.
4. For example, see: Committee on the Elimination of Racial Discrimination (2025) General recommendation No. 37 (2024) on equality and freedom from racial discrimination in the enjoyment of the right to health. CERD/C/GC/37 (21 February 2025) at paras 10, 12, 16-17. Committee on the Elimination of Racial Discrimination (2009) General recommendation No. 32 The meaning and scope of special measures in the International Convention on the Elimination of All Forms Racial Discrimination CERD/C/GC/32 at paras 6-8, 14-15. Committee on the Elimination of Racial Discrimination, (5 December 2025), Concluding observations on the twenty-third and twenty-fourth periodic reports of New Zealand, CERD/C/NZL/CO/23-24 at paras 9-10, 25-26, 35-36.
5. Committee on the Elimination of Racial Discrimination, (5 December 2025), Concluding observations on the twenty-third and twenty-fourth periodic reports of New Zealand, CERD/C/NZL/CO/23-24 at paras 35-36.
6. Waitangi Tribunal (2026) Hūtia te Rito o te Harakeke, Kei Hea te Kōma-ko e kō? Interim Stage One Report of the Education and Training Amendment Act and te Mātaiaho Urgent Inquiry (Wai 3553) at 76.
7. Ibid., at 77.
8. Horizon Research (2026) Human rights and Te Tiriti / Treaty issues (December 2025).
9. Waitangi Tribunal (2024) Ngā Mātāpono / The Principles : Part II at p 109.