

International Transparent Treaties Bill

Member's Bill

Explanatory note

General policy statement

This Bill proposes that all international treaties shall be approved by Parliament prior to the treaty being signed.

Currently, Parliament or Select Committees do not have the right to examine and review the terms of international treaties before or during negotiation.

There is need for a higher level of transparency when recent events show a disproportionately small and non-representative group of individuals negotiate and sign secret trade deals on the country's behalf.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

Clause 3 sets out the purpose of the Bill.

Clause 4 is the Interpretation clause and defines terms used in the Bill.

Clause 5 provides that the Bill will bind the Crown.

Part 2

House to approve proposed treaty before binding action taken

Clause 6 requires the Minister to refer to the House any proposed treaty before any binding action is taken in regard to it.

Clause 7 prevents the Crown taking any binding action in relation to the proposed treaty unless the House's approval is obtained.

Clause 8 clarifies that the House's approval is not enough to give legal effect to the treaty or proposed treaty: this must be done by means of an enactment.

Fletcher Tabuteau

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the International Transparent Treaties Act **2017**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1

Preliminary provisions

- 3 Purpose**
The purpose of this Act is to ensure that Parliament approves international treaties before they become binding. 5
- 4 Interpretation**
In this Act, unless the context otherwise requires,—
binding action, in relation to a treaty or proposed treaty, means—
(a) signing the treaty to indicate an intent to be bound by it; or
(b) fully executing it; or 10
(c) ratifying it
House means the House of Representatives
Minister means the Minister of Foreign Affairs and Trade
treaty means an international agreement between subjects of international law (whether states or international organisations), in written form and governed by international law, whether embodied in a single instrument or in 2 or more related instruments and whatever its particular designation; and includes any amendment to a treaty. 15
- 5 Act binds the Crown**
This Act binds the Crown. 20

Part 2

House to approve proposed treaty before binding action taken

- 6 Minister to refer proposed treaty to House**
Before any binding action is taken on behalf of the Crown in relation to a proposed treaty, the Minister must present the text of the proposed treaty to the House to seek its approval of the proposed treaty. 25
- 7 Approval of proposed treaty by House**
Unless the House approves a proposed treaty after it is referred to the House under **section 6**, no binding action may be taken on behalf of the Crown in relation to the proposed treaty. 30
- 8 Incorporation of treaty into New Zealand law**
(1) No treaty or proposed treaty has the force of law in New Zealand by reason only of the approval of the proposed treaty by the House after it is referred to the House under **section 6**.

- (2) A treaty or proposed treaty referred to the House under **section 6** and approved by the House has the force of law in New Zealand only when it is incorporated into New Zealand law by an enactment.