



ANALYSIS

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1962, No. 37

An Act to provide for the protection of historic articles and to control their removal from New Zealand

[5 December 1962]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Historic Articles Act 1962.

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-three.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Historic article” means—

(a) Any chattel, artifact, carving, object, or thing which relates to the history, art, culture, or economy of the Maori or other Polynesian inhabitants of New Zealand and which was or appears to have been

manufactured in New Zealand by any such inhabitant, or brought to New Zealand by an ancestor of any such inhabitant, more than sixty years before the date of the commencement of this Act; and

(b) Any book, diary, letter, document, paper, record, or other written matter (whether in manuscript or printed form)—

(i) Which relates to New Zealand and is of historical, scientific, or national value or importance; and

(ii) Which is more than ninety years old; and

(iii) Of which, in the case of a book first printed and published in New Zealand, no copy is in the custody of the General Assembly library or of any library maintained by any Government Department, local authority, public body, University, or school or of a library of any other prescribed class; and

(c) Any type specimen of any animal, plant or mineral existing or formerly existing in New Zealand:

“Minister” means the Minister of Internal Affairs:

“Secretary” means the Secretary for Internal Affairs:

“Type specimen” means the specimen on which is based an original published description of the animal, plant, or mineral of which the specimen serves as an example.

3. Act to bind Crown—This Act shall bind the Crown.

4. Minister may acquire historic articles—(1) The Minister may purchase or otherwise acquire, or may accept by way of gift, bequest, or otherwise, any historic article.

(2) Any historic article acquired under this section shall be kept in safe custody in accordance with the directions of the Minister.

5. Restrictions on export of historic articles—(1) It shall not be lawful after the commencement of this Act for any person to remove or attempt to remove any historic article from New Zealand, knowing it to be an historic article, otherwise than pursuant to the authority and in conformity with the terms and conditions of a written certificate of permission given by the Minister under this Act.

(2) Every person who contrary to the provisions of this section removes or attempts to remove any article from New Zealand, knowing it to be an historic article, commits an offence, and shall be liable on summary conviction to a fine not exceeding two hundred pounds.

(3) Nothing in this section shall apply to any historic article lawfully taken and normally kept outside New Zealand but temporarily within New Zealand.

6. Application for permission—(1) Every application for permission to remove an historic article from New Zealand shall be in the prescribed form and shall be forwarded to the Secretary who shall transmit it to the Minister.

(2) The Minister, in considering any application under this section, shall, in respect of the article sought to be removed, have regard to:

- (a) Its historical, scientific, cultural, or national importance:
- (b) Its rarity:
- (c) The extent to which similar articles are held in public ownership in New Zealand:
- (d) The probable effect of its removal on historical or scientific study or research in New Zealand:
- (e) Any other matters which appear to him to be relevant or which may be prescribed by regulations under this Act.

(3) After having regard to the matters referred to in subsection (2) of this section and after making such inquiries and investigations and seeking such expert opinion as he thinks fit, the Minister may—

- (a) Refuse his permission if he is satisfied that the removal of the historic article would be to the serious detriment of historical or scientific study or research in New Zealand or would be contrary to the public interest; or
- (b) Grant his permission either unconditionally or subject to such terms and conditions as may be imposed by him in writing.

(4) Where any historic article in respect of which an application is made under this section is sought to be removed from New Zealand for the purposes of sale, the Minister, if he has not made a decision under subsection (3) of this section, shall cause to be published in the *Gazette* a notice containing particulars of the historic article and a statement to the effect that offers for its purchase, on conditions prescribed in the notice, are invited.

(5) Where no offer to purchase the historic article on the conditions prescribed in the notice is accepted by the owner within the period limited by the notice (which shall not be more than six months after the date of the publication of the notice), the Minister shall grant his permission, in accordance with paragraph (b) of subsection (3) of this section, to the removal from New Zealand of the historic article.

7. Certificate of permission—Where permission is granted by the Minister to the removal of any historic article from New Zealand, a certificate in the prescribed form shall be issued to the applicant under the hand of the Secretary or of any person authorised in that behalf by the Secretary.

8. Conditions imposed by Minister—(1) Without prejudice to the generality of the authority given under this Act to impose terms and conditions, the Minister may, when granting permission to remove an historic article from New Zealand, impose conditions—

(a) Requiring the owner to permit the historic article to be copied by photography, cast, or otherwise in such manner, in such numbers, and by such person as the Minister may direct:

(b) That the owner of the historic article shall deliver it to such person as the Minister may direct for the purpose of being packed and dispatched from New Zealand, at the cost and risk of the owner, to the address specified by the owner:

(c) Prescribed by regulations under this Act.

(2) Every copy made pursuant to paragraph (a) of subsection (1) of this section shall, subject to the provisions of the Copyright Act 1962, be the property of the Crown and shall be kept in safe custody in accordance with the directions of the Minister.

9. Appeals from Minister—(1) Where the Minister has refused his permission to the removal of any historic article or has granted any such permission subject to terms and conditions, the applicant for the permission may appeal against the decision of the Minister on the grounds that, having regard to the provisions of this Act, the decision of the Minister was not reasonably arrived at.

(2) For the purposes of hearing any such appeal the Governor-General in Council may from time to time appoint a Committee of Inquiry consisting of a barrister or solicitor

of the Supreme Court of not less than seven years' practice, who shall be Chairman, and two other persons having a special knowledge of the class of articles to which the historic article to which the appeal relates belongs, of whom one shall be nominated by the Minister and the other by the appellant.

(3) Any appeal under this section shall be in the prescribed form and shall be forwarded to the Secretary within twenty-eight days after the date when the decision of the Minister is made known to the appellant.

(4) Any Committee of Inquiry appointed under this section may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the matters before it, whether or not the same would be otherwise admissible in a Court of law.

(5) Any such Committee of Inquiry shall within the scope of its jurisdiction be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act shall apply accordingly.

10. Hearing and determination of appeals—(1) At the hearing of any appeal the Committee of Inquiry shall hear all the evidence tendered and all representations made by or on behalf of the appellant and other persons which it deems relevant to the subject-matter of the appeal, save that at any time during the hearing it may decide not to receive further evidence or representations.

(2) In its determination of any appeal the Committee of Inquiry, whose decision shall be final, may confirm, modify, or reverse the decision appealed against.

(3) The Committee of Inquiry shall forward its decision to the Secretary for transmission to the Minister who shall take such action as may be necessary to give effect to any decision of the Committee of Inquiry under this section.

(4) The Committee of Inquiry shall determine its own procedure.

11. Fees and travelling allowances—(1) Any Committee of Inquiry appointed under this Act is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid to any such Committee of Inquiry remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

12. Application of Customs Act 1913—(1) Subject to the provisions of this Act, the provisions of the Customs Act 1913 shall apply to any historic article the removal from New Zealand of which is prohibited by this Act in all respects as if the article were an article the export of which had been prohibited pursuant to an Order in Council under section 47 of the Customs Act 1913.

(2) An historic article knowingly exported or attempted to be exported in breach of this Act shall be forfeited to Her Majesty and, subject to the provisions of this Act, the provisions of the Customs Act 1913 relating to forfeited goods shall apply to any such article in the same manner as they apply to goods forfeited under the Customs Act 1913.

(3) Where any historic article is forfeited to Her Majesty pursuant to this section, it shall be delivered to the Minister and retained in safe custody in accordance with his directions:

Provided that the Minister may, in his discretion, direct that the article be returned to the person who was the owner thereof immediately before forfeiture subject to such conditions (if any) as the Minister may think fit to impose.

13. Exemption from gift duties—Notwithstanding the provisions of the Estate and Gift Duties Act 1955, no gift duty shall be payable in respect of any gift of an historic article to the Minister on behalf of the Crown or to any library, museum, or other public institution for the benefit of the public and no such gift shall be included in the dutiable estate of the donor, notwithstanding that he may die within three years after having made the gift.

14. Expenses of administration—All expenses incurred in the administration of this Act shall be paid out of money from time to time appropriated by Parliament for the purpose.

15. Saving of other enactments—The provisions of this Act are in addition to and not in substitution for the provisions of any other enactment but, except where this Act otherwise provides, nothing in this Act shall derogate from any

provision of any other enactment. Compliance with the provisions of any other enactment shall not confer any relief or exemption from liability under this Act but no person shall be convicted of any offence under this Act in respect of the same matter for which he has been convicted of an offence under any other enactment.

16. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes—

- (a) Prescribing rules relating to the custody of historic articles acquired by the Minister pursuant to this Act:
- (b) Prescribing forms required for the purposes of this Act:
- (c) Prescribing fees payable under this Act:
- (d) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

17. Repeal—The Maori Antiquities Act 1908 is hereby repealed.

This Act is administered in the Department of Internal Affairs.
