



## ANALYSIS

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**An Act—**

- (a) To promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand; and**
- (b) To continue the New Zealand Historic Places Trust and the New Zealand Historic Places Board of Trustees with the functions and powers necessary for the full and proper attainment of the objectives of this Act; and**
- (c) To establish the Maori Heritage Council; and**
- (d) To amend and consolidate the Historic Places Act 1980**

[17 May 1993]

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

**1. Short Title and commencement—**(1) This Act may be cited as the Historic Places Act 1993.

(2) This Act shall come into force on the 1st day of July 1993.

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

“Archaeological site” means any place in New Zealand that—

(a) Either—

(i) Was associated with human activity that occurred before 1900; or

(ii) Is the site of the wreck of any vessel where that wreck occurred before 1900; and

(b) Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand:

“Board” means the New Zealand Historic Places Board of Trustees continued by section 40 of this Act:

“Conservation” includes the processes of preserving, maintaining, and restoring historic places and historic areas so as to safeguard their historical and cultural values:

“Council” means the Maori Heritage Council established by section 84 (1) of this Act:

“Director-General” means the Director-General of Conservation:

“Financial year” means a period of 12 months commencing on the 1st day of July and ending with the 30th day of June:

“Heritage order” has the same meaning as in the Resource Management Act 1991:

“Historic area” means an area of land that—

- (a) Contains an inter-related group of historic places; and
- (b) Forms part of the historical and cultural heritage of New Zealand; and
- (c) Lies within the territorial limits of New Zealand:

“Historic place”—

(a) Means—

- (i) Any land (including an archaeological site);  
or
- (ii) Any building or structure (including part of a building or structure); or
- (iii) Any combination of land and a building or structure,—

that forms part of the historical and cultural heritage of New Zealand and lies within the territorial limits of New Zealand; and

(b) Includes anything that is in or fixed to such land:

“Holder of an authority” means the person to whom an authority is granted under section 14 of this Act; and “holder” has a corresponding meaning:

“Land” includes land covered by water and the air space above land:

“Local authority” means a regional council or territorial authority:

“Maori Heritage Council” means the Maori Heritage Council established by section 84 of this Act:

“Minister” means the Minister of Conservation:

“Occupier”—

(a) Means the inhabitant occupier of any property; and

(b) In relation to any rateable property within the meaning of the Rating Powers Act 1988, includes any occupier of the property within the meaning of that Act:

“Planning Tribunal” means the Planning Tribunal continued by section 247 of the Resource Management Act 1991:

“Public notice” means a notice published in—

(a) One or more daily newspapers circulating in the region or district in which the historic place, historic area, wahi tapu, or wahi tapu area concerned is situated; or

(b) One or more other newspapers that have at least an equivalent circulation in that region or district to the daily newspapers circulating in that region or district,—

together with such other public notice (if any) as the Trust thinks desirable in the circumstances; and “publicly notify” and “public notification” have corresponding meanings:

“Regional council” has the same meaning as in the Local Government Act 1974; and includes the Chatham Islands County Council:

“Register” means the register established under section 22 of this Act:

“Registered interest” means any registered estate or interest in land under the Land Transfer Act 1952; and includes any mortgage or charge registered under that Act:

“Registered place” means a place registered under Part II of this Act:

“Territorial authority” has the same meaning as in the Local Government Act 1974:

“Trust” means the New Zealand Historic Places Trust continued by section 38 of this Act:

“Wahi tapu” means a place sacred to Maori in the traditional, spiritual, religious, ritual, or mythological sense:

“Wahi tapu area” means an area of land that contains one or more wahi tapu:

“Working day” means any day except—

(a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and

(b) A day in the period commencing with the 20th day of December in any year and ending with the 15th day of January in the following year.

**3. Act to bind the Crown**—This Act shall bind the Crown.  
Cf. 1980, No. 16, s. 3

**4. Purpose and principles**—(1) The purpose of this Act is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.

(2) In achieving the purpose of this Act, all persons exercising functions and powers under it shall recognise—

- (a) The principle that historic places have lasting value in their own right and provide evidence of the origins of New Zealand's distinct society; and
- (b) The principle that the identification, protection, preservation, and conservation of New Zealand's historical and cultural heritage should—
  - (i) Take account of all relevant cultural values, knowledge, and disciplines; and
  - (ii) Take account of material of cultural heritage value and involve the least possible alteration or loss of it; and
  - (iii) Safeguard the options of present and future generations; and
  - (iv) Be fully researched, documented, and recorded, where culturally appropriate; and
- (c) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.

## PART I

### PROTECTION OF HISTORIC PLACES

#### *Heritage Orders*

**5. Heritage orders**—Without limiting any of the provisions of the Resource Management Act 1991, the Trust or the Minister may give notice to the relevant territorial authority of a requirement for a heritage order in accordance with that Act to protect—

- (a) The whole or part of any historic place, historic area, wahi tapu, or wahi tapu area; and
- (b) Such area of land (if any) surrounding that historic place, historic area, wahi tapu, or wahi tapu area as is reasonably necessary for the purpose of ensuring the protection and reasonable enjoyment of it.

#### *Heritage Covenants*

**6. Heritage covenants**—(1) Subject to subsection (5) of this section, the Trust may negotiate and agree with the owner or lessee or licensee of any historic place, historic area, wahi tapu, or wahi tapu area for the execution of a heritage covenant to provide for the protection, conservation, and maintenance of that place, area, or wahi tapu.

(2) Subject to subsection (5) of this section, a heritage covenant may include such terms and conditions as the parties think fit, including provision for public access.

(3) Without limiting subsection (2) of this section, a heritage covenant may be expressed to have effect in perpetuity or for any specified term, or may be expressed to terminate upon the happening of a specific event or events.

(4) Subject to subsection (5) of this section, any heritage covenant may be varied or cancelled by agreement between the owner, lessee, or licensee (as the case may be) of the land for the time being and the Trust.

(5) The consent of the owner of the land shall be required where—

(a) Any lessee or licensee of any land proposes to enter into a heritage covenant with the Trust; or

(b) Any lessee or licensee of any land and the Trust propose to vary or cancel a heritage covenant under subsection (4) of this section.

(6) In the case of the proposed execution of a heritage covenant or a variation of such a covenant, any consent given under subsection (5) of this section may be given subject to the inclusion in the heritage covenant or variation of the heritage covenant of any additional provisions or modified provisions, or to the deletion of such provisions, as the owner giving the consent considers necessary.

(7) For the purposes of this section and section 8 of this Act,—

(a) The term “owner” includes the owner of the fee simple and any lessee or licensee from whom a lessee or licensee derives title; and

(b) The term “land” means the land to which the heritage covenant relates; and includes, in the case of a building or structure that is the subject or intended subject of a heritage covenant, the land on which that building or structure is located.

(8) Nothing in this Act shall require the Trust to negotiate or agree with any person to enter into or execute any heritage covenant.

(9) Nothing in section 126G of the Property Law Act 1952 applies to any heritage covenant entered into in accordance with this Act.

**7. Effect of heritage covenants—**(1) Every heritage covenant shall have effect according to its tenor but subject to the provisions of this Act.

(2) For the avoidance of doubt, it is hereby declared that—

(a) The execution of a heritage covenant in respect of a historic place, historic area, wahi tapu, or wahi tapu

area shall not prevent the Trust from exercising any powers in the Resource Management Act 1991 or in this Act, in relation to that place, area, or wahi tapu; and

- (b) Nothing in any heritage covenant shall permit or allow any person to carry out any act contrary to the provisions of this Act.

**8. District Land Registrar to register heritage covenants**—(1) Every heritage covenant—

- (a) Shall be deemed to be an instrument creating an interest in the land within the meaning of section 62 of the Land Transfer Act 1952 and may be registered accordingly; and
- (b) Shall be deemed to be a covenant running with the land when registered under the Land Transfer Act 1952 and shall bind all subsequent owners of the land.

(2) Where a heritage covenant has been registered under the Land Transfer Act 1952 and any provision in that covenant has been varied or cancelled by any agreement under section 6 (4) of this Act or has expired, the District Land Registrar shall, if he or she is satisfied that any provision in that covenant has been so varied or cancelled or has expired, make an entry in the register and on any relevant instrument of title noting that the heritage covenant has been varied or cancelled or has expired, and the provisions of the heritage covenant shall take effect as so varied or cease to have any effect, as the case may be.

(3) Where the burden of a heritage covenant applies to land comprising part of the land in a certificate of title, the District Land Registrar may require the deposit of a plan in accordance with section 167 of the Land Transfer Act 1952.

*Archaeological Sites*

**9. Application of sections 10 to 20**—(1) Sections 10 to 20 of this Act shall apply to every archaeological site, whether or not the site is entered on the Register.

(2) Sections 10 to 20 of this Act shall also apply to any site that is not referred to in paragraph (a) of the definition of the term “archaeological site” in section 2 of this Act but is declared by the Trust on reasonable grounds, by notice in the *Gazette* and by public notice, to be a site that is or may be able, through investigation by archaeological methods, to provide significant evidence relating to the historical and cultural heritage of New Zealand.

(3) As soon as practicable after a declaration is notified in the *Gazette* under subsection (2) of this section, the Trust shall serve on the owner or occupier affected a notice in writing setting out the terms of the declaration.

**10. Archaeological sites not to be destroyed, damaged, or modified**—(1) Except pursuant to an authority granted under section 14 of this Act, it shall not be lawful for any person to destroy, damage, or modify, or cause to be destroyed, damaged, or modified, the whole or any part of any archaeological site, knowing or having reasonable cause to suspect that it is an archaeological site.

(2) Except as provided in section 15 or in section 18 of this Act, it shall not be lawful for any person to carry out any archaeological investigation that may destroy, damage, or modify any archaeological site.

**11. Application to destroy, damage, or modify archaeological site**—(1) Any person wanting to destroy, damage, or modify the whole or any part of any archaeological site shall first apply to the Trust for an authority to do so.

(2) An application for an authority to destroy, damage, or modify an archaeological site shall include the following information:

- (a) A description of the activity for which the authority is sought and its location:
- (b) A description of the archaeological site over which authority is sought to modify:
- (c) An assessment of any archaeological, Maori, or other relevant values and the effect of the proposal on those values:
- (d) A statement as to whether consultation with tangata whenua and any other person likely to be affected—
  - (i) Has taken place, in which case details of such consultation shall be provided, including the identity of the parties involved and the nature of the views expressed; or
  - (ii) Has not taken place, in which case reasons as to why such consultation has not taken place shall be provided:
- (e) The consent of the owner if the owner is not the applicant.

(3) The Trust may, by written notice to the applicant, require the applicant to provide further information relating to the application.

**12. Application for general authority to destroy, damage, or modify archaeological site**—(1) Any person wanting to destroy, damage, or modify the whole or any part of—

- (a) All archaeological sites within a specified area of land; or
- (b) Any class of archaeological site within a specified area of land,—

may, instead of making an application under section 11 of this Act, make an application under this section for the grant of a general authority under section 14 of this Act.

(2) Subsection (1) of this section applies notwithstanding that some or all of the sites or possible sites within the specified area of land have not been recorded or otherwise previously identified.

(3) Sections 11 (2), 11 (3), and 14 of this Act shall apply with the necessary modifications to an application for a general authority made under subsection (1) of this section.

**13. Investigation where no authority application lodged**—Where the Trust has reasonable cause to believe that work that will destroy, damage, or modify any archaeological site will proceed and where no application for an authority has been made under section 11 or section 12 of this Act, the Trust may—

- (a) Carry out an investigation for the purpose of obtaining information on whether or not an archaeological site exists and whether an authority is necessary; and
- (b) Recover an amount not exceeding the cost of such investigation from the owner or occupier of the land on which there is believed to be an archaeological site or from any person carrying out the work.

**14. Powers of Trust in relation to authority application**—(1) On receipt of an application for an authority to destroy, damage, or modify any archaeological site or sites under section 11 or section 12 of this Act, the Trust may, subject to subsection (3) of this section, exercise one or more of the following powers:

- (a) Grant an authority in whole or in part, subject to such conditions as it sees fit;
- (b) Decline to grant an authority in whole or in part;
- (c) Exercise all or any of the powers specified in any of sections 5, 16, 17, 18, and 21 of this Act.

(2) Where an application is made for a general authority, under section 12 of this Act, the Trust shall grant that

application only if it is satisfied on reasonable grounds that there is no particular benefit to justify the likely cost of locating and identifying—

(a) Every individual site present within the specified area of land; or

(b) Every individual site of the class to which the application relates that is present within that area.

(3) Where an application made under subsection (2) of this section relates to a site or sites that the Trust considers to be a site of Maori interest, the Trust shall refer that application to the Maori Heritage Council to make such recommendations as the Council may consider appropriate, following such consultation as the Council considers appropriate.

(4) The Trust shall make its decision within 3 months after an application in respect of a site is lodged with the Trust under section 11 or section 12 of this Act, unless the Trust, by written notice to the applicant, requires the applicant to provide further information relating to the application.

(5) Subject to subsections (6) and (7) of this section or where the Trust requires further information under subsection (4) of this section, the Trust may extend the time period specified in subsection (4) of this section.

(6) When exercising its power under subsection (5) of this section, the Trust shall have regard to—

(a) The interests of any person who, in its opinion, may be directly affected by the extension; and

(b) The necessity to achieve adequate assessment of the application.

(7) The extension of a time period under subsection (5) of this section shall not have the effect of more than doubling the maximum time period specified in subsection (4) of this section.

(8) If the Trust extends the time period specified under subsection (4) of this section, it shall without delay notify every person who, in its opinion, is directly affected by the extension of the time period of—

(a) The reasons for the decision; and

(b) The new time limit within which any action must be completed.

(9) The Trust shall advise the appropriate local authority of any decision made under subsection (1) of this section.

(10) An authority granted under subsection (1) of this section shall be deemed to lapse on the expiry of 2 years after the date of the granting of that authority.

**15. Conditions of authority**—(1) Without limiting the powers of the Trust to impose conditions when granting an authority under section 14 (1) of this Act, the Trust, if satisfied on reasonable grounds that an archaeological investigation in that case is likely to provide significant information as to the historical and cultural heritage of New Zealand, may grant an authority to destroy, damage, or modify a site or sites subject to a condition requiring that an archaeological investigation of the site be carried out by or on behalf of the Trust.

(2) Where the Trust has imposed a condition of a kind referred to in subsection (1) of this section, then, unless the Trust determines otherwise in any particular case, the authority shall not be exercised by the holder until the Trust has been advised in writing by that holder of the completion of the on-site archaeological investigation, and either—

(a) Twenty working days have elapsed after receipt of that advice; or

(b) A decision made by the Trust under section 16 of this Act in respect of a review of the conditions of an authority is notified to the holder of that authority within 20 working days of the receipt of that advice,—

whichever is the later.

(3) Notwithstanding subsection (2) of this section, where the Trust imposes a condition of a kind referred to in subsection (1) of this section, no person shall exercise any authority to destroy, damage, or modify the site unless the person has paid to the Trust an amount equal to the cost of carrying out the investigation, although in the case of hardship or other special circumstances, the Trust may, at its discretion, require this amount to be paid in instalments, reduce the amount payable, or waive payment.

(4) Nothing in subsection (3) of this section applies where the Trust has given its consent under section 17 of this Act to enable the holder of an authority to engage an approved person to carry out the work required for the purposes of the investigation.

**16. Review of conditions of authority**—(1) At any time while an authority granted under section 14 of this Act is in force,—

(a) The holder of an authority may apply to the Trust for the change or cancellation of any condition of the authority; or

(b) The Trust may initiate a review of all or any of the conditions of the authority and, following that review, may change or cancel any of those conditions.

(2) An application made under subsection (1)(a) of this section shall specify—

(a) Details of the authority; and

(b) The area of land involved; and

(c) The condition or conditions in respect of which a variation is sought; and

(d) The reasons for the application.

(3) The Trust may decline to consider an application under subsection (1)(a) of this section if the application does not comply with subsection (2) of this section, in which event it shall advise the applicant.

(4) On receipt of an application for review under subsection (1)(a) of this section, the Trust shall consider the application in the same manner as if it were an application for an authority and shall make a decision on the application; and the provisions of subsection (1) and subsections (6) to (10) of section 14 of this Act shall apply with the necessary modifications.

(5) Where the Trust initiates a review of the conditions of an authority under subsection (1)(b) of this section, the following provisions shall apply:

(a) The Trust shall serve a notice on the holder of the authority of its intention to review all or specified conditions of the authority:

(b) The holder of the authority may, within 20 working days after the date of service of a notice under paragraph (a) of this subsection or within such further time as may be allowed by the Trust, make written submissions concerning the review of the conditions specified in the notice:

(c) The Trust shall consider any written submissions before making a decision upon the review:

(d) The Trust shall make a decision on the review within 20 working days after the last date for receiving submissions.

### **17. Rights and duties under authority applications—**

(1) With the prior consent in writing of the Trust, the holder of an authority granted under section 14 of this Act may engage any person approved by the Trust to carry out any work required as a condition of the authority and nothing in section 15(3) of this Act shall thereafter apply.

(2) The Trust may refuse consent under subsection (1) of this section if not satisfied that the person proposed by the holder of the authority to carry out the work—

- (a) Has sufficient access to appropriate institutional and professional resources; or
- (b) Is sufficiently skilled and competent and is in every other way capable of ensuring the proposed work is carried out satisfactorily.

(3) In every case, the Trust or a person approved by the Trust for the purpose shall, to the satisfaction of the Trust, compile a report on the work done and furnish a copy of it as soon as practicable to—

- (a) The holder of the authority and to the owner, if that person is not the holder; and
- (b) The Trust, if it has not carried out the work.

**18. Investigation of archaeological sites—**(1) For any purpose consistent with this Act, but subject to subsections (2) and (4) of this section, the Trust may—

- (a) Carry out an archaeological investigation of any archaeological site:
- (b) Authorise in writing any person to carry out an archaeological investigation of any such site subject to such conditions as it thinks fit to impose.

(2) Any person may apply to the Trust for an authority under subsection (1) (b) of this section and the Trust, in considering the application, shall take into account the purposes of the investigation, the competency of the person, and the adequacy of the institutional and professional resources available to that person to enable the investigation to be satisfactorily carried out.

(3) No archaeological investigation shall be carried out under this section except with the consent of the owner and occupier of the land on which the site is situated and, where the Maori Heritage Council considers it appropriate, with the consent of such iwi authority or other body as the Maori Heritage Council considers appropriate.

(4) All archaeological work done under subsection (1) of this section shall conform to accepted archaeological practice and the land shall be returned to its former state as near as possible, unless otherwise agreed with the owner.

(5) Nothing in this section applies to an investigation required as a condition of an authority imposed under section 15 of this Act.

**19. Advice to Secretary for Internal Affairs**—The Trust shall, within 20 working days after granting an authority under section 14 or section 18 of this Act, give notice in writing of the authority either to the Secretary for Internal Affairs or to the nearest public museum (within the meaning of the Antiquities Act 1975).

*Rights of Appeal*

**20. Rights of appeal**—(1) Any person who is directly affected by any declaration, decision, condition, or review of any decision made or imposed by the Trust under—

- (a) Section 9 of this Act (which relates to the Trust's power to declare that a site is or may be able to provide significant evidence relating to the history of New Zealand); or
  - (b) Section 13 of this Act (which relates to the Trust's power to carry out an investigation where no authority application has been lodged); or
  - (c) Paragraph (a) or paragraph (b) of section 14 (1) of this Act (which relates to the Trust's powers in respect of an authority application); or
  - (d) Section 15 of this Act (which relates to the Trust's power to grant an authority subject to the condition that an archaeological investigation be carried out); or
  - (e) Section 16 of this Act (which relates to the Trust's power to review the conditions of an authority); or
  - (f) Section 17 of this Act (which relates to the Trust's power to consent to the holder of an authority engaging a person to carry out work under the authority); or
  - (g) Section 18 of this Act (which relates to the Trust's powers to investigate archaeological sites)—
- may appeal against that declaration, decision, condition, or review to the Planning Tribunal.

(2) Notice of appeal under this section shall—

- (a) State the reasons for the appeal and the relief sought; and
  - (b) State any matters that regulations made under the Resource Management Act 1991 require to be stated in the case of an appeal under section 120 of that Act; and
  - (c) Be lodged with the Planning Tribunal and served on the Trust within 15 working days of receiving any decision of the Trust to which subsection (1) of this section relates.
- (3) The appellant shall ensure that a copy of the notice of appeal is served on the applicant or owner concerned (where

that person is not the appellant) within 5 working days of the notice being lodged with the Planning Tribunal.

(4) Without limiting the powers of the Tribunal under the Resource Management Act 1991, but subject to subsection (6) of this section, in considering an appeal under this section the Tribunal may confirm or reverse a decision appealed against or modify the decision in such manner as the Tribunal thinks fit.

(5) Subject to subsections (2), (3), and (6) of this section, every appeal shall be made, heard, and determined by the Planning Tribunal in the manner prescribed by the Resource Management Act 1991 and the regulations made under that Act.

(6) In determining an appeal under this section in respect of a decision made under paragraph (a) or paragraph (b) of section 14 (1) of this Act, the Tribunal shall have regard to any matter it considers appropriate, including (but not limited to)—

- (a) The historical and cultural heritage value of the site and any other factors justifying the protection of the site:
- (b) The purpose and principles of this Act:
- (c) The extent to which protection of the site prevents or restricts the existing or reasonable future use of the site for any lawful purpose:
- (d) The interests of any person directly affected by the decision of the Trust.

(7) Nothing in this section limits or affects the powers of the Trust to issue a requirement for a heritage order.

#### *Rights of Entry*

**21. Rights of entry**—(1) Any employee of the Trust or any person authorised by the Trust, with such assistants as that employee or person thinks fit, may enter upon any land for the purposes of—

- (a) Carrying out an investigation under section 13 of this Act to determine whether or not there is an archaeological site upon the land and whether or not an authority is necessary:
- (b) Obtaining information as to the significance of an archaeological site in order to decide whether or not to impose a condition on an authority under section 15 (1) of this Act:
- (c) Locating, recording, or inspecting any historic place;— and the owner or applicant or occupier shall not obstruct the carrying out of any investigation, locating, recording, or inspection.

(2) When an application is granted under section 14 (1) of this Act subject to conditions of the kind referred to in section 15 (1) of this Act, any employee of the Trust or any person authorised by the Trust, with such assistants as that employee or person thinks fit, may enter upon any land for the purposes of carrying out an archaeological investigation of the site, and the owner or applicant shall not obstruct the carrying out of that archaeological investigation.

(3) The power conferred by subsections (1) and (2) of this section shall include a power to locate, record, or inspect any historic place and to do all things as may be reasonably necessary for such locating, recording, or inspecting, including affixing any pegs, marks, or poles.

(4) The power to enter upon land conferred by subsections (1) and (2) of this section shall be subject to the following conditions:

- (a) Entry to the land shall be made only by an employee of the Trust or person authorised by it in writing:
- (b) Reasonable notice of the intention to enter shall be given:
- (c) Entry shall be made at reasonable times:
- (d) The person entering shall carry with him or her, and shall produce on initial entry and subsequently if required to do so, evidence of his or her authority and identity:
- (e) If the owner or occupier is not present at the time of entry, the person exercising the power of entry shall leave a notice of the entry in a place where it can easily be seen by the occupier.

(5) Nothing in this section shall authorise any employee of the Trust or person authorised by it to enter any dwellinghouse unless a District Court Judge who is satisfied on oath that it is reasonably necessary for an employee of the Trust, or a person authorised by it, to enter a dwellinghouse empowers by warrant any employee of the Trust, or any person authorised by it, to enter that place, but no such warrant shall continue in force for more than 14 days from the date thereof.

## PART II

### REGISTRATION OF HISTORIC PLACES, HISTORIC AREAS, WAHI TAPU, AND WAHI TAPU AREAS

**22. Register of historic places, historic areas, wahi tapu, and wahi tapu areas—**(1) The Trust shall establish and maintain a register of historic places, historic areas, wahi tapu, and wahi tapu areas.

(2) The purposes of the Register shall be as follows:

- (a) To inform members of the public about historic places, historic areas, wahi tapu, and wahi tapu areas:
  - (b) To notify owners of historic places, historic areas, wahi tapu, and wahi tapu areas where necessary for the purposes of this Act:
  - (c) To assist historic places, historic areas, wahi tapu, and wahi tapu areas to be protected under the Resource Management Act 1991.
- (3) The Register shall consist of the following:
- (a) A part relating to historic places, comprising the following categories:
    - (i) *Category I*: Places of special or outstanding historical or cultural heritage significance or value:
    - (ii) *Category II*: Places of historical or cultural heritage significance or value:
  - (b) A part relating to historic areas:
  - (c) A part relating to wahi tapu:
  - (d) A part relating to wahi tapu areas.
- (4) The entry in and removal from the Register of details of historic places, historic areas, wahi tapu, and wahi tapu areas shall be in accordance with this Part of this Act.
- (5) An entry in the Register in respect of any historic place may include any chattel or object or class of chattels or objects—
- (a) Situated in or on that place; and
  - (b) Considered by the Trust to contribute to the significance of that place; and
  - (c) Nominated by the Trust.

**23. Criteria for registration of historic places and historic areas**—(1) The Trust may enter any historic place or historic area in the Register if the place or area possesses aesthetic, archaeological, architectural, cultural, historical, scientific, social, spiritual, technological, or traditional significance or value.

(2) The Trust may assign Category I status or Category II status to any historic place, having regard to any of the following criteria:

- (a) The extent to which the place reflects important or representative aspects of New Zealand history:
- (b) The association of the place with events, persons, or ideas of importance in New Zealand history:
- (c) The potential of the place to provide knowledge of New Zealand history:
- (d) The importance of the place to the tangata whenua:

- (e) The community association with, or public esteem for, the place:
- (f) The potential of the place for public education:
- (g) The technical accomplishment or value, or design of the place:
- (h) The symbolic or commemorative value of the place:
- (i) The importance of identifying historic places known to date from early periods of New Zealand settlement:
- (j) The importance of identifying rare types of historic places:
- (k) The extent to which the place forms part of a wider historical and cultural complex or historical and cultural landscape:
- (l) Such additional criteria for registration of wahi tapu, wahi tapu areas, historic places, and historic areas of Maori interest as may be prescribed in regulations made under this Act:
- (m) Such additional criteria not inconsistent with those in paragraphs (a) to (k) of this subsection for the purpose of assigning Category I or Category II status to any historic place, and for the purpose of registration of any historic area, as may be prescribed in regulations made under this Act.

**24. Provisions relating to historic places—**(1) The registration of any historic place may be proposed by the Trust or by any other person.

(2) Every proposal for registration—

(a) Shall describe the historic place to which it relates in such a way as to sufficiently identify it; and

(b) May state the proposed category of registration.

(3) If satisfied that the proposal is supported by sufficient evidence, the Trust shall—

(a) Publicly notify the proposal for registration in such manner and in such category as the Trust considers appropriate; and

(b) Give notice in writing of the proposal to—

(i) The owner of the historic place concerned; and

(ii) Every person having a registered interest in the place; and

(iii) The relevant territorial authority.

(4) Every owner of an historic place who receives a notice under subsection (3) (b) of this section shall give notice in writing of the proposal to the occupiers of the place.

(5) In the case of an application affecting Maori land, the Trust shall give notice of the application to the Registrar of the

appropriate Maori Land Court, who shall record the effect of the notice in the Court records.

(6) No failure of an owner to notify an occupier pursuant to subsection (4) of this section shall invalidate the registration process.

**25. Provisions relating to wahi tapu**—(1) Any person may apply to the Maori Heritage Council to have any wahi tapu entered on the Register.

(2) An application under this section shall contain a legal description of the land affected and specify the general location and nature of the wahi tapu.

(3) If satisfied that the proposal is supported by sufficient evidence, the Council shall—

(a) Publicly notify the proposal for registration in such manner as the Council considers appropriate; and

(b) Give notice in writing of the proposal to—

(i) The owner of the wahi tapu concerned; and

(ii) The relevant territorial authority; and

(iii) Every person having a registered interest in the wahi tapu; and

(iv) The appropriate iwi.

(4) Every owner of a wahi tapu who receives a notice under subsection (3) (b) of this section shall give notice in writing of the proposal to the occupiers of the place.

(5) In the case of an application affecting Maori land, the Trust shall give notice of the application to the Registrar of the appropriate Maori Land Court, who shall record the effect of the notice in the Court records.

(6) No failure of an owner to notify an occupier pursuant to subsection (4) of this section shall invalidate the registration process in that case.

**26. Interim registration**—(1) The Trust may grant interim registration in respect of any historic place if satisfied that the proposal is supported by sufficient evidence.

(2) The Maori Heritage Council may grant interim registration of any wahi tapu, if satisfied that the proposal is supported by sufficient evidence.

(3) Interim registration of any historic place or wahi tapu shall be effective on and from the day on which the notice given under section 24 (3) (b) or section 25 (3) (b) of this Act is received by the owner of that place or wahi tapu, and shall lapse—

- (a) When final registration is confirmed under section 29 or section 30 of this Act; or
- (b) Six months after the date of such interim registration, if final registration is not confirmed or interim registration is not cancelled within that period.

(4) Notwithstanding subsection (3)(b) of this section, the Trust or the Council, as the case may be, may extend the period of 6 months referred to in that subsection by a further period not exceeding 2 months, and the interim registration of the historic place or wahi tapu concerned shall continue in force for that further period and shall then lapse in accordance with subsection (3) of this section.

(5) Where the Trust or the Council proposes to extend the interim registration of any historic place or wahi tapu under subsection (4) of this section, it shall, at least 1 month before that interim registration expires, notify the owner concerned of the proposal.

(6) The owner may, within 5 working days after receiving notice under subsection (5) of this section, object in writing to the proposed extension of interim registration and the Trust or the Council, as the case may be, shall determine the objection within 5 working days after receiving the objection.

(7) The Trust or the Council, as the case may be, shall, as soon as practicable after the date of its decision to grant an extension under subsection (4) of this section, notify the owner concerned of its decision.

**27. Interim protection of places proposed for registration**—While any historic place or wahi tapu has interim registration under section 26 of this Act, sections 194 and 195 of the Resource Management Act 1991 shall apply to that place or wahi tapu as if interim registration were notice of a requirement for a heritage order.

**28. Procedure applying where interim registration effected**—(1) Where the Trust (in the case of an historic place) or the Maori Heritage Council (in the case of a wahi tapu) grants interim registration under section 26 of this Act, the following persons may make written submissions under this section about the grant, which submissions shall be made to the Trust or the Council, as the case may be, within 20 working days after the date of the public notification of the grant:

- (a) The owner of the historic place or wahi tapu:
- (b) Any occupier of the historic place or wahi tapu:

- (c) Any person having a registered interest in the historic place or wahi tapu:
  - (d) Any incorporated society or body corporate engaged in or having as one of its objects the protection of historic places:
  - (e) The territorial authority having jurisdiction in the area:
  - (f) The appropriate iwi.
- (2) The Maori Heritage Council may make such enquiries as it sees fit before deciding whether or not to confirm the registration of any wahi tapu.
- (3) Where the Trust considers that any historic place granted interim registration is of Maori interest, the Trust shall refer the grant to the Maori Heritage Council for its recommendation as to whether final registration should be confirmed.
- (4) When deciding whether or not to confirm the registration of any historic place, the Trust may reconsider the category of registration proposed of the place concerned and alter the category if it considers such action appropriate.

**29. Final registration may be confirmed by agreement**—Where notice of a proposal has been given in accordance with section 24 (3) (b) or section 25 (3) (b) of this Act, the Trust or the Maori Heritage Council, as the case may be, with the agreement of the owner of the place or wahi tapu and of every person holding a registered interest in the place or wahi tapu, may confirm the registration of the place or wahi tapu at any time after the requirements of those provisions have been complied with.

**30. Final registration**—(1) Registration of any historic place or wahi tapu shall be final when—

(a) Either—

(i) The Trust (in the case of an historic place) or the Maori Heritage Council (in the case of a wahi tapu) has confirmed the registration of that place or wahi tapu; or

(ii) The registration of that place or wahi tapu has been confirmed by agreement under section 29 of this Act; and

(b) The owner of that historic place or wahi tapu has received a notice under subsection (2) (b) of this section.

(2) The Trust shall—

(a) Publicly notify final registration; and

(b) Give written notice of final registration to—

- (i) The owner of the historic place or wahi tapu concerned; and
- (ii) The holder of any registered interest in that place or wahi tapu; and
- (iii) The relevant territorial authority.

**31. Provisions relating to historic areas**—(1) The Trust or any other person may propose registration of any historic area.

(2) Every proposal for registration shall describe the historic area to which it relates in such a way as to sufficiently identify it.

(3) If the Trust is satisfied that the proposal is supported by sufficient evidence, the Trust may register the historic area.

(4) In respect of any registered historic area, the Trust—

(a) Shall give written notice of the registration to the appropriate territorial authority or regional council in whose area the historic area is located; and

(b) May make specific recommendations to that territorial authority or regional council as to the appropriate measures the authority or council should take to assist in the conservation and protection of the historic area.

(5) Any territorial authority or regional council receiving a recommendation under subsection (4) (b) of this section shall have particular regard to the Trust's recommendations.

(6) The Trust may from time to time, after making such enquiries as it considers appropriate, vary or remove the registration of any historic area contained in the Register and, as soon as practicable after making that variation or removal, the Trust shall notify in writing the appropriate territorial authority in whose area the historic area is located.

**32. Provisions relating to wahi tapu areas**—(1) Any person may propose to the Maori Heritage Council that any wahi tapu area be entered on the Register.

(2) Every proposal for registration shall contain a legal description of the general area of land affected and specify the general nature of the wahi tapu included in the area.

(3) If, after making such enquiries as it considers appropriate, the Council is satisfied that the proposal is supported by sufficient evidence, the Council may register the wahi tapu area.

(4) In respect of any registered wahi tapu area, the Council—

- (a) Shall give written notice of the registration to the territorial authority or regional council in whose area the wahi tapu area is located; and
- (b) May make specific recommendations to that territorial authority or regional council as to appropriate measures the authority or council should take to assist in the conservation and protection of the wahi tapu area.

(5) Any territorial authority or regional council receiving a recommendation pursuant to subsection (4) (b) of this section shall have particular regard to the Council's recommendations.

(6) The Council may from time to time, after such consultation as it considers appropriate, vary or remove the registration of any wahi tapu area contained in the Register and, as soon as practicable after making that variation or removal, the Council shall notify in writing the appropriate territorial authority or regional council in whose area the wahi tapu area is located.

### **33. Proposals affecting registered wahi tapu areas—**

(1) Where the Trust—

- (a) Is advised by a local authority that the authority has received an application for a resource consent in respect of any wahi tapu area; or
- (b) Is considering an application or proposal under section 14 or section 18 (2) of this Act that affects any wahi tapu area; or
- (c) Proposes to take any action in respect of any wahi tapu area,—

the Trust shall refer the application or proposal to the Maori Heritage Council before taking any action in respect of the application or proposal.

(2) The Council shall consult the local territorial authority, the applicant for the resource consent, the relevant iwi or other Maori groups, and the proposers of the wahi tapu area, as the case may require, before taking any action in respect of the application or proposal.

(3) The Council shall, within 3 months of the date of receipt of that application or proposal by the Council, advise the Trust of any comment or recommendation it wishes to make on any application or proposal referred to it under subsection (1) of this section.

### **34. Records to be supplied to territorial authorities—**

(1) The Trust shall maintain and supply to every territorial

authority a record of registered historic places, historic areas, wahi tapu, and wahi tapu areas that are located within that territorial authority's district and heritage covenants that have effect in that area, and the territorial authority shall keep the record available for public inspection during its usual business hours.

(2) Notification to a territorial authority—

(a) Pursuant to section 24 (3) (b) of this Act of a proposal for interim registration or removal from the register; and

(b) Pursuant to section 30 (2) (b) of this Act of final registration or removal from the register—

of any historic place, historic area, wahi tapu, or wahi tapu area (but no other notification) shall, for the purposes of section 31 (2) (b) of the Building Act 1991 and section 44A (2) (g) of the Local Government Official Information and Meetings Act 1987, constitute information which has in terms of this Act been notified to the territorial authority by a statutory organisation having the power to classify land or buildings for any purpose.

**35. Notification to territorial authorities for land information memorandum and project information memorandum purposes**—The Trust may, in its discretion, notify any territorial authority of the particulars of any registered historic place, historic area, wahi tapu, or wahi tapu area in that territorial authority's district with sufficient detail to enable those particulars to be included in—

(a) Any land information memorandum issued by the territorial authority under section 44A of the Local Government Official Information and Meetings Act 1987; and

(b) Any project information memorandum issued by the territorial authority under section 31 of the Building Act 1991.

**36. Availability of Register**—The Register shall be open for public inspection during usual business hours at the principal office of the Trust in Wellington and at regional offices of the Trust.

**37. Review of registration**—(1) The Trust (in the case of an historic place or historic area) and the Maori Heritage Council (in the case of a wahi tapu or a wahi tapu area) may at any time review the registration of that historic place, historic area, wahi tapu, or wahi tapu area.

(2) Any person or body may—

- (a) Apply to the Trust for a review of the registration of any historic place or historic area:
- (b) Apply to the Maori Heritage Council for a review of the registration of any wahi tapu or wahi tapu area.
- (3) Applications for the review of registration shall be made in the prescribed form (if any) and state the grounds for review.
- (4) The Trust or the Council, as the case may be, may decline to consider any application that does not state any grounds for review or if it considers that the grounds stated are insufficient to justify a review, and shall advise the applicant of its decision.
- (5) Following consideration of the review of registration, the Trust or the Council, as the case may be, may—
  - (a) Confirm or modify the registration; or
  - (b) In the case of an historic place, change the category of registration; or
  - (c) Remove the entry from the Register.
- (6) Subject to subsection (4) of this section, every application for the review of registration shall be considered by the Trust or the Council, as the case may be, in the same manner as if it were a proposal for registration under this Act but no person or body may apply for a review of registration of any historic place, historic area, wahi tapu, or wahi tapu area within 3 years after the date of the last submission or review.
- (7) Every application for the review of registration shall be considered by the Trust or the Council, as the case may be, not later than 2 years after the date of its receipt by the Trust or Council.
- (8) Where the Trust has publicly notified a proposal under this section to change the category of a registered historic place to Category I, sections 194 and 195 of the Resource Management Act 1991 shall apply until the Trust has finally dealt with the application, as if the application were a notice of a requirement for a heritage order.

### PART III

#### NEW ZEALAND HISTORIC PLACES TRUST (POUHERE TAONGA) AND BOARD OF TRUSTEES

##### *Constitution of Trust and Board*

**38. New Zealand Historic Places Trust (Pouhere Taonga)**—(1) There shall continue to be a Trust called the New Zealand Historic Places Trust (Pouhere Taonga).

(2) The Trust is hereby declared to be the same body corporate as the New Zealand Historic Places Trust established under section 4 of the Historic Places Act 1980, with perpetual

succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, and of suing and being sued, and of doing and suffering all other things that bodies corporate may lawfully do and suffer.

Cf. 1980, No. 16, s. 4

**39. Functions of Trust**—The general functions of the Trust shall be as follows:

- (a) To identify, record, investigate, assess, register, protect, and conserve wahi tapu areas, historic places, and historic areas or to assist in doing any of those things, and to keep permanent records of such work:
- (b) To advocate the conservation and protection of wahi tapu areas, historic places, and historic areas:
- (c) To foster public interest and involvement in historic places and historic areas and in the identification, recording, investigation, assessment, registration, protection, and conservation of them:
- (d) To furnish information, advice, and assistance in relation to the identification, recording, investigation, assessment, registration, protection, and conservation of wahi tapu areas, historic places, and historic areas:
- (e) To manage, administer, and control all historic places, buildings, and other property owned or controlled by the Trust or vested in it, to ensure the protection, preservation, and conservation of such historic places, buildings, and other property.

Cf. 1980, No. 16, s. 5

**40. New Zealand Historic Places Board of Trustees**—There shall continue to be a Board of Trustees called the New Zealand Historic Places Board of Trustees.

Cf. 1980, No. 16, s. 6 (1)

**41. Board has functions and powers of Trust**—Wherever this Act or any other enactment provides for the Trust to carry out any function or power, that function or power shall, unless the context otherwise requires, vest in and be undertaken by the Board.

Cf. 1980, No. 16, s. 6 (2)

**42. Membership of Board**—The Board shall consist of the following:

- (a) One person to be appointed as Chairperson by the Minister:

- (b) Two persons, being Maori and having skills or knowledge appropriate to the functions and powers of the Trust, to be appointed by the Minister after consultation with the Minister of Maori Affairs and such national Maori organisations as the Minister thinks fit;
- (c) Three persons elected by the Trust's members in accordance with regulations made under section 113 of this Act;
- (d) Five persons, having skills, knowledge, or cultural background appropriate to the functions and powers of the Trust, at least one of whom is Maori, to be appointed by the Board members appointed or elected in terms of paragraph (a) or paragraph (b) or paragraph (c) of this section.

**43. Term of office of members of Board**—(1) Every member of the Board appointed under paragraph (a) or paragraph (b) or paragraph (d) of section 42 of this Act shall hold office for a term of not more than 3 years and may be reappointed.

(2) Every member of the Board elected under section 42 (c) of this Act shall hold office for 3 years from the date of election and may be re-elected.

(3) Unless a member vacates or is removed from office under section 45 of this Act, he or she shall continue in office until his or her successor comes into office.

Cf. 1980, No. 16, s. 8

**44. Deputy Chairperson of Board**—(1) At the first meeting of the Board after the commencement of this Act and thereafter at the first meeting of the Board held after the 30th day of June in each year and at the first meeting of the Board held after the occurrence of a vacancy in the office of the Deputy Chairperson, the Board shall elect one of its members to be the Deputy Chairperson.

(2) The Deputy Chairperson shall hold office while he or she continues to be a member of the Board until the appointment of his or her successor in accordance with subsection (1) of this section, and may be reappointed.

(3) The Deputy Chairperson shall perform all the functions and duties and exercise all the powers of the Chairperson,—

- (a) With the consent of the Chairperson, at any time during the temporary absence of the Chairperson;
- (b) Without that consent, at any time while the Chairperson is temporarily incapacitated or prevented by illness or

other cause from performing the functions and duties of his or her office:

(c) While there is any vacancy in the office of Chairperson.

Cf. 1980, No. 16, s. 10

**45. Resignation or removal from office**—(1) Any member of the Board may resign from office at any time by written notice given to,—

(a) In the case of a member appointed by the Minister, the Minister:

(b) In the case of any other member, the Trust.

(2) Any member may be removed from office at any time by the Minister (in the case of a member appointed by the Minister) or the Trust (in the case of any other member) for disability, bankruptcy, neglect of duty, or misconduct, if proved to the satisfaction of the Minister or the Trust, as the case may be, or a conviction for an offence relating to historic places.

Cf. 1980, No. 16, s. 9 (1), (2)

**46. Leave of absence**—(1) The Board may give leave of absence to any member.

(2) A member shall be deemed to have vacated his or her office if he or she is absent from 3 consecutive meetings of the Board without its leave.

Cf. 1980, No. 16, s. 9 (3), (4)

**47. Co-opted members**—(1) Where leave of absence has been given to any member, the Board may co-opt any person to be a co-opted member of the Board.

(2) The term of office of a co-opted member shall cease on the expiry of the leave of absence of the original member or the earlier vacation of or removal from office of that original member.

Cf. 1980, No. 16, s. 9 (5), (6)

**48. Extraordinary vacancies**—(1) If any member dies or resigns his or her office or is removed from office, the vacancy thereby occurring shall be deemed to be an extraordinary vacancy.

(2) Every extraordinary vacancy shall be filled in the same manner as that of the person whose office has become vacant.

(3) Every person who fills an extraordinary vacancy shall hold office for the remainder of the term for which his or her predecessor was to hold office.

Cf. 1980, No. 16, s. 9 (7), (8), (9)

**49. Powers of Board not affected by vacancies**—The powers of the Board shall not be affected by any vacancy in the membership of the Board.

Cf. 1980, No. 16, s. 9 (10)

#### *Conduct of Business*

**50. Meetings of Board**—(1) The Chairperson shall preside at all meetings of the Board at which he or she is present.

(2) In the absence of both the Chairperson and the Deputy Chairperson from any meeting, the members present shall appoint one of their number to be the Chairperson of that meeting.

(3) Meetings of the Board shall be held at such times and places as the Board or Chairperson from time to time appoints.

(4) Subject to subsection (5) of this section, the Chairperson may at any time call a special meeting of the Board, and the Chairperson shall call a special meeting of the Board whenever requested to do so in writing by 2 members of the Board.

(5) Not less than 5 working days' notice of every special meeting and of the business to be transacted at that meeting shall be given to each member for the time being in New Zealand, and no business other than that specified in the notice shall be transacted at that meeting.

(6) At all meetings of the Board, 6 members shall constitute a quorum.

(7) The decision of the Board on any matter shall be determined by a majority of the valid votes recorded on it.

(8) Notwithstanding subsection (7) of this section, a resolution signed or assented to in writing, by 6 or more members of the Board for the time being in New Zealand, shall have the same effect as a decision under that subsection.

(9) At any meeting of the Board the person for the time being acting as the Chairperson shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(10) Subject to this Act and the rules of the Trust made under section 60 of this Act, the Board may regulate its own procedure.

Cf. 1980, No. 16, s. 11

**51. Director-General entitled to attend meetings of Board**—Notice in writing of every meeting of the Board and of the business proposed to be transacted at that meeting shall be given to the Director-General, and the Director-General or the Director-General's nominee shall be entitled to attend and speak at any such meeting, but shall not be entitled to vote on any question.

**52. Proceedings not affected by certain irregularities**—No act or proceeding of the Board or of any person acting as a member of the Board, shall be invalidated by reason of a vacancy in the membership of the Board at the time of the act or proceeding, or because of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he or she was incapable of being a member or had ceased to be a member.

Cf. 1980, No. 16, s. 12

**53. Members of Board not personally liable**—No member of the Board or of any committee of the Board shall be personally liable for any default made by the Board or any committee of the Board or by any member of it, in good faith in the course of its operations.

Cf. 1980, No. 16, s. 13

#### *Powers of Trust*

**54. Powers of Trust**—(1) The Trust shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of subsection (1) of this section, the Trust may do all or any of the following:

- (a) Advocate its interests at any public forum or in any statutory planning process:
- (b) Identify, record, investigate, assess, register, protect, and conserve wahi tapu, wahi tapu areas, historic places, and historic areas, or assist any person or organisation to do any of those things:
- (c) Acquire, restore, conserve, and manage historic places and historic areas, or assist any person or organisation to acquire, restore, conserve, and manage any such area or place:
- (d) Assist any person or organisation to acquire, restore, conserve, or manage any wahi tapu or wahi tapu area:

- (e) Take such measures as it considers necessary to ensure that adequate finance is available to carry out its functions:
- (f) Erect suitable signs and notices on historic places and historic areas, subject, in the case of any historic place or historic area not owned by or under the control of the Trust, to the consent of the owner first being obtained:
- (g) Enter into agreements with local authorities, corporations, societies, individuals, or other controlling bodies for the management, maintenance, and preservation of any historic place or historic area:
- (h) Acquire by purchase, lease, exchange, bailment, gift, or otherwise any interest in real or personal property:
- (i) Dispose of any of its property as it thinks fit by sale, lease, exchange, bailment, gift, or otherwise:
- (j) Make accessible to the public, charge fees for admission, lease or let, or use for any suitable purpose, any lands or buildings vested in the Trust or under its control:
- (k) Promote or supervise the investigation of any historic place or historic area:
- (l) Appoint Board committees and branch committees, whether composed of members of the Board or not:
- (m) Make grants for the undertaking of studies or investigations approved by the Trust:
- (n) Publish in any form any information relating to any function of the Trust:
- (o) Make grants or advances of money on such terms and conditions as it sees fit (including advances free of interest) to further the functions of the Trust:
- (p) Expend any money and generally undertake any other powers and actions that are necessary for the exercise of or ancillary to any of its functions:
- (q) Dispose of in such manner as it thinks fit, as if it were the owner, any building, sign, hoarding, or apparatus erected without its consent in writing on any land vested in it or under its control:
- (r) Produce, acquire, and market products relating to historic places or historic areas, and enter into arrangements for the production, acquisition, and marketing of such products, or any of those things:
- (s) Provide information relating to historic places and historic areas and, where appropriate, wahi tapu and wahi tapu areas:

(t) Charge for the provision of services by the Trust under this Act, including (but not limited to)—

(i) The processing of applications received by the Trust:

(ii) The carrying out of investigations:

(iii) The production, acquisition, and marketing of products:

(iv) The provision of information.

(3) Nothing in this Act shall require the Trust to negotiate or agree with any person to acquire any land or interest in land.

(4) No interest in land shall be regarded as having been taken or injuriously affected and no compensation shall be payable, by reason only of any provision of this Act.

Cf. 1980, No. 16, ss. 14, 57

**55. Delegation of functions or powers by Board—**

(1) Subject to subsections (2) and (3) of this section, the Board may from time to time by writing delegate any of its functions or powers to all or any of the following:

(a) The Maori Heritage Council:

(b) Any Board committee:

(c) Any branch committee of the Trust:

(d) The chief executive officer or any other employee of the Trust:

(e) Any member of the Board.

(2) The Board shall not delegate power to do any of the following:

(a) Execute a heritage covenant under section 6 of this Act:

(b) Declare an archaeological site under section 9 (2) of this Act:

(c) Consent to an authority under section 14 of this Act where the costs of investigation exceed \$100,000:

(d) Confirm registration under section 30 of this Act:

(e) Change or remove a registration under section 37 of this Act:

(f) Acquire real property under paragraph (c) or paragraph (h) of section 54 (2) of this Act:

(g) Dispose of real property under section 54 (2) (i) of this Act:

(h) Borrow money under section 76 of this Act:

(i) Adopt any statement of general policy under section 57 of this Act:

(j) Adopt any conservation plan under section 58 of this Act.

(3) In the case of the Board's power—

(a) To give notice of requirement for a heritage order; or

(b) To grant interim registration under section 26 of this Act,—

the Board may delegate either or both of those powers to 2 of the following, namely, the Chairperson, Deputy Chairperson, or chief executive officer, but shall not delegate such powers to any other person.

(4) Subject to any general or special directions given by the Board, a person or body to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on the person or body directly by this Act and not by delegation.

(5) A person purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(6) Each delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Board.

Cf. 1980, No. 16, s. 19 (3), (5)

**56. Delegation of functions or powers by chief executive officer—**(1) The chief executive officer of the Trust may from time to time by writing, either generally or particularly, delegate to any employee of the Trust, any of the chief executive officer's functions and powers under this Act or any other Act, or under any regulations made under this Act, including functions or powers delegated to the chief executive officer under this Act.

(2) No delegation under this section shall include the power to delegate under this section.

(3) Notwithstanding subsection (1) of this section, the chief executive officer shall not delegate any function or power delegated to the chief executive officer by the Board without the written consent of the Board.

(4) The provisions of subsections (4) to (6) of section 55 of this Act shall, with necessary modifications, apply to any delegation under this section.

**57. General policy for historic places, etc.—**(1) The Trust—

(a) Shall, within 5 years after the commencement of this Act, adopt in accordance with this section one or more statements of general policy for the management,

- administration, control, and use of all historic places owned or controlled by the Trust or vested in it; and
- (b) May amend such statements so that they are adapted to changing circumstances or in accordance with increased knowledge; and
  - (c) Shall review any such statement within 10 years after its adoption by the Trust.
- (2) Every statement of general policy shall be prepared in draft form by the Trust and shall—
- (a) Identify the historic place or historic places to which the policy applies; and
  - (b) State policies and objectives for the management and use of such historic places.
- (3) In the case of every statement of general policy and every review of such a statement, the Trust shall—
- (a) Give notice by advertisement published in daily newspapers circulating in Auckland, Hamilton, Wellington, Christchurch, and Dunedin of the availability of the draft statement of general policy for public inspection; and
  - (b) Invite persons and organisations to lodge with the Trust written comments on the draft statement of general policy before a date specified in the notice, being not less than 40 working days after the date of publication of the notice; and
  - (c) Make the draft statement available for public inspection free of charge during usual business hours at the principal office of the Trust in Wellington and at regional offices of the Trust; and
  - (d) Submit the draft statement to the Minister.
- (4) The Trust shall consider any comments received and shall review the draft statement of general policy before adopting the policy.
- (5) The provisions of subsections (3) and (4) of this section shall apply to every amendment of any statement of general policy, except where the Trust resolves on reasonable grounds that those provisions need not be followed.
- (6) The Trust shall not act in any manner inconsistent with any statement of general policy.
- (7) Every current statement of general policy adopted in accordance with this section shall be available for public inspection free of charge during usual business hours at the principal office of the Trust in Wellington and at regional offices of the Trust.

(8) For the purposes of this section and section 58 of this Act, “historic place” includes any chattel or object or class of chattel or objects entered in the Register in respect of that place.

Cf. 1980, No. 66, s. 44

**58. Conservation plans**—(1) The Trust may, where it considers it appropriate to do so, adopt a conservation plan for any historic place owned or controlled by the Trust or vested in it.

(2) The Trust shall prepare each conservation plan in draft form and shall—

(a) Publicly notify the availability of the draft conservation plan for public inspection; and

(b) Invite persons or organisations to lodge with the Trust written comments on the draft conservation plan before a date specified in the public notice, being not less than 40 working days after the date of publication of the notice; and

(c) Make the draft conservation plan available for public inspection free of charge during usual business hours at the principal office of the Trust in Wellington and at regional offices of the Trust.

(3) The Trust shall consider any comments received and shall review the draft conservation plan before adopting that plan.

(4) The Trust may from time to time amend or review any conservation plan adopted by it, and the provisions of subsections (2) and (3) of this section shall apply to every such amendment or review of a conservation plan, except (in the case of an amendment) where the Trust resolves on reasonable grounds that those provisions need not be followed.

(5) The Trust shall not act in any manner inconsistent with any conservation plan.

(6) Every conservation plan adopted in accordance with this section shall be available for public inspection free of charge during usual business hours at the principal office of the Trust in Wellington and at regional offices of the Trust.

**59. Contracts of Trust**—(1) Any contract which, if made between private persons, must be by deed shall, when made by the Trust, be in writing under the common seal of the Trust.

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, when made by the Trust, be either in writing under the seal of the Trust or in writing signed by any person

acting on behalf of and under the express or implied authority of the Trust.

(3) The common seal of the Trust shall not be affixed to any document except pursuant to a resolution of the Board, and the execution of any document so sealed shall be attested by 2 members of the Board.

(4) No contract made by or on behalf of the Trust shall be invalid only by reason that it was not made in the manner provided by this section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board.

Cf. 1980, No. 16, s. 16

**60. Rules of Trust**—(1) The Board may, by resolution, make rules that are not inconsistent with this Act for all or any of the following purposes:

- (a) Regulating the proceedings of the Board and the conduct of its meetings:
- (b) Providing for the custody of the property of the Trust and the custody and use of the common seal of the Trust:
- (c) Providing for members, prescribing different classes of members and the subscriptions (if any) payable by members of different classes, and prescribing the manner of keeping a register of members:
- (d) Providing for the establishment, functions, and powers of local branches for the furthering of the work of the Trust; and prescribing such other matters as may be necessary for the efficient functioning of the local branches:
- (e) Providing for the appointment and removal of members of Board committees and branch committees:
- (f) Such other purposes as may be deemed necessary or expedient for duly carrying out the work of the Trust.

(2) Notice of every resolution proposed to be submitted to any meeting for the making, amendment, or revocation of any such rules as aforesaid shall be given to every member of the Board for the time being in New Zealand not less than 10 working days before the day fixed for the meeting.

Cf. 1980, No. 16, s. 17

### *Bylaws*

**61. Power to make bylaws**—The Trust may, in respect of any land or historic place vested in the Trust or under its control, make bylaws that are not inconsistent with this Act or

any regulations made under this Act for all or any of the following purposes:

- (a) Prescribing rules to be observed by any person entering upon such land or place:
- (b) Prohibiting or controlling the lighting of fires on such land or in such place:
- (c) Prohibiting or controlling the taking of any animal or vehicle upon such land, and prescribing rules to be observed by any person taking any animal or vehicle upon such land:
- (d) Providing generally for control of the use, management, and better preservation of such land or historic place, and of any erection or thing thereon or therein.

Cf. 1980, No. 16, s. 20

**62. Procedure for making bylaws**—(1) Bylaws shall be made only by resolution of the Board and shall have the seal of the Trust duly affixed thereto, and shall be signed by 2 members of the Board.

(2) A notice stating the object or purport of the proposed bylaws shall be published in some newspaper circulating in the district in which the land or historic place is situated once in each of the 2 weeks immediately preceding the day on which the bylaws are made.

(3) No bylaw made by the Board shall have any force or effect until it has been approved by the Minister by notice published in the *Gazette*, or until the date specified for that purpose in that notice.

(4) Any bylaw may be in like manner altered or revoked.

(5) The Trust shall advise relevant local authorities of every bylaw and every amendment to any bylaw made by the Board.

Cf. 1980, No. 16, s. 21

**63. Proof of bylaws**—The production of any document purporting to contain a printed copy of any bylaw made under the authority of this Act and authenticated by the common seal of the Trust shall, until the contrary is proved, be sufficient evidence of the existence and provisions of the bylaw.

Cf. 1980, No. 16, s. 22

**64. Trust to provide printed copies of bylaws**—The Trust shall cause printed copies of all bylaws to be kept at an

office of the Trust, and to be available for sale to members of the public at a reasonable price.

Cf. 1980, No. 16, s. 23

**65. Penalty for breach of bylaws**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who acts in contravention of or fails to comply with any bylaw under this Act.

Cf. 1980, No. 16, s. 24

### *Employees*

**66. Appointment of chief executive officer**—(1) The Trust may from time to time appoint a chief executive officer.

(2) The conditions of employment of the chief executive officer shall be determined from time to time by the Trust.

(3) The Trust shall not, in determining terms and conditions under subsection (2) of this section, agree to any conditions of employment for a chief executive officer of the Trust without—

- (a) Consulting the State Services Commissioner; and
- (b) Having regard to all recommendations the Commissioner makes to the Trust about them within a reasonable time of being consulted.

**67. Appointment of other employees**—(1) The chief executive officer may appoint such employees, including employees on secondment from other organisations, as he or she thinks necessary for the efficient performance of the Trust's functions, and, subject to subsections (3) and (4) of this section, may negotiate the terms and conditions of employment of such employees.

(2) Subject to the terms and conditions of employment, the chief executive officer may at any time terminate or suspend the employment of any of the Trust's employees.

(3) Before entering into any collective employment contract under the Employment Contracts Act 1991, the Trust shall consult with the State Services Commissioner about the conditions of employment to be included in the collective employment contract.

(4) Where there is no collective employment contract, the Trust shall consult with the State Services Commissioner from time to time about the conditions of employment applying generally to the employees of the Trust.

**68. Personal liability**—Neither the chief executive officer nor any other employee of the Trust shall be personally liable

for any liability of the Trust, or for any act done or omitted by the Trust or by the chief executive officer or any other employee of the Trust in good faith in pursuance or intended pursuance of the functions or powers of the Trust or the chief executive officer.

**69. Personnel policy**—The Trust shall operate a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) The impartial selection of suitably qualified people for appointment; and
- (c) Recognition of—
  - (i) The aims and aspirations of Maori; and
  - (ii) The employment requirements of Maori; and
  - (iii) The need for greater involvement of Maori as employees of the Trust; and
- (d) Opportunities for the enhancement of the abilities of individual employees; and
- (e) Recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and
- (f) Recognition of the employment requirements of women; and
- (g) Recognition of the employment requirements of people with disabilities.

**70. Equal employment opportunities programme**—

- (1) In each financial year, the Trust shall—
  - (a) Develop and publish an equal employment opportunities programme for the Trust; and
  - (b) Ensure that the programme is complied with.
- (2) For the purposes of this section, an equal employment opportunities programme is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers, that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any people or group of people.

**71. Transitional provisions relating to employees**—

- (1) Notwithstanding any other provision of this Act or any provision of the State Sector Act 1988,—
  - (a) Every employee of the Department of Conservation who was, immediately before the commencement of this Act, employed wholly on servicing the functions of

the Trust, is hereby deemed to be an employee of the Trust (in this section referred to as a transferred employee); and

(b) The terms and conditions of employment of every transferred employee shall, until varied or until a new contract of employment is entered into, be based on the employment contract that applied to that person immediately before the commencement of this Act in respect of that person's employment with the Department of Conservation.

(2) For the purposes of every enactment, law, award, determination, contract, and agreement at any time relating to the employment of a transferred employee,—

(a) The contract of employment that applied immediately before the commencement of this Act in respect of that person's employment with the Department of Conservation shall be deemed not to have been broken by that person having so become a person employed by the Trust; and

(b) Any period recognised by the Department as continuous service with the Department shall be deemed to have been a period of continuous service with the Trust.

(3) No transferred employee of the Trust shall be entitled to any payment, benefit, or compensation by reason only of that person having ceased to be a person employed with the Department.

(4) Nothing in subsection (1) (b) of this section applies to any transferred employee who receives a subsequent appointment within the Trust.

**72. Contributors to Government Superannuation Fund**—(1) Any person who, immediately before becoming an officer or employee of the Trust, is an appointee under the State Sector Act 1988 and a contributor to the Government Superannuation Fund under the Government Superannuation Fund Act 1956 shall, on becoming an officer or employee of the Trust, be deemed for the purposes of the Government Superannuation Fund Act 1956 to be employed in the Government service so long as that person continues in the service of the Trust; and the Government Superannuation Fund Act 1956 shall apply to that person in all respects as if the service with the Trust were Government service.

(2) Subject to the Government Superannuation Fund Act 1956, nothing in subsection (1) of this section shall entitle any such transferred employee to become a contributor to the

Government Superannuation Fund after that person has once ceased to become a contributor.

(3) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subsection (1) of this section, to a person who is in the service of the Trust and who is a contributor to the Government Superannuation Fund, the term “controlling authority”, in relation to that person, means the Trust.

(4) The Trust may, for the purpose of providing superannuation or retirement allowances for its officers and employees, subsidise out of its funds any scheme under the National Provident Fund Act 1950 containing provision for employer subsidy or any other employer-subsidised scheme approved by the Minister of Finance.

#### *Financial Provisions*

**73. Funds of Trust**—The funds of the Trust shall consist of the following:

- (a) All money received by the Trust out of money appropriated by Parliament for the purpose:
- (b) All money lawfully contributed or donated or bequeathed to the Trust or otherwise lawfully payable to the Trust:
- (c) All money received by the Trust by way of fees, rent, or otherwise in respect of any real or personal property vested in or controlled by the Trust:
- (d) All money received by the Trust in respect of the provision of services by the Trust or in respect of the exercise of any of the functions or powers of the Trust:
- (e) All money received by the Trust from the sale or other disposal of any real or personal property of the Trust:
- (f) All accumulations of money belonging to the Trust.

Cf. 1980, No. 16, s. 25

**74. Payment to and withdrawal from bank accounts**—

(1) All money belonging to the Trust shall, within 5 working days after the receipt thereof by the proper officer of the Trust, be paid into the appropriate account at such bank as the Board from time to time appoints.

(2) No money shall be paid out of any bank account of the Trust except with the authority, and in accordance with any general or special directions, of the Board.

(3) A bank account of the Trust may be operated only by cheque or other instrument signed by an officer of the Trust

authorised by the Board to sign cheques or other instruments drawn on that account.

(4) Except as provided in subsection (5) of this section, all cheques and other instruments drawn on a bank account of the Trust shall be countersigned by a member of the Board or other person authorised by the Board.

(5) A counter-signature shall not be required for a cheque drawn on an imprest account of the Board or for a credit card or other debit card transaction, if the amount of the cheque or transaction does not exceed the limit fixed by the Board for the purpose of this subsection.

(6) No bank account of the Trust shall be operated by a promissory note or a bill.

Cf. 1980, No. 16, s. 26; 1985, No. 22, s. 2

**75. Unauthorised expenditure**—The Trust may, in any financial year, expend out of its funds for purposes not authorised by this or any other enactment any sum or sums not amounting in the whole to more than \$10,000.

Cf. 1986, No. 15, s. 27

**76. Borrowing powers**—The Trust may borrow by way of mortgage, debentures, bonds, overdraft, or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in such manner as it thinks fit.

Cf. 1980, No. 16, s. 28

**77. Liability for debts of Trust**—The Crown shall not be liable to contribute towards the payment of any debts or liabilities of the Trust other than any sum the Crown is liable to contribute under any guarantee or indemnity given by the Minister of Finance under section 59 of the Public Finance Act 1989.

**78. Investment of funds**—(1) Subject to the terms of any trust or endowment, any money held by or on behalf of the Trust and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

(2) Notwithstanding any rule of law or equity to the contrary, the Trust shall not be obliged to convert any property or investment which is the subject of a gift to the Trust and which is not property or an investment in which the Trust may properly invest money pursuant to this section.

Cf. 1980, No. 16, s. 29; 1988, No. 119, s. 14 (1)

**79. Accounts**—(1) The Trust shall keep full and correct accounts of all money received and expended by it.

(2) Part V of the Public Finance Act 1989 shall apply to the Trust as if it were a Crown entity named in the Fourth and Fifth Schedules to that Act.

Cf. 1980, No. 16, s. 30

**80. Exemption from land tax and income tax**—The Trust shall be exempt from the payment of land tax and income tax.

Cf. 1980, No. 16, s. 31

**81. Annual report**—(1) The Trust shall, as soon as practicable after the end of each financial year, furnish to the Minister a report of the proceedings and operations of the Trust for that financial year, together with a copy of its accounts for that financial year certified by the Audit Office.

(2) The annual report shall include a statement of the extent to which the Trust's equal employment opportunities programme for the year to which the report relates was complied with.

Cf. 1980, No. 16, s. 32

**82. Contributions by territorial authorities, etc.**—For the purpose of providing funds for the exercise of the functions of the Trust—

(a) Any territorial authority or public body of any kind may from time to time out of its general fund or account make such contributions to the Trust as it thinks fit:

(b) Any University may from time to time, with the consent of the Minister of Education, make such contributions to the Trust as it thinks fit.

Cf. 1980, No. 16, s. 33

**83. Fees and travelling allowances**—(1) The Board and any committee of the Board, and the Maori Heritage Council, are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid to the members of the Board and committees of the Board, and to members of the Council, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and

expenses in accordance with the Fees and Travelling Allowances Act 1951, and that Act shall apply accordingly.

Cf. 1980, No. 16, s. 34

#### PART IV

##### MAORI HERITAGE COUNCIL

**84. Maori Heritage Council**—(1) There is hereby established a Council to be called the Maori Heritage Council.

(2) The Council shall consist of the following:

- (a) Two members of the Board who have been appointed under section 42 (b) of this Act; and
- (b) One member of the Board, being Maori, who has been appointed under section 42 (d) of this Act; and
- (c) One member of the Board who has been either elected by virtue of section 42 (c) of this Act and the regulations under the Act or who has been appointed under section 42 (d) of this Act; and
- (d) Four persons, being Maori and having skills, knowledge, or cultural background appropriate to the functions and powers of the Council, to be appointed by the Minister after consultation with the Minister of Maori Affairs and the Board.

(3) The Chairperson of the Council shall be a member of the Board and shall be appointed by all members of the Council from among their number.

(4) Members of the Council shall hold office for a term of not more than 3 years and may from time to time be reappointed.

(5) Unless a member of the Council vacates or is removed from his or her office under section 88 of this Act, or (in the case of a member appointed under subsection (2) (a) of this section) who ceases to be a member of the Board, he or she shall continue in office until his or her successor comes into office.

**85. Functions of Council**—The Maori Heritage Council shall have the following functions:

- (a) To ensure that, in the protection of wahi tapu, wahi tapu areas, and historic places and historic areas of Maori interest, the Trust meets the needs of Maori in a culturally sensitive manner:
- (b) To develop Maori programmes for the identification and conservation of wahi tapu, wahi tapu areas, and historic places and historic areas of Maori interest, and to inform the Board of all activities, needs and

developments relating to Maori interests in such areas and places:

- (c) To assist the Trust to develop and reflect a bicultural view in the exercise of its powers and functions:
- (d) To develop its own iwi and other consultative and reporting processes and to recommend such processes for adoption by the Board, branches, and staff of the Trust when dealing with matters of Maori interest:
- (e) To make recommendations to the Trust on applications referred by the Trust under section 14 (3) of this Act that relate to archaeological sites of Maori interest:
- (f) To consider and determine proposals for the registration of wahi tapu and wahi tapu areas:
- (g) To propose the registration of historic places and historic areas of Maori interest:
- (h) To make recommendations to the Trust on applications for resource consents referred by the Trust under section 33 of this Act:
- (i) To perform such functions as are delegated to the Council by the Board:
- (j) To perform such other functions as are imposed on the Council by this Act or any other Act:
- (k) To advocate the interests of the Trust and the Council so far as they relate to matters of Maori heritage at any public or Maori forum.

**86. Powers of Council**—(1) The Maori Heritage Council shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of subsection (1) of this section, the Council may—

- (a) Appoint committees consisting of such persons, whether or not members of the Council, as the Council considers appropriate:
- (b) Subject to subsection (3) of this section, delegate any functions of the Council under this Act to the Chairperson, Deputy Chairperson, any committee of the Council, or the chief executive officer of the Trust.

(3) In the case of the Council's power to grant interim registration under section 26 (2) of this Act, the Council may delegate the power to 2 of the following, namely, the Chairperson, Deputy Chairperson, or chief executive officer of

the Trust, but shall not delegate such power to any other person.

**87. Deputy Chairperson of Council—**(1) At the first meeting of the Council after the commencement of this Act, and thereafter at the first meeting of the Council held after the 30th day of June in each year and at the first meeting of the Council held after the occurrence of a vacancy in the office of the Deputy Chairperson, the Council shall elect one of its members to be the Deputy Chairperson.

(2) The Deputy Chairperson shall hold office while he or she continues to be a member of the Council until the appointment of his or her successor in accordance with subsection (1) of this section, and may be reappointed.

(3) The Deputy Chairperson shall perform all the functions and duties and exercise all the powers of the Chairperson,—

- (a) With the consent of the Chairperson, at any time during the temporary absence of the Chairperson:
- (b) Without that consent, at any time while the Chairperson is temporarily incapacitated or prevented by illness or other cause from performing the functions and duties of his or her office:
- (c) While there is any vacancy in the office of Chairperson.

**88. Resignation or removal from office—**(1) Any member of the Council may resign from office at any time by written notice given to the Minister.

(2) Any member may be removed from office at any time by the Minister for disability, bankruptcy, neglect of duty, or misconduct, if proved to the satisfaction of the Minister, or a conviction for an offence relating to historic places.

**89. Leave of absence—**(1) The Council may give leave of absence to any member.

(2) A member shall be deemed to have vacated his or her office if he or she is absent from 3 consecutive meetings of the Council without its leave.

**90. Co-opted members—**(1) Subject to subsection (2) of this section, where leave of absence has been given to any member, the Council may co-opt a person to be a co-opted member of the Council.

(2) In the case of a Council member appointed pursuant to section 84 (2) (a) of this Act, any co-opted Board member filling

such leave of absence shall also become a co-opted member of the Council for the period of such absence.

(3) The term of office of a member co-opted under subsections (1) and (2) of this section shall cease on the expiry of the leave of absence of the original member or the earlier vacation of or removal from office of that original member.

**91. Extraordinary vacancies**—(1) If any member dies or resigns his or her office, or is removed from office by the Minister, the vacancy thereby occurring shall be deemed to be an extraordinary vacancy.

(2) Every extraordinary vacancy shall be filled in the same manner as that of the person whose office has become vacant.

(3) Every person who fills an extraordinary vacancy shall hold office for the remainder of the term for which his or her predecessor was to hold office.

**92. Powers of Council not affected by vacancies**—The powers of the Council shall not be affected by any vacancy in the membership of the Council.

**93. Meetings of Council**—(1) The Chairperson of the Council shall preside at all meetings of the Council at which he or she is present.

(2) In the absence of both the Chairperson and the Deputy Chairperson from any meeting, the members present shall appoint one of their number to be the Chairperson of that meeting.

(3) Meetings of the Council shall be held at such times and places as the Council or its Chairperson from time to time appoints.

(4) Subject to subsection (5) of this section, the Chairperson may at any time call a special meeting of the Council and the Chairperson shall call a special meeting of the Council whenever requested to do so in writing by 2 members of the Council.

(5) Not less than 5 working days' notice of every special meeting and of the business to be transacted at that meeting shall be given to each member for the time being in New Zealand, and no business other than that specified in the notice shall be transacted at that meeting.

(6) At all meetings of the Council, 4 members, of whom 2 shall be members of the Board, shall constitute a quorum.

(7) The decision of the Council on any matter shall be determined by a majority of the valid votes recorded on it.

(8) Notwithstanding subsection (7) of this section, a resolution signed or assented to in writing by 4 or more of the members of the Council for the time being in New Zealand, 2 of whom are members of the Board, shall have the same effect as a decision under that subsection.

(9) At any meeting of the Council the person for the time being acting as the Chairperson shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(10) Subject to this Act and the rules of the Trust made under section 60 of this Act, the Council may regulate its own procedure.

**94. Chairperson of Board entitled to attend meetings of Council**—Notice in writing of every meeting of the Council and of the business proposed to be transacted at that meeting shall be given to the Chairperson of the Board, and the Chairperson or, in his or her absence, the Deputy Chairperson of the Board shall be entitled to attend and speak at any such meeting, but shall not be entitled to vote on any question.

**95. Proceedings not affected by certain irregularities**—No act or proceeding of the Council, or of any person acting as a member of the Council, shall be invalidated—

- (a) By reason of a vacancy in the membership of the Council at the time of the act or proceeding; or
- (b) Because of the subsequent discovery that there was some defect in the appointment of any person so acting or that he or she was incapable of being a member or had ceased to be a member.

**96. Members of Council not personally liable**—No member of the Council or of any committee of the Council shall be personally liable for any default made by the Council or any committee of the Council, or by any member of it, in good faith in the course of its operations.

## PART V

### OFFENCES

**97. Offence of intentional destruction, damage, or modification**—(1) Every person commits an offence who intentionally—

- (a) Destroys, damages, or modifies any historic place, historic area, property, or thing vested in or under the control of the Trust; or

(b) Causes any such area, place, property, thing, or land to be destroyed, damaged, or modified,—  
without the authority of the Trust or any person or body authorised by the Trust in that behalf.

(2) Every person who commits an offence against subsection (1) of this section is liable on summary conviction,—

- (a) In the case of destruction, to a fine not exceeding \$100,000:
- (b) In the case of damage or modification, to a fine not exceeding \$40,000.

**98. Offence of destruction, damage, or modification of land subject to heritage covenant**—(1) Every person commits an offence in respect of an historic place, historic area, wahi tapu, or wahi tapu area protected by a heritage covenant who, knowing or having reasonable cause to suspect that the historic place, historic area, wahi tapu, or wahi tapu area is protected by a heritage covenant, intentionally—

- (a) Destroys, damages, or modifies that historic place, historic area, wahi tapu, or wahi tapu area, or any feature or part of that historic place, historic area, wahi tapu, or wahi tapu area; or
- (b) Causes that historic place, historic area, wahi tapu, or wahi tapu area, or any feature or part of that historic place, historic area, wahi tapu, or wahi tapu area to be destroyed, damaged, or modified,—

otherwise than in accordance with the provisions of that heritage covenant.

(2) Every person who commits an offence against subsection (1) of this section is liable on summary conviction,—

- (a) In the case of destruction, to a fine not exceeding \$100,000:
- (b) In the case of damage or modification, to a fine not exceeding \$40,000.

**99. Offence of destruction, damage, or modification of archaeological site**—(1) Every person commits an offence who, knowing or having reasonable cause to suspect that a site is an archaeological site,—

- (a) Destroys, damages, or modifies that archaeological site; or
- (b) Causes that archaeological site to be destroyed, damaged, or modified,—

without the authority of the Trust or any person or body authorised by the Trust in that behalf.

(2) Every person who commits an offence against subsection (1) of this section is liable on summary conviction,—

- (a) In the case of destruction, to a fine not exceeding \$100,000:
- (b) In the case of damage or modification, to a fine not exceeding \$40,000.

**100. Offence of breaching conditions of authority—** Every person commits an offence and is liable on summary conviction to a fine not exceeding \$40,000 who contravenes or fails to comply with any condition imposed under section 14 (1) or section 15 of this Act.

**101. Offence of refusing access, etc.—** Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,500 who—

- (a) Refuses to let a person authorised by or under section 21 of this Act to have access to an archaeological site or historic place for a purpose referred to in that section; or
- (b) Obstructs any person—
  - (i) In the carrying out of any investigation under section 13 of this Act; or
  - (ii) In the carrying out of any investigation pursuant to a condition imposed under section 15 (1) of this Act; or
  - (iii) In the exercise of any power referred to in section 21 (3) of this Act.

**102. Offence of carrying out archaeological investigation in breach of conditions or without written permission—**(1) Every person who carries out an archaeological investigation that is subject to any conditions imposed by the Trust under section 18 (1) of this Act commits an offence and is liable on summary conviction to a fine not exceeding \$40,000 who contravenes, or fails to comply with, any of those conditions.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$40,000 who carries out an archaeological investigation without the written permission of the Trust under section 18 (1) of this Act.

**103. Offence of destruction, damage, or modification while historic place or wahi tapu has interim registration—**(1) Every person commits an offence who—

- (a) Demolishes, damages, modifies, or extends any historic place that has interim registration under section 26 of this Act, or causes any such place to be demolished, damaged, modified, or extended; or
- (b) Destroys, damages, or modifies any wahi tapu that has interim registration under section 26 of this Act, or causes any such wahi tapu to be destroyed, damaged, or modified,—

without (in the case of an historic place) the authority of the Trust or any person or body authorised by the Trust for the purpose or (in the case of a wahi tapu) the authority of the Maori Heritage Council or any person or body authorised by the Council for the purpose.

(2) Every person who commits an offence against subsection (1) of this section is liable on summary conviction,—

- (a) In the case of demolition or destruction, to a fine not exceeding \$100,000;
- (b) In the case of alteration, extension, damage, or modification, to a fine not exceeding \$40,000.

**104. Other offences**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,500 who, without the authority of the Trust or any person or body authorised by the Trust in that behalf,—

- (a) Intentionally enters upon any land or historic place vested in or under the control of the Trust otherwise than in accordance with any bylaw made by the Trust in respect of such land; or
- (b) Intentionally takes any animal or vehicle upon any land vested in or under the control of the Trust otherwise than in accordance with any bylaw made by the Trust in respect of such land; or
- (c) Intentionally lights any fire on any land vested in or under the control of the Trust otherwise than in accordance with any bylaw made by the Trust in respect of such land; or
- (d) Intentionally lights or causes or permits to be lit on any land, other than land vested in or under the control of the Trust, a fire which he or she knows or ought to have known to be likely to spread into, and which spreads into and damages and destroys, any property or thing vested in or under the control of the Trust; or
- (e) Unlawfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, plaque, sign, or

poster on any land vested in or under the control of the Trust; or

- (f) Alters, obliterates, defaces, pulls up, removes, or destroys any plaque or sign supplied and erected by the Trust on any land or building, other than any land or building vested in or under the control of the Trust, and where the consent of the owner of the land or building has not first been obtained; or
- (g) Intentionally takes or removes, or causes to be taken or removed, from any land or building vested in or under the control of the Trust, any property or thing vested in or under the control of the Trust; or
- (h) Receives any property or thing vested in or under the control of the Trust knowing the same to have been removed unlawfully from any land or building vested in or under the control of the Trust; or
- (i) Fails to comply with an order made under section 105 of this Act; or
- (j) Fails to carry out pest and weed control, to maintain land in a clean and safe condition, or to take any necessary protective measures, as required by section 105 (2) (c) of this Act.

**105. Court may stay exercise of rights under resource consent**—(1) Where the owner or occupier of any land or place subject to—

- (a) A requirement for a heritage order made by the Trust; or
- (b) A heritage order issued by the Trust; or
- (c) Interim registration under this Act—

is convicted of an offence against section 338 (1) (a) of the Resource Management Act 1991 (being an offence in respect of section 9 (2) of that Act) or against section 103 of this Act, being an offence in respect of that land or place, then, in addition to any penalty it may impose under those sections, a Court may make an order suspending for such period not exceeding 5 years as the Court thinks fit—

- (d) The exercise of any rights under a resource consent granted to that person in respect of that land; or
- (e) The carrying out of any activity the person is permitted to carry out under a district plan; or
- (f) All such rights and activities.

(2) While a suspension remains in force under this section in respect of a resource consent, the following provisions apply to that consent and the land to which it applies:

- (a) No rights shall be exercisable under the suspended consent:
- (b) All activities for which other resource consents could be sought in respect of the land shall be deemed to be prohibited activities:
- (c) The holder shall—
  - (i) Carry out pest and weed control measures on the land in accordance with the heritage order (if any) applying to the land; and
  - (ii) Take such other measures as may be necessary to maintain the land in a clean and safe condition; and
  - (iii) Take such other measures as may be necessary to protect either—
    - (A) The place and surrounding area specified in the requirement for a heritage order or specified in the heritage order; or
    - (B) The place or wahi tapu for which interim registration is proposed.

(3) Nothing in this section prevents an owner or occupier of any land subject to a Court order under this section agreeing with the local territorial authority to develop a public amenity on that land in accordance with the heritage order (if any) applying to the land.

(4) Before a local territorial authority enters into an agreement under subsection (3) of this section, it shall consult the Trust.

(5) For the purposes of this section, a right exercisable under a resource consent includes (but is not limited to) the right to carry out all or any of the following:

- (a) Any work authorised on the land concerned, including—
  - (i) The construction of any new building, structure, or other fixture; and
  - (ii) Any alteration or extension to any existing building, structure, or other fixture on that land:
- (b) Any subdivision of the land:
- (c) Any use of the land that is permissible under section 9 of the Resource Management Act 1991.

**106. Strict liability and defences**—(1) In any prosecution for an offence against section 99 or section 100 or section 103 of this Act, it is not necessary to prove that the defendant intended to commit the offence.

(2) Subject to subsection (3) of this section, it is a defence to a prosecution of the kind referred to in subsection (1) of this section if the defendant proves—

(a) That—

(i) The action or event was necessary for the purposes of saving or protecting life or preventing serious damage to property or any historic place or wahi tapu; and

(ii) The conduct of the defendant was reasonable in the circumstances; and

(iii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or

(b) That the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case either—

(i) The action or event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.

(3) Except with the leave of the Court, subsection (2) of this section does not apply unless, within 7 days after the service of the summons or within such further time as the Court may allow, the defendant delivers to the prosecutor a written notice—

(a) Stating that he or she intends to rely on subsection (2) of this section; and

(b) Specifying the facts that support his or her reliance on that subsection.

**107. Offender to give name and address—**(1) Where any person is found offending against this Act, it shall be lawful for any officer or employee of the Trust or any person authorised in writing in that behalf by the Trust or any employee of the Department of Conservation authorised in writing in that behalf by the Director-General or any constable to require the offender forthwith to desist from the offence and also to give his or her name and address.

(2) If the offender, after being so required, fails to give his or her name or address, or gives a false name or address, or wilfully continues the offence, he or she commits a further offence against this Act.

(3) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$2,000.

(4) The Trust may apply to the Court for a writ of injunction to restrain any person from breach of any duty or obligation imposed upon him or her by this Act, if he or she has threatened or already commenced to commit the breach or the Trust has reasonable cause to believe that such a breach is likely to occur.

Cf. 1980, No. 16, s. 55

**108. Time within which information may be laid—**Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against this Act may be laid at any time within 12 months from the time the offence was committed.

Cf. 1980, No. 16, s. 56

## PART VI

### MISCELLANEOUS PROVISIONS

**109. Members and employees not in service of the Crown—**No person, by reason only that he or she is a member of the Board or a member of a committee of the Board, or an officer or employee of the Board, shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.

Cf. 1980, No. 16, s. 58

**110. Local authorities may transfer land to Trust—**Notwithstanding anything in any enactment, any local authority (within the meaning of Part VI of the Local Authorities Loans Act 1956) may, without further authority than this section, convey or transfer any land (not being a public reserve within the meaning of the Reserves Act 1977) to the Trust and the Trust may accept such land to be held for the purposes of this Act.

Cf. 1980, No. 16, s. 59

**111. Notification to territorial authorities for land information memorandum and project information memorandum purposes—**The Trust may, in its discretion, notify any territorial authority of the particulars of any registered historic place and any registered historic area in that

territorial authority's district with sufficient detail to enable those particulars to be included in—

- (a) Any land information memorandum issued by the territorial authority under section 44A of the Local Government Official Information and Meetings Act 1987; and
- (b) Any project information memorandum issued by the territorial authority under the Building Act 1991.

**112. Service of documents**—(1) Where a notice or other document is to be served on a person for the purposes of this Act, it may be served—

- (a) By delivering it personally to the person; or
- (b) By delivering it at the usual or last known place of residence or business of the person, including by facsimile; or
- (c) By sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of the person.

(2) Where a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body in accordance with subsection (1) of this section shall be deemed to be service on the body.

(3) Where a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with subsections (1) and (2) of this section shall be deemed to be service on the partnership.

(4) Where a notice or other document is sent by post to a person in accordance with subsection (1) (c) of this section, it shall be deemed to be received by the person at the time at which the letter would have been delivered in the ordinary course of the post.

**113. 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 the procedure for the nomination and subsequent election of 3 members of the Trust Board from the members of the Trust;
- (b) Prescribing offences in respect of the contravention of, or non-compliance with, any regulations made under this Act; and prescribing fines not exceeding \$5,000 in respect of any such offence;
- (c) Prescribing the form or content of applications, notices, or any other documentation or information as may be

required under this Act and the manner in which such documentation is to be provided:

- (d) Providing for such other matters as may be contemplated by or necessary for giving full effect to this Act and its due administration.

Cf. 1980, No. 16, s. 60

*Transitional Provisions and Consequential Amendments*

**114. Registration or classification under former Act—**

(1) All buildings classified under paragraph (a) or paragraph (b) of section 35 (1) of the Historic Places Act 1980, and all places recorded under section 51 of that Act, shall, notwithstanding subsection (8) of this section, be deemed to have final registration in Category I of the Register.

(2) Where a proposal for classification made under section 35 or section 49 of the Historic Places Act 1980, or an application made under section 50 (1) of that Act, has not been finally dealt with before the commencement of this Act, those proposals or applications shall be dealt with and completed after that date in accordance with the provisions of that Act as if this Act had not been enacted.

(3) The following shall be deemed to have final registration in Category II of the Register:

- (a) All buildings classified under paragraph (c) or paragraph (d) of section 35 (1) of the Historic Places Act 1980:
- (b) All archaeological sites registered under section 43 (1) of that Act.

(4) All historic areas classified under section 49 of the Historic Places Act 1980 shall be deemed to have final registration under this Act as historic areas.

(5) In respect of traditional sites declared under section 50 (1) of the Historic Places Act 1980, the following provisions shall apply:

- (a) Notwithstanding paragraph (b) of this subsection, traditional sites will be deemed to have final registration as wahi tapu:
- (b) Within 12 months of the date of enactment of this Act, the Maori Heritage Council shall reassess every such site on an individual basis, and shall enter it in the part of the Register relating to—
  - (i) Historic places; or
  - (ii) Historic areas; or
  - (iii) Wahi tapu; or
  - (iv) Wahi tapu areas.

(6) Within 12 months after the commencement of this Act, the Trust shall notify each owner concerned of—

- (a) The provisions of this section that affect the owner; and
- (b) The relevant provisions of Part II of this Act.

(7) Where the Trust fails to notify an owner in accordance with subsection (4) of this section, the registration conferred by this section shall be deemed to have been removed under section 31 (6) or section 32 (6) of this Act.

(8) Every notification to a District Land Registrar made under section 51 of the Historic Places Act 1980 shall be deemed to lapse at the date of commencement of this Act; and the Trust shall, within 3 months after that date, notify the owner of the land or building concerned and the District Land Registrar of the district concerned accordingly; and the District Land Registrar shall thereupon cancel the notification on every relevant certificate of title.

**115. Savings**—Notwithstanding the repeal of the Historic Places Act 1980 by section 118 (1) of this Act, all rules made by the Board under section 17 of that Act (other than rules relating to the election of members of the Board) shall continue to have effect as if that section had not been repealed, and may be amended or revoked under section 60 of this Act.

**116. Transitional provisions for applications relating to archaeological sites**—(1) Every application lodged with the Trust under section 44 (2) or section 46 (2) of the Historic Places Act 1980 before the date of commencement of this Act, but not determined by the Trust before that date, shall be determined as if this Act had not been passed.

(2) Every right of appeal under section 48 (1) of the Historic Places Act 1980 that was exercisable immediately before the date of commencement of this Act, but was not exercised before that date, shall be exercisable as if this Act had not been passed; and every such appeal shall be determined as if this Act had not been passed.

(3) Where an application to which subsection (1) of this section applies is determined in accordance with that subsection, every person who would have had a right of appeal against that determination under section 48 of the Historic Places Act 1980, if the determination had been made immediately before the commencement of this Act, may exercise that right of appeal as if this Act had not been passed; and every such appeal shall be determined as if this Act had not been passed.

(4) Every appeal lodged under section 48 (1) of the Historic Places Act 1980 before the date of commencement of this Act, but not determined before that date, shall be determined as if this Act had not been passed.

**117. Transitional Board of Trustees**—(1) Notwithstanding anything in this Act, the Board of Trustees holding office as at the date of commencement of this Act shall continue in office as a transitional Board of Trustees under this Act for a period not exceeding 12 months from that date or until the completion of elections held under section 42 (c) of this Act, whichever date is sooner.

(2) During the period of office of the transitional Board of Trustees under subsection (1) of this section, the quorum for meetings shall be 6 members and any resolution signed or assented to in writing under section 50 (8) of this Act shall be deemed to be valid if signed or assented to in writing by 6 members of the Board.

**118. Repeals and amendments**—(1) The enactments specified in the First Schedule to this Act are hereby repealed.

(2) The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(3) The reference in Part I of the Eighth Schedule to the Resource Management Act 1991 to section 25<sup>E</sup> (1) of the Valuation of Land Act 1951 is hereby deemed to be, and always to have been, a reference to section 25<sup>F</sup> (1) of that Act (as inserted by section 16 of the Valuation of Land Amendment Act 1988).

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## SCHEDULES

Section 118 (1)

### FIRST SCHEDULE ENACTMENTS REPEALED

- 1980, No. 16—The Historic Places Act 1980.  
 1982, No. 75—The Historic Places Amendment Act 1982.  
 1985, No. 22—The Historic Places Amendment Act 1985.  
 1988, No. 119—The Trustee Amendment Act 1988: So much of the Second Schedule as relates to the Historic Places Act 1980.  
 1988, No. 156—The Trade and Industry Act Repeal Act 1988: So much of the First Schedule as relates to the Historic Places Act 1980.  
 1988, No. 189—The Historic Places Amendment Act (No. 2) 1988.

Section 118 (2)

### SECOND SCHEDULE ENACTMENTS AMENDED

Enactment	Amendment
1951, No. 19—The Valuation of Land Act 1951 (R.S. Vol. 21, p. 851)	By repealing paragraphs (a) and (aa) of section 25F (1) (as substituted by section 362 of the Resource Management Act 1991), and substituting the following paragraphs: “(a) Heritage covenants under the Historic Places Act 1993; or “(aa) Heritage orders under the Resource Management Act 1991; or”.
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item: “The Maori Heritage Council.”
1987, No. 65—The Conservation Act 1987	By omitting from the First Schedule the item relating to the Historic Places Act 1980, and substituting the following item: “The Historic Places Act 1993”.
1991, No. 69—The Resource Management Act 1991	By adding to the definition of the term “prohibited activity” the words “; and includes any activity prohibited by section 105 (2) (b) of the Historic Places Act 1993”. By inserting in section 61 (2) (a), after subparagraph (ii), the following subparagraph: “(iia) Relevant entry in the Historic Places Register; and”.

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1991, No. 69—The Resource Management Act 1991— <i>continued</i>	<p>By inserting in section 66 (2) (c), after subparagraph (ii), the following subparagraph:</p> <p>“(iia) Relevant entry in the Historic Places Register; and”.</p> <p>By inserting in section 74 (2) (b), after subparagraph (ii), the following subparagraph:</p> <p>“(iia) Relevant entry in the Historic Places Register; and”.</p> <p>By repealing paragraph (c) of section 93 (1), and substituting the following paragraph:</p> <p>“(c) Served on the New Zealand Historic Places Trust if the application—</p> <p>(i) Relates to land that is subject to a heritage order or a requirement for a heritage order or is otherwise identified in the plan as having heritage value; or</p> <p>(ii) Affects any historic place, historic area, wahi tapu, or wahi tapu area registered under the Historic Places Act 1993; and”.</p>
1991, No. 150—The Building Act 1991	<p>By repealing so much of Part I of the Eighth Schedule as relates to section 25F (1) of the Valuation of Land Act 1951 and to the Historic Places Act 1980.</p> <p>By adding to section 30 the following subsection:</p> <p>“(4) The territorial authority shall advise the Historic Places Trust of any application for a project information memorandum within 5 days of the receipt of the application, where the application affects any registered historic place, historic area, wahi tapu, or wahi tapu area.”</p> <p>By inserting in subsection (2) (b) and also in subsection (5) of section 31, after the word “classify”, the words “or register”.</p>

SECOND SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1991, No. 150—The Building Act 1991— <i>continued</i>	<p>By adding to section 33 the following subsection:</p> <p>“(6) The territorial authority shall advise the Historic Places Trust of any application for a building consent within 5 days of the receipt of the application, where—</p> <p>“(a) The application affects any registered historic place, historic area, wahi tapu, or wahi tapu area; and</p> <p>“(b) The applicant has not previously applied to the territorial authority for a project information memorandum that conforms with the application for the building consent.”</p> <p>By repealing so much of the Fourth Schedule as relates to the Historic Places Act 1980.</p>
1992, No. 142—The Public Finance Amendment Act 1992	<p>By repealing so much of the Second Schedule as relates to the Historic Places Act 1980.</p>

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This Act is administered in the Department of Conservation.

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