



ANALYSIS

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1975, No. 40

An Act to amend the Historic Places Act 1954

[19 September 1975]

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

1. Short Title and commencement—(1) This Act may be cited as the Historic Places Amendment Act 1975, and shall be read together with and deemed part of the Historic Places Act 1954 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1976.

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in the appropriate alphabetical order, the following definitions:

“‘Archaeological site’ means any place in New Zealand or within the territorial waters of New Zealand—

“(a) Which was associated with human activity more than 100 years ago; or

“(b) Which is the site of a wreck of any ship, boat, or aircraft where that wreck occurred more than 100 years ago,—

and which is or may be able, through investigation by archaeological techniques, to provide evidence as to the exploration, occupation, settlement, or development of New Zealand, being evidence which could not otherwise be made available for scientific, cultural, or historical studies:

“‘Local authority’ means any local authority constituted under the Municipal Corporations Act 1954, the Counties Act 1956, or the Local Government Act 1974:”.

3. Powers of Trust—Section 9 of the principal Act is hereby amended by inserting, in paragraph (a), after the words “historic interest”, the words “including a register of archaeological sites”.

4. New sections (relating to protection of archaeological sites) inserted—The principal Act is hereby amended by inserting, after section 9E (as inserted by section 3 of the Historic Places Amendment Act 1963), the following sections:

“9F. **Protection of archaeological sites**—(1) Subject to this section it shall not be lawful after the commencement of this Act for any person to destroy or damage or modify, or cause to be destroyed or 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, whether or not the site has been registered under section 9G of this Act.

“(2) On application the Trust may, subject to such conditions as it thinks fit to impose, authorise the whole or any part of any archaeological site to be destroyed, damaged, or modified.

“(3) Without in any way limiting the conditions that may be imposed by the Trust under subsection (2) of this section, where the Trust imposes the condition that a scientific archaeological investigation shall be carried out by or on behalf of the Trust before any authority is given to any person to carry

out such destruction, damage or modification, that person shall, except where the Trust is satisfied that such destruction, damage, or modification is solely for farming or agricultural purposes, be required to pay the Trust an amount equal to the cost of carrying out the investigation:

“Provided that, in the case of hardship or other special circumstances, the Trust may reduce the amount to such amount as it considers equitable or waive the requirement altogether.

“(4) The Minister may from time to time enter into an agreement with the owner or occupier of any land in order to protect any archaeological site on the land.

“9G. **Register of archaeological sites**—(1) The Trust shall establish and maintain a register of archaeological sites and in doing so may make such arrangements with such persons and institutions as it thinks fit for the purpose of obtaining and recording the required information.

“(2) Where any archaeological site is entered in or removed from the register, notice shall be given to the owner of the land on which the archaeological site is situated.

“9H. **Scientific investigation of archaeological sites**—(1) Except as provided in this section it shall not be lawful after the commencement of this Act for any person or institution to undertake any archaeological investigation which may destroy, damage, or modify any archaeological site.

“(2) The Trust may conduct a scientific archaeological investigation of any archaeological site or may authorise in writing any person or institution to undertake any such investigation (whether or not pursuant to subsection (3) of section 9F of this Act) subject to such conditions as it thinks fit to impose:

“Provided that no such investigation shall be carried out except with the concurrence of the owner and occupier of the land on which the site is situated and, where the Trust considers it necessary, with the concurrence of such Maori Association within the meaning of the Maori Welfare Act 1962 as the Trust considers appropriate.

“(3) The Trust, in considering any application to conduct any scientific archaeological investigation of any archaeological site, shall take into account the purpose of the investigation and the adequacy or otherwise of the institutional and professional resources available to the applicant to enable the investigation to be satisfactorily carried out.

“9I. Right of entry—(1) Any officer of the Trust or any person authorised by the Trust may enter from time to time, during the daytime, on any land whatever, with such assistants as he thinks fit, for the purpose of locating, recording, or inspecting any archaeological site, and may do all such things necessary for such locating, recording, or inspecting, including the affixing of any pegs, marks, or poles.

“(2) Before entering on the land, the officer of the Trust, or the person authorised by the Trust, shall, where practicable, give reasonable notice to the owner or occupier of the land of the intention to enter thereon, and shall, if required by the owner or occupier, produce and show the authority under which he claims to enter, or has entered, on the land.

“9J. Registration of archaeological sites under Land Transfer Act 1952—(1) Where the Trust is satisfied that any particular archaeological site is of sufficient scientific, cultural, or historic importance it may forward to the District Land Registrar of the district in which the site is situated a notice that the land described therein is an archaeological site as defined in the Historic Places Act 1954 and the District Land Registrar shall note the Certificate of Title of any land affected accordingly.

“(2) Where the notice affects part only of the land in any Certificate of Title, the District Land Registrar may call for such plans or other documents as he may require.

“(3) Where the Trust is satisfied that it is no longer necessary for any archaeological site to continue to be so noted, the Trust shall notify the District Land Registrar of the district concerned accordingly, and the District Land Registrar shall thereupon cancel the note on every relevant Certificate of Title.

“(4) In the case of any such archaeological site situated on Maori land, the Trust shall forward a copy of any notice under subsection (1) or any notification under subsection (3) of this section to the Registrar of the appropriate Maori Land Court, who shall record the effect of the notice or, as the case may be, the notification in the Court Records.

“9K. Listing of registered archaeological sites in district schemes—(1) The Trust may request any local authority to record any archaeological site registered under section 9C of this Act as such in the district planning scheme prepared

under the Town and Country Planning Act 1953, and, on receipt of the request, the local authority shall so record the site in accordance with section 21 (1) of that Act.

“(2) Where the Trust is satisfied that it is no longer necessary for any archaeological site to continue to be so recorded, the Trust shall notify the local authority, and on receipt of the notification the local authority shall amend the district scheme accordingly.

“(3) The provisions of section 9F of this Act shall apply notwithstanding anything in this section or in the Town and Country Planning Act 1953.

“9L. **Rights of appeal**—(1) There shall be a right of appeal by any person directly affected against any decision of the Trust or any condition imposed by it under section 9F or section 9H of this Act to the Minister, and the Minister may, after seeking such advice (if any) as he considers necessary, confirm, vary, or reverse the decision so made or condition so imposed, and the decision made or the condition imposed by the Trust shall, unless confirmed by the Minister, be deemed for the purposes of this Act to be modified accordingly.

“(2) Every decision of the Minister under subsection (1) of this section with regard to any appeal shall be final.

“(3) Any appeal under this section shall be forwarded to the Minister within 28 days after the date on which the decision of the Trust or the conditions imposed by it are made known to the appellant.

“9M. **Sections to bind the Crown**—Sections 9F to 9L of this Act shall bind the Crown.

“9N. **Offences**—Every person who—

“(a) Destroys, damages, or modifies, or causes to be destroyed, damaged, or modified any archaeological site, knowing or having reasonable cause to suspect that it is an archaeological site, without the prior written permission of the Trust under section 9F of this Act; or

“(b) Undertakes any archaeological investigation of any archaeological site which may destroy, damage, or modify the site without the written authority of the Trust under section 9H of this Act; or

“(c) Is in breach of any condition imposed by the Trust under section 9F or section 9H of this Act; or

“(d) Restrains, or in any way interferes with any officer of the Trust or any person authorised by the Trust who is lawfully claiming to enter, or is entering, or has entered on any land pursuant to section 91 of this Act or removes any peg, mark, or pole affixed by any such officer or person,—
commits an offence, and shall be liable on summary conviction to a fine not exceeding \$5,000.”

This Act is administered in the Department of Internal Affairs.
