

## HISTORIC PLACES AMENDMENT BILL

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### EXPLANATORY NOTE

THE Bill amends the Historic Places Act 1954.

*Clause 1* relates to the Short Title and commencement. The Bill is to come into force on 1 February 1975.

*Clause 2* amends the interpretation section of the principal Act by adding definitions of the expressions "archaeological sites" and "local authorities".

*Clause 3* amends the powers of the New Zealand Historic Places Trust to make it clear that the Trust has the power to keep a register of archaeological sites.

*Clause 4* inserts new sections 9F to 9N in the principal Act for the purpose of protecting archaeological sites.

Section 9F makes it unlawful for any person to destroy or damage or modify any archaeological site without the authorisation of the Historic Places Trust which may be given subject to such conditions as it thinks fit to impose. Where the Trust imposes the condition that a scientific archaeological investigation is to be carried out before any such authorisation is given to any person, that person is to be required to pay the cost of the investigation unless, by reason of hardship or other special circumstances, the Trust agrees to reduce the amount payable or waive the right to any payment.

Section 9G requires the Trust to establish and maintain a register of archaeological sites.

Section 9H makes it unlawful for any archaeological investigation to be carried out after the commencement of the Act except in accordance with the section.

The section empowers the Trust to undertake scientific archaeological investigations on archaeological sites or to authorise in writing any person or institution to undertake any such investigation subject to such conditions as the Trust thinks fit to impose. Any such investigation is to have the consent of the owner and occupier of the land and, where appropriate, the concurrence of the District Maori Council. The section also sets out the criteria to be taken into account in authorising such investigations.

Section 9i gives officers of the Trust and persons authorised by it the power to enter on any land, during the daytime, for the purpose of locating, recording, and inspecting archaeological sites. Before entry the owner or occupier of the land is, where practicable, to be given reasonable notice.

Section 9j authorises the Trust, where it is satisfied that any archaeological site is of sufficient importance, to have the site noted on the Certificate of Title of the land concerned and also provides for the cancellation of the note.

Section 9k authorises the Trust to require any local authority to record any archaeological site registered under section 9g of the Act as such in the district planning scheme prepared under the Town and Country Planning Act 1953, and the local authority shall record the site in accordance with section 21 of that Act and the provisions of that Act shall apply accordingly.

Section 9l provides for 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 9h of the Act to the Minister. The appeal is to be lodged within 28 days after the decision of the Trust is known to the appellant and the Minister may confirm, vary or reverse the decision made or condition imposed, and his decision shall be final.

Section 9m provides that sections 9f to 9l shall bind the Crown.

Section 9n provides for offences with a maximum penalty on summary conviction of a fine not exceeding \$1,000.

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*Hon. Mr May*

## HISTORIC PLACES AMENDMENT

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### ANALYSIS

Title	
1. Short Title and commencement	9h. Scientific investigation of archaeological sites
2. Interpretation	9i. Right of entry
3. Powers of Trust	9j. Registration of archaeological sites under Land Transfer Act 1952
4. New sections (relating to protection of archaeological sites) inserted	9k. Listing of registered archaeological sites in district schemes
9f. Protection of archaeological sites	9l. Rights of appeal
9g. Register of archaeological sites	9m. Sections to bind the Crown
	9n. Offences

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### A BILL INTITULED

#### An Act to amend the Historic Places Act 1954

5 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 1974, and shall be read together with and deemed part of the Historic Places Act 1954\* (hereinafter referred to as the principal Act).

10 (2) This Act shall come into force on the 1st day of February 1975.

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

\*1957 Reprint, Vol. 6, p. 103

Amendments: 1957, No. 54; 1963, No. 55; 1964, No. 90; 1967, No. 79; 1969, No. 82; 1970, No. 70; 1972, No. 67

“‘Archaeological site’ means any place on or in which  
 may be found any antiquity within the meaning of  
 the Antiquities Act 1974, any drawing, painting,  
 faunal, or floral remain, or any surface modification  
 or natural object which is the result of human  
 activity on that place associated with the Maori or  
 other pre-European inhabitants of New Zealand or  
 with the early European visitors to or the early  
 European settlement or development of New  
 Zealand, and which is able, through investigation by  
 archaeological techniques, to provide evidence as to  
 that occupation, visit, settlement, or development  
 which could not otherwise be made available for  
 scientific, cultural or historic 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 archae-  
 ological 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) The Trust may, subject to such conditions as it thinks  
 fit to impose, authorise the whole or any part of any archae-  
 ological 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 archae-  
 ological 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 be required to pay the Trust an amount equal to the cost of carrying out the investigation:

5 “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.

“9G. **Register of archaeological sites**—The Trust shall establish and maintain a register of archaeological sites and  
10 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.

“9H. **Scientific investigation of archaeological sites**—  
15 (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.

“(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  
20 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  
25 the land on which the site is situated and, where the Trust considers it necessary, with the concurrence of the appropriate District Maori Council.

“(3) The Trust, in considering any application to conduct any scientific archaeological investigation of any archae-  
30 ological 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  
35 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  
40 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. 5

“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. 10 15

“(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. 20

“9K. **Listing of registered archaeological sites in district schemes**—The Trust may request any local authority to record any archaeological site registered under section 9G 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 of that Act as though that request were a requirement under that section, and the provisions of that Act shall apply accordingly. 25 30

“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. 35 40

“(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  
5 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—

10 “(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  
15 of this Act; or

“(b) Undertakes any archaeological investigation of any archaeological site without the written authority of the Trust under section 9H of this Act; or

20 “(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 9I of this Act or removes any peg, mark, or pole  
25 affixed by any such officer or person,—

commits an offence, and shall be liable on summary conviction to a fine not exceeding \$1,000.”