

HISTORIC PLACES BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the Historic Places Act 1954 and its amendments.

The main changes made by the Bill are—

- (a) The expression “historic place” has now been defined:
- (b) Historic places are to be classified in categories of importance:
- (c) New concepts of “historic areas” and “traditional sites” have been introduced:
- (d) Certain buildings may be protected by “protection notices”:
- (e) Historic places may now be protected by “heritage covenants”:
- (f) Repairs notices requiring urgent repairs to be made to buildings subject to a protection notice may be issued:
- (g) A new part is to be included in the Town and Country Planning Act 1971 to deal with protection notices.

Unless in the following note it is otherwise stated, each clause or subclause merely re-enacts the existing law without any material change in meaning, although it may have been redrafted.

Clause 1 relates to the Short Title and the commencement of the Bill. It is to come into force on 1 April 1981.

Clause 2 is the interpretation clause. It includes new definitions of the expressions “Board of Trustees”, “building”, “historic area”, “natural objects”, “protection notice”, “registered site”, “territorial authority”, and “traditional site”, and the definitions of the expressions “archaeological site” and “local authority” have been amended and the definition of the expression “member” deleted.

Clause 3 provides that the Crown is bound by this Bill. At present the Crown is bound by the provisions dealing with archaeological sites only.

PART I

NEW ZEALAND HISTORIC PLACES TRUST AND BOARD OF TRUSTEES

This Part deals with the establishment and constitution of the Trust and the Board of Trustees.

Constitution

Clause 4 continues the New Zealand Historic Places Trust established under the Historic Places Act 1954.

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Clause 5 sets out the functions of the Trust. Paragraphs (a) and (b) are new.

Clause 6 is new and sets up a Board of Trustees to exercise the powers and functions of the Trust.

Clause 7 sets out the membership of the Board. At present the Board consists of—

- (a) One member, appointed as the Chairman of the Trust:
- (b) The Secretary for Internal Affairs:
- (c) The Director-General of Lands:
- (d) The Commissioner of Works:
- (e) One member, being a Maori, appointed to represent the Maori race:
- (f) One member, appointed on the nomination of the Vice-Chancellors' Committee:
- (g) One member, appointed on the nomination of the Art Galleries and Museums Association of New Zealand Incorporated:
- (h) One member, appointed on the nomination of the Royal Society of New Zealand:
- (i) One member, appointed on the nomination of the New Zealand Archaeological Association Incorporated:
- (j) One member, appointed on the nomination of the New Zealand Library Association Incorporated:
- (k) One member, appointed on the nomination of the New Zealand Institute of Architects:
- (l) Three members (being associate members), elected by the associate members in accordance with the rules of the Trust.

All appointed members are appointed by the Governor-General on the recommendation of the Minister.

The Bill makes the following changes—

- (a) All appointed members are to be appointed by the Minister:
- (b) The person appointed under paragraph (e) above is to be nominated by the Maori Council:
- (c) The person appointed under paragraph (f) above is to have a background in and knowledge of New Zealand history:
- (d) The members appointed under paragraphs (g), (h), and (j) above are to be replaced by 3 persons having special skills, knowledge, or cultural background appropriate to the functions and powers of the Trust:
- (e) The 3 persons appointed under paragraph (l) above are to be replaced by 3 representatives of the regional committees of the Trust elected in accordance with the rules of the Trust:
- (f) One additional person is to be appointed having a background in and knowledge of local or regional government.

Clause 8 provides that members are to serve for a term not exceeding 3 years.

Clause 9 deals with the filling of extraordinary vacancies in the membership of the Board.

Clause 10 provides for the appointment of a Deputy Chairman by the members of the Board.

Clause 11 deals with the procedure at meetings of the Board. The quorum is to be increased from 7 members to 8.

Clause 12 provides that meetings of the Board are not to be affected by certain irregularities.

Clause 13 is new and provides that members of the Board incur no personal liability for any default made by the Board in good faith.

Powers of the Trust

Clause 14 is new and sets out the powers of the Trust.

Clause 15 limits the Trust's right to enter land in the exercise of its powers.

Clause 16 sets out the procedure for contracts made by or on behalf of the Trust.

Clause 17 empowers the Board to make rules for the Trust.

Clause 18: Subclause (1) authorises the appointment of staff under the State Services Act 1962.

Subclause (2) is new and permits the Trust to employ persons under contract for fixed periods of time and for specified purposes.

Clause 19 is new and provides for the delegation by the Board of any of its powers to any member, officer, committee, or agent of the Board.

Bylaws

Clause 20 empowers the Trust to make bylaws.

Clause 21 provides the procedure for the making of bylaws.

Clause 22 deals with proof of bylaws.

Clause 23 provides for copies of bylaws to be made available to the public.

Clause 24 provides for a maximum penalty for a breach of the bylaws. This has been increased from \$40 to \$500, and, where the breach is a continuing one, a further fine of \$50 each day or part of day during which the breach continues may be imposed under the Bill.

Financial Provisions

Clause 25 sets out the source of the funds of the Trust.

Clause 26 deals with the handling of bank accounts.

Clause 27 provides for unauthorised expenditure and increases the amount from \$500 to \$1,000 in any financial year.

Clause 28 deals with the borrowing powers of the Trust.

Clause 29 provides for the investment of funds in trustee securities.

The proviso is new and empowers the Trust to retain securities gifted to the Trust, although they are not trustee securities.

Clause 30 deals with the keeping of proper accounts.

Clause 31 exempts the Trust from land tax and income tax.

Clause 32 provides for the annual report.

Clause 33 enables any local authority, public body, or university to make contributions to the Trust.

Clause 34 deals with the payment of fees and travelling allowances.

PART II

CLASSIFICATION AND PROTECTION OF HISTORIC PLACES AND HISTORIC AREAS

This Part deals with the classification and protection of historic places.

Buildings

Clause 35 is new and enables the Board to classify buildings of historic value according to their historical significance or architectural quality.

Clause 36 is also new and provides that the Trust may, with the approval of the Minister, issue protection notices in respect of certain buildings.

Clause 37 deals with the items to be stated in the protection notice.

Clause 38 empowers the Trust to make grants and advances to the owner of a building subject to a protection notice for the preservation and protection of the building.

Clause 39 empowers the Trust to acquire under the Public Works Act 1928 a building subject to a protection notice where it is necessary to give effect to an order of the Tribunal under section 125E of the Town and Country Planning Act 1977.

Clause 40 is also new and enables the Trust, with the approval of the Minister, to issue a repairs notice in respect of any building which is subject to a protection notice and which is in need of urgent repairs, requiring those repairs to be made within 3 months of receipt of the notice or such longer period as may be specified in the notice.

If the repairs are not carried out by the owner the Trust may, on giving not less than 1 month's notice, carry out the repairs and charge the owner accordingly. There is a right of appeal to the Planning Tribunal under the Town and Country Planning Act 1977 in respect of such charge.

Archaeological Sites

Clause 41 provides for the registration of archaeological sites.

Clause 42 empowers the Trust to undertake scientific investigations of archaeological sites.

Clause 43 deals with the right of entry onto land of any employee of or person authorised by the Trust in connection with archaeological sites.

Clause 44 provides for the protection of archaeological sites.

Clause 45 provides for registered archaeological sites to be recorded in district schemes.

Clause 46 provides for a right of appeal to the Minister against any decision of the Trust or condition imposed by it under *clause 42* or *clause 44*.

Historic Areas

Clause 47 is new and provides for the classification of historic areas.

Traditional Sites

Clause 48 is also new and provides for the protection of traditional sites.

General Provisions

Clause 49 provides for the registration under the Land Transfer Act 1952 of any archaeological site of sufficient cultural or historical importance and any building subject to a protection notice.

Clause 50 is new and provides for the owner or lessee of any historic place to execute a heritage covenant to provide for the preservation and maintenance of it as a historic place. The covenant may be in perpetuity or for a term of years and is to run with the land and to bind successors in title but is terminable by 12 months' notice by either party.

PART III

AMENDMENTS TO TOWN AND COUNTRY PLANNING ACT 1977

This Part inserts a new Part VIA (sections 125A to 125H) in the Town and Country Planning Act 1977 dealing with protection notices.

Section 125A is the interpretation provision.

Section 125B deals with the procedure on the issue of the protection notice, including persons to be notified, the rights of appeal to the Tribunal, and the effect of the decisions of the Tribunal.

Section 125C enables the Minister on the recommendation of the Council to refer the protection notice to the Tribunal to conduct an inquiry into the matter.

Section 125D prohibits work for the demolition, alteration, or extension of a building subject to a protection notice without the consent of the Trust until the protection notice has been cancelled by the Trust or revoked by the Tribunal or, following an inquiry under section 125C, by the Minister. There is a right of appeal to the Tribunal where the Trust refuses to consent to the work.

Section 125E provides that where the owner of a building subject to a protection notice is unable to sell the building he may apply to the Tribunal which, if it is satisfied as to the conditions specified, may order the Trust to remove the protection notice or take the land under the Public Works Act 1928.

Section 125F enables the Trust to cancel a protection notice.

Section 125G provides for amendments to be made to the protection notice.

Section 125H sets out the purposes for which a building subject to a protection notice and the associated land may be used.

PART IV

GENERAL PROVISIONS

Clause 52 sets out the offences.

Clause 53 provides that any offender is to give his name and address.

Clause 54 is new and provides that informations may be laid within 12 months of the date the offence is committed instead of the 6 months provided by the Summary Proceedings Act 1957.

Clause 55 provides that all buildings, signs, and apparatus erected on any land under the control of the Trust without the consent of the Board shall be forfeited to the Trust.

Clause 56 is new and provides that no member of the Board and no employee employed under contract shall by reason thereof be deemed to be employed by the Crown for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956.

Clause 57 permits local authorities to convey land to the Trust for the purposes of the Bill.

Clause 58 provides for regulations.

Clause 59 deals with repeals.

45. Recording of registered archaeological sites in district schemes
46. Rights of appeal

Historic Areas

47. Historic areas

Traditional Sites

48. Traditional sites

General Provisions

49. Registration under Land Transfer Act 1952
50. Heritage covenants for preservation of historic places

PART III

AMENDMENTS TO TOWN AND COUNTRY PLANNING ACT 1977

51. Amendments to Town and Country Planning Act 1977

PART VIA

PROTECTION NOTICES

- 125A. Interpretation
125B. Procedure on issue of protection notice

- 125C. Reference of protection notice for inquiry
125D. Work contrary to protection notice prohibited
125E. Protection notice to be removed or land to be taken
125F. Cancellation of protection notice
125G. Alteration of protection notice
125H. Likely effect of proposed use

PART IV

GENERAL PROVISIONS

52. Offences
53. Offender to give name and address
54. Time within which information may be laid
55. Buildings, etc., erected without approval of Trust
56. Members and employees not in service of Crown
57. Local authorities may transfer land to Trust
58. Regulations
59. Repeals Schedule

A BILL INTITULED

An Act to preserve the historic heritage of New Zealand, to continue the New Zealand Historic Places Trust and to establish the New Zealand Historic Places Board of Trustees with the necessary powers and functions for the full and proper attainment of the objectives of this Act, and to amend and consolidate the Historic Places Act 1954 5

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority 10 of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Historic Places Act 1979.

(2) This Act shall come into force on the 1st day of April 1981. 15

Cf. 1954, No. 14, s. 1

2. Interpretation—Unless the context otherwise requires,—
“Archaeological site” means any place in New Zealand or within the territorial waters of New Zealand—
(a) Which was associated with human activity 20 more than 100 years ago; or

- (b) Which is the site of the wreck of any vessel where that wreck occurred more than 100 years ago,—
and which is or may be able through investigation by archaeological techniques to provide scientific, cultural, or historical evidence as to the exploration, occupation, settlement, or development of New Zealand:
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- 10 “Board of Trustees” means the New Zealand Historic Places Board of Trustees established under section 6 of this Act, and “Board” has the same meaning:
- “Building” includes a structure and any part of a building or structure:
- 15 “Historic area” means an area classified under section 47 of this Act:
- “Historic place” means a place (including a site, building, or natural object) which is historic by reason of an association with the past and which demonstrates or provides evidence of any cultural, traditional, aesthetic, or other value of the past; and includes—
- 20 (a) Archaeological sites:
(b) Traditional sites:
- 25 “Local authority” means a local authority within the meaning of Part VI of the Local Authorities Loans Act 1956:
- “Minister” means the Minister of Internal Affairs:
- “Natural objects” include trees, rocks, outcrops, and caves:
- 30 “Protection notice” means a protection notice imposed under section 36 of this Act:
- “Registered site” means an archaeological site registered under section 41 of this Act:
- 35 “Territorial authority” means a territorial authority within the meaning of the Local Government Act 1974:
- 40 “Traditional site” means a place or site (not being an archaeological site) that is important by reason of its historical significance or spiritual or emotional association with the Maori people or to any group or section thereof:
- “Tribunal” means the Planning Tribunal established under the Town and Country Planning Act 1977:

“Trust” means the New Zealand Historic Places Trust constituted under section 4 of this Act.

Cf. 1954, No. 14, s. 2; 1963, No. 55, s. 2 (2) (a); 1975, No. 40, s. 2

3. Act to bind Crown—This Act shall bind the Crown. 5

PART I

NEW ZEALAND HISTORIC PLACES TRUST AND BOARD OF TRUSTEES

Constitution

4. New Zealand Historic Places Trust—(1) There shall 10 continue to be a Trust called the New Zealand Historic Places Trust.

(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 1954, 15 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. 20

Cf. 1954, No. 14, s. 2

5. Functions of Trust—The general functions of the Trust are—

- (a) To identify, investigate, classify, protect, and preserve, or assist therein, any historic place and to 25 keep permanent records thereof:
- (b) To identify, investigate, classify, and record historic areas:
- (c) To foster public interest in historic places and historic areas and in their identification, investigation, and 30 classification, and in the protection and preservation of historic places:
- (d) To furnish information, advice, and assistance in relation to the identification, investigation, classification, and recording of historic places and historic 35 areas, and in relation to the protection and preservation of historic places.

Cf. 1954, No. 14, s. 8

6. New Zealand Historic Places Board of Trustees—

(1) There is hereby established a Board of Trustees to be called the New Zealand Historic Places Board of Trustees.

5 (2) 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.

7. Membership of Board—(1) The Board shall consist of—

- (a) One person, who shall be appointed as Chairman:
- 10 (b) One person, being a Maori, to be appointed on the nomination of the New Zealand Maori Council constituted under section 17 of the Maori Welfare Act 1962:
- 15 (c) One person, having a background in and knowledge of New Zealand history, to be appointed on the nomination of the Vice-Chancellors' Committee constituted under section 46 of the Universities Act 1961:
- 20 (d) One person, to be appointed on the nomination of the New Zealand Archaeological Association Incorporated:
- (e) One person, to be appointed on the nomination of the New Zealand Institute of Architects constituted under section 3 of the Architects Act 1963:
- 25 (f) One person, to be appointed having a background in and knowledge of local or regional government:
- (g) Three persons, to be appointed as the representatives of the regional committees of the Trust and being chosen in accordance with the rules of the Trust:
- 30 Provided that such rules shall be determined at the first meeting of the Board:
- (h) Three persons, to be appointed having special skills, knowledge, or cultural background appropriate to the functions and powers of the Trust:
- 35 (i) The Secretary for Internal Affairs:
- (j) The Director-General of Lands:
- (k) The Commissioner of Works.

(2) All members of the Board shall be appointed by the Minister:

40 Provided that before making any appointments under any of paragraphs (a) (f), and (h) of subsection (1) of this section the Minister shall consider any nominations or representations made to him by any person or body of persons.

Cf. 1954, No. 14, s. 5; 1970, No. 70, s. 2 (1)

8. Term of office of members—(1) The appointed members of the Board, other than those appointed under section 7 (1) (g) of this Act, shall be appointed by the Minister for a term not exceeding 3 years but may from time to time be reappointed.

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(2) The members of the Board appointed under section 7 (1) (g) of this Act shall serve for such term as may be determined by the rules of the Trust, being a term not exceeding 3 years.

(3) Unless he vacates or is removed from his office under section 9 of this Act, every member of the Board shall continue in office until his successor comes into office.

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Cf. 1954, No. 14, s. 6; 1972, No. 67, s. 2

9. Extraordinary vacancies—(1) The Chairman or any appointed member may at any time resign his office by giving written notice to that effect to the Minister.

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(2) The Chairman or any appointed member may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

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(3) The Chairman or any appointed member shall be deemed to have vacated his office if he is absent from 3 consecutive meetings of the Board without its leave.

(4) If the Chairman or any appointed member dies or resigns, or is removed from office, or is deemed to have vacated his office, the vacancy thereby occurring shall be deemed to be an extraordinary vacancy.

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

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

(7) The powers of the Board shall not be affected by any vacancy in the membership thereof.

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Cf. 1954, No. 14, s. 6

10. Deputy Chairman 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 31st day

of March in each year and at the first meeting of the Board held after the occurrence of a vacancy in the office of the Deputy Chairman, the Board shall elect one of its members to be the Deputy Chairman.

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

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

(a) With the consent of the Chairman, at any time during the temporary absence of the Chairman:

(b) Without that consent, at any time while the Chairman
15 is temporarily incapacitated or prevented by illness or other cause from performing the functions and duties of his office:

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

(4) No acts done by the Deputy Chairman or the
20 temporary Chairman appointed under section 11 of this Act acting as the Chairman shall in any proceedings be questioned on the grounds that the occasion for his so acting had not arisen or had ceased.

Cf. 1954, No. 14, s. 7 (1), (3)

11. Meetings of Board—(1) The Chairman shall preside
25 at all meetings of the Board at which he is present.

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

30 (3) In the absence from any meeting of the Secretary for Internal Affairs or the Director-General of Lands or the Commissioner of Works, that person may authorise any other officer of the Department of Internal Affairs, the Department of Lands and Survey, or the Ministry of
35 Works and Development, as the case may be, to attend the meeting in his place. While any such officer is attending a meeting under this subsection he shall be deemed for all purposes to be a member of the Board. The fact that any
40 person attends and acts as such a member shall be sufficient evidence of his authority to do so in the absence of proof to the contrary.

(4) Meetings of the Board shall be held at such times and places as the Board or Chairman may from time to time appoint.

(5) A special meeting of the Board may at any time be convened by the Chairman, and the Chairman shall call a special meeting whenever requested to do so in writing by 2 members of the Board:

Provided that not less than 7 clear days' notice of every special meeting and of the business to be transacted thereat 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 any such meeting.

(6) At any meeting of the Board, 8 members shall be a quorum.

(7) Every question before any meeting of the Board shall be determined by a majority of the votes of the members present and voting thereon:

Provided that a resolution signed, or assented to by letter or telegram, of all members of the Board for the time being in New Zealand shall have the same effect as a resolution duly passed at a meeting of the Board.

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

(9) Subject to this Act and the rules of the Trust made under section 17 of this Act, the Board may regulate its own procedure.

Cf. 1954, No. 14, s. 7 (2), (4) to (10); 1967, No. 79, s. 2 (3)

12. 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 was incapable of being a member or had ceased to be a member.

Cf. 1954, No. 14, s. 6 (7)

13. 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.

Powers of Trust

14. Powers of Trust in relation to historic places—In the exercise of its functions under this Act the Trust shall have the following powers:

- 5 (a) To investigate, identify, classify, and record historic places and historic areas:
- (b) To classify historic places, and make such changes to the classification as the Trust from time to time sees fit:
- 10 (c) To acquire, restore, and manage any historic place or to assist any other person or organisation to acquire, restore, and manage any historic place:
- (d) To take such measures as it considers necessary to ensure that adequate finance is available to carry out its functions:
- 15 (e) To erect suitable signs and notices on historic places and historic areas, subject, in the case of any historic place and historic area not owned by or under the control of the Trust, to the consent of the owner first being obtained:
- 20 (f) To enter into agreements with local authorities, corporations, societies, individuals, or other controlling bodies for the management, maintenance, and preservation of any historic place:
- 25 (g) To acquire and accept the gift of any real or personal property and to dispose of it as it thinks fit:
- (h) To cause such steps to be taken as in the opinion of the Trust are necessary to make historic places accessible to the public, charge fees for admission, or to lease or let, or to use for any suitable purpose, any lands or buildings vested in the Trust or under its control:
- 30 (i) To promote or supervise any investigations of historic places:
- 35 (j) To appoint committees, whether composed of members of the Board or not:
- (k) To make grants for the undertaking of studies or investigations approved by the Trust:
- 40 (l) To publish books, pamphlets, reports, recommendations, and other information relating to any function of the Trust:
- (m) To make grants of money or advances on such terms and conditions as it sees fit (including advances free of interest) to further the functions of the Trust:
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- (n) To expend any money and generally to undertake any other powers and actions that are necessary for the exercise of or ancillary to any of its functions.

Cf. 1954, No. 14, s. 9; 1975, No. 40, s. 3 5

15. Limitations on certain powers of Trust—In the exercise of its powers under section 14 of this Act—

- (a) The Trust shall not enter any private land without the prior consent of the owner or lessee; and
 (b) The Trust shall not enter any land of the Crown 10 to which the public does not have access without the consent in writing of the body administering the land or the Commissioner of Crown Lands where there is no other appropriate body.

Cf. 1954, No. 14, s. 9 15

16. 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, 20 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. 25

(3) Any contract which, if made between private persons, may be made orally, may be similarly made by any person acting on behalf of and under the express or implied authority of the Trust, but no oral contract shall be made involving the payment by the Trust of a sum exceeding 30 \$400.

(4) 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: 35

(5) 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. 40

Cf. 1954, No. 14, s. 12

17. Rules of Trust—(1) The Board shall, by resolution, make rules not inconsistent with this Act for all or any of the following purposes, namely:

- 5 (a) Regulating the proceedings of the Board and the conduct of its meetings:
 - 10 (b) 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:
 - 15 (c) Providing for the custody of the property of the Trust and the custody and use of the common seal of the Trust:
 - 20 (d) Prescribing the duties of the officers and employees of the Trust:
 - 25 (e) Providing for the establishment of local branches to be known as Regional Committees or District Committees as the case may be for the furthering of the work of the Trust and prescribing such other matters as may be necessary for the efficient functioning of the Regional Committees and District Committees:
 - 30 (f) Providing for representation on the Board pursuant to sections 7 (1) (g) and 8 (2) of this Act:
 - 35 (g) 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 14 clear days before the day fixed for the meeting.
- Cf. 1954, No. 14, s. 13

18. Appointment of officers and engagement of persons on contract—(1) There shall from time to time be appointed under the State Services Act 1962 the Director and such other officers and employees as may be necessary for the efficient carrying out of the functions of the Trust.

(2) Subject to subsection (1) of this section, the Trust may from time to time enter into such contracts with persons for services for fixed periods of time and for specified periods as may from time to time be agreed, either generally or in any particular case, between the Trust and the State Services

Commission or, in any particular case where the Trust and the State Services Commission fail to agree, as the Minister shall determine.

Cf. 1954, No. 14, s. 11

19. Delegation of powers—(1) The Board may from time to time, in respect of a specified matter or class of matters, or in respect of a specified area within or beyond New Zealand, by writing delegate any of its powers to a member, officer, committee, or agent of the Board. 5

(2) Notwithstanding subsection (1) of this section, the Board shall not delegate to a member, officer, committee, or agent— 10

- (a) The power of delegation conferred by subsection (1) of this section, unless the Board authorises the member, officer, committee, or agent to whom that delegation is made to delegate that power to other members, officers, committees, or agents; or 15
- (b) Any power to borrow money; or
- (c) The power to classify buildings under section 35 of this Act; or 20
- (d) The power to issue a protection notice under section 36 of this Act; or
- (e) The power to issue a repairs notice under section 40 of this Act.

(3) Subject to any general or special directions given to him or to it by the Board, a member, officer, committee, or agent 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 him or on it directly by this Act and not by delegation. 25 30

(4) Each member, officer, committee, or agent 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.

(5) Each delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Board. 35

Bylaws

20. Power to make bylaws—The Trust may, in respect of any land or historic place vested in the Trust or under its control, make such bylaws as it thinks fit for all or any of the following purposes: 40

- (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:
- 5 (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:
- 10 (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. 1954, No. 14, s. 9A; 1963, No. 63, s. 3

21. 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.

Cf. 1954, No. 14, s. 9B; 1963, No. 55, s. 3

22. 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 and of the approval of the Minister.

Cf. 1954, No. 14, s. 9C; 1963, No. 55, s. 3

23. Bylaws to be accessible to public—The Trust shall cause printed copies of all bylaws relating to any land or historic place to be displayed at one or more of the entrances to such land or historic place.

Cf. 1954, No. 14, s. 9D; 1963, No. 55, s. 3

24. Penalty for breach of bylaws—Every person who acts in contravention of or fails to comply with any bylaw under this Act commits an offence and is liable on summary conviction to a fine not exceeding \$500; and where the breach is a continuing one, to a further fine of \$50 for every day or part of a day during which such breach continues. 5

Cf. 1954, No. 14, s. 9E; 1963, No. 55, s. 3

Financial Provisions

25. Funds of Trust—The funds of the Trust shall consist of— 10

- (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: 15
- (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 or in respect of the exercise of any of the functions or powers of the Trust: 20
- (d) All money received by the Trust from the sale or other disposal of any real or personal property of the Trust;
- (e) All accumulations of money belonging to the Trust. 25

Cf. 1954, No. 14, s. 14

26. Payment to and withdrawal from bank accounts—

(1) All money belonging to the Trust shall, within 7 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. 30

(2) No money shall be withdrawn from the bank except by the authority of the Board and either by cheque or by any other instrument (not being a promissory note or a bill) signed by an officer or other person authorised by the Board and countersigned by a member of the Board being authorised by the Board to countersign cheques or, as the case may be, such other instruments. 35

Cf. 1954, No. 14, s. 18; 1963, No. 55, s. 2 (2) (b)

27. **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 \$1,000.

5 Cf. 1954, No. 14, s. 16; 1976, No. 92, s. 2

28. **Borrowing powers**—The Trust may, with the prior approval in writing of the Minister of Finance but not otherwise, borrow money by way of mortgage, debentures, bonds, overdraft or otherwise, and may mortgage or charge
10 any of its real or personal property, whether present or future, in such manner as it thinks fit.

Cf. 1954, No. 14, s. 19

29. **Investment of funds**—Subject to the terms of any trust or endowment, any money held by or on behalf of the
15 Trust and available for investment shall be invested in any securities in which trust funds may be invested by trustees in accordance with the Trustee Act 1956 or in accordance with any other statutory authority or in such other manner as the Trust, with the approval of the Minister, may
20 determine:

Provided that, notwithstanding any rule of law or equity to the contrary, the Trust shall not be obliged to convert any securities which are the subject of a gift to the Trust and which are not securities in which the Trust may invest
25 money pursuant to this section.

Cf. 1954, No. 14, s. 17

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

(2) The Trust shall, as soon as possible after the end of
30 every financial year, cause its accounts for that financial year to be balanced, and cause to be prepared a statement of the assets and liabilities of the Trust as at the end of that financial year, together with an account of income and expenditure showing the financial transactions of the Trust
35 for that financial year.

(3) The balance sheet, statement, and other accounts of the Trust shall be submitted to and audited by the Audit Office, which shall for that purpose have the same powers as under the Public Finance Act 1977 in respect of public
40 money and stores and the audit of local authorities' accounts.

Cf. 1954, No. 14, s. 20

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

Cf. 1954, No. 22, s. 22 (3) (b), (4)

32. 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. 5

(2) A copy of the report (including the accounts so certified attached thereto) shall be laid before Parliament as soon as practicable after it has been received by the Minister. 10

Cf. 1954, No. 14, s. 21

33. Contributions by local authorities, etc.—For the purpose of providing funds for the exercise of the functions of the Trust— 15

(a) Any local 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: 20

(b) Any University or University College of Agriculture may from time to time, with the consent of the Minister of Education, make such contributions to the Trust as it thinks fit. 25

Cf. 1954, No. 14, s. 15; 1961, No. 54, s. 59 (1)

34. Fees and travelling allowances—(1) The Board and any committee of the Board are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951. 30

(2) There may be paid to the members of the Board and committees of the Board, out of money appropriated by Parliament, 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. 35

Cf. 1954, No. 14, s. 23

PART II

CLASSIFICATION AND PROTECTION OF HISTORIC PLACES AND
HISTORIC AREAS

Buildings

- 5 **35. Classification of buildings**—(1) The Trust may from
time to time classify buildings according to their historical
significance or architectural quality.
- (2) Without limiting the generality of subsection (1) of
this section, the Trust may classify buildings including—
- 10 (a) Those buildings having such historical significance or
architectural quality that their permanent pre-
servation is regarded as essential:
- (b) Those buildings which merit permanent preservation
because of their very great historical significance or
- 15 (c) Those buildings which merit preservation because
of their historical significance or architectural
quality:
- (d) Those buildings which merit recording because of
their historical significance or architectural quality.
- 20 (3) Neither the Trust nor any committee of the Trust shall
consider any proposal regarding the classification of a build-
ing unless the owner and occupier of the building have, at
least one month previously, been notified of the proposal and
- 25 given the opportunity to make representations thereon, and
the representations, if any, shall be considered with that
proposal.
- (4) The classification of buildings may from time to time
be varied or removed.
- 30 (5) As soon as practicable after any classification has been
confirmed, varied, or removed, the Trust shall notify the
owner and occupier of the building in writing accordingly.
- (6) The Trust shall hold a list of all classified buildings,
and shall supply copies to all persons interested therein on
- 35 payment of such fee (if any) as it sees fit.
- 36. Protection of certain buildings**—(1) Where the Trust
has classified a building under section 35 of this Act as
having such historical significance or architectural quality
as to justify its permanent preservation, it may, at any
- 40 time, with the approval of the Minister, issue a protection
notice declaring that building and all or part of its associated
land to be protected for the purposes of this Act.

(2) Every such protection notice shall be recorded in the appropriate district scheme in accordance with Part VIA of the Town and Country Planning Act 1977.

(3) Where the Trust considers that a protection notice is no longer necessary, it may cancel the protection notice. 5

(4) Every protection notice shall continue in effect until such time as it is cancelled by the Trust or revoked pursuant to the Town and Country Planning Act 1977.

37. Content of protection notice—A protection notice issued by the Trust shall specify— 10

(a) The building that is subject to the protection notice; and

(b) The legal description of the land that is subject to the protection notice; and

(c) The conditions and restrictions that apply in respect of the demolition, alteration, extension, or preservation or protection of the building that is subject to the protection notice. 15

38. Grants in respect of building subject to protection notice—(1) The Trust may, on such terms and conditions as it thinks fit, make grants of money or advances or render any other assistance to the owner of a building subject to a protection notice for the protection and preservation of that building. 20

(2) An owner of a building subject to a protection notice may apply to the Trust for a grant or loan of money or other assistance pursuant to subsection (1) of this section where any conditions imposed under section 125D of the Town and Country Planning Act 1977— 25

(a) Involve an applicant in such additional expense as to cause hardship; or 30

(b) Are impracticable for the applicant to undertake on his own behalf.

39. Trust may acquire land in certain circumstances—The Trust may take or otherwise acquire any land on which there is a building subject to a protection notice as for a public work under the Public Works Act 1928, if such acquisition is necessary to give effect to an order of the Tribunal made pursuant to section 125E of the Town and Country Planning Act 1977. 35
40

40. Repairs notice—(1) Where a building subject to a protection notice is in need of urgent works in order to be maintained or preserved, the Trust may in writing draw the matter to the attention of the owner of the building, outlining the work that the Trust considers may be necessary, and requesting the owner to advise the Trust of the steps he proposes to take in the matter.

(2) If, after the Trust has written to him in accordance with subsection (1) of this section, the owner of the building fails to satisfy the Trust that he is doing all that is necessary to maintain or preserve the building, the Trust may, with the approval of the Minister, issue a repairs notice to the owner of that building requiring work to be undertaken within 3 months of receipt by the owner of the repairs notice or such other longer period of time as the Trust may specify.

(3) Any approval of the Minister under subsection (2) of this section may be given in respect of any particular case or any class or classes of cases.

(4) The repairs notice shall—

(a) Specify the works which the Trust considers to be urgent for the proper preservation of the building; and

(b) Explain that if the works are not undertaken then the Trust may undertake the works and recover the cost from the owner.

(5) The Trust may at any time withdraw a repairs notice; and if it does so it shall forthwith give notice of the withdrawal to the person who was served with the repairs notice.

(6) Where an owner has not undertaken works to be done pursuant to a repairs notice, then the Trust may execute the works specified in the repairs notice, after giving the owner of the building not less than 1 month's notice in writing of its intention to do so.

(7) The Trust may give notice to the owner of the building requiring him to pay (subject to subsection (8) of this section) the expenses of any works executed under subsection (6) of this section and the amount shall be recoverable by the Trust from the owner as a debt.

(8) Within 1 month of the receipt of a notice under subsection (7) of this section, the owner may appeal to the Tribunal on the grounds that—

- (a) Some or all of the works were unnecessary for the preservation or maintenance of the building; or
 (b) The amount specified in the notice is unreasonable; or
 (c) The recovery of the amount specified in the notice would cause him hardship— 5
 and thereupon such appeal shall be made and determined by the Tribunal in the manner prescribed by the Town and Country Planning Act 1977 and the regulations made thereunder. 10

(9) The Tribunal, in determining such appeal, shall confirm the amount payable by the owner under subsection (7) of this section or reduce it to such amount as it considers fair and reasonable in the circumstances.

Archaeological Sites

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41. 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. 20

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

Cf. 1954, No. 14, s. 9G; 1975, No. 40, s. 4

25

42. Scientific investigation of archaeological sites—(1) Except as provided in this section, it shall not be lawful for any person or institution to undertake any archaeological investigation which may destroy, damage, or modify any archaeological site. 30

(2) The Trust may conduct a scientific archaeological investigation of any archaeological site or may permit in writing any person or institution to undertake any such investigation (whether or not pursuant to section 44 (6) of this Act) subject to such conditions as it thinks fit to impose: 35

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 appropriate, with the concurrence of such Maori Association established under the Maori Welfare Act 1962 or Maori Land Advisory 40

Committee established under Part V of the Maori Affairs Amendment Act 1974 or any other Maori authority as the Trust considers appropriate.

5 (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.

10 Cf. 1954, No. 14, s. 9H; 1975, No. 40, s. 4

43. Right of entry—(1) Notwithstanding anything in this Act, any officer or employee of the Trust or any person authorised by the Trust may enter from time to time, during the daytime, on any land with such assistants as he
15 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 or employee,
20 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,
25 on the land.

Cf. 1954, No. 14, s. 9I; 1975, No. 40, s. 4

44. Protection of archaeological sites—(1) It shall not be lawful for any person to destroy, damage, or modify, or cause to be destroyed, damaged, or modified, the whole
30 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 is a registered site.

(2) Notwithstanding subsection (1) of this section, any person wanting to destroy, damage, or modify the whole
35 or any part of any archaeological site, shall first apply to the Trust for an authority to do so, and the Trust may grant an authority subject to such conditions as it sees fit, or may decline to grant an authority.

(3) Notwithstanding anything in section 15 of this Act,
40 any officer or employee of the Trust, or any person authorised by the Trust, with such assistants as he thinks fit, may from time to time and during the daytime enter land after giving

the owner or occupier thereof 24 hours' previous notice of the intended entry, for the purpose of carrying out an investigation for the purpose of obtaining information to decide whether to grant an authority pursuant to subsection (2) of this section. 5

(4) 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, the Trust may 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 may recover an amount equal to the cost of such investigation from the owner or occupier of the land on which there is believed to be a site. 10

(5) All archaeological work done pursuant to subsection (3) or subsection (4) 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. 15

(6) 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 pay the Trust an amount equal to the cost of carrying out the investigation, except where the Trust is satisfied that such destruction, damage, or modification is solely for farming or agricultural purposes. 20 25

(7) In the case of hardship or other special circumstances, the Trust may reduce the amount payable under any subsection of this section to such amount as it considers equitable or waive the requirement altogether. 30

Cf. 1954, No. 14, s. 9F; 1975, No. 40, s. 4

45. Recording of registered archaeological sites in district schemes—(1) The Trust may request any territorial authority to record any registered site as such in the district planning scheme prepared under the Town and Country Planning Act 1977, and, on receipt of the request, the territorial authority shall so record the site. 35

(2) Where the Trust is satisfied that it is no longer necessary for any registered 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. 40

Cf. 1954, No. 14, s. 9K; 1975, No. 40, s. 4

46. **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 42 or section 44 of this Act to the Minister, and the Minister
5 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
10 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 1 month after the date on which the
15 decision of the Trust or the conditions imposed by it are made known to the appellant.

Cf. 1954, No. 14, s. 9L; 1975, No. 40, s. 4

Historic Areas

47. **Historic areas**—(1) Where the Trust considers an
20 area has historical value it may classify it as a historic area and such areas may be further classified into precincts or conservation areas or any other category as the Trust sees fit.

(2) Where the Trust classifies an area or any part of an
25 area as a historic area it shall give notification in writing thereof, and of any other category into which it is further classified, to the territorial authority in whose district the historic area is situated.

(3) The Trust may recommend proposals to any appro-
30 priate body or person for the preservation and enhancement of any historic area.

(4) Where any area is for the time being classified as a historic area, the territorial authority in whose district the historic area is situated shall take into account the desir-
35 ability of preserving or enhancing its character or appearance.

(5) The classification of an area as a historic area may from time to time be varied or removed and, as soon as possible after that variation or removal, the Trust shall
40 notify in writing the territorial authority in whose district the historic area is situated.

Traditional Sites

48. Traditional sites—(1) An application may be made to the Trust to have a place or site declared to be a traditional site.

(2) If the Trust is satisfied that the place or site is or may be a traditional site, it shall consider the importance of the place or site and the action (if any) that should be taken to protect it, and may—

(a) Refer the application to the Minister who shall refer the matter to the Minister of Maori Affairs with the recommendation that the application be considered pursuant to section 439A of the Maori Affairs Act 1953; or

(b) Refer the application to a Maori Association established under the Maori Welfare Act 1962 or to a Maori Land Advisory Committee established under Part V of the Maori Affairs Amendment Act 1974 or to any other appropriate Maori authority who shall consider the importance of the place or site and what action, if any, should be taken in regard to the place or site.

(3) The Minister of Maori Affairs, on receiving an application referred to him under subsection (2) (a) of this section, shall determine whether to make an application to the Maori Land Court under section 439A of the Maori Affairs Act 1953 to have the Court make a recommendation as to whether or not the place or site should be set aside as a Maori Reservation under section 439 of the Maori Affairs Act 1953.

(4) Where the Trust considers that the boundaries of a traditional site can be sufficiently defined, it may request the territorial authority in whose district the traditional site is situated to record the traditional site as such in the district planning scheme prepared under the Town and Country Planning Act 1977, and on receipt of the request the territorial authority shall so record the traditional site.

(5) The Trust may recommend proposals to any appropriate body or persons for the preservation of any traditional site.

(6) Where any place or site is declared a traditional site, the territorial authority in whose district the traditional site is situated shall take into account the desirability of protecting or preserving the traditional site.

General Provisions

49. Registration under the Land Transfer Act 1952—

(1) Where—

5 (a) The Trust is satisfied that any archaeological site, whether registered or not, is of sufficient cultural or historical importance; or

(b) A building is subject to a protection notice which has been recorded in accordance with Part VIA of the Town and Country Planning Act 1977,—

10 the Trust shall notify the District Land Registrar of the district in which that site or that building is situated and the District Land Registrar shall note the certificate of title of any land affected accordingly.

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.

20 (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.

25 (4) Where a protection notice is cancelled, the Trust shall notify the District Land Registrar of the district accordingly, and the District Land Registrar shall thereupon cancel the note on every relevant certificate of title.

30 (5) In the case of any such historic place 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.

Cf. 1954, No. 14, s. 9J; 1975, No. 40, s. 4

35 **50. Heritage covenants for preservation of historic places—**(1) If the Trust is satisfied that any place should be preserved and maintained as an historic place, and that this may be achieved without acquiring the ownership of the place, or, as the case may be, the lessee's interest in the place, it may treat and agree with the owner or lessee for
40 the execution of a heritage covenant to provide for the protection, preservation, and maintenance of that place as a

historic place, subject to such terms and conditions as the parties think fit, including provision for public access where appropriate:

Provided that in the case of a lease or licence issued under the Land Act 1948 the consent of the Land Settlement Board shall be required and the Trust may give its consent subject to the inclusion in the heritage covenant of any conditions that it thinks necessary. 5

(2) In the case of any private land, where the person with whom the Trust is treating is a lessee of the land, the consent of the lessor of the land (and if the land is Maori land, of the Registrar of the Maori Land Court) shall be required to the execution of the covenant, and any such consent may be given subject to the inclusion in the heritage covenant of any conditions that the person giving his consent thinks necessary. 10 15

(3) The effect of a heritage covenant shall be to require the land to which it applies to be maintained as an historic place in accordance with the terms of the covenant and subject always to those terms in accordance with the other provisions of this Act relating to land to which heritage covenants apply. 20

(4) A heritage covenant may be executed to have effect in perpetuity or for a specified term, according to the nature of the interest in land to which it applies and the terms and conditions of the agreement between the Trust and the owner or, as the case may be, the lessee. 25

(5) Notwithstanding any rule of law or equity to the contrary, every heritage covenant shall run with and bind the land that is subject to the burden of the covenant, and shall be deemed to be an interest in the land for the purposes of the Land Transfer Act 1952: 30

Provided that any heritage covenant may be terminated by either party on giving 12 months' notice in writing to the other party. 35

(6) The District Land Registrar, on application by the Trust, shall enter in the appropriate folium of the register relating to the land that is the subject of the burden of the covenant a notification thereof.

(7) Where the burden of the 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. 40

(8) Where the Trust is satisfied that it is no longer necessary for any heritage covenant 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.

(9) The parties to the heritage covenant may by consent in writing agree to a particular dealing as to the whole or any part of the land affected, notwithstanding the existence of the heritage covenant.

PART III

AMENDMENTS TO TOWN AND COUNTRY PLANNING ACT 1977

51. Amendments to Town and Country Planning Act 1977—The Town and Country Planning Act 1977 is hereby amended by inserting, after Part VI, the following Part:

“PART VIA

“PROTECTION NOTICES

“125A. Interpretation—In this Part of this Act—

“‘Building’ includes a structure and any part of a building or structure:

“‘Protection notice’ or ‘notice’ means a protection notice issued pursuant to section 36 of the Historic Places Act 1979:

“‘Trust’ means the New Zealand Historic Places Trust constituted under the Historic Places Act 1979.

“125B. Procedure on issue of protection notice—(1) Where, pursuant to section 36 of the Historic Places Act 1979, the Trust has issued a protection notice, the Trust shall, as soon as practicable, serve a copy of the notice on the Council and the Minister.

“(2) On receipt of the protection notice the Council shall serve a copy of the notice on the owner and occupier of the building and associated land subject to the notice and those bodies and persons who, in the Council’s opinion, would be directly affected by the notice in accordance with regulations in force under this Act.

“(3) The Minister, the owner and occupier, and the bodies and persons directly affected by the protection notice shall have the right to make submissions in respect of, or to object to, the notice.

“(4) As soon as practicable after the time for receiving submissions and objections has expired, the Council shall consider the Trust’s explanation of the protection notice and all submissions and objections received by the Council, in accordance with section 48 of this Act, and shall recommend to the Trust, or the Minister in the case of land owned by the Crown or subject to a Ministerial requirement, whether the notice should be confirmed, modified, or revoked, or made subject to conditions, restrictions, or prohibitions. 5

“(5) The Trust or the Minister, as the case may be, shall, after considering the recommendation of the Council, advise the Council of its or his decision, whether the recommendation is accepted either wholly or in part. 10

“(6) The Trust or the Minister, as the case may be, the Council, the owner, the occupier, and any objector, may, within 1 month after advice of the decision, appeal to the Tribunal against the decision of the Trust or the Minister under this section. 15

“(7) In determining any such appeal the Tribunal may confirm, modify, or revoke the protection notice or may impose such conditions or restrictions in respect of the notice as the Tribunal thinks fit but shall have regard to the likely effect of its decision on the protection and preservation of the building. 20

“(8) On receiving any decision of the Minister following an inquiry by the Tribunal under section 125c of this Act, or of the Tribunal following an appeal, confirming, with or without modification, any protection notice, or as soon as the time for lodging appeals under any such notice has expired without any appeal being lodged, the Council shall without further formality record in any district scheme for the area that the building concerned is subject to a protection notice. 25 30

“125c. **Reference of protection notice for inquiry**—(1) The Minister may, on receipt of a recommendation of the Council under section 125B (4) of this Act, where the protection notice relates to a requirement which has been referred to the Tribunal for an inquiry in accordance with section 119 of this Act, refer the notice and the recommendation of the Council to the Tribunal which shall have jurisdiction to conduct an inquiry under this section and to report on such matters as the Minister may determine. 35 40

“(2) The inquiry shall be conducted in accordance with the provisions of section 119 (2) to (9) of this Act as far as they are applicable and with any necessary modifications.

“125D. Work contrary to protection notice prohibited—

(1) After any protection notice issued pursuant to section 36 of the Historic Places Act 1979 has been served on the owner and occupier of the building under section 125B (2) of this
5 Act, no person shall, without the consent of the Trust, carry out any works for the demolition, alteration, or extension of the building subject to the notice, except as provided by the notice, until the notice has been cancelled by the Trust or revoked by the Tribunal, or the Minister following an
10 inquiry under section 125c of this Act.

“(2) The Trust may grant or refuse its consent, and in granting consent may impose such conditions, restrictions, and prohibitions as it thinks fit.

“(3) Any body or person whose application for consent is
15 refused or is granted subject to conditions, may, within 1 month after advice of the decision, appeal to the Tribunal against the refusal of consent or against any of the conditions subject to which the consent was granted.

“(4) In determining any such appeal, the Tribunal may
20 grant or refuse consent or confirm, modify or revoke any such condition, as the case may be.

“125E. Protection notice to be removed or land to be taken—

(1) If the owner of any building who was the owner, or the spouse of the owner, on the date on which the protection notice
25 in respect of that building was issued, is unable to sell the building owing to the existence of the notice, he may apply to the Tribunal for an order under subsection (2) of this section.

“(2) On receipt of an application under subsection (1) of
30 this section, the Tribunal, on being satisfied that—

“(a) The building has been offered for sale on the open market in an adequate manner after the date on which the protection notice was issued for a period of not less than 6 months or such shorter
35 period as the Tribunal considers reasonable because of any special circumstances; and

“(b) The owner of the building has been unable to enter into an agreement for the sale of the building at a price which is not less than the market value
40 the building would have had if it had not been made subject to a protection notice; and

“(c) The fact that the building has been made subject to a protection notice is the principal reason for such agreement for sale not having been entered into; and

“(d) The owner of the building has thereby suffered or will 5
thereby suffer—

“(i) A financial loss, where the owner is, or was at the time the building was first offered for sale, occupying the building solely as a residence for himself and his family (if any); or 10

“(ii) Serious financial hardship in any other case—

may by order give the Trust the option of either causing the protection notice to be removed or of taking the land under the Public Works Act 1928 within 6 months of the order of the Tribunal. 15

“(3) Before making an order under subsection (2) of this section, the Tribunal may direct the applicant to take such further action as the Tribunal considers reasonable in an attempt to sell the building. 20

“(4) When making an order pursuant to subsection (2) of this section, the Tribunal may direct the Trust to take only such area of land as the Tribunal shall determine is necessary to protect the building and that subdivision shall be deemed to be authorised under the Local Government Act 1974 or, as the case may be, the Town and Country Planning Act 1977. 25

“(5) Where any compensation is paid to the owners of a building subject to a protection notice, any amount owing to the Trust under section 40 (7) of the Historic Places Act 1979 30
in respect of repairs to the building shall be deducted therefrom and paid directly to the Trust.

“125F. **Cancellation of protection notice**—If the Trust cancels the protection notice, it shall inform the Council, the owner and occupier, and the Minister that the protection notice has been cancelled, and the Council shall thereupon without further formality amend the district scheme accordingly. 35

“125G. **Alteration of protection notice**—(1) With the agreement of the owners of any land directly affected by a protection notice, the Council, and the Minister in the case of land subject to a Ministerial requirement, the Trust may alter any provision made in the notice. 40

“(2) The owner of a building subject to a protection notice may at any time ask the Trust to review the notice.

“(3) There is a right of appeal to the Tribunal against the refusal of any such request by the Trust at any time after 5 years from the date on which the protection notice came into force. Any such appeal must be lodged within 1 month after the date of the advice of the decision of the Trust.

“125H. **Likely effect of proposed use**—In the consideration under any of sections 33, 72, 74, and 75 of this Act of any application relating to any building or land that is subject to a protection notice, the Council and the Tribunal shall have regard to the likely effect of the proposed use on the protection and preservation of the building and land subject to the protection notice.

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PART IV

GENERAL PROVISIONS

52. Offences—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 and to a further fine not exceeding \$100 for every day during which the offence continues who—

20 (a) Wilfully destroys, damages, or modifies, or causes to be destroyed, damaged, or modified any historic place, property, or thing vested in or under the control of the Trust without the authority of the Trust or any person or body authorised by the Trust in that behalf:

25 (b) Wilfully destroys, damages, or modifies, or causes to be destroyed, damaged, or modified any building subject to a protection notice, or any archaeological site without the authority of the Trust or any person or body authorised by the Trust in that behalf:

30 (c) Is in breach of any condition imposed by the Trust under section 42 or section 44 of this Act.

35 (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 and to a further fine not exceeding \$50 for every day during which the offence continues who, without the authority of the Trust or any person or body authorised by the Trust in that behalf—

- (a) 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
 - (b) Wilfully 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 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
 - (c) 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
 - (d) 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
 - (e) Wilfully 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
 - (f) 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
 - (g) Restrains, or in any way interferes with any officer or employee 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 43 (1) of this Act or removes any peg, mark or pole affixed by any such officer or person or who interferes with or prejudices any authorised investigation which is being carried out by any such officer or person.
- (3) Any person convicted of an offence under this Act in relation to a historic place may, if the Court thinks fit, be ordered to pay, in addition to any penalty for which he is liable for the offence, a sum not exceeding the cost of the destruction, damage, or modification done to the historic place as assessed by the Court.

53. **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
5 of the Department of Internal Affairs authorised in writing in that behalf by the Secretary for Internal Affairs or any constable to require the offender forthwith to desist from the offence and also to give his name and address.

(2) If the offender, after being so required, fails to give
10 his name or address, or gives a false name or address, or wilfully continues the offence, he 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
15 \$500.

(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 by this Act, which he has threatened or already commenced to commit.

20 Cf. 1954, No. 14, s. 24; 1963, No. 53, s. 4

54. **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 or any
25 bylaw under this Act may be laid at any time within 12 months from the time the offence was committed.

55. **Buildings, etc., erected without approval of Trust**—All buildings, signs, hoardings, or apparatus erected on any land vested in or under the control of the Trust without the consent in writing of the Trust, shall be deemed to be
30 forfeited to the Trust and shall be disposed of by the Trust in such manner as it thinks fit.

Cf. 1954, No. 14, s. 24A; 1963, No. 55, s. 5

56. **Members and employees not in service of Crown**—No
35 person, by reason only that he is a member of the Board or a member of a committee of the Board or a contract worker employed pursuant to section 18 (2) of this Act, shall be deemed to be employed in the service of the Crown for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956.

57. Local authorities may transfer land to Trust—Notwithstanding anything in any enactment, any local authority 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. 5

Cf. 1954, No. 14, s. 10

58. Regulations—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof. 10

59. Repeals—The enactments specified in the Schedule to this Act are hereby repealed.

Section 59

SCHEDULE

ENACTMENTS REPEALED

- 1954, No. 14—The Historic Places Act 1954. (1957 Reprint, Vol. 6, p. 103.)
 1961, No. 54—The Universities Act 1961: So much of the First Schedule as relates to the Historic Places Act 1954.
 1963, No. 55—The Historic Places Amendment Act 1963.
 1967, No. 79—The Historic Places Amendment Act 1967.
 1969, No. 82—The Historic Places Amendment Act 1969.
 1970, No. 70—The Historic Places Amendment Act 1970.
 1972, No. 67—The Historic Places Amendment Act 1972.
 1975, No. 40—The Historic Places Amendment Act 1975.
 1976, No. 92—The Historic Places Amendment Act 1976.