

## **Historical and cultural heritage of New Zealand**

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## Policy statement and principles

### What

The [Heritage New Zealand Pouhere Taonga Act 2014](#) (the Act) promotes the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.

New Zealand is also a party to the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict which provides a regime to protect cultural property of significance in times of armed conflict. The [Cultural Property \(Protection in Armed Conflict\) Act 2012](#) enables New Zealand to accede to the relevant Protocols to the Hague Convention.

This chapter outlines:

- key provisions of the [Heritage New Zealand Pouhere Taonga Act 2014](#)
- the effect of the [Cultural Property \(Protection in Armed Conflict\) Act 2012](#)
- offences under the Acts and the Police role in responding to complaints relating to the Acts.

### Why

Historic places have lasting value in their own right and provide evidence of a country's distinct society. Cultural property is of great importance to the cultural heritage of people and in some instances, for humanity.

New Zealand and international societies recognise the value of preserving protecting historical places and cultural property.

### How

Police will recognise and take into account the principles detailed in the [Heritage New Zealand Pouhere Taonga Act 2014](#) and the [Cultural Property \(Protection in Armed Conflict\) Act 2012](#) when performing functions and exercising powers under the Acts.

## Heritage New Zealand Pouhere Taonga Act 2014

The [Heritage New Zealand Pouhere Taonga Act 2014](#) (the Act) promotes the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.

### Principles

Police must recognise the following principles when performing functions and exercising powers under the Act:

- **Historic places** have lasting value in their own right and provide evidence of New Zealand's distinct society
- Identification, protection, preservation and conservation of New Zealand's historical and cultural heritage should take account of all relevant cultural values, knowledge and disciplines and involve the least possible alteration or loss of it and safeguard the options of present and future generations
- There is value in central government agencies, local authorities, corporations, societies, tangata whenua, and individuals working collaboratively in respect of New Zealand's historical and cultural heritage
- The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tupuna, wahi tapu and other taonga.  
(s4)

### What is a 'historic place'?

A 'historic place' means:

- any land, including an archaeological site
- a building or structure (or part of a building or structure)
- any combination of land, buildings or structures, or associated buildings or structures

that forms a part of the historical and cultural heritage of New Zealand and that lies within the territorial limits of New Zealand. It includes anything that is in or fixed to such land.

(s6)

'Historic place' includes:

- wahi tapu - "a place sacred to Maori in the traditional, spiritual, religious, ritual or mythological sense, and
- wahi tupuna - "a place important to Maori for its ancestral significance and associated cultural and traditional values".  
(s6)

### What is an 'archaeological site'?

An archaeological site means any place in New Zealand declared as an archaeological site, or any building or structure that:

- was associated with human activity that occurred before 1900, or is the site of the wreck of any vessel where the wreck occurred before 1900
- provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand.  
(s6)

### Examples of archaeological sites

There is a variety of archaeological sites in New Zealand including:

- Maori pa sites which are fortified places with banks and ditches that are often found on cliffs, headlands or ridges
- other types of site associated with cultivation and settlement such as pits for storing kumura)
- the remains of cultivation areas and gardens that can be seen in soils and in the form of lines or walls of loose stones or stone mounds
- middens being 'rubbish dumps' that may contain shells, bones, taonga tuturu, charcoal and sometimes oven stones (Maori or European)
- rock art sites that contain paintings, drawings, carving or engravings
- shipwrecks and other historic sites containing evidence of whaling, trading, and gold mining
- the remains of mission stations, military redoubts, buildings and structures.

Natural features such as springs, trees, swamps, mountains or mountain peaks are not generally considered to be archaeological sites.

## **Destruction or modification of archaeological sites**

It is unlawful to destroy or modify the whole or part of an archaeological site, without prior authority of Heritage New Zealand, if you know, or ought reasonably to have suspected, that the site is an archaeological site. (Authority is only required to permit work on a building that is an archaeological site if the work will result in the building's whole demolition).

This is the case regardless of whether:

- the land on which the site is designated or the activity is permitted under the District or Regional Plan, or
  - a resource or building consent has been granted.
- (s42)

The maximum penalty for:

- destruction is a fine not exceeding \$150,000 for individuals or \$300,000 for corporations or the Crown
- modification is a fine not exceeding \$60,000 for individuals or \$120,000 for corporations or the Crown.

## **Responding to disturbances of archaeological sites**

When Police receive information indicating that an archaeological site may have been found, advise the site's owner or occupier before the site is further disturbed:

- about the provisions of the Act, and
- request the owner or occupier to [contact](#) Heritage New Zealand to report the disturbance and obtain its authority before further disturbing the site.

Where this is not practicable, or if the owner or occupier is not prepared to contact Heritage New Zealand, police should inform the National or Regional office of Heritage New Zealand.

## **Police powers under the Act**

Police may require a person offending against the Act to stop offending immediately and give their name and address. Failure to do so is an offence and the person is liable on conviction, to a fine not exceeding \$2,000.

(s95)

## **Offences under the Act**

Every person commits an offence under the Act, who:

- intentionally and without authority of Heritage New Zealand (the same body as the New Zealand Historic Places Trust which operated under the Historic Places Act 1993) modifies or destroys a historic place, thing or area vested in Heritage New Zealand (s85(1)(a))
- causes the place, area, property, thing or associated land to be modified or destroyed (s85(1)(b))
- without Heritage New Zealand's authority ([when it is required](#)), modifies or destroys an archaeological site or causes it to be modified or destroyed, when they know, or ought reasonably to have suspected, that the site is an archaeological site (s87)
- fails to comply with or breaches any condition imposed by Heritage New Zealand (s88)
- refuses to let an authorised person have access to an archaeological site or a historic place for a purpose specified in section 15 of the Act (s89)
- without the authority of, or as authorised by Heritage New Zealand (s90), knowing or ought reasonably to have suspected, that the land or historic place is vested in or controlled by Heritage New Zealand:
  - enters land or a historic place
  - takes any animal or vehicle onto land
  - lights a fire on land
  - unlawfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, plaque, sign or poster
  - takes or removes, or causes to be taken or removed, any property or thing from any land or buildings
  - receives any property or thing
  - alters, obliterates, defaces, or destroys any plaque or sign supplies or erected by Heritage New Zealand, without first

obtaining the consent of the owner of the land or building.

## Contact details for Heritage New Zealand

National Office:

Antrim House

63 Boulcott Street

PO Box 2629

Wellington

Ph: 04 472 4341

Fax: 04 499 0669

Email: [information@heritage.org.nz](mailto:information@heritage.org.nz)

### Note:

Heritage New Zealand is the same body as the New Zealand Historic Places Trust, which operated under the Historic Places Act 1993.

## Regional offices

Regional offices are located in Kerikeri, Auckland, Tauranga, Wellington, Christchurch and Dunedin.

# Cultural Property (Protection in Armed Conflict) Act 2012

## Introduction

New Zealand is a party to the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict. The objective of the Convention is to provide a regime that will protect cultural property of significance in times of armed conflict. The Convention is supplemented by two protocols.

Parties to the Hague Convention undertake to respect and protect [cultural property](#) from damage or destruction in the event of armed conflict situated within their own territory as well as within the territory of other parties.

The [Cultural Property \(Protection in Armed Conflict Act\) 2012](#) enables New Zealand to accede to the First and Second Protocols to the Hague Convention.

## Cultural property and enhanced cultural heritage

Cultural property is property of great importance to the cultural heritage of every people and buildings or centres that house or contain such property.

Enhanced cultural heritage is cultural heritage of the greatest importance for humanity.

## Offences under the Act

It is an offence to:

- make enhanced protection property the object of an attack
- to use enhanced protection property, or its immediate surroundings, in support of military action (that is likely to expose the property to destruction or damage in the event of armed conflict)
- extensively destroy or extensively appropriate cultural property
- steal, appropriate, or vandalise cultural property
- intentionally remove cultural property or enhanced protection property from an occupied territory of a First Protocol Party other than New Zealand.

## Jurisdiction to prosecute for offences

Jurisdiction to prosecute alleged offenders will depend on whether the alleged offender is:

- a New Zealander
- subject to the Armed Forces Discipline Act 1971
- found in New Zealand, and not extradited, and is to be charged with, or in relation to a grave violation offence.

Prosecution of offences require the consent of the Attorney General.

## Police powers of entry and search in relation to smuggled property

Police may, with a search warrant issued under section [21](#) of the Act, enter and search a place or thing for the purposes of searching for and seizing smuggled property or property that is suspected of being smuggled.

Smuggled property is cultural property:

- removed from the territory of a First Protocol Party when the territory was occupied by another First Protocol Party at the time of the removal, and
- the removal was unlawful in that it was taken under compulsion or otherwise in violation of the applicable rules of the domestic law of that territory or of international law.

Associated powers exercisable under search warrant are set out in section [24](#) of the Act. Any item seized in the execution of the a search warrant must be treated for the purposes of Part 14 of the [Customs and Excise Act 1996](#) as having been seized under section 226 of that Act.

## Further information

Consult [Police Legal Services](#) for more information about the application of this Act.

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