

Version  
as at 28 October 2021



## Protected Objects Act 1975

Public Act 1975 No 41  
Date of assent 19 September 1975  
Commencement see section 1(2)

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry for Culture and Heritage.**

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**Title** *[Repealed]*

**1 Short Title and commencement**

- (1) This Act may be cited as the Protected Objects Act 1975.
- (2) This Act shall come into force on 1 April 1976.

Section 1(1): amended, on 1 November 2006, by section 5(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

**1A Purpose**

The purpose of this Act is to provide for the better protection of certain objects by—

- (a) regulating the export of protected New Zealand objects; and
- (b) prohibiting the import of unlawfully exported protected foreign objects and stolen protected foreign objects; and
- (c) providing for the return of unlawfully exported protected foreign objects and stolen protected foreign objects; and
- (d) providing compensation, in certain circumstances, for the return of unlawfully exported protected foreign objects; and
- (e) enabling New Zealand's participation in—
  - (i) the UNESCO Convention; and
  - (ii) the UNIDROIT Convention; and

- (f) establishing and recording the ownership of ngā taonga tūturu; and
- (g) controlling the sale of ngā taonga tūturu within New Zealand.

Section 1A: inserted, on 1 November 2006, by section 6 of the Protected Objects Amendment Act 2006 (2006 No 37).

## 2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**auctioneer** means a person who is registered as an auctioneer under the Auctioneers Act 2013

**authorised public museum** means any public museum specified in Schedule 1

**book** means any collection of printed sheets of paper or other material, and includes every part or division of a book and every pamphlet, magazine, periodical, sheet of letterpress, sheet of music, map, plan, chart, art print, or table separately published

**chief executive** means the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

**collector** means any person or body (whether incorporated or unincorporated), other than a licensed auctioneer, a licensed secondhand dealer, or a public museum, possessing 1 or more taonga tūturu

**comparable examples** excludes identical or similar objects that have unique associations with New Zealand activities, events, ideas, movements, objects, persons, or places of importance

**craft** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

**expert examiner** includes a body corporate or an association of persons

**export** means—

- (a) placed on board any craft for transportation to a point outside New Zealand; or
- (b) taken into a Customs controlled area or Customs place for removal from New Zealand; or
- (c) delivered as a postal article into the control of a postal service provider for removal from New Zealand

**foreign cultural institution** means a museum, religious or secular public monument, or similar institution in a State, other than New Zealand, that is a party to the UNESCO Convention

**foreign public collection** means a group of inventoried or otherwise identified cultural objects owned by—

- (a) a State, other than New Zealand, that is a party to the UNIDROIT Convention; or

- (b) a regional or local authority of that State; or
- (c) a religious institution in that State; or
- (d) an institution that is—
  - (i) established for an essentially cultural, educational, or scientific purpose in that State; and
  - (ii) recognised in that State as serving the public interest

**found**, in relation to any taonga tūturu, means discovered or obtained in circumstances which do not indicate with reasonable certainty the lawful ownership of the taonga tūturu and which suggest that the taonga tūturu was last in the lawful possession of a person who at the time of finding is no longer alive; and **finding** and **finds** have corresponding meanings

**grave** means the place where the remains of any person or persons are buried or otherwise permanently deposited

**import**, in relation to an object, means the arrival of that object in New Zealand in any manner, whether lawfully or unlawfully, from a point outside New Zealand

**licence** means a licence issued under section 15; and **licensed** has a corresponding meaning

**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**ngā taonga tūturu** means 2 or more taonga tūturu

**object** includes a collection or assemblage of objects

**protected foreign object** means an object in or from a foreign State that is of importance for archaeology, prehistory, history, literature, art, or science and that belongs to the following categories:

- (a) rare collections and specimens of fauna, flora, minerals, and anatomy, and objects of palaeontological interest:
- (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists, and artists, and to events of national importance:
- (c) products of archaeological excavations (whether or not permitted) or of archaeological discoveries:
- (d) elements of artistic or historical monuments or archaeological sites which have been dismembered:
- (e) antiquities more than 100 years old, such as inscriptions, coins, and engraved seals:
- (f) objects of ethnological interest:

- (g) property of artistic interest, including (but not limited to)—
  - (i) pictures, paintings, and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand):
  - (ii) original works of statuary art and sculpture in any material:
  - (iii) original engravings, prints, and lithographs:
  - (iv) original artistic assemblages and montages in any material:
- (h) rare manuscripts and incunabula, old books, documents, and publications of special interest singly or in collections:
- (i) postage, revenue, and similar stamps, singly or in collections:
- (j) archives, including sound, photographic, and cinematographic archives:
- (k) articles of furniture more than 100 years old and old musical instruments

**protected New Zealand object** means an object forming part of the movable cultural heritage of New Zealand that—

- (a) is of importance to New Zealand, or to a part of New Zealand, for aesthetic, archaeological, architectural, artistic, cultural, historical, literary, scientific, social, spiritual, technological, or traditional reasons; and
- (b) falls within 1 or more of the categories of protected objects set out in Schedule 4

**public museum** means a non-profit making museum being eligible for membership of the Art Galleries and Museums Association of New Zealand

**reciprocating State** means—

- (a) a State, other than New Zealand, that—
  - (i) is a party to the UNIDROIT Convention; or
  - (ii) is a party to the UNESCO Convention and provides New Zealand with treatment substantially the same as the treatment New Zealand provides under sections 10A to 10C; or
- (b) a State that is specified in regulations made under section 22

**registered collector** means a collector registered under section 14

**relative**, in relation to any person, means—

- (a) the spouse, civil union partner, or de facto partner of that person:
- (b) a grandparent, parent, child, brother, sister, uncle, or aunt of that person, whether of the full blood or the half-blood:
- (c) the issue of any person referred to in paragraph (a) or paragraph (b), and the other person to a marriage, in a civil union, or in a de facto relationship with any such person or issue

**replica of a taonga tūturu** means an accurate copy of a specific individual taonga tūturu

**secondhand dealer** means a secondhand dealer who is licensed under the Secondhand Dealers and Pawnbrokers Act 2004

**stolen protected foreign object** includes (but is not limited to) an object that was, in accordance with the law of the relevant State,—

- (a) unlawfully excavated; or
- (b) lawfully excavated but unlawfully retained

**taonga tūturu** means an object that—

- (a) relates to Māori culture, history, or society; and
- (b) was, or appears to have been,—
  - (i) manufactured or modified in New Zealand by Māori; or
  - (ii) brought into New Zealand by Māori; or
  - (iii) used by Māori; and
- (c) is more than 50 years old

**type specimen** means the specimen on which is based an original published description of the animal, plant, or mineral of which the specimen serves as an example

**UNESCO Convention** means the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, done at Paris on 14 November 1970, a copy of the English text of which is set out in Schedule 2

**UNIDROIT Convention** means the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, done at Rome on 24 June 1995, a copy of the English text of which is set out in Schedule 3

**unique** means not existing in any other identical form

**unlawfully exported protected foreign object** means a protected foreign object exported from a reciprocating State in contravention of its laws; and includes (but is not limited to) an object that—

- (a) has been temporarily exported from a State for purposes such as exhibition, research, or restoration under a permit issued by that State; and
  - (b) has not been returned to that State when required by that permit.
- (2) Every reference in any enactment enacted, and in any document made, before the commencement of the Protected Objects Amendment Act 2006 to—
- (a) the word **artifact** as defined in this Act before the commencement of the Protected Objects Amendment Act 2006 must, unless the context otherwise requires, be read as **taonga tūturu** as defined in this Act immediately after the commencement of the Protected Objects Amendment Act 2006; and
  - (b) the word **antiquity** as defined in this Act before the commencement of the Protected Objects Amendment Act 2006 must, unless the context

otherwise requires, be read as **protected New Zealand object** as defined in this Act immediately after the commencement of the Protected Objects Amendment Act 2006.

Compare: 1962 No 37 s 2

Section 2(1) **auctioneer**: replaced, on 18 December 2013, by section 28(3) of the Auctioneers Act 2013 (2013 No 148).

Section 2(1) **antiquity**: repealed, on 1 November 2006, by section 7(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **artifact**: repealed, on 1 November 2006, by section 7(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **authorised public museum**: substituted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **chief executive**: inserted, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 2(1) **collector**: amended, on 1 November 2006, by section 7(3)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **comparable examples**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **craft**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **craft**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **expert examiner**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **export**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **foreign cultural institution**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **foreign public collection**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **found**: amended, on 1 November 2006, by section 7(3)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **import**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **Minister**: substituted, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 2(1) **Ministry**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **ngā taonga tūturu**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **object**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **protected foreign object**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **protected New Zealand object**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **reciprocating State**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).



Section 2(1) **relative** paragraph (a): amended, on 1 November 2006, by section 7(4)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **relative** paragraph (c): amended, on 1 November 2006, by section 7(4)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **replica of a taonga tūturu**: inserted, on 1 November 2006, by section 7(3)(c)(i) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **replica of a taonga tūturu**: amended, on 1 November 2006, by section 7(3)(c)(ii) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **replica of an artifact**: repealed, on 1 November 2006, by section 7(3)(c)(i) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **secondhand dealer**: substituted, on 1 April 2005, by section 89 of the Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70).

Section 2(1) **Secretary**: repealed, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 2(1) **stolen protected foreign object**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **taonga tūturu**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **UNESCO Convention**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **UNIDROIT Convention**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **unique**: inserted, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **unlawfully exported protected foreign object**: added, on 1 November 2006, by section 7(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(1) **work of art**: repealed, on 1 November 2006, by section 7(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 2(2): added, on 1 November 2006, by section 7(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

### 3 Act to bind the Crown

This Act shall bind the Crown.

Compare: 1962 No 37 s 3

### 4 Minister may acquire protected New Zealand objects

- (1) The Minister may purchase or otherwise acquire, or may accept by way of gift, bequest, or otherwise, any protected New Zealand object.
- (2) Any protected New Zealand object acquired under this section shall be kept in safe custody in accordance with the directions of the Minister.

Compare: 1962 No 37 s 4

Section 4 heading: amended, on 1 November 2006, by section 8(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 4(1): amended, on 1 November 2006, by section 8(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 4(2): amended, on 1 November 2006, by section 8(3) of the Protected Objects Amendment Act 2006 (2006 No 37).

## Part 1

### Protected New Zealand objects, unlawfully exported protected foreign objects, and stolen protected foreign objects

Part 1 heading: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

#### *Protected New Zealand objects*

Heading: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

## 5 Export prohibition

- (1) A person may not export, or attempt to export, a protected New Zealand object from New Zealand—
- (a) unless—
- (i) that person has submitted to the chief executive an application for permission to export that object; and
  - (ii) the chief executive has—
    - (A) granted the application for permission to export; and
    - (B) provided that person with a certificate of permission under section 7H to export that object; and
  - (iii) the export conforms with any terms and conditions imposed by that authorisation; or
- (b) unless the chief executive, by notice, exempts any category or categories of protected New Zealand objects from the provisions of this section if he or she is satisfied that sufficient examples of that category or those categories are held in public ownership in New Zealand.
- (2) Every person who exports, or attempts to export, a protected New Zealand object, other than in accordance with subsection (1) or without reasonable excuse in the circumstances, commits an offence and is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$100,000 or a term of imprisonment not exceeding 5 years, or to both:
- (b) in the case of a body corporate, to a fine not exceeding \$200,000.
- (3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: UNESCO Convention art 3

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

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*This note is not part of the Act.*

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Section 5: substituted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 5(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 5(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 5(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **6 Applications for permission to export protected New Zealand objects**

- (1) An application for permission to export a protected New Zealand object from New Zealand must—
  - (a) be in the form prescribed by the chief executive; and
  - (b) demonstrate, to the satisfaction of the chief executive,—
    - (i) that the applicant has undisputed title to that object; and
    - (ii) if the object is held in trust, that all of the trustees support the application.
- (2) Nothing in this section applies to any object lawfully taken and ordinarily kept outside New Zealand but temporarily within New Zealand.

Section 6: substituted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

## **7 Chief executive must refuse or grant applications for permission to export**

- (1) The chief executive must, in writing,—
  - (a) refuse to grant an application for permission to export; or
  - (b) grant that application for permission to export—
    - (i) unconditionally; or
    - (ii) subject to any terms and conditions that the chief executive considers appropriate in the circumstances.
- (2) If the chief executive grants an application for permission to export, he or she must provide the applicant with written notice of the terms and conditions imposed under subsection (1)(b)(ii) (if any).

Section 7: substituted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

## **7A Chief executive may not grant applications for permission to export in certain circumstances**

- (1) The chief executive may not grant an application for permission to export if the chief executive determines that the object—
  - (a) is—
    - (i) a protected New Zealand object; and

- (ii) substantially physically authentic and—
    - (A) made or naturally occurring in New Zealand; or
    - (B) made with New Zealand materials; or
    - (C) used by New Zealanders; or
    - (D) related to New Zealand; and
  - (b) is—
    - (i) associated with, or representative of, activities, events, ideas, movements, objects, persons, or places of importance to New Zealand; or
    - (ii) important to New Zealand for its technical accomplishment or design, artistic excellence, or symbolic, commemorative, or research value; or
    - (iii) part of a wider historical, scientific, or cultural collection or assemblage of importance to New Zealand; and
  - (c) is of such significance to New Zealand or part of New Zealand that its export from New Zealand would substantially diminish New Zealand's cultural heritage.
- (2) Despite subsection (1), and without limiting section 7(1)(b)(ii) or section 8(1), the chief executive may grant an application that meets the criteria specified in that subsection if the grant is subject to the condition that the object be returned to New Zealand by a specified date.
- (3) In making a determination under subsection (1), the chief executive must have regard to the advice of 2 or more expert examiners.

Section 7A: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

### *Expert examiners*

Heading: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

## **7B Expert examiners**

- (1) When determining an application for permission to export, the chief executive must consult 2 or more expert examiners.
- (2) For the purposes of subsection (1), the chief executive must establish and maintain a register of expert examiners.
- (3) The chief executive must be satisfied that the expert examiners with whom he or she consults are experts in the field relevant to the particular application for permission to export.

Section 7B: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

**7C Matters expert examiners must consider**

With respect to examining an object subject to an application for permission to export, the relevant expert examiner must have regard to the matters specified in section 7A(1).

Section 7C: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

**7D Expert examiners must recommend that applications for permission to export not be granted in certain circumstances**

An expert examiner must provide the chief executive with a recommendation not to grant an application for permission to export if the protected New Zealand object is of such significance to New Zealand or part of New Zealand that its export from New Zealand would substantially diminish New Zealand's cultural heritage.

Section 7D: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

**7E Protection from liability**

No expert examiner may be held personally liable for any advice or recommendation that the expert examiner provides in good faith in relation to sections 7A to 7D.

Section 7E: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

*Registered objects*

Heading: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

**7F Register**

- (1) The chief executive must establish and maintain a register of objects, or categories of objects, of national significance.
- (2) The register—
  - (a) must include (but is not limited to) any protected New Zealand object in respect of which the chief executive has refused to grant an application for permission to export; and
  - (b) may include any protected New Zealand object—
    - (i) that its owner submits for inclusion in the register; and
    - (ii) that is of such significance to New Zealand or part of New Zealand that its export from New Zealand would substantially diminish New Zealand's cultural heritage.
- (3) An object may only be removed from the register if it no longer meets the criteria specified in subsection (2).
- (4) The register is not available for public inspection.

Section 7F: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

### **7G Registered object may not be permanently exported**

- (1) A registered object may not be permanently exported from New Zealand.
- (2) If a registered object is permanently exported from New Zealand, the chief executive may take any appropriate action that he or she thinks fit to seek to have the object returned to New Zealand.

Section 7G: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

#### *Certificate of permission*

Heading: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

### **7H Certificate of permission**

If permission is granted by the chief executive for the export of a protected New Zealand object, a certificate must be issued to the applicant under the hand of the chief executive.

Section 7H: inserted, on 1 November 2006, by section 10 of the Protected Objects Amendment Act 2006 (2006 No 37).

## **8 Conditions imposed by chief executive**

- (1) Without prejudice to the generality of the authority given under this Act to impose terms and conditions, the chief executive may, when granting permission to remove any protected New Zealand object from New Zealand, impose conditions—
  - (a) requiring the owner to permit the protected New Zealand object to be copied by photography, cast, or otherwise in such manner, in such numbers, and by such person, as the chief executive may direct:
  - (b) requiring the owner of the protected New Zealand object to deliver it to such person as the chief executive may direct for the purpose of being packed and dispatched from New Zealand, at the cost and risk of the owner, to the address specified by the owner:
  - (c) requiring the protected New Zealand object to be returned to New Zealand no later than the date of the expiry of a period specified in the certificate of permission to remove the protected New Zealand object from New Zealand.
- (2) Every copy made pursuant to paragraph (a) of subsection (1) shall, subject to the provisions of the Copyright Act 1994, be the property of the Crown and shall be kept in safe custody in accordance with the directions of the chief executive.

Compare: 1962 No 37 s 8

Section 8 heading: amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 8(1): amended, on 1 November 2006, by section 11 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 8(1): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 8(1)(a): amended, on 1 November 2006, by section 11 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 8(1)(a): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 8(1)(b): amended, on 1 November 2006, by section 11 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 8(1)(b): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 8(1)(c): amended, on 1 November 2006, by section 11 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 8(2): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 8(2): amended, on 1 January 1995, by section 236(1) of the Copyright Act 1994 (1994 No 143).

## **9 Appeal against chief executive's decision**

- (1) Where the chief executive has refused his or her permission to the removal of any protected New Zealand object or has granted any such permission subject to terms and conditions, the applicant for the permission may appeal to the Minister on the grounds that, having regard to the provisions of this Act, the decision of the chief executive was not reasonably arrived at, and the Minister may, after seeking such advice (if any) as the Minister considers necessary, confirm, vary, or reverse the decision of the chief executive, and the decision of the Minister with regard to any such appeal shall be final.
- (2) Any appeal under this section shall be forwarded to the Minister within 28 days after the date when the decision of the chief executive is made known to the appellant.

Compare: 1962 No 37 ss 9, 10

Section 9 heading: amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 9(1): amended, on 1 November 2006, by section 12(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 9(1): amended, on 1 November 2006, by section 12(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 9(1): amended, on 1 November 2006, by section 12(3) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 9(1): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 9(2): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

**10 Application of Customs and Excise Act 2018**

- (1) Subject to the provisions of this Act, any protected New Zealand object exported or attempted to be exported in breach of this Act is forfeited to the Crown and the provisions of the Customs Act (except for the excepted provisions) relating to forfeited goods apply to the object in the same manner as they apply to goods forfeited under the Customs Act.
- (2) The powers conferred on Customs officers under the Customs Act (except for the excepted provisions) apply in relation to the export of a protected New Zealand object.
- (3) The forfeiture of an object under subsection (1) is not dependent on the seizure of that object.
- (4) Where any protected New Zealand object is seized as forfeited to the Crown pursuant to this section, it must be delivered to the chief executive and retained in safe custody in accordance with the chief executive's directions.
- (5) Despite subsection (4), the chief executive may, at his or her discretion, direct that the protected New Zealand object be returned to the person who was the owner of the protected New Zealand object immediately before forfeiture subject to any conditions that the chief executive may think fit to impose.
- (6) Subject to the provisions of this Act,—
  - (a) the provisions of the Customs Act relating to unlawful imports (except the excepted provisions) apply to an unlawfully exported protected foreign object; and
  - (b) that object is to be treated as a prohibited import under section 96 of that Act.
- (7) If the New Zealand Customs Service seizes an unlawfully exported protected foreign object or a stolen protected foreign object, that object must be—
  - (a) transferred to the Ministry; and
  - (b) held by the Ministry, in accordance with the directions of the chief executive (if any), until any proceedings related to that object under this Act or the Customs Act are completed.
- (8) Despite anything in the Customs Act or any other enactment,—
  - (a) a prosecution for an offence under this Act or the Customs Act with respect to a protected New Zealand object—
    - (i) may be commenced at any time within 5 years from the date on which the offence was committed; but
    - (ii) may not be commenced after the expiration of 5 years from the date on which the offence was committed; and
  - (b) no Customs duties or taxes are payable in respect of a protected foreign object whose return is ordered by a court under section 10B or 10E.
- (9) In this section,—



**Customs Act** means the Customs and Excise Act 2018

**excepted provisions** means sections 182, 186(b)(ii), 188(2), and 189 and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5 of the Customs Act.

Section 10: replaced, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

*Unlawfully exported protected foreign objects*

Heading: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

**10A Import prohibitions**

A person may not import into New Zealand an unlawfully exported protected foreign object.

Compare: UNESCO Convention arts 3, 7

Section 10A: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

**10B Claims for return of unlawfully exported protected foreign objects**

- (1) A reciprocating State may bring a claim in a court of competent jurisdiction for the return of an unlawfully exported protected foreign object against the person who possesses that object within—
  - (a) 3 years of the date on which the claimant knew—
    - (i) the location of that object; and
    - (ii) the identity of the possessor of that object; and
  - (b) 50 years of the date on which that object—
    - (i) was unlawfully exported; or
    - (ii) should have been returned to that State under a permit for temporary export issued by that State.
- (2) The court must order the return of the unlawfully exported protected foreign object if the claimant establishes that—
  - (a) the removal of that object from the claimant's territory significantly impairs 1 or more of the following interests:
    - (i) the physical preservation of that object or its context;
    - (ii) the integrity of a complex object;
    - (iii) the preservation of information, including (but not limited to) information of a scientific or historical character;
    - (iv) the traditional or ritual use of that object by a tribal or indigenous community; or
  - (b) the object is of significant cultural importance for the claimant.

Compare: UNIDROIT Convention art 5

Section 10B: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

### **10C Compensation for and costs of returning unlawfully exported protected foreign objects**

- (1) If a court orders the return of an unlawfully exported protected foreign object, the relevant reciprocating State must, at the time of the return, pay fair and reasonable compensation to the person who possesses that object, provided that—
  - (a) the object was acquired after it was unlawfully exported; and
  - (b) the person did not know, and could not reasonably be expected to have known, that the object, at the time it was acquired, was unlawfully exported.
- (2) In determining whether the person knew, or could reasonably be expected to have known, that the object was unlawfully exported, a court must have regard to the circumstances of the acquisition, including (but not limited to) the absence of an export certificate issued under the law of the relevant reciprocating State.
- (3) If the relevant reciprocating State agrees, the person required to return an unlawfully exported protected foreign object may, in lieu of compensation,—
  - (a) retain ownership of that object; or
  - (b) transfer ownership, gratuitously or against payment, to a person who—
    - (i) resides in that State; and
    - (ii) provides any guarantees required by that State.
- (4) The relevant reciprocating State must, without prejudice to its right to recover costs from any other person, meet the cost of returning an unlawfully exported protected foreign object under this section.
- (5) Despite anything in this section, if a person required to return an unlawfully exported protected foreign object acquired that object gratuitously (by inheritance or otherwise), that person may not be placed in a position more favourable than the position of the person from whom that object was acquired.

Compare: UNIDROIT Convention arts 6, 9(1)

Section 10C: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

### *Stolen protected foreign objects*

Heading: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

### **10D Objects stolen from foreign cultural institution**

- (1) This section applies if—

- (a) a protected foreign object that is documented as being part of the inventory of a foreign cultural institution is stolen and imported into New Zealand; and
  - (b) the relevant reciprocating State provides New Zealand with the documentation and other evidence to establish its claim for the recovery and return of that object to the chief executive.
- (2) If this section applies, the chief executive must,—
- (a) at the request of the relevant reciprocating State, ask the New Zealand Customs Service to—
    - (i) seize that object pursuant to its powers under the Customs and Excise Act 2018 (except sections 182, 188(2), and 189 and clause 6 of Schedule 5 of that Act); and
    - (ii) transfer that object to the Ministry; and
  - (b) if that object is seized, return that object to that State if that State pays—
    - (i) just compensation to any person who—
      - (A) has valid title to that object; or
      - (B) is an innocent purchaser; and
    - (ii) all costs with respect to the return and delivery of the object.

Compare: UNESCO Convention art 7(b)(ii)

Section 10D: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 10D(2)(a)(i): replaced, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

### **10E Restitution of stolen protected foreign objects**

- (1) A person in possession of a stolen protected foreign object must return that object to its rightful owner.
- (2) A claim for the restitution of a stolen protected foreign object against the person who possesses that object may be brought in a court of competent jurisdiction within—
  - (a) 3 years of the date on which the claimant knew—
    - (i) the location of that object; and
    - (ii) the identity of the possessor of that object; and
  - (b) 50 years of the date on which that object was stolen.
- (3) Subsection (2)(b) does not apply if—
  - (a) that object—
    - (i) forms an integral part of an identified monument or archaeological site in the relevant reciprocating State; or
    - (ii) is part of a foreign public collection; or

- (b) that object—
  - (i) was made by a member or members of a tribal or indigenous community for traditional or ritual use by that community; and
  - (ii) is to be returned to that community.
- (4) Except as provided in section 10D(2)(b), no compensation is payable for the restitution of a stolen protected foreign object.
- (5) Despite anything in the Limitation Act 2010, any claim that the person who possesses the stolen protected foreign object may have against the person from whom that object was acquired may be brought within 2 years of the date on which the order for restitution was made.

Compare: UNIDROIT Convention arts 3, 4

Section 10E: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 10E(5): amended, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

### *Application*

Heading: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

#### **10F Application of certain sections**

- (1) Sections 10A to 10C only apply to unlawfully exported protected foreign objects that are exported from a reciprocating State on or after the commencement of this section.
- (2) Sections 10D and 10E only apply to stolen protected foreign objects that are stolen on or after the commencement of this section.
- (3) Sections 10A to 10C do not apply if—
  - (a) the export of a protected foreign object is no longer unlawful in the relevant reciprocating State at the time that the object is imported into New Zealand or its return is requested; or
  - (b) the protected foreign object was exported from the relevant reciprocating State during the lifetime of the person who created it or within a period of 50 years following the death of that person.
- (4) Despite subsection (3)(b), sections 10A to 10C apply if—
  - (a) a protected foreign object was made by a member or members of a tribal or indigenous community for traditional or ritual use; and
  - (b) that object is to be returned to that community.
- (5) In any proceedings under sections 10B or 10E, or in support of any similar proceedings in a reciprocating State, the court may grant any interim relief that it considers appropriate.

Compare: UNIDROIT Convention arts 7, 8(3), 10

Section 10F: inserted, on 1 May 2007, by section 14 of the Protected Objects Amendment Act 2006 (2006 No 37).

## Part 2

### Ngā taonga tūturu ownership and Maori Land Court

Part 2 heading: inserted, on 1 November 2006, by section 15 of the Protected Objects Amendment Act 2006 (2006 No 37).

#### 11 Establishing the ownership and custody of ngā taonga tūturu

- (1) Any taonga tūturu found anywhere in New Zealand or within the territorial waters of New Zealand after the commencement of this Act is hereby declared as deemed to be prima facie the property of the Crown:

provided that where any taonga tūturu has been recovered from the grave of any person or persons whose identity is known the matter shall be referred to the Maori Land Court to determine who is the proper person or who are the proper persons to hold custody of the taonga tūturu.

- (2) Notwithstanding the provisions of subsection (1), if actual or traditional ownership, rightful possession, or custody of any taonga tūturu referred to in that subsection is subsequently claimed, the chief executive or any person who may have any right, title, estate, or interest in any such taonga tūturu may apply to the Maori Land Court to exercise any part of its jurisdiction under section 12:

provided that no right, title, estate, or interest in any such taonga tūturu shall exist or be deemed to exist solely by virtue of ownership or occupation of the land from which the taonga tūturu was found or recovered.

- (3) Every person who, after the commencement of this Act, finds any taonga tūturu anywhere in New Zealand or within the territorial waters of New Zealand shall, within 28 days of finding the taonga tūturu, notify either the chief executive or the nearest public museum, which shall notify the chief executive, of the finding of the taonga tūturu:

provided that in the case of any taonga tūturu found during the course of any archaeological investigation authorised by Heritage New Zealand Pouhere Taonga under section 48 of the Heritage New Zealand Pouhere Taonga Act 2014, the notification shall be made within 28 days of the completion of the field work undertaken in connection with the investigation.

- (4) Upon receipt of a notification in accordance with subsection (3), the chief executive must—

(a) take the action that the chief executive considers appropriate to—

- (i) provide for the examination of the taonga tūturu, its care, its recording, and its custody on such conditions as the chief executive considers fit; and
- (ii) notify any parties that may have an interest in the taonga tūturu; and

- (b) publish a public notice that calls for claims of ownership to be lodged with the chief executive within 60 working days of the date on which the notice is published.
- (5) If only 1 claim of ownership is lodged, the chief executive must, if satisfied that the claim is valid, apply to the Registrar of the Maori Land Court for an order that confirms the owner or owners of the taonga tūturu.
- (6) If 2 or more competing claims are lodged, the chief executive must—
  - (a) consult the claimants for the purpose of resolving the competing claims; and
  - (b) if satisfied that the competing claims have been resolved and that the resolution is valid, apply to the Registrar of the Maori Land Court for an order that confirms the owner or owners of the taonga tūturu.
- (7) If 2 or more competing claims are lodged, and cannot be resolved, the chief executive may, if requested by a claimant, facilitate the applications of any or all of the claimants to the Maori Land Court.
- (8) For the purposes of this section, **ownership**, whether actual or traditional, includes (but is not limited to) collective or joint ownership.
- (9) Every person who finds a taonga tūturu, knowing or having reasonable cause to suspect that it is a taonga tūturu, and who contravenes subsection (3), commits an offence and is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000 for each taonga tūturu;
  - (b) in the case of a body corporate, to a fine not exceeding \$20,000 for each taonga tūturu.

Section 11 heading: amended, on 1 November 2006, by section 16(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(1): amended, on 1 November 2006, by section 16(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(1) proviso: amended, on 1 November 2006, by section 16(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(2): amended, on 1 November 2006, by section 16(3)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(2): amended, on 1 November 2006, by section 16(3)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(2) proviso: amended, on 1 November 2006, by section 16(3)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(2) proviso: amended, on 1 November 2006, by section 16(3)(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(3): amended, on 1 November 2006, by section 16(4) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(3): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 11(3) proviso: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 11(3) proviso: amended, on 1 November 2006, by section 16(4) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(4): substituted, on 1 November 2006, by section 16(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(5): substituted, on 1 November 2006, by section 16(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(6): added, on 1 November 2006, by section 16(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(7): added, on 1 November 2006, by section 16(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(8): added, on 1 November 2006, by section 16(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(9): added, on 1 November 2006, by section 16(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 11(9): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### **11A Taonga tūturu found in customary marine title area**

If taonga tūturu are found in a part of the common marine and coastal area for which a customary marine title order has been awarded under the Marine and Coastal Area (Takutai Moana) Act 2011, section 82 of that Act applies to that finding instead of section 11 of this Act, except to the extent that section 11 is expressly applied by section 82 of that Act.

Section 11A: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### **12 Maori Land Court's jurisdiction over ngā taonga tūturu**

- (1) The Maori Land Court shall have jurisdiction in respect to any taonga tūturu to which section 11 applies—
  - (a) to determine for the purposes of any proceeding or upon application by the chief executive or by any person authorised to apply under subsection (2) of the said section 11 whether or not the subject-matter of the proceeding or application is a taonga tūturu:
  - (b) to hear and determine as between any persons applying under subsection (2) of the said section 11 any claim, whether at law or in equity, to the actual or traditional ownership, rightful possession, or custody of any taonga tūturu, or to any right, title, estate, or interest therein:
  - (c) in the case of any taonga tūturu recovered from a grave to determine, if possible, the proper person or persons to hold custody of the taonga tūturu:
  - (d) to make an order prohibiting any person from dealing with or doing any injury to any taonga tūturu which is the subject-matter of any application to the court, or of any application to the Chief Judge in respect of the

exercise of any jurisdiction specially conferred on him or her by Te Ture Whenua Maori Act 1993 or otherwise, if in any case the application has not been finally disposed of by the court or the Chief Judge or the Appellate Court, as the case may be:

- (e) to vest in any person or persons as trustee or trustees any taonga tūturu for safekeeping and preservation:
  - (f) to enforce the obligations of the trust (whether by way of an order or otherwise) against any person or persons appointed by the court as trustee or trustees:
  - (g) to appoint a new trustee or trustees for any taonga tūturu held in trust, under the same conditions as laid down in section 222 of Te Ture Whenua Maori Act 1993.
- (2) The Maori Land Court shall have jurisdiction to make an order prohibiting any offering for sale, or parting with possession, of any taonga tūturu (whether or not a taonga tūturu to which section 11 applies) by any person if that taonga tūturu is in the power or possession of that person by way of gift according to Māori custom and usage.
- (3) The provisions of section 19(1)(b) of Te Ture Whenua Maori Act 1993 apply in respect of any matter in respect of which the Maori Land Court has jurisdiction under subsection (1) or subsection (2).
- (4) To avoid doubt, section 30 of Te Ture Whenua Maori Act 1993, and any other relevant provision in that Act, applies to any claim for ownership or any appeal lodged under this Act.

Section 12 heading: amended, on 1 November 2006, by section 17(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1): amended, on 1 November 2006, by section 17(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(a): amended, on 1 November 2006, by section 17(3)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(a): amended, on 1 November 2006, by section 17(3)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(b): amended, on 1 November 2006, by section 17(4) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(c): amended, on 1 November 2006, by section 17(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(d): amended, on 1 November 2006, by section 17(6)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(d): amended, on 1 November 2006, by section 17(6)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(e): amended, on 1 November 2006, by section 17(7) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(1)(g): amended, on 1 November 2006, by section 17(8)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).



Section 12(1)(g): amended, on 1 November 2006, by section 17(8)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(2): amended, on 1 November 2006, by section 17(9)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(2): amended, on 1 November 2006, by section 17(9)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(2): amended, on 1 November 2006, by section 17(9)(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(3): amended, on 1 November 2006, by section 17(10) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12(4): added, on 1 November 2006, by section 17(11) of the Protected Objects Amendment Act 2006 (2006 No 37).

### Part 3 Miscellaneous

Part 3 heading: inserted, on 1 November 2006, by section 18 of the Protected Objects Amendment Act 2006 (2006 No 37).

#### 13 Disposal of ngā taonga tūturu

- (1) It shall not be lawful after the commencement of this Act for any person to sell or otherwise dispose of any taonga tūturu, knowing or having reasonable cause to suspect that it is a taonga tūturu, otherwise than to a registered collector or to a public museum or through the offices of a licensed auctioneer or a licensed secondhand dealer:  
  
provided that this subsection shall not apply to any disposition by any person to a relative of that person, whether by way of gift *inter vivos*, or pursuant to a testamentary disposition, or under the intestacy of that person, or by survivorship on the death of that person.
- (2) Notwithstanding anything in subsection (1), no person or institution entrusted with the custody of any taonga tūturu in accordance with the terms of subsection (4) of section 11 may dispose of that taonga tūturu other than at the direction of the chief executive.
- (3) Without limiting in any way his or her powers under subsection (2), the chief executive may, on application and subject to such conditions as the chief executive considers necessary, authorise approved institutions to employ destructive analytical techniques to specified ngā taonga tūturu or to specified classes of ngā taonga tūturu.
- (4) Every person, other than a registered collector, who contravenes the provisions of this section commits an offence and is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000 for each taonga tūturu:
  - (b) in the case of a body corporate, to a fine not exceeding \$20,000 for each taonga tūturu.

- (5) On the conviction of any person of an offence against this section in respect of the disposition of any taonga tūturu, the court may, if it thinks fit, declare the taonga tūturu to be forfeit to the Crown.
- (6) Where any taonga tūturu is forfeited to the Crown pursuant to this section, it shall be delivered to the Minister and retained in safe custody according to his or her directions.

Section 13 heading: amended, on 1 November 2006, by section 19(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(1): amended, on 1 November 2006, by section 19(2)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(1): amended, on 1 November 2006, by section 19(2)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(2): amended, on 1 November 2006, by section 19(3) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(2): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 13(3): amended, on 1 November 2006, by section 19(4)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(3): amended, on 1 November 2006, by section 19(4)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(3): amended, on 1 November 2006, by section 19(4)(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(3): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 13(4): substituted, on 1 November 2006, by section 19(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 13(5): amended, on 1 November 2006, by section 19(6) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(6): amended, on 1 November 2006, by section 19(7)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 13(6): amended, on 1 November 2006, by section 19(7)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

#### **14 Registration of collectors**

- (1) After the commencement of this Act no collector shall add or attempt to add to his or her collection of ngā taonga tūturu and no person shall be granted custody of any taonga tūturu by the chief executive unless the collector or person has been registered as a collector of ngā taonga tūturu by the chief executive.
- (2) The chief executive shall, where reasonable grounds for doing so exist, have power to refuse registration and in particular shall not be required to register as a collector of ngā taonga tūturu any person—
- (a) who is not ordinarily resident in New Zealand; or

- (b) who has been convicted of an offence against any provision of this Act or of the Heritage New Zealand Pouhere Taonga Act 2014.
- (3) It shall be a condition of registration of any person as a registered collector that—
  - (a) except in the case of a gift or bequest to a relative of that person, disposal of part or the whole of his or her collection shall be only to another registered collector, to a public museum, or through the offices of a licensed auctioneer or a licensed secondhand dealer:
  - (b) his or her collection shall be made available for examination at any reasonable time by any person so authorised by the chief executive:
  - (c) he or she will undertake to notify the chief executive of any change in his or her collection which has taken place otherwise than through the offices of a licensed auctioneer or a licensed secondhand dealer within 14 days of such change:
  - (d) he or she will notify the chief executive of any change in the place at which the collection is held within 14 days after the date of the change.
- (4) Every application for registration as a collector of ngā taonga tūturu shall be in the form provided by the chief executive, and, where registration is granted by the chief executive to any person, a certificate of registration shall be issued to the applicant under the hand of the chief executive.
- (5) The chief executive shall revoke the registration of any registered collector who is convicted of an offence against this Act or the Heritage New Zealand Pouhere Taonga Act 2014.
- (6) Every person commits an offence who,—
  - (a) not being a registered collector,—
    - (i) acquires or attempts to acquire a taonga tūturu, knowing or having reasonable cause to suspect that it is a taonga tūturu, otherwise than in accordance with any provision of this Act; or
    - (ii) falsely declares to any person that he or she is a registered collector; or
  - (b) being a registered collector, fails to comply with any of the conditions of registration specified in subsection (3).
- (7) Every person who commits an offence under subsection (6) is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000 for each taonga tūturu:
  - (b) in the case of a body corporate, to a fine not exceeding \$20,000 for each taonga tūturu.

Section 14(1): amended, on 1 November 2006, by section 20(1)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(1): amended, on 1 November 2006, by section 20(1)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(1): amended, on 1 November 2006, by section 20(1)(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(1): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 14(2): amended, on 1 November 2006, by section 20(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(2): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 14(2)(b): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 14(3)(a): amended, on 1 November 2006, by section 20(3)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(3)(b): amended, on 1 November 2006, by section 20(3)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(3)(b): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 14(3)(c): amended, on 1 November 2006, by section 20(3)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(3)(c): amended, on 1 November 2006, by section 20(3)(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(3)(c): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 14(3)(d): amended, on 1 November 2006, by section 20(3)(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(3)(d): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 14(4): amended, on 1 November 2006, by section 20(4) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(4): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 14(5): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 14(5): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 14(6): substituted, on 1 November 2006, by section 20(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(7): added, on 1 November 2006, by section 20(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

#### **14A Duties of executors**

- (1) If a registered collector dies, the executor of the estate of that collector must, as soon as practicable (but no later than 90 days after the death of that collector), notify the chief executive that the collector has died.
- (2) Every person who knowingly contravenes subsection (1) commits an offence and is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000:
  - (b) in the case of a body corporate, to a fine not exceeding \$20,000.

Section 14A: inserted, on 1 November 2006, by section 21 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 14A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

#### **15 Licensing of auctioneers and secondhand dealers**

- (1) Notwithstanding anything in any other enactment, no auctioneer or secondhand dealer shall after the commencement of this Act, trade in ngā taonga tūturu unless he or she is licensed by the chief executive to trade in ngā taonga tūturu in accordance with the provisions of this section.
- (2) It shall be a condition of the licensing of any auctioneer or secondhand dealer in accordance with this section that—
  - (a) he or she will notify an authorised public museum of every taonga tūturu which is to be offered for sale, being a taonga tūturu in respect of which a certificate of examination has been issued under section 16:
  - (b) he or she will notify an authorised public museum of every taonga tūturu which is to be offered for sale, being a taonga tūturu in respect of which a certificate of examination has not been issued under section 16, and will not offer for sale or sell the taonga tūturu (other than to a public museum) until such time as the authorised public museum has issued the certificate of examination:
  - (c) he or she will sell ngā taonga tūturu only to public museums, licensed secondhand dealers, licensed auctioneers, or registered collectors:  
provided that he or she may agree to sell any taonga tūturu to any other person subject to the condition that the sale is not to be completed or possession of the taonga tūturu given to that other person unless and until that other person becomes a registered collector:
  - (d) he or she will give the certificate of examination of any taonga tūturu sold by him or her to the purchaser on completion of the sale of the taonga tūturu:
  - (e) he or she will maintain a register in duplicate in the form provided by the chief executive, recording the name and address of the vendor and purchaser of every taonga tūturu sold, the description of the taonga tūturu given in the certificate of examination issued by a museum in accord-

- ance with section 16, the number of the certificate of examination, and such other details as the chief executive may require:
- (f) he or she will forward within 28 days of each sale of a taonga tūturu 1 copy of the entry in the register maintained in accordance with paragraph (e) to the Museum of New Zealand Te Papa Tongarewa, to form the basis of a central register of ngā taonga tūturu to be maintained by the Museum of New Zealand Te Papa Tongarewa:
  - (g) he or she will make available for examination by any person so authorised by the chief executive the register maintained in accordance with paragraph (e):
  - (h) he or she will display prominently in his or her premises a notice issued by the chief executive drawing attention to the provisions of this Act.
- (3) Every licensed auctioneer and licensed secondhand dealer shall be issued with a licence under the hand of the chief executive and unless sooner revoked or surrendered the licence shall remain in force until 31 January in the year following that in which it was issued and then expire, but may be renewed.
- (4) Every application for a licence or for the annual renewal of a licence as an auctioneer or secondhand dealer under this section shall be in the form provided by the chief executive, and shall be forwarded to the chief executive, together with a fee of \$50.
- (5) The chief executive shall revoke the licence of any licensed auctioneer or licensed secondhand dealer—
- (a) who is convicted of an offence against this Act or the Heritage New Zealand Pouhere Taonga Act 2014; or
  - (b) who ceases to be an auctioneer licensed under the Auctioneers Act 1928 or, as the case may be, a secondhand dealer licensed under the Secondhand Dealers and Pawnbrokers Act 2004.
- (6) Every person commits an offence who,—
- (a) in a manner contrary to the provisions of this section, purchases or attempts to purchase, or sells or attempts to sell, a taonga tūturu, knowing or having reasonable cause to suspect that it is a taonga tūturu, or falsely declares to any person that he or she is a licensed auctioneer or a licensed secondhand dealer; or
  - (b) being a licensed auctioneer or a licensed secondhand dealer, fails to comply with any of the conditions of his or her licence specified in subsection (2).
- (7) Every person who commits an offence under subsection (6) is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$10,000 for each taonga tūturu:

(b) in the case of a body corporate, to a fine not exceeding \$20,000 for each taonga tūturu.

Section 15(1): amended, on 1 November 2006, by section 22(1)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(1): amended, on 1 November 2006, by section 22(1)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(1): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 15(2)(a): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(a): amended, on 1 November 2006, by section 22(3)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(a): amended, on 1 November 2006, by section 22(3)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(b): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(b): amended, on 1 November 2006, by section 22(4)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(b): amended, on 1 November 2006, by section 22(4)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(c): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(c): amended, on 1 November 2006, by section 22(5)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(c) proviso: amended, on 1 November 2006, by section 22(5)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(c) proviso: amended, on 1 November 2006, by section 22(5)(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(d): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(d): amended, on 1 November 2006, by section 22(6)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(d): amended, on 1 November 2006, by section 22(6)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(e): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(e): amended, on 1 November 2006, by section 22(7) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(e): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 15(2)(f): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(f): amended, on 1 November 2006, by section 22(8)(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(f): amended, on 1 November 2006, by section 22(8)(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(f): amended, on 1 July 1992, pursuant to section 34 of the Museum of New Zealand Te Papa Tongarewa Act 1992 (1992 No 19).

Section 15(2)(g): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(g): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 15(2)(h): amended, on 1 November 2006, by section 22(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(h): amended, on 1 November 2006, by section 22(9) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(2)(h): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 15(3): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 15(4): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 15(5): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 15(5)(a): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 15(5)(b): amended, on 1 April 2005, by section 89 of the Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70).

Section 15(6): substituted, on 1 November 2006, by section 22(10) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(7): added, on 1 November 2006, by section 22(10) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 15(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **16 Certificate of examination to be issued by an authorised public museum**

- (1) At the request of a licensed auctioneer or of a licensed secondhand dealer in accordance with paragraph (b) of subsection (2) of section 15 or at the request of any registered collector, any authorised public museum shall issue a certificate of examination in respect of any taonga tūturu within 28 days of the taonga tūturu being first made available for examination.
- (2) The authorised public museum requested to issue a certificate of examination by a licensed auctioneer or a licensed secondhand dealer may, at its discretion, notify other public museums of the availability of the taonga tūturu and may make an offer for its purchase.
- (3) Every certificate of examination issued by an authorised public museum in respect of any taonga tūturu shall be in the form provided by the chief executive and shall be numbered, and every taonga tūturu examined by an authorised public museum for the purpose of issuing a certificate of examination shall be clearly identified with a registration number.
- (4) Every person—
  - (a) who knowingly removes or alters the registration number identifying any taonga tūturu pursuant to this section; or



- (b) who knowingly alters a certificate of examination issued by an authorised public museum in respect of any taonga tūturu; or
- (c) who makes or causes to be made any certificate of examination purporting to be issued by an authorised public museum without the authority of that museum—

commits an offence, and shall be liable on conviction, in the case of an individual, to a fine not exceeding \$10,000 for each taonga tūturu or, in the case of a body corporate, to a fine not exceeding \$20,000 for each taonga tūturu.

Section 16(1): amended, on 1 November 2006, by section 23(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 16(2): amended, on 1 November 2006, by section 23(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 16(3): amended, on 1 November 2006, by section 23(3) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 16(3): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 16(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 16(4): amended, on 1 November 2006, by section 23(5) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 16(4)(a): amended, on 1 November 2006, by section 23(4) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 16(4)(b): amended, on 1 November 2006, by section 23(4) of the Protected Objects Amendment Act 2006 (2006 No 37).

## 17 Disclosure of information

- (1) No person who under this Act becomes aware of the ownership or location of any taonga tūturu shall disclose any information relating thereto to any other person except as required or permitted pursuant to this Act, or with the written consent of the chief executive or of the owner of the taonga tūturu or of the person having lawful custody thereof.
- (2) Every person who knowingly acts in contravention of subsection (1) commits an offence and is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000 for each taonga tūturu:
  - (b) in the case of a body corporate, to a fine not exceeding \$20,000 for each taonga tūturu.

Section 17(1): amended, on 1 November 2006, by section 24(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 17(1): amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Section 17(2): substituted, on 1 November 2006, by section 24(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 17(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**18 Replica of taonga tūturu**

- (1) Any person who manufactures for sale a replica of any taonga tūturu shall be required to identify it clearly and permanently as such.
- (2) Every person who, without reasonable cause, fails to comply with the provisions of subsection (1) commits an offence, and is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000 for each taonga tūturu:
  - (b) in the case of a body corporate, to a fine not exceeding \$20,000 for each taonga tūturu.

Section 18 heading: amended, on 1 November 2006, by section 25(1) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 18(1): amended, on 1 November 2006, by section 25(2) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 18(2): substituted, on 1 November 2006, by section 25(3) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 18(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**18A Wilful damage**

Every person who wilfully damages or destroys an object that is subject to an export application, or has been refused export permission under this Act, commits an offence, and is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$10,000 for each object or a term of imprisonment not exceeding 2 years:
- (b) in the case of a body corporate, to a fine not exceeding \$20,000 for each object.

Section 18A: inserted, on 1 November 2006, by section 26 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 18A: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**19 Expenses of administration**

*[Repealed]*

Section 19: repealed, on 1 November 2006, by section 27 of the Protected Objects Amendment Act 2006 (2006 No 37).

**20 Annual report**

The chief executive shall include in his or her report to the Minister for every financial year an account of the operation of this Act, with particular reference to ngā taonga tūturu found, ngā taonga tūturu placed in the custody of other persons (whether by the chief executive or by the Maori Land Court) and the permissions given by the chief executive for the removal of protected New Zealand objects from New Zealand.

Compare: 1962 No 37 s 14

Section 20: amended, on 1 November 2006, by section 28(a) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 20: amended, on 1 November 2006, by section 28(b) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 20: amended, on 1 November 2006, by section 28(c) of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 20: amended, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

## 21 Saving of other enactments

The provisions of this Act are in addition to and not in substitution for the provisions of any other enactment but, except where this Act otherwise provides, nothing in this Act shall derogate from any provision of any other enactment. Compliance with the provisions of any other enactment shall not confer any relief or exemption from liability under this Act but no person shall be convicted of any offence under this Act in respect of the same matter for which he or she has been convicted of an offence under any other enactment.

Compare: 1962 No 37 s 15

Section 21: amended, on 1 November 2006, by section 29 of the Protected Objects Amendment Act 2006 (2006 No 37).

## 22 Regulations

- (1) The Governor-General may, by Order in Council, make regulations—
  - (a) specifying that a particular object is a protected New Zealand object if that object—
    - (i) is substantially physically authentic and is—
      - (A) made or naturally occurring in New Zealand; or
      - (B) made with New Zealand materials; or
      - (C) used by New Zealanders; or
      - (D) related to New Zealand; and
    - (ii) is—
      - (A) associated with, or representative of, activities, events, ideas, movements, objects, persons, or places of importance to New Zealand; or
      - (B) important to New Zealand for its technical accomplishment or design, artistic excellence, or symbolic, commemorative, or research value; or
      - (C) part of a wider historical, scientific, or cultural collection or assemblage of importance to New Zealand; and
    - (iii) is of such significance to New Zealand or part of New Zealand that its export from New Zealand would substantially diminish New Zealand's cultural heritage; and

- (b) specifying that a State is a reciprocating State; and
  - (c) providing for any matters that are contemplated by this Act, or necessary for giving full effect to its provisions and for its due administration.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1962 No 37 s 16

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 22: substituted, on 1 November 2006, by section 30 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 22(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 23 Consequential amendments

*Amendment(s) incorporated in the Act(s).*

## 24 Repeals

The following enactments are hereby consequentially repealed:

- (a) *amendment(s) incorporated in the Act(s):*
- (b) the Historic Articles Act 1962.

## Schedule 1 Authorised public museums

s 2

Schedule number: amended, on 1 November 2006, by section 31 of the Protected Objects Amendment Act 2006 (2006 No 37).

Auckland War Memorial Museum, Auckland.

Museum of New Zealand Te Papa Tongarewa, Wellington.

Canterbury Museum, Christchurch.

Otago Museum, Dunedin.

Schedule 1 Auckland Institute and Museum, Auckland: repealed, on 2 September 1996, by section 32(3) of the Auckland War Memorial Museum Act 1996 (1996 No 4 (L)).

Schedule 1 Auckland War Memorial Museum, Auckland: inserted, on 2 September 1996, by section 32(3) of the Auckland War Memorial Museum Act 1996 (1996 No 4 (L)).

Schedule 1 Museum of New Zealand Te Papa Tongarewa, Wellington: inserted, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

Schedule 1 National Museum, Wellington: repealed, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

**Schedule 2**  
**UNESCO Convention on the Means of Prohibiting and Preventing  
the Illicit Import, Export and Transfer of Ownership of Cultural  
Property**

s 2(1)

Schedule 2: added, on 1 November 2006, by section 32 of the Protected Objects Amendment Act 2006 (2006 No 37).

*Done at Paris, 14 November 1970*

*Entry into force, 24 April 1972*

***Preamble***

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 October to 14 November 1970, at its sixteenth session,

*Recalling* the importance of the provisions contained in the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference at its fourteenth session,

*Considering* that the interchange of cultural property among nations for scientific cultural and educational purposes increases the knowledge of the civilization of Man, enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations,

*Considering* that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting,

*Considering* that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export,

*Considering* that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations,

*Considering* that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles,

*Considering* that the illicit import, export and transfer of ownership of cultural property is an obstacle to that understanding between nations which it is part of Unesco's mission to promote by recommending to interested States, international conventions to this end,

*Considering* that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation,

*Considering* that the Unesco General Conference adopted a Recommendation to this effect in 1964,

*Having* before it further proposals on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, a question which is on the agenda for the session as item 19.

*Having* decided, at its fifteenth session, that this question should be made the subject of an international convention,

*Adopts* this Convention on the fourteenth day of November 1970.

## Article 1

For the purposes of this Convention, the term “cultural property” means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories:

- a. rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- b. property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- c. products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- d. elements of artistic or historical monuments or archaeological sites which have been dismembered;
- e. antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- f. objects of ethnological interest;
- g. property of artistic interest, such as:
  - i. pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
  - ii. original works of statuary art and sculpture in any material;
  - iii. original engravings, prints and lithographs;
  - iv. original artistic assemblages and montages in any material;
- h. rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- i. postage, revenue and similar stamps, singly or in collections;
- j. archives, including sound, photographic and cinematographic archives;

- k. articles of furniture more than one hundred years old and old musical instruments.

## **Article 2**

1. The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country's cultural property against all the dangers resulting therefrom.
2. To this end, the States Parties undertake to oppose such practices with the means at their disposal, and particularly by removing their causes, putting a stop to current practices, and by helping to make the necessary reparations.

## **Article 3**

The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

## **Article 4**

The States Parties to this Convention recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State:

- a. cultural property created by the individual or collective genius of nationals of the State concerned, and cultural property of importance to the State concerned created within the territory of that State by foreign nationals or stateless persons resident within such territory;
- b. cultural property found within the national territory;
- c. cultural property acquired by archaeological, ethnological or natural science missions, with the consent of the competent authorities of the country of origin of such property;
- d. cultural property which has been the subject of a freely agreed exchange;
- e. cultural property received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property.

## **Article 5**

To ensure the protection of their cultural property against illicit import, export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a



qualified staff sufficient in number for the effective carrying out of the following functions:

- a. contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;
- b. establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- c. promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops ...) required to ensure the preservation and presentation of cultural property;
- d. organizing the supervision of archaeological excavations, ensuring the preservation “in situ” of certain cultural property, and protecting certain areas reserved for future archaeological research;
- e. establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules;
- f. taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;
- g. seeing that appropriate publicity is given to the disappearance of any items of cultural property.

## Article 6

The States Parties to this Convention undertake:

- a. to introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;
- b. to prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned export certificate;
- c. to publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property.

## Article 7

The States Parties to this Convention undertake:

- a. to take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported

after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;

b.

- i. to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;
- ii. at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

### **Article 8**

The States Parties to this Convention undertake to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under Articles 6(b) and 7(b) above.

### **Article 9**

Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irreparable injury to the cultural heritage of the requesting State.

### **Article 10**

The States Parties to this Convention undertake:

- a. to restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;
- b. to endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.

### **Article 11**

The export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit.

### **Article 12**

The States Parties to this Convention shall respect the cultural heritage within the territories for the international relations of which they are responsible, and shall take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.

### **Article 13**

The States Parties to this Convention also undertake, consistent with the laws of each State:

- a. to prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;
- b. to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;
- c. to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;
- d. to recognize the indefeasible right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore ipso facto not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.

### **Article 14**

In order to prevent illicit export and to meet the obligations arising from the implementation of this Convention, each State Party to the Convention should, as far as it is able, provide the national services responsible for the protection of its cultural heritage with an adequate budget and, if necessary, should set up a fund for this purpose.

### **Article 15**

Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

### **Article 16**

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

### **Article 17**

1. The States Parties to this Convention may call on the technical assistance of the United Nations Educational, Scientific and Cultural Organization, particularly as regards:
  - a. information and education;
  - b. consultation and expert advice;
  - c. co-ordination and good offices.
2. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative conduct research and publish studies on matters relevant to the illicit movement of cultural property.
3. To this end, the United Nations Educational, Scientific and Cultural Organization may also call on the co-operation of any competent non-governmental organization.
4. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative, make proposals to States Parties to this Convention for its implementation.
5. At the request of at least two States Parties to this Convention which are engaged in a dispute over its implementation, Unesco may extend its good offices to reach a settlement between them.

### **Article 18**

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

### **Article 19**

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.
2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

### **Article 20**

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited to accede to it by the Executive Board of the Organization.
2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

### **Article 21**

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

### **Article 22**

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territories but also to all territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is applied, the notification to take effect three months after the date of its receipt.

### **Article 23**

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

### **Article 24**

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 20, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 19 and 20, and of the notifications and denunciations provided for in Articles 22 and 23 respectively.

### **Article 25**

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

### **Article 26**

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris this seventeenth day of November 1970, in two authentic copies bearing the signature of the President of the sixteenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 19 and 20 as well as to the United Nations.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its sixteenth session, which was held in Paris and declared closed the fourteenth day of November 1970.

IN FAITH WHEREOF we have appended our signatures this seventeenth day of November 1970.

The President of the General Conference The Director-General

### Schedule 3

## UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

s 2(1)

Schedule 3: added, on 1 November 2006, by section 32 of the Protected Objects Amendment Act 2006 (2006 No 37).

### *(Rome, 24 June 1995)*

THE STATES PARTIES TO THIS CONVENTION,

ASSEMBLED in Rome at the invitation of the Government of the Italian Republic from 7 to 24 June 1995 for a Diplomatic Conference for the adoption of the draft Unidroit Convention on the International Return of Stolen or Illegally Exported Cultural Objects,

CONVINCED of the fundamental importance of the protection of cultural heritage and of cultural exchanges for promoting understanding between peoples, and the dissemination of culture for the well-being of humanity and the progress of civilisation,

DEEPLY CONCERNED by the illicit trade in cultural objects and the irreparable damage frequently caused by it, both to these objects themselves and to the cultural heritage of national, tribal, indigenous or other communities, and also to the heritage of all peoples, and in particular by the pillage of archaeological sites and the resulting loss of irreplaceable archaeological, historical and scientific information,

DETERMINED to contribute effectively to the fight against illicit trade in cultural objects by taking the important step of establishing common, minimal legal rules for the restitution and return of cultural objects between Contracting States, with the objective of improving the preservation and protection of the cultural heritage in the interest of all,

EMPHASISING that this Convention is intended to facilitate the restitution and return of cultural objects, and that the provision of any remedies, such as compensation, needed to effect restitution and return in some States, does not imply that such remedies should be adopted in other States,

AFFIRMING that the adoption of the provisions of this Convention for the future in no way confers any approval or legitimacy upon illegal transactions of whatever kind which may have taken place before the entry into force of the Convention,

CONSCIOUS that this Convention will not by itself provide a solution to the problems raised by illicit trade, but that it initiates a process that will enhance international cultural co-operation and maintain a proper role for legal trading and inter-State agreements for cultural exchanges,

ACKNOWLEDGING that implementation of this Convention should be accompanied by other effective measures for protecting cultural objects, such as the development and use of registers, the physical protection of archaeological sites and technical co-operation,

RECOGNISING the work of various bodies to protect cultural property, particularly the 1970 UNESCO Convention on illicit traffic and the development of codes of conduct in the private sector,

HAVE AGREED as follows:

## **Chapter I**

### **Scope of application and definition**

#### Article 1

This Convention applies to claims of an international character for:

- (a) the restitution of stolen cultural objects;
- (b) the return of cultural objects removed from the territory of a Contracting State contrary to its law regulating the export of cultural objects for the purpose of protecting its cultural heritage (hereinafter “illegally exported cultural objects”).

#### Article 2

For the purposes of this Convention, cultural objects are those which, on religious or secular grounds, are of importance for archaeology, prehistory, history, literature, art or science and belong to one of the categories listed in the Annex to this Convention.

## **Chapter II**

### **Restitution of stolen cultural objects**

#### Article 3

- (1) The possessor of a cultural object which has been stolen shall return it.
- (2) For the purposes of this Convention, a cultural object which has been unlawfully excavated or lawfully excavated but unlawfully retained shall be considered stolen, when consistent with the law of the State where the excavation took place.
- (3) Any claim for restitution shall be brought within a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the time of the theft.
- (4) However, a claim for restitution of a cultural object forming an integral part of an identified monument or archaeological site, or belonging to a public collection, shall not be subject to time limitations other than a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor.
- (5) Notwithstanding the provisions of the preceding paragraph, any Contracting State may declare that a claim is subject to a time limitation of 75 years or such



- longer period as is provided in its law. A claim made in another Contracting State for restitution of a cultural object displaced from a monument, archaeological site or public collection in a Contracting State making such a declaration shall also be subject to that time limitation.
- (6) A declaration referred to in the preceding paragraph shall be made at the time of signature, ratification, acceptance, approval or accession.
  - (7) For the purposes of this Convention, a “public collection” consists of a group of inventoried or otherwise identified cultural objects owned by:
    - (a) a Contracting State
    - (b) a regional or local authority of a Contracting State;
    - (c) a religious institution in a Contracting State; or
    - (d) an institution that is established for an essentially cultural, educational or scientific purpose in a Contracting State and is recognised in that State as serving the public interest.
  - (8) In addition, a claim for restitution of a sacred or communally important cultural object belonging to and used by a tribal or indigenous community in a Contracting State as part of that community’s traditional or ritual use, shall be subject to the time limitation applicable to public collections.

#### Article 4

- (1) The possessor of a stolen cultural object required to return it shall be entitled, at the time of its restitution, to payment of fair and reasonable compensation provided that the possessor neither knew nor ought reasonably to have known that the object was stolen and can prove that it exercised due diligence when acquiring the object.
- (2) Without prejudice to the right of the possessor to compensation referred to in the preceding paragraph, reasonable efforts shall be made to have the person who transferred the cultural object to the possessor, or any prior transferor, pay the compensation where to do so would be consistent with the law of the State in which the claim is brought.
- (3) Payment of compensation to the possessor by the claimant, when this is required, shall be without prejudice to the right of the claimant to recover it from any other person.
- (4) In determining whether the possessor exercised due diligence, regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances.

- (5) The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

### **Chapter III**

#### **Return of illegally exported cultural objects**

##### Article 5

- (1) A Contracting State may request the court or other competent authority of another Contracting State to order the return of a cultural object illegally exported from the territory of the requesting State.
- (2) A cultural object which has been temporarily exported from the territory of the requesting State, for purposes such as exhibition, research or restoration, under a permit issued according to its law regulating its export for the purpose of protecting its cultural heritage and not returned in accordance with the terms of that permit shall be deemed to have been illegally exported.
- (3) The court or other competent authority of the State addressed shall order the return of an illegally exported cultural object if the requesting State establishes that the removal of the object from its territory significantly impairs one or more of the following interests:
  - (a) the physical Preservation of the object or of its context;
  - (b) the integrity of a complex object;
  - (c) the preservation of information of, for example, a scientific or historical character;
  - (d) the traditional or ritual use of the object by a tribal or indigenous community,or establishes that the object is of significant cultural importance for the requesting State.
- (4) Any request made under paragraph 1 of this Article shall contain or be accompanied by such information of a factual or legal nature as may assist the court or other competent authority of the State addressed in determining whether the requirements of paragraphs 1 to 3 have been met.
- (5) Any request for return shall be brought within a period of three years from the time when the requesting State knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the date of the export or from the date on which the object should have been returned under a permit referred to in paragraph 2 of this Article.

##### Article 6

- (1) The possessor of a cultural object who acquired the object after it was illegally exported shall be entitled, at the time of its return, to payment by the requesting State of fair and reasonable compensation, provided that the possessor neither

knew nor ought reasonably to have known at the time of acquisition that the object had been illegally exported.

- (2) In determining whether the possessor knew or ought reasonably to have known that the cultural object had been illegally exported, regard shall be had to the circumstances of the acquisition, including the absence of an export certificate required under the law of the requesting State.
- (3) Instead of compensation, and in agreement with the requesting State, the possessor required to return the cultural object to that State may decide:
  - (a) to retain ownership of the object; or
  - (b) to transfer ownership against payment or gratuitously to a person of its choice residing in the requesting State who provides the necessary guarantees.
- (4) The cost of returning the cultural object in accordance with this Article shall be borne by the requesting State, without prejudice to the right of that State to recover costs from any other person.
- (5) The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

#### Article 7

- (1) The provisions of this Chapter shall not apply where:
  - (a) the export of a cultural object is no longer illegal at the time at which the return is requested; or
  - (b) the object was exported during the lifetime of the person who created it or within a period of fifty years following the death of that person.
- (2) Notwithstanding the provisions of sub-paragraph (b) of the preceding paragraph, the provisions of this Chapter shall apply where a cultural object was made by a member or members of a tribal or indigenous community for traditional or ritual use by that community and the object will be returned to that community.

### Chapter IV General provisions

#### Article 8

- (1) A claim under Chapter II and a request under Chapter III may be brought before the courts or other competent authorities of the Contracting State where the cultural object is located, in addition to the courts or other competent authorities otherwise having jurisdiction under the rules in force in Contracting States.
- (2) The parties may agree to submit the dispute to any court or other competent authority or to arbitration.

- (3) Resort may be had to the provisional, including protective, measures available under the law of the Contracting State where the object is located even when the claim for restitution or request for return of the object is brought before the courts or other competent authorities of another Contracting State.

#### Article 9

- (1) Nothing in this Convention shall prevent a Contracting State from applying any rules more favourable to the restitution or the return of stolen or illegally exported cultural objects than provided for by this Convention.
- (2) This Article shall not be interpreted as creating an obligation to recognise or enforce a decision of a court or other competent authority of another Contracting State that departs from the provisions of this Convention.

#### Article 10

- (1) The provisions of Chapter II shall apply only in respect of a cultural object that is stolen after this Convention enters into force in respect of the State where the claim is brought, provided that:
  - (a) the object was stolen from the territory of a Contracting State after the entry into force of this Convention for that State; or
  - (b) the object is located in a Contracting State after the entry into force of the Convention for that State.
- (2) The provisions of Chapter III shall apply only in respect of a cultural object that is illegally exported after this Convention enters into force for the requesting State as well as the State where the request is brought.
- (3) This Convention does not in any way legitimise any illegal transaction of whatever which has taken place before the entry into force of this Convention or which is excluded under paragraphs (1) or (2) of this Article, nor limit any right of a State or other person to make a claim under remedies available outside the framework of this Convention for the restitution or return of a cultural object stolen or illegally exported before the entry into force of this Convention.

### Chapter V Final provisions

#### Article 11

- (1) This Convention is open for signature at the concluding meeting of the Diplomatic Conference for the adoption of the draft Unidroit Convention on the International Return of Stolen or Illegally Exported Cultural Objects and will remain open for signature by all States at Rome until June 1996.
- (2) This Convention is subject to ratification, acceptance or approval by States which have signed it.

- (3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.
- (4) Ratification, acceptance, approval or accession is subject to the deposit of a formal instrument to that effect with the depositary.

#### Article 12

- (1) This Convention shall enter into force on the first day of the sixth month following the date of deposit of the fifth instrument of ratification, acceptance, approval or accession.
- (2) For each State that ratifies, accepts, approves or accedes to this Convention after the deposit of the fifth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force in respect of that State on the first day of the sixth month following the date of deposit of its instrument of ratification, acceptance, approval or accession.

#### Article 13

- (1) This Convention does not affect any international instrument by which any Contracting State is legally bound and which contains provisions on matters governed by this Convention, unless a contrary declaration is made by the States bound by such instrument.
- (2) Any Contracting State may enter into agreements with one or more Contracting States, with a view to improving the application of this Convention in their mutual relations. The States which have concluded such an agreement shall transmit a copy to the depositary.
- (3) In their relations with each other, Contracting States which are Members of organisations of economic integration or regional bodies may declare that they will apply the internal rules of these organisations or bodies and will not therefore apply as between these States the provisions of this Convention the scope of application of which coincides with that of those rules.

#### Article 14

- (1) If a Contracting State has two or more territorial units, whether or not possessing different systems of law applicable in relation to the matters dealt with in this Convention, it may, at the time of signature or of the deposit of its instrument of ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may substitute for its declaration another declaration at any time.
- (2) These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.
- (3) If, by virtue of a declaration under this Article, this Convention extends to one or more but not all of the territorial units of a Contracting State the reference to:

- (a) the territory of a Contracting State in Article 1 shall be construed as referring to the territory of a territorial unit of that State;
  - (b) a court or other competent authority of the Contracting State or of the State addressed shall be construed as referring to the court or other competent authority of a territorial unit of that State;
  - (c) the Contracting State where the cultural object is located in Article 8 (1) shall be construed as referring to the territorial unit of that State where the object is located;
  - (d) the law of the Contracting State where the object is located in Article 8 (3) shall be construed as referring to the law of the territorial unit of that State where the object is located; and
  - (e) a Contracting State in Article 9 shall be construed as referring to a territorial unit of that State.
- (4) If a Contracting State makes no declaration under paragraph 1 of this Article, this Convention is to extend to all territorial units of that State.

#### Article 15

- (1) Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.
- (2) Declarations and confirmations of declarations are to be in writing and to be formally notified to the depositary.
- (3) A declaration shall take effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force shall take effect on the first day of the sixth month following the date of its deposit with the depositary.
- (4) Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal shall take effect on the first day of the sixth month following the date of the deposit of the notification.

#### Article 16

- (1) Each Contracting State shall at the time of signature, ratification, acceptance, approval or accession, declare that claims for the restitution, or requests for the return, of cultural objects brought by a State under Article 8 may be submitted to it under one or more of the following procedures:
  - (a) directly to the courts or other competent authorities of the declaring State;
  - (b) through an authority or authorities designated by that State to receive such claims or requests and to forward them to the courts or other competent authorities of that State;

- (c) through diplomatic or consular channels.
- (2) Each Contracting State may also designate the courts or other authorities competent to order the restitution or return of cultural objects under the provisions of Chapters II and III.
- (3) Declarations made under paragraphs 1 and 2 of this Article may be modified at any time by a new declaration.
- (4) The provisions of paragraphs 1 to 3 of this Article do not affect bilateral or multilateral agreements on judicial assistance in respect of civil and commercial matters that may exist between Contracting States.

### Article 17

Each Contracting State shall, no later than six months following the date of deposit of its instrument of ratification, acceptance, approval or accession, provide the depositary with written information in one of the official languages of the Convention concerning the legislation regulating the export of its cultural objects. This information shall be updated from time to time as appropriate.

### Article 18

No reservations are permitted except those expressly authorised in this Convention.

### Article 19

- (1) This Convention may be denounced by any State Party, at any time after the date on which it enters into force for that State, by the deposit of an instrument to that effect with the depositary.
- (2) A denunciation shall take effect on the first day of the sixth month following the deposit of the instrument of denunciation with the depositary. Where a longer period for the denunciation to take effect is specified in the instrument of denunciation it shall take effect upon the expiration of such longer period after its deposit with the depositary.
- (3) Notwithstanding such a denunciation, this Convention shall nevertheless apply to a claim for restitution or a request for return of a cultural object submitted prior to the date on which the denunciation takes effect.

### Article 20

The President of the International Institute for the Unification of Private Law (Unidroit) may at regular intervals, or at any time at the request of five Contracting States, convene a special committee in order to review the practical operation of this Convention.

### Article 21

- (1) This Convention shall be deposited with the Government of the Italian Republic.

- (2) The Government of the Italian Republic shall:
- (a) inform all States which have signed or acceded to this Convention and the President of the International Institute for the Unification of Private Law (Unidroit) of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance approval or accession, together with the date thereof;
    - (ii) each declaration made in accordance with this Convention;
    - (iii) the withdrawal of any declaration;
    - (iv) the date of entry into force of this Convention;
    - (v) the agreements referred to in Article 13;
    - (vi) the deposit of an instrument of denunciation of this Convention together with the date of its deposit and the date on which it takes effect;
  - (b) transmit certified true copies of this Convention to all signatory States, to all States acceding to the Convention and to the President of the International Institute for Unification of Private Law (Unidroit);
  - (c) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised, have signed this Convention.

DONE at Rome, this twenty-fourth day of June, one thousand nine hundred and ninety-five, in a single original, in the English and French languages, both texts being equally authentic.

### Annex

- (a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- (c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- (d) elements of artistic or historical monuments or archaeological sites which have been dismembered;
- (e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- (f) objects of ethnological interest;
- (g) property of artistic interest, such as:



- (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
- (ii) original works of statuary art and sculpture in any material;
- (iii) original engravings, prints and lithographs;
- (iv) original artistic assemblages and montages in any material;
- (h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- (i) postage, revenue and similar stamps, singly or in collections;
- (j) archives, including sound, photographic and cinematographic archives;
- (k) articles of furniture more than one hundred years old and old musical instruments.

## Schedule 4

### Categories of protected New Zealand objects

s 2(1)

Schedule 4: added, on 1 November 2006, by section 32 of the Protected Objects Amendment Act 2006 (2006 No 37).

#### **1 Archaeological, ethnographic, and historical objects of non-New Zealand origin, relating to New Zealand**

This category consists of archaeological and historical objects of non-New Zealand origin that—

- (a) have been in New Zealand for not less than 50 years and are in or have been in a public collection; and
- (b) are not represented by at least 2 comparable examples permanently held in New Zealand public collections; and
- (c) include any object of Polynesian creation or modification brought to New Zealand before 1800 or created or modified by the former Polynesian inhabitants of the Kermadec Islands before 1800.

#### **2 Art objects including fine, decorative, and popular art**

- (1) This category includes the following objects and their supporting documentation and preparatory material:
  - (a) architectural material, including whole or parts of architectural structures, fixtures, fittings, and decoration and interior decoration:
  - (b) arms and armour:
  - (c) art works in fibre or fabric or both:
  - (d) artists' prints, posters, illustrated books, and similar art works with potential for multiple production:
  - (e) book art:
  - (f) ceramics and glass:
  - (g) costumes and textiles:
  - (h) furniture:
  - (i) horological instruments:
  - (j) jewellery and body adornment:
  - (k) metalwork:
  - (l) musical instruments:
  - (m) paintings:
  - (n) photographs, moving image art works, sound art works and film, and similar art works with potential for multiple production:

- (o) sculpture, carving, and other 3-dimensional art works that are either unique or have potential for multiple production:
  - (p) unique art works on paper, including watercolours, drawings, and sketches:
  - (q) woodwork:
  - (r) other art works, including (but not limited to) scrimshaw, plastics, paper, stone, shell, kauri gum, and bone.
- (2) An object is included in this category if it is—
- (a) not represented by at least 2 comparable examples permanently held in New Zealand public collections; and
  - (b) made by—
    - (i) an artist or maker born in or related to New Zealand and who is no longer living; or
    - (ii) a living artist or maker born in or related to New Zealand where that artist or maker is not the owner; and
  - (c) not less than 50 years old.

### 3 Documentary heritage objects

- (1) In this category, unless the context otherwise requires,—
- collection** means forming a collection assembled by a person, objects that originate from a common source, or objects devoted to a single theme, person, place, event, or thing
- record** means recorded information, in any format, created or received by a person or an organisation in the course of business undertaken by that person or organisation and stored in any format.
- (2) Objects in this category include (but are not limited to)—
- (a) books:
  - (b) maps and other cartographic records:
  - (c) photographs and negatives:
  - (d) ephemera:
  - (e) music scores:
  - (f) film:
  - (g) sound recordings:
  - (h) cinematographic, video production, or any other production comprising moving images or recorded sound:
  - (i) digitally born objects, supporting material, and applications and technical infrastructure important for their understanding.
- (3) An object is included in this category if it—

- (a) is not represented by at least 2 comparable examples permanently held in New Zealand public collections; and
- (b) is—
  - (i) not less than 50 years old; or
  - (ii) any unique document or collection of unique documents not less than 50 years old; or
  - (iii) a public record and a protected record as defined by the Public Records Act 2005.
- (4) This category does not include any document owned by its living creator who was born in or is related to New Zealand.

#### 4 Ngā taonga tūturu

This category includes any taonga tūturu.

#### 5 Natural science objects

- (1) In this category, unless the context otherwise requires,—

**description** means the scientific description of a taxon in the manner prescribed by the international codes of zoological, mineralogical, and botanical nomenclature

**fossil**, irrespective of how it is preserved, means an object constituting the remains or traces of a non-human organism that lived in New Zealand prior to human habitation; including (but not limited to) the whole organism or parts of it, or trace evidence of its behaviour

**meteorite** means a natural object of extraterrestrial origin

**mineral** means an element or chemical compound that occurs naturally in rocks, soil, or water; and—

- (a) includes—
  - (i) crystals and naturally occurring metals; and
  - (ii) gemstones, whether or not polished or faceted by humans; but
- (b) does not include—
  - (i) minerals, ores, and concentrates intended for industrial use; or
  - (ii) any work made by humans from minerals

**taxon** means a taxonomic grouping of extant or extinct organisms, such as a genus, species, or sub-species

**tektite** means a small glassy natural object of non-volcanic origin

**ventifact** means a stone or pebble, shaped, worn, faceted, cut, or polished by the abrasive action of windblown dust or sand.

- (2) This category consists of extant or extinct native organisms, products of animal and plant behaviour (such as nests, coprolites, and kauri gum), fossils, fluids,

rocks, and minerals (including, but not limited to, ventifacts, obsidians, pumices, meteorites, and tektites) of New Zealand origin or related to New Zealand.

- (3) Objects in this category include—
- (a) a category of type specimen as defined by the current edition of the International Code of Botanical Nomenclature, the International Code of Zoological Nomenclature, or the International Code of Nomenclature of Bacteria: Bacteriological Code:
  - (b) a specimen considered to be scientifically important for defining a taxon through having been illustrated in the original description, or new material subsequently illustrated (that is, hypotypes) and used to expand or refine this description in the scientific literature:
  - (c) a specimen of an extant or extinct plant or rock or mineral, animal, or other organism or fossil or part thereof including any developmental stage, shell, or skeletal or supporting element, of which there is not a sufficient selection in New Zealand public collections to define the variation, range, and environmental context of the taxon or object.
- (4) Duplicates of a category of type specimen as defined by the current edition of the International Code of Botanical Nomenclature, the International Code of Zoological Nomenclature, or the International Code of Nomenclature of Bacteria: Bacteriological Code may be excluded from this category if there is sufficient original type material held in New Zealand public collections to define the taxon.

## **6 New Zealand archaeological objects**

This category consists of any objects, assemblages, scientific samples, and organic remains derived from a New Zealand archaeological site, as defined by the Heritage New Zealand Pouhere Taonga Act 2014.

Schedule 4 clause 6: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## **7 Numismatic and philatelic objects**

- (1) The philatelic category consists of any items of the New Zealand Post Museum Collection.
- (2) The numismatics category consists of the following objects:
- (a) examples of the Resolution and Adventure Medal, 1772:
  - (b) the Pattern Waitangi Crown:
  - (c) issued £50 and £100 New Zealand banknotes produced before 1933:
  - (d) examples of the New Zealand Cross, Victoria Cross, and George Cross, and their associated groups, awarded to a New Zealander or related to New Zealand:

- (e) any related original art work and design of New Zealand coins and banknotes.
- (3) The numismatic and philatelic categories include (but are not limited to) dies and printing plates associated with the manufacture of New Zealand coins, banknotes, postage, and revenue stamps.

## **8 Science, technology, industry, economy, and transport objects**

- (1) Objects in this category include (but are not limited to) any—
  - (a) vessel:
  - (b) machine:
  - (c) vehicle:
  - (d) aircraft:
  - (e) equipment:
  - (f) machinery:
  - (g) tool:
  - (h) patent model:
  - (i) model:
  - (j) accessory:
  - (k) part:
  - (l) component:
  - (m) prototype:
  - (n) object:
  - (o) device, apparatus, instrument, implement, or structure:
  - (p) dies and plates:
  - (q) documentation:
  - (r) ephemera.
- (2) Objects in this category are related to—
  - (a) air, land, and water transport:
  - (b) communication, printing, and information technology:
  - (c) design:
  - (d) energy production and distribution:
  - (e) engineering:
  - (f) extractive industries:
  - (g) human and animal health:
  - (h) hydrology:
  - (i) manufacturing:

- (j) primary production and processing:
  - (k) research, invention, and applied technology:
  - (l) the service and recreation industries:
  - (m) surveying.
- (3) An object is included in this category if it is—
- (a) not represented by at least 2 comparable examples permanently held in New Zealand public collections; and
  - (b) not less than 50 years old.

## 9 Social history objects

- (1) This category includes (but is not limited to) objects relating to—
- (a) community organisations and activities:
  - (b) courts, tribunals, and law enforcement, including (but not limited to) the Police, law-breakers, and prison life:
  - (c) cultural life and arts and crafts:
  - (d) domestic life, including buildings, fixtures and decorations, equipment and furniture, costumes and textiles, and personal effects:
  - (e) education:
  - (f) exploration, voyaging, migration, and settlement:
  - (g) health, medicine, and welfare:
  - (h) international relations:
  - (i) leisure and recreation, including all forms of sport, entertainment, and tourism:
  - (j) New Zealand military history:
  - (k) personal histories:
  - (l) religion and missions:
  - (m) social and political issues:
  - (n) transport and communications:
  - (o) urban and rural culture:
  - (p) work life, including specialised trades and labour material, trade unionism, company activity and corporate identity, trade and commerce, and agriculture and industry:
  - (q) any other objects in these categories.
- (2) In this category, unless the context otherwise requires, **New Zealand military history** means the history of—

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- (a) wars and conflicts involving New Zealand or New Zealanders or New Zealand residents, including (but not limited to) military and non-military activities and experiences:
  - (b) the New Zealand Defence Force and its antecedent components:
  - (c) operations and activities involving New Zealand Defence Forces:
  - (d) New Zealand allies within New Zealand or associated with New Zealand Defence Forces:
  - (e) forces opposing the New Zealand Defence Forces whether in New Zealand or overseas:
  - (f) regular or irregular sea, land, and air force units in which New Zealanders have taken part.
- (3) This category includes New Zealand manufactured or designed military objects and their associated documentation.
- (4) An object is included in this category if it is—
- (a) not represented by at least 2 comparable examples permanently held in New Zealand public collections; and
  - (b) not less than 50 years old.



## Notes

### **1** *General*

This is a consolidation of the Protected Objects Act 1975 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Auctioneers Act 2013 (2013 No 148): section 28(3)

Criminal Procedure Act 2011 (2011 No 81): section 413

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3): section 128

Limitation Act 2010 (2010 No 110): section 58

Protected Objects Amendment Act 2006 (2006 No 37)

Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70): section 89

Archives, Culture, and Heritage Reform Act 2000 (2000 No 32): section 12

Auckland War Memorial Museum Act 1996 (1996 No 4 (L)): section 32(3)

Copyright Act 1994 (1994 No 143): section 236(1)

Museum of New Zealand Te Papa Tongarewa Act 1992 (1992 No 19): section 34