

Environmental legislation for New Zealanders in Antarctica

Introduction

Activities planned or conducted by New Zealanders in Antarctica are potentially governed by several different pieces of New Zealand environmental legislation. This document provides a brief outline of the implications of each of these laws for your activities in Antarctica. It is intended as a guide only and does not substitute the actual legislation and the requirements thereof. While we are here to help, it is your responsibility to ensure that you comply with all applicable environmental regulations. Consult the relevant Act and/or the contact person listed in this guide if you have any doubts or require further information. We recommend you also visit the Ministry of Foreign Affairs and Trade (MFAT) website.

<https://mfat.govt.nz/en/environment/antarctica/>

Animal Welfare Act 1999

Under the Animal Welfare Act (1999), no one may carry out research, testing, or teaching involving the use of animals (including mammals, birds, fish and other animals including some invertebrates as defined under the Act) unless they are by contract working under an approved code of ethical conduct. Most research institutions have an animal ethics committee (AEC) with an approved code. AEC approval is required before commencing any work involving animals in Antarctica. Further information is available from the Ministry for Primary Industries website:

<https://www.mpi.govt.nz/protection-and-response/animal-welfare/>

Antarctica (Environmental Protection) Act 1994

The Protocol on Environmental Protection to the Antarctic Treaty is implemented into New Zealand legislation through the Antarctica (Environmental Protection) Act (1994) (the Act). The purpose of the Act is to promote the comprehensive protection of the Antarctic environment and the value of Antarctica as an area for scientific research. The Ministry of Foreign Affairs and Trade (MFAT) administers the Act. Under the Act, an Environmental Impact Assessment (EIA) must be completed and approved by MFAT before any activity can be undertaken in Antarctica. The EIA can take the form of a Preliminary, Initial, or Comprehensive Environmental Evaluation. In addition, the following activities are prohibited without a permit:

1. Entering or carrying out activities in an Antarctic Specially Protected Area (ASPA);
2. Taking or attempting to take¹ any native bird or mammal;
3. Removing or damaging native plants in quantities which significantly affect local distribution or abundance;
4. Harmfully interfering² with native plants, mammals, birds or invertebrates;
5. Introducing any species of animal, plant or micro-organism not native to that area; and
6. Importing non-sterile soil.

For Antarctica New Zealand supported events, activities requiring a permit are usually identified in the EIA process and permits applied for by Antarctica New Zealand collectively on all events' behalves. For most events this is part of the EMPEROR event management system and additional action is not required unless advised otherwise.

For further information and enquiries contact:

Ella Risati

Ministry of Foreign Affairs and Trade

Private Bag 18901

Wellington

Phone: +64 4 439 8724

¹ "Take" means to kill, injure, capture, handle or molest, a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected. (Environmental Protocol Annex II, Article 1)

² "harmfully interfere" means flying or landing helicopters or other aircraft, using vehicles or vessels including hovercraft and small boats, or using explosives or firearms in a manner that disturbs concentrations of birds and seals; wilfully disturbing breeding or moulting birds or concentrations of birds and seals by persons on foot; significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles or walking on them, or by other means; and any activity that results in significant adverse modification of habitats of any species or population of native mammal, bird, plant or invertebrate. (Environmental Protocol Annex II, Article 3)

Fax: +64 4 439 8507

Email: Ella.Risati@mfat.govt.nz

Antarctic Marine Living Resources Act 1981

The Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR Convention) is implemented into New Zealand legislation through the Antarctic Marine Living Resources (AMLR) Act (1981) which is administered by the Ministry of Primary Industries (MPI). Under this Act no marine organism³, alive or dead, may be taken⁴ from the area covered by the CCAMLR Convention without a permit from MPI. This applies to both scientific and exploratory commercial fishing activities. MPI can be contacted for further information and inquiries.

Event Managers should apply to MPI for an AMLR permit at the earliest opportunity. This application must include:

- Event Managers full name and contact details including the physical address, email address and phone number(s);
- Event number assigned by Antarctica New Zealand;
- Period and duration that the AMLR permit is required;
- Complete list of the marine organism(s) by weight and/or number, alive or dead, intended to be taken; and
- Full details of or a copy of the completed EIA information to be submitted to MFAT under the Antarctica (Environmental Protection) Act (1994).

Note: Antarctica New Zealand will provide MPI access to the EIA for the purpose of processing AMLR permit requests.

Once MPI has received and reviewed the information provided, they will request from the applicant any additional information necessary to assess the proposed activities against the requirements for the AMLR Act. All requests for AMLR permits should be received by MPI **16 weeks** prior to the period for which the permit is required.

For further information, enquiries and AMLR applications contact:

Matthew Baird

Senior Policy Analyst

Ministry for Primary Industries

PO Box 2526

Wellington

Phone: + 64 04 894 0341

Email: AMLR@mpi.govt.nz

Biosecurity Act 1993

The Biosecurity Act (1993) is administered by the Ministry for Primary Industries (MPI) and aims to exclude unwanted organisms from New Zealand. Under the Act, the importation of any plants, animals or plant or animal products requires an Import Health Permit. This applies also to media which could harbour organisms (e.g. water and soil). It is important to ensure that your MPI Import Health Permit specifically lists all sample types to be shipped to New Zealand.

For some samples, Import Health Standards may allow you to import samples without a permit. These include small amounts of clear water, clean rocks and preserved animal specimens. It is important to note what preservation methods are applicable under the Import Health Standard (i.e. frozen or dried non-viable samples versus preserved in formalin or alcohol, etc.). You can find Import Health Standards on the MPI's

³ Under the AMLR Act 'marine organism' means any organism in the Convention Area that belongs to any species of living organisms that are found in the Convention Area. Under the CCAMLR Convention, Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence. For New Zealand legislation, marine mammals are applicable under the Marine Mammals Protection Act (1978), marine birds are applicable under the Antarctic (Environmental Protection) Act 1994 and all other marine organisms are applicable under the AMLR Act, including zooplankton and phytoplankton and marine algae.

⁴ "take" includes to take, catch, kill, injure, attract, poison, tranquillise, herd, harass, disturb, or possess: to brand, tag, mark, or do any similar thing; or to attempt to do any of these things (Antarctic Marine Living Resources Act 1981 section 2).

website (<http://www.mpi.govt.nz/law-and-policy/requirements/import-health-standards/>) or by contacting them directly (<http://mpi.govt.nz/contact-us/>).

The Act also contains requirements for ensuring aircraft, ships and containers entering New Zealand are pest and soil free, and for import and disposal of human waste, medical waste and food waste.

Hazardous Substances and New Organisms Act 1996

The purpose of the Hazardous Substances and New Organisms Act (1996) is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms. This Act is administered by the Environmental Protection Authority (EPA). Under the Act, approval is required to import a species that has not been brought into New Zealand since the Act came into force. The Act provides for rapid assessment of applications to import species that cannot survive in the New Zealand environment.

Soil and water samples being imported to New Zealand may contain micro-organisms. If the samples are being imported to study the micro-organisms, a Hazardous Substance and New Organism (HSNO) Act approval must be sought. If, however, the samples are being imported for analysis to which the presence or absence of micro-organisms is irrelevant, no approval is required (although normal MPI controls apply – see Biosecurity Act information above).

Further information can be accessed from the EPA website at: www.epa.govt.nz

The hazardous substances part of the Act requires that all chemicals and hazardous substances are registered and handled in accordance with specified controls. This is managed by Worksafe New Zealand (<http://www.worksafe.govt.nz/worksafe>). Import of hazardous waste is controlled under the Customs and Excise Act 1996 (see above). Under the Customs and Excise Act 1996 and the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004, import of hazardous waste into New Zealand requires a permit from EPA.

Marine Mammals Protection Act 1978

The Marine Mammals Protection Act (MMPA) (1978) provides for the protection, conservation and management of marine mammals in New Zealand and its territorial waters, including within 12 nautical miles of the Ross Dependency and the internal waters of the Ross Sea. The MMPA is administered by the Department of Conservation.

Under the Act, a permit from the Minister of Conservation is required to hold in captivity or take⁵ a marine mammal (seal, whale, dolphin, porpoise, dugong, or manatee), whether alive or dead.

Application forms and further information are available here: <http://www.doc.govt.nz/get-involved/apply-for-permits/interacting-with-marine-mammals/>

Trade in Endangered Species Act 1989

The Trade in Endangered Species Act (1989) enable New Zealand to fulfil its obligations under the Convention on International Trade in Endangered Species (CITES) to further the protection and conservation of endangered species of wild fauna and flora by regulating the export and import of such species and any product derived from those species. The Trade in Endangered Species Act is administered by the Department of Conservation.

Under the Act, a permit from the Director-General of Conservation is required to trade⁶ in any specimen of an endangered, threatened, or exploited species into or from New Zealand. Species relevant in the Antarctic context are any cetacean samples listed on CITES Appendices (www.cites.org). Shipping cetacean samples from Antarctica to New Zealand and onwards requires a TIES permit.

⁵ "take" includes to take, catch, kill, injure, attract, poison, tranquillise, herd, harass, disturb or possess; to brand, tag mark or do any similar thing; to flense, render down or separate any part from a carcass; or to attempt any of these things (Marine Mammals Protection Act 1978 section 2).

⁶ 'trade' means export, import, re-export, or introduce from the sea (Trade in Endangered Species Act 1989 section 3).



For further information see <http://www.doc.govt.nz/about-us/international-agreements/endangered-species/permits/> or contact:

Jan McKeown
CITES Officer
National Compliance Team
Department of Conservation - Te Papa Atawhai
Christchurch Office
Private Bag 4715
Christchurch Mail Centre
Christchurch 8140

Phone: 03 371 3700
Email: cites@doc.govt.nz