

## **Use of the word 'Anzac' guidelines**

### **Use of the word 'Anzac' or 'ANZAC': guidelines from the Ministry for Culture and Heritage**

#### **Purpose of these Guidelines**

Section 17 of the Flags, Emblems, and Names Protection Act 1981 (the Act) prohibits the use of the word 'Anzac' in trade or business. The purpose of these guidelines is to provide guidance to the public as to what uses will generally not be in breach of the prohibition in section 17. The Guidelines are not legal advice.

#### **Protection of the word 'Anzac'**

The importance of 'Anzac' to New Zealand is enshrined in law with the use of the term 'Anzac' protected since 1916. Section 17 of the Act states that, 'The Governor-General may... prohibit, regulate, or control the use in connection with any business, trade, or occupation of the word 'Anzac' or of any other word that so closely resembles the word 'Anzac' as to be likely to deceive or mislead any person.'

In 1916 the Governor General notified two Gazette Notices which made it unlawful for any person to use the term 'Anzac' in connection with any trade or business. This means that the term 'Anzac' can't be used for any commercial venture.

In 2003 the Australian and New Zealand Governments made a joint application to the World Intellectual Property Organisation (WIPO) for international protection of the word 'Anzac'. The 164 countries that are party to the Paris Convention for the Protection of Industrial Property (which is administered by WIPO) are now required to refuse any application to register Anzac as a trademark and to prohibit its unauthorised use as a trademark.

The intention of the protection of the word 'Anzac' is to protecting the term from commercialisation and to ensure that the use is not offensive to public sentiment.

#### **ANZAC or 'Anzac'**

We recommend using the term 'ANZAC' with all capitals only when referring to the specific Corps. For all other uses 'Anzac' is preferred.

#### **Requests to use the word 'Anzac'**

As the Ministry for Culture and Heritage administers the Act, the Ministry is able to provide guidance on whether a particular use is permitted under the Act, or in other words, whether the use will not in breach of section 17. The Ministry for Culture and Heritage will assess such uses on a case by case basis, and will consider factors including the following:

- the intent of the legislation to protect the word from connection with any trade or business ventures;
- whether there is a commemorative link between the proposed use and the Anzacs and the Gallipoli campaign or wider New Zealand involvement in military conflicts;
- the views of the ex-service community;
- whether the application is primarily for a charitable purpose<sup>[1]</sup>; and

- commemorative and educational benefits.

### **Supporting information**

Organisations or individuals wishing to seek guidance as to whether their use is permitted under the Act should supply the Ministry with as much information as possible concerning the proposed use of the word, including pictures or samples of proposed products where appropriate.

### **Uses of the word 'Anzac' generally not in breach of the Act**

The Ministry has adopted a general policy position that the following uses of the word 'Anzac' are generally not in breach of the Act:

- the use of the word 'Anzac' in relation to a biscuit provided that the product conforms to the general recipes and shape traditionally known as an 'Anzac biscuit'. This does not apply to products such as cookies, slices, loaves or muesli bars.
- the use of the words 'Anzac Day' in connection with an event held on 25 April itself or on preceding or consecutive days including 25 April. For example, a business may hold an 'Anzac Day Sale'. However it would be an offence to have an 'Anzac Sale'.
- the use of the word 'Anzac', or a word resembling it, in the name of a street, road or park containing or near a WW1 or WW2 war memorial.
- the use of the word 'Anzac' is also generally not in breach of the Act where it is used in the name of a business located on a road, street or avenue that includes the word 'Anzac', provided that the full name of that road, street or avenue is included, for example Anzac Avenue Supermarket.

It is also important that the use not be offensive to public sentiment. The Ministry can provide more detailed guidance about the legislation and on specific proposed uses upon request.

### **Jewellery, ornaments or badges**

Permission must be sought by the Attorney-General to manufacture and sell any ornament, badge or piece of jewellery with the word "Anzac" thereon. It cannot be used as trade name, trade mark, or registrable design.

### **Penalty for unauthorised use**

Use of the word 'Anzac' in breach of the Flags, Emblems and Names Protection Act 1981 is an offence if it does not have the approval of the Governor-General.

Every person who commits an offence against the Act is liable, in the case of an individual, to a fine of \$5,000. In the case of a body corporate, \$50,000 and where the offence is a continuing one, a further fine not exceeding \$5,000 for every day during which the offence has continued.

Further Information

For further information about making applications for the use of the word 'Anzac', please contact the Ministry for Culture and Heritage by email at: [info@mch.govt.nz](mailto:info@mch.govt.nz), or by phone on (04) 499-4229. Applications can be sent to:

Ministry for Culture and Heritage  
PO Box 5364  
Wellington 6140  
NEW ZEALAND

[\[1\]](#)The meaning of charitable purpose is established in common law and reflected in section 5(1) of the New Zealand Charities Act 2005 as follows: "charitable purpose includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion or any other matter beneficial to the community". Such purposes must also provide public benefit in order to be considered charitable *Latimer v Commissioner of Inland Revenue* [2000] 3 NZLR 195 at [37-42].