

**Reprint**  
**as at 9 June 2011**

**Wildlife Act 1953**

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

**This Act is administered by the Department of Conservation.**

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**An Act to consolidate and amend the law relating to the protection and control of wild animals and birds, the regulation of game shooting seasons, and the constitution and powers of acclimatisation societies**

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

**1 Short Title and commencement**

- (1) This Act may be cited as the Wildlife Act 1953.
- (2) This Act shall come into force on the 1st day of April 1954.

**2 Interpretation**

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

**Activity** includes a trade, business, or occupation

Activity: this definition was inserted, as from 1 July 1996, by section 2(1) Wildlife Amendment Act 1996 (1996 No 2).

**Animal** means any mammal (not being a domestic animal or a rabbit or a hare or a seal or other marine mammal), any bird (not being a domestic bird), any reptile, or any amphibian; and includes any terrestrial or freshwater invertebrate declared to be an animal under section 7B of this Act and any marine species declared to be an animal under section 7BA of this Act; and also includes the dead body or any part of the dead body of any animal

Animal: this definition was amended as from 19 September 1980, by section 2(1) of the Wildlife Amendment Act 1980 (1980 No 17) by inserting the words “; and includes any terrestrial or freshwater invertebrate declared to be an animal under section 7B of this Act; and also includes the dead body or any part of the dead body of any animal”.

Animal: this definition was amended, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88) by inserting the words “and any marine species declared to be an animal under section 7BA of this Act”. See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Aquatic life** means any species of plant or animal life which, at any time in the life history of the species, must inhabit water; and includes seabirds (whether or not in an aquatic environment)

Aquatic life: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Associated products** means products made in association with game bird habitat stamps as part of the game bird habitat stamp programme

Associated products: this definition was inserted by section 2(2) of 1993 No 39.

**Bird** means any bird, whether native, introduced, or imported, or that has migrated to New Zealand or has arrived in New Zealand and become established there; but does not include any domestic bird

**Buy** includes barter, exchange for consideration, offer to buy, or attempt to buy

**Close season**, with respect to any game, means any period during which the hunting or killing of that game is not expressly permitted, either generally or in any specified district or place

**Closed game area** means a part of a district that is for the time being excluded from the operation of an open season in the district; but does not include a wildlife sanctuary or a wildlife refuge or any area in which the shooting or hunting or killing

of animals is prohibited under or pursuant to paragraph (j) of subsection (2) of section 9 of this Act or any other Act

**Concession or concession document—**

- (a) Means—
  - (i) A lease; or
  - (ii) A licence; or
  - (iii) A permit; or
  - (iv) An easement—  
granted under section 14AA of this Act; and
- (b) Includes any activity authorised by the concession document:

Concession or concession document: these definitions were inserted, as from 1 July 1996, by section 2(1) Wildlife Amendment Act 1996 (1996 No 2).

**Concessionaire** means a person who is—

- (a) A lessee; or
- (b) A licensee; or
- (c) A permit holder; or
- (d) The grantee of an easement—  
under section 14AA of this Act

Concessionaire: this definition was inserted, as from 1 July 1996, by section 2(1) Wildlife Amendment Act 1996 (1996 No 2).

**Conservation management plan** means a conservation management plan approved under section 14E of this Act

Conservation management plan: this definition was inserted by section 65 Conservation Law Reform Act 1990 (1990 No 31).

**Conservation management strategy** means a conservation management strategy approved under the Conservation Act 1987

Conservation management strategy: this definition was inserted by section 65 Conservation Law Reform Act 1990 (1990 No 31).

**Council**, in relation to any acclimatisation society, means the governing body of the society, by whatever name it is called

**Day** means a period of 24 hours commencing from midnight

**Department** means the Department of Conservation

Department: this definition was amended by section 65(1) Conservation Act 1987 by substituting the word “Conservation” for the words “Internal Affairs”.

**Director** means the manager of the New Zealand Fish and Game Council

Director: this definition was inserted, as from 25 November 1994, by section 2(1) Wildlife Amendment Act 1994 (1994 No 109).

**Director-General** means the Director-General of Conservation

Director-General: this definition was inserted by section 65(1) Conservation Act 1987 (1987 No 65).

**District***[Repealed]*

District: this definition was repealed by section 65 Conservation Law Reform Act 1990 (1990 No 31).

*[Repealed]*

**Domestic animal** means any cattle, sheep, horse, mule, ass, dog, cat, pig, or goat; but does not include any such animal that is living in a wild state, or any other animal not referred to in this definition notwithstanding that it may be living in a domestic state

**Domestic bird** means any domestic fowl, duck, goose, or turkey, or any pheasant kept, held, raised, or bred on premises for which the predominant purpose is the sale of pheasant meat or live pheasants for human consumption; but does not include any such bird that is living in a wild state, or any other bird not referred to in this definition notwithstanding that it may be living in a domestic state; and for the avoidance of doubt—

- (a) Any pheasant that is fed on any land or premises but is not confined within an enclosure shall be deemed to be living in a wild state:
- (b) Any pheasant that is held pursuant to a permit under section 23, section 53, or section 56 of this Act for the purposes of liberating at large as game shall be deemed not to be a domestic bird:
- (c) Any pheasant which is made available for hunting shall be deemed to be living in a wild state:

Domestic bird: this definition was substituted, as from 31 September 1993, by section 168(1) of Biosecurity Act 1993 (1993 No 95), for the original definition (as amended by section 3(a) of the Poultry Amendment Act 1975).

**Financial year** means the period of 12 months commencing on the 1st day of September and ending with the 31st day of August next following

**Firearm** means any gun, rifle, or air gun; and includes any kind of weapon or device from which any shot, bullet, arrow, stone, or other missile can be discharged; and **shoot** has a corresponding meaning

**Fish and Game Council** means a Fish and Game Council established under section 26P of the Conservation Act 1987

Fish and Game Council: this definition was inserted by section 65 Conservation Law Reform Act 1990 (1990 No 31).

**Fish and game ranger** means a fish and game ranger appointed pursuant to section 26FA of the Conservation Act 1987 or deemed to be appointed under that section

Fish and game ranger: this definition was inserted, as from 25 November 1994, by section 2(1) Wildlife Amendment Act 1994 (1994 No 109).

**Fishing—**

- (a) Means the catching, taking, or harvesting of fish, aquatic life, or seaweed; and
- (b) Includes—
  - (i) Any activity that may reasonably be expected to result in the catching, taking, or harvesting of fish, aquatic life, or seaweed; and
  - (ii) Any operation in support of or in preparation for any activities described in this definition:

Fishing: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Fishing-related mortality** means the accidental death or incidental death of any protected species that occurs in the course of fishing

Fishing-related mortality: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Game** means all animals and game birds for the time being specified in Schedule 1 hereto

Game: this definition was repealed by section 2(1) of 1993 No 39.

**Game bird habitat stamp** means a stamp in a form approved by the Minister under section 19A of this Act

Game bird habitat stamp: this definition was inserted by section 2(2) of 1993 No 39.

**Game hunting guide** means a person whose services are actively promoted or advertised for hire or reward with the express purpose of organising and assisting persons to undertake game hunting

Game hunting guide: this definition was inserted, as from 13 March 1996, by section 2(3) Wildlife Amendment Act 1996 (1996 No 2).

**Human-induced mortality** means the death of any marine wildlife that can be attributed directly or indirectly to any human activity

Human-induced mortality: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Hunt or kill**, in relation to any wildlife, includes the hunting, killing, taking, trapping, or capturing of any wildlife by any means; and also includes pursuing, disturbing or molesting any wildlife, taking or using a firearm, dog, or like method to hunt or kill wildlife, whether this results in killing or capturing or not; and also includes every attempt to hunt or kill wildlife and every act of assistance of any other person to hunt or kill wildlife

**Lease—**

(a) Means—

(i) A grant of an interest in land that—

(A) Gives exclusive possession of the land;  
and

(B) Makes provision for any activity on the land that the lessee is permitted to carry out;

(ii) Any document purporting to be a lease (whether or not the document gives the lessee exclusive possession of the land concerned) and issued under any enactment passed before the commencement of section 2 of the Wildlife Amendment Act 1996:

(iii) Any document purporting to be a lease (whether or not the document gives the lessee exclusive possession of the land concerned) and issued under this Act before the commencement of the said section 2; but

(b) Does not include a licence referred to in paragraph (b)(ii) of the definition of the term **licence**;—

and **lessee** has a corresponding meaning

Lease: this definition was inserted, as from 1 July 1996, by section 2(1) Wildlife Amendment Act 1996 (1996 No 2).

**Licence—**

(a) Means—

- (i) *A profit à prendre* or any other grant that gives a non-exclusive interest in land; or
- (ii) A grant that makes provision for any activity on the land that the licensee is permitted to carry out; and
- (b) Includes—
  - (i) Any document purporting to be a licence (whether or not the licence gives an interest, or makes any provision, referred to in paragraph (a) of this definition) and issued under any enactment relating to wildlife that was passed before the commencement of section 2 of the Wildlife Amendment Act 1996; and
  - (ii) Any document purporting to be a licence and purporting to grant an exclusive interest in land, and issued under this Act before the date of commencement of the said section 2 or issued under any other enactment relating to wildlife that was passed before that date; and
  - (iii) Any document purporting to be a licence (whether or not the licence gives an interest, or makes any provision, referred to in paragraph (a) of this definition) and issued under this Act before the commencement of the said section 2;—

and **licensee** has a corresponding meaning:

Licence: this definition was inserted, as from 1 July 1996, by section 2(1) Wildlife Amendment Act 1996 (1996 No 2).

**Licence** means any licence to hunt or kill game issued by a Fish and Game Council under regulations made under this Act

Licence: this definition was inserted, as from 17 May 1993, by section 2(2) Wildlife Amendment Act 1993 (1993 No 39).

**Marine species** means any species inhabiting or found in or on the sea or foreshore

Marine species : this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Marine wildlife** means any marine species, or individual of a species, defined as **wildlife** under this Act

Marine wildlife: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Minister** means the Minister of Conservation

Minister: the word “Conservation” was substituted for the words “Internal Affairs” pursuant to section 65(1) Conservation Act 1987.

**New Zealand Fish and Game Council** means the New Zealand Fish and Game Council established by section 26B of the Conservation Act 1987

New Zealand Fish and Game Council: this definition was inserted by section 2(2) of 1993 No 39.

**New Zealand fisheries waters** has the same meaning as in section 2(1) of the Fisheries Act 1996

New Zealand fisheries waters: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**New Zealand Game Bird Habitat Trust Board or Board** means the New Zealand Game Bird Habitat Trust Board established by section 44B of this Act

New Zealand Game Bird Habitat Trust Board or Board: these definitions were inserted by section 2(2) of 1993 No 39.

**Notification** means a notice published in the *Gazette*

**Open season** means a period declared under section 15 of this Act to be an open season for game

Open season: this definition was substituted, as from 13 March 1996, by section 2(2) Wildlife Amendment Act 1996 (1996 No 2).

**Occupier** means,—

- (a) In relation to any land, other than unoccupied land of the Crown, the person by whom or on whose behalf the land is actually occupied, if that person is in occupation by virtue of the fact that he is the owner or one of the owners of the fee simple of the land or of a lease or licence of the land:
- (b) In relation to unoccupied land of the Crown, the Minister for the time being charged with the administration of the Department of State that has the control of the land:

**Permit**, in relation to section 14AA of this Act,—

- (a) Means a grant of rights to carry out an activity for a purpose referred to in that section that does not require an interest in land; and
- (b) Includes any authorisation or licence granted before the commencement of this definition that granted similar rights;—

and **permit holder** has a corresponding meaning

Permit: this definition was inserted, as from 1 July 1996, by section 2(1) Wildlife Amendment Act 1996 (1996 No 2).

**Population management plan** means a plan approved under section 14F of this Act

Population management plan: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Ranger** means a ranger appointed or deemed to be appointed under this Act; and includes a fish and game ranger

Ranger: this definition was amended, as from 25 November 1994, by section 2(2) Wildlife Amendment Act 1994 (1994 No 109) by inserting the words “; and includes a fish and game ranger”.

**Sale** includes barter and exchange for consideration; and also includes offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale; and **sell** has a corresponding meaning

**Secretary***[Repealed]*

Secretary: this definition was repealed, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

*[Repealed]*

**Society***[Repealed]*

Society: this definition was repealed, as from 10 April 1990, by section 65 Conservation Law Reform Act 1990 (1990 No 31).

*[Repealed]*

**Take**, and all references thereto, include taking, catching, or pursuing by any means or device, and also include the attempt to take

**Threatened species** means any marine wildlife that is for the time being declared by a notice under subsection (1)(a) of this section to be a threatened species

Threatened species: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Wildlife** means any animal that is living in a wild state; and includes any such animal or egg or offspring of any such animal held or hatched or born in captivity, whether pursuant to an authority granted under this Act or otherwise; but does not include any animals of any species specified in Schedule 6 to this Act (being animals that are wild animals subject to the Wild Animal Control Act 1977)

Wildlife: this definition was substituted by section 2(3) Wildlife Amendment Act 1956.

Wildlife: this definition was substituted by section 2(2) Wildlife Amendment Act 1980.

**Wildlife district** means a wildlife district under this Act

**Wildlife management reserve** means a wildlife management reserve declared under section 14A of this Act; and includes any reserve under the Reserves Act 1977 classified as a Government purpose reserve for a wildlife management reserve

Wildlife management reserve: this definition was inserted by section 2(3) of the Wildlife Amendment Act 1980.

**Wildlife refuge** means a wildlife refuge declared under section 14 of this Act; and includes any reserve under the Reserves Act 1977 classified as a Government purpose reserve for a wildlife refuge

Wildlife refuge: this definition was substituted by section 2(4) of the Wildlife Amendment Act 1980.

**Wildlife sanctuary** or **sanctuary** means a wildlife sanctuary declared under section 9 of this Act; and includes any reserve under the Reserves Act 1977 classified as a Government purpose reserve for a wildlife sanctuary.

Wildlife sanctuary or sanctuary: these definitions were substituted by section 2(4) of the Wildlife Amendment Act 1980.

- (1A) The Minister, after having regard to any relevant international standards and any relevant standards applying within New Zealand, may from time to time, by notice in the *Gazette*, de-

clare any species of marine wildlife to be a threatened species for the purposes of this Act.

(2)

Compare: 1921-22 No 57 s 2

Subsection (1A) was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Subsection (2) was inserted by section 2 of the Wildlife Amendment Act 1959 and repealed by section 2(2)(a) of the Wildlife Amendment Act 1964.

## **2A Meaning of possession**

- (1) Subject to the provisions of subsections (2) and (3) of this section, any animal or thing shall be deemed to be in the possession of any person when that person has, alone or jointly or in association with any other person, possession of or control over the animal or thing, or possession of or control over any vessel, vehicle, container, package, or place in or on which the animal or thing is.
- (2) In any proceedings for an offence against this Act or any regulations under this Act, being an offence relating to the possession by the defendant of more than a specified number of animals, then, in any case where the defendant is acting jointly or in association with one or more other persons, the number of animals deemed pursuant to subsection (1) of this section to be in the possession of the defendant for the purposes of those proceedings shall be ascertained by dividing by the number of persons acting jointly or in association the total number of animals found in the possession or under the control of the defendant and the other person or persons or in or on any vessel, vehicle, container, package, or place in the possession or under the control of the defendant and the other person or persons.
- (3) In any proceedings for an offence against this Act or any regulations under this Act, being an offence relating to the possession of any animal or thing found in or on any vessel, vehicle, container, package, or place in the possession or under the control of the defendant, alone or jointly or in association with any other person, it shall be a good defence if the defendant satisfied the Court that—

- (a) He did not know and had no reasonable opportunity of knowing that the animal or thing was in or on the vessel, vehicle, container, package, or place; or
- (b) In the case of any animal or thing found in or on any vessel or vehicle or place, the animal or thing was in the possession or under the control of some other person in or on that vessel or vehicle or place; or
- (c) In the case of an offence relating to the possession of more than a specified number of animals, he did not know and had no reasonable opportunity of knowing that the number of those animals in or on any vehicle, vessel, container, package, or place exceeded that specified number.

Section 2A was inserted by section 2(1) Wildlife Amendment Act 1964.

**2B Application of certain provisions restricted**

Notwithstanding anything in section 3 of this Act, sections 9 to 14, 14A, 14B, 14C, 14E, and 37 of this Act shall not apply in respect of any wildlife outside the outer limits of the territorial sea of New Zealand.

Section 2B was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**Part 1**  
**Protection of wildlife**

**3 Wildlife to be protected**

Subject to the provisions of this Act, all wildlife is hereby declared to be subject to this Act and (except in the case of wildlife for the time being specified in Schedule 1, Schedule 2, Schedule 3, Schedule 4, or Schedule 5 hereto) to be absolutely protected throughout New Zealand and New Zealand fisheries waters.

Compare: 1921-22 No 57 s 3(1)

Section 3 was amended, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88) by inserting the words “and New Zealand fisheries waters”. *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**4 Certain wildlife declared to be game**

The wildlife for the time being specified in Schedule 1 hereto is hereby declared to be game for the purposes of this Act.

Compare: 1921-22 No 57 s 8(1), (2)

**5 Certain wildlife partially protected**

- (1) The wildlife for the time being specified in Schedule 2 hereto is hereby declared to be partially protected, and that protection shall apply throughout New Zealand, except where that Schedule otherwise provides.

- (2) Notwithstanding anything to the contrary in this Act, when any injury or damage to any land or to any property on any land has arisen owing to the presence on the land of any wildlife for the time being specified in Schedule 2 hereto, the occupier of the land or any other person with the authority of the occupier may hunt or kill on the land any such wildlife, subject to any regulations for the time being in force under this Act:

Provided that nothing in this subsection shall authorise the hunting or killing of any wildlife in a wildlife sanctuary or wildlife refuge except pursuant to an authority granted under section 11 or section 14 or section 54 of this Act.

Compare: 1921-22 No 57 s 4(1)

**6 Certain wildlife may be hunted subject to conditions imposed by the Minister**

- (1) The Minister may from time to time in his discretion, by notification, declare that any wildlife for the time being specified in Schedule 3 hereto may be hunted or killed or had in possession subject to such conditions as he prescribes, and any such wildlife may be hunted or killed or had in possession accordingly.

- (2) Without limiting the general power to prescribe conditions conferred by subsection (1) of this section, the Minister may prescribe under that subsection any of the following conditions:

- (a) Prescribing the persons or classes of persons who may hunt or kill or be in possession of any such wildlife:

- (b) Restricting the numbers of any such wildlife that may be hunted or killed or had in possession by any one person in any one day:
  - (c) Prescribing the parts of New Zealand in which any such wildlife may be hunted or killed or had in possession:
  - (d) Prescribing the times of day or the periods of the year during which any such wildlife may be hunted or killed or had in possession:
  - (e) Prescribing the methods by which any such wildlife may be hunted or killed, or prohibiting the use of any specified method.
- (3) Every person who hunts, kills, or has in his or her possession any wildlife to which any notification under subsection (1) refers, otherwise than in accordance with any conditions prescribed by the Minister under this section, commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).

Subsection (3) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43). *See* SR 1977/106.

## **7 Certain wildlife not protected**

- (1) The wildlife for the time being specified in Schedule 4 hereto is hereby declared to be unprotected throughout New Zealand, except where that Schedule otherwise provides:
- Provided that, where the Minister considers that hunting by other persons is likely to interfere with studies and investigations of or campaigns against the wildlife specified in that Schedule carried out by the Department, he may from time to time in his discretion, by notification, declare that any wildlife for the time being specified in that Schedule may not be hunted or killed or had in possession in such area and during such period as are specified in the notification.
- (2) Every person who in any area and during any period specified in any notification under subsection (1) hunts, kills, or has in his or her possession any wildlife to which the notification refers, commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).

- (3) The wildlife for the time being specified in Schedule 5 hereto is hereby declared to be unprotected throughout New Zealand, except where that Schedule otherwise provides.

Subsection (2) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **7A Noxious animals**

- (1) Wild animals of any of the species for the time being specified in Schedule 6 hereto are hereby declared to be noxious animals, and shall be subject to the Noxious Animals Act 1956.
- (2) The Governor-General may from time to time, by Order in Council,—
- (a) Amend Schedule 6 hereto by including a reference to any other species of animal, or by omitting the reference to any species of animal for the time being included therein:
- (b) Amend any other Schedule hereto by omitting the reference to any species of animal included in Schedule 6 hereto under paragraph (a) of this subsection, or by including the reference to any species of animal excluded from Schedule 6 hereto under that paragraph.

Section 7A was inserted by section 2(1) Wildlife Amendment Act 1956.

#### **7B Terrestrial and freshwater invertebrates**

- (1) The terrestrial and freshwater invertebrates specified in Schedule 7 to this Act are hereby declared to be animals.
- (2) The Governor-General may from time to time, by Order in Council,—
- (a) Include, in Schedule 7 to this Act, any terrestrial or freshwater invertebrate not for the time being specified in that Schedule:
- (b) Omit, from Schedule 7 to this Act, any terrestrial or freshwater invertebrate for the time being specified in that Schedule.
- (3) Any such Order in Council may be expressed to operate throughout New Zealand or in such part or parts of New Zealand and for such period or periods as may be specified.

Section 7B was inserted by section 3(1) Wildlife Amendment Act 1980.

**7BA Marine Species**

- (1) The marine species listed in Schedule 7A to this Act are hereby declared to be animals.
- (2) The Governor-General may from time to time, by Order in Council,—
  - (a) Include, in Schedule 7A to this Act, the name of any marine species not for the time being listed in that Schedule:
  - (b) Omit, from Schedule 7A to this Act, the name of any marine species for the time being listed in that Schedule.
- (3) Any such Order in Council may be expressed to operate throughout New Zealand or New Zealand fisheries waters or such parts thereof, and for such period or periods, as may be specified.

Section 7BA was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**7C Farming certain unprotected animals**

- (1) No person shall farm, breed, or sell, or capture or convey or keep in captivity for the purposes of farming, breeding, or selling, any wildlife specified in Schedule 8 to this Act unless any such activity is authorised by the Minister pursuant to section 41 of this Act or by regulations made under this Act.
- (2) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).

Section 7C was inserted, as from 1 April 1983, by section 2(1) Wildlife Amendment Act 1983 (1983 No 48).

Subsection (2) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**8 Alteration of Schedules**

- (1) The Governor-General may from time to time, by Order in Council, declare—
  - (a) Any wildlife not for the time being specified in any Schedule hereto to be included in such of the Schedules hereto as may be specified in the Order in Council:

- (b) Any wildlife for the time being specified in any Schedule hereto to cease to be included in that Schedule and to be included in any other Schedule hereto:
  - (c) Any wildlife for the time being specified in any Schedule hereto to cease to be included in any Schedule hereto, in which case the wildlife shall be deemed to be absolutely protected under this Act:
  - (d) Any species of animal to cease to be wildlife for the purposes of this Act.
- (2) Any Order in Council made under the authority of subsection (1) of this section may be expressed to operate throughout New Zealand or in such part or parts of New Zealand and for such period or periods as may be specified in the Order in Council.
- (3) Every Order in Council made under the authority of subsection (1) of this section shall have effect according to its tenor, and in particular may provide in the case of any wildlife declared to be game under that subsection for vesting in the Department the control of that game in any area that does not form part of an area under the jurisdiction of a Fish and Game Council, for the issue of licences to hunt or kill any such wildlife, and for payment to the Crown Bank Account of any fees in respect of those licences.

Compare: 1921-22 No 57 ss 3(2), (5), 5, 8(3)-(6)

Subsection (3) was amended by section 66 Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “area under the jurisdiction of a Fish and Game Council” for the words “acclimatisation district under the control of a society”.

In subsection (3) the reference to the Crown Bank Account was substituted, as from 1 July 1989, for a reference to the Consolidated Account pursuant to section 83(7) Public Finance Act 1989 (1989 No 44).

In subsection (3) the reference to the Consolidated Account was substituted for a reference to the Consolidated Revenue Account (as substituted by section 4(4) Public Revenues Amendment Act 1963) by section 114(6) Public Finance Act 1977. The term Consolidated Account was abolished by section 83(1) Public Finance Act 1989 (1989 No 44) and should now be read as a reference to the Crown Bank Account.

### *Wildlife sanctuaries*

## **9 Wildlife sanctuaries**

- (1) Notwithstanding anything in any other Act, the Governor-General may from time to time, by Proclamation,

declare any area described in the Proclamation and available for the purpose to be a wildlife sanctuary for the purposes of this Act, subject to such conditions as may be specified in the Proclamation, and may in like manner revoke or vary any such Proclamation:

Provided that—

- (a) No Proclamation issued under this subsection shall affect any land of the Crown unless it is issued on the joint recommendation of the Minister of Conservation and the Minister charged with the administration of the Department of State having the control of the land:
  - (aa) No Proclamation issued under this subsection shall affect any waters of the sea or of any harbour within the meaning of the Harbours Act 1950 unless it is issued on the joint recommendation of the Minister of Conservation and the Minister of Transport:
  - (b) A conservation area within the meaning of the Conservation Act 1987 and any foreshore adjacent to any such area and required for a wildlife sanctuary shall be reserved as such pursuant to section 18 of that Act, and thereupon shall be subject to the provisions of this Act relating to sanctuaries, but otherwise shall be subject to that Act:
  - (c) Land held for a public work other than a wildlife sanctuary that is required for a sanctuary may be declared to be a wildlife sanctuary only pursuant to section 191 of the Public Works Act 1981:
  - (d)
- (2) Without limiting the general power to prescribe conditions conferred by subsection (1) of this section, the Governor-General may from time to time, by Proclamation, impose conditions with respect to any wildlife sanctuary in relation to all or any of the following matters:
- (a) The prohibition or restriction of any right of entry to the sanctuary, including the exclusion from the sanctuary or from any specified portion thereof of any persons or classes of persons, and the prohibition or restriction of access by means of any or all animals or vehicles or aircraft:

- (b) The prohibition or restriction of the hunting or killing, taking for any purpose, molesting, capturing, disturbing, harrying, or worrying of any living creature in the sanctuary, the taking, destruction, or disturbance of the eggs or spawn of any such creature, the taking for any purpose of or interference with vegetation of any description in the sanctuary, the introduction or liberation in the sanctuary of any living creature or the eggs or spawn of any living creature, or the introduction or planting in the sanctuary of any vegetation of any description or the spores or seeds of any vegetation of any description:
- (c) The prohibition or restriction of the burning or clearing by any means whatsoever of any trees, shrubs, grasses, or other plant life on the sanctuary or on any specified portion thereof, either generally or for such period or by such persons or classes of persons, as may be specified in the Proclamation:
- (d) The prohibition or restriction of camping or any other specified form of sport or relaxation in the sanctuary or in any specified portion thereof, either generally or for such period or by any persons or classes of persons, as may be specified in the Proclamation:
- (e) The prohibition or restriction of the lighting of fires or the doing of anything likely to cause a fire on the sanctuary or on any specified portion thereof, either generally or for such period and by such persons or classes of persons, as may be specified in the Proclamation:
- (f) The prohibition or restriction of the use of boats (including any launch, boat, canoe, or other similar craft, and whether propelled by mechanical power or not) and of vehicles in the sanctuary or in any portion thereof, and by any persons or classes of persons, as may be specified in the Proclamation:

Provided that nothing in any such prohibition or restriction relating to boats shall derogate from any provision of the Harbours Act 1950 or the Shipping and Seamen Act 1952:

- (g) The prohibition of the wilful disturbance of wildlife in the sanctuary by flying aircraft over the sanctuary or by noise in the vicinity or otherwise:
- (h) The prohibition or restriction of the use of firearms or explosives in the sanctuary or in any portion thereof, either generally or in respect of any type of firearms or explosives or by any persons or classes of persons or during any periods, as may be specified in the Proclamation:
- (i) The prohibition or restriction of the taking or keeping of domestic animals or domestic birds into or in the sanctuary or any portion thereof either generally or in respect of any species of domestic animal or domestic bird or in respect of possession thereof by any persons or classes of persons, as may be specified in the Proclamation:
- (j) With the consent of the occupier of the land concerned, the prohibition or restriction of the hunting or killing of any wildlife or the possession or discharge of firearms or explosives or the possession of specified species of wildlife within such area surrounding or adjoining the sanctuary as appears to the Governor-General to be necessary for the protection of the sanctuary:
- (k) With the consent of the occupier of the land concerned, the prohibition or restriction of the keeping or possession of stoats, ferrets, polecats, weasels, and other members of the family *Mustelidae* and other species harmful to wildlife within such area surrounding or adjoining the sanctuary as appears to the Governor-General to be necessary for the protection of the sanctuary:
- (l) The prohibition of the depositing of rubbish and the leaving of litter in the sanctuary:
- (m) The prohibition or restriction or control of the cutting, construction, or maintenance of private roads, tracks, tramways, or other means of access or communication in the sanctuary:
- (n) The prohibition or restriction of the pollution of any wildlife sanctuary by means of rubbish, sewage, industrial waste, mining debris, sawmill refuse, or any other means:

- (o) Such other matters as may be considered necessary for the control of the sanctuary or for the protection and wellbeing of any wildlife or vegetation therein.
- (3) Any prohibition or restriction imposed by a Proclamation under this section may be absolute or conditional, and the Proclamation may authorise the Minister or the Director-General to grant exemptions from any such prohibition or restriction.
- (4) Every person who does any act that is for the time being prohibited by a Proclamation issued under this section or fails to comply in any respect with any condition imposed in any such Proclamation commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).
- (5) Every person having any estate or interest in any land included without his consent in any wildlife sanctuary which is injuriously affected or damaged or reduced in value by its inclusion in the sanctuary shall be entitled to full compensation for the same from the Minister. All such claims for compensation shall, unless settled by agreement, be determined within the time and in the manner provided by the Public Works Act 1981, as in the case of land injuriously affected by a public work, and, subject to this section, the provisions of that Act relating to compensation shall, as far as they are applicable and with the necessary modifications, apply accordingly.

The word “Conservation” in paras (a) and (aa) was substituted for the words “Internal Affairs” pursuant to section 65(1) Conservation Act 1987.

In subsection (1) the words “of land” were omitted after the word “area” by section 3(1) Wildlife Amendment Act 1959.

Subsection (1)(aa) was inserted by section 3(2) Wildlife Amendment Act 1959.

Subsection (1)(aa) was amended by section 6(2)(a) Ministry of Transport Amendment Act 1972, by substituting the reference to the minister of Transport for a reference to the Minister of Marine.

Subsection (1)(b) was substituted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

The reference to section 191 of the Public Works Act 1981 in subsection (1)(c) was substituted, as from 1 February 1982, for a reference to section 37 of the Public Works Amendment Act 1948 pursuant to section 248(1) Public Works Act 1981 (1981 No 35).

Subsection (1)(d) was amended by section 18(5) of the Forests Act 1949 by substituting the reference to State forest land for a reference to permanent or provisional State forest land.

Subsection (1)(d) was repealed, as from 1 April 1987 by section 65 (1) Conservation Act 1987 (1987 No 65).

In subsection (2), paragraph (n) has been substituted for the original paragraph (n) by section 4 of the Wildlife Amendment Act 1980.

In subsection (3) the word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (4) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

The reference to the Public Works Act 1981 in subsection (5) was substituted, as from 1 February 1982, for a reference to the Public Works Act 1928 pursuant to section 248(1) Public Works Act 1981 (1981 No 35).

## **10 All wildlife in sanctuaries absolutely protected**

Subject to any provision to the contrary in any Proclamation under section 9 of this Act, and to section 11 of this Act, all wildlife in any wildlife sanctuary shall while within the sanctuary be deemed to be absolutely protected, notwithstanding that the wildlife or any species thereof is elsewhere partially protected or is game or is unprotected under this Act.

## **11 Destruction or seizure of certain animals found in sanctuaries**

- (1) Where the Director-General considers that the presence in any sanctuary of any animal or bird or of animals or birds of any specified species is undesirable in the interests of other wildlife in the sanctuary, he may authorise any person in writing, either generally or in a specified case, and whether with or without other persons under his control, to destroy that animal or bird or animals or birds of that species, as the case may be. Any authority under this subsection may be at any time revoked by the Director-General.
- (2) The destruction of any animal or bird pursuant to an authority granted under subsection (1) of this section shall not confer any right to compensation on any person.
- (3) In subsection (1) of this section the expression **animal or bird** includes any animal or bird of any kind, whether wildlife or not and whether or not a domestic animal or domestic bird and whether protected or not; but does not include a domestic animal or domestic bird belonging to the occupier of any land

included in the sanctuary or any animal of any of the species referred to in subsections (4) and (5) of this section.

- (4) All unbranded cattle, sheep, horses, mules, asses, pigs, or goats found in any wildlife sanctuary (not being animals belonging to the occupier of any land included in the sanctuary) may be seized by a ranger, and shall thereupon be deemed to be forfeited to the Crown, and any ranger may cause any such animals to be destroyed, sold, or otherwise disposed of if so authorised by the Director-General.
- (5) All branded cattle, sheep, horses, mules, asses, pigs, or goats found in any wildlife sanctuary (not being animals belonging to the occupier of any land included in the sanctuary) may be seized by a ranger authorised in writing by the Director-General to do so, either generally or in any specified case, and, on conviction of any person for causing or allowing the said animals to be in the sanctuary in breach of the provisions of this Act, may be adjudged by the Court to be forfeited to the Crown.

In subsections (1), (4) and (5) the word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

## **12 Mining privileges, coal mining rights, and public works** *[Repealed]*

Section 12 was repealed, as from 26 October 1979, by section 268(2) of the Coal Mines Act 1979 (1979 No 21).

## **13 Seizure of wildlife, etc, illegally taken**

Any officer of the Department, or any officer of any other Department in which for the time being is vested the control of any wildlife sanctuary, or any other person acting with the written authority of the Director-General, may in any wildlife sanctuary exercise the powers conferred on rangers by subsection (1) of section 39 of this Act.

The word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

*Wildlife refuges*

**14 Wildlife refuges**

- (1) Notwithstanding anything to the contrary in the Conservation Act 1987, the Government Railways Act 1949,, or any other Act affecting lands of the Crown, the Governor-General may from time to time, by Proclamation, declare any area described in the Proclamation and available for the purpose, subject in the case of any land other than unoccupied land of the Crown to the consent of the occupier, to be a wildlife refuge for the purposes of this Act, and may in like manner revoke or amend any such Proclamation:

Provided that—

- (a) No Proclamation issued under this subsection shall affect any land of the Crown unless it is issued on the joint recommendation of the Minister of Conservation and the Minister charged with the administration of the Department of State having the control of the land:
- (aa) No Proclamation issued under this subsection shall affect any waters of the sea or of any harbour within the meaning of the Harbours Act 1950 unless it is issued on the joint recommendation of the Minister of Conservation and the Minister of Transport:
- (b) Land held for a public work other than a wildlife refuge that is required for a wildlife refuge may be declared to be a wildlife refuge only by a notice under section 191 of the Public Works Act 1981:
- (c)
- (d) Any Proclamation issued under this subsection may be revoked without the consent of the occupier:
- (e) A conservation area within the meaning of the Conservation Act 1987 and any foreshore adjacent to any such area, required for a wildlife refuge shall be reserved as such pursuant to section 18 of that Act, and thereupon shall be subject to any or all of the provisions of this Act relating to wildlife refuges, but otherwise shall be subject to the Conservation Act 1987:
- (f) Any Proclamation issued under this subsection may prohibit or restrict the pollution of any wildlife refuge

by means of rubbish, sewage, industrial waste, mining debris, sawmill refuse, or any other means.

- (1A) Where a wildlife refuge has been declared under subsection (1) of this section, the Governor-General may, by the Proclamation or notice declaring the wildlife refuge, or by a subsequent Proclamation or notice, prohibit or restrict the use of boats (including any launch, boat, canoe, or other similar craft, whether propelled by mechanical power or not) in the wildlife refuge or in any portion thereof, and by any person or classes of persons, as may be specified in the Proclamation or notice: Provided that nothing in any such prohibition or restriction shall derogate from any provision of the Harbours Act 1950 or the Shipping and Seamen Act 1952.
- (1B) Any prohibition or restriction under subsection (1A) of this section may be absolute or conditional, and the Proclamation or notice may authorise the Minister or the Director-General to grant exemptions from the prohibition or restriction.
- (1C) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3) who does any act that is for the time being prohibited by a Proclamation or notice under subsection (1A) of this section or fails to comply in any respect with any condition imposed in any such Proclamation or notice.
- (2) Where a wildlife refuge has been declared under subsection (1) of this section, the Minister may authorise in writing the occupier of any land included in the wildlife refuge or any other person having the authority of the occupier—
- (a) To keep or bring domestic animals on or onto the land:
  - (b) To keep or bring firearms or explosives on or onto the land:
  - (c) To discharge firearms or explosives on the land:
  - (d) To destroy any animals specified in Schedule 2 or Schedule 5 or Schedule 6 hereto or any rabbits or hares on the land:
  - (e) To do any other acts necessary for the carrying on of the normal use of the land, subject to such conditions as may be prescribed in the Proclamation.
- (2A) Any officer of the Department of Conservation appointed as a ranger under subsection (1) of section 38 of this Act or any

ranger appointed under paragraph (c) of subsection (2) of that section or any other person authorised in writing in that behalf by the Director-General, either generally or in any particular case, may bring firearms or explosives on to any wildlife refuge for the purpose of destroying any animal specified in Schedule 2 or Schedule 5 or Schedule 6 hereto or any rabbit or hare, where that animal or rabbit or hare is a nuisance or is causing damage to that wildlife refuge or to any wildlife in that wildlife refuge:

- (3) While any Proclamation or notice under subsection (1) of this section remains in force, it shall not be lawful for any person, except as provided in subsection (2) or subsection (2A) of this section or in subsection (2) of section 5 of this Act or pursuant to an authority granted under section 53 or section 54 of this Act, to hunt or kill for any purpose, or molest, capture, disturb, harry, or worry any wildlife in the wildlife refuge, or to take, destroy, or disturb the nests, eggs, or spawn of any such wildlife, or for any person to bring onto the wildlife refuge or have in his possession or discharge in the wildlife refuge any firearm or explosive, or have in his possession or control in the wildlife refuge any dog or cat, or to do anything likely to cause any wildlife to leave the wildlife refuge.
- (3A) Every person who contravenes subsection (3) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).
- (4) Notwithstanding anything in this Act or in any regulations under this Act, the performance in any wildlife refuge by any person of any act authorised by the Minister under subsection (2) of this section shall not be deemed a breach of this Act.
- (5) Every sanctuary constituted at the commencement of this Act by a Warrant under section 6 of the Animals Protection and Game Act 1921-22 shall be deemed to be a wildlife refuge for the purposes of this Act.

Compare: 1921-22 No 57 s 6

Subsection (1) (that part before the proviso) was amended, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65) by substituting the words “Conservation Act 1987” for the words “Land Act 1948”, and by omitting the words “the Forests Act 1949”.

Subsection (1) proviso paragraph (aa) was inserted by section 4(1) Wildlife Amendment Act 1959, and in that paragraph the reference to the Minister of

Transport was substituted for a reference to the Minister of Marine by section 6(2)(a) Ministry of Transport Amendment Act 1972.

Subsection (1) proviso paragraph (b) was amended, as from 6 December 1983, by section 3(1) Wildlife Amendment Act 1983 (1983 No 48).

Subsection (1) proviso paragraph (c) was repealed, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (1) proviso paras (d) and (e) was inserted, as from 19 September 1980, by section 5 Wildlife Amendment Act 1980 (1980 No 17).

Subsection (1) proviso paragraph (e) was substituted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (1) proviso paragraph (e) was amended, as from 22 October 2003, by section 3 Wildlife Amendment Act 2003 (2003 No 103) by substituting the words “Conservation Act 1987” for the words “Reserves Act 1977”.

Subsection (1) proviso paragraph (f) was inserted, as from 19 September 1980, by section 5 Wildlife Amendment Act 1980 (1980 No 17).

Subsections (1A), (1B), and (1C) were inserted by section 3 Wildlife Amendment Act 1956.

Subsection (1A) was amended, as from 6 December 1983 by section 3(2) Wildlife Amendment Act 1983 (1983 No 48).

Subsection (1B) and (1C) were amended, as from 6 December 1983, by section 3(2) Wildlife Amendment Act 1983 (1983 No 48).

Subsection (1C) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67F(3)” after the words “against this Act”.

Subsection (2A) was amended, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65), by substituting the word “Director-General” for the word “Secretary”.

Subsection (2)(d) was substituted for the former paragraph (2)(d) (as substituted by section 4(2) of the Wildlife Amendment Act 1959) by section 3(1) of the Wildlife Amendment Act 1964.

Subsection (2A) was inserted by section 4(3) Wildlife Amendment Act 1959.

Subsection (2A) was amended by section 3(2) Wildlife Amendment Act 1964, by inserting the words in double square brackets.

Subsection (2A) was amended, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65), by substituting the word “Director-General” for the word “Secretary”.

Subsection (3) was amended, as from 6 December 1983, by section 3(2) Wildlife Amendment Act 1983 (1983 No 48), by omitting the words “Order in Council” and substituting the word “notice”.

Subsection (3) was amended by section 4(4) Wildlife Amendment Act 1959, by inserting the words “or subsection (2A)”.

Subsection (3A) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43). *See* SR 1973/272, SR 1973/273, and SR 1973/274.

*Wildlife management reserves*

**14A Wildlife management reserves**

- (1) Notwithstanding anything to the contrary in the Conservation Act 1987, the Government Railways Act 1949,, or any other Act affecting lands of the Crown the Governor-General may from time to time, by Proclamation, declare any area described in the Proclamation and available for the purpose, subject in the case of any land other than unoccupied land of the Crown to the consent of the occupier, to be a wildlife management reserve for the purposes of this Act subject to such conditions as may be specified in the Proclamation; and may in like manner revoke or amend any such Proclamation:
- Provided that—
- (a) No Proclamation issued under this subsection shall affect any land of the Crown unless it is issued on the joint recommendation of the Minister of Conservation and the Minister charged with the administration of the Department of State having the control of the land:
  - (b) No Proclamation issued under this subsection shall affect any waters of the sea or of any harbour within the meaning of the Harbours Act 1950 unless it is issued on the joint recommendation of the Minister of Conservation and the Minister of Transport:
  - (c) No Proclamation issued under this subsection shall affect any land owned or leased by a Fish and Game Council without the consent of that Council:
  - (d) Land held for a public work other than a wildlife management reserve that is required for a wildlife management reserve may be declared to be a wildlife management reserve only pursuant to section 191 of the Public Works Act 1981:
  - (e) A conservation area within the meaning of the Conservation Act 1987, and any foreshore adjacent to any such area, required for a wildlife management reserve shall be reserved as such pursuant to section 18 of that Act, and thereupon shall be subject to the provisions of this Act relating to wildlife management reserves, but otherwise shall be subject to that Act:

- (f) Any Proclamation issued under this subsection may be revoked without the consent of the occupier.
- (2) Without limiting the general power to prescribe conditions conferred by subsection (1) of this section, the Governor-General may from time to time, by Proclamation, impose conditions with respect to any wildlife management reserve in relation to all or any of the matters specified in section 9(2) of this Act as if the reference to a wildlife sanctuary in that section were a reference to a wildlife management reserve.
- (3) Any prohibition or restriction imposed by a Proclamation under this section may be absolute or conditional, and the Proclamation may authorise the Minister or the Director-General to grant exemptions from any such prohibition or restriction.
- (4) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3) who does any act that is prohibited by a Proclamation issued under this section, or fails to comply in any respect with any condition imposed in any such Proclamation.

Section 14A, and the preceding heading, were inserted, as from 19 September 1980, by section 6(1) Wildlife Amendment Act 1980.

Subsection (1) (that part before the proviso) was amended by section 65(1) Conservation Act 1987 (1987 No 65) by substituting the words “Conservation Act 1987” for the words “Land Act 1948”, and by omitting the words “the Forests Act 1949”.

The word “Conservation” in subsection (1)(a) and (b) was substituted for the words “Internal Affairs” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (1)(c) proviso was substituted by section 67 Conservation Law Reform Act 1990 (1990 No 31).

The reference to section 191 of the Public Works Act 1981 in subsection (1)(d) was substituted, as from 1 February 1982, for a reference to section 37 of the Public Works Amendment Act 1948 pursuant to section 248(1) Public Works Act 1981 (1981 No 35).

Subsection (1)(e) proviso was substituted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (3) was amended, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65) by substituting the word “Director-General” for the word “Secretary”.

Subsection (4) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67F(3)” after the words “against this Act”.

**14AA Granting of concessions in wildlife sanctuaries, wildlife refuges, and wildlife management reserves**

- (1) The Minister may, in accordance with Part 3B of the Conservation Act 1987, grant a concession in respect of any wildlife sanctuary, wildlife refuge, or wildlife management reserve held or managed by the Minister; and the said Part 3B shall apply as if references in that Part to a conservation area were references to a sanctuary, refuge, or reserve under this Act and with any other necessary modifications.
- (2) The Minister may impose a reasonable charge for the use of any facilities (other than a path or track) provided by the Minister in or in respect of any such sanctuary, refuge, or reserve.
- (3) Any person who, in accordance with any concession or other consent of the Minister,—
  - (a) Has erected any structure or facility in any sanctuary, refuge, or reserve; or
  - (b) Uses for camping sites or for parking places for vehicles any part of any sanctuary, refuge, or reserve; or
  - (c) Carries on any activity in any sanctuary, refuge, or reserve—may, subject to the relevant conservation management strategy or conservation management plan (if any) and the terms and conditions (if any) of the concession document or other consent concerned, impose a reasonable charge in respect of the carrying on or products of the activity.
- (4) Nothing in this section authorises any person to do anything on or in respect of any private land.

Section 14AA was inserted, as from 1 July 1996, by section 3(1) Wildlife Amendment Act 1996 (1996 No 2). See also section 3(2) to (4) of that Act as to the granting of concessions.

*Management planning*

**14B Wildlife areas to be managed by Department**

Subject to this Act, the Department shall manage all wildlife sanctuaries, wildlife refuges, and wildlife management reserves in accordance with—

- (a) Any statements of general policy approved under section 14C of this Act; and

- (b) Any conservation management strategy and any conservation management plan for the time being in force for the area concerned.

Section 14B, and the preceding heading, were inserted by section 6(1) Wildlife Amendment Act 1980.

Subsection (7) was amended, as from 1 April 1987, by section 65(1) Wildlife Amendment Act 1987 (1987 No 65), by substituting the words “land of the Crown” for the words “Crown Land”.

Sections 14B and 14C and Heading was substituted (by new sections 14B to 14E and Heading) by section 68 Conservation Law Reform Act 1990 (1990 No 31).

#### **14C General policy**

- (1) The Minister may approve statements of general policy for the implementation of this Act in any area or areas; and may from time to time amend any such statement in the light of changing circumstances or increased knowledge.
- (2) Nothing in any such general policy shall derogate from any provision in this Act or any other Act.
- (3) For the purposes of this section, sections 17B (except subsections (1) and (2)) and 17N of the Conservation Act 1987 shall, with any necessary modifications, apply with respect to such general policies.

Section 14C was inserted by section 6(1) Wildlife Amendment Act 1980.

Sections 14B and 14C and Heading was substituted (by new sections 14B to 14E and Heading) by section 68 Conservation Law Reform Act 1990 (1990 No 31).

#### **14D Conservation management strategies**

- (1) Every conservation management strategy shall establish objectives for the management of wildlife, including any species and any wildlife sanctuary, wildlife refuge, and wildlife management reserve in the area to which it relates.
- (2) No work (other than necessary work associated with the day to day administration and management of the wildlife sanctuary, wildlife refuge, or wildlife management reserve) shall be undertaken on any wildlife sanctuary, wildlife refuge, or wildlife management reserve before a conservation management strategy or conservation management plan for that area is approved.

Sections 14B and 14C and Heading was substituted (by new sections 14B to 14E and Heading) by section 68 Conservation Law Reform Act 1990 (1990 No 31).

**14E Conservation management plans**

- (1) The purpose of a conservation management plan under this section is to establish objectives for the management of any wildlife sanctuary, wildlife refuge, or wildlife management reserve, or any combination of them.
- (2) Nothing in section 41 of the Reserves Act 1977 shall apply in respect of the subject-matter of any conservation management plan.
- (3) Subject to subsection (4) of this section, for the purposes of this section, sections 17E (except subsections (1), (4), and (6)), 17G, 17H, 17I, and 17N of the Conservation Act 1987 shall, with any necessary modifications, apply with respect to conservation management plans.
- (4) Where a draft conservation management plan under this section relates to a wildlife sanctuary, wildlife refuge, or wildlife management reserve established on land other than land of the Crown, the Director-General may determine that the provisions of paragraphs (a) to (j) of section 17F of the Conservation Act 1987 (as applied by section 17G(1) of that Act) shall not apply in respect of that plan.
- (5) All management plans approved under this Act before the commencement of this section shall be deemed to have been approved under this section.

Sections 14B and 14C and Heading was substituted (by new sections 14B to 14E and Heading) by section 68 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (3) was amended, as from 25 November 1994, by section 3 Wildlife Amendment Act 1994 (1994 No 109) by inserting the expression “17H, 17I,”.

**14F Population management plans**

- (1) The Minister may from time to time approve a population management plan in respect of one or more species, being threatened species or other species of marine wildlife, containing all or any of the following matters in respect of each species:
  - (a) An assessment of the biology and status of the species:

- (b) An assessment of any known fisheries interaction with the species:
  - (c) An assessment of the degree of risk caused by fishing-related mortality and other human-induced sources of mortality to the species, whether within New Zealand fisheries waters or elsewhere within the range of the species:
  - (d) An estimate of the range of human-induced mortality for the species which would allow the criteria specified in section 14G of this Act to be met:
  - (e) An estimate of the range of fishing-related mortality for the species which would allow the criteria specified in section 14G of this Act to be met:
  - (f) The maximum allowable level of fishing-related mortality for the species, in New Zealand fisheries waters, which would allow the criteria specified in section 14G of this Act to be met:
  - (g) Subject to section 14H of this Act, if a level has been set under paragraph (f) of this subsection, the maximum allowable level of fishing-related mortality for the species, in specified areas within New Zealand fisheries waters:
  - (h) Recommendations to the Minister of Fisheries on measures to mitigate the fishing-related mortality of the species:
  - (i) Recommendations to the Minister of Fisheries on the standard of information to be collected on fishing-related mortality.
- (2) In the case of any marine wildlife ranging outside New Zealand fisheries waters, the maximum allowable level of fishing-related mortality set under paragraph (f) or paragraph (g) of subsection (1) of this section shall be based on a fair and equitable consideration of the proportion that the estimated fishing-related mortality of that species within those waters is to the total estimated fishing-related mortality of that species in all waters (including waters outside New Zealand fisheries waters).

Sections 14F to 14I were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**14G Determining maximum allowable level of fishing-related mortality**

In determining the maximum allowable level of fishing-related mortality for threatened species or any other marine wildlife under section 14F(1)(f) of this Act, the Minister,—

- (a) In the case of any threatened species, shall determine a level of fishing-related mortality which should allow the species to achieve non-threatened status as soon as reasonably practicable, and in any event within a period not exceeding 20 years:
- (b) In the case of any other marine wildlife, shall determine a level of fishing-related mortality which should neither cause a net reduction in the size of the population nor seriously threaten the reproductive capacity of the species.

Sections 14F to 14I were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**14H Determining area-based maximum levels of fishing-related mortality**

- (1) Area-based limits set under section 14F(1)(g) of this Act shall be set only—
  - (a) For populations of threatened species that are geographically or genetically discrete; and
  - (b) For areas corresponding to areas having effect under the Fisheries Act 1996 as fisheries management areas or quota management areas.
- (2) In setting any area-based limit for a threatened species under section 14F(1)(g) of this Act, the Minister shall determine a level of fishing-related mortality for a discrete population referred to in subsection (1) of this section which should neither cause a net reduction in the size of the population nor seriously threaten the reproductive capacity of that population.

Sections 14F to 14I were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**14I Procedure for preparation and approval of population management plans**

- (1) Population management plans shall be prepared and approved as follows:
  - (a) The Director-General shall prepare every population management plan in consultation with every Conservation Board affected by the proposal and with such persons as the Director-General considers are representative of those classes of persons interested in the plan, including such persons or organisations as the Director-General considers are representative of Maori, environmental interests, commercial interests, and recreational interests:
  - (b) The Director-General shall then publish notice of the draft plan at least once in each of the daily newspapers published in Auckland, Wellington, Christchurch, and Dunedin, respectively:
  - (c) Every notice under paragraph (b) of this subsection shall—
    - (i) State that the draft plan is available for inspection at the places and times specified in the notice; and
    - (ii) Call upon persons or organisations interested to lodge with the Director-General submissions on the draft before the date specified for the purpose in the notice, being a date not less than 40 working days after the date of the publication of the notice; and
    - (iii) Require any person who wishes to be heard in support of the person's submission to so advise the Director-General:
  - (d) Any person or organisation may make written submissions to the Director-General on any draft plan, at the place and before the date specified for the purpose in the notice:
  - (e) From the time of publication of a draft plan until public opinion on it has been made known to the Director-General, he or she shall make the draft available for public inspection during normal office hours, in such

places and quantities as are likely to encourage public participation in the development of the proposal:

- (f) The Director-General shall give every person or organisation who or which, in making submissions on the draft, asked to be heard in support of his or her or its comments a reasonable opportunity of appearing before the Director-General or the Director-General's representative or representatives:
- (g) The Director-General, or his or her representative or representatives, may hear submissions from any other person or organisation consulted on the draft:
- (h) The Director-General shall prepare a summary of the submissions received on the draft and public opinion made known on the draft:
- (i) After considering such submissions and public opinion, the Director-General may revise the draft:
- (j) The Director-General shall send to the Minister of Fisheries and to the New Zealand Conservation Authority a copy of the summary prepared under paragraph (h) of this subsection together with a copy of the draft plan:
- (k) The New Zealand Conservation Authority shall consider the summary of submissions and the draft plan and send to the Minister and the Director-General any comments on the draft:
- (l) The Director-General, after having regard to any comments received under paragraph (k) of this subsection,—
  - (i) May amend the draft:
  - (ii) Shall send to the Minister the summary prepared under paragraph (h) of this subsection together with a copy of the draft plan:
- (m) After having regard to—
  - (i) The provisions of sections 14F, 14G, and 14H of this Act; and
  - (ii) All submissions made on the draft plan; and
  - (iii) Such other matters as the Minister considers relevant,—

the Minister may approve the plan subject to the concurrence of the Minister of Fisheries and refer it to that Minister for concurrence:

- (n) The Minister of Fisheries may concur to the draft plan after having regard to the impacts of implementing the maximum allowable level of fishing-related mortality on commercial fishing and such other matters as that Minister considers relevant;
  - (o) The Minister, with the concurrence of the Minister of Fisheries, may approve the plan;
  - (p) The approved plan shall be available for public inspection at the head office of the Department of Conservation at such times as may be specified in the notice given in respect of the plan under subsection (2) of this section.
- (2) The Director-General shall, by notice in the Gazette, specify—
- (a) The species to which the approved plan relates; and
  - (b) The maximum allowable level of fishing-related mortality specified in the approved plan; and
  - (c) The times at which the approved plan is available for public inspection at the head office of the Department of Conservation.
- (3) Any approved plan may be amended, and paragraph (a) and paragraphs (l) to (p) of subsection (1) and subsection (2) of this section shall apply to every such amendment with any necessary modifications.

Sections 14F to 14I were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

## **Part 2**

### **Game**

#### **15 Open season for game**

- (1) Every Fish and Game Council shall, through the New Zealand Fish and Game Council, recommend for approval by the Minister a draft set of conditions it considers should be included in the notification of an open season for game for its region under subsection (4) of this section.

- (2) The New Zealand Fish and Game Council shall, if satisfied as to the form of the notice, submit it for the Minister's approval.
- (3) The Minister may—
  - (a) Approve the Council's draft notice; or
  - (b) Require the Council to amend the draft notice in such manner as the Minister may specify.
- (4) As soon as practicable after the draft notice is approved by the Minister, the New Zealand Fish and Game Council shall publish that notice in the *Gazette*.
- (5) At any time during an open game season declared under subsection (4) of this section, the notice published in respect of that season may in like manner—
  - (a) Be amended; or
  - (b) Be revoked and be replaced by a new notice.
- (6) Every person who hunts or kills any game during a close season commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).

Compare: 1921-22 No 57 s 9(1), (2)

Section 15 was substituted, as from 13 March 1996, by section 4 Wildlife Amendment Act 1996 (1996 No 2).

Subsection (6) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

## **16 Notification as to conditions on which open season declared**

- (1) Every notification of an open season for game, shall specify—
  - (a) The particular species or sex of game that may be hunted or killed during that open season:
  - (b) The areas (if any) declared to be closed game areas:
  - (bb) The number of decoys that may be used by any person for the purpose of hunting or killing any game:
  - (c) The number of game that may be taken or killed by any one person on any one day:
  - (cc) The number of game which may be had in possession by any one person on any one day; but different numbers may be so specified in respect of different days in the open season:

- (d) Such other conditions (if any) as he thinks fit to impose respecting the hunting or killing during that open season of game or any particular species or sex thereof.
- (2) Every person who hunts or kills game, or during any open season has in his or her possession any game, otherwise than in terms of a notification, commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).
- (3) In any prosecution for an offence that the defendant has in his or her possession a number of game in excess of the number specified in a notification, it is a defence if the defendant proves that the excess game were taken by some other person or persons and all the game in the possession of the defendant have affixed or tied to the game a label on which the following particulars are legibly written:
  - (a) the names and addresses of the persons by whom the game were taken; and
  - (b) the numbers of the licences to hunt or kill game held by those persons; and
  - (c) the name of the Fish and Game Council by which those licences were issued; and
  - (d) the date or dates on which the game were taken.

Compare: 1921-22 No 57 s 10

Subsection (1) was amended, as from 13 March 1996, by section 5(1)(a) Wildlife Amendment Act 1996 (1996 No 2) by substituting the words “Every notification of” for the words “The Minister, in notifying”.

Subsection (1)(cc) was amended, as from 13 March 1996, by section 5(1)(b) Wildlife Amendment Act 1996 (1996 No 2) by omitting the words “, in the Minister’s discretion,”.

In subsection (1), paragraph (bb) was inserted by section 4(1) of the Wildlife Amendment Act 1964, and paragraph (cc) was inserted by section 5(1) of the Wildlife Amendment Act 1959.

Subs (2) was substituted for the original subsection (2) by section 5(2) of the Wildlife Amendment Act 1959, and the second proviso to that subsection was repealed by section 2 of the Wildlife Amendment Act 1971.

Subsection (2) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (2) Proviso (c) was amended by section 69 Conservation Law Reform Act 1990 (1990 No 31), by omitting the word “society” and substituting the words “Fish and Game Council”.

Subsection (3) was repealed, as from 13 March 1996, by section 5(2) Wildlife Amendment Act 1996 (1996 No 2).

A new subsection (3) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**17 Hunting or killing in game areas**

(1) In this section—

**Designated area** means all that area contained within a distance of 100 metres from the margin of any waters together with the area covered by those waters

**Food** means corn, wheat, barley, maize, or other grain, or any product of any grain, or peas or beans or other food

**Waterfowl** means every species of the family Anatidae

**Waters** includes any river, stream, lake, lagoon, pond, estuary, swamp, or other waters, whether natural or wholly or partly of artificial formation.

- (2) Every person who, without the consent of the Minister, hunts or kills waterfowl in any designated area where, during an open season for game or within the period of 30 days immediately preceding the open season, any food has been cast, thrown, placed, or planted commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).
- (3) Every person who hunts or kills waterfowl in a designated area within which the waters were artificially formed during an open season for game or within the period of 30 days immediately preceding that open season commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).
- (4) Every consent of the Minister under subsection (2) of this section shall be given by notice in the *Gazette*, and may be given on the annual application of a Fish and Game Council or, where the control of the area concerned is vested in the Department of Conservation, on the application of the Director-General. Every notice may contain such conditions as the Minister may impose, including the manner in which waterfowl may be hunted or killed, and may be restricted in effect to one or more designated areas. Every notice may at any time, by further notice in the *Gazette*, be amended or revoked by the Minister.

- (5) Where any Fish and Game Council has reason to believe that any food has been cast, thrown, placed, or planted, or any waters have been artificially formed, in any designated area within the period of 30 days immediately preceding an open season for game, the Fish and Game Council, with the consent of the occupier of the land on which that designated area is situated, may erect or affix a notice in, or in the near vicinity of, that designated area to the effect that food has been so cast, thrown, placed, or planted, or that the waters have been artificially formed, and there shall be displayed on the notice the date of its erection or affixing. If the occupier does not consent to the erection or affixing of a notice, the Fish and Game Council may serve written notice upon him requiring him to inform all persons entering on his land for the purpose of hunting or killing game that food has been cast, thrown, placed, or planted, or that the waters have been artificially formed, in the designated area on his land.
- (6) Every person commits an offence against this Act and is liable to the penalty set out in section 67E(3) who, during any open season, hunts or kills waterfowl in any designated area—
- (a) In which, or in the near vicinity of which, there is a notice under subsection (5) of this section erected or affixed during that open season or within the period of 30 days immediately preceding that open season; or
  - (b) In which the occupier of the land has informed him that food had been cast, thrown, placed, or planted, or that the waters have been artificially formed, during that open season or within the period of 30 days immediately preceding that open season; or
  - (c) In which he otherwise knows that food has been cast, thrown, placed, or planted, or that the waters have been artificially formed, during that open season or within the period of 30 days immediately preceding that open season.
- (7) Every person commits an offence against this Act and is liable to the penalty set out in section 67F(1) who destroys, defaces, or tampers with any notice erected or affixed under subsection (5) of this section.

- (8) Every occupier of land commits an offence against this Act and is liable to the penalty set out in section 67E(1) who, having been served with a written notice under subsection (5) of this section, fails to comply with the terms of that notice.

Section 17 was substituted for the former section 17 (as substituted by section 6 of the Wildlife Amendment Act 1959) by section 2(1) of the Wildlife Amendment Act 1972.

Subsections (2) and (3) were substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (4) was amended, as from 1 April 1987 pursuant to section 65(1) Conservation Act 1987 (1987 No 65) by substituting the word “Director-General” for the word “Secretary”.

Subsection (4) was amended, as from 1 April 1987, pursuant to section 65(1) Conservation Act 1987 (1987 No 65) by substituting the word “Conservation” for the words “Internal Affairs”.

Subsection (4) was amended by section 70 Conservation Law Reform Act 1990 (1990 No 31), by omitting the words “society” and “district” substituting the words “Fish and Game Council” and “the area concerned” respectively.

Subsection (5) was amended by section 70 Conservation Law Reform Act 1990 (1990 No 31), by omitting the word “society” and substituting the words “Fish and Game Council”.

Subsection (6) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable to the penalty set out in section 67E(3)” after the words “against this Act”.

Subsection (7) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable to the penalty set out in section 67F(1)” after the words “against this Act”.

Subsection (8) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable to the penalty set out in section 67E(1)” after the words “against this Act”.

## **18 Restrictions on the taking of game**

- (1) Save as otherwise expressly provided in this Act, or except in such circumstances and at such times, areas, and places and subject to such conditions as may from time to time be authorised pursuant to a notification given by the Minister no person shall—

- (a) Trap game in any manner whatever or take any game by means of traps or by any means other than by shooting with a shotgun:  
Provided that a dog may be used in conjunction with a shotgun for the purpose of finding, flushing, or retrieving any game:
- (b) Erect or set any trap, net, snare, or other device for the purpose of taking any game:
- (c) Hunt or kill any game with—
  - (i) Any swivel gun or punt gun; or
  - (ii) Any rifle; or
  - (iii) Any shotgun having a magazine of any type, unless the magazine is so adjusted in accordance with regulations made under this Act that the magazine is incapable of holding more than one shell; or
  - (iv) Any shotgun other than a shoulder gun; or
  - (v) Any shotgun the gauge of which is greater than that known as 12 gauge:
- (d) Use any apparatus for the purpose of silencing the report of a shotgun being used for the purpose of hunting or killing game:
- (e) In hunting or killing any game from any stand, hide, shelter, maimai, mudhole, boat, louvre, or other contrivance, use more than one shotgun:  
Provided that any person so engaged may have one, and not more than one, further shotgun in a condition not immediately suitable for use and held for use only in the event of the first shotgun becoming damaged or otherwise unfit for use:
- (f) For the purpose of hunting or killing any game use—
  - (i) Any live decoy; or
  - (ii)
  - (iii) Any cylinder or mudhole or similar device in any lake, lagoon, pond, river, estuary, or other open water, whether natural or artificially constructed, unless the sides of the cylinder or mudhole or device project not less than 60 centimetres above the surface of the water; or

- (iv) Any aircraft, motor vehicle, or other vehicle propelled by mechanical power:  
Provided that nothing in this subparagraph shall be deemed to prevent any person from using any aircraft or vehicle for the purpose of travelling generally or to any place where he intends to hunt or kill game or of returning from any such place; or
  - (v) On any lake, lagoon, pond, river, estuary, or other water (whether natural or artificially constructed), any vessel (other than a row boat) in driving, chasing, unduly disturbing, putting to flight, or stalking any game, whether by himself or by any other person:  
Provided that nothing in this subparagraph shall be deemed to prevent any person from using any vessel for camping purposes or for the purpose of travelling generally or to any place where he intends to kill or hunt game or of returning from any such place, or, subject to the foregoing provisions of this subparagraph and to the provisions of subparagraph (vi) of this paragraph, to prohibit shooting from a moored vessel or to prohibit the use of any vessel for the purpose of retrieving game that has been killed or wounded; or
  - (vi) Any unmoored floating stand, hide, shelter, maimai, or louvre, or any unmoored boat artificially dressed or covered in any way:
  - (g) By any means spread oil on any water for the purpose of hunting or killing any game or for the purpose of preventing game from alighting on that water or on any part thereof:
  - (h) Use any light for the purpose of hunting or killing any game.
- (1A) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).
- (2) For the purposes of paragraph (f) of subsection (1) of this section—

**Decoy** includes any dead game that is so placed or arranged as to simulate the appearance of live game

**Row boat** means any vessel that for the time being is wholly propelled by oars or paddles or poles

**Vessel** includes any launch, boat, canoe, punt, or other similar craft, whether propelled by mechanical power or not.

Compare: 1921-22 No 57 ss 11(1), 12, 13

Subsection (1) was amended by section 4(1) of 1983 No 48.

Subsection (1)(c)(iii) was substituted for the original subparagraph (iii) by section 5 of the Wildlife Amendment Act 1959.

Subsection (1)(d) was substituted for the original paragraph (d) by section 2(1) of the Wildlife Amendment Act 1973.

Subsection (1)(f)(ii) was repealed by section 4(2) of the Wildlife Amendment Act 1964.

In subsection (1)(f)(iii) the expression “60 centimetres” was substituted for the words “two feet” by section 2(2) of the Wildlife Amendment Act 1973.

In subsection (1)(f)(v) the words in the first set of square brackets were inserted by section 7(a), and the words in the second set of square brackets by section 7(b), of the Wildlife Amendment Act 1959.

Subsection (1)(f)(vi) was amended by section 2 of 1981 No 72 and section 4(2) of 1983 No 48. Words were inserted by the former and omitted by the latter.

In subsection (1)(g) the words “or for the purpose of preventing game from alighting on that water or on any part thereof” were added by section 7(c) Wildlife Amendment Act 1959.

Subsection (1A) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

In subsection (2) the words “or poles” were added to the definition of Row boat by section 7(d) Wildlife Amendment Act 1959.

## **19 Licence to hunt or kill game**

- (1) Except as provided in subsection (3), every person who hunts or kills game of any species during an open season in any area, unless that person is the holder of a licence under this Act to hunt or kill game of that species available in that area during that season, commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).
- (2)
- (3) Notwithstanding anything in the foregoing provisions of this section, the occupier of any land, and the wife, husband, civil union partner, or de facto partner and any one son or daughter of the occupier, may, during an open season, hunt or kill on

that land without a licence (but subject to all other restrictions imposed by or under this Act) any game that may lawfully be hunted or killed under a licence in the district within the boundaries of which that land is situated.

- (4) In subsection (3) of this section the term **occupier**, in relation to any land, means—
- (a) The person whose permanent and principal or only place of residence is on the land, if he resides on the land by virtue of the fact that he is—
    - (i) The owner of the fee simple of the land; or
    - (ii) The owner of a lease or licence of the land and the owner of the fee simple does not himself personally reside on the land; or
    - (iii) The manager of a farming business carried on on the land by such an owner who does not himself personally reside on the land; or
    - (iv) The sharemilker under a sharemilking agreement entered into with such an owner who does not himself personally reside on the land.
  - (b) Where there are several such persons, such one of them as is, by notice in writing signed by all of them and delivered to the Fish and Game Council for the area concerned, appointed to be the occupier for the purposes of that subsection. Every such appointment shall continue in force during the whole of the open season in respect of which it is made and shall lapse at the end of that season.
- (4A) In subsection (3) of this section the term **occupier**, in relation to any land, does not include a person appointed under the Conservation Act 1987 to be the manager of a marginal strip.
- (5) On production to the Fish and Game Council of the appointment referred to in paragraph (b) of subsection (4) of this section, the Fish and Game Council shall endorse on the appointment a certificate that it has been so produced and shall return it to the person appointed, who shall, in any circumstances where a licence under this Act to hunt or kill game is required, produce that appointment so endorsed to any authorised person (as defined in subsection (3) of section 61 of this Act) demanding its production, and if he fails to do so he commits

an offence against this Act and is liable on conviction to the penalty set out in section 67E(1).

- (6) Where a person resides on land that is farmed in conjunction with any other land, he shall be deemed for the purposes of subsection (4) of this section to reside on that other land also.

Compare: 1921-22 No 57 s 14

Subsection (1) was amended by section 71(1)(a) and (b) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “in any area” and “that area” for the words “in any district” and “that district”, respectively.

Subsection (1) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (2) was repealed, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (3) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “, husband, civil union partner, or de facto partner” for the words “or husband”.

Subsection (4)(b) was amended by section 71(1)(c) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “Fish and Game Council for the area concerned” for the words “acclimatisation society for the district”.

Subsection (4A) was inserted by section 71(2) Conservation Law Reform Act 1990 (1990 No 31).

Subsection (5) was amended by section 71(1)(d) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “Fish and Game Council” for the word “society”, where it twice occurs.

Subsection (5) was further amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43) by adding the words “and is liable on conviction to the penalty set out in section 67E(1)”.

## **19A Game bird habitat stamp**

- (1) In any notification of an open season given under section 15 of this Act, the Minister may require that a game bird habitat stamp be affixed to every licence to hunt or kill game.
- (2) A game bird habitat stamp shall—
- (a) Be in a form—
    - (i) Approved by the Minister on the recommendation of the New Zealand Fish and Game Council made after having regard to the views expressed by Fish and Game Councils and the New Zealand Game Bird Habitat Trust Board; and
    - (ii) Published in the *Gazette*; and

- (b) If the stamp is being obtained for the purpose of affixing it to a licence to hunt or kill game, be obtained at the same time as the licence is obtained.
- (3) The prescribed fee shall be payable in respect of every game bird habitat stamp supplied in respect of a licence to hunt or kill game.

Section 19A was inserted by section 3 Wildlife Amendment Act 1993 (1993 No 39).

## **20 Limitation of licence**

*[Repealed]*

Section 20 was repealed, as from 6 December 1983, by section 5 of the Wildlife Amendment Act 1983 (1983 No 48).

## **21 Holder of licence not to enter on land without consent**

- (1) Except as otherwise expressly provided in this Act, or in any Proclamation or Order in Council or notice pursuant thereto, nothing in any licence or other authority under this Act shall authorise the holder to enter upon or to hunt or kill game on any land without the consent of the occupier of the land.
- (2) In subsection (1) of this section, the term **occupier** includes:
  - (a) In the case of any reserve within the meaning of the Reserves Act 1977, the Director-General or, as the case may require, the administering body:
  - (b) In the case of any land actually and exclusively used by any Fish and Game Council for the purposes of this Act, that Fish and Game Council:
  - (c) In the case of any wildlife sanctuary, wildlife refuge, or wildlife management reserve, the Minister or Director-General, or, where authorised by the Director-General, the person or body having day to day control of the wildlife sanctuary, wildlife refuge, or wildlife management reserve:
  - (d) In any other case, the occupier.

Sections 20 and 21 were substituted by sections 5 and 6 of 1983 No 48, and section 72 Conservation Law Reform Act 1990 (1990 No 31).

In subsection (2) the word "Director-General" was substituted, as from 1 April 1987, for the word "Secretary" pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

**22 Shooting of game not in flight prohibited**

- (1) Except as provided in subsection (1A), every person who shoots at or attempts to shoot at any game bird not in flight commits an offence against this Act and is liable to the penalty set out in section 67E(3).
- (1A) No person commits an offence under subsection (1)—
- (a) who shoots at or attempts to shoot at any game bird already wounded by shooting:
  - (b) where that person was acting in accordance with any authorisation under sections 53 or 54:
  - (c) where that person was acting in accordance with any notification given by the Minister.
- (2) For the purposes of this section—
- (a) A bird shall be deemed to be not in flight at any time when it is alighting on or rising from any water or land or any vegetation or structure in or on any water or on any land and any part of the bird is in contact with the water or land or vegetation or structure:
  - (b) Subject to paragraph (a) of this subsection, a bird shall be deemed to be in flight at all times when it is airborne, including times when it is soaring or banking or swooping, and whether its wings are in motion or not.

Subsection (1) was substituted, and subsection (1A) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (1) was amended by section 7 Wildlife Amendment Act 1983 (1983 No 48), by inserting after the words “this Act” the words “or except in such circumstances and at such times, areas, and places and subject to such conditions as may from time to time be authorised pursuant to a notification given by the Minister”.

**22A Game hunting guides to be licensed****23 Sale of game and sale of shooting rights prohibited**

- (1) Except with the prior consent of the Director-General, no person shall—
- (a) Buy or sell any game or the eggs of any game:
  - (b) For sale or for hire, gain, or reward, or hope thereof, hunt or kill any game or have any game or the eggs of any game in his possession:

- (c) Induce any other person to hunt or kill game for the purposes of sale or have any game or the eggs of any game in his possession for the purposes of sale:  
Provided that it shall be lawful for any person, pursuant to the prior written authority of the Director-General, and subject to such conditions as may be prescribed therein, to propagate game or to buy or sell game held for the purpose of propagating game or reared pursuant to any such authority, or to take and sell or to buy the eggs of any game to which any such authority relates.
- (2) No person shall sell or let for fee or reward any right to hunt or kill game on any land or on any water on or adjoining any land.
- (2A) Every person who contravenes subsections (1) or (2) commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(1).
- (3) Where any person for rent or other valuable consideration grants a lease or licence of any duration of land on which or on water adjoining which game is usually prevalent, he shall be deemed for the purposes of subsection (2) of this section to have let the right to hunt or kill game on that land or on that water, as the case may be, if the Court, having regard to all the circumstances of the case, is satisfied that the sole or principal purpose of the lease or licence was to confer on the lessee or licensee the right to hunt or kill game on that land or water.
- (4) Nothing in this section—
  - (a) Prohibits the provision of game hunting guide services by a game hunting guide in accordance with this Act or the charging of fees in respect of such services; or
  - (b) Prevents the Minister granting to a game hunting guide any concession.

Compare: 1921-22 No 57 s 16

Subsection (1) was amended, as from 1 April 1987, pursuant to section 65(1) Conservation Act 1987 (1987 No 65), by substituting the word “Director-General” for the word “Secretary”.

Subsection (2A) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (4) was inserted, as from 13 March 1996, by section 7 Wildlife Amendment Act 1996 (1996 No 2).

### **Part 3**

#### **Administration**

#### **24 Acclimatisation districts**

*[Repealed]*

Section 24 and the preceding heading were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

#### **25 Acclimatisation societies**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

#### **26 Societies to be bodies corporate**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

#### **27 Appointment to councils of societies of representatives of farming interests, etc**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

#### **28 Disqualification of officers of societies**

*[Repealed]*

Subsection (1A) was inserted, as from 10 May 1956, by section 4 Wildlife Amendment Act 1956 (1956 No 5).

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

#### **29 Rules of societies**

*[Repealed]*

Subsection (2)(c) proviso was substituted, as from 10 May 1956, by section 5(1) Wildlife Amendment Act 1956 (1956 No 5).

Subsection (2)(g) was repealed and substituted, as from 10 May 1956, by section 5(2) Wildlife Amendment Act 1956 (1956 No 5).

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

**30 Functions of societies**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

**31 Appointment of officers and servants**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

**32 Societies may undertake research**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

**33 Expenditure**

*[Repealed]*

Subsection (1)(ff) was inserted, 17 November 1964, by section 6(1) Wildlife Amendment Act 1964 (1964 No 63).

Subsection (1)(l) was inserted, 17 November 1964, by section 6(2) Wildlife Amendment Act 1964 (1964 No 63).

Subsection (5) was amended, by section 7 Decimal Currency Act 1964, by omitting sum “(100 Pounds)” (as substituted by section 2 Wildlife Amendment Act 1966) and substituting sum “\$200”.

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

**34 Annual reports and balance sheets of societies to be forwarded to the Minister**

*[Repealed]*

Subsection (1) was amended, as from 1 April 1987, by section 11(1) & (2) Wildlife Amendment Act 1987 (1987 No 117), by omitting the words “and to the Director-General of Agriculture and Fisheries”.

Subsection (1) was amended, as from 6 December 1983, by section 8 Wildlife Amendment Act 1983 (1983 No 48), by omitting the words “not later than 3 months after the close of any financial year, forward to the Secretary for Internal Affairs and also to [the Secretary for Transport] a report in triplicate of its proceedings during that financial year,” and substituting the words “together with”.

Subsection (1) was amended, by section 6(2)(c) Ministry of Transport Amendment Act 1962, by substituting a reference to the Secretary of Transport for a reference to the Secretary for Marine.

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

### **35 Failure of society to act**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

### **36 Dissolution of societies**

*[Repealed]*

Sections 25 to 36 were repealed, as from 31 May 1990, pursuant to section 74(2) Conservation Law Reform Act 1990 (1990 No 31).

## *Wildlife districts*

### **37 Wildlife districts**

- (1) The Governor-General may from time to time, by Proclamation, declare any portion of New Zealand to be a wildlife district for the purposes of this Act, subject to such conditions as may be specified in the Proclamation or as may be prescribed by regulations made under this Act, and may in like manner revoke or vary any such Proclamation.
- (2) Without limiting the general power conferred by subsection (1) of this section, any Proclamation or regulations made under or pursuant to that subsection may provide for any of the following matters:
  - (a) The vesting in the Department or a Fish and Game Council of the control of all species or of any specified species of wildlife (other than game) in the wildlife district:
  - (b) Where no part of the wildlife district forms part of an area under the jurisdiction of a Fish and Game Council, the vesting in the Department of the control of game in the wildlife district:
  - (c) Where a part of the wildlife district also forms part of an area under the jurisdiction of a Fish and Game Council, the vesting in the Department of the control of game in such part of the wildlife district as does not form part of that area:

- (d) The prohibition in the wildlife district of the hunting, killing, taking, or disturbing in any manner whatever of wildlife other than game by any person without the express written consent of the Director-General.
- (3) Where the control of game in any part of a wildlife district is vested in the Department under this section, the provisions of this Act relating to game shall apply with respect to game in that part of the district as if that part were an area under the jurisdiction of a Fish and Game Council; and for that purpose the Director-General shall in that part have all the powers of a Fish and Game Council under this Act.

Section 37 was substituted, as from 10 April 1990, by section 37 Conservation Law Reform Act 1990 (1990 No 31).

### *Rangers*

#### **38 Rangers**

- (1) There may from time to time be appointed under the provisions of the State Sector Act 1988 suitable persons to be rangers for the purposes of this Act.
- (2) The Director-General may from time to time appoint—
  - (a) Any suitable person (not being an employee of the Public Service) to be a ranger in a part-time capacity for the purposes of this Act:
  - (b) Any suitable person to be a ranger in an honorary capacity for the purposes of this Act:
  - (c) Any servant of a Fish and Game Council to be a ranger for the purposes of this Act.
- (3) A ranger may be appointed for a particular district or area or to exercise his duties generally throughout New Zealand.
- (4) Every constable, and every warranted officer appointed under subsection (1) or deemed to have been appointed by subsection (9) of section 59 of the Conservation Act 1987, shall by virtue of his office be deemed to be a ranger appointed by the Director-General to exercise his duties generally throughout New Zealand.
- (5) Every ranger appointed under subsection (2) of this section shall be appointed for such term, not exceeding 3 years, as the Director-General thinks fit, and may be reappointed.

- (6) Any ranger appointed under subsection (2) of this section may at any time be removed from office by the Director-General for incapacity, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Director-General.
- (7) Any ranger appointed under subsection (2) of this section shall, on the expiration of the term of his appointment, or on the sooner expiry of his appointment by removal from office or resignation, surrender to the Director-General his warrant of appointment.
- (8) No person appointed by the Director-General under this section to be a ranger shall by virtue of that appointment be deemed to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988 or of the Government Superannuation Fund Act 1956.
- (9) Every person (not being a constable) who at the commencement of this Act holds an appointment as a ranger under section 35 of the Animals Protection and Game Act 1921-22 shall be deemed to have ceased to hold that appointment as from the commencement of this Act.

Compare: 1921-22 No 57 s 35; 1946 No 40 s 5.

In subsections (1) and (8) the State Services Act 1962 has been substituted for the repealed Public Service Act 1912.

The references to the State Sector Act 1988 in subsections (1) and (8) were substituted, as from 1 April 1988, for references to the State Services Act 1962 pursuant to section 88(1) State Sector Act 1988 (1988 No 20).

Subsection (2)(c) was amended by section 76(1) Conservation Law Reform Act 1990 (1990 No 31), by omitting the words “an acclimatisation society” and substituting the words “a Fish and Game Council”.

Subsection (4) was amended by section 76(2) Conservation Law Reform Act 1990 (1990 No 31), by inserting after the word “constable”, the words “a Fish and Game Council”.

In subsection (8) the reference to the Government Superannuation Fund Act 1956 was substituted for a reference to the Superannuation Act 1956 (which had been substituted for the repealed Superannuation Act 1947) by section 3(3) of the Government Superannuation Fund Amendment Act 1976.

In subsections (2) to (8) the word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

**38A Fish and game rangers to be rangers under this Act**

Every fish and game ranger shall, by virtue of his or her office, be deemed to be a ranger appointed under this Act to exercise the duties of a ranger generally throughout New Zealand.

Section 38A was inserted, as from 25 November 1994, by section 4 Wildlife Amendment Act 1994 (1994 No 109).

**39 Powers of rangers**

- (1) Every ranger may, in the exercise of his duty within the district or area for which he is appointed,—
- (a) Seize any animal or any part of any animal or any egg or nest thereof illegally taken or had in possession, or which he reasonably believes to be illegally taken or had in possession:
  - (b) Seize all nets, traps, firearms, ammunition, boats, vehicles, engines, instruments, appliances, or devices that are being used or are intended to be used or have been used in breach of this Act, or that he reasonably believes are so being used or are intended to be so used or have been so used:
  - (c) Seize any bag, container, or other article (including any coat or other similar article of clothing) that is being used for the purpose of carrying any animal or any part of any animal or any egg or nest thereof illegally taken or had in possession or that he reasonably believes is being so used:
  - (d) Stop any vehicle, or any riding or pack animal or any boat, launch, or other vessel, or any aircraft while on the ground or on the water, or any other device for carriage or transportation, or stop in transit any parcel, package, case, bag, luggage, or other container that is or that he reasonably believes to be in the possession of the owner or of any other person (including any carrier or forwarding agent, whether by land, sea, or air), if he has reason to believe or suspect that any breach of this Act or of any regulations under this Act has been committed by the owner or by the person in possession thereof or by any other person, and, in the presence of the owner or other person as aforesaid or of any servant of any of

them, search any such vehicle, riding or pack animal, boat, launch, or other vessel, or aircraft, or other device for carriage or transportation, and in such presence as aforesaid open and search any such parcel, package, case, bag, luggage, or other container:

- (e) While in lawful execution of his duty, call upon any male person, not being under the age of 18 years, to aid or assist him when reasonable necessity exists for calling that assistance, and every person aiding or assisting any ranger pursuant to any such call shall while doing so be deemed to be and shall have all the powers of a ranger duly appointed under this Act:
- (f) At all times, without let or hindrance,—
  - (i) By any means whatever, enter upon, pass through, or remain on any land (other than a dwellinghouse or the enclosed garden or curtilage of any dwellinghouse) or any hut, tent, caravan, bach, or other erection (not being a permanent residence), or any shop, warehouse, factory, bond store, office, or any other premises of any description, or into or upon any lake, river, pond, lagoon, or other water (whether natural or artificially constructed):
  - (ii) Enter any vehicle, boat, launch, other vessel, or aircraft that is being used or is intended to be used or has been used in breach of this Act or that he reasonably believes is being or is intended to be or has been so used:
  - (iii) Search any land or any hut, tent, caravan, bach, or other erection (not being a permanent residence), or any shop, warehouse, factory, bond store, office, or other premises of any description, or any vehicle, boat, launch, other vessel, or aircraft referred to in subparagraph (ii) of this paragraph, or any riding or pack animal, or other device for transportation or carriage found on the said land

or on any such premises or any such lake, river, pond, lagoon, or other water:

Provided that any Justice or Community Magistrate who is satisfied on oath that there is probable cause to suspect that any breach of this Act or of any regulations under this Act has been or is being committed, or that preparation has been made to commit such a breach, within any of the hereinbefore excepted premises, may, by warrant under his hand, empower a ranger to enter those premises for the purpose of detecting that offence at such time or times in the day or night as are mentioned in the warrant, but no such warrant shall continue in force for more than 14 days from the date thereof.

- (2) The production by a ranger of his warrant of appointment shall be sufficient evidence of that appointment.

Compare: 1921-22 No 57 s 36(1), (2)

The proviso to subsection (1)(f) was amended, as from 30 June 1998, by section 7 District Courts Amendment Act 1998 (1998 No 67), by inserting the words “or Community Magistrate”.

#### **40 Assaulting, obstructing, etc, rangers**

- (1) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67D who wilfully resists, impedes, or obstructs, or incites or encourages any other person to resist, impede, or obstruct, any ranger, or any person acting by his order and in his aid, in the execution of the powers conferred on that ranger by this Act, or by a warrant under this Act, or who wilfully uses abusive or threatening language or behaves in a threatening manner to any such ranger or person in the execution of those powers, or who wilfully fails to comply with the lawful demands of a ranger. For the purpose of this subsection any person who wilfully refuses to allow any ranger or other person acting by his order and in his aid to exercise any of the powers conferred by the last preceding section shall be deemed to obstruct that ranger or person.

- (2)

Compare: 1921-22 No 57 s 36(3)

Section 40 was amended, as from 6 December 1983, by section 9 of Wildlife Amendment Act 1983 (1983 No 48), by omitting the words “assaults” and “assault”.

Subsection (1) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67D” after the words “against this Act”.

Subsection (1) was further amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43) by inserting the word “wilfully” after the word “who”, wherever it appears.

Subsection (2) was repealed, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

### *Powers of Minister*

#### **41 Minister’s general powers**

(1) The Minister may from time to time—

- (a) Prepare and carry out wildlife surveys:
- (aa) Acquire and dispose of land for the purposes of this Act:
- (b) Use and develop land as a wildlife sanctuary, or as a wildlife refuge, or as a wildlife management reserve, or as a reserve for the breeding and preservation of wildlife, or as a camping ground or hunting ground, or as a game farm, or for the purpose of erecting residences and other buildings for the purposes of this Act, or as a holding ground, or for any other purposes of this Act:
- (c) Co-ordinate the policies and activities of Departments of State,, local authorities, and public bodies in relation to the protection, management, control, and conservation of wildlife and the eradication of harmful species of wildlife:
- (d) Conduct wildlife research work, and collect and disseminate wildlife information:
- (e) Prepare and issue plans and publications for the advancement, conservation, management, and control of wildlife and the eradication of harmful species of wildlife:
- (f) Make provision for the setting up of such advisory bodies as he thinks fit:
- (fa) Protect and preserve wildlife that are absolutely protected under this Act:

- (g) Make provision generally for the administration of this Act.
- (2) In the exercise of the powers conferred on him by subsection (1) of this section, the Minister may from time to time—
  - (a) Erect dwellings for occupation by officers and servants of the Department engaged in the administration of this Act, and erect other buildings, and provide all necessary services, conveniences, and amenities:
  - (b) Establish and carry on any operations or industry relative to the conservation, management, or control of wildlife or the eradication of harmful species of wildlife:
  - (c) Sell or otherwise dispose of food, equipment, skins, or other articles used for, or recovered as the result of, any operation for the conservation, management, control or eradication of wildlife:
  - (d) Enter into any contract or agreement:
  - (e) Carry on any farming operations incidental to the management of any game farm or to the conservation, management, control, or eradication of wildlife, and purchase cattle, horses, dogs, or other animals or motor or other vehicles necessary for that purpose, and cultivate and grass any land for any such purpose, and sell any farm crop or farm produce:
  - (f) Sell any game or the eggs of any game:
  - (g) With the written consent of the occupier, and subject to the provisions of any other Act, construct and maintain on any land any roads, roadways, tracks, paths, bridges, culverts, ferries, and other means of access necessary for the purposes of this Act.
  - (h) Subject to any regulations made under this Act, regulate, control, or prohibit the keeping, breeding, disposing, or farming of any wildlife specified in Schedule 8 to this Act.
- (3) All documents that require to be executed for the purposes of this Act by or on behalf of Her Majesty may, unless otherwise provided by this Act, be executed by the Minister, and, if so executed, shall be as valid and effectual as if executed by or on behalf of Her Majesty.

Subsection (1)(aa) was inserted, as from 19 September 1980, by section 7(1) of the Wildlife Amendment Act 1980.

Subsection (1)(c) was amended, as from 10 April 1990, by section 77(1) Conservation Law Reform Act 1990 (1990 No 31), by omitting the words “acclimatisation societies,”.

Subsection (1)(fa) was inserted, as from 10 April 1990, by section 77(2) Conservation Law Reform Act 1990 (1990 No 31).

Subsection (1)(b) the words in square brackets were amended, as from 19 September 1980, by section 7(2) of the Wildlife Amendment Act 1980 by inserting the words “or as a wildlife management reserve,”.

Subsection (2)(h) was inserted by section 10 of 1983 No 48.

## **42 Fencing of land**

- (1) The Minister may from time to time take such steps as he thinks fit for the fencing of any land held by the Crown for the purposes of this Act.
- (2) The Minister may enter into any agreement upon such terms and conditions as he considers reasonable with the occupier within the meaning of the Fencing Act 1978 of land adjoining any land held by the Crown for the purposes of this Act for the fencing of the common boundary.
- (3) Where any fence within the meaning of the Fencing Act 1978 is erected pursuant to an agreement with any such occupier, the occupier shall be liable, notwithstanding anything to the contrary in that Act, to pay such amount as may have been agreed upon by the Minister and the occupier, and that amount may be recovered from the occupier as a debt due to the Crown.

## **43 Tenancies**

Subject to the Tenancy Act 1955, the Minister may grant tenancies or occupancies of dwellings on land held by the Crown for the purposes of this Act to employees of the Department as such rent and upon such terms and conditions as may be approved by the State Services Commission, or to any Fish and Game Council or to any other person under such circumstances, at such rent, and upon such terms and conditions as the Minister determines.

Section 43 was amended, as from 10 April 1990, by section 78 Conservation Law Reform Act 1990 (1990 No 31), by omitting the words “acclimatisation society” and substituting the words “Fish and Game Council”.

The Tenancy Act 1955, being the corresponding enactment in force at this time, has been substituted for the repealed Tenancy Act 1948.

The reference to the State Services Commission was substituted for a reference to the Public Service Commission by section 3(10) of the State Services Act 1962.

**44 Delegation of Minister's powers**

- (1) The Minister may from time to time delegate in writing to the Director-General or to any other officer of the Department any of his powers under this Act, including the power of delegation conferred by this section.
- (1A) The Minister may from time to time delegate in writing to any body or person such powers as he may have under or pursuant to this or any other Act relating to the day to day control and management of any wildlife sanctuary, or wildlife refuge, or wildlife management reserve.
- (2) Subject to any general or special directions given or conditions attached by the Minister, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.
- (3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (4) Any delegation under this section may be made to a specified person or to persons of a specified class or may be made to the holder or holders for the time being of a specified office or of specified classes of offices.
- (5) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Minister or by any other person making the delegation.
- (6) Every delegation made under this section by the Minister or by any other person holding any office shall, until it is revoked, continue in force according to its tenor, notwithstanding the fact that the Minister or other officer by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

Subsection (1A) was inserted, as from 19 September 1980, by section 8 of the Wildlife Amendment Act 1980 (1980 No 17).

In subsection (1) the word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (1A) was amended by section 79 Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “any body or person” for the words “any society, or body, or person”.

### *Powers of Director-General*

The word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

#### **44A Delegation of powers by Director-General**

- (1) The Director-General may from time to time, either generally or particularly, delegate to such officer or officers or employee or employees of the Department as he thinks fit all or any of the powers exercisable by him under this Act, including the power of delegation conferred by this section, but, except as provided in section 44 of this Act, not including any powers delegated to him under any other provision of this Act.
- (2) Subject to any general or special directions given or conditions attached by the Director-General, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.
- (3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in absence of proof to the contrary.
- (4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.
- (5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director-General.

- (6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Director-General by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Director-General.

Section 44A and the heading “Powers of Secretary” were inserted by section 2 of the Wildlife Amendment Act 1968.

In subsections (1), (2), (5) and (6) the word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

#### *New Zealand Game Bird Habitat Trust Board*

#### **44B New Zealand Game Bird Habitat Trust Board established**

There is hereby established a board to be called the New Zealand Game Bird Habitat Trust Board.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

#### **44C Board to be body corporate**

The Board shall be a body corporate with perpetual succession and a common seal, and be capable of acquiring, holding, and disposing of real and personal property, and of suing and being sued, and of doing and suffering all other acts and things that bodies corporate may do and suffer.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

#### **44D Functions of Board**

The Board shall have the following functions:

- (a) Primarily to improve New Zealand’s game bird habitat and secondarily to improve the habitat of other wildlife:
- (b) To identify and evaluate areas of New Zealand worthy of protection, restoration, improvement, creation, or procurement primarily as game bird habitat and secondarily as habitat for other wildlife:
- (c) To negotiate, where appropriate, the protection, restoration, improvement, creation, or procurement of game bird habitat with landowners:
- (d) To receive submissions and applications from any person or organisation within New Zealand for the pro-

tection, restoration, improvement, creation, or procurement primarily of game bird habitat and secondarily of habitat for other wildlife, and to evaluate each submission or application for the purpose of determining whether or not to support it:

- (e) To promote and provide advice to prospective applicants on the protection, restoration, improvement, creation, or procurement of habitat suitable for game birds and associated wildlife:
- (f) To promote the sale of game bird habitat stamps and associated products to game bird hunters and to the public within New Zealand and to persons outside New Zealand:
- (g) To ensure that the revenue arising from the game bird habitat stamp programme and associated products is clearly separated from other revenue arising for the management of New Zealand's game bird resources:
- (h) To recommend to the New Zealand Fish and Game Council that it enter into such contracts as may be appropriate to annually produce a game bird habitat stamp and associated products:
- (i) To operate in the name of the Board such bank accounts as the Board thinks fit and to keep proper records of such accounts:
- (j) To disburse by way of grants such proportion of its funds each year as it considers appropriate for the purpose of carrying out its functions:
- (k) To recommend to the New Zealand Fish and Game Council the fees for the following year's game bird habitat stamp:
- (l) Annually—
  - (i) To recommend to the New Zealand Fish and Game Council the game bird or other wildlife species to be depicted on the following year's game bird habitat stamp:
  - (ii) To appoint, or select by competition, an artist to produce the stamp artwork of the species approved by the New Zealand Fish and Game Council:

- (m) To liaise with the New Zealand Fish and Game Council, or individual Fish and Game Councils, as the case may be, to have provision on licences for the affixing of a game bird habitat stamp:
- (n) To co-ordinate with the New Zealand Fish and Game Council the production of game bird habitat stamps and their affixing to licences:
- (o) To provide regular reports to the New Zealand Fish and Game Council, Fish and Game Councils, the Department of Conservation, Ducks Unlimited New Zealand Incorporated, and other similar interested persons or organisations.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

#### **44E Powers of Board**

- (1) Without limiting the generality of section 44C of this Act, the Board shall have all such powers as may be reasonably necessary or expedient to enable it to carry out its functions.
- (2) Without limiting the generality of subsection (1) of this section, the Board may—
  - (a) Establish committees of members and other suitable persons, and delegate to them such functions as may be specified in regulations made under section 72 of this Act:
  - (b) Advocate the interests of the Board at any public forum or in any statutory planning process:
  - (c) Fund the production of game bird habitat stamps and associated products:
  - (d) Impose such conditions and requirements on the use of its funds as it considers appropriate to ensure that the programme for which the funds have been granted has ongoing and long term benefits primarily for game bird habitat and secondarily for other wildlife habitat.
- (3) In exercising its powers and functions the Board shall have regard to any views expressed in writing by the Minister and addressed to the Board.

- (4) The Board shall not release its annual report for public information until it has furnished the report to the Minister in accordance with section 44K of this Act.
- (5) The power conferred by subsection (2)(b) of this section shall include the right to appear before courts and tribunals in New Zealand and be heard on matters affecting or relating to the Board's functions.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

#### **44F Membership of Board**

The members of the Board shall be appointed by the Minister having regard to the functions of the Board and the Board shall consist of—

- (a) A chairperson:
- (b) Three persons appointed after consultation with the New Zealand Fish and Game Council:
- (c) One person appointed after consultation with the Director-General:
- (d) One person appointed after consultation with the Board of Ducks Unlimited New Zealand Incorporated.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

#### **44G Term of office of members of Board**

- (1) Subject to subsections (2) to (5) of this section, every member of the Board shall hold office for a term of 3 years.
- (2) Any member of the Board may at any time be removed from office by the Minister for bankruptcy, inability to perform the functions of the office, neglect of duty, or misconduct.
- (3) Any member of the Board may at any time resign his or her office by writing addressed to the Minister.
- (4) If any member of the Board dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made, and the person so appointed shall be appointed for the residue of the term for which the vacating member was appointed.

- (5) Unless a member sooner dies, resigns, or is removed from office, every member of the Board shall continue in office until that member's successor comes into office, notwithstanding that the term for which that member was appointed may have expired.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

Subsection (2) was amended, as from 1 January 2002, by section 70(1) Human Rights Amendment Act 2001 (2001 No 96), by substituting the words "inability to perform the functions of the office" for the word "disability".

#### **44H Servicing**

- (1) The Board shall be serviced by the Secretariat of the New Zealand Fish and Game Council.
- (2) The costs incurred by the New Zealand Fish and Game Council in servicing the Board (including disbursements of the Board) shall be paid by the Board out of money in a bank account operated by it.
- (3) The costs incurred by any committee established by the Board, or by any person providing advice to the Board pursuant to a request by or an agreement with it, shall also be paid out of money in a bank account operated by the Board.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

#### **44I Funds to be held on trust**

- (1) All money held by the Board shall be held on trust and may be expended in accordance with the provisions of this Act.
- (2) The Board shall pay administration expenses only where the payment of such expenses is provided for or contemplated by this Act or regulations made under section 72 of this Act.
- (3) For the purposes of the application to the Board of the provisions of any other enactment or rule of law, all the purposes for which the Board holds and expends money shall be deemed to be charitable purposes.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

**44J Crown entity**

- (1) The Board is, for the purposes of subpart 2 of Part 5 of the Public Finance Act 1989, an organisation named or described in Schedule 4 of that Act.
- (2) The Board is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

Subsection (1) was amended, as from 25 January 2005, by section 37(1) Public Finance Amendment Act 2004 (2004 No 113) by substituting the words “is, for the purposes of subpart 2 of Part 5 of the Public Finance Act 1989, an organisation named or described in Schedule 4 of that Act” for the words “shall be a Crown entity for the purposes of the Public Finance Act 1989”.

Subsection (2) was substituted, as from 1 July 2001, by section 53 Public Audit Act 2001 (2001 No 10).

**44K Annual report**

- (1) The Board shall, as soon as practicable after the end of each financial year, furnish to the Minister a report on its operations for that financial year.
- (2) The Minister must present a copy of the report to the House of Representatives in accordance with section 150(3) of the Crown Entities Act 2004.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

Subsection (2) was substituted, as from 25 January 2005, by section 37(1) Public Finance Amendment Act 2004 (2004 No 113).

**44L Members not personally liable**

No member of the Board shall be personally liable for any default made by the Board or by any member of it, in good faith in the course of its operations.

Sections 44B to 44L and preceding heading were inserted, as from 17 May 1993, by section 4 Wildlife Amendment Act 1993 (1993 No 39).

## **Part 4 Injurious birds**

**45 Interpretation**

In this part of this Act, unless the context otherwise requires,—

**Injurious birds** means any species of birds for the time being specified in Schedule 4 or Schedule 5 to this Act that, by their habits or their excessive increase, have become or threaten to become injurious

injurious birds was amended, by section 6 Wildlife Amendment Act 1956, by inserting the words “Schedule 4 or”.

**local authority** means a territorial authority within the meaning of the Local Government Act 2002 and, in relation to any land that does not form part of the district of a local authority, means the Minister

Local authority: this definition was substituted by section 8(3) of the Local Government Amendment Act 1979.

Local authority: this definition was amended, as from 14 January 1983, by section 28(2) of 1982 No 166 (Local Government Amendment Act (No 2) 1982), by omitting the words “the County of Fiord and to”.

Local authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Compare: 1908 No 87 ss 2, 17

**46 Local authority may apply or raise funds for destruction of injurious birds**

- (1) Notwithstanding anything in any other Act, any local authority may from time to time, by ordinary resolution, apply money towards the destruction of injurious birds.

(2)

(3)

Compare: 1908 No 87 ss 4, 9, 18

Subsections (2) and (3) were repealed, as from 1 July 2003, by section 138(1) Local Government (Rating) Act 2002 (2002 No 6). *See* section 138(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

**47 Local authorities to submit plans for destruction for approval of Director-General**

- (1) Every local authority, before taking any action for the destruction of injurious birds in its district, shall prepare and submit its plans in that behalf to the Director-General for his approval.
- (2) The Director-General may approve any such plans subject to such conditions as he in his discretion thinks fit, or may require the local authority to modify the plans.

- (3) Where the Director-General approves the plans of any local authority under this section, he may authorise the local authority for the purposes of this Part of this Act to lay poisoned grain, seed, food, lure, bait, or other material on any roads or lands (whether public or private) within its district:  
Provided that, before laying the same, public notice of the intention to do so shall be given by the local authority by advertisement in a newspaper circulating in its district:  
Provided further that no poison shall be laid within a less distance than 300 metres of an inhabited house without the consent of the owner or occupier thereof.
- (4) It shall be the duty of the local authority to carry out its plans for the destruction of injurious birds as approved by the Director-General and in accordance with any conditions or modifications prescribed by him.

Compare: 1908 No 87 ss 10, 19

“Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (3) was amended, by section 3 Wildlife Amendment Act 1973, by substituting the words “300 metres” for the words “300 yards”.

#### **48 Appointment of Inspectors, and bylaws**

- (1) For the purposes of this Part of this Act a local authority may from time to time—
- (a) Appoint such Inspectors, with such powers of entry and other powers and functions, within its district as it thinks fit:
  - (b) Make such bylaws as it thinks fit.
- (2) Bylaws made under this section may provide for fines not exceeding \$50 for any breach thereof.
- (3) The Minister may at any time require any local authority to appoint Inspectors for the purposes of this Part of this Act.
- (4) The Minister may at any time require any local authority to make any bylaws, or to revoke, alter, or add to any bylaws made pursuant to this section.
- (5) If a local authority does not within 3 months from the receipt of a requisition by the Minister under subsection (4) of this section make, revoke, alter, or add to any bylaws in the manner required by that requisition, the Governor-General may by

Order in Council make such regulations as he thinks fit to give effect to that requisition, and those regulations shall for all purposes be deemed to be, and have the same force and effect as, bylaws made by the local authority under this section.

Compare: 1908 No 87 ss 7, 20

**49 Provisions to secure concerted action**

In order to secure concerted and simultaneous action the following provisions shall apply:

- (a) The Governor-General may from time to time, by Order in Council, divide the whole or any portion of New Zealand into combined districts, with such names and boundaries as he thinks fit, those boundaries being as far as practicable so adjusted that no local authority's district shall be partly in one combined district and partly in another:
- (b) In and for each combined district a conference, consisting of one person appointed by the Governor-General and one delegate appointed by each local authority in the district, shall meet, at such time and place as the Governor-General appoints in that behalf, for the purpose of deciding on and recommending to the Governor-General a suitable day on which the work of destroying injurious birds in the district should commence, and also the methods that should be employed by each local authority in carrying out that work in its own district. The member appointed by the Governor-General shall be the chairman of the conference:
- (c) The Governor-General may from time to time, by Order in Council, direct all the local authorities in the combined district to adopt the day and methods so recommended, or such other day and methods as he thinks fit; and it shall be the duty of each such local authority to comply with that direction.

Compare: 1908 No 87 s 5

**50 Minister may appoint Inspectors to carry out this Part if local authority fails to do so**

In the event of any local authority failing to carry out the provisions of this Part of this Act to the satisfaction of the Minister, he may from time to time appoint an Inspector, who, with such assistants as he deems necessary, shall proceed to destroy the injurious birds in the district of the local authority, and for that purpose may exercise all such powers of entry and other powers and functions as the Minister thinks fit to confer; and all expenses thereby incurred shall be a charge against the local authority and may be deducted by the Minister of Finance from any subsidy or other money payable at any time to the local authority.

Compare: 1908 No 87 ss 11, 21(3)

**51 Obstructing Inspector**

Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1) who assaults, resists, impedes, or obstructs, or incites or encourages any other person to assault, resist, impede, or obstruct, or uses abusive or threatening language or behaves in a threatening manner to, any Inspector or other authorised person while in the performance or execution of his duty under this Part of this Act. For the purposes of this section any person who refuses to allow any Inspector or other authorised person to exercise any of the powers conferred by this Part of this Act shall be deemed to obstruct that Inspector or other person.

Compare: 1908 No 87 s 12

Section 51 was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67F(1)” after the words “against this Act”.

**52 Expenses of carrying out this Part**

- (1) All expenses incurred by any local authority in carrying out the provisions of this Part of this Act shall be paid out of its general fund or account, or, in the case of the Minister, out of money to be appropriated by Parliament for the purpose.
- (2)

Subsection 2 was repealed by section 3(2) of the Public Revenues Amendment Act 1958.

## **Part 5**

### **General provisions**

#### **53 Director-General may authorise taking or killing of wildlife for certain purposes**

- (1) The Director-General may from time to time in writing authorise any specified person to catch alive or kill for any purpose approved by the Director-General any absolutely protected or partially protected wildlife or any game or any other species of wildlife the hunting or killing of which is not for the time being permitted.
- (2) The Director-General may from time to time in writing authorise any specified person—
  - (a) To catch alive or otherwise obtain alive any absolutely protected or partially protected wildlife or any game or any other species of wildlife the taking of which is not for the time being permitted; or
  - (b) To take or otherwise obtain the eggs of any such wildlife or game, for the purpose of distributing or exchanging the same in any other country or in some other part of New Zealand, or for any scientific or other purpose approved by the Director-General, or for the purpose of rearing any such wildlife or game, or for the purpose of hatching any such eggs and of rearing any progeny arising from that hatching,—

and may in any such authority authorise the holder to have any such wildlife or game or eggs or progeny in his or her or its possession for any of the purposes specified in this subsection, and may in any such authority authorise the holder to liberate any such wildlife or game or progeny in such area and during such period as may be specified in the authority.
- (3) The Director-General may give to any Fish and Game Council any written authority that may be given under subsection (1) or subsection (2) of this section in respect of game.
- (4) Where any such authority is given to a Fish and Game Council, the powers that may be exercised by the Council pursuant to

that authority may be exercised on its behalf by any officer or employee of the Council or by any other person authorised in writing by the Council.

- (5) Any authority granted under any of the foregoing provisions of this section may contain such conditions as the Director-General may impose. Without limiting the general power of the Director-General to impose any conditions, the Director-General may in any such authority impose all or any of the following conditions:
- (a) Prescribing the means by which any such wildlife or game or eggs may be caught or killed or taken:
  - (b) Prescribing the areas in which any such wildlife or game or eggs may be caught or killed or taken:
  - (c) Providing for the sale or other disposal of any such wildlife or game or eggs:
  - (d) Prescribing the duration of the authority:
  - (e) Providing for the revocation of the authority and for the issue of any other authority in its place:
  - (f) Providing for the furnishing of returns of the numbers of any such wildlife or game or eggs caught, killed, or taken:
  - (g) In respect of any authority issued pursuant to subsection (2) or subsection (3) of this section,—
    - (i) Prescribing the areas in which any such wildlife or game may be kept or any such eggs may be hatched and any such progeny reared:
    - (ii) Prescribing the types of cages, runs, or other enclosures in which any such wildlife or game or progeny may be kept:
    - (iii) Providing for the planting of any plants or of any specified kind of plants in or adjacent to any such cage, run, or other enclosure:
    - (iv) Prescribing the areas where any such wildlife or game or progeny may be liberated:
    - (v) Providing for inspection by officers or servants of the Department at all reasonable times.
- (6) Notwithstanding anything in any other provision of this Act, any authority issued under this section may contain conditions authorising the holder to use, for the purpose of catching alive

or killing any wildlife or game, any live decoys or any net or noose or trap or any firearm or any other method the use of which is otherwise expressly prohibited by this Act or by any regulations made under this Act.

- (7) Every person to whom any authority is granted under or pursuant to this section or, where the authority is given to a Fish and Game Council, the Council and every officer or employee of the Council or other person exercising the powers of the Council pursuant to that authority who commits a breach of or fails to comply with any condition on which the authority was granted commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).

Subsection (1) was amended, by section 7(2) Wildlife Amendment Act 1964, by substituting the words “any specified person or society” for the words “any person”.

Subsection (2) and (2A) were substituted, by section 7(1) Wildlife Amendment Act 1964, for the original subsection 2.

Subsection (3)(d) was repealed, by section 7(2) of the Wildlife Amendment Act 1964.

Subsection (5) was amended, by section 7(2) Wildlife Amendment Act 1964, by inserting the words in square brackets.

Section 53 was substituted by section 80 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (7) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67F(1)”.

#### **54 Director-General may authorise hunting or killing of wildlife causing damage**

- (1) The Director-General, on being satisfied that injury or damage to any person or to any land or to any stock or crops or to any chattel or to other wildlife has arisen or is likely to arise through the presence on any land of any animals (whether absolutely protected or not), and whether or not the land is a wildlife refuge or a closed game area, may authorise in writing the occupier of the land, or any officer or servant of the Department, or any other person, to hunt or kill, or cause to be hunted or killed, or to catch alive for any specified purpose any such animals, or to take or destroy the eggs of any such

animals, subject to such conditions and during such period as may be specified in the authority.

- (1A) Where any authority is given under this section to the occupier of any land, that authority may be exercised on his behalf by any person in the employ of or acting with the written authority of the occupier.
- (2) The Director-General may give to any Fish and Game Council any written authority that may be given under subsection (1) of this section in respect of game.
- (3) The provisions of subsections (4), (6), and (7) of section 53 of this Act shall apply with respect to any authority granted under this section.

Compare: 1921-22 No 57 s 32

The word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (1) was amended by section 81(1) Conservation Law Reform Act 1990 (1990 No 31) by omitting the words “or the society for the district in which the land is situated,”.

In subsection (1) the words “any animals” were substituted for the words “any wildlife”, and the words “such animals” were substituted in two places for the words “such wildlife” by section 2(4)(a) and (b) of the Wildlife Amendment Act 1956. The words “or any person in the employ of or acting with the written authority of the occupier” were omitted by section 8(2)(a) of the Wildlife Amendment Act 1964.

Subsection (1A) was inserted by section 8(1) of the Wildlife Amendment Act 1964.

In subsection (2) was amended by section 8(2)(b) of the Wildlife Amendment Act 1964 and was substituted by section 81(2) Conservation Law Reform Act 1990 (1990 No 31).

Subsection (3) was inserted by section 81(2) Conservation Law Reform Act 1990 (1990 No 31).

## **55 Keeping of specimens in museums**

- (1) The Director-General may from time to time authorise in writing the controlling authority of any public museum to have in possession the dead bodies of any species of absolutely or partially protected wildlife or of any game, subject to the following conditions:
  - (a) The controlling authority shall keep a register showing each animal held, the name of the person from whom it

- was received, the area from which it was received, and the cause of death of the animal;
- (b) The register shall be available for inspection at all reasonable times by authorised officers of the Department, who shall be entitled to make copies of entries in the register; and
  - (c) Any authorised officer of the Department shall be entitled at all reasonable times to enter the museum and seize the body of any animal held otherwise than in accordance with an authority under this section.
- (2) Any authority under subsection (1) of this section may be general or may relate to specified species of animals or to a specified animal, and shall continue in force according to its tenor until revoked by written notice from the Director-General to the controlling authority of the museum:  
Provided that no general authority under this section shall apply with respect to the keeping in possession of the body of any animal that the controlling authority has reason to suspect was taken contrary to the provisions of this Act.
- (3) The officer in charge of a public museum the controlling authority of which holds a general authority given under this section may from time to time authorise ornithologists to have in possession, subject to such conditions as the Director-General prescribes, the bodies of absolutely or partially protected sea birds that have died from natural causes or been accidentally killed.

“Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

**56 Restrictions on liberation or export of animals, birds, etc**

- (1) No person shall, without the prior written authority of the Director-General, granted subject to any regulations in that behalf under this Act,—
- (a) Capture or attempt to capture or have in his possession for the purpose of liberating or turning at large any wildlife; or
  - (ab) liberate or turn at large, or allow to go at large any wildlife; or

- (b) Export from New Zealand any bat or any bird (not being a domestic bird) or any reptile or any amphibian or any terrestrial or freshwater invertebrate specified in Schedule 7 to this Act or any skin, feathers, egg, flesh, or other part of any such species; or
  - (c)
- (1A) The Director-General in his discretion may refuse to grant his authority to do any act referred to in subsection (1) of this section, or may grant his authority either unconditionally or subject to such conditions as he thinks fit to impose.
  - (2) The Director-General may at any time revoke or vary any authority granted under subsection (1) of this section.
  - (3) Before granting any authority under paragraph (b) or paragraph (c) of subsection (1) of this section to export anything referred to in either of those paragraphs, the Director-General may require the applicant to satisfy him that a permit for its importation into the country to which it is proposed to be exported has been granted by the appropriate authority in that country.
  - (4) Every person who contravenes subsection (1)(ab) commits an offence against this Act and is liable on conviction to the penalty set out in section 67B.
  - (5) Every person who contravenes subsection (1)(a) or (b) commits an offence against this Act and,—
    - (a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
    - (b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
    - (c) in any other case, is liable on conviction to the penalty set out in section 67F(3).

Compare: 1921-22 No 57 s 30

Section 56 was amended, as from 1 April 1987, pursuant to section 65(1) Conservation Act 1987 (1987 No 65) by substituting the word “Director-General” for the word “Secretary”.

In subsection (1) the words “granted subject to such conditions as he thinks fit to impose” were omitted by section 7(2) Wildlife Amendment Act 1956, and the words “granted subject to” were inserted by section 9 Wildlife Amendment Act 1959.

Subsection (1)(a) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by omitting the words “, or liberate or turn at large or allow to go at large,”.

Subsection (1)(ab) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (1)(b) was amended by section 11 Wildlife Amendment Act 1983 (1983 No 48), by omitting the words “any land mollusc of the genus *paryphanta*” and substituting the words “any terrestrial or freshwater invertebrate specified in Schedule 7 to this Act.”.

Subsection 1(c) was repealed by section 24(a) Antiquities Act 1975.

Subsection (1A) was inserted by section 7(1) Wildlife Amendment Act 1956.

Subsection (4) was substituted and subsection (5) inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **56A Application of Customs and Excise Act 1996**

Sections 149A, 149B, 149C(1) and (2), 149D, 160, and 161 of the Customs and Excise Act 1996 apply in relation to the exportation of any absolutely protected or partially protected wildlife or any item of absolutely protected or partially protected wildlife as if that wildlife or item of wildlife were a prohibited export within the meaning of that Act.

Section 56A was inserted, as from 15 October 2000, by section 4 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Section 56A was amended, as from 9 October 2002, by section 47(4)(c) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting the expression “149A, 149B, 149C(1) and (2), 149D,” for the expression “149”.

#### **57 Ownership of animals**

(1)

(2) For the purposes of this Act, the property in any game in the possession or under the control of any person by virtue of any authority issued under subsection (2) of section 53 of this Act shall be deemed to be vested in the holder of the authority.

(3) All wildlife, other than wildlife that is for the time being specified in Schedule 5 hereto, shall be deemed to be vested in the Crown:

Provided that where any such wildlife (not being absolutely protected wildlife) has been lawfully taken or killed pursuant to this Act or to any regulations under this Act (the proof of which shall be on the person claiming the same) it shall

cease to be the property of the Crown, and the property in that wildlife shall be deemed to be vested in the person by whom it was so taken or killed:

Provided further that nothing in this subsection shall have effect so as to impose any obligation or liability on the Crown in respect of damage done by any wildlife.

Compare: 1921-22 No 57 ss 28, 29(2)

Subsection (1) was repealed by section 82(a) Conservation Law Reform Act 1990 (1990 No 31).

Subsection (3) (that part before the proviso) was amended by section 82(b) Conservation Law Reform Act 1990 (1990 No 31).

## **58 Homing pigeons**

- (1) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1) who—
  - (a) Intentionally shoots at, kills, disables, or otherwise injures, or ensnares, or detains any homing pigeon belonging to any other person; or
  - (b) Without lawful authority disturbs, opens, or in any way tampers with any cage or other receptacle while that cage or receptacle is being used for the carriage of homing pigeons.
- (2) Every person who does anything mentioned in subsection (1) of this section shall be liable to pay to the owner of the pigeon the value thereof, and the Court before which any prosecution under this section takes place may, in addition to any fine imposed, direct payment by the defendant to the owner of that value or any part thereof. Any amount so directed to be paid to the owner may be recovered from the defendant in the same manner as any fine and shall, when recovered, be paid to the owner.
- (3) No person shall be liable to a fine or other payment under this section unless the owner of the pigeon has been registered as owner thereof with the secretary of the New Zealand Homing Pigeon Federation.

Compare: 1921-22 No 57 s 37

Subsection (1) was substituted for the original subsection (1) by section 10(1) of the Wildlife Amendment Act 1959.

Subsection (1) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by in-

serting the words “and is liable on conviction to the penalty set out in section 67F(1)” after the words “against this Act”.

Subsection (3) was amended by section 10(2) Wildlife Amendment Act 1959 by substituting the words “the secretary of the New Zealand Homing Pigeon Federation” for the words “the Chief Postmaster of the postal district in which he resides”.

**59 Entry on land for purposes of Act**

- (1) If in the opinion of the Minister any wildlife is causing or is likely to cause injury or damage to any land, or to any person, or to any stock or crops, or to any chattel, or to any other wildlife, or to any trees, shrubs, plants, or grasses, the existence of which may tend to protect the habitat of any absolutely protected wildlife or of any game, or which may tend to mitigate soil erosion or to promote soil conservation or the control of floods, he may authorise in writing the Director-General, or any other officer or servant of the Department, to enter at any time and from time to time on any land under the control of any local authority or public body or any Maori land or private land, with such assistants as he thinks fit, for all or any of the following purposes:
  - (a) To investigate the incidence on the land of any such wildlife and to make studies or other investigations of any such wildlife:
  - (b) To catch alive or to hunt or kill any such wildlife:
  - (c) To remove any such wildlife to any other area:
  - (d) To erect and maintain tents or other structures on the land, and to provide all necessary services, conveniences, and amenities:
  - (e) To erect notices advising or warning of any action being taken under this Act:
  - (f) To have access for any of the purposes specified in this subsection to any other land (whether adjoining or not) on which any such wildlife is or may be:
  - (g) To do any other act or thing necessary for any of the purposes specified in this subsection.
- (2) Any person entering on any land pursuant to subsection (1) of this section may bring with him any vehicle, horse, or dog, and any equipment necessary for any of the purposes specified in

that subsection, and may convey any necessary supplies onto or over that land.

- (3) Where on any land that is not a wildlife sanctuary or a wildlife refuge or a closed game area any notice or sign is erected or placed which is intended to cause or may reasonably cause any person to believe that the land is part of a wildlife sanctuary or wildlife refuge or closed game area, as the case may be, any officer or servant of the Department or any ranger may enter at any time on the land and remove or destroy the notice or sign. The removal or destruction of any notice or sign pursuant to this subsection shall not confer any right to compensation on any person.
- (4) Before entry on any land pursuant to subsection (1) of this section, the Director-General, or the officer or servant of the Department authorised by the Minister, shall, when practicable, give reasonable notice to the occupier or controlling authority of the land of the intention to enter thereon, and where any person enters on any land pursuant to subsection (3) of this section, he shall, if required by the occupier or controlling authority, produce and show the authority under which he claims to enter, or has entered, on the land.
- (5) Every person who, not being duly authorised, takes away or is found in possession of, or removes, destroys, displaces, or moves the position of, any tent or other structure or any services, conveniences, or amenities erected or provided on any land pursuant to subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).
- (5A) Every person who, not being duly authorised, wilfully removes, injures, or damages in any way any vehicle, animal, equipment, or supplies brought onto any land pursuant to subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).
- (6) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1) who wilfully obstructs or hinders or resists the Director-General or any authorised officer or servant of the Department in the exercise of any of the powers conferred by this section.

Compare: 1945 No 40 s 81

Subsection (5) was substituted, and subsection (5A) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsections (5) and (6) were amended, as from 1 April 1987 pursuant to section 65(1) Conservation Act 1987 (1987 No 65) by substituting the word “Director-General” for the word “Secretary”.

Subsection (6) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67F(1)” after the words “against this Act”.

## **60 Protection of rangers and others**

A person who does any act in pursuance or intended pursuance of any of the functions conferred on him by or under this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he has acted, or omitted to act, in bad faith or without reasonable cause.

Section 60 was substituted, as from 6 December 1983, by section 12 Wildlife Amendment Act 1983 (1983 No 48).

## **61 Person in pursuit of wildlife to comply with demand by authorised officer**

- (1) In any prosecution for an offence against this Act or against any regulations under this Act, proof that any person found in any area where any species of wildlife is usually prevalent had with him or under his control any firearm, net, trap, decoy, or other instrument or device capable of being used for the purpose of hunting or killing any such species shall be evidence from which the Court may infer that that person was in pursuit of that species.
- (2) Every such person shall, in any circumstances where a licence under this Act to hunt or kill that species is required, produce his licence to any authorised person demanding its production, and if he fails to do so he commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).
- (3) For the purposes of subsection (2) of this section the term **authorised person** means—
  - (a) Any Justice:
  - (b) Any ranger:

- (c)
  - (d) The occupier of the land on which the person is found in pursuit of or in possession of wildlife:
  - (e) Any person duly authorised in writing by the Permanent Head of the Department of State or by the local authority controlling the land on which the person is found in pursuit of or in possession of wildlife:
  - (f) Any holder of a licence to hunt or kill wildlife issued under this Act:
  - (g) Any other person duly authorised in writing by the Director-General.
- (4) In addition to the powers contained in subsection (2) of this section or in section 66 of this Act, every authorised person as defined in paragraph (b), paragraph (d), or paragraph (e) of subsection (3) of this section may demand production of all or any wildlife (whether alive or dead) and all or any skins, feathers, or eggs of any wildlife in possession of any person referred to in subsection (1) of this section, and of all or any nets, traps, firearms, ammunition, boats, vehicles, engines, instruments, appliances, and devices that are being used or are intended to be used or have been used for the purpose of hunting or killing any wildlife or that he reasonably believes to be so being used or to be intended to be so used or to have been so used, and of any bag, container, or other article (including any coat or other similar article of clothing) that is being used for the purpose of carrying any wildlife (whether alive or dead) or that he reasonably believes to have been so used or to be intended to be so used.
- (5) Any authorised person referred to in subsection (4) of this section may exercise in respect of anything produced to him pursuant to that subsection the powers of search and seizure conferred on rangers by section 39 of this Act.
- (6) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1) who fails to produce on demand under subsection (4) of this section, anything referred to in that subsection.

Compare: 1921-22 No 57 s 34

Subsection (2) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by in-

serting the words “and is liable on conviction to the penalty set out in section 67F(1)” after the words “against this Act”.

Subsection 3(c) was repealed by section 83 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (3)(g) was amended, as from 1 April 1987 pursuant to section 65(1) Conservation Act 1987 (1987 No 65) by substituting the word “Director-General” for the word “Secretary”.

Subsection (6) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67F(1)” after the words “against this Act”.

### *Offences and penalties*

#### **62 Offences in relation to transport of wildlife**

- (1) No person shall consign or send by any carrier or forwarding agent or by any other means any parcel, package, case, bag, luggage, or other container containing any absolutely protected wildlife (whether alive or dead) or any part of any absolutely protected wildlife or any eggs of any absolutely protected wildlife, unless the parcel, package, case, bag, luggage, or other container is plainly marked on the outside in such a manner as to give a list and description of the contents and the name and address of the consignor and consignee.
- (2) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).

Subsection (2) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **63 Taking protected wildlife or game, etc**

- (1) No person may, without lawful authority,—
  - (a) hunt or kill any absolutely protected or partially protected wildlife or any game:
  - (b) buy, sell, or otherwise dispose of, or have in his or her possession any absolutely protected or partially protected wildlife or any game or any skin, feathers, or other portion, or any egg of any absolutely protected or partially protected wildlife or of any game:

- (c) rob, disturb, or destroy, or have in his or her possession the nest of any absolutely protected or partially protected wildlife or of any game.
- (1A) Every person who contravenes subsection (1) commits an offence and,—
  - (a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
  - (b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
  - (c) in respect of an offence committed in relation to game, is liable on conviction to the penalty set out in section 67E(3).
- (2) Nothing in subsection (1) of this section applies in respect of any marine wildlife.

Compare: 1921-22 No 57 ss 4(2), 40

Subsection (1) was substituted and subsection (1A) inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (1)(b) was amended by section 9 of the Wildlife Amendment Act 1964 by inserting the words “Buys or”.

Subsection (2) was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

### **63A Taking of absolutely or partially protected marine wildlife**

Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67(fa) who without lawful authority (the proof of which shall be on the person charged)—

- (a) Hunts or kills any absolutely or partially protected marine wildlife; or
- (b) Buys or processes for sale or sells or otherwise disposes of or has in his or her possession any absolutely or partially protected marine wildlife or any part thereof; or
- (c) Robs, disturbs, or destroys, or has in his or her possession the nest of any absolutely or partially protected marine wildlife.

Sections 63A and 63B were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Section 63A was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by inserting the words “and is liable on conviction to the penalty set out in section 67(fa)” after the words “against this Act”.

**63B Reporting of accidental or incidental death or injury**

- (1) If any person, in the course of fishing pursuant to a permit, licence, authority, or approval issued, granted, or given under the Fisheries Act 1996, accidentally or incidentally kills or injures any marine wildlife, he or she shall,—
  - (a) If fishing from a vessel, record the event in the vessel’s log and report the event in writing to a ranger, or to such other person as the Director-General may from time to time specify by notice in the *Gazette*, and in such manner as may be so specified, not later than 48 hours after the arrival of the vessel in port; and
  - (b) In any other case, report the event in writing to a ranger, or to such other person as the Director-General may from time to time specify by notice in the *Gazette*, and in such manner as may be so specified, as soon as practicable.
- (2) Any person (other than a person to whom subsection (1) of this section applies) who, by any means whatever, accidentally or incidentally kills or injures any marine wildlife, shall, as soon as practicable, report the event to a ranger or a fishery officer (as defined in section 2(1) of the Fisheries Act 1996).
- (3) Every report under subsection (1) or subsection (2) of this section shall include—
  - (a) The location of the area where the event took place; and
  - (b) The species (if known) of the marine wildlife killed or injured, or a general description of the wildlife; and
  - (c) A description of the conditions and the circumstances of the event.
- (4) In addition to providing the particulars required by subsection (1) or subsection (2) of this section, a person required to report an event to which that subsection applies shall provide to the

Director-General such other particulars relating to the event as the Director-General may require for the purposes of this Act.

- (5) Every person who contravenes subsection (1) or subsection (2) commits an offence and is liable on conviction to the penalty set out in section 67(fb).

Sections 63A and 63B were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Subsection (5) was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **64 Offences in relation to wildlife sanctuaries**

Every person who, without lawful authority, breaches or fails to comply with any of the provisions of this Act relating to wildlife sanctuaries or of any Proclamation under section 9 commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).

Section 64 was substituted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **65 Other offences**

- (1) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1) who—
- (a) Gives or agrees to give or offers to any ranger or to any officer or servant of the Department or the New Zealand Fish and Game Council or any Fish and Game Council or to any person under the control of any ranger or of any officer or servant of the Department or the New Zealand Fish and Game Council or any Fish and Game Council any gift or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown, by that ranger, officer, servant, or person in or in relation to the exercise of any powers or the discharge of any duties vested in or imposed on that ranger, officer, servant, or person under this Act, or, who being a ranger or an officer or servant of the Department or the New Zealand Fish and Game Council or any Fish and Game Council or a person under the control of any ranger or of any officer or servant of the Department or

- the New Zealand Fish and Game Council or any Fish and Game Council, accepts or agrees to accept or solicits any such gift or consideration as aforesaid:
- (b) Personates or falsely pretends to be a ranger or an officer or servant of the Department or the New Zealand Fish and Game Council or any Fish and Game Council:
  - (c) Counterfeits upon or without due authority fixes to any property any mark used by the Department or the New Zealand Fish and Game Council or any Fish and Game Council as a means of identification of that property:
  - (d) Without due authority, makes or causes to be made, or uses or causes to be used, or has in his possession a brand or stamp such as is usually used by rangers or by officers or servants of the Department or the New Zealand Fish and Game Council or any Fish and Game Council:
  - (e) Counterfeits or without due authority issues any licence, permit, or other authority required by this Act or by any regulations under this Act:
  - (f) Without a licence, permit, concession, or other right or authority, does or causes to be done any act, matter, or thing for which a licence, permit, concession, or other right or authority is required by this Act or by any regulations under this Act:
  - (g)
  - (h) Erects or places on any land that is not a wildlife sanctuary or a wildlife refuge or a closed game area any notice or sign which is intended to cause or may reasonably cause any person to believe that the land is part of a wildlife sanctuary or wildlife refuge or closed game area, as the case may be:
  - (i)
  - (j) Fails to comply in any respect with any of the provisions of this Act or of any regulation or notice made under this Act, or does any act in contravention thereof.
- (2) Every person who, without lawful authority, receives any wildlife knowing that the wildlife was obtained without authority commits an offence against this Act and,—

- (a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
  - (b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
  - (c) in respect of an offence committed in relation to game, is liable on conviction to the penalty set out in section 67E(1).
- (3) Every person who counsels, aids, or assists in any breach of any of the provisions of this Act, or shares in any of the proceeds of that breach, commits an offence against this Act and,—
- (a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
  - (b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
  - (c) in respect of an offence committed in relation to game, is liable on conviction to the penalty set out in section 67E(3):
  - (d) in any other case, is liable on conviction to the penalty set out in section 67F(3).

Section 65 was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43) by inserting the words “and is liable on conviction to the penalty set out in section 67F(1)” after the words “against this Act”.

Subsection (1)(a) to (d) were amended, as from 25 November 1994, by section 5(a) Wildlife Amendment Act 1994 (1994 No 109), by inserting the words “or the New Zealand Fish and Game Council or any Fish and Game Council”.

Subsection (1)(f) was amended, as from 1 July 1996, by section 8 Wildlife Amendment Act 1996 (1996 No 2) by inserting the word “concession,”.

Subsection (1)(g) and (i) were repealed, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (1)(j) was amended, as from 25 November 1994, by section 5(b) Wildlife Amendment Act 1994 (1994 No 109) by inserting the words “or of any regulation or notice made under this Act,”.

Subsections (2) and (3) were inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**65A Liability of directors and managers**

- (1) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is guilty of the same offence if the prosecution proves—
  - (a) that the act that constituted the offence took place with the director's or manager's authority, permission, or consent; or
  - (b) that the director or manager knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.
- (2) Where any director or person concerned in the management of a body corporate is convicted of an offence against this Act by virtue of subsection (1), the director or person is liable to the penalty applicable to an individual who commits the offence.

Section 65A was inserted, as from 15 October 2000, by section 5 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**66 Offenders to give name and address to rangers, etc**

- (1) Where any person is found offending against this Act or against any regulations or notification under or pursuant to this Act, it shall be lawful for any authorised person as defined in subsection (3) of section 61 of this Act to require the offender forthwith to desist from the offence and also to tell his real Christian name, surname, and place of abode.
- (2) Every person who, after being required to desist from offending under subsection (1), wilfully continues the offence commits a further offence against this Act and is liable on conviction to the penalty set out in section 67F(1).
- (3) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1) who, after being required to give his or her Christian name, surname, and place of abode under subsection (1),—
  - (a) fails to give his or her real Christian name, or surname, or place of abode;
  - (b) gives a false name or place of abode.

Subsection (2) was substituted, and subsection (3) was inserted, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

## **67 Penalties for offences in respect of marine wildlife**

### **(1) Every person who—**

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (fa) Commits an offence against section 63A of this Act (which relates to the taking of absolutely or partially protected marine wildlife) shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$250,000 and to a further fine not exceeding \$10,000 for every item of marine wildlife (other than coral) in respect of which the offence was committed:
- (fb) Commits an offence against section 63B of this Act (which relates to the reporting of accidental or incidental death of absolutely or partially protected wildlife) shall be liable to a fine not exceeding \$10,000:
- (g)

### **(2)**

Compare: 1921-22 No 57 ss 9(3), 41

The heading of section 67 was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43) by adding the words “for offences in respect of marine wildlife”.

Section 67(1)(a) was amended by section 9(1) of the Wildlife Amendment Act 1980 then section 13(1) of 1983 No 48.

Subsection (1)(a) and (b) was amended by section 9(1) Wildlife Amendment Act 1980 by substituting the expressions “\$300” and “\$20” respectively for the expressions “\$100” and “\$4”.

Subsection (1)(c) was amended by section 9(1) Wildlife Amendment Act 1980 by inserting the words in the first set of square brackets and substituting the expressions “\$1,000” and “\$20” respectively for the expressions “\$100” and “\$4”. This amount was further amended by section 13(1) of 1983 No 48.

Subsection (1)(d) was amended by section 9(1) Wildlife Amendment Act 1980 by substituting the expression “\$500” for the expression “\$200”. This amount was further amended by section 13(1) of 1983 No 48 by omitting the word “assaulting.”.

Subsection (1)(e) was amended by section 9(1) Wildlife Amendment Act 1980 by substituting the expression “\$1,000” for the expression “\$500”.

Subsection (1)(e) was further amended by section 13(1) (Wildlife Amendment Act 1983 (1983 No 48) by substituting the words “\$1,500, and to a further fine not exceeding \$100 for every head of wildlife in respect of which the offence was committed” for the expression “\$1,000”.

Subsection (1)(f) was amended by section 9(1) Wildlife Amendment Act 1980 by substituting the expressions “\$500” and “\$20” for the expressions “\$100” and “\$4”. This amount was further amended by section 13(1) of 1983 No 48.

Subsection (1)(a) to (f) were repealed, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (1)(fa) and (fb) were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Subsection (1)(g) was amended by section 9(1) Wildlife Amendment Act 1980 by substituting the words “\$2,500 and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues” for the expression “\$200”.

Subsection (1)(g) was repealed, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Subsection (2)(a) was amended by section 9(1) Wildlife Amendment Act 1980 by substituting the expressions “\$300” and “\$20” respectively for the expressions “\$100” and “\$10”.

Subsection (2)(b) was amended by section 9(1) Wildlife Amendment Act 1980 by substituting the expressions “\$1,000” and “\$100” for the expressions “\$200” and “\$20”.

Subsection (2) was repealed, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

## **67A Penalties for offences in respect of absolutely protected wildlife**

- (1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—
- (a) in the case of an individual,—
    - (i) to imprisonment for a term not exceeding 6 months; or
    - (ii) to a fine not exceeding \$100,000 plus a further fine not exceeding \$5,000 for each head of wildlife and egg of wildlife in respect of which the offence is committed:
  - (b) in the case of a body corporate, to a fine not exceeding \$200,000 plus a further fine not exceeding \$10,000 for each head of wildlife and egg of wildlife in respect of which the offence is committed.

- (2) The provisions are—
- (a) section 56(5)(a) (which relates to capturing, having in possession for the purpose of liberating, or exporting absolutely protected wildlife):
  - (b) section 63(1A)(a) (which relates to hunting, killing, buying, or selling absolutely protected wildlife, or robbing or disturbing the nest of absolutely protected wildlife):
  - (c) section 65(2)(a) (which relates to receiving absolutely protected wildlife taken without authority):
  - (d) section 65(3)(a) (which relates to being a party to an offence committed in respect of absolutely protected wildlife).

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **67B Penalty for offence of liberating wildlife**

A person convicted of an offence under section 56(4) (which relates to liberating wildlife) is liable,—

- (a) in the case of an individual,—
  - (i) to imprisonment for a term not exceeding 6 months; or
  - (ii) to a fine not exceeding \$100,000 plus a further fine not exceeding \$5,000 for each head of wildlife in respect of which the offence is committed:
- (b) in the case of a body corporate, to a fine not exceeding \$200,000 plus a further fine not exceeding \$10,000 for each head of wildlife in respect of which the offence is committed.

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **67C Penalties for offences in respect of partially protected wildlife**

- (1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—
- (a) in the case of an individual, to a fine not exceeding \$10,000 plus a further fine not exceeding \$500 for each

head of wildlife and egg of wildlife in respect of which the offence is committed:

- (b) in the case of a body corporate, to a fine not exceeding \$20,000 plus a further fine not exceeding \$1,000 for each head of wildlife and egg of wildlife in respect of which the offence is committed.

(2) The provisions are—

- (a) section 56(5)(b) (which relates to capturing, having in possession for the purpose of liberating, or exporting partially protected wildlife):
- (b) section 63(1A)(b) (which relates to hunting, killing, buying, or selling partially protected wildlife, or robbing or disturbing the nest of partially protected wildlife):
- (c) section 65(2)(b) (which relates to receiving partially protected wildlife taken without authority):
- (d) section 65(3)(b) (which relates to being a party to an offence committed in respect of partially protected wildlife).

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **67D Penalty for offence of obstructing ranger**

A person convicted of an offence under section 40(1) (which relates to obstructing a ranger or other authorised person) is liable,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000:
- (b) in the case of a body corporate, to a fine not exceeding \$10,000.

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

#### **67E Penalties for offences in respect of game**

(1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—

- (a) in the case of an individual, to a fine not exceeding \$5,000:

- (b) in the case of a body corporate, to a fine not exceeding \$10,000.
- (2) The provisions are—
  - (a) section 17(8) (which relates to failing to comply with a written notice in respect of game):
  - (b) section 19(5) (which relates to failing to produce an appointment endorsed on a game licence):
  - (c) section 22A (which relates to acting as a game hunting guide without a licence):
  - (d) section 23(2A) (which relates to the sale of game and game shooting rights).
- (3) A person convicted of an offence under any of the provisions listed in subsection (4) is liable,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000 plus a further fine not exceeding \$100 for each head of game and egg of game in respect of which the offence is committed:
  - (b) in the case of a body corporate, to a fine not exceeding \$10,000 plus a further fine not exceeding \$200 for each head of game and egg of game in respect of which the offence is committed.
- (4) The provisions are—
  - (a) section 15(6) (which relates to hunting or killing game in a close season):
  - (b) section 16(2) (which relates to hunting or killing game in breach of a notification):
  - (c) section 17(2) (which relates to hunting or killing game in a designated area where food has been placed):
  - (d) section 17(3) (which relates to hunting or killing game in a designated area where there are artificially formed waters):
  - (e) section 17(6) (which relates to hunting or killing game where a person knows that food has been placed or there are artificially formed waters):
  - (f) section 18(1A) (which relates to breaching restrictions on the taking of game):
  - (g) section 19(1) (which relates to hunting or killing game without a licence):

- (h) section 22(1) (which relates to shooting at or attempting to shoot at a game bird not in flight):
- (i) section 63(1A)(c) (which relates to hunting, killing, buying, or selling game, or robbing or disturbing the nest of game):
- (j) section 65(2)(c) (which relates to receiving game taken without authority):
- (k) section 65(3)(c) (which relates to being a party to an offence committed in respect of game).

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**67F Penalties for other offences**

- (1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000:
  - (b) in the case of a body corporate, to a fine not exceeding \$10,000.
- (2) The provisions are—
  - (a) section 14(3A) (which relates to prohibited acts committed in wildlife refuges):
  - (b) section 17(7) (which relates to destroying, defacing, or tampering with a notice):
  - (c) section 51 (which relates to obstructing an inspector):
  - (d) section 53(7) (which relates to the failure of a person or officer to comply with an authorisation):
  - (e) section 58(1) (which relates to certain acts committed in relation to homing pigeons):
  - (f) section 59(5) (which relates to interfering with structures or services on land):
  - (g) section 59(5A) (which relates to interfering with vehicles, animals, equipment, or supplies brought onto land):
  - (h) section 59(6) (which relates to obstructing the Director-General or an officer in the exercise of powers):
  - (i) section 61(2) (which relates to failing to produce a licence):

- (j) section 61(6) (which relates to failing to produce various items):
  - (k) section 62(2) (which relates to transporting wildlife without proper information on the container):
  - (l) section 65(1) (which provides for various miscellaneous offences):
  - (m) section 65(3)(d) (which relates to being a party to an offence, other than an offence committed in respect of absolutely protected or partially protected wildlife or game):
  - (n) section 66(2) (which relates to wilfully continuing an offence):
  - (o) section 66(3) (which relates to failing to give a name, or giving a false name or address).
- (3) A person convicted of an offence under any of the provisions listed in subsection (4) is liable,—
- (a) in the case of an individual, to a fine not exceeding \$5,000 plus a further fine not exceeding \$100 for each head of wildlife and egg of wildlife in respect of which the offence is committed:
  - (b) in the case of a body corporate, to a fine not exceeding \$10,000 plus a further fine not exceeding \$200 for each head of wildlife and egg of wildlife in respect of which the offence is committed.
- (4) The provisions are—
- (a) section 6(3) (which relates to hunting, killing, or possessing wildlife in breach of conditions imposed by the Minister):
  - (b) section 7(2) (which relates to hunting, killing, or possessing wildlife in contravention of a notification):
  - (c) section 7C(2) (which relates to farming certain unprotected animals without authorisation):
  - (d) section 9(4) (which relates to breaching a Proclamation in respect of a wildlife sanctuary):
  - (e) section 14(1C) (which relates to breaching a Proclamation or notice in respect of a wildlife refuge):
  - (f) section 14A(4) (which relates to breaching a Proclamation in respect of a wildlife management reserve):

- (g) section 56(5)(c) (which relates to capturing, having in possession for the purpose of liberating, or exporting wildlife that is not absolutely protected or partially protected):
- (h) section 64 (which relates to acts committed in wildlife sanctuaries).

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

### **67G Sentence of community work**

A court may sentence any person who commits an offence against this Act to a sentence of community work and the provisions of Part 2 of the Sentencing Act 2002 apply with all necessary modifications.

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

Section 67G was substituted, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9). *See* sections 148 to 160 of that Act for the transitional and savings provisions. *See* clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

### **67H Offenders also liable for loss or damage**

- (1) A person convicted of an offence against this Act is liable, in addition to the penalty for the offence, for any loss or damage or expenses arising from or caused by the act constituting the offence.
- (2) The amount payable under subsection (1) in respect of the loss, damage, or expense may be awarded by the Court in fixing the penalty and may be recovered as a fine.
- (3) In assessing any amount payable under subsection (1), the Court—
  - (a) may take into account salaries, wages, and incidental expenses incurred in the investigation of the act constituting the offence or in remedying the loss or damage caused by the act; and
  - (b) must take into account all other relevant factors.

Sections 67A to 67H were inserted, as from 15 October 2000, by section 6 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**68 Offences to be tried summarily**

- (1) Every offence against this Act or against any regulations under this Act shall be punishable on summary conviction before a District Court Judge alone.
- (2) Any officer or servant of the Department, although not the informant, and any fish and game ranger, may appear and conduct the prosecution in all proceedings for offences against this Act.
- (3) The Court by which any person is convicted of any such offence may direct that any part, not exceeding half, of any fine recovered under this Act shall be paid to any person instrumental in securing the conviction in respect of which the fine is imposed (not being a person in the employment of the Crown acting in the course of his official duties), and that part of the fine shall be paid to that person by the Registrar of the Court in which the conviction is recorded.
- (4) Any direction of the Court under subsection (3) of this section shall not be entered in the conviction, but shall form the subject-matter of a separate order.

Compare: 1921-22 No 57 s 42

Subsection (1) was amended by section 18(2) District Courts Amendment Act 1979 by substituting the words “District Court Judge” for the word “Magistrate”.

Subsection (2) was amended, as from 25 November 1994, by section 6 Wildlife Amendment Act 1994 (1994 No 109) by inserting the words “and any fish and game ranger,”.

**68A Proceedings in respect of offences**

Notwithstanding anything to the contrary in section 14 of the Summary Proceedings Act 1957, proceedings may be taken under this Act against any person for an offence committed at sea or beyond the outer limits of New Zealand fisheries waters at any time within 12 months from the date on which that person first lands in New Zealand after the commission of the offence or, for an offence committed in New Zealand, within 12 months after the date of the commission of the offence.

Sections 68A and 68B were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

**68AB *Mens rea* and strict liability offences**

- (1) In any prosecution for an offence under any of the provisions listed in subsection (5), the prosecution must prove that the defendant intended to commit the offence.
- (2) In any prosecution for an offence under a provision that is not listed in subsection (5), it is not necessary for the prosecution to prove that the defendant intended to commit an offence.
- (3) It is a defence in any prosecution for an offence not listed in subsection (5) if the defendant proves—
  - (a) that the defendant did not intend to commit the offence; and
  - (b) that,—
    - (i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done;
    - (ii) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.
- (4) The defence provided in subsection (3) is in addition to any other defence or excuse provided by this Act.
- (5) The provisions are—
  - (a) section 17(6)(c) (which relates to hunting or killing waterfowl where a person knows that food has been placed or artificial waters formed);
  - (b) section 40(1) (which relates to obstructing a ranger);
  - (c) section 58(1)(a) (which relates to shooting at, killing, disabling, or injuring a homing pigeon);
  - (d) section 59(5A) (which relates to interfering with vehicles, animals, equipment, or supplies brought onto land);
  - (e) section 59(6) (which relates to obstructing the Director-General or an authorised officer in the exercise of powers);
  - (f) section 65(2) (which relates to receiving wildlife);
  - (g) section 66(2) (which relates to failing to give a name and address, or giving a false name and address).
- (6) Sections 63A and 63B continue to apply as if this section had not been enacted.

Section 68AB was inserted, as from 15 October 2000, by section 7 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**68B Defences to offences in respect of marine wildlife**

- (1) Where any person (not being a New Zealand citizen) is charged with any offence under this Act, it shall be a defence to the charge if the defendant proves that the act or omission constituting the offence took place beyond the outer limits of New Zealand fisheries waters.
- (2) Where any New Zealand citizen is charged with any offence under this Act, it shall be a defence to the charge if the defendant proves that the act or omission constituting the offence took place beyond the outer limits of New Zealand fisheries waters and did not contravene any international agreement to which effect had been given by regulations made under section 72 of this Act or by any other enactment.
- (3) Where any person is charged with an offence against section 63A of this Act, it is a defence to the charge if the defendant proves that the act or omission constituting the offence took place in circumstances of stress or emergency and was necessary for the preservation, protection, or maintenance of human life.
- (4) Where any person is charged with the killing or injuring or being in possession of any marine wildlife contrary to the provisions of this Act, or any regulations made under it, and the provisions of subsections (1), (2), and (3) of this section do not apply in the circumstances of the case,—
  - (a) It is a defence to the charge if the defendant proves that the death or injury to such wildlife was accidental or incidental, and that the requirements of section 63B of this Act were complied with:
  - (b) It is a defence to the charge if the defendant proves that the death or injury to, or possession of, such wildlife took place as part of a fishing operation and the requirements of section 63B of this Act were complied with.

Sections 68A and 68B were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Section 68B heading: amended, on 15 October 2000, by section 8 of the Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43).

**69 Evidence of boundaries, etc**

- (1) In any proceedings for an offence against this Act or any regulations under this Act the averment that any area is included in a wildlife sanctuary or wildlife refuge or wildlife management reserve or closed game area or wildlife district shall be sufficient without proof of that fact, unless the defendant proves to the contrary, and all plans, maps, licences, and copies certified as true under the hand of the Director-General or of any other officer of the Department to whom the Director-General has delegated the powers vested in him under this section, or of the Director or of any person to whom the Director has delegated powers vested in him or her under this section, shall be sufficient evidence of their contents without production of the original records and without the personal attendance of the Director-General or other officer, or the Director or other person, as aforesaid or proof of his signature.
- (2) Where in any Proclamation or Warrant or Order in Council or notification under the authority of this Act the boundary of any area is fixed by reference to the site of any post or landmark, proof that the approximate site set out in the Proclamation or Warrant or Order in Council or notification was at the date of the taking effect of the Proclamation or Warrant or Order in Council or notification, or at any date thereafter, marked by a post or landmark of the kind set out in the Proclamation or Warrant or Order in Council or notification shall be sufficient evidence for the purpose of any proceedings for an offence against this Act or any regulations under this Act that at all relevant times the boundary was so marked in accordance with the Proclamation or Warrant or Order in Council or notification.

In subsection (1) the words “or wildlife management reserve” were inserted by section 10 Wildlife Amendment Act 1980.

Subsection (1) was further amended by section 11 Wildlife Amendment Act 1959 by inserting the words “or acclimatisation district or wildlife district”. The words “or acclimatisation district” were substituted for the words “or acclimatisation district or wildlife district” by section 84 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (1) was further amended, as from 25 November 1994, by section 7(a) Wildlife Amendment Act 1994 (1994 No 109) by inserting the words “, or of the Director or of any person to whom the Director has delegated powers

vested in him or her under this section.”. It was further amended by section 7(b) of that Act by inserting the words “, or the Director or other person,”.

“Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

## **70 Forfeitures**

- (1) Any animal or any part of any animal or any egg or nest of any animal that has been unlawfully caught or killed or taken or unlawfully had in possession is hereby declared to be forfeited to Her Majesty.
- (2) It shall be the duty of every ranger or constable or other authorised person who has seized or otherwise obtained possession of any such animal or part of any animal or egg or nest of any such animal to forward immediate notification thereof to the Director-General (or, in the case of any such animal or part of any animal or egg or nest seized by a fish and game ranger, to the Director), who, on the conviction of any person for unlawfully catching, hunting, killing, or taking the same or having the same in his possession, or, if no such person can be traced within 6 months after the seizure or taking possession, shall, in order to give effect to the forfeiture as aforesaid, give such orders as he thinks fit for the disposal of the thing seized, and those orders shall immediately on receipt thereof be carried out by the person to whom they are given.
- (3) In the case of all other property lawfully seized or taken into possession under this Act, the property shall be retained by the Director-General or the Director, as the case may be, pending the trial of any person for the offence in respect of which the property was seized or taken into possession. If no such person can be traced within 6 months after the seizure or taking into possession, the property shall be deemed to be forfeited to the Crown, and shall be disposed of as the Director-General or the Director, as the case may be, directs. Where proceedings are taken against any person in respect of the offence, the property seized or taken into possession shall, when the proceedings are completed, be returned to the person last in possession of the property, unless the Court, where it enters a conviction, directs that the property or any part of it be forfeited to the Crown, in which case the property or part thereof, as the case may be,

shall be deemed to be forfeited to the Crown accordingly, and shall be disposed of as the Director-General or the Director, as the case may be, directs.

- (4) Notwithstanding anything in the Public Finance Act 1977, the power conferred on the Director-General or the Director by subsection (3) of this section to direct the disposal of any property forfeited to the Crown under that subsection shall, in any case where the prosecution was commenced on the information of an officer of a Fish and Game Council, include power to dispose of the property to that Council, without consideration, for the purposes of sale; and the property shall be sold by the Council and the proceeds of the sale shall be paid into its funds and applied for the purposes of the Council.

Compare: 1921-22 No 57 s 43(1)(z)

In subsections (2) and (3) the expression “6 months” was substituted for the expression “12 months” by section 12 of the Wildlife Amendment Act 1959.

In subsections (2) to (4) the word “Director-General” was substituted, as from 1 April 1987, for the word “Secretary” pursuant to section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (2) was amended, as from 25 November 1994, by section 8(a) Wildlife Amendment Act 1994 (1994 No 109) by inserting the words “(or, in the case of any such animal or part of any animal or egg or nest seized by a fish and game ranger, to the Director)”.

Subsection (3) was amended, as from 25 November 1994, by section 8(b) Wildlife Amendment Act 1994 (1994 No 109) by inserting the words “or the Director, as the case may be,”.

Subsection (4) was inserted by section 3 of the Wildlife Amendment Act 1971, and the Public Finance Act 1977, being the corresponding enactment in force at this time, has been substituted for the repealed Public Revenues Act 1953.

Subsection (4) was amended, as from 10 April 1990, by section 85(a) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “a Fish and Game Council” for the words “an acclimatisation society other than a department of State”. It was further amended, as from 10 April 1990, by section 85(b) of that Act by substituting the word “Council” for the word “society” where it secondly, thirdly and fourthly occurs.

Subsection (4) was amended, as from 25 November 1994, by section 8(c) Wildlife Amendment Act 1994 (1994 No 109) by inserting the words “or the Director”.

*Miscellaneous***71 Saving of other Acts**

Except where this Act otherwise provides, nothing in this Act shall derogate from any provision of any of the Acts specified in Schedule 9 to this Act:

Provided that, except with the prior consent of the Minister of Conservation and the Minister charged with the administration of the Act under which the act or authority is performed or exercised, and subject to such conditions as those Ministers may jointly impose, no person shall be entitled to do any act or exercise any authority under any such Act in respect of any wildlife (other than unprotected wildlife) or in respect of any land forming part of a wildlife sanctuary:

Provided also that nothing in any such Act shall derogate from the provisions of paragraph (f) of subsection (1) of section 39 of this Act (which relates to the powers of rangers to enter on any land).

Section 71 was amended by section 3(2)(c) of the Wildlife Amendment Act 1980 by substituting the word “Eighth” for the word “Seventh”.

Section 2(2)(a) and (c) Wildlife Amendment Act 1983 (1983 No 48) formally renumbered Schedule 8 as Schedule 9 and this section was amended accordingly.

The word “Conservation” was substituted for the words “Internal Affairs” pursuant to section 65(1) Conservation Act 1987.

**71A Control of dogs**

- (1) Nothing in this Act derogates from the provisions of Part 5C of the Conservation Act 1987, which provides for the control of dogs and which, subject to section 26ZT(e) of that Act, authorises the declaration as either a controlled dog area or an open dog area of any part or parts of any land managed and administered under this Act by the Minister of Conservation or the Department of Conservation.
- (2) Section 26ZT(e) of the Conservation Act 1987 provides that an open dog area may not include any part of any area declared under section 9 of this Act to be a wildlife sanctuary or declared under section 14 of this Act to be a wildlife refuge or declared under section 14A of this Act to be a wildlife management reserve.

Section 71A was inserted, as from 2 May 1996, by section 8 Conservation Amendment Act (No 2) 1996 (1996 No 14).

## **72 Regulations**

- (1) The Governor-General may from time to time, by Order in Council, make such regulations as he considers necessary or expedient for the protection or control of wildlife or for the due administration of this Act.
- (2) Without limiting the general power to make regulations conferred by subsection (1) of this section, it is hereby declared that regulations may be made under that subsection for all or any of the following purposes:
  - (a) Prescribing the forms and classes of licences to hunt or kill game, and licences to operate as game hunting guides, to be issued under this Act and the fees to be paid therefor, and providing for the issue of those licences and for the disposal of fees for those licences and of fines recovered under this Act:
  - (b) Prescribing the scope and effect of licences to hunt or kill game, and licences to operate as game hunting guides, issued under this Act or of any specified class of licences, and providing for licences issued in respect of any district to be available in any other district or districts or in all districts:
  - (c) Providing for the revocation of licences to hunt or kill game, and licences to operate as game hunting guides, and for the refusal of the issue of licences in certain cases:
  - (d) Providing for the control of wildlife refuges and closed game areas under this Act, for the protection and well-being of any wildlife in wildlife refuges and closed game areas, and, in particular, for the control of access to wildlife refuges and closed game areas and for the prohibition or restriction of the use in wildlife refuges and closed game areas of vehicles or vessels or boats of any description, whether propelled by mechanical power or not, or of aircraft:
  - (e) Providing for the issue and regulating the use of marks of identification to be affixed to any preserved speci-

mens of wildlife or any part thereof taken pursuant to a licence or other authority under this Act and retained for any purpose:

- (f) Regulating, restricting, or imposing conditions on the freezing or canning or otherwise preserving of any game and the keeping in any freezing chamber or cool store or the possession thereof when frozen, canned, or otherwise preserved; and providing for the inspection of any freezing chamber, refrigerating works, canneries, or public or privately owned canning plants, and any premises (not being a dwelling-house) where any game is frozen, canned or otherwise preserved, treated, dressed, or stored:
- (g) Regulating or prohibiting the sale of wildlife (other than game) or the eggs of any such wildlife, and prescribing the purposes for which money arising from any such sale may be used:
- (h) Providing for the licensing of taxidermists, which thereby authorises them to possess absolutely protected wildlife and prescribing books, registers, or forms to be kept, the particulars to be entered therein, and returns to be furnished by licensed taxidermists:
- (i) Providing for the inspection of shops and other premises of bird dealers, and the inspection of any aviaries, pens, runs, cages, or other premises where animals are held or are being transported within New Zealand:
- (j) Appointing any specified ports, aerodromes, or other places in New Zealand to be the only ports, aerodromes, or places of export of animals or of the skins, feathers, eggs, flesh, or any other part of animals:
- (k) Regulating or prohibiting the sale, possession, or use of any toxic, poisonous, or narcotic substance or gas or of birdlime or other similar substance to hunt or kill or to catch alive any wildlife:
- (l) Regulating or prohibiting the purchase and sale of the bones and other parts and the eggs of moa or other species that are generally believed to be extinct:
  - (m)
  - (n)

- (o) Providing for the destruction or control of injurious birds:
  - (p)
  - (q)
  - (r)
  - (s)
- (t) Providing for the registration of homing pigeons; and prescribing fees in respect thereof:
- (u) Regulating or prohibiting without the consent of the Director-General the ringing or banding or other marking of any living wildlife, including provisions authorising the Director-General to grant his consent subject to such conditions as he thinks fit and provisions prohibiting the liberation of wildlife unless it has been ringed or banded or marked, and requiring any person taking or killing any such wildlife to return any rings or bands or other marking device to any specified authority:
  - (v)
- (w) Regulating or controlling or prohibiting the lighting of fires on any land under the control of the Minister or vested in the Crown for the purposes of this Act:
- (wa) Providing for the conduct of meetings of the Board:
- (wb) Providing for the allowances and expenses to which a Board member is entitled in respect of his or her service as a member of the Board:
- (wc) Prescribing the procedure in respect of applications to the Board for grants and prescribing the criteria to be applied by the Board in considering such applications; and authorising the Board to make any grant subject to conditions imposed by the Board:
- (wd) Providing for the collection and disposal of revenue from game bird habitat stamps and associated products:
- (we) Prescribing a fee or a scale of fees payable in respect of game bird habitat stamps and the basis on which such fees are payable; and prescribing the persons or bodies to whom such fees are payable:
- (x) Prescribing fines not exceeding \$2,000 for a breach of any such regulation.

- (2A) Without limiting the power to make regulations under subsections (1) and (2) of this section, the Governor-General may from time to time, by Order in Council, make regulations for the following purposes:
- (a) For preventing the pollution of any waters by casting or throwing into, or discharging or causing to be put or discharged into, or placing on the bank or margin of, or placing in a position where it is likely to fall or descend or be washed or percolate into, any such waters, any sawdust or sawmill refuse, lime (other than agricultural or slaked lime), sheep dip, flaxmill refuse, oil, chlorinated hydrocarbon pesticide, or any other substance poisonous or injurious to wildlife, the habitat of wildlife, or the food of wildlife:
  - (b) Prescribing offences for breaches of any such regulations, and prescribing—
    - (i) A fine not exceeding \$5,000 in respect of any such offence; and
    - (ii) In the case of a continuing offence, a further fine not exceeding \$100 for every day on which the offence has continued.
- (2B) Without limiting the power to make regulations under subsections (1), (2), and (2A) of this section, the Governor-General may from time to time, by Order in Council, make regulations prescribing the scope and effect of licences to farm, breed, or sell, or capture or dispose of or convey or keep in captivity for the purposes of farming, breeding, or selling, any wildlife specified in Schedule 8 to this Act, and any fees to be paid therefor, and providing for the issue of those licences and for the disposal of any fees for those licences.
- (3) Regulations made under this section may apply generally throughout New Zealand or within any specified district or in any specified part or parts thereof.
- (3A) Notwithstanding anything in section 72(1) or (2) of this Act, the Minister may by notice in the *Gazette*,—
- (a) Fix the forms and classes of licences to hunt or kill game:
  - (b) Fix the scope and effect of licences or of any specified class of licences to hunt or kill game:

- (c) Provide for the licences issued in respect of any district for hunting or killing game to be available in any other district or districts or in all districts:
  - (d) Fix the fees payable for any licence to hunt or kill game:
  - (e) Fix the fees payable in respect of game bird habitat stamps, the basis on which such fees are payable, and the persons or bodies to whom such fees are payable.
- (3B) Any notice in the *Gazette* made under subsection (3A) of this section shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

(4)

(5)

Compare: 1908 No 87 s 13; 1921-22 No 57 s 43; 1936 No 58 s 6; 1946 No 40 s 4

Subsection (2)(a) to (c) were amended, as from 13 March 1996, by section 10 Wildlife Amendment Act 1996 (1996 No 2) by inserting the words “, and licences to operate as game hunting guides,”.

Subsection (2)(h) was amended by section 14(1) of 1983 No 48 by inserting after the words “Providing for the licensing of taxidermists” the words “which thereby authorises them to possess absolutely protected wildlife”.

Subsection (2)(m) and (n) were repealed by section 21(1) Animals Protection Act 1960.

Subsection (2)(p) to (s) were repealed, as from 10 April 1990, by section 86(a) Conservation Law Reform Act 1990 (1990 No 31).

Subsection (2)(v) was repealed by section 2(5) of the Wildlife Amendment Act 1956.

Subsection (2)(wa) to (we) were inserted, as from 17 May 1993, by section 5 Wildlife Amendment Act 1993 (1993 No 39).

Subsection (2)(x) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by substituting the expression “\$2,000” for the expression “\$100”.

Subsection (2A) was inserted by section 3(1) of the Wildlife Amendment Act 1972. *See* section 3(2) of that Act.

Subsection (2A)(b)(i) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by substituting the expression “\$5,000” for the expression “\$2,000”.

Subsection (2A)(b)(ii) was amended, as from 15 October 2000, by section 8 Wildlife (Penalties and Related Matters) Amendment Act 2000 (2000 No 43), by substituting the expression “\$100” for the expression “\$20”.

Subsection (2B) was inserted by section 14(2) of 1983 No 48.

Subsections (3A) and (3B) were inserted, as from 2 September 1996, by section 2 Wildlife Amendment Act (No 2) 1996 (1996 No 151). *See* section 3 of that Act as to the validation of fees.

Subsection (4) was repealed, as from 10 April 1990, by section 86(b) Conservation Law Reform Act 1990 (1990 No 31).

Subsection (5) was repealed, as from 19 December 1989, by section 11 Regulations (Disallowance) Act 1989 (1989 No 143).

### **73 Repeals, savings, and consequential amendments**

(1) The enactments specified in Schedule 10 to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done:

Provided that all warrants under section 3 or section 4 of the Animals Protection and Game Act 1921-22 shall be deemed to be revoked as from the commencement of this Act.

(3)

(4) All matters and proceedings that have been commenced under any enactment hereby repealed, and are pending or in progress at the commencement of this Act, may be continued, completed, and enforced as if this Act had not been passed.

(5)

(6)

Subsection (1): pursuant to section 2(2)(b) and (d) of 1983 No 48, Schedule 9 was formally renumbered as Schedule 10, and this subsection amended accordingly.

In subsection (1) the word “Ninth” was previously substituted for the word “Eighth” by section 3(2)(d) of the Wildlife Amendment Act 1980.

Subsection (3) was repealed, as from 10 April 1990, by section 87 Conservation Law Reform Act 1990 (1990 No 31).

Subsections (5) and (6) were repealed by section 107(1) of the Reserves and Domains Act 1953.

**Schedule 1**  
**Wildlife declared to be game**

Section 4

- Black swan (*Cygnus atratus*) (except on Chatham Islands).
- Chukar (*Alectoris chukar*): except on Chatham Islands
- Duck—
  - Australasian shoveler (*Anas rhynchotis*)
  - Grey duck (*Anas superciliosa*) and any cross of that species with any other species, variety, or kind of duck (except on Chatham Islands).
  - Mallard duck (*Anas platyrhynchos*) and any cross of that species with any other species, variety, or kind of duck (except on Chatham Islands).
  - Paradise shelduck (*Tadorna variegata*)
- Partridge—
  - Grey partridge (*Perdix perdix*): except on Chatham Islands
  - Red-legged partridge (*Alectoris rufa rufa*): except on Chatham Islands
- Pheasant—
  - any bird, not being a domestic bird, of the genus *Phasianus* and any cross of any such bird with any other species, variety, or kind of pheasant: except on Chatham Islands
- Pukeko (*Porphyrio melanotus*) (except on Chatham Islands).
- Quail—
  - Bobwhite quail (*Colinus virginianus*): except on Chatham Islands
  - Brown quail (*Coturnix ypsilophora*): except on Chatham Islands
  - California quail (*Callipepla californica*): except on Chatham Islands

Schedule 1: amended, on 9 June 2011, by clause 3 of the Wildlife (Canada Goose) Order 2011 (SR 2011/128).

Schedule 1: amended, on 8 July 2010, by clause 3 of the Wildlife Order 2010 (SR 2010/159).

SCHEDULE 1: R 3 of Regulations 1986/7. This Schedule has been amended by adding a new item relating to red-legged partridge (*Alectoris rufa rufa*).

Canada goose: the words “in that portion of the North Canterbury Acclimatisation District that lies to the eastward of the South Island Main Trunk Railway line” have been omitted pursuant to regulation 2 of SR 1973/2, which deleted this bird from Schedule 3 below, and included it in this Schedule for all parts of New Zealand except as formerly specified here, to the intent that the bird be game throughout New Zealand.

Guinea fowl (*Numida*): An entry for this bird was omitted from this Schedule by regulation 3 of SR 1970/208 and included in Schedule 5. *See* regulation 2 of these regulations

Partridge (*Perdix perdix*): This bird was included in this Schedule by regulation 2 of SR 1960/191 *See* regulation 3 of SR 1960/191

Pheasant: The words in square brackets were inserted by section 3(b) of the Poultry Amendment Act 1975

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## Schedule 2

### Partially protected wildlife

Section 5

- Brown skua (*Catharacta antarctica lonnbergi*): on Chatham Islands only
- Little owl (*Athene noctua*).
- Silvereye (*Zosterops lateralis*)

Schedule 2: amended, on 8 July 2010, by clause 3 of the Wildlife Order 2010 (SR 2010/159).

Schedule 2—

Insert:

Black shag (*Phalacrocorax carbo*): R 4 of 1986/7.

Harrier hawk (*Circus approximans*): R 4 of Regulations 1986/7.

Omit:

Kea (*Nestor notabilis*): R 2 of 1986/330.

Black-backed gull (*Larus dominianus*): This bird was omitted from this schedule and included in Schedule 5 by regulation 5 of SR 1970/124. *See* regulation 2 of SR 1970/124.

Hawk—

Bush hawk (*Falco novae-seelandia*): This bird was omitted from this Schedule by regulation 3 of SR 1970/124. *See* regulation 2 of SR 1970/124.

Kea (*Nestor notabilis*), little owl (*Athene notua*): These birds were omitted from Schedule 5 and inserted in this Schedule by regulation 4 of SR 1970/124. *See* regulation 2 of SR 1970/124.

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**Schedule 3**

Section 6

**Wildlife that may be hunted or killed  
subject to Minister's notification**

- Australasian harrier (harrier hawk) (*Circus approximans*)
- Black swan (*Cygnus atratus*) (on Chatham Islands only).
- Chukar (*Alectoris chukar*): on Chatham Islands only
- Duck—
  - Grey duck (*Anas superciliosa*) and any cross of that species with any other species, variety, or kind of duck (on Chatham Islands only).
  - Grey teal (*Anas gracilis*)
  - Mallard duck (*Anas platyrhynchos*) and any cross of that species with any other species, variety, or kind of duck (on Chatham Islands only).
- Grey-faced petrel (northern mutton bird) (*Pterodroma macroptera*)
- Mute swan (*Cygnus olor*)
- Partridge—
  - Grey partridge (*Perdix perdix*): on Chatham Islands only
  - Red-legged partridge (*Alectoris rufa rufa*): on Chatham Islands only
- Pheasant—
  - any bird, not being a domestic bird, of the genus *Phasianus* and any cross of any such bird with any other species, variety, or kind of pheasant: on Chatham Islands only
- Pukeko (*Porphyrio melanotus*) (on Chatham Islands only).
- Quail—
  - Bobwhite quail (*Colinus virginianus*): on Chatham Islands only
  - Brown quail (*Coturnix ypsilophora*): on Chatham Islands only
  - California quail (*Callipepla californica*): on Chatham Islands only
- Shag—

Black shag (*Phalacrocorax carbo novaehollandiae*)  
 Little shag (*Phalacrocorax melanoleucos brevirostris*)  
 Pied shag (*Phalacrocorax varius varius*)

- Sooty shearwater (mutton bird) (*Puffinus griseus*)
- Weka—
  - South Island weka (*Gallirallus*) (on Chatham Islands only).
  - Stewart Island weka (*Gallirallus*) (on islets off Stewart Island and in Foveaux Strait only).

Schedule 3: amended, on 8 July 2010, by clause 3 of the Wildlife Order 2010 (SR 2010/159).

Canada goose (*Branta canadensis*): This bird was included in this Schedule for all areas in New Zealand, except that originally described in Schedule 1, by regulations 2 and 3 of SR 1959/43, and omitted from this Schedule and transferred to Schedule 1 by regulation 2 of SR 1973/2.

Peafowl (*Pavo cristatus*): This bird was omitted from Schedule 5 and included in this Schedule by regulation 2 of SR 1960/199. *See* regulation 3 of SR 1960/199.

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## Schedule 4

Section 7(1)

### Wildlife not protected, except in areas and during periods specified in Minister's notification

*[Repealed]*

This schedule was substituted for the original Schedule 4 by section 2(2)(a) of the Wildlife Amendment Act 1956.

The sole entry as for Canada goose (*Branta canadensis*) except in the area originally described in Schedule 1. The bird was omitted from this Schedule and included in Schedule 1 by regulations 2 and 3 of SR 1959/43. *See* the notes to Schedule 1 SCHEDULE 4 REFER: (as from 17/9/81) R 2(2) of Regulations 1981/239. An item relating to Horse (*Equus*) was inserted.

The item relating to Horse (*Equus*) was omitted, as from 10 May 1996, by clause 2(1) Wildlife Order 1996 (SR 1996/95).

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## Schedule 5

Section 7(3)

### Wildlife not protected

- Mammals—

- Cat (*Felis*).
- Cattle (*Bos*).
- Dog (*Canis*).
- Ferret (family Mustelidae).
- Hedgehog (*Erinaceus europaeus*).
- Horse (*Equus*).
- Mouse (family Muridae).
- Polecat (family Mustelidae).
- Rat (family Muridae).
- Sheep (*Ovis*).
- Stoat (family Mustelidae).
- Weasel (family Mustelidae).
- Birds—
  - Blackbird (*Turdus merula*).
  - Bulbul: Red-vented bulbul (*Pycononotus cafer*).
  - Bunting—
    - Cirl bunting (*Emberiza cirrus*).
  - Cape Barren goose (*Cereopsis novaehollandiae*).
  - Chicken (junglefowl)—
    - any bird of the genus *Gallus*
  - Dove—
    - all species of the genus *Streptopelia*
  - Finch—
    - Chaffinch (*Fringilla coelebs*).
    - Goldfinch (*Carduelis carduelis*).
    - Greenfinch (*Carduelis chloris*)
    - Lesser redpoll (*Carduelis cabaret*)
  - Goose—
    - any bird of the genus *Anser*
    - Canada goose (*Branta canadensis*)
  - Guineafowl (*Numida meleagris*)
  - Gull—
    - Black-backed gull (*Larus dominicanus*).
  - Hawk—

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- Kookaburra—
  - any bird of the genus *Dacelo*
- Magpie (Australian)—
  - Black backed magpie (*Gymnorhina tibicen*).
  - White backed magpie (*Gymnorhina leuconota*).
- Muscovy duck (*Cairina moschata*)
- Mynah (*Acridotheres tristis*).
- Parrot—
  - Budgerigar (*Melopsittacus undulatus*).
  - Crimson rosella (*Platycercus elegans*)
  - Eastern rosella (*Platycercus eximius*)
  - Galah (*Eolophus roseicapilla*)
  - Rainbow lorikeet (*Trichoglossus haematodus*)
  - Ring-necked parakeet (*Psittacula krameri*)
  - White (or sulphur-crested) cockatoo (*Cacatua galerita*)
- Peafowl (*Pavo cristatus*)
- Pigeon—
  - Rock pigeon (*Columba livia*).
- Rook (*Corvus frugilegus*).
- Skylark (*Alauda arvensis*).
- Song thrush (*Turdus philomelos*)
- Sparrow—
  - Hedge sparrow (*Prunella modularis*).
  - House sparrow (*Passer domesticus*).
- Spur-winged plover (*Vanellus miles*)
- Starling (*Sturnus vulgaris*).
- Turkey—
  - any bird of the genus *Meleagris*
- Yellowhammer (*Emberiza citrinella*)
- Amphibians—
  - Green and golden bell frog (*Litoria aurea*)
  - Southern bell frog (*Litoria raniformis*)

- Whistling frog (*Litoria ewingii*)
- Reptiles—
  - Lizards—
    - Rainbow skink (*Lampropholis delicata*)
  - Red-eared slider turtle (*Trachemys scripta elegans*)

Schedule 5: amended, on 9 June 2011, by clause 4 of the Wildlife (Canada Goose) Order 2011 (SR 2011/128).

Schedule 5: amended, on 8 July 2010, by clause 3 of the Wildlife Order 2010 (SR 2010/159).

Schedule 2—

Add (in item relating to Birds):

Feral goose (Anser): R 3 of Regulations 1986/7.

Omit (from item relating to Mammals):

Horse (Equus): (as from 17/9/81) R 2(1) of Regulations 1981/239.

Insert (from item relating to Mammals):

Horse (Equus): (as from 10 May 1996) by clause 2(2) Wildlife Order 1996 (SR 1996/95).

Omit (from item relating to Birds) and transfer to Schedule 2:

Harrier hawk (*Circus approximans*): R 4 of Regulations 1986/7.

Black shag (*Phalacrocorax carbo*): R 4 of Regulations 1986/7.

Bulbul: Red-vented bulbul (*Pycononotus cafer*): This bird was inserted by Order in Council dated 15 March 1955 (*Gazette*, 1955, Vol I, p 431)

Cape Barren goose (*Cereopsis novaehollandiae*): This bird was included in this Schedule by regulation 3 of SR 1973/210

Guinea Fowl (*Numida*): This bird was omitted from Schedule 1 and included in this Schedule by regulation 3 of SR 1970/208

Gull—

Black-backed gull (*Larus dominicanus*): This bird was omitted from Schedule 2 and included in this Schedule by regulation 5 of SR 1970/124.

Kea (*Nestor notabilis*), Little owl (*Athene noctua*): These birds were omitted from this Schedule and included in Schedule 2 by regulation 4 of SR 1970/124.

Peafowl (*Pavo cristatus*): This bird was omitted from this Schedule and included in Schedule 3 by regulation 2 of SR. 1960/199

“Rainbow lorikeet (*Trichoglossus haematodus*)”: this item was inserted, as from 1 October 2001, by clause 3 Wildlife (Rainbow Lorikeet) Order 2001 (SR 2001/213).

Reptiles: The items in square brackets were substituted for items relating to Skink and Gecko by regulation 2 of SR. 1981/48.

This Schedule was further amended, as from 17 October 1996, by clause 2(1) Wildlife Order (No 2) 1996 (SR 1996/258) by omitting items relating to “Skinks” and “Geckos”.

**Schedule 6**

Section 7A

**Animals declared to be noxious animals  
subject to the Noxious Animals Act 1956**

This Schedule was inserted by section 2(2)(b) of the Wildlife Amendment Act 1956.

- Mammals—
  - Deer—
    - Axis deer (*Axis axis*).
    - Chamois (*Rupicapra rupicapra*).
    - Fallow deer (*Dama dama*).
    - Japanese deer (*Sika nippon*).
    - Javan rusa deer (*Cervus timoriensis*).
    - Moose (*Alces americana*).
    - Red deer (*Cervus elaphus*).
    - Sambar deer (*Cervus unicolor*).
    - Virginian deer (*Odocoileus virginianus*).
    - Wapiti (*Cervus canadensis*).
    - Any other member of the family Cervidae.
  - Goat (*Capra*).
  - Himalayan tahr (*Hemitragus jemlahicus*)
  - Pig (*Sus*).
  - Possum (family Phalangeridae)
  - Wallaby (family Macropodidae).

Schedule 6: amended, on 8 July 2010, by clause 3 of the Wildlife Order 2010 (SR 2010/159).

The Noxious Animals Act 1956 was repealed and replaced by the Wild Animal Control Act 1977 which does not contain any reference to noxious animals. *See* however, the definition of wild animal in section 2 of that Act.

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**Schedule 7**

Sections 2, 7B

**Terrestrial and freshwater invertebrates  
declared to be animals****ARTHROPODA**

- INSECTA (INSECTS)

- Orthoptera:
  - Acrididae (grasshoppers)—
    - Brachaspis robustus* Bigelow 1967 (robust grasshopper)
    - Sigauss childi* Jamieson 1999
  - Anostomatidae (giant, ground, tree, and tusked weta)—
    - Deinacrida* (giant weta)—
      - all species
      - Hemideina ricta* (Hutton 1897) (Banks Peninsula tree weta)
      - Motuweta isolata* Johns 1997 (Mercury Islands tusked weta)
- Coleoptera:
  - Carabidae (ground or carab beetles)—
    - Mecodema laeviceps* Broun 1904 (Ida Valley carabid beetle)
    - Megadromus speciosus* Johns 2007 (Eastern Sounds ground beetle)
  - Cerambycidae (longhorn beetles)—
    - Xylotoles costatus* Pascoe 1875 (Pitt Island longhorn beetle)
  - Curculionidae (weevils)—
    - Anagotus fairburni* Brookes 1932 (flax weevil)
    - Anagotus stephenensis* Kuschel 1982 (Stephens Island weevil)
    - Anagotus turbotti* (Spiller 1942) (Turbott's weevil)
    - Hadramphus spinipennis* Broun 1911 (coxella weevil)
    - Hadramphus stilbocarpae* Kuschel 1971 (knobbed weevil)
    - Hadramphus tuberculatus* (Pascoe 1877) (Canterbury knobbed weevil)

- Heterexis seticostatus* Brookes 1951  
(Campbell Island ribbed weevil)
    - Lyperobius huttoni* Pascoe 1876 (spear-grass weevil)
    - Lyperobius nesidiotes* Kuschel 1987  
(Broughton Island weevil)
    - Megacolabus sculpturatus* Broun 1893  
(Akaroa weevil)
    - Nothaldonis peacei* Broun 1880 (Peace's weevil)
    - Oclandius laeviusculus* Broun 1902
  - Elateridae (click beetles)—
    - Amychus candezei* Pascoe 1876 (Chatham Islands click beetle)
    - Amychus granulatus* Broun 1886 (Cook Strait click beetle)
  - Lucanidae (stag beetles)—
    - Geodorcus*—  
all species
  - Scarabaeidae (scarab beetles)—
    - Prodontria bicolorata* Given 1964  
(Alexandra chafer beetle)
    - Prodontria lewisii* Broun 1904 (Cromwell chafer beetle)
- ARACHNIDA
  - Araneae (spiders)—
    - Gradungulidae—
      - Spelungula cavernicola* Forster 1987  
(Nelson cave spider)
    - Theridiidae—
      - Latrodectus atritus* Urquhart 1890 (black katipo spider)
      - Latrodectus katipo* Powell 1871 (red katipo spider)
- MOLLUSCA
  - Gastropoda (snails)—

*Cytora hirsutissima* (Powell 1951)

*Cytora tepakiensis* Gardner 1967

*Paryphanta* (kauri snails)—

all species

*Placostylus* (flax snails)—

all native New Zealand species

*Powelliphanta* (large land snails)—

all species

*Rhytidarex buddlei* (Powell 1948)

Schedule 7: amended, on 8 July 2010, by clause 3 of the Wildlife Order 2010 (SR 2010/159).

Schedule 7 MOLLUSCA REFER: R 6 of Regulations 1986/7. This part of this Schedule has been amended by adding a new item *Paryphanta busbyi busbyi* (commonly known as the Kauri snail).

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## Schedule 7A

### Marine species declared to be animals

Schedule 7A was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

## CNIDARIA

Anthozoa (corals and sea anemones)—

Black corals—

all species in the order Antipatharia

Gorgonian corals—

all species in the order Gorgonacea

Stony corals—

all species in the order Scleractinia

Hydrozoa (hydra-like animals)—

Hydrocorals—

all species in the family Stylasteridae

**CHORDATA**

Chondrichthyes (cartilaginous fishes)—

Lamniformes (mackerel sharks)—

Basking shark (*Cetorhinus maximus*)Deepwater nurse shark (*Odontaspis ferox*)White pointer shark (*Carcharodon carcharias*)

Orectolobiformes (carpet sharks)—

Whale shark (*Rhincodon typus*)

Rajiformes (skates and rays)—

Manta ray (*Manta birostris*)Spinetail devil ray (spinetail mobula) (*Mobula japanica*)

Osteichthyes (bony fishes)—

Perciformes (perch-like fishes)—

Giant grouper (Queensland grouper) (*Epinephelus lanceolatus*)Spotted black grouper (*Epinephelus daemeli*)

Schedule 7A: amended, on 16 December 2010, by clause 3 of the Wildlife (Basking Shark) Order 2010 (SR 2010/411).

Schedule 7A: amended, on 8 July 2010, by clause 3 of the Wildlife Order 2010 (SR 2010/159).

**Schedule 8**

Sections 7C, 41(2), 72(2B)

**Wildlife not protected but may be kept,  
bred, or farmed in captivity pursuant to  
regulations made under principal Act or  
by Minister's direction**

New Schedule 8 was inserted by section 2(3) of 1983 No 48.

- Ferret (family Mustelidae)
- Polecat (family Mustelidae)
- Stoat (family Mustelidae)
- Weasel (family Mustelidae)

SCHEDULES 8 AND 9 REFER: section 2(2)(a) and (b) of 1983 No 48. These Schedules formally renumbered as Schedules 9 and 10 respectively.

**Schedule 9**

Section 71

**Acts not affected by this Act**

- The Tramways Act 1908. (1957 Reprint, Vol 15, p 855.)
- The Fisheries Act 1908. (Reprinted 1976, Vol 5, p 3705.)
- The Government Roding Powers Act 1989. (1989 No 75)
- The Coal Mines Act 1979. (1979, No 21.)
- The Mining Act 1971. (1971, No 25.)
- The Peel Forest Act 1926. (1926, No 31.)
- The Public Works Act 1928. (Reprinted 1975, Vol 3, p 2283.)
- The Rabbits Act 1955. (1955, No 28.)
- The Reserves Act 1977. (1977, No 66.)
- The Waitangi National Trust Board Act 1932. (1932, No 28.)
- The Waitangi Endowment Act 1932-33. (1932-33, No 44.)
- The Petroleum Act 1937. (Reprinted 1976, Vol 5, p 4249)
- The Soil Conservation and Rivers Control Act 1941. (Reprinted 1969, Vol 4, p 3063.)
- The Forest and Rural Fires Act 1977. (1977, No 52.)
- The Government Railways Act 1949. (Reprinted 1973, Vol 2, p 1403.)
- The National Parks Act 1980. (1980, No 66.)

Schedule 9 Government Roding Powers Act 1989: inserted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Schedule 9 Transit New Zealand Act 1989: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

This Schedule has been amended by omitting the items relating to the “Land Act 1948” and “Forests Act 1949”.

Refer:(as from 1/10/89) section 116(4) of 1989 No 75 (Transit New Zealand Act 1989). This Schedule has been amended by omitting the words “The National Roads Act 1953” and substituting the words “The Transit New Zealand Act 1989”.

In the heading the word “Eighth” was substituted for the word “Seventh” by section 3(2)(a) of the Wildlife Amendment Act 1980.

A reference to the Scenery Preservation Act 1908 was repealed by section 107(1) of the Reserves and Domains Act 1953, which repealed the 1908 Act.

The corresponding enactments in force at the date of this reprint have been substituted for repealed enactments as follows:

The Coal Mines Act 1979 for the repealed Coal Mines Act 1925.

The Mining Act 1971 for the repealed Mining Act 1926.

The National Parks Act 1980 for the repealed National Parks Act 1952.

The National Roads Act 1953 for the repealed Main Highways Act 1922.

The Rabbits Act 1955 for the repealed Rabbit Nuisance Act 1928.

The Reserves Act 1977 for the repealed Public Reserves and Domains Act 1928.

The Forest and Rural Fires Act 1977 for the repealed Forest and Rural Fires Act 1947.

The Rabbits Act 1955, which repealed and replaced the Rabbit Nuisance Act 1928, was repealed and replaced by the Agricultural Pests Destruction Act 1967, which is wider in scope than the former Act.

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## **Schedule 10**

### **Enactments repealed**

Section 73

- 1908, No 87—The Injurious Birds Act 1908. (1931 Reprint, Vol I, p 234.)
- 1921-22, No 57—The Animals Protection and Game Act 1921-22. (1931 Reprint, Vol I, p 183.)
- 1923, No 35—The Reserves and Other Lands Disposal and Public Bodies Empowering Act 1923: Section 47.
- 1936, No 58—The Statutes Amendment Act 1936: Section 6.
- 1945, No 40—The Statutes Amendment Act 1945: Section 81.
- 1946, No 40—The Statutes Amendment Act 1946: Sections 3, 4, and 5.
- 1951, No 69—The Local Legislation Act 1951: Section 37.

In the heading the word “Ninth” was substituted for the word “Eighth” by section 3(2)(b) of the Wildlife Amendment Act 1980.

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## **Notes**

### **1 General**

This is an eprint of the Wildlife Act 1953. The eprint incorporates all the amendments to the Act as at 9 June 2011. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 18 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

### **2 About this eprint**

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

### **3 List of amendments incorporated in this eprint (most recent first)**

Wildlife (Canada Goose) Order 2011 (SR 2011/128): clauses 3, 4

Wildlife (Basking Shark) Order 2010 (SR 2010/411): clause 3

Wildlife Order 2010 (SR 2010/159): clause 3

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

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