

CONSERVATION AMENDMENT BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill effects miscellaneous amendments to the Conservation Act 1987 and several other conservation enactments.

Clause 1 relates to the Short Title.

PART I

AMENDMENTS TO PRINCIPAL ACT

Clause 2 amends section 2 of the principal Act by inserting several new definitions. The significant change is that the terms "lease", "licence", and "permit" are defined.

The important distinction between a lease and a licence is that a lease is the grant of an interest in land giving the lessee exclusive possession of the land while a licence is non-exclusive and does not necessarily involve the grant of an interest in land. A licence may simply be the grant of permission to undertake an activity on the land.

A permit is the grant of rights to undertake an activity on the land and accordingly has the same effect as a licence that does not grant an interest in land.

Clause 3 amends section 7 of the principal Act to enable the Minister of Conservation to declare certain land or foreshore to be held for conservation purposes without the need to obtain the consent of the Minister responsible for the department or agency having control of the land or foreshore. The provision applies to land or foreshore that was State forest land or Crown land before the commencement of the principal Act and is now held under section 61 or section 62 of that Act.

Clause 4 repeals section 14 of the principal Act, and substitutes new sections 14 to 14G. The new sections relate to leases, licences, and permits having effect over a conservation area.

Section 14 specifies the purposes for which leases, licences, and permits may be granted and the term of such grants.

The lawful purposes are—

- (a) Carrying on of a trade, business, or vocation:
- (b) Occupying site for other purposes.

Leases and licences (including any renewals) can in general be granted for a term not exceeding 30 years. In exceptional cases, a term not exceeding 60 years may be granted.

Permits may be granted for terms not exceeding 5 years but are not renewable.

Section 14A specifies the relationship between leases and licences on the one hand and conservation management strategies and conservation management plans on the other.

The general rule is that a lease or licence cannot be granted unless a strategy or plan exists for the area concerned and the grant is consistent with the strategy or plan.

However, if there is no strategy or plan, a lease or licence may be granted for a term not exceeding 5 years (or, in exceptional circumstances, 10 years).

Section 14B provides for rents, fees, and royalties to be paid to the Minister.

Section 14c enables the Minister to require a lessee, licensee, or permit holder to furnish audited financial accounts.

Section 14D specifies the public notice requirements. In the case of lease or licence granted for the first time, public notice must be given in accordance with section 49 of the Act. In the case of permit, the notice is not mandatory.

Section 14E provides that the provisions of the Crown Minerals Act 1991 relating to access to conservation areas prevail over the new provisions contained in *sections 14 to 14G*.

Section 14F empowers the Minister to impose conditions on the grant of leases, licences, and permits and to take any necessary enforcement proceedings.

Section 14G prohibits an aircraft landing or taking off from a site within a conservation area that is not a certified aerodrome, except where prior written approval has been obtained from the Minister or where the action is necessary to save or protect life or health.

The provisions contained in new *sections 14 to 14G* do not affect the rights of persons under leases, licences, permits, and authorities granted before the commencement of the Bill.

Clause 5 amends section 15 of the principal Act to provide for compensation to be payable where an easement is granted over conservation land. The persons entitled to claim compensation are—

- (a) Any lessee or licensee, if the value of the lease or licence is reduced;
- (b) The Minister, if the value of the land is reduced.

Compensation is determined in accordance with the Public Works Act 1981.

The clause also empowers the Minister to charge a rent, royalty, or fee as a condition of the grant of an easement for trade, business, or vocation purposes.

Clause 6 amends section 16 of the principal Act to provide that section 42 of the Public Works Act 1981 does not apply where a conservation area is disposed of under section 16. Section 42 would require the land to be offered for sale to an adjacent owner or by public auction, public tender, private treaty, or public application.

Clause 7 amends section 16A of the principal Act to provide that section 40 of the Public Works Act 1981 does not apply where a stewardship area is exchanged under section 16A. Section 40 would require the land to be offered back to the previous owner or successor of the previous owner.

Clause 8 repeals and replaces section 17 of the principal Act, which relates to access to and use of conservation areas.

The principal change is to remove from the list of purposes for which access and use will be permitted—

- (a) Ski-lifts, ski-tows, and similar apparatus; and

(b) Works, buildings, and apparatus designed to facilitate tourist traffic or the enjoyment of skiing or other sports; and

(c) Business, trade, and occupations.

Those purposes are now covered by new *section 14*.

Clause 9 corrects a drafting error in section 17E of the principal Act.

Clause 10 removes an unnecessary word from section 17i (4) of the principal Act.

Clause 11 effects a consequential amendment to section 20 of the principal Act.

Clause 12 amends section 24A of the principal Act to empower the Minister to reduce the width of a marginal strip extending along the bed of a river or stream. The same power presently exists in relation to marginal strips along the landward margins of lakes and the sea.

Clause 13 amends section 24B of the principal Act to empower the Minister to exempt from the marginal strip provisions any reserve vested under section 26 of the Reserves Act 1977.

Clause 14 inserts into the principal Act new *section 24HA* to empower the Minister to grant leases, licences, and permits over marginal strips. Before doing so, the Minister must give public notice of the proposal and be satisfied that the grant is not inconsistent with the purposes for which marginal strips are held.

Clause 15 amends section 24i of the principal Act to exempt from the requirement to give public notice any intention to grant an easement over a marginal strip where the grant formalises a right existing before 10 April 1990 (the date of commencement of the section).

Clause 16 amends section 26c of the principal Act to provide for the New Zealand Fish and Game Council to have functions in relation to Regional Anglers Notices and commercial game hunting and fishing guide licences.

Clause 17 amends section 26F of the principal Act to empower the New Zealand Fish and Game Council to reduce or waive fees payable for fish or game licences.

Clause 18 amends section 26Q of the principal Act to give Fish and Game Councils functions in relation to commercial game hunting and fishing guide licences.

Clause 19 amends section 26R of the principal Act to—

(a) Change the name of District Anglers Notices to Regional Anglers Notices; and

(b) Provide for the notices to be gazetted by Fish and Game Councils once they have been approved by the Minister.

Clause 20 corrects a drafting error in section 26U of the principal Act.

Clause 21 amends section 26V of the principal Act to change the eligibility for voting at elections of members of Fish and Game Councils. Presently, a New Zealand resident is eligible if he or she holds an adult whole season licence to hunt game or fish for sports fish in the region concerned in the season preceding the season in which the election is to be held. The new qualification is that a resident must hold a licence entitling him or her to hunt game or fish for sports fish in the region concerned on the date of the election or in the period of 3 months before the election.

Clause 22 corrects a drafting error in section 26ZA of the principal Act.

Clause 23 amends section 26ZF of the principal Act to make it unlawful for members of Fish and Game Councils to be granted free licences.

Clause 24 amends section 26zG of the principal Act to make Part VB apply to the use of gaffs and exclude from the Part fish taken pursuant to the Marine Farming Act 1971.

Clause 25 inserts into the principal Act new sections 26zJA and 26zJB.

Section 26zJA requires commercial sports fishing guides to be licensed. Failure to do so renders an offender liable to a fine not exceeding \$5,000.

Section 26zJB prohibits the use of a gaff to take freshwater fish except where a Regional Anglers Notice permits its use. An offender is liable to a fine not exceeding \$5,000.

Clause 26 amends section 26zL of the principal Act to replace a reference to catchment authorities with a reference to regional councils.

Clause 27 amends section 26zM of the principal Act to exempt from the requirements of the section the transfer of live aquatic life to an existing fish farm where the species is already present.

The section is also amended to make it clear that it applies to all persons and all freshwater. Accordingly, the section is not limited by anything in section 26zC (which relates to the application of Part VB).

Clause 28 amends section 26zN of the principal Act to make it lawful to charge for commercial sports fishing guide services.

Clause 29 effects a consequential amendment to section 26zo of the principal Act.

Clause 30 amends section 26zQ of the principal Act to change the nature of the offence of buying, selling, or possessing for sale any sports fish taken in New Zealand. The offence presently applies only where fish are taken unlawfully. The clause removes that qualification and accordingly, under the new provisions, it will not matter whether fish are taken lawfully or otherwise.

Clause 31 corrects a drafting error in section 26zR of the principal Act.

Clause 32 amends section 27 of the principal Act to ensure that a conservation covenant is not registered until it is correctly described and defined in accordance with regulations and with standards agreed to by the Surveyor-General or the Chief Surveyor.

Clause 33 amends section 27A of the principal Act, which relates to Nga Whenua Rahui kawenata, in the same manner as the amendment made by *clause 32*.

Clause 34 amends section 39 of the principal Act to—

- (a) Create a new offence in relation to aircraft (new *section 14C*);
- (b) Substitute the word “contaminant” for the word “substance” (for consistency with the Resource Management Act 1991).

Clause 35 corrects a drafting error in section 46 of the principal Act.

Clause 36 corrects an incorrect cross reference in section 48 (2) of the principal Act.

Clause 37 effects consequential amendments to section 48A of the principal Act.

Clause 38 amends section 53 of the principal Act to empower the Director-General to reduce or waive fees for game licences and fish licences.

Clause 40 amends section 60D of the principal Act to apply the provisions of the section to the grant of approvals and the like under the principal Act. The section enables the Director-General to withhold the grant of an approval until the required charges have been paid.

Clause 41 amends section 63 of the principal Act to empower the Minister to declare certain lands subject to the West Coast Accord to be held as ecological areas.

Clause 42 amends section 64 of the principal Act to correct a cross reference.

PART II

AMENDMENTS TO OTHER ENACTMENTS

Wildlife

Clauses 43 to 50 amend the Wildlife Act 1953 and are largely consequential on changes contained in Part I of the Bill.

The substantive changes are—

- (a) *Clause 45*, which empowers the New Zealand Fish and Game Council to gazette the notification of open seasons for game once they have been approved by the Minister:
- (b) *Clause 50*, which provides for the assets of the Councils of the North and South Island Acclimatisation Societies and the National Executive of Acclimatisation Societies to be transferred to the New Zealand Fish and Game Council or a Fish and Game Council.

Reserves

Clauses 52 to 70 amend the Reserves Act 1977 and are largely consequential on the changes contained in Part I of the Bill.

The substantive changes are—

- (a) *Clause 59*, which provides for the introduction of biological control organisms to control pest or weeds in a reserve:
- (b) *Clause 63*, which provides for the grant of permits to enable persons to carry on a trade, business, or vocation in a reserve (new *section 59A*).

Marine Mammals Protection

Clauses 73 to 75 amend the Marine Mammals Protection Act 1978.

Clause 73 amends section 3D of the principal Act to provide that sections 17H and 17I of the Conservation Act 1987 apply to conservation management plans under the principal Act. Those sections relate to the review and amendment of plans.

Clause 74 amends section 4 of the principal Act to—

- (a) Make it unlawful for any person to hold a marine mammal in captivity without a permit under the Act; and
- (b) Empower the Minister to prescribe criteria and standards for the purposes of such permits.

Clause 75 amends section 5 of the principal Act to remove the requirement for an application to be publicly notified in the case of a permit to remove whalebone from dead whales.

National Parks

Clauses 77 to 85 amend the National Parks Act 1980 and are largely consequential on the changes contained in Part I of the Bill.

The substantive changes are—

- (a) *Clause 78*, which provides for the control of biological control organisms in a national park:
- (b) *Clause 80*, which substitutes a new section 14 and empowers the Minister to allow any species of indigenous animal to be liberated in a wilderness area in certain circumstances:
- (c) *Clause 83*, which applies the provisions of sections 14 to 14E of the Conservation Act 1987 to the granting of leases, licences, and permits under the principal Act.

Foreshore and Seabed Endowment Revesting

Clause 88 amends the Foreshore and Seabed Endowment Revesting Act 1991.

Clause 88 relates to reclamation authorities in force immediately before the principal Act came into force on 3 October 1991. Those authorities were continued by section 7(1) of the principal Act but had to be confirmed by 3 October 1992, otherwise they would cease to have effect.

The clause provides that section 7(1) is to be read as if it applies to any foreshore or seabed and deems the last date for confirmation to be a year before this Bill comes into force.

Wild Animal Control

Clauses 90 to 95 amend the Wild Animal Control Act 1977 in relation to deer farms and safari parks.

The principal changes are contained in *clause 92*, which replaces section 12A of the principal Act with new sections 12A to 12C.

Section 12A enables the Minister, by notice in the *Gazette*, to regulate deer farming. The section also specifies matters to which the Minister must have regard when taking any such action.

A person will not require a permit to farm deer under this section but will have to comply with terms prescribed by the Minister. The Minister in turn will be subject to regulations made under section 40(1)(e) of the principal Act.

Section 12B makes safari parks subject to permit requirements and applies existing and new provisions to such operations.

Section 12C provides for the Department of Conservation and Ministry of Agriculture and Fisheries to inspect regulated deer farms and safari parks, and to recover associated costs.

New Zealand Walkways

Clause 97 is a savings provision relating to walkways.

Clause 97 confirms the effect of certain agreements and declarations that were made under the New Zealand Walkways Act 1975. The agreements and declarations concerned were not expressly saved by the New Zealand Walkways Act 1990, which repealed the earlier Act. While the agreements and declarations are probably saved by section 20(d) of the Acts Interpretation Act 1924, the clause removes any doubts as to their effect.

Subclause (1) saves—

- (a) Agreements that were entered into for the purposes of establishing walkways over private land under section 22 of the New Zealand Walkways Act 1975 and in effect on its repeal; and
- (b) Declarations establishing walkways under the New Zealand Walkways Act 1975; and
- (c) Declarations establishing walkways over private land under section 8 of the New Zealand Walkways Act 1990 that have been made pursuant to agreements entered into under the New Zealand Walkways Act 1975.

Subclause (2) provides that no person shall be convicted of any offence committed on, adjacent to, or in respect of any of the walkways affected by *subclause (1)*, if the offence occurred before the clause comes into force.

CONSERVATION AMENDMENT (NO. 2)

ANALYSIS

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1. Short Title

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A BILL INTITULED

An Act to amend the Conservation Act 1987 and certain other enactments

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Conservation Amendment Act (No. 2) 1993, and shall be read together with

and deemed part of the Conservation Act 1987* (hereinafter referred to as the principal Act).

*1987, No. 65

Amendments: 1988, No. 131; 1988, No. 237; 1990, No. 31, ss. 2-47; 1990, No. 106; 1993, No. 9

PART I

AMENDMENTS TO PRINCIPAL ACT

5 **2. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “District Anglers Notice” (as inserted by section 3 (1) of the Conservation Law Reform Act 1990), and substituting, in its appropriate alphabetical order, the following definition:

10 “‘Regional Anglers Notice’ means a notice published in the *Gazette* by a Fish and Game Council under section 26R of this Act:”.

(2) Section 2 (1) of the principal Act is hereby amended by repealing the definitions of the terms “lease”, “lessee”,
15 “licence”, and “licensee”, and substituting, respectively, the following definitions:

“‘Lease’—

“‘(a) Means a grant of an interest in land that gives exclusive possession of the land; and

20 “‘(b) Includes any lease granted under any former Act;—

and ‘lessee’ has a corresponding meaning:

“‘Licence’—

25 “‘(a) Means a grant of a non-exclusive interest in land or a grant of permission to undertake an activity that does not require an interest in land; and

“‘(b) Includes any licence granted under any former Act;—

and ‘licensee’ has a corresponding meaning:”.

30 (3) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the term “livestock” the words “deer” and “goat”, and inserting, after the words “not being”, the words “a deer or goat or”.

35 (4) Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Certified aerodrome’ means an aerodrome licensed under the Civil Aviation Regulations 1953 or certificated under rules made under the Civil Aviation Act 1990:

40 “‘Commercial game hunting guide’ has the same meaning as in the Wildlife Act 1953:

“‘Commercial sports fishing guide’ means a person who, for hire or reward, acts as a guide to persons undertaking sports fishing:

“‘Contaminant’ has the same meaning as in the Resource Management Act 1991: 5

“‘Permit’—

“(a) Means a grant of rights to undertake an activity that does not require an interest in land; and

“(b) Includes any authorisation or licence granted before the date of commencement of this definition that granted similar rights; and— 10

‘permit holder’ has a corresponding meaning.”

3. Land may be acquired and held for conservation purposes—Section 7 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 15

“(1A) Notwithstanding subsection (1) of this section, in the case of any land or foreshore to which section 61 or section 62 of this Act applies, the Minister may, by notice in the *Gazette* describing it, declare that the land or foreshore is held for conservation purposes; and, subject to this Act, it shall thereafter be so held.” 20

4. New heading and sections substituted—(1) The principal Act is hereby amended by repealing section 14, and substituting the following heading and sections:

“*Leases, Licences, Permits, etc.* 25

“14. Granting of leases, licences, and permits—
(1) Subject to the provisions of this Act relating to the purposes for which any land is held under this Act, the Minister may, upon such terms and conditions as the Minister considers appropriate, grant leases, licences, and permits to any person for the purpose of— 30

“(a) Carrying on (whether wholly or in part) a trade, business, or vocation in or on any conservation area:

“(b) Occupying or using any conservation area for other purposes. 35

“(2) Leases and licences, including any right of renewal, may be granted—

“(a) For a term not exceeding 30 years; or

“(b) Where the Minister is satisfied that there are exceptional circumstances, for a term not exceeding 60 years. 40

“(3) Permits may be granted for a term not exceeding 5 years but shall not include a right of renewal.

“(4) Nothing in this section requires the Minister to grant a lease, licence, or permit in any case.

5 “14A. **Relationship between leases, etc., and conservation management strategies and plans**—(1) No lease or licence shall be granted in respect of any conservation area unless—

“(a) A conservation management strategy or conservation management plan has been established for that area; and

10 “(b) The strategy or plan provides for the issue of leases or licences (as the case may be); and

“(c) The lease or licence, and its granting, are in conformity with the strategy or plan.

15 “(2) Where any conservation area has a conservation management strategy or conservation management plan, the Minister shall not grant a permit under **section 14** of this Act if the permit is or would be inconsistent with the strategy or plan.

20 “(3) Notwithstanding **subsection (1)** of this section, where no conservation management strategy or conservation management plan has been established for a conservation area, the Minister, after consultation with the local Conservation Board, may—

25 “(a) Grant a lease or licence for that area for a period not exceeding 5 years if the Minister is satisfied that no significant conservation values are likely to be affected by the grant of that lease or licence; or

30 “(b) If the Minister is satisfied that no significant conservation values are likely to be affected and that there are exceptional circumstances, grant a lease or licence for a term not exceeding 10 years.

“(4) There shall be deemed to be included in every lease and licence granted after the commencement of this section a term requiring the lessee or licensee at all times to act in accordance with the conservation management strategy or conservation management plan (including any amendments and any substituted strategy or plan) applying in respect of the area concerned at the time it was granted; and any provision of a lease or licence that contravenes, or allows (expressly or by implication) any action or default on the part of the lessee or licensee in contravention of, that strategy or plan shall have no effect.

“14B. **Rents, fees, and royalties**—(1) It shall be a condition of the Minister’s granting a lease, licence, or permit under

section 14 of this Act, that the person or body granted a lease, licence, or permit—

“(a) Shall pay rents, fees, or royalties to the Minister; and

“(b) Shall pay any other levy or charge made on an occupier or owner of land, as a result of the grant of a lease or licence, either to the Minister or as directed by the Minister. 5

“(2) The rent, fee, or royalty may be fixed at the market price, having regard to any circumstances relating to the nature of the trade, business, or vocation, and the area affected, and any contractual conditions, covenants, or other encumbrances placed upon natural or historic resources. 10

“(3) Rent, fees, and royalties for a lease, licence, or permit shall be reviewed at intervals not exceeding 3 years.

“(4) Nothing in this section applies to leases, licences, or permits granted to commercial sports fishing guides or commercial game bird hunting guides. 15

“(5) Where any conservation area or any part of a conservation area is used for educational, scientific, or health purposes,— 20

“(a) The rent, fee, or royalty payable in respect of the use of that area or part for such purposes may be fixed at an amount lower than the market price that may be fixed in respect of that area or part under **subsection (2)** of this section; or 25

“(b) The use of that area or part may be granted free of charge.

“14c. **Accounts**—(1) The Minister may, to assist himself or herself in verifying rent, fees, or royalties, require any body or person who has been granted a lease, licence, or permit under **section 14** of this Act to provide a complete statement of audited financial accounts for that part of the trade, business, or vocation that is carried out on or in conservation areas. 30

“(2) The accounts are to be forwarded to the Minister not later than 3 months after the end of each financial year. 35

“14d. **Public notice requirements**—(1) Before granting any lease or licence over a conservation area (other than by virtue of the exercise of a right of renewal of a lease or licence, or a right to a new lease or licence contained in any lease or licence), the Minister shall give public notice of the intention to do so; and section 49 of this Act shall apply accordingly. 40

“(2) Before granting any permit in respect of land in a conservation area, the Minister may, if the Minister considers it

appropriate, give public notice of the intention to do so; and section 49 of this Act shall apply accordingly.

5 “14E. **Access**—(1) Nothing in sections 14 to 14D or in sections 14F and 14G of this Act shall derogate from the provisions of the Crown Minerals Act 1991 relating to access to land to which those sections apply.

“(2) Nothing in any of those sections shall relieve any person from any obligation to obtain a resource consent under the Resource Management Act 1991.

10 “14F. **Power of Minister to impose conditions and enforce approvals, etc.**—(1) Except where it is otherwise expressly provided in this Act or any other Act, every approval, authority, concurrence, consent, decision, order, permission, permit, waiver, or other similar action given, granted, issued, 15 made, or reached by the Minister under this Act or any other Act in respect of any conservation area or any land to which section 61 or section 62 of this Act applies shall be subject to the payment of such rents and purchase money, and to such conditions (including a requirement to give any security), as the 20 Minister may impose.

“(2) Where the Minister has given, granted, issued, made, or reached any approval, authority, concurrence, consent, decision, order, permission, permit, waiver, or other similar action under this Act or any other Act in respect of any 25 conservation area or any land to which section 61 or section 62 of this Act applies, the Minister may take all necessary proceedings—

“(a) To enforce any conditions of the approval, authority, concurrence, consent, decision, order, permission, permit, waiver, or other action: 30

“(b) In respect of any breaches of the conditions:

“(c) In respect of any act or omission contrary to the terms upon which the approval, concurrence, consent, decision, order, permission, permit, waiver, or other 35 action was given, granted, issued, made, or reached.

“14G. **Aircraft**—(1) No aircraft shall land or take off from any site within a conservation area that is not a certified aerodrome, unless—

“(a) The action was necessary for the purposes of saving or 40 protecting life or health; or

“(b) The action was necessary for the purpose of establishing, constructing, operating, maintaining, repairing, or replacing a maritime navigational aid; or

“(c) Prior written approval has been obtained from the Minister; and such approval is in the possession of the operator and has been sighted by the pilot in command prior to landing or taking off, except in cases of emergency arising from—

“(i) Mechanical or structural defects in the aircraft or its equipment; or

“(ii) Weather conditions or other causes not under the control of the pilot in command.

“(2) Nothing in this section applies to any aircraft operated by the New Zealand Defence Force.”

(2) Nothing in **sections 14 to 14E** or in **section 14G** of the principal Act (as substituted by **subsection (1)** of this section) applies in respect of any lease, licence, permit, or other authority granted under the principal Act, or any former Act (within the meaning of the principal Act), and in force immediately before the commencement of this section.

(3) Section 8 of the Conservation Law Reform Act 1990 is hereby consequentially repealed.

5. Creation of easements—(1) Section 15 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Where the Minister grants or reserves an easement over a conservation area,—

“(a) In the case of an area subject to a lease or licence, the lessee or licensee shall be entitled to compensation for any reduction in the value of the lease or licence by reason of the grant or reservation:

“(b) The Minister shall be entitled to compensation for any reduction in the value of the land by reason of the grant or reservation:

“(c) The Minister may charge a rent, royalty, or fee as a condition of the grant, where the easement forms part of a trade, business, or vocation:

“(d) The Minister may make the grant conditional on the payment of the reasonable costs incurred in respect of the grant.”

(2) Section 15 of the principal Act is hereby amended by adding the following subsection:

“(6) Notwithstanding anything to the contrary in this section, any licence or lease granted under **section 14** of this Act may make provision for an easement to be included as part of the terms of the licence or lease, and the provisions of that section and **sections 14A to 14G** of this Act shall apply accordingly.”

6. Disposal of conservation areas—Section 16 of the principal Act is hereby amended by adding the following subsection:

5 “(3) Nothing in section 42 of the Public Works Act 1981 applies to the disposal of any conservation area or interest in a conservation area.”

7. Exchanges of stewardship areas—Section 16A of the principal Act (as inserted by section 11 of the Conservation Law Reform Act 1990) is hereby amended by inserting, after
10 subsection (7), the following subsection:

“(7A) Nothing in section 40 of the Public Works Act 1981 applies to the exchange of land under this section.”

8. Access to and use of conservation areas—(1) The principal Act is hereby amended by repealing section 17 (as
15 substituted by section 2 (1) of the Conservation Amendment Act 1988), and substituting the following section:

“17. (1) Subject to this Act, the Minister may from time to time, upon any terms and conditions the Minister thinks appropriate, do all or any of the following things:

20 “(a) Grant any person or body of persons (whether incorporated or not) a lease, licence, or permit to use any conservation area for any specified form of public recreation:

25 “(b) Grant any person a lease, licence, or permit to use any part of any conservation area for camping sites or for parking places for vehicles, for the convenience of persons using or visiting the area or any other conservation area.

30 “(2) The Minister may use any conservation area other than a wilderness area for any purpose referred to in **subsection (1)** of this section or as the site for a station for the transmission, emission, or reception, of any form of radio, electric, or electronic communication, or for any of those purposes.

35 “(3) The Director-General may charge for the use of facilities (other than paths and tracks) provided by the Director-General in or in respect of any conservation area.

40 “(4) The lessee or licensee of any part of a conservation area or a permit holder may, to the extent that the lease or licence or permit so provides, charge for the use of facilities provided by the Director-General or the lessee or licensee or permit holder in or in respect of that part of the area.

“(5) Any person who, pursuant to a lease, licence, or permit—

“(a) Has erected in any conservation area a station for the transmission, emission, or reception for any form of radio, electric, or electronic communication; or

“(b) Uses any part of any conservation area for camping sites or for parking places for vehicles; or

“(c) Carries on any trade, business, or vocation in any conservation area,—

may, subject to the area’s conservation management strategy or conservation management plan (if any) and the terms and conditions (if any) of the lease, licence, or permit, charge for access to or use of the station, sites, or places, concerned or (as the case may be) for carrying on the trade, business, or vocation concerned.

“(6) Except as provided in this section and in section 38 (1) of this Act, public access to and use of conservation areas shall be free of charge.

“(7) Nothing in **subsection (6)** of this section authorises any person to do any thing on or in respect of any private land.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 2 (1) of the Conservation Amendment Act 1988:

(b) Section 12 of the Conservation Law Reform Act 1990.

9. Conservation management plans—Section 17E (5) (c) of the principal Act (as inserted by section 13 (1) of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “regional”, and substituting the word “conservation”.

10. Amendments to conservation management strategies and conservation management plans—Section 17I (4) of the principal Act (as inserted by section 13 (1) of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “draft” in both places where it occurs.

11. Wilderness areas—(1) Section 20 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) No livestock, vehicles, or motorised aircraft or motorised vessels (including hovercraft and jet boats) shall be allowed to be taken into or used in it:”.

(2) Section 20 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) If satisfied that the undertaking of any scientific test or study in a wilderness area is necessary or desirable for the preservation of indigenous natural resources, the Minister may authorise it.”

5 **12. Power to reduce width of marginal strip**—Section 24_A of the principal Act (as inserted by section 15 of the Conservation Law Reform Act 1990) is hereby amended by adding, as subsections (2) and (3), the following subsections:

10 “(2) Notwithstanding section 24 of this Act, in the case of a marginal strip extending along and abutting the bed of a river or stream where the bed is not less than 3 metres in width, the Minister may, by notice in the *Gazette*, approve the reduction of the width of the strip to not less than 3 metres if he or she is satisfied that its value in terms of the purposes specified in
15 section 24c of this Act will not be diminished.”

13. Power to declare certain dispositions to be exempt from section 24—Section 24_B of the principal Act (as inserted by section 15 of the Conservation Law Reform Act 1990) is hereby amended by inserting, after subsection (6), the following
20 subsection:

 “(6A) The Minister may, by notice in the *Gazette*, declare that section 24 of this Act shall not apply to any proposed vesting of a reserve under section 26 of the Reserves Act 1977 if satisfied that—

25 “(a) The purpose for which the reserve will be vested is similar to the purposes specified in section 24c of this Act; or

 “(b) The exemption is in the public interest by reason of the need to restrict public access to the reserve in order
30 to better protect the natural, historic, or other values of the reserve.”

14. Leases, etc., over marginal strips—The principal Act is hereby amended by inserting, after section 24_H (as inserted by section 15 of the Conservation Law Reform Act 1990), the
35 following section:

 “24_{HA}. (1) Subject to subsections (2) and (3) of this section, the Minister may, in accordance with sections 14_A to 14_E of this Act, grant a lease, licence, or permit in respect of any land that is a marginal strip if—

40 “(a) He or she is satisfied that the grant is not inconsistent with section 24c of this Act; or

“(b) The grant formalises a right that existed before the 10th day of April 1990.

“(2) Where the grant formalises a right that existed before the 10th day of April 1990, the Minister shall not be required to give public notice, in accordance with section 14b of this Act, of his or her intention to grant the lease, licence, or permit. 5

“(3) The Minister shall notify the manager of a marginal strip of every lease, licence, or permit granted in respect of the marginal strip under subsection (1) of this section.”

15. Easements—Section 24f of the principal Act (as inserted by section 15 of the Conservation Law Reform Act 1990) is hereby amended by adding the following subsection: 10

“(3) Nothing in section 15 (1b) of this Act requires the Minister to give public notice of his or her intention to grant an easement over a marginal strip where the proposed easement formalises a right that existed before the 10th day of April 1990.” 15

16. Functions of New Zealand Fish and Game Council—(1) Section 26c (1) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by inserting, after paragraph (b), the following paragraph: 20

“(ba) To co-ordinate the preparation and recommendation, for the Minister’s approval, of Regional Anglers Notices and notices for game seasons; to advise the Minister in relation to such matters; and to publish in the *Gazette* Regional Anglers Notices and notices for game seasons:”. 25

(2) Section 26c (1) of the principal Act (as so inserted) is hereby amended by inserting, after paragraph (e), the following paragraph: 30

“(ea) To recommend to the Minister fees for commercial game hunting guide licences and commercial sports fishing guide licences, after having regard to views and recommendations of Fish and Game Councils:”. 35

17. Powers of New Zealand Fish and Game Council—Section 26f (2) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by adding the following paragraph:

“(e) Reduce or waive payment of any fee prescribed in respect of the taking of sports fish or hunting and 40

killing of game, in whole or in part, in any particular case.”

5 **18. Functions of Fish and Game Councils**—(1) Section 26Q(1)(b)(iii) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “Minister”, and substituting the words “New Zealand Fish and Game Council”.

10 (2) Section 26Q(1)(f) of the principal Act (as so inserted) is hereby amended by adding the expression “; and”, and the following subparagraph:

 “(iii) Commercial game hunting guide licences in accordance with the Wildlife Act 1953 and commercial sports fishing guide licences in accordance with this Act.”

15 **19. Fish and Game Council responsibilities**—(1) Section 26R of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by omitting from subsections (4), (5), and (6) the word “District”, and substituting in each case the word “Regional”.

20 (2) Section 26R of the principal Act (as so inserted) is hereby amended by repealing subsection (3), and substituting the following subsection:

 “(3) The following provisions apply to Regional Anglers Notices:

25 “(a) Fish and Game Councils shall prepare such notices:

 “(b) Fish and Game Councils shall, through the New Zealand Fish and Game Council, recommend such notices for approval by the Minister:

30 “(c) The New Zealand Fish and Game Council shall, if satisfied as to the form of the notice, submit it for the Minister’s approval:

 “(d) As soon as practicable after a notice is approved by the Minister, the New Zealand Fish and Game Council shall publish the notice in the *Gazette*:

35 “(e) Fish and Game Councils shall make copies of notices available for sale to the public.”

40 **20. Membership**—Section 26U(4) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by omitting the words “fish and game”, and substituting the words “fish or game”.

21. Eligibility to vote—Section 26Y of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Every New Zealand resident who holds an adult whole season licence that entitles that person to hunt game or fish for sports fish in a particular region on the day of any election, or in the period of 3 months before the date of any election, of members of the Fish and Game Council for that region shall be entitled to vote at that election.”

22. Term of office of members of Fish and Game Council—Section 26ZA (2) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by omitting the expression “fish and game”, and substituting the expression “fish or game”.

23. No remuneration payable to members—Section 26ZF of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by adding, as subsection (2), the following subsection:

“(2) No member of any Fish and Game Council shall be granted free of charge a licence to take sports fish or to hunt or kill game.”

24. Application of Part—(1) Section 26ZG (2) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “Nothing”, and substituting the words “Except as provided in section 26ZM (7) of this Act, nothing”.

(2) Section 26ZG (2) (a) of the principal Act (as so inserted) is hereby amended by omitting the words “or gaff”.

(3) Section 26ZG (2) (c) of the principal Act (as so inserted) is hereby amended by omitting the words “or any regulations made under it”, and substituting the words “, the Marine Farming Act 1971, or any regulations made under either of those Acts”.

25. New sections inserted—The principal Act is hereby amended by inserting, after section 26ZJ (as inserted by section 17 of the Conservation Law Reform Act 1990), the following sections:

“26ZJA. **Commercial sports fishing guides**—(1) No person shall act as a commercial sports fishing guide unless he or she holds a current commercial sports fishing guide licence.

“(2) Every person commits an offence and is liable to a fine not exceeding \$5,000 who contravenes **subsection (1)** of this section.

5 “**26ZJB. Use of gaffs prohibited**—(1) No person shall use a gaff to take any freshwater fish unless permitted to do so by a Regional Anglers Notice.

“(2) Every person commits an offence and is liable to a fine not exceeding \$5,000 who contravenes **subsection (1)** of this section.”

10 **26. Restrictions on fishing**—Section 26ZL (3) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by omitting the words
15 “Catchment Authority (being any public body established for the purpose of soil conservation and water management under any enactment)”, and substituting the words “regional council”.

20 **27. Transfer or release of live aquatic life**—(1) Section 26ZM of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by
repealing subsection (5), and substituting the following subsections:

“(5) Every person commits an offence and is liable to a fine not exceeding \$5,000 who contravenes or fails to comply with **subsection (1)** of this section.

25 “(5A) Nothing in this section applies to the transfer of any live aquatic life to an existing fish farm where the species is already present.”

(2) Section 26ZM of the principal Act (as so inserted) is hereby amended by adding the following subsection:

30 “(7) Except as provided in subsections (5A) and (6) of this section, this section applies to all persons.”

35 **28. Fishing rights not to be sold or let**—The principal Act is hereby amended by repealing section 26ZN (as inserted by section 17 of the Conservation Law Reform Act 1990), and substituting the following section:

“26ZN. (1) Every person commits an offence against this Act who sells or lets the right to fish in any freshwater.

“(2) For the purposes of **subsection (1)** of this section, the expression ‘sells or lets the right to fish’ does not include—

40 “(a) The selling or letting of fishing rights on any licensed fish farm to the general public; or

“(b) The grant of a lease, licence, or permit by the Minister to a commercial sports fishing guide; or

“(c) Charges made for guiding services by any commercial sports fishing guide.”

29. Occupier may fish without licence—Section 26zo (1) 5
of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “District”, and substituting the word “Regional”.

30. Buying, selling, or possessing sports fish—Section 10
26zQ of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Every person commits an offence who buys, sells, or has 15
in his or her possession for the purpose of sale any sports fish taken in New Zealand, whether taken lawfully or otherwise.”

31. Using explosives, etc., to catch or destroy fish—
(1) Section 26zR (1) of the principal Act (as inserted by section 17 of the Conservation Law Reform Act 1990) is hereby 20
amended by omitting the words “explosive or”, and substituting the word “explosive,”.

(2) Section 26zR (2) of the principal Act (as so inserted) is hereby amended by adding the words “or the appropriate Fish and Game Council”. 25

32. Covenants—(1) Section 27 (2) of the principal Act (as substituted by section 18 of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “Where”, and substituting the words “Subject to **subsection (3)** of this section, where”. 30

(2) Section 27 of the principal Act (as so substituted) is hereby amended by adding the following subsection:

“(3) Where the burden of a covenant under this section applies to land comprising part of the land in a certificate or instrument of title, a District Land Registrar shall not enter in 35
any register a notification of the covenant unless the document incorporating the covenant is accompanied by a certificate given by the Surveyor-General, or the Chief Surveyor of the land district in which the land is situated, to the effect that the covenant is adequately described and properly defined— 40

“(a) For the nature of the covenant; and

“(b) In relation to existing surveys made in accordance with regulations for the time being in force for the purpose; and

5 “(c) In accordance with standards agreed from time to time by the Director-General and either the Surveyor-General or Chief Surveyor, as the case may be.”

33. Nga Whenua Rahui kawenata—(1) Section 27A of the principal Act (as inserted by section 3 of the Conservation Amendment Act 1993) is hereby amended by repealing
10 subsection (4), and substituting the following subsection:

“(4) Where the burden of a Nga Whenua Rahui kawenata under this section applies to land comprising part of the land in a certificate or instrument of title, a District Land Registrar shall not enter in any register a notification of the Nga Whenua
15 Rahui kawenata unless the document incorporating it is accompanied by a certificate given by the Surveyor-General, or the Chief Surveyor of the land district in which the land is situated, to the effect that the Nga Whenua Rahui kawenata is adequately described and properly defined—

20 “(a) For the nature of the covenant; and

“(b) In relation to existing surveys made in accordance with regulations for the time being in force for the purpose; and

25 “(c) In accordance with standards agreed from time to time by the Director-General and either the Surveyor-General or Chief Surveyor, as the case may be.”

34. Other offences in respect of conservation areas—

(1) Section 39 (1) of the principal Act is hereby amended by inserting, after the words “without the authority of”, the words
30 “the Minister or”.

(2) Section 39 (1) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) Contravenes or fails to comply with **section 14g** of this Act; or”.

35 (3) Section 39 of the principal Act is hereby amended—

(a) By omitting from subsection (1) (ga) (as inserted by section 2 (2) of the Conservation Amendment Act 1988) the word “occupation”, and substituting the word “vocation”;

40 (b) By omitting from subsection (3) the words “substance or material”, and substituting the word “contaminant”.

(4) Section 39 (4) of the principal Act (as added by section 22 of the Conservation Law Reform Act 1990) is hereby amended

by omitting the words “substance” and “material”, and substituting in each case the word “contaminant”.

(5) Section 39 of the principal Act is hereby amended by repealing subsection (5) (as so added), and substituting the following subsection:

“(5) For the purposes of this section, a person shall be deemed to discharge a contaminant into water if that person places or discharges or causes or permits to be placed or discharged any contaminant or water containing any contaminant, in a position where that contaminant or any other contaminant emanating as a result of a natural process from that contaminant is liable to flow, fall, or descend into, or to be washed or percolate into, or to be carried by wind, tide, or current into, any water.”

(6) Section 39 (6) of the principal Act (as so added) is hereby amended by omitting the word “effluent”, and substituting the word “contaminant”.

35. Forfeiture of property—Section 46 (7A) (b) of the principal Act (as inserted by section 26 (2) of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “district” in both places where it occurs, and substituting in each case the word “region”.

36. Regulations—Section 48 (2) of the principal Act (as substituted by section 27 of the Conservation Law Reform Act 1990) is hereby amended by omitting the expression “subsection (2) (k)”, and substituting the expression “subsection (1) (k)”.

37. Special regulations relating to freshwater fisheries—(1) Section 48A (1) of the principal Act (as substituted by section 27 of the Conservation Law Reform Act 1990) is hereby amended—

(a) By omitting from paragraph (c) the words “licence to fish for freshwater fish or sports fish”, and substituting the words “licences to fish for freshwater fish or sports fish and licences to operate as a commercial sports fishing guide”:

(b) By inserting in paragraph (d), after the words “sports fish”, the words “and licences authorising the holder to operate as a commercial sports fishing guide”:

(c) By inserting in paragraph (e), after the words “sports fish”, the words “and licences to operate as a commercial sports fishing guide”:

(d) By inserting in paragraph (f), after the word “taking”, the words “or use”.

(2) Section 48A (1) of the principal Act (as so substituted) is hereby amended by repealing paragraph (q), and substituting the following paragraph:

“(q) Prescribing, or authorising the Director-General to prescribe, conditions in respect of fishing competitions; and prescribing rentals payable in respect of fishing competitions.”.

10 **38. Powers of Director-General**—(1) Section 53 (2) of the principal Act is hereby amended by repealing paragraph (j).

(2) Section 53 (3) (a) of the principal Act (as added by section 29 of the Conservation Law Reform Act 1990) is hereby amended by omitting the word “joint”.

15 (3) Section 53 (3) of the principal Act (as so added) is hereby amended by inserting, after paragraph (e), the following paragraph:

“(ea) May reduce or waive payment of any fee prescribed in respect of the taking of sports fish or hunting and killing of game, in whole or in part, in any particular case:”.

25 **39. Royalties, etc., may be required in certain circumstances**—Section 60D (1) of the principal Act (as inserted by section 3 of the Conservation Amendment Act 1988) is hereby amended—

(a) By omitting from paragraph (a) (i) the words “(other than this Act)”;

(b) By omitting from paragraph (b) (i) the word “occupation”, and substituting the word “vocation”.

30 **40. Certain land may become protected area without public notification**—Section 63 of the principal Act is hereby amended by adding, as subsections (2) and (3), the following subsections:

“(2) The Minister may, by notice in the *Gazette*, declare that any land—

35 “(a) Identified in Appendix C of the Final Report of the West Coast Forests Working Party dated the 31st day of October 1986 for protection as an ecological area, amenity reserve, wildlife corridor, or wildlife management reserve; and

40 “(b) Held and managed as a conservation area under section 7 or section 61 or section 62 of this Act—

is held for the purpose of an ecological area under section 21 of this Act; and, subject to this Act, it shall thereafter be so held.

“(3) Notwithstanding section 18 (2) of this Act, the Minister may make a declaration under **subsection (2)** of this section without giving public notice of intention to so declare the ecological area.” 5

41. Existing leases, licences, etc.—Section 64 of the principal Act is hereby amended by omitting from subsection (4), and also from subsection (4A) (as substituted by section 33 of the Conservation Law Reform Act 1990), the expression “section 24”, and substituting in each case the expression “Part IVA”. 10

PART II

AMENDMENTS TO OTHER ENACTMENTS

Wildlife

42. Sections to be read with Wildlife Act 1953—This section and the next 8 succeeding sections shall be read together with and deemed part of the Wildlife Act 1953* (in those sections referred to as the principal Act).

*1953, No. 31 (R.S. Vol. 7, p. 819)

Amendments: 1983, No. 48; 1990, No. 31, ss. 64–89

43. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “closed game area”, the following definition: 20

“‘Commercial game hunting guide’ means a person who, for hire or reward, acts as a guide to persons undertaking game hunting:” 25

(2) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “open season”, and substituting the following definition:

“‘Open season’ means an open season for game declared under **section 15** of this Act:” 30

44. Conservation management plans—Section 14E (3) of the principal Act (as substituted by section 68 of the Conservation Law Reform Act 1990) is hereby amended by inserting, after the expression “17G”, the expression “17H, 17I,”. 35

45. Open season for game—The principal Act is hereby amended by repealing section 15, and substituting the following section:

“15. (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.

5 “(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—

10 “(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*.

15 “(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

20 “(b) Be revoked and be replaced by a new notice.

“(6) Except as may otherwise be expressly provided in this Act, game may be hunted or killed only during the open season.”

46. Notification as to conditions on which open season declared—(1) Section 16 (1) of the principal Act is hereby amended—

(a) By omitting the words “The Minister, in notifying”, and substituting the words “Every notification of”;

(b) By omitting the words “, in the Minister’s discretion,”.

30 (2) Section 16 of the principal Act is hereby amended by repealing subsection (3).

47. Commercial game hunting guides to be licensed—

The principal Act is hereby amended by inserting, after section 22, the following section:

35 “22A. Every person commits an offence and is liable to a fine not exceeding \$1,000 who acts as a commercial game hunting guide without holding a commercial game hunting licence issued under this Act.”

48. Sale of game and sale of shooting rights prohibited—Section 23 of the principal Act is hereby amended by adding the following subsection:

40 “(4) Nothing in this section—

- “(a) Prohibits the provision of commercial game hunting guide services by a commercial game hunting guide in accordance with this Act or the charging of fees in respect of such services; or
- “(b) Prevents the Minister granting a lease, licence, or permit to a commercial game hunting guide.” 5

49. Regulations—Section 72 (2) of the principal Act is hereby amended by inserting in paragraphs (a), (b), and (c), after the words “to hunt or kill game”, the words “, and licences to operate as commercial game hunting guides,”. 10

50. Amendment to Conservation Law Reform Act 1990—Section 89 of the Conservation Law Reform Act 1990 is hereby amended by adding the following subsection:

“(6) Notwithstanding anything in subsection (1) of this section, the Minister may transfer to the New Zealand Fish and Game Council or any Fish and Game Council all or any of the following: 15

- “(a) The assets of the Council of North Island Acclimatisation Societies:
- “(b) The assets of the Council of South Island Acclimatisation Societies: 20
- “(c) The assets of the National Executive of Acclimatisation Societies:
- “(d) The assets vested in or held by the Minister or any department of State in his or her or its capacity as the person having control of an acclimatisation district under the Wildlife Act 1953;— 25

and, upon such transfer, the following provisions apply:

- “(e) The assets so transferred shall vest in the New Zealand Fish and Game Council or the Fish and Game Council, as the case may be: 30
- “(f) Nothing in the Public Works Act 1981 or in Part IVA of the Conservation Act 1987 shall apply in respect of any such transfer of assets:
- “(g) All proceedings pending by or against the Council or Executive whose assets are so transferred, or by or against the Minister or a department of State in his or her or its capacity as the person having control of such a district, may be carried on, completed, and enforced by or against the body to whom the assets are so transferred: 40
- “(h) District Land Registrars are hereby directed and empowered to do all such things as are reasonably

necessary to give effect to the transfer of any land under this subsection.”

Reserves

5 **51. Sections to be read with Reserves Act 1977**—This section and the next 17 succeeding sections shall be read together with and deemed part of the Reserves Act 1977* (in those sections referred to as the principal Act).

*1977, No. 66

Amendments: 1978, No. 121; 1979, No. 63; 1980, No. 35; 1980, No. 139; 1981, No. 30; 1983, No. 43; 1985, No. 188; 1988, No. 137; 1990, No. 31, ss. 90-104; 1992, No. 26; 1993, No. 8

10 **52. Interpretation**—Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Certified aerodrome’ means an aerodrome licensed under the Civil Aviation Regulations 1953 or certificated under rules made under the Civil Aviation Act 1990;

15 “‘Lease’—

“(a) Means a grant of an interest in land that gives exclusive possession of the land; and

“(b) Includes any lease granted under any former Act;—

20 and ‘lessee’ has a corresponding meaning:

“‘Licence’—

“(a) Means a grant of a non-exclusive interest in land or a grant of permission to undertake an activity that does not require an interest in land; and

25 “(b) Includes any licence granted under any former Act;—

and ‘licensee’ has a corresponding meaning:

“‘Permit’—

30 “(a) Means a grant of rights to undertake an activity that does not require an interest in land; and

“(b) Includes any authorisation or licence granted before the date of commencement of this definition that granted similar rights; and—

‘permit holder’ has a corresponding meaning.”.

35 **53. Exchange of reserves for other land**—Section 15 of the principal Act is hereby amended by adding the following subsection:

“(8) Nothing in section 40 of the Public Works Act 1981 applies to the exchange of land under this section.”

54. Classification of reserves—(1) Section 16 of the principal Act (as substituted by section 4 (1) of the Reserves Amendment Act 1979) is hereby amended by inserting, after subsection (2B) (as enacted by section 3 (1) of the Reserves Amendment Act 1983), the following subsection: 5

“(2c) The Minister may, by notice in the *Gazette*,—

“(a) Declare that any land—

“(i) Identified in Appendix C of the Final Report of the West Coast Forests Working Party dated the 31st day of October 1986 for protection as amenity reserves, wildlife corridors, or wildlife management reserves; and 10

“(ii) Held and managed as a conservation area under section 7 or section 61 or section 62 of the Conservation Act 1987— 15

is a reserve under this Act; and

“(b) Classify the land—

“(i) In the case of land identified as an amenity reserve, as a recreation reserve under section 17 of this Act; or 20

“(ii) In the case of land identified as a wildlife corridor or wildlife management reserve, as a scenic reserve under section 19 of this Act or a Government purpose reserve for wildlife management under section 22 of this Act;— 25

and, subject to this Act, the land shall thereafter be so held.”

(2) Section 16 (5) of the principal Act (as so substituted) is hereby amended by adding the expression “; or” and the following paragraph:

“(d) The land is classified under subsection (2c) of this section as a recreation reserve or scenic reserve or government purpose reserve for wildlife management.” 30

55. Conservation management plans in respect of reserves administered by Department—Section 40B (8) of the principal Act (as inserted by section 96 of the Conservation Law Reform Act 1990) is hereby amended by inserting, after the expression “17G,”, the expression “17H, 17I,”. 35

56. Unauthorised use of reserve—(1) Section 44 (1) of the principal Act is hereby amended by omitting from paragraph (f) of the proviso the word “permit”, and substituting the word “licence”. 40

(2) Section 44 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

5 “(1A) Any consent given under subsection (1) of this section in respect of a reserve vested in the Crown shall be in the form of a licence granted in accordance with **sections 14 to 14E** of the Conservation Act 1987; and those sections shall apply as if it were a licence in respect of a conservation area.”

10 **57. New sections substituted**—(1) The principal Act is hereby amended by repealing sections 47, 48, and 48A (as inserted by section 2 of the Reserves Amendment Act 1981), and substituting the following sections:

15 “**47. Wilderness areas**—(1) Subject to **subsections (2) and (3)** of this section, the Minister (in the case of a reserve in respect of which there is no administering body) or the administering body with the consent of the Minister (in the case of a reserve in respect of which there is an administering body), may from time to time, by notice in the *Gazette*, set apart the whole or any specified part of a reserve as a wilderness area, and may in like manner revoke or vary any such setting apart.

20 “(2) Before any reserve or any part of a reserve is set apart as a wilderness area,—

25 “(a) The administering body shall give public notice of the proposal in accordance with section 119 of this Act, stating that a plan of the proposal is available for inspection at a place and at times specified in the notice, and calling upon persons or organisations interested to lodge with the administering body written objections to or written submissions in support of or suggestions on the proposal before a specified date, being not less than 3 months after the date of publication of the notice. The Minister shall give full consideration in accordance with section 120 of this Act to all objections and submissions in relation to the proposal received pursuant to the said section 120; and

30 “(b) The administering body shall give to the Minister of Energy not less than 3 months’ notice of the proposal.

35 “(3) No part of a Government purpose reserve shall be set
40 apart as a wilderness area without the consent of the Minister appointed under section 22 or section 36 of this Act to control and manage that reserve.

“(4) Subject to **subsections (5) to (8)** of this section, while any reserve or part thereof is set apart as a wilderness area,—

“(a) It shall be kept and maintained in a state of nature:

“(b) No buildings of any description or other erections of any kind shall be placed or constructed on the area: 5

“(c) No livestock, vehicles, or motorised vessels (including hovercraft and jet boats) shall be allowed to be taken into or used in the area and no helicopter or other motorised aircraft shall land or take off or hover for the purpose of embarking or disembarking passengers or goods in a wilderness area: 10

“(d) No roads, tracks, or trails shall be constructed on the area, except such foot tracks for the use of persons entering the area on foot as the Minister, or, as the case may be, the administering body with the consent of the Minister, considers necessary or desirable. 15

“(5) The Minister may permit the erection of temporary huts essential for the control of noxious weeds or noxious animals or for the purposes of scientific study, subject to the removal of such huts as soon as they cease to be essential for weed or animal control or, as the case may be, for that scientific study. 20

“(6) If—

“(a) The doing of anything in a wilderness area is in conformity with the conservation management strategy or conservation management plan or other management plan for the area; and 25

“(b) The Minister is satisfied that its doing is desirable or necessary for the preservation of the area’s indigenous natural resources,— 30

the Minister may authorise it.

“(7) If satisfied that the undertaking of any scientific test or study in a wilderness area is necessary or desirable for the preservation of indigenous natural resources, the Minister may authorise it. 35

“(8) Nothing in **subsection (4)** of this section prevents the doing of anything for any person’s protection, or because of some emergency involving any person’s property.

“48. **Grants of rights of way and other easements—**

(1) Subject to **subsection (2)** of this section and to the Resource Management Act 1991, the Minister, in the case of reserves vested in the Crown, and, in the case of reserves vested in an administering body, the administering body with the consent of the Minister and on such conditions as the Minister thinks fit, 40

may grant rights of way and other easements over any part of the reserve for—

- 5 “(a) Any public purpose; or
 - “(b) Providing access to any area included in an agreement, lease, or licence granted under the powers conferred by this Act; or
 - 10 “(c) The distribution or transmission by pipeline of natural or manufactured gas, petroleum, or geothermal energy; or
 - “(d) An electrical installation or work, as defined in section 2 of the Electricity Act 1992; or
 - 15 “(e) The provision of water systems; or
 - “(f) Providing or facilitating access or the supply of water to or the drainage of any other land not forming part of the reserve or for any other purpose connected with any such land.
- “**(2)** Every grant of a right of way or an easement under **subsection (1)** of this section is subject to the following provisions:
- 20 “(a) Before granting any right of way or other easement over any part of the reserve vested in it, the administering body shall give public notice in accordance with section 119 of this Act specifying the right of way or other easement intended to be granted, and shall give full consideration in accordance with section 120 of this Act to all objections against any submissions in relation to the proposed grant received pursuant to the said section 120:
 - 25 “(b) Section 15 of the Conservation Act 1987 shall apply to every right of way or other easement granted under that subsection in respect of a reserve vested in the Crown:
 - 30 “(c) In the case of a reserve vested in the Crown, the Minister shall not be required to give public notice of his or her intention to grant a right of way or other easement over any part of the reserve if satisfied that—
 - 35 “(i) No significant conservation values are likely to be affected; and
 - 40 “(ii) The reserve is not likely to be materially altered or permanently damaged; and
 - “(iii) The rights of the public in respect of the reserve are not likely to be permanently affected— by the establishment and lawful exercise of the right of way or other easement.
 - 45

“(3) **Subsection (2) (a)** of this section shall not apply in any case where—

“(a) The reserve is vested in an administering body and is not likely to be materially altered or permanently damaged; and

“(b) The rights of the public in respect of the reserve are not likely to be permanently affected,—
by the establishment and lawful exercise of the right of way or other easement.

“(4) In the case of a reserve vested in an administering body, the District Land Registrar for the land registration district in which is situated any reserve in respect of which any right or easement has been granted under this section shall, on the application of the administering body, register the instrument granting the right or easement against any certificate of title that may have been issued for the reserve, and, if the reserve is held on registered lease or licence, any such instrument may be registered in the same way as any dealing with the lease or licence.

“(5) In the case of a reserve vested in an administering body, where no certificate of title has been issued for any reserve over which a right or easement has been granted under this section, the instrument granting the right or easement may be registered with the District Land Registrar in the same manner and with any necessary modifications as any lease or licence of Crown land may be registered under the Land Act 1948.

“(6) In the case of a reserve vested in the Crown or in an administering body, rights of way and other easements may be granted under this section to any person, including, notwithstanding any rule of law to the contrary, the Crown or the administering body in which the reserve is vested, and, where the right of way or other easement is granted to the Crown or the administering body, covenants and agreements in respect of any such transaction may be entered into by the Crown or the administering body in the one capacity so as to bind or benefit the Crown or the administering body in the other capacity as fully and effectually as if the Crown or the administering body were a separate person in each capacity.

“48A. **Use of reserve for communications station—**

(1) The Minister, in the case of a reserve vested in the Crown, and the administering body acting with the consent of the Minister in the case of a reserve vested in the administering body, may grant a licence to any person or Department of State—

“(a) To erect, maintain, and use buildings, dwellings, masts, and other structures, and plant and machinery; and

“(b) To construct, maintain, and use tracks and engage in other works—

5 comprising or in connection with and for the purposes of any station for the transmission, emission, or reception of any form of radio, electric, or electronic communication on any reserve or part of a reserve that is not set apart as a wilderness area under section 47 of this Act.

10 “(2) The Minister may use any reserve vested in the Crown (other than a wilderness area) as the site for a station for the transmission, emission, or reception, of any form of radio, electric, or electronic communication.

15 “(3) No licence shall be granted under **subsection (1)** of this section unless the Minister, in the case of a reserve vested in the Crown, or both the administering body and the Minister, in the case of a reserve vested in the administering body, is or are satisfied—

20 “(a) That the buildings, dwellings, masts, structures, plant, machinery, tracks, or works are necessary for the purposes of the station; and

“(b) That they cannot readily be provided outside the reserve.

25 “(4) In the case of a reserve vested in an administering body, every licence issued under **subsection (1)** of this section shall be subject to such terms and conditions as to duration, design, materials, situation, use, rental, inspection, maintenance, and public access, or otherwise, as the administering body determines with the approval of the Minister.

30 “(5) In the case of a reserve vested in an administering body, except as provided in **subsection (6)** of this section, where the granting of any licence under **subsection (1)** of this section is not in conformity with and contemplated by a management plan approved for the reserve, the administering body shall give public notice in accordance with section 119 of this Act of the proposal to grant a licence, and shall give full consideration to all objections and submissions received pursuant to section 120 of this Act in relation to the proposal.

35 “(6) **Subsection (5)** of this section shall not apply in any case where—

40 “(a) The reserve is not likely to be materially altered or permanently damaged; and

“(b) The rights of the public in respect of the reserve are not likely to be permanently affected,—

by the granting and lawful exercise of the rights and powers contained in the licence.

“(7) In the case of a reserve vested in the Crown, any licence granted under **subsection (1)** of this section shall be in the form of a licence granted in accordance with **sections 14 to 14E** of the Conservation Act 1987; and those sections shall apply as if it were a licence in respect of a conservation area.” 5

(2) The following enactments are hereby consequentially repealed:

- (a) Section 16 of the Reserves Amendment Act 1979: 10
- (b) The Reserves Amendment Act 1980:
- (c) Section 2 of the Reserves Amendment Act 1981:
- (d) Section 5 of the Reserves Amendment Act 1983.

58. Taking or killing of fauna—Section 50 (3) of the principal Act is hereby amended by omitting the words “Part II of the Fisheries Act 1908”, and substituting the words “Part VB of the Conservation Act 1987”. 15

59. Introduction of biological control organisms—The principal Act is hereby amended by inserting, after section 51, the following section: 20

“51A. (1) Notwithstanding anything in this Act or any other enactment, but subject to **subsections (2) and (3)** of this section, the Minister may authorise the introduction of any biological control organism to control pests or weeds in any reserve vested in the Crown or in any other reserve if so requested by the administering body of that reserve. 25

“(2) Before granting an approval under **subsection (1)** of this section, the Minister shall—

- “(a) Consult the New Zealand Conservation Authority; and 30
- “(b) Have regard to whether—

“(i) Any introduced organism will itself become a problem or adversely affect any other indigenous organisms, or have a negative impact on any ecosystem; and

“(ii) There is sufficient scientific advice, supported by research, to indicate that none of these will occur. 35

“(3) An authority granted under **subsection (1)** of this section shall not be inconsistent with any provision in—

- “(a) Any other Act applicable to the use of the organism or organisms concerned; or 40

- “(b) Any general policy approved under section 15A of this Act; or

“(c) Any conservation management strategy or conservation management plan or other management plan approved for the reserve.”

60. Leasing powers in respect of recreation reserves (except farming, grazing, or afforestation leases)—

5 (1) Section 54 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

10 “(d) Grant leases or licences for the carrying on of any trade, business, or vocation within the reserve, subject to the provisions set out in the First Schedule to this Act (in the case of a recreation reserve vested in an administering body) and in accordance with sections 14 to 14E of the Conservation Act 1987 (in the case of a reserve vested in the Crown), subject to the following provisions:

15 “(i) The trade, business, or vocation must be necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve:

20 “(ii) In the case of a reserve vested in an administering body, the prior consent of the Minister shall not be required to a lease or licence under this paragraph where the trade, business, or vocation is to be carried on in the reserve only temporarily and the term of the lease or licence does not exceed 6 consecutive days.”

25 (2) Section 54 (2) of the principal Act is hereby amended by omitting the words “or the Minister, as the case may be,”.

30 (3) Section 54 of the principal Act is hereby amended by repealing subsection (2A) (as inserted by section 18 (1) of the Reserves Act 1979), and substituting the following subsection:

“(2A) Nothing in subsection (2) of this section shall apply in any case where the proposal—

35 “(a) Is in conformity with and contemplated by the approved management plan for the reserve; or

“(b) Is made following the granting of any appropriate resource consent in accordance with Part VI of the Resource Management Act 1991.”

40 (4) Section 98 of the Conservation Law Reform Act 1990 is hereby consequentially repealed.

61. Leasing powers in respect of scenic reserves—

(1) Section 56 (1) of the principal Act is hereby amended by

repealing paragraph (b), and substituting the following paragraph:

“(b) Grant leases or licences for the carrying on of any trade, business, or vocation within the reserve, subject to the provisions set out in the First Schedule to this Act (in the case of a scenic reserve vested in an administering body) and in accordance with sections 14 to 14E of the Conservation Act 1987 (in the case of a reserve vested in the Crown), subject to the following provisions: 5 10

“(i) The trade, business, or vocation must be necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve: 10

“(ii) In the case of a reserve vested in an administering body, the prior consent of the Minister shall not be required to a lease or licence under this paragraph where the trade, business, or vocation is to be carried on in the reserve only temporarily and the term of the lease or licence does not exceed 6 consecutive days.” 15 20

(2) Section 56 (2) of the principal Act is hereby amended by omitting the words “or the Minister, as the case may be,”.

(3) Section 56 (3) (a) of the principal Act (as added by section 18 (2) of the Reserves Amendment Act 1979) is hereby amended by omitting the words “conservation management strategy, conservation management plan, or” 25

(4) Section 99 of the Conservation Law Reform Act 1990 is hereby consequentially repealed.

62. Leasing powers in respect of historic reserves— 30

(1) The principal Act is hereby amended by repealing section 58A (as inserted by section 19 (1) of the Reserves Amendment Act 1979), and substituting the following section:

“58A. (1) The administering body with the prior consent of the Minister and in the exercise of its functions under section 40 of this Act (in the case of an historic reserve that is vested in an administering body), or the Minister (in the case of any other historic reserve), may from time to time grant leases or licences to any person, body, voluntary organisation, or society (whether incorporated or not) for domestic residential purposes or for the carrying on of any activity, trade, business, or vocation in any building or on any specified site within the 35 40

reserve and grant leases of any such building or site for any such purpose or purposes.

5 “(2) In the case of a reserve vested in the Crown, the grant of any lease or licence under **subsection (1)** of this section shall be in accordance with **sections 14 to 14E** of the Conservation Act 1987; and the provisions of those sections shall apply as if the reserve were a conservation area.

10 “(3) Before granting any lease or licence under **subsection (1)** of this section, the administering body shall give public notice in accordance with section 119 of this Act specifying the lease or licence proposed to be granted, and shall give full consideration in accordance with section 120 of this Act to all objections and submissions in relation to the proposal received pursuant to the said section 120.

15 “(4) Nothing in **subsection (3)** of this section shall apply in any case where the proposal—

“**(a)** Is in conformity with and contemplated by the approved management plan for the reserve; or

20 “**(b)** Is made following the granting of any appropriate resource consent in accordance with Part VI of the Resource Management Act 1991.

“**(5)** A lease granted by an administering body pursuant to **subsection (1)** of this section shall be subject to the following conditions:

25 “**(a)** It shall be for a term not exceeding 33 years, with or without a right of renewal, perpetual or otherwise, for the same or any shorter term, but with no right of acquiring the fee simple, and, subject to **paragraph (b)** of this subsection, shall be on such other conditions as the administering body determines:

30 “**(b)** It shall include a condition that the land leased shall be used solely for such purposes as are specified in the lease, and that upon breach of that condition the administering body may terminate the lease in such manner as is prescribed or implied in the lease, whereupon the land, together with all improvements, shall revert to the lessor without compensation being payable to the lessee for improvements or otherwise.”

40 (2) The following enactments are hereby consequentially repealed:

(a) Section 101 of the Conservation Law Reform Act 1990:

45 (b) So much of Part I of the Eighth Schedule to the Resource Management Act 1991 as relates to section 58A (3) (b) of the principal Act.

63. New sections inserted—(1) The principal Act is hereby amended by repealing section 59A (as inserted by section 2 (1) of the Reserves Amendment Act 1988), and substituting the following sections:

“59A. Granting of permits to carry on trade, business, or vocation—(1) In accordance with sections 14 to 14E of the Conservation Act 1987, but subject to subsection (2) of this section, the Minister may, upon any terms and conditions the Minister thinks appropriate, and if the activity is consistent with the purpose of the reserve, grant a permit to any person authorising that person to carry on a trade, business, or vocation, either wholly or in part, within any recreation, scenic, historic, nature, scientific, or government purpose reserve vested in the Crown. 5 10

“(2) The Minister shall not grant a permit under subsection (1) of this section in relation to a nature or scientific reserve if the proposed activity is inconsistent with a conservation management strategy or conservation management plan applicable to the reserve. 15

“59B. Aircraft—(1) No aircraft shall land or take off from any site within a reserve that is not a certified aerodrome, unless— 20

“(a) The action was necessary for the purposes of saving or protecting life or health; or

“(b) The action was necessary for the purpose of establishing, constructing, operating, maintaining, repairing, or replacing a maritime navigational aid; or 25

“(c) Prior written approval has been obtained from the Minister; and such approval is in the possession of the operator and has been sighted by the pilot in command prior to landing or taking off, except in cases of emergency arising from— 30

“(i) Mechanical or structural defects in the aircraft or its equipment; or

“(ii) Weather conditions or other causes not under the control of the pilot in command. 35

“(2) Nothing in this section applies to any aircraft operated by the New Zealand Defence Force.”

(2) Section 2 (1) of the Reserves Amendment Act 1988 is hereby consequentially repealed. 40

64. Leasing of recreation reserves for farming, grazing, afforestation, or other purposes—(1) Section 73 of the principal Act is hereby amended by adding to subsections (1),

(2), and (3) the words “(in the case of a reserve vested in an administering body) and shall be granted in accordance with sections 14 to 14E of the Conservation Act 1987 (in the case of a reserve vested in the Crown); and those sections shall apply as if the reserve were a conservation area”.

(2) Section 73 (4) of the principal Act is hereby amended by omitting the words “or the Minister, as the case may be,”.

65. Licences to occupy reserve temporarily—Section 74 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Before granting any licence under subsection (2) of this section,—

“(a) The administering body shall give public notice in accordance with section 119 of this Act specifying the licence proposed to be granted, and shall give full consideration in accordance with section 120 of this Act to all objections and submissions in relation to the proposal received pursuant to the said section 120:

“(b) The Minister shall give public notice in accordance with section 49 of the Conservation Act 1987.”

66. Conservation covenants—Section 77 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) Where the burden of a covenant under this section applies to land comprising part of the land in a certificate or instrument of title, a District Land Registrar shall not enter in any register a notification of the covenant unless the document incorporating the covenant is accompanied by a certificate given by the Surveyor-General, or the Chief Surveyor of the land district in which the land is situated, to the effect that the covenant is adequately described and properly defined—

“(a) For the nature of the covenant; and

“(b) In relation to existing surveys made in accordance with regulations for the time being in force for the purpose; and

“(c) In accordance with standards agreed from time to time by the Director-General and either the Surveyor-General or Chief Surveyor, as the case may be.”

67. Nga Whenua Rahui kawenata—(1) Section 77A of the principal Act (as inserted by section 3 of the Reserves

Amendment Act 1993) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where the burden of a Nga Whenua Rahui kawenata under this section applies to land comprising part of the land in a certificate or instrument of title, a District Land Registrar shall not enter in any register a notification of the Nga Whenua Rahui kawenata unless the document incorporating it is accompanied by a certificate given by the Surveyor-General, or the Chief Surveyor of the land district in which the land is situated, to the effect that the Nga Whenua Rahui kawenata is adequately described and properly defined—

“(a) For the nature of the covenant; and

“(b) In relation to existing surveys made in accordance with regulations for the time being in force for the purpose; and

“(c) In accordance with standards agreed from time to time by the Director-General and either the Surveyor-General or Chief Surveyor, as the case may be.”

68. Offences on reserves—(1) Section 94 (1) (ka) of the principal Act (as inserted by section 2 (3) of the Reserves Amendment Act 1988) is hereby amended by omitting the word “occupation”, and substituting the word “vocation”.

(2) Section 94 (1) of the principal Act is hereby amended by inserting, after paragraph (l), the following paragraph:

“(la) Contravenes or fails to comply with **section 59B** of this Act; or”.

69. Trespassing animals—Section 96 of the principal Act is hereby amended by adding the following subsection:

“(4) Nothing in this section applies to wild animals (as defined in section 2 of the Wild Animal Control Act 1977).”

70. First Schedule amended—The First Schedule to the principal Act is hereby amended by omitting from the headings relating to leases or licences under section 54 (1) (d) or section 56 (1) (b) the word “Occupation” wherever it occurs, and substituting in each case the word “Vocation”.

71. Saving—Nothing in the principal Act (as amended by sections 52 to 70 of this Act) applies in respect of any lease, licence, permit, or other authority granted under the principal Act, or any Act repealed by that Act, and in force immediately before the commencement of this section.

Marine Mammals Protection

72. Sections to be read with Marine Mammals Protection Act 1978—This section and the next 3 succeeding sections shall be read together with and deemed part of the Marine Mammals Protection Act 1978* (in those sections referred to as the principal Act).

*1978, No. 80

Amendments: 1979, No. 98; 1990, No. 31, ss. 105-107

73. Conservation management plans—Section 3D (2) of the principal Act (as inserted by section 107 of the Conservation Law Reform Act 1990) is hereby amended by inserting, after the expression “17G,”, the expression “17H, 17I.”

74. Restrictions on taking marine mammals—(1) Section 4 (1) of the principal Act is hereby amended by adding the words “Notwithstanding any other enactment, no person shall hold a marine mammal in captivity unless authorised to do so by a permit under this Act.”

(2) Section 4 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The Minister may, from time to time by notice in the *Gazette*, prescribe criteria and standards in respect of permits referred to in subsection (1) of this section; and the prescribed criteria and standards shall be deemed to form part of the permit and shall be complied with accordingly.”

75. Application for permits—Section 5 (5) of the principal Act is hereby amended by adding the following proviso:

“Provided that nothing in this subsection applies to an application for a permit to take whalebone from dead whales.”

National Parks

76. Sections to be read with National Parks Act 1980—This section and the next 10 succeeding sections shall be read together with and deemed part of the National Parks Act 1980* (in those sections referred to as the principal Act).

*1980, No. 66

Amendments: 1982, No. 86; 1988, No. 135; 1990, No. 31, ss. 108-127

77. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Certified aerodrome’ means an aerodrome licensed under the Civil Aviation Regulations 1953 or certificated under rules made under the Civil Aviation Act 1990:

- “ ‘Indigenous animal’ includes a native animal:
- “ ‘Lease’—
- “(a) Means a grant of an interest in land that gives exclusive possession of the land; and
- “(b) Includes any lease granted under any former Act;— 5
- and ‘lessee’ has a corresponding meaning:
- “ ‘Licence’—
- “(a) Means a grant of a non-exclusive interest in land or a grant of permission to undertaken an activity 10 that does not require an interest in land; and
- “(b) Includes any licence granted under any former Act;—
- and ‘licensee’ has a corresponding meaning:
- “ ‘Native plants and animals’ includes flora and fauna that are indigenous to New Zealand: 15
- “ ‘Permit’—
- “(a) Means a grant of rights to undertake an activity that does not require an interest in land; and
- “(b) Includes any authorisation or licence granted before the date of commencement of this definition 20 that granted similar rights; and—
- ‘permit holder’ has a corresponding meaning:”.

78. Introduction of biological organisms—The principal Act is hereby amended by inserting, after section 5, the following section: 25

“5A. (1) Notwithstanding anything in this Act or any other enactment, but subject to **subsections (2) and (3)** of this section, the Minister may authorise the introduction of any biological control organism to control pests or weeds in any national park. 30

“(2) Before granting an approval under **subsection (1)** of this section, the Minister shall—

 “(a) Consult the New Zealand Conservation Authority; and

 “(b) Have regard to whether—

 “(i) Any introduced organism will itself become a problem or adversely affect any other indigenous organisms, or have a negative impact on any ecosystem; and 35

 “(ii) There is sufficient scientific advice, supported by research, to indicate that none of these will occur. 40

“(3) An authority granted under **subsection (1)** of this section shall not be inconsistent with any provision in—

“(a) Any other Act applicable to the use of the organism or organisms concerned; or

“(b) Any general policy adopted under section 44 of this Act; or

5 “(c) Any conservation management strategy or management plan.”

79. Exclusion of land from national park—(1) Section 11 (2) of the principal Act (as amended by section 65 (1) of the Conservation Act 1987) is hereby amended by omitting the
10 words “deemed to be a conservation area”, and substituting the words “disposed of in the manner specified in that Act”.

(2) The Second Schedule to the Conservation Act 1987 is hereby amended by repealing so much of that Schedule as relates to section 11 (2) of the principal Act.

15 **80. Wilderness areas**—(1) The principal Act is hereby amended by repealing section 14, and substituting the following section:

20 “14. (1) The Minister may, on the recommendation of the Authority made in accordance with a conservation management strategy or management plan, by notice in the *Gazette*, set apart any area of a park as a wilderness area, and may in like manner revoke any such setting apart.

“(2) Subject to this section, while any area is set apart as a wilderness area,—

25 “(a) It shall be kept and maintained in a state of nature:

30 “(b) No buildings of any description, ski-lifts, or other apparatus shall be erected or constructed in the area, except that the Minister may, on such conditions as he or she thinks fit, authorise the erection of huts essential for the destruction or eradication of introduced plants and animals in the park or for the purposes of scientific study:

35 “(c) No animals, vehicles, or motorised vessels (including hovercraft and jet boats) shall be allowed to be taken into or used in the area and no helicopter or other motorised aircraft shall land or take off or hover for the purpose of embarking or disembarking passengers or goods in a wilderness area:

40 “(d) No roads, tracks, or trails shall be constructed in the area, except such tracks for the use of persons entering the area on foot as are contemplated by the management plan.

“(3) The Minister may authorise any person to liberate any species of indigenous animal in a wilderness area where—

“(a) The Minister is satisfied that there is sufficient evidence that the species was previously present in the area; and

“(b) The proposed liberation is not inconsistent with any general policy statement, conservation management strategy, or management plan having effect in relation to the area.

“(4) Subject to **subsection (3)** of this section, if—

“(a) The doing of anything in a wilderness area is in conformity with the conservation management strategy or management plan for the area; and

“(b) The Minister is satisfied that its doing is desirable or necessary for the preservation of the area’s indigenous natural resources,—

the Minister may authorise it.

“(5) If satisfied that the undertaking of any scientific test or study in a wilderness area is necessary or desirable for the preservation of indigenous natural resources, the Minister may authorise it.

“(6) Nothing in **subsection (2)** of this section prevents the doing of anything for any person’s protection or because of some emergency involving any person’s property.”

(2) Section 110 of the Conservation Law Reform Act 1990 is hereby consequentially repealed.

81. Particular powers of Minister—(1) Section 49 (1) of the principal Act is hereby amended by omitting the words “royalties, fees, charges,” (as inserted by section 2 of the National Parks Amendment 1988).

(2) Section 49 (1) of the principal Act is hereby amended by repealing paragraphs (b) and (c), and substituting the following paragraph:

“(b) Grant leases, licences, and permits to authorise persons—

“(i) To carry on any trade, business, or vocation, whether in whole or in part, within the park:

“(ii) To occupy or use any site within the park for other purposes:”.

(3) Section 49 (1) of the principal Act is hereby amended by repealing paragraph (e).

(4) Section 49 (2) of the principal Act (as added by section 120 (2) of the Conservation Law Reform Act 1990) is hereby

amended by repealing paragraph (b), and substituting the following paragraph:

- “(b) Grant leases, licences, and permits under subsection (1) of this section—
- 5 “(i) For a term not exceeding 2 years; or
- “(ii) For a term not exceeding 10 years, where—
- “ (A) The Minister is satisfied that there are exceptional circumstances and that significant national park values are not likely to be affected by the grant of any such lease, licence, or permit; and
- 10 “(B) The Minister has consulted the local conservation board.”

(5) Section 49 of the principal Act is hereby amended by adding the following subsection:

- 15 “(3) In any case, the Minister may use any park (other than a wilderness area) for any purpose specified in subsection (1) of this section or as the site for a station for the transmission, emission, or reception, of any form of radio, electric, or electronic communication.”
- 20

(6) The National Parks Amendment Act 1988 is hereby consequentially repealed.

82. Aircraft—(1) The principal Act is hereby amended by inserting, after section 51, the following section:

- 25 “51A. No aircraft shall land or take off from any site within a national park that is not a certified aerodrome, unless—
- “ (a) The action was necessary for the purposes of saving or protecting life or health; or
- “ (b) The action was necessary for the purpose of establishing, constructing, operating, maintaining, repairing, or replacing a maritime navigational aid; or
- 30 “ (c) Prior written approval has been obtained from the Minister; and such approval is in the possession of the operator and has been sighted by the pilot in command prior to landing or taking off, except in cases of emergency arising from—
- 35 “ (i) Mechanical or structural defects in the aircraft or its equipment; or
- “ (ii) Weather conditions or other causes not under the control of the pilot in command.
- 40 “(2) Nothing in this section applies to any aircraft operated by the New Zealand Defence Force.”

(2) The Minister may grant a lease or licence over a national park area for the purpose of building, maintaining, and

operating an aerodrome or airstrip, or doing any of those things.

83. Conservation Act 1987 to apply to leases and licences, etc.—(1) The principal Act is hereby amended by repealing section 52 (as substituted by section 65 (1) of the Conservation Act 1987), and substituting the following section: 5

“52. The provisions of sections 14 to 14E of the Conservation Act 1987 relating to leases, licences, permits, and public notice shall, with the necessary modifications, apply to leases, licences, permits, and approvals granted under sections 49 to 51A of this Act.” 10

(2) The Conservation Act 1987 is hereby amended by repealing so much of the Second Schedule as relates to section 52 of the principal Act.

84. Offences in parks—(1) Section 60 (1) (j) of the principal Act is hereby amended by omitting the words “commercial activity”, and substituting the words “, business, or vocation”. 15

(2) Section 60 (1) of this Act is hereby amended by adding the following paragraph:

“(1) Contravenes or fails to comply with section 51A of this Act.” 20

85. Trespassing animals—Section 62 of the principal Act is hereby amended by adding the following subsection:

“(8) Nothing in this section applies to wild animals (as defined in section 2 of the Wild Animal Control Act 1977).” 25

86. Saving—Nothing in the principal Act (as amended by sections 77 to 85 of this Act) applies in respect of any lease, licence, permit, or other authority granted under the principal Act and in force immediately before the commencement of this section. 30

Foreshore and Seabed Endowment Revesting

87. Sections to be read with Foreshore and Seabed Endowment Revesting Act 1991—This section and the next succeeding section shall be read together with and be deemed part of the Foreshore and Seabed Endowment Revesting Act 1991* 35
(hereinafter referred to as the principal Act).

*1991, No. 103

88. Certain existing reclamation authorities required to be confirmed—Section 7 (1) of the principal Act shall be read, and be deemed always to have read, as if—

- (a) There were inserted, after the words “reclamation authority”, the words “(whether it relates to land referred to in section 4 of this Act or any other land that is foreshore or seabed)”:
- 5 (b) The period of 12 months referred to in paragraphs (a) and (b) ended 12 months before the date of commencement of this section.

Wild Animal Control

- 10 **89. Sections to be read with Wild Animal Control Act 1977**—This section and the next 6 succeeding sections shall be read together with and deemed part of the Wild Animal Control Act 1977* (in those sections referred to as the principal Act).

*1977, No. 111

Amendments: 1978, No. 135; 1979, No. 146; 1982, No. 26; 1985, No. 100

- 15 **90. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “recreation”, the following definitions:

“‘Regulated deer farm’ means a deer farm regulated under section 12A (2) of this Act; and ‘regulated area’ has a corresponding meaning:

- 20 “‘Safari park’ means a farm where income is derived from wild animals being hunted on the farm.”.

(2) Section 2 of the principal Act is hereby amended by inserting in paragraph (a) of the definition of the term “wild animal”, after subparagraph (iii), the following subparagraph:

- 25 “(iiiia) Any goat that is not—
 “(A) Held behind effective fences or otherwise constrained; and
 “(B) Branded under Part V of the Animals Act 1967.”.

- 30 **91. Keeping of specified wild animals in captivity**—
 (1) Section 12 (5) of the principal Act (as amended by section 4 (4) of the Wild Animal Control Amendment Act 1979) is hereby amended by omitting the words “or, unless for the purposes of farming, capture or convey or keep in captivity or
 35 export alive any deer”, and substituting the words “or export alive any deer”.

(2) Section 12 (11) of the principal Act is hereby amended—

- (a) By omitting the words “within any dwellinghouse, garden, or curtilage”;
- 40 (b) By omitting the word “therein”, and substituting the words “any dwellinghouse, garden, or curtilage”.

(3) Section 12 of the principal Act is hereby amended by repealing subsection (11A) (as inserted by section 3 (3) of the Wild Animal Control Amendment Act 1982).

(4) Section 3 (3) of the Wild Animal Control Amendment Act 1982 is hereby consequentially repealed. 5

92. New sections substituted—The principal Act is hereby amended by repealing section 12A (as inserted by section 5 of the Wild Animal Control Amendment Act 1979), and substituting the following sections:

“12A. **Deer farms**—(1) Any person may, without a permit or licence issued under section 12 of this Act, but subject to this section, capture, convey, or keep deer in captivity for the purposes of farming anywhere in New Zealand except— 10

“(a) On any land where such farming is prohibited under or pursuant to the provisions of any other Act; or 15

“(b) Where prohibited pursuant to **subsection (2)** of this section.

“(2) Subject to **subsection (3)** of this section, the Minister may from time to time, by notice in the *Gazette*,—

“(a) Specify those areas or places in which deer farming generally is prohibited: 20

“(b) Specify those areas or places in which the farming of any particular species of deer is prohibited:

“(c) Specify those areas or places in which deer farming generally is permitted:

“(d) Specify those areas or places in which the farming of any particular species of deer is permitted: 25

“(e) Specify the fencing requirements for deer farming generally or for deer farming in any specified areas or places:

“(f) Regulate deer farming permitted under **paragraph (c)** or **paragraph (d)** of this subsection, subject to any provisions prescribed by regulations made under section 40 (1) (e) of this Act. 30

“(3) Before giving a notice under **subsection (2)** of this section, the Minister shall (where appropriate) have regard to the following matters: 35

“(a) Whether feral deer of the same species are already established in the area concerned:

“(b) Whether deer-induced modification of the environment is likely to differ from the modification of the environment caused by introduced animal species that are already present: 40

“(c) Whether the presence of that species of deer is likely to cause additional control costs.

5 “(4) Where the farming of any deer on any land is regulated under **subsection (2)** of this section, the occupier of the land shall ensure that the enclosures on the land—

“(a) Are suitable to contain the deer and prevent their escape; and

10 “(b) Comply with any specifications prescribed by the Minister under that subsection.

“(5) After complying with **subsection (4)** of this section (in the case of a deer farm in a regulated area), the occupier of the relevant land shall then notify the Director-General of the occupier’s intention to begin keeping deer in captivity on that land, and upon acknowledgment in writing from the Director-
15 General, may begin to do so.

“(6) The notice given to the Director-General under **subsection (5)** of this section shall be in writing, and shall include the following particulars:

20 “(a) The location, the legal description, and the nature and tenure of the land:

“(b) The species of deer proposed to be carried on the land.

“(7) For the purposes of section 9 (2) of this Act and of subsections (9) to (11) of section 12 of this Act, an acknowledgment in writing given by the Director-General under **subsection (5)** of this section shall be deemed to be a
25 permit issued under section 12 (3) (a) of this Act.

“(8) Any deer that escapes from its enclosure and strays while being lawfully captured, conveyed, or held in captivity for the purposes of farming shall remain the property of the owner if that deer is branded pursuant to Part V of the Animals Act
30 1967.

“(9) Notwithstanding **subsection (8)** of this section, the following provisions apply in relation to any deer on Crown-owned land:

35 “(a) Any person acting in the course of his or her duties as an employee of the Department, and any person authorised for the purpose by the Director-General, may hunt and kill the deer and dispose of the deer:

40 “(b) No person is required to notify the owner of the deer that it has been killed or disposed of:

“(c) No person is required to return the deer to the owner:

45 “(d) The owner shall not be entitled to receive any compensation by reason only of the hunting, killing, or disposal of the deer under the authority of this subsection.

“(10) Every person commits an offence against this Act who, while keeping any deer in captivity on a regulated deer farm for the purposes of farming, fails to maintain the enclosures on the land so as to prevent the escape of the deer or so that the enclosures no longer comply with any prescribed specifications. 5

“12B. **Safari parks**—(1) No person shall operate a safari park, except pursuant to and in accordance with and under the conditions stated in a permit issued for the purpose by the Director-General.

“(2) For the purposes of section 9 (2) of this Act and of subsections (9) to (11) of section 12 of this Act, a permit issued under **subsection (1)** of this section shall be deemed to be a permit issued under section 12 (3) (a) of this Act. 10

“(3) The Minister may from time to time, by notice in the *Gazette*, specify those areas or places in which safari parks are prohibited. 15

“(4) Any animal that escapes from its enclosure and strays while being lawfully captured, conveyed, or held in captivity for the purposes of a safari park shall remain the property of the owner if that animal is branded pursuant to Part V of the Animals Act 1967. 20

“(5) Notwithstanding **subsection (4)** of this section, the following provisions apply in relation to any animal that has escaped from a safari park and is on Crown-owned land:

“(a) Any person acting in the course of his or her duties as an employee of the Department, and any person authorised for the purpose by the Director-General, may hunt and kill the animal and dispose of the animal: 25

“(b) No person is required to notify the owner of the animal that it has been killed or disposed of: 30

“(c) No person is required to return the animal to the owner:

“(d) The owner shall not be entitled to receive any compensation by reason only of the hunting, killing, or disposal of the animal under the authority of this subsection. 35

“(6) Every person commits an offence against this Act who, while keeping any animal in captivity in a safari park, fails to maintain the enclosures on the land so as to prevent the escape of the animal or so that the enclosures no longer comply with any prescribed specifications. 40

“12c. **Powers of Director-General in relation to deer farms and safari parks**—(1) Any employee of the Department or of the Ministry of Agriculture and Fisheries,

who is authorised for the purpose by the Director-General, may, at any reasonable time, inspect any regulated deer farm or any safari park to ensure that it complies with the requirements prescribed by or under this Act.

5 “(2) The Director-General may recover from the permit holder the following costs in respect of any deer or other wild animal:

“(a) The costs of any inspection carried out under **subsection (1)** of this section:

10 “(b) The costs incurred by the Department in controlling any deer or other wild animal that escapes from any regulated deer farm or any safari park.

“(3) Where costs are recoverable under **subsection (2) (b)** of this section in respect of the escape of any deer or other wild animal, the costs—

15 “(a) Shall not exceed \$10,000 in any case:

“(b) May be waived by the Director-General, if he thinks fit, if the Department is notified of the escape within 48 hours of its occurrence.”

20 **93. Repeal**—Section 20 of the principal Act is hereby repealed.

94. Penalties—Section 39 (1) of the principal Act is hereby amended by omitting the expression “\$1,000”, and substituting the expression “\$10,000”.

25 **95. Regulations**—Section 40 (1) (e) of the principal Act is hereby amended by inserting, after the expression “section 12” in both places where it occurs, the expression “or section 12A”.

New Zealand Walkways

30 **96. Sections to be read with New Zealand Walkways Act 1990**—This section and the next **succeeding section** shall be read together with and deemed part of the New Zealand Walkways Act 1990* (in that section referred to as the principal Act).

*1990, No. 32

97. Savings—(1) For the avoidance of doubt, but subject to **subsection (2)** of this section,—

35 (a) Every contract or deed that was entered into under section 22 of the New Zealand Walkways Act 1975 and had effect immediately before the commencement of the principal Act is hereby declared to have effect as if it were a contract or deed
40 entered into under section 8 of the principal Act, and

is hereby declared always to have had that effect under the principal Act:

- (b) Every declaration that established a walkway over any public land under section 20 of the New Zealand Walkways Act 1975 and had effect immediately before the commencement of the principal Act is hereby declared to have effect as if it were a declaration made under section 6 of the principal Act, and is hereby declared always to have had that effect under the principal Act: 5
- (c) Every declaration that established a walkway over any private land under section 22 of the New Zealand Walkways Act 1975 and had effect immediately before the commencement of the principal Act is hereby declared to have effect as if it were a declaration made under section 8 of the principal Act, and is hereby declared always to have had that effect under the principal Act: 10
- (d) Every declaration that established a walkway over any private land under section 8 of the principal Act and was made in pursuance of a contract or deed referred to in **paragraph (a)** of this subsection is hereby declared to be and always to have been lawful. 20
- (2) Nothing done or omitted to be done by any person before the commencement of this section on, adjacent to, or in respect of any walkway to which **subsection (1)** of this section applies shall constitute an offence against the principal Act. 25