

NATIONAL PARKS AMENDMENT BILL (NO. 3)

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

THIS Bill was formerly part of the Dog Control Bill as reported from the Internal Affairs and Local Government Committee. The committee of the whole House has divided the Dog Control Bill as follows:

- The Dog Control Bill, comprising clauses 1 to 106 and the Sixth, Seventh, and Eighth Schedules.
 - The Conservation Amendment Bill (No. 4), comprising Part III.
 - This Bill, comprising Part IV.
 - The Police Amendment Bill (No. 3), comprising Part V.
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No. 69—3CB

A BILL INTITULED

An Act to amend the National Parks Act 1980

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

1. Short Title and commencement—(1) This Act may be cited as the National Parks Amendment Act (No. 3) 1996, and shall be read together with and deemed part of the National Parks Act 1980 (hereinafter referred to as the principal Act). 5

(2) This Act shall come into force on the date on which this Act receives the Royal assent. 10

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

“ ‘Companion dog’ means a dog certified by the Top Dog Companion Trust as being a companion dog or a dog under training as a companion dog: 15

New

“ ‘Day’ means a period of 24 hours beginning at midnight and ending with the following midnight: 20

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“ ‘Dog at large’ means any dog that is not under the immediate or apparent control of any person: 25

“ ‘Guide dog’ means a dog certified by the Royal New Zealand Foundation for the Blind as being a guide dog or a dog under training as a guide dog: 25

“ ‘Owner’, in relation to any dog, means every person who—

“(a) Owns the dog; or

“(b) Has the dog in his or her possession, whether the dog is at large or in confinement, otherwise than for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner; or 30

“(c) The parent or guardian of a person under the age of 16 years who— 35

“(i) Is the owner or the dog pursuant to **paragraph (a)** or **paragraph (b)** of this definition; and

“(ii) Is a member of the parent or guardian’s household living with and dependent on the parent or guardian;—

5 but does not include any person who has seized or taken custody of the dog under this Act or the Conservation Act 1987 or the Animals Protection Act 1960 or the Dog Control Act 1994 or any order made under the Dog Control Act 1994 or the Animals Protection Act 1960:

10 “‘Protected wildlife’ means—

“(a) Any animal for the time being absolutely protected pursuant to section 3 of the Wildlife Act 1953:

15 “(b) Any animal for the time being partially protected pursuant to section 5 of the Wildlife Act 1953, other than an animal in such circumstances that it may be hunted or killed under the authority of subsection (2) of that section:

20 “(c) Any animal that is a marine mammal within the meaning of the Marine Mammals Protection Act 1978:

New

25 “‘Protected wildlife vulnerable to dogs’ means—

“(a) Any flightless protected wildlife:

“(b) Any limited-flight protected wildlife:

“(c) Any protected wildlife that nests (including moulting or breeding) or roosts, upon or in close proximity to the ground:

30 “(d) Any protected wildlife that feeds upon or in close proximity to the ground:

“(e) Any animal that is a marine mammal within the meaning of the Marine Mammals Protection Act 1978.”

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

40 “‘Ranger’ means any ranger referred to in section 40 of this Act; and, for the purposes of **Part VA** of this Act, includes a person—

“(a) Who—

“(i) Is a warranted officer appointed under section 59 of the Conservation Act 1987; or

“(ii) Is a person deemed, by section 59 (2) or section 59 (9) of the Conservation Act 1987, to be a warranted officer for the purposes of that Act; and

“(b) Is acting on or in respect of any matter or thing arising, situated, or formerly situated, in the district, area, or areas for which the person is appointed or is deemed to be a warranted officer.”.

115. New Part VA inserted—The principal Act is hereby amended by inserting, after Part V, the following Part:

“PART VA

“CONTROL OF DOGS

“56A. **Restrictions in relation to dogs**—Except as provided in this Act or in any bylaws made under this Act, no person, being an owner of a dog or a person in charge of a dog, shall allow that dog to be in a national park.

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“56B. **Dog control permits**—(1) The Director-General may from time to time, subject to **section 56c** of this Act, issue in respect of any dog a dog control permit allowing the owner or any other person in charge of that dog to take that dog into the national park specified in the permit.

“(2) Any dog control permit under **subsection (1)** of this section shall be subject to such conditions as the Director-General thinks fit to impose.

“(3) A dog control permit issued under this section may allow the dog in respect of which the permit is issued to be used for hunting in a national park or in part of a national park.

“(4) The Director-General may amend or revoke any dog control permit issued under this section.

“56c. **Criteria**—The Director-General, in deciding whether to issue a dog control permit under **section 56b** of this Act and in deciding what conditions to impose on the holder of such a permit, shall have regard to—

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- 5 “(a) The need to preserve the safety of members of the public who are likely to be in the national park; and
- “(b) Any conflict between—
- 5 “(i) Dogs or people with dogs; and
- “(ii) Other users of the national park,—
- that may or will occur in the national park or in relation to the use of the national park; and
- 10 “(c) Any actual or potential risk to protected wildlife that is in the national park.

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- 15 “56B. **Dog control permits**—(1) Subject to **section 56c** of this Act, the Director-General may from time to time issue in respect of any dog a dog control permit allowing the owner or any other person in charge of that dog to take that dog into any national park or part of a national park specified in the permit.
- 20 “(2) Without limiting the generality of **subsection (1)** of this section, it is hereby declared that the Director-General may refuse to issue a dog control permit if the permit is sought—
- “**(a)** In relation to a dog that is classified as a dangerous dog under **section 60** of the **Dog Control Act 1995** or is not registered under that Act; or
- 25 “**(b)** By a person who is—
- “**(i)** A person classified under **section 51 (1)** of the **Dog Control Act 1995** as a probationary owner; or
- “**(ii)** A person disqualified under **section 54** of the **Dog Control Act 1995** from being the owner of any dog; or
- 30 “**(iii)** A person who has been convicted of an offence under the Dog Control and Hydatids Act 1982; or
- “**(iv)** A person who has been convicted of an offence against **section 26ZZP** or **section 26ZZQ** of the Conservation Act 1987 or (~~**section 56I**~~) **section 56H** of this Act; or
- 35 “**(v)** A person who has been convicted of an offence against the Wildlife Act 1953, the Marine Mammals Protection Act 1978, or the Trade in

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Endangered Species Act 1989 or any regulations made under any of those Acts.

“(3) Every dog control permit issued under **subsection (1)** of this section shall be subject to—

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“(a) The condition that the holder carry the permit on his or her person whenever the holder is in a national park and is accompanied by the dog; and

“(b) Such other conditions as the Director-General thinks fit to impose.

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“(4) Every dog control permit issued under **subsection (1)** of this section shall state the activity and purpose for which it is issued.

“**56c. Requirements in relation to dog control permits**—(1) The Director-General, in exercising his or her powers under **subsection (1)** or **subsection (3) (b)** of **section 56b** of this Act, shall have regard to—

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“(a) Any actual or potential risk to protected wildlife vulnerable to dogs that is on or in the vicinity of the national park or the part of the national park in respect of which the permit is sought:

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“(b) The purposes for which national parks are held:

“(c) The provisions of any relevant statement of general policy, management strategy, or conservation management plan:

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“(d) The need to preserve the safety of members of the public who are likely to be in the national park or in the vicinity of the national park:

“(e) Any conflict between—

“(i) Dogs or people with dogs; and

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“(ii) Other users of the national park—

that may or will occur in the national park or in relation to the use of the national park.

“(2) The Director-General shall not issue a dog control permit under **section 56b (1)** of this Act unless he or she is satisfied—

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“(a) That a dog is essential for the proposed activity; and

“(b) That the proposed activity—

“(i) Is lawful; and

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“(ii) Is not inconsistent with the purposes of this Act or the relevant management strategy or conservation management plan.

5 “56CA. **Power to amend or revoke dog control permit**—
The Director-General may amend or revoke a dog control permit issued under **section 56B** (1) of this Act.

10 “56D. **Persons authorised to take dogs into national park area without dog control permit**—(1) Any person being—

“(a) A member of the Police; or

“(b) A ranger; or

“(c) An officer or employee of the Department; or

“(d) A Customs Officer; or

15 “(e) A search and rescue person,—

may, in the course of his or her official duties or in the course of his or her training for those duties and without being the holder of a dog control permit, take a dog into a national park.

20 “(2) Any blind or partly blind person who uses a guide dog may, without being the holder of a dog control permit, take that guide dog into a national park.

“(3) Any person who uses a companion dog may, without being the holder of a dog control permit, take that companion dog into a national park.

25 “56E. **Seizure and destruction of dogs**—(1) Any ranger who finds a dog in a national park may, unless that dog is in the national park in accordance with—

“(a) A bylaw made under this Act; or

30 “(b) A dog control permit issued under **section 56B** of this Act;
or

“(c) **Section 56D** of this Act,—
seize that dog.

35 “(2) Where a dog is in a national park by virtue of a permit issued under **section 56B** of this Act, any ranger may seize that dog if—

“(a) The dog is not in the immediate vicinity of the holder of the permit and the ranger has (*reasonable grounds to believe*) good cause to suspect that there is a significant risk—

40 “(i) Of injury to any person or any protected wildlife; or

“(ii) Of disturbance to any protected wildlife; or

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“(aa) Any condition of the permit or any provision of any bylaw made under this Act is not being observed in relation to the dog; or

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“(b) The holder of the permit is in the immediate vicinity of the dog but the ranger has (*reasonable grounds to believe*) good cause to suspect that the holder of the permit is unwilling or unable to control the dog; or

“(c) The dog has caused injury to any person or to any protected wildlife or has killed any protected wildlife.

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“(3) Where a dog is at large in a national park and, in the opinion of a ranger or any other person—

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“(a) Is likely to cause annoyance or distress to any person or animal; or

“(b) Is likely to damage any property in the national park; or

“(c) Has caused annoyance or distress to any person or animal; or

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“(d) Has damaged any property in the national park,— that ranger or other person may seize that dog.

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“(3) Where a dog is at large in a national park and, a ranger or any other person has good cause to suspect,—

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“(a) That any condition of a dog control permit or any provision of any bylaw made under this Act is not being observed in relation to that dog; or

“(b) That dog is likely to cause annoyance or distress to any person or animal; or

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“(c) That dog is likely to damage any property in the national park; or

“(d) That dog has caused annoyance or distress to any person or animal; or

“(e) That dog has damaged any property in the national park; or

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“(f) That dog has caused injury to any person or to any protected wildlife or has killed any protected wildlife,—
5 that ranger or other person may seize that dog.

“(4) Where a ranger has, under any provision of subsections (1) to (3) of this section, power to seize a dog but is of the opinion that it is impracticable to do so, that ranger may, without any further inquiry, destroy that dog.

10 “56F. **Disposal of seized dogs**—(1) Where a ranger or any other person seizes a dog under any provision of section 56E of this Act, that ranger or other person may—

“(a) Cause that dog to be returned to its owner; or

15 “(b) Hold the dog in a kennel under the Department’s custody; or

“(c) Place the dog in the custody of a territorial authority to be impounded under section 96 of the Dog Control Act 1994.

20 “(2) Where a dog is held by the Department under subsection (1) (b) of this section, the following provisions shall apply:

“(a) The Director-General may, in his or her discretion, return the dog to its owner subject to payment by the owner of any charges incurred, unless the Director-General, in his or her discretion, decides to waive or reduce the charges:
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“(b) The Director-General or an employee of the Department shall, as soon as practicable after the dog has been seized—

30 “(i) Give written notice to the nearest territorial authority that the dog has been seized and is held by the Department and shall include in that notice a description of the dog and any other means of identifying it:

35 “(ii) Give written notice to the owner of the dog (where the owner of the dog is known or can reasonably be located) that the dog has been seized and that, unless the dog is claimed and any charges paid within 7 days of the receipt of that notice, the dog may be sold, destroyed, or otherwise disposed of in such manner as the Director-General thinks fit;
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and after the expiry of that period the Director-General may so dispose of the dog:

“(c) Where the owner of the dog is not known and cannot be identified, the Director-General may, after the expiry of 7 days after the date of the seizure of the dog, sell, destroy, or otherwise dispose of the dog in such manner as the Director-General thinks fit: 5

“(d) The sale, destruction, or other disposal of a dog under these provisions shall not relieve any former owner of the dog of the liability to pay any fees incurred in respect of the dog’s seizure, sustenance, and holding. 10

“(3) Where a dog that is not registered under the Dog Control Act 1994 but ought to be so registered is held by the Department under subsection (1) (b) of this section, no offence is committed against section 70 of that Act by the person holding or disposing of the dog under subsection (1) (b) of this section. 15

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“(4) Except as provided in subsection (1) (c) of this section, nothing in section 96 of the Dog Control Act 1995 affects or limits the provisions of this section. 20

“56G. **Recovery of costs relating to dogs**—(1) The reasonable costs of the seizure, holding, maintaining, or destruction of a dog under this Part of this Act shall constitute a debt due to the Crown by the owner of the dog and, subject to subsection (2) of this section, shall be recoverable by the Director-General from the owner of the dog. 25

“(2) The Director-General may, in the Director-General’s absolute discretion, refund or waive payment of all or any part of any sum paid or required to be paid pursuant to this section. 30

“56H. **Offences**—(1) Every person commits an offence against this Act and is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$10,000 or to both who,—

“(a) Being the owner of a dog or a person in charge of a dog, allows that dog, in contravention of section 56A of this Act, to be in a national park; or 35

“(b) Being a person who is authorised, by or under this Act, to take a dog into a national park, fails to keep under proper control a dog that he or she has taken into a national park; or 40

New

“(c) Being the owner or a person in charge of a dog, fails to comply with any condition of a dog control permit.

5 “(2) Without limiting the generality of **subsection (1) (b)** of this section, a dog shall, for the purposes of this Act, be deemed not to be under proper control if it is found at large in a national park.

10 “56I. **Power of ranger to request information**—(1) Any ranger may, for the purposes of dog control in any national park request any person who is in that national park and who appears to be in charge of any dog to state his or her own name, address, and date of birth, and where that person claims not to be the owner of the dog, to state the name and address of the owner of the dog.

15 “(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who, without reasonable excuse, fails or refuses to comply with any lawful request under **subsection (1)** of this section, or wilfully states a false name or address or date of birth in response to
20 such a request.

“ (3) Any ranger who is a constable and who—

25 “(a) Has (*reasonable grounds to believe*) good cause to suspect that an offence against **subsection (2)** of this section has been committed by any person; and

“ (b) Has warned that person of the provisions of this subsection; and

30 “(c) Has (*reasonable grounds to believe*) good cause to suspect that a further offence against **subsection (2)** of this section has been committed by that person subsequent to the warning,—

may arrest that person without a warrant.

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35 “56IA. **Evidence in proceedings**—(1) Subject to **subsections (3) and (4)** of this section, in any proceedings in respect of an offence against any provision of this Part of this Act a certificate purporting to be signed by the Director-General or any officer authorised by the Director-General for that purpose to the effect that, on a date specified in the certificate, the defendant or other named person was not the holder of a dog

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control permit shall, in the absence of proof to the contrary, be sufficient evidence of the matter stated in the certificate.

“(2) A copy of any licence or document granted or issued under this Act which is certified correct by the Director-General, or any officer of the Department duly authorised by the Director-General in that behalf, shall, in any proceedings for an offence against this Part of this Act, be sufficient, in the absence of proof of the contrary, to prove that licence or other document.

“(3) The production of any certificate or copy of any document for the purpose of this section purporting to be signed by any person authorised under this section to sign it shall, in any proceedings for an offence against this Part of this Act, be prima facie evidence of the certificate or copy without proof of the signature of the person appearing to have signed it.

“(4) The production of any certificate or copy of any document signed by the Director-General and certifying that the land upon which any offence is alleged to have taken place was included within a national park shall, in any proceedings for an offence against this Part of this Act, be sufficient evidence that the land was within a national park.

“56IB. **Strict liability**—(1) In any prosecution for any offence against any provision of **section 56H** of this Act, it shall not be necessary for the prosecution to prove that the defendant intended to commit an offence.

“(2) It shall be a defence in any such prosecution if the defendant proves—

“(a) That the defendant did not intend to commit the offence; and

“(b) That—

“(i) In any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or

“(ii) In any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.”

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