

WILDLIFE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Wildlife Act 1953.

The main amendments relate to—

- (a) The extension of the protections afforded by the Act to certain rare plants specified in a new Eighth Schedule (see *clause 4* of and the First Schedule to the Bill):
- (b) Provisions allowing ferrets, polecats, stoats, and weasels to be farmed, bred, or sold (see *clause 4* of and the Second Schedule to the Bill):
- (c) Increases in certain penalties for offences against the principal Act (see the Third Schedule to the Bill).

Other amendments are of an administrative nature or are consequential on the main amendments mentioned above.

Clause 1 relates to the Short Title.

Clause 2 relates to interpretation.

Clause 3 is a consequential amendment.

Clause 4 inserts the new Eighth and Ninth Schedules (which relate to protected plants and mustelids that may be farmed) into the principal Act.

Clauses 5 and 6 make consequential amendments relating to protected plants.

Clause 7 gives a general authority to the Minister to modify the restrictions on taking game. The authority is to be exercised by notice in the *Gazette*.

Clauses 8 and 9 in effect combine the provisions of the existing sections 20 and 21 of the principal Act into one more easily understood section relating to the consents given by occupiers of land.

Clause 10 gives an authority to the Minister in relation to game birds not in flight in similar terms to those contained in *clause 7*.

Clause 11 amends the date by which an acclimatisation society is to send a copy of its annual report to the Secretary. A second copy of the report is to be sent to the Director-General of Agriculture and Fisheries rather than to the Secretary for Transport.

Clause 12 extends the powers of a ranger to encompass dealings with protected plants.

Clause 13 omits references to “assaults” in respect of offences against rangers. Assaults will be dealt with pursuant to the Summary Offences Act 1981 or the Crimes Act 1961.

Cluses 14 to 17 make amendments consequential on the insertion of the provisions relating to protected plants and the farming of mustelids.

Clause 18 corrects a reference to take into account the amendments relating to protected insects and snails made in 1980.

Clause 19 redrafts the provisions protecting rangers and certain others from civil and criminal liability when acting lawfully pursuant to the principal Act.

Clause 20 provides that a person having tools or equipment in an area where any protected plant is found may be presumed to have those tools for the purposes of taking that plant in certain circumstances.

Clause 21 makes a consequential amendment.

Clause 22 increases the penalties for certain offences. See the Third Schedule to the Bill.

Clause 23 makes consequential amendments.

Clause 24 authorises the making of regulations relating to the farming of mustelids.

Hon. Mr Highet

WILDLIFE AMENDMENT

ANALYSIS

| Title | |
|--|--|
| 1. Short Title | 12. Powers of rangers |
| 2. Interpretation | 13. Obstructing rangers |
| 3. Meaning of possession | 14. Minister's general powers |
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| 7C. Amendment of Schedule of protected plants | 16. Secretary may authorise hunting or killing of wildlife causing damage |
| 7D. Farming certain unprotected animals. | 17. Keeping of specimens in museums and educational institutions |
| 5. Destruction or seizure of certain animals or plants found in sanctuaries | 18. Restrictions on liberation or export of animals, birds, etc. |
| 6. Wildlife refuges | 19. Protection of rangers and others |
| 7. Restrictions on the taking of game | 20. Person in pursuit of wildlife to comply with demand by authorised officer |
| 8. Limitation of licence | 21. Taking protected wildlife or game, etc. |
| 9. Holder of licence not to enter on land without consent | 22. Increase in penalties for offences |
| 10. Shooting of game not in flight prohibited | 23. Forfeitures |
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A BILL INTITULED

An Act to amend the Wildlife Act 1953

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

1. Short Title—This Act may be cited as the Wildlife Amendment Act 1982, and shall be read together with and deemed part of the Wildlife Act 1953* (hereinafter referred to as the principal Act).

*R.S. Vol. 7, p. 819
Amendment: 1981, No. 107

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

“‘Plant’ includes any plant or similar growth form or organism, or part of any plant; and includes any angiosperm (flowering plant), gymnosperm (conifer), fungus, fern, fern ally, moss, liverwort, lichen, alga, tree, shrub, herb, climber, grass, flower, nursery stock, culture, vegetable or other vegetation, and any plants cultivated or otherwise propagated; and also includes any root, leaf, flower, fruit, seed, spore, or any part thereof:”

(2) The said section 2 (1) is hereby further amended by repealing the definition of the term “take”, and substituting the following definition:

“‘Take’, and all references thereto—

“(a) In relation to animals, includes taking, catching, or pursuing the animal by any means or device, and also the attempt to take:

“(b) In relation to plants, includes taking, burning, gathering, plucking, cutting, pulling up, picking, destroying, digging up, removing, uprooting, clearing, or injuring the plant, and also the attempt to take:”

(3) The said section 2 (1) is hereby further amended by inserting, in the definition of the term “wildlife” (as substituted by section 2 (3) of the Wildlife Amendment Act 1980) after the words “or otherwise;”, the words “and includes any plant specified in the Eighth Schedule to this Act that is found in the wild;”.

3. Meaning of possession—Section 2A of the principal Act (as inserted by section 2 (1) of the Wildlife Amendment Act 1964) is hereby amended by inserting, after the word “animal” wherever it occurs, the words “or plant”.

4. Insertion of new sections and Schedules—(1) The principal Act is hereby amended by inserting, after section 7B (as inserted by section 3 (1) of the Wildlife Amendment Act 1980), the following sections:

“7c. **Amendment of Schedule of protected plants**—

(1) The Governor-General may from time to time, by Order in Council,—

“(a) Include, in the Eighth Schedule to this Act, any plant not for the time being specified in that Schedule:

“(b) Omit, from the Eighth Schedule to this Act, any plant for the time being specified in that Schedule.

5 “(2) Any such Order in Council may be expressed to operate throughout New Zealand or in such part or parts of New Zealand and for such period or periods as may be specified.

“7D. **Farming certain unprotected animals**—(1) No
10 person shall farm, breed, or sell, or capture or convey or keep in captivity for the purposes of farming, breeding, or selling, any wildlife specified in the Ninth Schedule to this Act unless any such activity is authorised by the Minister pursuant to section 41 of this Act or by regulations made under this Act.

15 “(2) Any person who contravenes subsection (1) of this section commits an offence against this Act.”

(2) Section 8 of the principal Act is hereby consequentially amended by adding the following subsection:

20 “(4) In this section, the term ‘wildlife’ does not include any plant specified in the Eighth Schedule to this Act.”

(3) The principal Act is hereby further amended—

(a) By omitting from the Eighth Schedule (as amended by section 3 (2) (a) of the Wildlife Amendment Act 1980) the word “Eighth”, and substituting the word
25 “Tenth”:

(b) By omitting from the Ninth Schedule (as amended by section 3 (2) (b) of the Wildlife Amendment Act 1980) the word “Ninth”, and substituting the word
“Eleventh”:

30 (c) By omitting from section 71 the word “Eighth” (as inserted by section 3 (2) (c) of the Wildlife Amendment Act 1980), and substituting the word “Tenth”:

35 (d) By omitting from section 73 (1) the word “Ninth” (as inserted by section 3 (2) (d) of the Wildlife Amendment Act 1980), and substituting the word “Eleventh”.

(4) The principal Act is hereby further amended—

40 (a) By inserting, after the Seventh Schedule, the new Eighth Schedule set out in the First Schedule to this Act:

(b) By inserting, after the Eighth Schedule (as inserted by paragraph (a) of this subsection), the new Ninth Schedule set out in the Second Schedule to this Act.

45 (5) Section 3 (2) of the Wildlife Amendment Act 1980 is hereby consequentially repealed.

5. Destruction or seizure of certain animals or plants found in sanctuaries—(1) Section 11 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where the Secretary considers that the presence in 5
any sanctuary of any animal or bird or plant or of animals or
birds or plants of any specified species is undesirable in the
interests of other wildlife in the sanctuary, he may authorise
any person in writing, either generally or in a specified case,
and whether with or without other persons under his control, 10
to destroy that animal or bird or plant or animals or birds or
plants of that species, as the case may be. Any authority
under this subsection may be at any time revoked by the
Secretary.”

(2) Section 11 (2) of the principal Act is hereby amended 15
by inserting, after the word “bird”, the words “or plant”.

(3) The said section 11 is hereby further amended by
inserting, after subsection (3), the following subsection:

“(3A) In subsection (1) of this section, the expression
‘plant’ does not include any Class A or Class B noxious plant 20
in the sanctuary subject to control pursuant to the Noxious
Plants Act 1978.”

6. Wildlife refuges—(1) Paragraph (b) of the proviso to
section 14 (1) of the principal Act is hereby amended by 25
omitting the words “an Order in Council pursuant to section
37 of the Public Works Amendment Act 1948”, and
substituting the words “a notice under section 191 of the
Public Works Act 1981”.

(2) Section 14 of the principal Act is hereby consequen- 30
tially amended by omitting the words “Order in Council”
wherever they appear, and substituting in every case the word
“notice”.

(3) Section 14 (3) of the principal Act is hereby amended—

(a) By omitting the words “wildlife in the wildlife refuge, or 35
take, destroy, or disturb the nests, eggs, or spawn of
any such wildlife,”, and substituting the words
“animals or birds in the wildlife refuge, or take,
destroy, or disturb the nests, eggs, or spawn of any
such animal or bird, or take, disturb, or destroy any
plant or part thereof in the wildlife refuge,”: 40

(b) By omitting the words “cause any wildlife”, and
substituting the words “cause any animal or bird”.

7. Restrictions on the taking of game—(1) Section 18 (1) of the principal Act is hereby amended by inserting, after the words “expressly provided in this Act”, the words “or except in such circumstances and at such times, areas, and places and subject to such conditions as may from time to time be authorised pursuant to a notification given by the Minister”.

(2) The said section 18 (1) is hereby further amended by repealing paragraph (f) (vi) (as amended by section 2 of the Wildlife Amendment Act 1981).

(3) The Wildlife Amendment Act 1981 is hereby consequentially repealed.

8. Limitation of licence—Section 20 of the principal Act is hereby repealed.

9. Holder of licence not to enter on land without consent—The principal Act is hereby amended by repealing section 21, and substituting the following section:

“21. (1) Except as otherwise expressly provided in this Act, or in any Proclamation or Order in Council or notice pursuant thereto, nothing in any licence or other authority under this Act shall authorise the holder to enter upon or to hunt or kill game on any land without the consent of the occupier of the land.

“(2) In subsection (1) of this section, the term ‘occupier’ includes:

“(a) In the case of any reserve within the meaning of the Reserves Act 1977, the appropriate Commissioner of Crown Lands or, as the case may require, the administering body:

“(b) In the case of any land actually and exclusively used by any society for the purposes of this Act, that society:

“(c) In the case of any wildlife sanctuary, wildlife refuge, or wildlife management reserve, the Minister or Secretary:

“(d) In any other case, the owner or occupier as the case may be.”

10. Shooting of game not in flight prohibited—Section 22 (1) of the principal Act is hereby amended by inserting, after the words “this Act”, the words “or except in such circumstances and at such times, areas, and places and subject to such conditions as may from time to time be authorised pursuant to a notification given by the Minister”.

11. Annual reports and balance sheets of societies to be forwarded to the Minister—Section 34 (1) of the principal Act (as amended by section 6 (2) (c) of the Ministry of Transport Amendment Act 1972) is hereby amended by omitting the words “not later than 3 months after the close of any financial year, forward to the Secretary for Internal Affairs and also to the Secretary for Transport a report in triplicate of its proceedings during that financial year,”, and substituting the words “not later than 14 days after its annual general meeting, forward to the Secretary and to the Director-General of Agriculture and Fisheries a report in triplicate of its proceedings during its immediately preceding financial year,”.

12. Powers of rangers—Section 39 (1) of the principal Act is hereby amended by inserting, in paragraphs (a) and (c) after the words “nest thereof”, the words “or any plant”.

13. Obstructing rangers—Section 40 (1) of the principal Act is hereby amended by omitting the word “assaults,” and the word “assault,”.

14. Minister’s general powers—Section 41 (2) of the principal Act is hereby amended by adding the following paragraph:

“(h) Subject to any regulations made under this Act, regulate, control, or prohibit the keeping, breeding, or farming of any wildlife specified in the Ninth Schedule to this Act.”

15. Secretary may authorise taking or keeping of wildlife in certain circumstances—Section 53 of the principal Act (as amended by section 7 of the Wildlife Amendment Act 1964) is hereby amended by inserting, after subsection (2A), the following subsection:

“(2B) Notwithstanding anything to the contrary in section 62, section 63 (b), or section 63 (d) of this Act, the Secretary may, by notification, authorise any person to keep, or have in possession, propagate, take, transport, buy, sell, or otherwise acquire or dispose of, any absolutely protected wildlife or part thereof, if the absolutely protected wildlife was not taken from a place where it was living in a wild state (the proof of which shall be on the person charged under section 62 or section 63 of this Act).”

16. Secretary may authorise hunting or killing of wildlife causing damage—(1) Section 54 (1) of the principal Act (as amended by section 2 (4) of the Wildlife Amendment Act 1956) is hereby amended—

- 5 (a) By omitting the words “any animals”, and substituting the words “any wildlife”:
(b) By omitting the words “such animals” wherever they occur, and substituting in each case the words “such wildlife”:
10 (c) By inserting after the word “eggs”, the words “or spores or seeds”.
- (2) Section 2 (4) of the Wildlife Amendment Act 1956 is hereby consequentially repealed.

17. Keeping of specimens in museums and educational institutions—(1) Section 55 (1) of the principal Act is hereby amended by inserting, after the word “museum” wherever it appears, the words “plant museum, public herbarium, school, or other educational institution”.

(2) The said section 55 (1) is hereby further amended by
20 inserting, after paragraph (a), the following paragraph:

“(aa) The controlling authority shall keep an index showing each plant held, the name of the person from which it was received or by whom it was cultivated.”.

25 (3) The said section 55 (1) is hereby further amended by inserting, in paragraph (b) after the words “the register” wherever they occur, the words “or, as the case may be, index”.

(4) The said section 55 (1) is hereby further amended by
30 inserting, in paragraph (c) after the words “and seize”, the words “any plant or”.

(5) Section 55 (2) of the principal Act is hereby amended—
(a) By inserting after the word “animals”, the words “or plants”:

35 (b) By inserting after the words “specified animal”, the words “or plant”:

(c) By inserting after the words “any animal”, the words “or any plant”.

18. Restrictions on liberation or export of animals, birds, etc.—Section 56 (1) of the principal Act is hereby
40 amended by omitting from paragraph (b) the words “any land mollusc of the genus *paraphanta*”, and substituting the words “any terrestrial or freshwater invertebrate specified in the Seventh Schedule to this Act.”

19. Protection of rangers and others—The principal Act is hereby amended by repealing section 60, and substituting the following section:

“60. A person who does any act in pursuance or intended pursuance of any of the functions conferred on him by or under this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he has acted in bad faith or without reasonable care.” 5

20. Person in pursuit of wildlife to comply with demand by authorised officer—(1) Section 61 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 10

“(1A) In any prosecution for an offence against this Act or any regulation made under it, proof that any person found in any area where any species of plant specified in the Eighth Schedule to this Act is usually prevalent had with him or under his control any tool, or other instrument or device capable of being used for the purpose of taking, uprooting, picking, or destroying any such plant shall be evidence from which the Court may infer that that person was in pursuit of that species.” 15 20

(2) Section 61 (2) of the principal Act is hereby amended by inserting, after the word “kill”, the words “or take”.

21. Taking protected wildlife or game, etc.—(1) Section 63 of the principal Act is hereby amended by adding the following paragraph: 25

“(d) Buys, sells or otherwise disposes of, takes, or knowingly removes, injures, or destroys, or has in possession any plant specified in the Eighth Schedule to this Act.” 30

(2) The said section 63 is hereby further amended by adding, as subsection (2), the following subsection:

“(2) In this section, the term “wildlife” does not include any plant specified in the Eighth Schedule to this Act.” 35

22. Increase in penalties for offences—(1) Section 67 (1) of the principal Act (as amended by section 9 (1) of the Wildlife Amendment Act 1980) is hereby amended in the manner indicated in the Third Schedule to this Act.

(2) Any proceedings commenced (whether before or after the commencement of this Act) for an offence against the principal Act or any regulations made under it arising out of any act done or omitted before the passing of this Act shall be
5 heard and determined as if subsection (1) of this section had not been passed.

(3) The Second Schedule to the Wildlife Amendment Act 1980 is hereby amended by repealing those items that relate to subsection (1) (a) and subsection (1) (f) of section 67 of the
10 principal Act.

23. Forfeitures—Section 70 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “nest of any animal”, the words “or any plant”:
15 (b) By inserting in subsection (2), after the words “nest of any such animal”, the words “or of any such plant”.

24. Regulations—(1) Section 72 (2) (h) of the principal Act is hereby amended by inserting, after the words “licensing of taxidermists”, the words “which thereby
20 authorises them to possess absolutely protected wildlife”.

(2) Section 72 of the principal Act is hereby further amended by inserting, after subsection (2A) (as inserted by section 3 (1) of the Wildlife Amendment Act 1972), the following subsection:

- 25 “(2B) Without limiting the power to make regulations under subsections (1), (2), and (2A) of this section, the Governor-General may from time to time, by Order in Council, make regulations prescribing the scope and effect of licences to farm, breed, or sell or capture or convey or keep in
30 captivity for the purposes of farming, breeding, or selling, any wildlife specified in the Ninth Schedule to this Act, and any fees to be paid therefor, and providing for the issue of those licences and for the disposal of any fees for those licences.”
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SCHEDULES

Section 4 (4) (a)

FIRST SCHEDULE

NEW EIGHTH SCHEDULE TO PRINCIPAL ACT

"EIGHTH SCHEDULE

Sections 2 (1), 7C, 8 (4), 61 (1A), 63

ABSOLUTELY PROTECTED PLANTS

SPERMATOPSIDA (seed plants)

Dicotyledones:

- Aciphylla traversii* (F. Muell.) Hook. f.
Alectryon grandis Cheesem.
Anisotome acutifolia (Kirk) Ckn.
Boehmeria australis Endl. var. *dealbata* (Cheesem.) Sykes
Brachyglottis arborescens W. R. B. Oliver
Carmichaelia kirkii Hook. f.
Celmisia macmahonii Kirk var. *macmahonii*
Chordospartium stevensonii Cheesem.
Clianthus puniceus (G. Don) Sol. ex Lindl. [commonly known as kaka beak]
Coprosma acutifolia Hook. f.
Cotula nana D. G. Lloyd
Cotula rotundata (Cheesem.) D. G. Lloyd
Dactylanthus taylori Hook. f. [commonly known as pua o te reinga: causes "wood roses" to form on host plants' roots]
Elingamita johnsonii G. T. S. Baylis
Fuchsia procumbens R. Cunn. ex A. Cunn.
Gunnera hamiltonii Kirk
Hebe armstrongii (J. B. Armst.) Ckn. et Allan
Hebe barkeri (Ckn.) Ckn.
Hebe breviracemosa (W. R. B. Oliver) Ckn. et Allan
Hebe speciosa (A. Cunn.) Ckn. et Allan
Hebe raoulii (Hook. f.) Ckn. et Allan var. *maccaskillii* Allan
Helichrysum dimorphum Ckn.
Hibiscus diversifolius Jacquin
Hibiscus trionum L.
Homalanthus polyandrus (Hook. f.) Cheesem.
Ipomoea pes-caprae (L.) R. Br. subsp. *brasiliensis* (L.) Ooststr.
Lepidium kawarau Petrie
Lepidium kirkii Petrie
Lepidium matau Petrie
Lepidium obtusatum Kirk
Lepidium oleraceum Forst. f. [commonly known as Cook's scurvy grass]
Myriophyllum robustum Hook. f.
Myrsine oliveri Allan
Notospartium torulosum Kirk
Olearia pachyphylla Cheesem.
Pennantia baylisiana (W. R. B. Oliver) Baylis
Peraxilla colensoi (Hook. f.) Tiegh.
Pittosporum dallii Cheesem.
Pittosporum obcordatum Raoul
Pittosporum pimeleoides R. Cunn.
Plantago picta Col.

FIRST SCHEDULE—continued

- Pseudopanax arboreus* (Murr.) Philipson var. *kermadecensis* (W. R. B. Oliver) Sykes
Pseudopanax gilliesii Kirk
Ranunculus crithmifolius Hook. f. subsp. *paucifolius* (Kirk) Fisher
 [commonly known as Castle Hill buttercup]
Scutellaria novae-zelandiae Hook. f.
Tecomanthe speciosa W. R. B. Oliver
Theleophyton billardieri Moq.
Tillaea (Crassula) acutifolia Kirk
Trilepidea adamsii (Cheesem.) Tiegh.
- Monocotyledones:
- Astelia chathamica* (Skotts.) L. B. Moore
Baumea complanata (Bergg.) Blake
Carex inopinata Cook
Eleocharis neozelandica Kirk
Paracaleana minor (R. Br.) Blaxell [commonly known as flying duck orchid]
Simplicia laxa Kirk
Thelymitra matthewsii Cheesem.
Xeronema callistemon W. R. B. Oliver [commonly known as Poor Knights lily]
Yuania australis Hatch
- FILICOPSIDA (ferns)
- Cyclosorus interruptus* (Willd.) Ito
Marattia salicina Smith in Rees [commonly known as para or king fern]
Thelypteris confluens (Thunb.) Morton
Todea barbara (L.) Moore
- LYCOPSIDA (club mosses)
- Lycopodium serpentinum* Kunze in Lehm.
Phylloglossum drummondii Kunze".
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Section 4 (4) (b)

SECOND SCHEDULE

NEW NINTH SCHEDULE TO PRINCIPAL ACT

"NINTH SCHEDULE

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

WILDLIFE NOT PROTECTED BUT MAY BE KEPT, BRED, OR FARMED IN
CAPTIVITY PURSUANT TO REGULATIONS MADE UNDER PRINCIPAL ACT
OR BY MINISTER'S DIRECTION

Ferret (family Mustelidae)
Polecat (family Mustelidae)
Stoat (family Mustelidae)
Weasel (family Mustelidae)".

Section 22 (1)

THIRD SCHEDULE

INCREASE IN PENALTIES FOR OFFENCES

| Provision of Section 67 of Principal Act | Amendment |
|---|---|
| Subsection (1) (a) ... | By omitting the expressions "\$300" and "\$20", and substituting respectively the expressions "\$500" and "\$50". |
| Subsection (1) (c) ... | By omitting the expression "\$20", and substituting the expression "\$50". |
| Subsection (1) (d) ... | By omitting the word "assaulting,". |
| Subsection (1) (e) ... | By omitting the expression "\$1,000", and substituting the words "\$1,000, and to a further fine not exceeding \$100 for every head of wildlife in respect of which the offence was committed". |
| Subsection (1) (f) ... | By omitting the expressions "\$500" and "\$20", and substituting respectively the expressions "\$1,000" and "\$100". |