

[AS REPORTED FROM THE LANDS AND AGRICULTURE
COMMITTEE]

House of Representatives, 16 August 1983

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Mr Highet

WILDLIFE AMENDMENT

ANALYSIS

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5. Destruction or seizure of certain animals or plants found in sanctuaries	18. Restrictions on liberation or export of animals, birds, etc.
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8. Limitation of licence	21. Taking protected wildlife or game, etc.
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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

No. 151—2

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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 5
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 10
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 15
the following definition:

“‘Take’, and all references thereto—

“(a) In relation to animals, includes taking, catch-
ing, or pursuing the animal by any means or device,
and also the attempt to take: 20

“(b) In relation to plants, includes taking, burning,
gathering, plucking, cutting, pulling up, picking,
destroying, digging up, removing, uprooting, clear-
ing, or injuring the plant, and also the attempt to 25
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 30
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”. 35

4. (Insertion of new sections and Schedules—(1) Farming certain unprotected animals—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 section(s): 40

*Struck Out***“7C. Amendment of Schedule of protected plants—**

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

5 “(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.

10 “(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—)

15 “7C. (1) No person shall farm, breed, or sell, or capture or convey or keep in captivity for the purposes of farming, breeding, or selling, any wildlife specified in the (*Ninth*) **Eighth** 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.

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

Struck Out

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

25 “(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—

30 (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 “(*Tenth*) **Ninth**”:

(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*) **Tenth**”:

35 (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*) **Ninth**”:

40 (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*) **Tenth**”.

(4) The principal Act is hereby further amended—

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

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(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. 5

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

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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 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, 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.” 15 20

(2) Section 11 (2) of the principal Act is hereby amended by inserting, after the word “bird”, the words “or plant”. 25

(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 in the sanctuary subject to control pursuant to the Noxious Plants Act 1978.” 30

6. Wildlife refuges—(1) Paragraph (b) of the proviso to section 14 (1) of the principal Act is hereby amended by 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”. 35

(2) Section 14 of the principal Act is hereby consequentially amended by omitting the words “Order in Council” wherever they appear, and substituting in every case the word “notice”. 40

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- (3) Section 14 (3) of the principal Act is hereby amended—
- (a) By omitting the words “wildlife in the wildlife refuge, or 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,”:
- (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”.

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(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).

New

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

(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: 5

“(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: 10

“(b) In the case of any land actually and exclusively used by any society for the purposes of this Act, that society: 10

Struck Out

“(c) In the case of any wildlife sanctuary, wildlife refuge, or wildlife management reserve, the Minister or Secretary: 15

New

“(c) In the case of any wildlife sanctuary, wildlife refuge, or wildlife management reserve, the Minister or Secretary, or, where authorised by the Secretary, the person or society having day to day control of the wildlife sanctuary, wildlife refuge, or wildlife management reserve: 20

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“(d) In any other case, the owner or occupier as the case may be.” 25

New

“(d) In any other case, the occupier.”

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 30 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
 5 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
 10 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,”.

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12. Powers of rangers—Section 39 (1) of the principal Act
 15 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
 20 paragraph:

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

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15. Secretary may authorise taking or keeping of wildlife in certain circumstances—Section 53 of the principal Act (as
 30 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
 35 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
 40 shall be on the person charged under section 62 or section 63 of this Act).”

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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—

- (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”:
- (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 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:”.

(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 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”:
- (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 amended by omitting from paragraph (b) the words “any land mollusc of the genus (paraphanta) *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:

5 “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*), or
10 omitted to act, in bad faith or without reasonable cause.”

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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
15 subsection:

“(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
20 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.”

(2) Section 61 (2) of the principal Act is hereby amended by
25 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:

30 “(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.”

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

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

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*) **Second** 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 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 principal Act.

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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”:

(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 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:

“(2B) Without limiting the power to make regulations under subsections (1), (2), and (2A) of this section, the Governor-General may from time to time, by Order in Council, make regulations prescribing the scope and effect of licences to farm, breed, or sell or capture or dispose of or convey or keep in captivity for the purposes of farming, breeding, or selling, any wildlife specified in the (*Ninth*) **Eighth** 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.”

SCHEDULES

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FIRST SCHEDULE

Section 4 (4) (a)

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.

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FIRST SCHEDULE—*continued*

Pittosporum obcordatum Raoul
Pittosporum pimeleoides R. Cunn.
Plantago picta Col.
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 (Skottsb.) 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”.

(SECOND) FIRST SCHEDULE

Section 4 (4) (b)

NEW **(NINTH) EIGHTH SCHEDULE TO PRINCIPAL ACT**

“(NINTH) EIGHTH SCHEDULE**Sections 7(d)c, 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)”.

(THIRD) SECOND SCHEDULE**Section 22 (1)**

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) \$1,500, 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) \$1,500” and “\$100”.