

WILD ANIMAL CONTROL AMENDMENT BILL (NO. 2)

AS REPORTED FROM THE COMMITTEE OF THE WHOLE
HOUSE

KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Unanimous)

Subject to this Act,

Text struck out unanimously

New (Unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

New

Subject to this Act,

Text inserted

((Subject to this Act,))

Words struck out

Subject to this Act,

Words inserted

New (Unanimous)

(3) The rest of this Act comes into force on 1 October 1999.
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2. Interpretation—(1) Section 2 (1) of the principal Act is amended by inserting, before the definition of the term “aerodrome”, the following definition:

“ ‘Activity’ includes a business, trade, or occupation.”

(2) Section 2 (1) of the principal Act is amended by repealing the definition of the term “catchment authority” (as inserted by section 4 (3) of the Wild Animal Control Amendment Act 1979).

(3) Section 2 (1) of the principal Act is amended by inserting, after the definition of the term “commercial”, the following definition:

“ ‘Concession’ means a concession granted under **section 21** in the form of a licence or permit that does not create an interest in land or that does create an interest in land that is non-exclusive.”

(4) Section 2 (1) of the principal Act is amended by adding to the definition of the term “hunt or kill” the following paragraph:

{“(e) *Wild animal recovery.*”}

“(e) Engaging in a wild animal recovery operation.”

(5) Section 2 (1) of the principal Act is amended by inserting, after the definition of the term “recreation”, the following definition:

“ ‘Regional council’ has the same meaning as in the Local Government Act 1974.”

(6) Section 2 (1) of the principal Act is amended by omitting, in paragraph (a) (ii) of the definition of the term “wild animal”, the word “opossum”, and substituting the word “possum”.

(7) Section 2 (1) of the principal Act is amended by repealing the definitions of the terms “wild animal recovery service” (as substituted by section 2 (3) of the Wild Animal Control Amendment Act 1982) and “wild animal recovery service licence”, and substituting the following definition:

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“ ‘Wild animal recovery’ means any one or more of the following activities by aircraft (whether or not for hire or reward):

5 “(a) The searching for wild animals or their shooting or immobilising:

 “(b) The recovering of wild animals (whether dead or alive) or of any part of such wild animals:

10 “(c) The carriage of persons, supplies, equipment, firearms, ammunition, or poisons essential for the purpose of **paragraph (a) or paragraph (b)** of this definition.”.

New (Unanimous)

“ ‘Wild animal recovery operation’ means the use of an aircraft (whether or not for hire or reward) to carry

15 out one or more of the following activities:

 “(a) The searching for, shooting, or immobilising of wild animals:

 “(b) The recovering of wild animals (whether dead or alive) or of any part of those wild animals:

20 “(c) The carriage of persons, supplies, equipment, firearms, ammunition, poisons, or other things **((essential)) that may be used** for the purpose of **paragraph (a) or paragraph (b)**.”.

New

25 **2A. Wild animals to be controlled**—Section 4 (2) (c) of the principal Act is amended by inserting, after the word “recovery”, the word “operations”.

3. Delegation of Minister’s powers—(1) Section 6 (1) of the principal Act is amended by inserting, at the beginning of

30 that subsection, the words “Subject to **subsection (1A)**”.

(2) Section 6 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) The Minister must not delegate the power to grant concessions under **Part II** other than to the Director-General or to any other officer or employee of the Department.”

New

3A. Hunting or killing of wild animals—Section 8 (4) of the principal Act is amended by inserting, after the word “recovery”, the word “operations”. 5

Struck Out (Unanimous)

4. Keeping of specified wild animals in captivity—
(1) Section 12 (4) of the principal Act is hereby amended by omitting the words “has consulted the local catchment authority, and”, and substituting the words “has consulted the relevant regional council, and”. 10

(2) Section 12 (5) of the principal Act is hereby amended by omitting the word “opossum”, and substituting the word “possum”. 15

New (Unanimous)

4. Keeping of specified wild animals in captivity—
(1) Section 12 (1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraphs: 20

“(b) Any wild animal for the purposes of any zoo within the meaning of the Zoological Gardens Regulations 1977; or

“(c) Any wild animal for the purposes of operating a safari park.” 25

(2) Section 12 of the principal Act is amended by repealing subsection (4), and substituting the following subsections:

“(4) The Director-General must not—

“(a) Issue any permit or licence to hold wild animals for farming purposes or in a safari park; or 30

“(b) Concur under subsection (3) (b) to the farming of any specified wild animal—

unless satisfied, after consulting the relevant regional council, as to the matters specified in **subsection (4A)**.

New (Unanimous)

“(4A) Those matters are that the land on which the wild animals will be farmed or held—

“(a) Is within the feral range of the species; and

5 “(b) Is not unsuitable for farming or holding the wild animals because of its susceptibility to erosion; and

“(c) Will be adequately equipped with effective fences.”

(3) Section 12 (5) of the principal Act is amended by—

10 (a) Omitting the word “opossum”, and substituting the word “possum”; and

(b) Inserting, after the word “farming”, the words “or operating a safari park”.

4A. Deer farms—(1) Section 12A of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) The requirements of this section that apply in respect of deer kept in a safari park on land on which the farming of deer is regulated also apply in respect of deer kept in a safari park on land on which the farming of deer is not regulated.”

20 (2) Section 12A of the principal Act is amended by adding the following subsection:

“(11) In this section, the term “farming”, in relation to deer, includes the keeping of deer in a safari park, whether or not other wild animals are also kept in the safari park.”

25 **4B. Safari parks**—Section 12B of the principal Act is amended by inserting, after subsection (1), the following subsections:

“(1A) The requirement to hold a permit under subsection (1) is in addition to the requirement to hold a permit or licence under section 12, and to complying with section 12A.

30 “(1B) A permit must not be issued under subsection (1) unless the Director-General is satisfied that the requirements of sections 12 and 12A have been complied with.”

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35 **5. New Part II substituted**—The principal Act is hereby amended by repealing Part II, and substituting the following Part:

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"PART II

"CONCESSIONS FOR WILD ANIMAL RECOVERY ON CERTAIN
CROWN-OWNED AND OTHER LAND

"21. Power to grant concessions for wild animal recovery on certain Crown-owned and other land— 5

(1) Notwithstanding anything in any other Act but subject to subsection (2) of this section, the Minister shall have the exclusive authority to grant, in accordance with Part IIIB of the Conservation Act 1987, concessions authorising the holder of a concession to enter any Crown-owned land or other land that is— 10

"(a) A conservation area, or deemed to be a conservation area, under the Conservation Act 1987; or

"(b) A national park under the National Parks Act 1980 or to which that Act is applied as if it were a national park; or 15

"(c) A reserve under the Reserves Act 1977, including a reserve controlled or managed by an administering body under any of sections 28, 29, 30, 35, and 36 of that Act; or 20

"(d) A wildlife sanctuary or wildlife refuge or wildlife management reserve under the Wildlife Act 1953— and engage in wild animal recovery; and Part IIIB of Conservation Act 1987 (except for section 170 (4) in that Part) shall apply as if references in that Part to a conservation area included references to the land specified in paragraphs (b) to (d) of this subsection and with any other necessary modifications. 25

"(2) Nothing in subsection (1) of this section limits or affects the powers of the Director-General under section 27 of this Act. 30

"22. Minister to have regard to interests of recreational hunters—In considering any application for a concession under section 21 of this Act, the Minister shall have regard, in addition to the matters specified in section 17U of the Conservation Act 1987 (as applied by section 21 of this Act), to the interests of persons engaged in hunting for recreation." 35

New (Unanimous)

5. New Part II substituted—The principal Act is amended by repealing Part II, and substituting the following Part:

“PART II

5 “CONCESSIONS FOR WILD ANIMAL RECOVERY OPERATIONS ON CERTAIN CROWN-OWNED AND OTHER LAND

“21. **Purpose of this Part**—The purpose of this Part is to—

“(a) Provide for the granting of concessions to authorise wild animal recovery operations on certain land; and

10 “(b) Apply the provisions of Part IIIB of the Conservation Act 1987 for the purpose of granting those concessions; and

“(c) In applying Part IIIB of the Conservation Act 1987, require the Minister to have regard to—

15 “(i) The provisions of the Act under which the land concerned is held; and

“(ii) The purposes for which that land is held; and

“(iii) The purposes of this Act.

20 “22. **Power to grant concessions for wild animal recovery operations on certain Crown-owned and other land**—(1) Despite any other Act, the Minister has exclusive authority to grant, in accordance with Part IIIB of the Conservation Act 1987, concessions authorising the holder of the concession to enter any land described in **subsection (2)** and engage in wild animal recovery operations.

25 “(2) The land is—

“(a) Crown-owned land that is—

30 “(i) A conservation area, or deemed to be a conservation area, under the Conservation Act 1987:

“(ii) A national park under the National Parks Act 1980:

“(iii) A reserve under the Reserves Act 1977,—

35 “(A) Including a reserve that is controlled or managed by an administering body under any of sections 28, 29, 30, 35, and 36 of that Act; but

40 “(B) Excluding a reserve vested in an administering body under that Act or another Act:

New (Unanimous)

- “(iv) A wildlife sanctuary or wildlife refuge or wildlife management reserve under the Wildlife Act 1953:
- “(b) Other land to which the National Parks Act 1980 is applied as if the land were a national park. 5
- “(3) For the purposes of **subsection (1)**, Part III B of the Conservation Act 1987 (except for sections 17O (4) and 17U (3)) applies as if references in that Part to a conservation area were references to— 10
- “(a) A national park in the case of land described in **subsection (2) (a) (ii)**:
- “(b) A reserve in the case of land described in **subsection (2) (a) (iii)**:
- “(c) A wildlife sanctuary or wildlife refuge or wildlife management reserve, as appropriate, in the case of land described in **subsection (2) (a) (iv)**: 15
- “(d) Land administered as if it were a national park in the case of land described in **subsection (2) (b)**,— 20
and in each case with any other necessary modifications.
- “(4) Nothing in this section limits or affects the powers of the Director-General under section 27.
- “23. Matters to which Minister to have regard in considering application for concession—**In considering an application for a concession under **section 22**, the Minister must have regard not only to the matters specified in section 17U (other than subsection (3)) of the Conservation Act 1987 (as applied by **section 22**), but also to— 25
- “(a) The provisions of the Act under which the land concerned is held and the purposes for which that land is held; and 30
- “(b) The purposes of this Act; and
- “(c) The role of persons engaged in hunting for recreation in achieving the purposes of this Act.”

New (Unanimous)

New

5 **5AA. Declaration of recreational hunting areas**—Section 27 (3) (a) of the principal Act is amended by omitting the words “wild animal recovery hunters”, and substituting the words “hunters engaged in wild animal recovery operations”.

5A. Offences—Section 36 of the principal Act is amended by adding the following subsection:
10 “(3) Every person commits an offence who engages in a wild animal recovery operation on land described in **section 22 (2)** and who does not hold a concession under **section 22** authorising wild animal recovery operations.”

6. Presumptions and obligations in connection with hunting and killing—(1) Section 38 (2) of the principal Act is
15 amended by inserting, after the word “permit” in each place where it occurs, the word “concession,”.
(2) Section 38 (4) of the principal Act is amended—
(a) By omitting the expression “section 24”, and substituting the expression “(section 39) section 36”; and
20 (b) By omitting the words “wild animal recovery service licence” in both places where they occur, and substituting in each case the word “concession”.

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7. Penalties—Section 39 of the principal Act is hereby
25 amended by repealing subsection (2), and substituting the following subsections:
“(2) Every person commits an offence who engages in wild animal recovery on Crown-owned land or other land that is—
“(a) A conservation area, or deemed to be a conservation
30 area, under the Conservation Act 1987; or
“(b) A national park under the National Parks Act 1980 or to which that Act is applied as if it were a national park; or

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- “(c) A reserve under the Reserves Act 1977, including a reserve controlled or managed by an administering body under any of sections 28, 29, 30, 35 and 36 of that Act; or 5
- “(d) A wildlife sanctuary or wildlife refuge or wildlife management reserve under the Wildlife Act 1953,— and who does not hold a concession under **section 21** of this Act authorising that wild animal recovery.
- “(2A) Every person who commits an offence under **subsection 10 (2)** of this section is liable on conviction—
- “(a) In the case of an individual, to a fine not exceeding \$10,000:
- “(b) In the case of a body corporate, to a fine not exceeding 15 \$80,000.
- “(2B) Every person who commits an offence under section 8 (2) of this Act, in relation to wild animal recovery, is liable on conviction—
- “(a) In the case of an individual, to a fine not exceeding 20 \$10,000:
- “(b) In the case of a body corporate, to a fine not exceeding \$80,000.”

New (Unanimous)

- 7. Penalties**—Section 39 of the principal Act is amended by repealing subsection (2), and substituting the following 25 subsections:
- “(2) Every person who, in carrying out a wild animal recovery operation, commits an offence under section 8 (2) is liable on conviction,—
- “(a) In the case of an individual, to a fine not exceeding 30 \$10,000:
- “(b) In the case of a body corporate, to a fine not exceeding \$80,000.
- “(2A) Every person who commits an offence under **section 36 (3)** 35 is liable on conviction,—
- “(a) In the case of an individual, to a fine not exceeding \$10,000:
- “(b) In the case of a body corporate, to a fine not exceeding \$80,000.”

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apply to every such permit and licence and the holder of every such permit and licence as if this Act had not been passed.

*New (Unanimous)***10. Transitional provision in relation to safari parks—** 5

(1) The wild animals described in **subsection (2)** may be kept in a safari park, without a licence or permit effective for the purposes of section 12 (1) of the principal Act but subject to **subsection (3)**, until the close of 31 August 1998.

(2) The wild animals are those— 10

(a) In a safari park as at the close of 30 September 1997 pursuant to a licence or permit in force as at that date; and

(b) In respect of which a permit or licence could not be issued because of section 12 (4) and (4A) (a) of the principal Act (as inserted by **section 4**). 15

(3) **Subsection (1)** applies only for so long as the conditions (if any) in the licence or permit in force as at 30 September 1997 are complied with.