

1971/278



THE ANTARCTICA (FAUNA AND FLORA) REGULATIONS 1971

ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 20th day of December 1971

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Antarctica Act 1960, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Antarctica (Fauna and Flora) Regulations 1971.

(2) These regulations shall come into force on the 1st day of January 1972.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Antarctica Act 1960:

“Agreed measures” means the agreed measures for the conservation of Antarctic fauna and flora set out in the Second Schedule to the Act:

“Antarctica” means the area south of 60° south latitude, excluding any part of the high seas, but including all ice shelves in that area:

“Authorising Officer” means the Superintendent of the Antarctic Division of the Department of Scientific and Industrial Research at Christchurch, and, in any case where subclause (2) of regulation 8 of these regulations applies, includes the Leader, Scott Base:

“The Contracting Parties” means the Contracting Parties to the Treaty; and “the other Contracting Parties” means the Contracting Parties other than the Government of New Zealand:

“Native bird” means any member, at any stage of its life cycle (including eggs), of any species of the Class Aves indigenous to Antarctica or occurring there through natural agencies of dispersal:

“Native mammal” means any member, at any stage of its life cycle, of any species belonging to the Class Mammalia indigenous to Antarctica or occurring there through natural agencies of dispersal; but does not include whales:

“Native plant” means any kind of vegetation at any stage of its life cycle (including seeds), indigenous to Antarctica or occurring there through natural agencies of dispersal:

“Specially protected area” means any area specified in the Schedule to these regulations:

“Specially protected species” means—

(a) All species of the genus *Arctocephalus*, Fur Seals:

(b) *Ommatophoca rossi*, Ross Seal:

Expressions defined in the Act, other than the expression “Antarctica”, have the meanings so defined.

(2) Every reference in these regulations to the Leader, Scott Base is a reference to the person for the time being acting as the Leader at Scott Base.

3. Application of these regulations—These regulations shall apply—

- (a) To any New Zealand citizen or any person ordinarily resident in New Zealand:
- (b) To any person who is for the time being the owner or master or a member of the crew of a New Zealand ship, or the pilot in command or a member of the crew of a New Zealand aircraft:
- (c) To any person who is for the time being a member of any expedition organised in New Zealand, not being an expedition organised by any of the other Contracting Parties:
- (d) In the Ross Dependency, to any person who is not a national of any of the Contracting Parties.

4. Conservation of fauna and flora—(1) Except as provided by these regulations, or by any permit issued in accordance with these regulations, no person shall—

- (a) Wilfully kill, injure, molest, or take any native mammal or native bird, or make any attempt at any such act, in any part of Antarctica:
- (b) Enter a specially protected area:
- (c) Gather any native plant within a specially protected area:
- (d) Drive any vehicle, or move any aircraft on the ground (whether it is being mechanically propelled or not), within a specially protected area:
- (e) Bring into any part of Antarctica any animal or plant of a species that is not indigenous to Antarctica.

(2) Paragraph (e) of subclause (1) of this regulation shall not apply to the importation of food, other than live poultry, into Antarctica, so long as animals and plants used for the purpose are kept under controlled conditions.

(3) Every person who does any act referred to in subclause (1) of these regulations (not being an act allowable under any other provision of these regulations or under any permit issued pursuant to these regulations) commits an offence against these regulations.

5. Harmful interference with fauna and flora—(1) Every person in Antarctica shall take all reasonable measures to avoid any harmful interference within Antarctica with the normal living conditions of any native mammal or native bird.

(2) Without limiting the generality of subclause (1) of these regulations, the following acts shall be deemed to be harmful interference to which this regulation applies—

- (a) Allowing dogs to run free:
- (b) Flying helicopters or other aircraft in a manner which would unnecessarily disturb bird or seal concentrations, or landing unnecessarily close to such concentrations:
- (c) Driving vehicles unnecessarily close to concentrations of birds or seals:
- (d) Using explosives unnecessarily close to concentrations of birds or seals:
- (e) Discharging firearms unnecessarily close to concentrations of birds or seals:
- (f) Disturbing bird or seal colonies during the breeding season by persistent attention from persons on foot.

(3) Notwithstanding subclauses (1) and (2) of this regulation, the acts referred to in subclause (2), other than those in paragraph (a) and paragraph (e), are permitted to the minimum extent necessary for the establishment, supply, and operation of stations.

(4) Any person who, by any act or omission (not being an act or omission allowed under these regulations or under any permit issued pursuant to these regulations, or reasonably incidental to any act or omission so allowed), wilfully or negligently causes harmful interference with the living conditions of any native mammal or native bird, commits an offence against these regulations.

6. Pollution—(1) Every person shall take all reasonable steps to avoid any pollution of the waters adjacent to the coast and ice shelves of Antarctica.

(2) Every person who, by any act or omission, wilfully or negligently causes any pollution of the waters adjacent to the coast and ice shelves of Antarctica commits an offence against these regulations.

7. Applications for, and issue of, permits—(1) Permits may be issued under these regulations to any person allowing him, subject to such limitations and conditions as may be imposed, to do any of the acts referred to in subclause (1) of regulation 4 and to do or omit any act that would otherwise be in contravention of regulation 5 of these regulations, as are specified in the permit.

(2) Application for the issue of a permit shall be made either to the Superintendent of the Antarctic Division of the Department of Scientific and Industrial Research at Christchurch or to the Leader, Scott Base.

(3) Permits may be issued by either of the persons referred to in subclause (2) of this regulation.

8. Authorisation of permits—(1) No permit shall be issued under these regulations unless its issue has been authorised by the authorising officer.

(2) The authorising officer may, subject to such conditions as he thinks fit, appoint the Leader, Scott Base to be the authorising officer in cases of emergency.

(3) The authorising officer may impose such limitations and conditions as he thinks appropriate in respect of any permit authorised by him to ensure that the principles and purposes of the agreed measures are carried out.

(4) The authorising officer may require any person to whom a permit has been issued to report, at such times and in such manner as may be specified in the permit, as to the occurrence of such acts and activities as may be specified.

(5) Any person who, without reasonable cause, contravenes or fails to comply with any limitation or condition in any permit issued to him, such contravention or failure to comply not being an act or omission which is an offence against these regulations by virtue of any other provision thereof, commits an offence against these regulations and is liable on summary conviction to a fine not exceeding \$500.

9. Restrictions on authorisation of certain permits—(1) Permits to do any of the things referred to in paragraph (a), paragraph (c), or paragraph (d) of subclause (1) of regulation 4 of these regulations shall only be authorised by the authorising officer for one or more of the following purposes:

(a) To provide indispensable food for men or dogs in Antarctica in limited quantities, and in conformity with the purposes and principles of the agreed measures:

(b) To provide specimens for scientific study or scientific information:

(c) To provide specimens for museums, zoological gardens, or other educational or cultural institutions or uses.

(2) No such permit shall be authorised by the authorising officer unless he is reasonably satisfied—

(a) That no more native mammals or native birds shall be killed or taken in any year than can normally be replaced by natural reproduction in the following breeding season; and

(b) That the variety of species and the balance of the natural ecological systems existing within Antarctica are maintained.

(3) No permit shall be authorised for the killing or taking of a specially protected species unless the authorising officer is also satisfied—

(a) That the permit is required for a compelling scientific purpose; and

(b) That the actions allowed thereunder will not jeopardise the natural ecological system or the survival of that species.

(4) No permit shall be authorised to have effect within a specially protected area unless it is specifically so endorsed.

(5) No permit shall be so endorsed unless the authorising officer is also satisfied—

(a) That it was issued for a compelling scientific purpose which cannot be served elsewhere; and

(b) That the actions allowed thereunder will not jeopardise the natural ecological system existing in that area.

10. Permits to bring non-indigenous animals and plants into Antarctica—(1) Permits to bring into any part of Antarctica any animal or plant that is not indigenous to Antarctica may, subject to these regulations, be authorised only in respect of the following animals and plants—

- (a) Sledge dogs:
- (b) Domestic animals and plants:
- (c) Laboratory animals and plants.
- (2) Under no circumstances shall a permit be authorised allowing any person to bring into Antarctica any live poultry.

(3) The authorising officer may impose such conditions and limitations in any permit issued under this regulation as he considers necessary to ensure that all reasonable precautions are taken to prevent the accidental introduction of parasites and diseases into Antarctica.

(4) Without limiting the generality of subclause (3) of this regulation, no permit shall be authorised to bring any dog into Antarctica unless the authorising officer is satisfied that, not less than 2 months before the arrival of the dog in Antarctica, it has been inoculated against—

- (a) Distemper; and
- (b) Contagious canine hepatitis; and
- (c) Rabies; and
- (d) Leptospirosis (*L. canicola* and *L. icterohaemorrhagicae*).

(5) Where any animal or plant brought into Antarctica might cause harmful interference with the natural system if left unsupervised within Antarctica, a permit authorised under this section shall be subject to the requirement that the animal or plant—

- (a) Shall be kept under such controlled conditions as are specified in the permit; and
- (b) After it has served its purpose, shall be removed from Antarctica or destroyed.

11. Offences—(1) Every person who commits an offence against these regulations for which no other penalty is provided is liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding \$500, or both.

(2) Notwithstanding any other provision of these regulations, any act or omission by any person which occurred—

- (a) In a case of extreme urgency involving possible loss of human life or involving the safety of any ship or aircraft; or
- (b) In accordance with a permit issued by any of the other Contracting Parties—

shall not be an offence against these regulations.

SCHEDULE

SPECIALLY PROTECTED AREAS

1. Taylor Rookery, Mac. Robertson Land. Lat. 67° 26' S, long. 60° 50' E.
2. Rookery Islands, Holme Bay. Lat. 67° 37' S, long. 62° 33' E.
3. Ardery Island and Odbert Island, Budd Coast. Lat. 66° 22' S, long. 110° 28' E, and lat. 66° 22' S, long. 110° 33' E.
4. Sabrina Island, Balleny Islands. Lat. 66° 54' S, long. 163° 20' E.
5. Beaufort Island, Ross Sea. Lat. 76° 58' S, long. 167° 03' E.
6. Cape Crozier, Ross Island. Lat. 77° 32' S, long. 169° 19' E.
7. Cape Hallett, Victoria Land. Lat. 72° 18' S, long. 170° 19' E.
8. Dion Islands, Marguerite Bay, Antarctic Peninsula. Lat. 67° 52' S, long. 68° 43' W.

SCHEDULE—*continued*

9. Green Island, Berthelot Islands, Antarctic Peninsula. Lat. $65^{\circ} 19' S$, long. $64^{\circ} 10' W$.
10. Byers Peninsula, Livingston Island, South Shetland Islands. Lat. $62^{\circ} 38' S$, long. $61^{\circ} 05' W$.
11. Cape Shirreff, Livingston Island, South Shetland Islands. Lat. $62^{\circ} 28' S$, long. $60^{\circ} 48' W$.
12. Fildes Peninsula, King George Island, South Shetland Islands. Lat. $62^{\circ} 11' S$, long. $58^{\circ} 52' W$.
13. Moe Island, South Orkney Islands. Lat. $60^{\circ} 45' S$, long. $45^{\circ} 41' W$.
14. Lynch Island, South Orkney Islands. Lat. $60^{\circ} 40' S$, long. $45^{\circ} 38' W$.
15. Southern Powell Island and adjacent islands, South Orkney Islands. $60^{\circ} 45' S$, long. $45^{\circ} 02' W$.
16. Coppermine Peninsula, Robert Island. Lat. $62^{\circ} 23' S$, long. $59^{\circ} 42' W$.

P. J. BROOKS,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations give effect to the agreed measures for the conservation of Antarctic fauna and flora set out in the Second Schedule to the Antarctica Act 1960 by—

- (a) Prohibiting certain activities in Antarctica except as allowed under a permit.
- (b) Providing for the authorisation and issue of such permits.
- (c) Prescribing the conditions subject to which such permits may be issued.
- (d) Prescribing penalties in respect of the contravention of or the non-compliance with the provisions of the regulations or of the conditions subject to which any permit is issued.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 22 December 1971.

These regulations are administered in the Ministry of Foreign Affairs.