

WILDLIFE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Wildlife Act 1953.

The main amendments relate to the declaring of certain comparatively rare terrestrial and freshwater invertebrates to be animals for the purposes of the Act, the establishment of a new type of wildlife reserve called the wildlife management reserve, and the institution of management plans for wildlife sanctuaries, refuges, and management reserves.

Clause 1 relates to the Short Title.

Clause 2 is the interpretation clause.

The term "animal" now includes the invertebrates listed in the First Schedule to the Bill (see also *clause 3*), and also the body or part thereof of a dead animal.

The term "wildlife" has been redefined to include wildlife held in captivity and the progeny of such wildlife.

Clause 3 declares the invertebrates listed in the First Schedule to the Bill (a new Seventh Schedule to the Act) to be animals, and as such to be protected in accordance with the Act. The invertebrates listed are comparatively rare and have a restricted location.

Clause 4 relates to the pollution of wildlife sanctuaries. The existing provision provides for a prohibition against polluting any waters or the margin of any waters in a sanctuary. This clause extends the prohibition to the whole sanctuary.

Clause 5 makes miscellaneous amendments to those provisions of the Act dealing with Proclamations to establish wildlife refuges.

Clause 6 inserts new sections into the Act dealing with wildlife management reserves and management plans.

The new section 14A provides for the establishment of wildlife management reserves by Proclamation. The methods of establishing the reserve and the conditions that may be prescribed are similar to those relating to a wildlife sanctuary under section 9 of the Act.

The new sections 14B and 14C relate to management plans and their periodic review. Generally, every person, society, or body administering a wildlife sanctuary, wildlife refuge, or wildlife management reserve shall prepare a plan for administering the sanctuary, refuge, or reserve, and have the plan approved by the Secretary for Internal Affairs. Provision is made for public notice to be given of proposals to prepare a management plan, and any submissions received from interested parties to be taken into account.

Clause 7 authorises the Minister of Internal Affairs to acquire and dispose of land for the purposes of the Act. The clause gives an express power to do those things; the Minister in acquiring and disposing of land in the past has acted pursuant to the implied powers contained in section 41 of the Act.

Clause 8 includes among the powers which the Minister may delegate those relating to the day to day management of any wildlife sanctuary, refuge, or management reserve.

Clause 9 increases certain penalties for offences.

Clause 10 is consequential on the introduction of wildlife management reserves.

Hon. Mr Highet

WILDLIFE AMENDMENT

ANALYSIS

| | |
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| | <i>Wildlife Management Reserves</i> |
| | 14A. Wildlife management reserves |
| | <i>Management Plans</i> |
| | 14B. Management plans |
| | 14C. Review of management plans |
| Title | 7. Minister's general powers |
| 1. Short Title | 8. Delegation of Minister's powers |
| 2. Interpretation | 9. Increase in penalties for offences |
| 3. Terrestrial and freshwater invertebrates | 10. Evidence of boundaries, etc. |
| 4. Pollution of wildlife sanctuaries | Schedules |
| 5. Wildlife refuges | |
| 6. Wildlife management reserves and management plans | |

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,
5 as follows:

1. Short Title—This Act may be cited as the Wildlife Amendment Act 1979, and shall be read together with and deemed part of the Wildlife Act 1953* (hereinafter referred to as the principal Act).

10 **2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting, in the definition of the term “animal” after the word “amphibian”, the words “; and

*1957 Reprint, Vol. 16, p. 669

Amendments: 1959, No. 49; 1964, No. 63; 1966, No. 94; 1968, No. 120; 1971, No. 140; 1972, No. 116; 1973, No. 99

includes any terrestrial or freshwater invertebrate declared to be an animal under section 7B of this Act; and also includes the dead body or any part of the dead body of any animal”.

(2) The said section 2 is hereby further amended by repealing the definition of the term “wildlife” (as substituted by section 2 (3) of the Wildlife Amendment Act 1956), and substituting the following definition: 5

“‘Wildlife’ means any animal that is living in a wild state; and includes any such animal or egg or offspring of any such animal held or hatched or born in captivity, whether pursuant to an authority granted under this Act or otherwise; but does not include any animals of any species specified in the Sixth Schedule to this Act (being animals that are wild animals subject to the Wild Animals Control Act 1977):”.

(3) The said section 2 is hereby further amended by inserting, after the definition of the term “wildlife district”, the following definition:

“‘Wildlife management reserve’ means a wildlife management reserve declared under section 14A of this Act; and includes any reserve under the Reserves Act 1977 classified as a Government purpose reserve for a wildlife management reserve:”.

(4) The said section 2 is hereby further amended by repealing the definitions of the terms “wildlife refuge” and “wildlife sanctuary”, and substituting the following definitions: 25

“‘Wildlife refuge’ means a wildlife refuge declared under section 14 of this Act; and includes any reserve under the Reserves Act 1977 classified as a Government purpose reserve for a wildlife refuge: 30

“‘Wildlife sanctuary’ or ‘sanctuary’ means a wildlife sanctuary declared under section 9 of this Act; and includes any reserve under the Reserves Act 1977 classified as a Government purpose reserve for a wildlife sanctuary.” 35

(5) Section 2 (3) of the Wildlife Amendment Act 1956 is hereby consequentially repealed.

3. Terrestrial and freshwater invertebrates—(1) The principal Act is hereby amended by inserting, after section 7A (as inserted by section 2 (1) of the Wildlife Amendment Act 1956), the following section:

5 “7B. (1) The terrestrial and freshwater invertebrates specified in the Seventh Schedule to this Act are hereby declared to be animals.

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

10 “(a) Include, in the Seventh Schedule to this Act, any terrestrial or freshwater invertebrate not for the time being specified in that Schedule:

“(b) Omit, from the Seventh Schedule to this Act, any terrestrial or freshwater invertebrate for the time
15 being specified in that Schedule.

“(3) 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.”

20 (2) The principal Act is hereby further amended—

(a) By omitting from the Seventh Schedule (as amended by section 2 (2) (c) of the Wildlife Amendment Act 1956) the word “Seventh”, and substituting the word “Eighth”:

25 (b) By omitting from the Eighth Schedule (as amended by section 2 (2) (d) of the Wildlife Amendment Act 1956) the word “Eighth”, and substituting the word “Ninth”:

30 (c) By omitting from section 71 the word “Seventh” (as inserted by section 2 (2) (e) of the Wildlife Amendment Act 1956), and substituting the word “Eighth”:

35 (d) By omitting from section 73 (1) the word “Eighth” (as inserted by section 2 (2) (f) of the Wildlife Amendment Act 1956), and substituting the word “Ninth”.

(3) The principal Act is hereby further amended by inserting, after the Sixth Schedule, the new Seventh Schedule set out in the First Schedule to this Act.

40 (4) Section 2 (2) of the Wildlife Amendment Act 1956 is hereby consequentially amended by repealing paragraphs (c), (d), (e), and (f).

4. Pollution of wildlife sanctuaries—Section 9 (2) of the principal Act is hereby amended by repealing paragraph (n), and substituting the following paragraph:

“(n) The prohibition or restriction of the pollution of any wildlife sanctuary by means of rubbish, sewage, industrial waste, mining debris, sawmill refuse, or any other means:” 5

5. Wildlife refuges—Section 14 (1) of the principal Act is hereby amended by adding, after paragraph (c) of the proviso, the following paragraphs: 10

“(d) Any Proclamation issued under this subsection may be revoked without the consent of the occupier: 10

“(e) Crown land subject to the Land Act 1948, and any foreshore adjacent to any such land, required for a wildlife refuge shall be reserved as such pursuant to section 167 of that Act, and thereupon shall be subject to any or all of the provisions of this Act relating to wildlife refuges, but otherwise shall be subject to the Reserves Act 1977: 15

“(f) Any Proclamation issued under this subsection may prohibit or restrict the pollution of any wildlife refuge by means of rubbish, sewage, industrial waste, mining debris, sawmill refuse, or any other means.” 20

6. Wildlife management reserves and management plans— 25
(1) The principal Act is hereby amended by inserting, after section 14 but before Part II of that Act, the following headings and sections:

“Wildlife Management Reserves

“14A. **Wildlife management reserves**—(1) Notwithstanding anything to the contrary in the Land Act 1948, the Government Railways Act 1949, the Forests Act 1949, or any other Act affecting lands of the Crown the Governor-General may from time to time, by Proclamation, declare any area described in the Proclamation and available for the purpose, subject in the case of any land other than unoccupied land of the Crown to the consent of the occupier, to be a wildlife management reserve for the purposes of this Act; and may in like manner revoke or amend any such Proclamation: 30 35

Provided that—

- 5 “(a) No Proclamation issued under this subsection shall affect any land of the Crown unless it is issued on the joint recommendation of the Minister of Internal Affairs and the Minister charged with the administration of the Department of State having the control of the land:
- 10 “(b) No Proclamation issued under this subsection shall affect any waters of the sea or of any harbour within the meaning of the Harbours Act 1950 unless it is issued on the joint recommendation of the Minister of Internal Affairs and the Minister of Transport:
- 15 “(c) No Proclamation issued under this subsection shall affect any land owned or leased by a Society without the consent of that Society:
- 20 “(d) Land held for a public work other than a wildlife management reserve that is required for a wildlife management reserve may be declared to be a wildlife management reserve only pursuant to section 37 of the Public Works Amendment Act 1948:
- 25 “(e) Crown land subject to the Land Act 1948, and any foreshore adjacent to any such land, required for a wildlife management reserve shall be reserved as such pursuant to section 167 of that Act, and thereupon shall be subject to the provisions of this Act relating to wildlife management reserves, but otherwise shall be subject to the Reserves Act 1977:
- 30 “(f) Any Proclamation issued under this subsection may be revoked without the consent of the occupier.
- 35 “(2) Without limiting the general power to prescribe conditions conferred by subsection (1) of this section, the Governor-General may from time to time, by Proclamation, impose conditions with respect to any wildlife management reserve in relation to all or any of the matters specified in section 9 (2) of this Act as if the reference to a wildlife sanctuary in that section were a reference to a wildlife management reserve.
- 40 “(3) Any prohibition or restriction imposed by a Proclamation under this section may be absolute or conditional, and the Proclamation may authorise the Minister or the Secretary to grant exemptions from any such prohibition or restriction.

“(4) Every person commits an offence against this Act who does any act that is prohibited by a Proclamation issued under this section, or fails to comply in any respect with any condition imposed in any such Proclamation.

“*Management Plans*

“14B. **Management plans**—(1) Notwithstanding section 41 of the Reserves Act 1977, every wildlife sanctuary, wildlife refuge, or wildlife management reserve shall be administered, managed, developed, and protected in accordance with a management plan prepared and approved pursuant to this section.

“(2) Before any work (other than necessary work associated with the day to day administration and management of the wildlife sanctuary, wildlife refuge, or wildlife management reserve) is undertaken on any wildlife sanctuary, wildlife refuge, or wildlife management reserve, a management plan shall be prepared by the Secretary or, at his direction, by the body or person or society having the day to day control of that wildlife sanctuary, or wildlife refuge, or wildlife management reserve.

“(3) Every management plan shall be prepared within 5 years of the Secretary or body or person or society assuming the day to day control of any wildlife sanctuary, wildlife refuge, or wildlife management reserve.

“(4) Where the Secretary proposes to prepare or direct the preparation of a management plan, he shall—

“(a) Give public notice of the proposal; and

“(b) In that notice invite any interested person or organisation to send to him written submissions on the proposal within a time specified in the notice—
and in preparing the management plan the Secretary or body or person or society, as the case may be, shall give full consideration to any such submissions received; but nothing in this subsection shall apply in any case where the Secretary determines that written submissions on the proposed management plan would not materially assist in its preparation.

“(5) Every management plan may specify—

“(a) The wildlife content of the wildlife sanctuary, wildlife refuge, or wildlife management reserve, as the case may be;

“(b) The purpose or purposes of the wildlife sanctuary, wildlife refuge, or wildlife management reserve, as the case may be, and the means of achieving that purpose or purposes:

“(c) Such other matters as the Secretary thinks fit.

“(6) When the Secretary has prepared a management plan, or when a management plan has been prepared and submitted to him, as the case may be, he shall—

5 “(a) Give, in such manner as he thinks fit throughout the area in which the wildlife sanctuary or wild-
life refuge or wildlife management reserve is
situated and in such other areas as he thinks fit,
10 public notice of the fact that the management
plan is available for inspection at the Head Office
of the Department of Internal Affairs and at
such other places and during such times as are
specified in the notice, and in the notice call
15 upon any interested person or organisation to lodge
with the Secretary written objections to, or com-
ments on, the management plan before a specified
date, being not less than 2 months after the date
of publication of the notice; and

20 “(b) Give notice in writing to such persons as he thinks
fit, and the content of that notice shall comply
with paragraph (a) of this subsection.

“(7) The Secretary may determine that the provisions of
subsection (4) and subsection (6) of this section shall not
25 apply in respect of any management plan where the relevant
wildlife sanctuary, wildlife refuge, or wildlife management
reserve is established on land other than Crown Land.

“(8) Where any person or organisation, in lodging a
written objection or comment with the Secretary pursuant to
subsection (6) of this section, has indicated that that person
30 or organisation wishes to be heard in support of their objec-
tion or comment the Secretary, before considering the
management plan for approval, may give that person or
organisation a reasonable opportunity of appearing before
him or his nominee and being so heard.

35 “(9) In considering whether or not to approve any manage-
ment plan, the Secretary shall give full consideration to any
objections or comments received pursuant to subsection (6)
of this section and to submissions made at any hearing under
subsection (8) of this section, and then in his discretion
40 may—

“(a) Approve the plan; or

“(b) Decline to approve the plan; or

“(c) Approve the plan subject to such modification as he
thinks fit.

“(10) Where any body or person or society fails to prepare a management plan as required under this section, the Secretary may, for the purposes of subsection (1) of this section, prepare a management plan for the wildlife sanctuary, wildlife refuge, or wildlife management reserve to which it relates. 5

“14c. **Review of management plans**—(1) Every management plan approved under section 14B of this Act shall, at intervals not exceeding 5 years or at such extended period or periods as may be determined by the Secretary, be reviewed by the Secretary or, at his direction, by the body, 10 person, or society having the day to day control of any wildlife sanctuary, or wildlife refuge, or wildlife management reserve.

“(2) The provisions of the said section 14B shall apply to the review of a management plan as if it were an original 15 management plan prepared under that section.”

(2) For the purposes of section 14B of the principal Act (as inserted by subsection (1) of this section), any person (including the Secretary) or body or society having the day to day control of any wildlife sanctuary, wildlife refuge, or 20 wildlife management reserve as at the commencement of this Act shall be deemed to have assumed such control as at that time of commencement.

(3) Section 41 (16) of the Reserves Act 1977 (as amended by section 14 of the Reserves Amendment Act 1979) is hereby 25 amended by omitting the words “(other than a Government purpose reserve for wildlife management or other specified wildlife purposes)”.

(4) Section 14 of the Reserves Amendment Act 1979 is hereby consequentially repealed. 30

7. Minister’s general powers—(1) Section 41 (1) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) Acquire and dispose of land for the purposes of this Act:” 35

(2) The said section 41 (1) is hereby further amended by inserting, in paragraph (b) after the words “wildlife refuge,” the words “or as a wildlife management reserve,”.

8. Delegation of Minister's powers—Section 44 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

- 5 “(1A) The Minister may from time to time delegate in writing to any society, or body, or person such powers as he may have under or pursuant to this or any other Act relating to the day to day control and management of any wildlife sanctuary, or wildlife refuge, or wildlife management reserve.”

10 **9. Increase in penalties for offences**—(1) Section 67 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended in the manner indicated in the Second Schedule to this Act.

- 15 (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.

20 **10. Evidence of boundaries, etc.**—Section 69 (1) of the principal Act is hereby amended by inserting, after the words “wildlife refuge”, the words “or wildlife management reserve”.

SCHEDULES

FIRST SCHEDULE

Section 3 (3)

NEW SEVENTH SCHEDULE TO PRINCIPAL ACT

“SEVENTH SCHEDULE

Sections 2, 7B

TERRESTRIAL AND FRESHWATER INVERTEBRATES DECLARED TO BE ANIMALS

ARTHROPODA

INSECTA (INSECTS)

Ephemeroptera

Ephemeridae (Mayflies)

Onisigaster wakefieldi McLachlan

Orthoptera

Stenopelmatidae (Wetas)

Deinacrida carinata Salmon

Deinacrida fallai Salmon

Deinacrida heteracantha White

Deinacrida rugosa Buller

Deinacrida tibiospina Salmon

Hemideina ricta Hutton

FIRST SCHEDULE—*continued*

Acrididae (Grasshoppers)

Brachaspis robustus Bigelow

Coleoptera

Carabidae (Carab Beetles)

Megadromus sp.—Picton and Port Underwood Saddle area,
Arapawa Island only

Lucanidae (Stag Beetles)

Dorcus auriculatus (Broun)*Dorcus ithaginus* (Broun)

Scarabaeidae (Scarab Beetles)

Prodontria lewisi Broun

Elateridae (Click Beetles)

Amychus granulatus (Broun)*Amychus candezei* Pascoe

Cerambycidae (Longhorn Beetles)

Xylotoles costulatus Pascoe

Curculionidae (Weevils)

Anagotus turbotti (Spiller)*Anagotus fairburni* (Brookes)*Hadramphus spinipennis* Broun*Hadramphus stilbocarpae* Kuschel*Hadramphus tuberculatus* (Pascoe)*Heterexis seticostatus* (Brookes)*Megacolabus sculpturatus* Broun*Nothaldonis peacei* (Broun)*Oclandius laeviusculus* (Broun)*Unas piceus* (Broun)*Lyperobius huttoni* Pascoe

ARACHNIDA

Arenaea (Spiders)

Gradungulidae—Nelson Cave Spiders only

Periegopideae

Periegops suteri Simon

MOLLUSCA

Gastropoda (Snails)

Placostylus—All species (Flax Snails)*Paryphanta*—All species (Kauri Snails)*Powelliphanta*—All species*Cytora hirsutissima* Powell*Cytora tepakiensis* Gardner*Liarea bicarinata* (Suter)

Bivalvia (Mussels)

Cucumerunia websteri websteri (Simpson) (Freshwater mussel)"

SECOND SCHEDULE

Section 9

INCREASE IN PENALTIES FOR OFFENCES

| Provision of Section 67 of Principal Act | Amendment |
|--|---|
| Subsection (1), (a), (b) | By omitting the expressions "\$100" and "\$4", and substituting respectively the expressions "\$300" and "\$20". |
| Subsection (1) (c) | By inserting before the words "shall be liable" the words "or against <u>section 14A</u> of this Act (which relates to wildlife management reserves)". |
| Subsection (1) (d) | By omitting the expressions "\$100" and "\$4", and substituting respectively the expressions "\$1,000" and "\$20". |
| Subsection (1) (e) | By omitting the expression "\$200", and substituting the expression "\$500". |
| Subsection (1) (f) | By omitting the expression "\$500", and substituting the expression "\$1,000". |
| Subsection (1) (g) | By omitting the expressions "\$100" and "\$4", and substituting respectively the expressions "\$500" and "\$20". |
| Subsection (1) (g) | By omitting the expression "\$100", and substituting the words "\$2,500 and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues". |
| Subsection (2) (a) | By omitting the expressions "\$100" and "\$10", and substituting respectively the expressions "\$300" and "\$20". |
| Subsection (2) (b) | By omitting the expressions "\$200" and "\$20", and substituting respectively the expressions "\$1,000" and "\$100". |