

HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Tuesday, 13 March 1990

## CONSERVATION LAW REFORM BILL

*Proposed Amendments*

Hon. PHILIP WOOLLASTON, in Committee, to move the following amendments:

*Clause 3:* To insert in line 22 on page 8, before the expression "section 24F", the words "section 24D (3) or".

To omit from line 17 on page 9 the word "regional", and substitute the word "conservation".

To omit from line 30 on page 10 and also from line 36 on that page the word "Regional".

*Clause 5:* To omit from line 22 on page 11 the word "regional", and substitute the word "conservation".

To omit from line 24 on page 12 the word "National", and substitute the words "New Zealand Fish and Game".

To omit from line 8 on page 17 the word "regional", and substitute the word "conservation".

To omit from line 23 on that page the word "Regional", and substitute the words "Fish and Game".

To omit from line 16 on page 18 the words "such land", and substitute the words "land administered by the Department in the area of the Board's jurisdiction".

To omit from line 19 on that page the word "community,", and substitute the word "community".

To omit subclause (2) (all the words in lines 28 to 31 on page 23) and subclause (3) (all the words in lines 1 to 3 on page 24).

*Clause 9:* To add the following subclause:

(2) Section 15 of the principal Act is hereby further amended by inserting, after subsection (3), the following subsection:

"(3A) Notwithstanding anything in the Land Transfer Act 1952, where the instrument of easement under this section is a deed and the easement is granted or reserved over land for which no certificate of title has been issued under that Act, the Minister may request the District Land Registrar to register the deed under that Act by constituting it a folium in the register book; and the District Land Registrar shall register the deed accordingly."

*Clause 11:* To omit from line 13 on page 27 the words "conservation area or any part of any conservation area", and substitute the words "stewardship area or any part of any stewardship area".

To omit from line 28 on that page the words "purposes of this Act", and substitute the words "acquisition of land under this Act or the Reserves Act 1977 or the National Parks Act 1980".

*Clause 13:* To insert in line 31 on page 28, after the word "amend", the words "or revoke".

To omit from line 19 on page 32 the words “management plan under any Act”, and substitute the words “conservation management plan under any Act specified in the First Schedule to this Act”.

To omit from line 25 on that page the words “paragraphs (o) to (r) of section 17F(1)”, and substitute the words “paragraphs (m) to (p) of section 17F”.

To omit from line 32 on that page the words “other Act”, and substitute the words “Act specified in the First Schedule to this Act”.

To omit from lines 16 and 17 on page 33 the words “the National Parks Act 1980 or”.

To omit from lines 6 and 7 on page 38 the words “, including representatives of the tangata whenua”.

To omit from line 34 on page 40 the word “shall,”, and substitute the word “shall”.

To omit subclause (4) (all the words in lines 27 and 28 on page 50).

*Clause 15:* To omit from line 22 on page 52 the word “disposal”, and substitute the word “disposition”.

To insert in line 28 on that page, after the word “improvements”, the word “lawfully”.

To insert, after line 20 on page 53, the following subsection:

“(8A) Notwithstanding subsection (8) of this section, where the freehold of any land subject to a lease or licence under the Land Act 1948 is transferred by the Crown to Land Corporation of New Zealand Limited, the reservation of any marginal strip on any part of the land to which the lease or licence relates shall not have effect until either the lease or licence is renewed or the freehold of the area to which the lease or licence relates is transferred to the lessee or licensee, whichever first occurs.

*Proposed section 24AB:* To insert, after line 28 on page 53, the following section:

“24AB. **Power to reduce width of marginal strip—** Notwithstanding section 24 of this Act, in the case of a marginal strip extending along and abutting the landward margin of the sea or a lake, the Minister may approve the reduction of the width of the strip to not less than 3 metres if he or she is satisfied that its value in terms of the purposes specified in section 24A of this Act will not be diminished.

To insert in line 33 on that page, after the words “any land”, the words “extending along and abutting the bed of any river or stream (being a bed of not less than 3 metres in width)”.

To omit paragraphs (a) and (b) in lines 1 to 6 on page 54, and substitute the following paragraphs and subsection:

“(a) That the land has little or no value in terms of the purposes specified in section 24A of this Act; or

“(b) That any value the land has in those terms can be protected effectively by another means.

“(2A) Notwithstanding subsection (2) of this section, where the Minister proposes to grant an exemption under this section in respect of the renewal of a lease or licence under the Land Act 1948 but is precluded from doing so by that subsection, the Minister may grant the exemption if satisfied that the proposal is equitable and in the public interest.

To omit subsection (4) of the new section 24B (all the words in lines 15 to 25 on page 56).

To insert in line 16 on page 58, after the words “deemed to be”, the words “reserved as”.

To insert in line 33 on that page, after the words “any land”, the words “(being a bed of not less than 3 metres in width)”.

To insert in line 5 on page 60, before the words “The Minister”, the words “Subject to subsection (5AA) (c) of this section,”.

To omit paragraph (b) in line 21 on that page, and substitute the following paragraph:

“(b) Enable members of the public to have access along the strip.

To insert, after line 7 on page 61, the following subsection:

“(5AA) In the case of the holder of a Crown forestry licence under the Crown Forest Assets Act 1989, the following provisions shall also apply:

“(a) The licence holder may manage and harvest exotic plantation trees existing at the time of the grant of the licence on any marginal strip adjoining the land to which the licence relates:

“(b) The licence holder may carry out one replanting of such trees on the strip:

“(c) The Minister may appoint either the licence holder or the Director-General to be manager of the strip, but shall not appoint any other person to be the manager.

To insert in line 9 on that page, after the words “to close”, the word “temporarily”.

To omit from lines 11 and 12 on that page the words “closure is necessary in any case to protect any asset”, and substitute the words “fire hazard conditions exist”.

To omit from line 23 on page 63 the words “prior consultation with”, and substitute the words “the prior consent of”.

*Clause 17:* To omit from line 4 on page 65 the word “National”, and substitute the words “New Zealand Fish and Game”.

To omit from line 5 on that page the word “Regional”, and substitute the words “Fish and Game”.

To omit paragraph (b) of new section 26F (2) (all the words in lines 13 and 14 on page 67), and substitute the following paragraph:

“(b) Appoint a manager and other staff for the efficient and economic administration of the affairs of the Council:

*Proposed section 26FA:* To insert, after line 23 on page 67, the following section:

“26FA. **Employment principles**—The New Zealand Fish and Game Council shall operate a personnel policy that complies with the principle of being a good employer by following, as closely as possible and as if it were a chief executive of a Department, the provisions of sections 56 and 58 of the State Sector Act 1988.

To omit from line 18 on page 69 the word “National”.

To omit from line 2 on page 72 the words “and potential users”.

To omit from line 9 on page 75 the words “for administrative purposes”.

To omit from lines 28 to 30 on that page the words “conservation management strategy, freshwater fisheries management plan,”, and substitute the words “freshwater fisheries management plan”.

*Proposed section 26RA:* To insert, after line 4 on page 76, the following section:

**“26RA. Appointment of staff —**(1) Without limiting section 26R of this Act, a Fish and Game Council may appoint a manager and other staff for the efficient and economic administration of the affairs of the Council.

“(2) Every Fish and Game Council shall operate a personnel policy that complies with the principle of being a good employer by following, as closely as possible and as if it were a chief executive of a Department, the provisions of sections 56 and 58 of the State Sector Act 1988.

To insert in line 10 on that page, after the word “current”, the words “adult whole season”.

To omit from line 19 on page 77 the words “a licence”, and substitute the words “an adult whole season licence”.

To insert in line 26 on that page, after the words “time before”, the words “, but not later than one month before,”.

To omit subsections (2) and (3) of new section 26x (all the words in lines 12 to 18 on page 78), and substitute the following subsections:

“(2) Each Transitional Fish and Game Council shall, as soon as practicable after it is established, conduct an election to elect not more than 12 persons to be members of the Fish and Game Council for the area for which that Transitional Council is established.

“(3) The second election of members of each Fish and Game Council shall be held by that Council 3 years after the date of the first election of members of that Council, and subsequent elections shall be held every third year thereafter.

“(4) At every election of members of a Fish and Game Council at least one member shall be elected for each subregion of the Council.

To omit from line 22 on that page the expression “2”, and substitute the expression “3”.

To omit from line 22 on that page the word “reappointed”, and substitute the word “re-elected”.

To omit subsection (5) of new section 26y (all the words in lines 36 to 38 on page 78 and in lines 1 to 4 on page 79), and substitute the following subsection:

“(5) If any member of any Fish and Game Council dies, resigns, or is removed from office earlier than 6 months before his or her term of office is due to expire, the following provisions shall apply:

“(a) If a majority of the eligible voters request that an election be held to fill the vacancy, an election shall be held accordingly:

“(b) In any other case, the Council may appoint a person to fill the vacancy after giving public notice of its intention to do so.

To omit from line 23 on page 80 the words “which shall adopt a report of its operations in, and a”, and substitute the words “at which the Council shall present its annual report and”.

To insert in line 7 on page 81, after the words “landing net”, the words “or gaff”.

To omit paragraph (c) of new section 26zD (2) (all the words in lines 14 to 23 on that page).

To omit section 26Z1A on page 84, and substitute the following section:

**“26Z1A. Transfer or release of live aquatic life—**(1) No person shall transfer live aquatic life or release live aquatic life into any freshwater, except in accordance with this section.

“(2) The prior approval of the Minister of Fisheries shall be required for the following:

“(a) The movement of live aquatic life between sites where the species already exists:

“(b) The movement of live aquatic life between the islands of New Zealand.

“(3) The prior approval of the Minister of Conservation shall be required for the following:

“(a) The transfer of live aquatic life to or the release of live aquatic life in a new location where the species does not already exist (including the transfer of a new species to or the release of a new species in an existing or a new fish farm):

“(b) The transfer of a species of live aquatic life to any land or water managed or administered under this Act or any other Act specified in the First Schedule to this Act.

“(4) The following provisions shall apply where the approval of the Minister of Conservation is required under subsection (3) of this section:

“(a) The applicant shall advertise, on at least 2 consecutive Saturdays in at least one newspaper circulating in the area concerned, the intention to transfer or release live aquatic life:

“(b) Every advertisement under paragraph (a) of this subsection shall state that submissions or objections in respect of its subject-matter should be sent to the Director-General:

“(c) The Director-General may require an applicant to provide an environmental impact assessment report before granting approval.

“(5) Nothing in this section shall apply to the transfer of any existing species to any existing fish farm.

“(6) Except where the Director-General or the Director-General of Agriculture and Fisheries requires it to comply with this section, nothing in this section shall apply to the transfer by a Fish and Game Council of sports fish to another location within the same island in New Zealand where the species is already present.

To insert in line 35 on page 84, after the word “months”, the words “; but does not include the manager of a marginal strip”.

To omit from lines 38 and 39 on that page the words “Fishery Officer”, and substitute the words “warranted officer”.

To omit from lines 1 and 2 on page 85 the words “Fishery Officer”, and substitute the words “warranted officer”.

To omit subclauses (2) and (3) (all the words in lines 20 to 26 on page 86).

*Clause 21:* To omit subclause (1) (all the words in lines 1 to 3 on page 88).

To omit from line 16 on that page the words “such waters”, and substitute the words “any such water”.

To insert in line 40 on that page, after the word “administered”, the words “or managed”.

*Clause 25:* To omit from line 10 on page 91 the word “subsections”, and substitute the word “subsection”.

*Clause 26:* To omit from line 31 on page 95 the words “that Department”, and substitute the words “such agents”.

To omit from lines 31 to 35 on that page the words “, and requiring that Department and such Councils to pay into the Crown Bank Account a proportion of the aggregate fees charged for licences issued by them or on their behalf”.

To insert in line 6 on page 96, before the word “possession”, the words “taking or”.

To omit subsection (6) of new section 48A (all the words in lines 41 to 45 on page 97 and in lines 1 to 4 on page 98).

*Clause 28:* To omit from line 22 on page 99 the word “Regional”, and substitute the words “Fish and Game”.

*Clause 30:* To omit from lines 19 and 20 on page 100 the words “employed by the Department”.

To insert, after line 22 on that page, the following subclause:

(3) Every warrant under Part VI of the Fisheries Act 1983 that is held by a Fishery Officer or an Honorary Fishery Officer who becomes a warranted officer by virtue of subsection (2) of this section shall expire with the close of the 30th day of June 1991, unless that person ceases to be a warranted officer before that date.

*Clause 31:* To omit from line 34 on page 100 the word “subsection”, and substitute the word “subsections”.

To omit from line 7 on page 101 the word “disposal”, and substitute the word “disposition”.

To insert, after line 9 on that page, the following subsection:

“(4A) Where a lessee or licensee of any land vested in Land Corporation of New Zealand Limited, being land that was acquired from the Crown, exercises under that person’s lease or licence a right to acquire the freehold title for that land, the exercise of that right shall not constitute a disposition for the purposes of section 16 or section 24 of this Act.”

*Clause 34:* To omit subclause (2) (all the words in lines 24 and 25 on page 103).

*Proposed clause 36A:* To insert, after line 16 on page 104, the following clause:

**36A. Regulations relating to whitebait—**(1) The Fisheries (West Coast Whitebait Fishing) Regulations 1985 and regulation 16 of the Fisheries (Amateur Fishing) Regulations 1986 are hereby deemed to have been made under section 48A of the principal Act, and may be amended or revoked accordingly.

(2) Every reference in the Fisheries (West Coast Whitebait Fishing) Regulations 1985 to a Fishery Officer shall be read as a reference to a warranted officer under the principal Act.

*Clause 37:* To omit subclause (2) (all the words in lines 30 and 31 on page 105).

*Proposed clause 38D:* To insert, after line 29 on page 107, the following clause:

**38D. Certain public notices to have legal effect—**Every public notice given by or on behalf of the Minister of Conservation before the commencement of this Act, being a

notice calling for nominations for appointment to the New Zealand Conservation Authority or any Conservation Board, shall be as valid and effectual as if the provisions of sections 6D and 6P of the principal Act (as inserted by section 5 of this Act) were in force when that notice was given.

*Clause 39:* To omit from line 32 on page 107 the expression "26N", and substitute the expression "26O".

*Clause 44:* To insert in line 10 on page 111, after the words "conditions as to", the word "the".

*Clause 64:* To insert in line 23 on page 121, after the words "Director-General", the words "or his or her nominee".

*Clause 77:* To omit from line 10 on page 128 the expression "17FA, 17F, and 17K", and substitute the expression "17E (except subsections (1), (4), (6), and (7)), 17FA, and 17K".

To omit from lines 14 and 15 on that page the words "section 17FA of that Act", and substitute the words "17F(a) of that Act (as applied by section 17FA(1) of that Act)".

To insert in line 21 on that page, after the word "Act", the words "(as so applied)".

*Clause 79:* To omit this clause, and substitute the following clause:

**79. Powers of rangers**—Section 18(1) of the principal Act is hereby amended—

(a) By omitting from paragraph (a) the words "management committee", and substituting the words "Director-General":

"(b) By omitting from paragraph (f) the words "has reason to suspect", and substituting the words "reasonably believes".

*Proposed clause 80A:* To insert, after line 33 on page 130, the following clause:

**80A. Time within which information may be laid** — Section 20 of the principal Act is hereby amended by omitting the words "or bylaw".

*Clause 82:* To insert, after line 29 on page 131, the following paragraph:

"(f) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amount of the fines that may be imposed on summary conviction in respect of any such offences, which fines shall be an amount not exceeding \$200."

*Proposed clauses 83A and 83B:* To insert, after line 32 on page 131, the following clauses:

**83A. Cape Rodney-Okakari Point Marine Reserve Bylaws**—(1) The Cape Rodney-Okakari Point Marine Reserve Bylaws 1989 are hereby deemed to be regulations made under section 24 of the principal Act, and may be amended or revoked accordingly.

(2) References in the Cape Rodney-Okakari Point Marine Reserve Bylaws 1989 to the Committee shall be read as if they were references to the Director-General of Conservation.

(3) The Cape Rodney-Okakari Point Marine Reserve Bylaws 1989 are hereby deemed to have come into force on the 7th day of December 1989.

(4) Every person who commits a breach of the Cape Rodney-Okakari Point Marine Reserve Bylaws 1989 commits an offence and is liable on summary conviction to a fine not exceeding \$200.

(5) Clause 17 of the Cape Rodney-Okakari Point Marine Reserve Bylaws 1989 is hereby revoked.

**83B. Poor Knights Islands Marine Reserve Bylaws 1989**—(1) The Poor Knights Islands Marine Reserve Bylaws 1989 are hereby deemed to be regulations made under section 24 of the principal Act, and may be amended or revoked accordingly.

(2) References in the Poor Knights Islands Marine Reserve Bylaws 1989 to the Committee shall be read as if they were references to the Director-General of Conservation.

(3) The Poor Knights Islands Marine Reserve Bylaws 1989 are hereby deemed to have come into force on the 7th day of December 1989.

(4) Every person who commits a breach of the Poor Knights Islands Marine Reserve Bylaws 1989 commits an offence and is liable on summary conviction to a fine not exceeding \$200.

(5) Clause 17 of the Poor Knights Islands Marine Reserve Bylaws 1989 is hereby revoked.

*Clause 88:* To omit from line 2 on page 134 the expression “17E, 17F, and 17K”, and substitute the expression “17E (except subsections (1), (4), and (6)), 17FA, and 17K”.

To insert in line 10 on that page, after the words “Conservation Act 1987”, the words “(as applied by section 17FA(1) of that Act)”.

*Clause 91:* To insert, after line 3 on page 135, the following subclause:

(2) Section 19 of the principal Act is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) In subsection (3) of this section the term ‘occupier’, in relation to any land, does not include a person appointed under the Conservation Act 1987 to be the manager of a marginal strip.”

*Clause 97:* To omit this clause, and substitute the following clause:

**97. Minister’s general powers**—(1) Section 41 (1) (c) of the principal Act is hereby amended by omitting the words “acclimatisation societies,”.

(2) Section 41 (1) of the principal Act is hereby further amended by inserting, after paragraph (f), the following paragraph:

“(fa) Protect and preserve wildlife that are absolutely protected under this Act.”.

*Clause 109:* To insert in line 23 on page 140, after the words “held in trust”, the words “or otherwise held”.

To insert, after line 5 on page 142, the following subclause:

(5) Notwithstanding section 94 of this Act, all fish and game licences issued under any enactment by acclimatisation societies or conservancy councils, and District Anglers Notices issued by acclimatisation societies under the Fisheries Act 1983, shall continue in force according to their tenor until revoked or cancelled or replaced.



*Clause 118:* To omit from line 7 on page 146 the expression "17E", and substitute the expression "17E (except subsections (1), (4), and (6))".

*Clause 129:* To omit from line 37 on page 149 the expression "17E", and substitute the expression "17E (except subsections (1), (4), (6), and (7))".

*Proposed clauses 144A and 144B:* To insert, after line 42 on page 155, the following clauses:

**144A. Application of Part XX of Local Government Act 1974 to sale of certain hotels—**(1) Subject to subsection (2) of this section, nothing in Part XX of the Local Government Act 1974 (as inserted by section 2 of the Local Government Amendment Act 1978) shall apply to the sale or transfer of the leasehold interest in any of the following Tourist Hotel Corporation hotels:

- (a) The Milford Hotel in Fiordland National Park;
- (b) The Hermitage Hotel in Mount Cook National Park;
- (c) The Glencoe Lodge in Mount Cook National Park;
- (d) The Chateau Hotel in Tongariro National Park.

(2) The exemptions conferred by subsection (1) of this section shall not apply to the granting of any other leases of National Park land or to any subsequent subdivision or development by the lessee of the land upon which the hotels currently exist.

**144B. Application of section 14 (3) of Conservation Act 1987 to certain leases and licences—**Notwithstanding section 52 of the principal Act, nothing in section 14 (3) of the Conservation Act 1987 shall apply to the grant of any lease or licence under section 49 or section 50 of the principal Act in respect of any hotel referred to in section 144A of this Act.

#### SCHEDULE

To omit the item in the second column on page 161 relating to the Forest and Rural Fires Act 1977, and substitute the following items:

By omitting from paragraph (j) of the definition of the term "State area" in section 2 (as substituted by section 2 (4) of the Forest and Rural Fires Amendment Act 1989) the words "section 58 (1) of the Land Act 1948", and substituting the words "Part IVA of the Conservation Act 1987".

By omitting from section 32 the words "section 58 of the Land Act 1948", and substituting the words "Part IVA of the Conservation Act 1987".

To insert on page 163, after the item relating to the Town and Country Planning Act 1977, the following item:

1981, No. 35—The Public Works Act 1981 By adding to the definition of the term "government work" in section 2 (as substituted by section 2 (2) of the Public Works Amendment (No. 2) Act 1987) the words "; and includes land held or to be acquired for the purposes of the Conservation Act 1987 or any of the Acts specified in the First Schedule to that Act, even where the purpose of holding or acquiring the land is to ensure that it remains in an undeveloped state".

To omit the item in the second column on that page relating to the State-Owned Enterprises Act 1986, and substitute the following item:

By omitting from section 24 (2) (b) the words "section 58 of the Land Act 1948", and substituting the words "Part IVA of the Conservation Act 1987".

To omit all items in the second column on page 164 relating to the Local Government Official Information and Meetings Act 1987, and substitute the following items:

By omitting from Part II of the First Schedule the item "The Hauraki Gulf Maritime Park Board".

By omitting from Part I of the Second Schedule the items "National Parks and Reserves Boards" and "State Forest Parks Advisory Committees", and substituting in their appropriate alphabetical order the items "Conservation Boards" and "Fish and Game Councils".

By omitting from Part II of the Second Schedule the item "The National Parks and Reserves Authority", and substituting in their appropriate alphabetical order the items "The New Zealand Conservation Authority" and "The New Zealand Fish and Game Council".

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#### EXPLANATORY NOTE

The principal changes contained in this Supplementary Order Paper are as follows:

- (a) *Clause 9* of the Bill is amended to provide for the registration of easements over land for which a certificate of title does not exist:
- (b) *Clause 15* of the Bill is amended to enable the Minister to reduce the width of a marginal strip, and provision is made for Crown forest licence holders to farm trees on adjoining marginal strips:
- (c) *Clause 17* of the Bill is amended to clarify the provisions relating to the election of members of Fish and Game Councils and to the transfer of live aquatic life:
- (d) Proposed *clause 38D* gives legal effect to recent public advertisements calling for nominations for appointment to the New Zealand Conservation Authority and Conservation Boards, which are to be established under *clause 5* of the Bill:
- (e) Proposed *clause 83A* preserves the Cape Rodney-Okakari Point Marine Reserve Bylaws 1989:
- (f) Proposed *clause 83B* preserves the Poor Knights Islands Marine Reserve Bylaws 1989:
- (g) Proposed *clause 144A* exempts the sale or transfer of the leasehold interest in certain Tourist Hotel Corporation hotels from the subdivision provisions of Part XX of the Local Government Act 1974:
- (h) Proposed *clause 144B* provides that the granting of a lease or licence under the National Parks Act 1980 in respect of any hotel referred to in *clause 144A* is not subject to the public notice requirements of that Act:
- (i) The definition of the term "government work" in the Public Works Act 1981 is amended to include land held or to be acquired for conservation purposes.