Wild Animal Control Amendment Act 1979

Public Act 1979 No 146
Date of assent 14 December 1979

Contents

		Page
	Title	1
1	Short Title	1
2	Interpretation	2
3	Hunting or killing wild animals	2
4	Keeping wild animals in captivity	2
5	Deer farming	3
6	Justices may grant warrants	4
7	Powers of Forest Officers	4
8	Wild animal recovery	4
9	Licensing of wild animal recovery services	5
10	Offenders to give name and address	6
11	Offences	6
12	Penalties	6

An Act to amend the Wild Animal Control Act 1977

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 Wild Animal Control Amendment Act 1979, and shall be read together with and deemed part of the Wild Animal Control Act 1977 (hereinafter referred to as the principal Act).

2 Interpretation

(1) Section 2 of the principal Act is hereby amended by inserting in the definition of the term "Forest Officer", after the words "purposes of this Act", the words "; and includes a constable".

(2) Section 2 of the principal Act is hereby amended by repealing subparagraphs (i) and (ii) of paragraph (a) of the definition of the term "wild animal", and substituting the following subparagraphs:

"(i) Any deer (including wapiti or moose):

"(ii) Any chamois, thar, wallaby, or opossum (*Trichosurus vulpecula*):".

3 Hunting or killing wild animals

Section 8(2) of the principal Act is hereby amended—

(a) By inserting, after the words "any land" where they first appear, the words ", or discharge a firearm into or over or across any land,":

(b) By inserting, after the words "any land" where they secondly appear, the words ", or discharges a firearm into or over or across any land,".

4 Keeping wild animals in captivity

(1) Section 12(1) of the principal Act is hereby amended by omitting the words "No person shall", and substituting the words "Subject to section 12A of this Act, no person shall".

(2) Section 12(4) of the principal Act is hereby amended—

(a) By omitting the words "has called for and received a report from the National Water and Soil Conservation Authority, and", and substituting the words "has consulted the local catchment authority, and":

(b) By repealing the first and second provisos.

(3) Section 2 of the principal Act is hereby consequentially amended by inserting, after the definition of the term "carcass", the following definition:

"'Catchment authority' means any public body established for the purpose of soil conservation and water management under any enactment:".

(4) Section 12(5) of the principal Act is hereby amended—

(a) By omitting the words "deer, wapiti,":

(b) By inserting, after the word "wallaby", the words ", or, unless for the purposes of farming, capture or convey or keep in captivity or export alive any deer".

(5) Section 12(6) of the principal Act is hereby amended by omitting the words "Maritime Park or reserve, or of any sanctuary set aside for the preservation of native flora or native fauna", and substituting the words ", forest sanctuary, nature reserve, scientific reserve, or scenic reserve".

5 Deer farming

The principal Act is hereby amended by inserting, after section 12, the following section:

"12A

"(1) Any person may, without a permit or licence issued under section 12 of this Act but subject to this section, capture, convey, or keep deer in captivity for the purposes of farming anywhere in New Zealand except—

"(a) On any land where such farming is prohibited under or pursuant to the provisions of any other Act:

"(b) On any land which, pursuant to the system of land use capability adopted by the Soil Conservation and Rivers Control Council, would be classified as Class VII or Class VIII land:

"(c) Where prohibited pursuant to subsection (2) of this section:

"(d) In any part of any National Park, forest sanctuary, nature reserve, scientific reserve, or scenic reserve.

"(2) The Director-General of Forests may, from time to time by notice in the *Gazette,*—

"(a) Specify those areas or places in which deer farming generally is prohibited, or in which the farming of any particular species of deer is prohibited:

"(b) Specify those areas or places in which deer farming generally is permitted, or in which the farming of particular species of deer is permitted.

"(3) Before keeping any deer in captivity on any land for the purposes of farming, the occupier of the land on which the deer are intended to be kept shall ensure that the enclosures on the land are suitable to contain the deer and prevent their escape and comply with any specifications prescribed by regulations made under this Act.

"(4) After complying with the requirements of subsection (3) of this section, the occupier of the relevant land shall then notify the Director-General of Forests of his intention to commence keeping deer in captivity on that land for the purposes of farming, and, upon receipt of an acknowledgment in writing from the Director-General, may commence to do so.

"(5) The notice given to the Director-General under subsection (4) of this section shall be in writing, and shall—

"(a) Set out the location, legal description, and the nature of the tenure of the land:

"(b) State the species of deer and the numbers of each such species proposed to be carried on the land:

"(c) Identify the source (including the names of persons) from whom the founding stock of deer is to be obtained.

"(6) For the purposes of section 9(2) of this Act and of subsections (9) to (11) of section 12 of this Act, an acknowledgement in writing given by the Director-General of Forests under subsection (4) of this section shall be deemed to be a permit issued under subsection (3)(a) of section 12 of this Act.

"(7) Any deer that escapes from its enclosure and strays while being lawfully captured, conveyed, or held in captivity for the purposes of farming remains the property of the owner if that deer is branded pursuant to Part V of the Animals Act 1967.

"(8) Every person commits an offence against this Act who, while keeping deer in captivity for the purposes of farming, fails to maintain the enclosures on the land so as to prevent the escape of any deer or so that the enclosures no longer comply with any prescribed specifications."

6 Justices may grant warrants

The principal Act is hereby amended by inserting the words "or Justice of the Peace" after the word "Magistrate" in sections 12(11), 13(6), 13(7), and section 14(2).

7 Powers of Forest Officers

(1) Section 13(2) of the principal Act is hereby amended—

(a) By inserting, after the words "where any article or animal", the words "used in the commission of an offence":

(b) By inserting, after the words "directs that the article or animal", the words "or any other article or animal used in the commission of the offence but not seized by a Forest Officer".

(2) Section 13(8) of the principal Act is hereby amended by inserting, after the word "Officer", the words ("except a constable").

(3) Section 13 of the principal Act is hereby further amended by adding the following subsection:

"(9) The production by any person of evidence that that person is a constable shall, until the contrary is proved, be sufficient authority for that person to have and exercise all the powers of a Forest Officer otherwise appointed under this Act."

8 Wild animal recovery

The principal Act is hereby amended—

(a) By omitting from section 21(1) the words "and to use aircraft for the purpose of hunting or killing wild animals for the recovery thereof", and substituting the words "for the purposes of wild animal recovery":

(b) By omitting from section 22(1) the words "using aircraft":

(c) By omitting from section 24(2) the words "commercially hunts or kills animals as the operator of", and substituting the word "operates":

(d) By omitting from section 25(1) the words "by or with the assistance of aircraft":

(e) By omitting from section 26(1) the words "using aircraft":

(f) By omitting from section 39(2) the words "by aircraft".

9 Licensing of wild animal recovery services

(1) Section 24(1) of the principal Act is hereby amended by inserting, after the word "land", the words ", and may, either on application or of his own volition, amend or revoke such a licence".

(2) Section 24 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

"(1a) In considering any application for the issue of a licence under subsection (1) of this section or whether to amend or revoke such a licence, the Director-General shall have regard to the general purposes of this Act and to the way this Act is to be administered as specified in section 4 of this Act and to whether the applicant or licence holder has, within the preceding 5 years, been convicted of any offence against this Act of any offence punishable by imprisonment.

"(1B) After considering the matters referred to in subsection (1A) of this section, the Director-General shall give notice in writing of his decision to the applicant or, as the case may require, licensee whose licence has been amended or revoked."

(3) The said section 24 is hereby further amended by adding the following subsections:

"(5) In considering an appeal under subsection (4) of this section, the Minister and any appeal authority shall have regard to the same matters as those to which the Director-General is required to have regard under subsection (1A) of this section.

"(6) The Minister and an appeal authority may receive in evidence any statement, document, information, or matter that may in his or its opinion assist him or it to deal effectually with the matter, whether or not the evidence so received was received by or available to the Director-General at the time when the cause of the appeal arose, and, subject to any regulations made under section 40 of this Act, the procedure relating to any appeal may be regulated by the Minister or, as the case may require, the appeal authority.

"(7) The Secretary for Justice, if requested by the Minister, shall provide from his Department such secretarial, recording, and clerical services as may be necessary to enable an appeal authority under this section to discharge its functions, and the costs of providing any such services shall be met from money appropriated by Parliament from time to time for the purpose."

(4) Every application to the Director-General of Forests for a licence and every appeal to the Minister under section 24 of the principal Act, being an application or appeal which, in either case, has been received by the Director-General or the Minister and has not been fully determined by the Director-General or, as the case may be, the Minister or any appeal authority as at the commencement of this Act, shall be considered and determined pursuant to section 24 of the principal Act as amended by this section of this Act.

10 Offenders to give name and address

(1) Section 34(1) of the principal Act is hereby amended by inserting, before the word "officer", the words "Forest Officer or".

(2) Section 34 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) If the person fails to comply with a lawful requirement of a Forest Officer or officer or employee of the Forest Service, the Forest Officer (if he is a constable) or any constable may caution the person and, if the person persists in such failure to comply, may arrest him without warrant."

11 Offences

(1) Section 36(1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

"(d) Impedes or obstructs or uses abusive or threatening language to any officer or employee of the Forest Service or other authorised person while in the performance or execution of his duty under this Act:".

(2) Section 36(2) of the principal Act is hereby amended by omitting the words "or constable", and the word ", constable,".

12 Penalties

(1) Section 39(2) of the principal Act (as amended by section 8(f) of this Act) is hereby further amended—

(a) By omitting the word "hunting", and substituting the word "recovery":

(b) By omitting the words "commits an offence against this Act and":

(c) By omitting from paragraph (a) the expressions "$1,000" and "$100", and substituting respectively the expressions "$2,000" and "$200":

(d) By omitting from paragraph (b) the expressions "$3,000" and "$300", and substituting respectively the expressions "$6,000" and "$600":

(e) By omitting from paragraph (c) the expressions "$5,000" and "$1,000", and substituting respectively the expressions "$10,000" and "$2,000".

(2) Section 39(3) of the principal Act is hereby amended—

(a) By omitting from paragraph (a) the expressions "$300", "$600", and "$30", and substituting respectively the expressions "$500", "$1,000", and "$50":

(b) By omitting from paragraph (b) the expressions "$600", "$1,200", and "$60", and substituting respectively the expressions "$1,000", "$2,000", and "$100".

(3) Any proceedings commenced (whether before or after the passing 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 this Act had not been passed.

This Act is administered in the New Zealand Forest Service.