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1982, No. 26

An Act to amend the Wild Animal Control Act 1977

[*12 October 1982*

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 1982, 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 "firearm" after the words "air rifle", the words "(whether any such firearm is in working order or not)".

(2) The said section 2 is hereby further amended by repealing the definition of the term "Forest Officer" (as amended by section 2 (1) of the Wild Animal Control Amendment Act 1979), and substituting the following definition:

" 'Forest Officer' means—

"(a) An officer within the meaning of the State Services Act 1962 who is employed in the Forest Service and holds a warrant, signed by or on behalf of the Director-General, as a Forest Officer for the purposes of this Act:

"(b) A constable:

"(c) In any case where the Director-General considers there is a problem relating to wild animals in a national park, the person appointed as senior or chief ranger of that park under section 40 of the National Parks Act 1980 if he holds a warrant, signed by or on behalf of the Director-General and subject to such conditions as the Director-General may impose, as a Forest Officer for the purposes of this Act:".

(3) The said section 2 is hereby further amended by repealing the definition of the term "wild animal recovery service", and substituting the following definition:

" 'Wild animal recovery service' means any service or operation by aircraft (whether or not for hire or reward)—

"(a) For the aerial search for wild animals or for their shooting or immobilising:

"(b) For the recovery of wild animals (whether dead or alive) or of any part of such wild animals:

"(c) For the carriage of persons, supplies, equipment, firearms, ammunition, or poisons essential for the purpose of the wild animal recovery service—

and 'wild animal recovery' has a corresponding meaning:".

(4) Section 2 (1) of the Wild Animal Control Amendment Act 1979 is hereby consequentially repealed.

3. Farmed deer to be regarded as wild animals—(1) Section 2 of the principal Act is hereby amended by omitting from paragraph (c) of the definition of the term "wild animal" the words "Does not include", and substituting the words "Except for deer lawfully kept in captivity for the purposes of farming, does not include".

(2) Section 7 (1) of the principal Act is hereby amended by inserting, after the words "Crown-owned land,", the words "or the Commissioner of Police,".

(3) Section 12 of the principal Act is hereby consequentially amended by inserting, after subsection (11), the following subsection:

"(11A) Any deer that escapes from its enclosure and strays while being lawfully captured, conveyed, or held in captivity under this section 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."

4. Purchase of carcasses—Section 9 (4) of the principal Act (as substituted by section 2 of the Wild Animal Control Amendment Act 1978), is hereby amended by inserting, after the words "that carcass", the words ", or for the licensee of the game depot or game packing house to receive that carcass,".

5. Powers of Forest Officers—(1) Section 13 of the principal Act is hereby amended—

(a) By inserting in subsection (1) (c) after the word "horses,", the words "dogs, aircraft,":

(b) By omitting from subsection (2) the words "or any other article or animal used in the commission of the offence but not seized by a Forest Officer" (as inserted by section 7 (1) of the Wild Animal Control Amendment Act 1979), and substituting the words "or any other article, animal, or aircraft used in the commission of the offence but not seized by a Forest Officer":

(c) By omitting from subsection (3A) (as inserted by section 3 of the Wild Animal Control Amendment Act 1978) the words "Notwithstanding subsection (2) of this section", and substituting the words "Notwithstanding subsection (3) of this section and section 39 (4) of this Act":

(d) By inserting in subsection (8) after the word "every", the words "person to be appointed as a".

(2) Section 7 (1) (b) of the Wild Animal Control Amendment Act 1979 is hereby consequentially repealed.

6. Wild animals on State forest land—Section 17 (1) of the principal Act is hereby amended by omitting the words "authorised by him".

7. Licensing of operators for wild animal recovery services—(1) Section 24 of the principal Act (as amended by section 9 of the Wild Animal Control Amendment Act 1979) is hereby amended by repealing subsections (1) and (1A), and substituting the following subsections:

"(1) The Director-General may issue a licence to operate a wild animal recovery service in respect of any conservancy or area and may, either on application or of his own volition, amend, suspend, or revoke such licence. Every such licence shall stipulate the pilot and aircraft which may be used in respect of wild animal recovery by the licensee.

"(1A) For the purpose of considering applications for the issue of licences under subsection (1) of this section, or whether to amend, suspend, or revoke such a licence, the Director-General shall determine the conservancies or other areas in respect of which licences shall be available and shall then from time to time (but no less frequently than once every calendar year) determine the maximum number of aircraft to be permitted to operate pursuant to such licences in respect of any species of wild animal in each such conservancy or area.

"(1AA) For the purposes of subsection (1A) of this section, the maximum number of permitted aircraft shall be that number of aircraft employed in wild animal recovery which would, in the opinion of the Director-General, ensure the maintenance, reduction, or increase of numbers of the relevant species of wild animal in that conservancy or area at or to an optimum level.

"(1AB) For the purposes of subsection (1AA) of this section, the optimum level of any species of wild animal shall be a level determined by the Director-General after having regard to the vegetation, soils, waters, and wild life in the conservancy or area, and to the need to provide for recreational hunting.

"(1AC) In considering any application for the issue of a licence under subsection (1) of this section, or whether to amend, suspend, or revoke such a licence, the Director-General shall have regard to—

"(a) The maximum number of aircraft to be permitted to operate in the conservancy or area as determined pursuant to this section; and

"(b) Whether the applicant or licensee or any pilot stipulated in the application or licence or any crew member or shooter used or to be used in the

aircraft has, within the preceding 5 years, been convicted of any offence against this Act or any offence punishable by imprisonment; and

"(c) Any previous experience in wild animal recovery that the applicant and pilot stipulated in the application or licence may have had; and

"(d) The number of wild animals recovered by or on behalf of the applicant in the preceding year; and

"(e) Whether there has been any breach of or non-compliance with the conditions to which the licence is subject."

(2) Section 24 (1B) of the principal Act is hereby amended by omitting the words "subsection (1A)", and substituting the words "subsections (1A) and (1AC)", and by inserting after the word "amended", the word ", suspended,".

(3) Section 24 (3) of the principal Act is hereby amended by inserting, after the word "varied", the word ", suspended,".

(4) Section 9 (1) of the Wild Animal Control Amendment Act 1979 is hereby consequentially repealed.

8. Owner or hirer of aircraft to give information as to identity of pilot, etc.—The principal Act is hereby amended by inserting, after section 34, the following section:

"34A. (1) On being informed of any offence alleged to have been committed against this Act by the pilot of or any shooter carried by an aircraft, and on being requested to do so by a Forest Officer, whether the request is made orally or in writing, the owner of the aircraft or the person legally entitled to possession of that aircraft, and, in the case of an aircraft let on hire, the person to whom it is let on hire, shall, within 14 days after the receipt of the request, give to the Forest Officer or the Director-General all information in his possession or obtainable by him which may lead to the identification and apprehension of the pilot or shooter.

"(2) If the person, after being so requested, fails within the time specified to give the requesting officer or Director-General all information in his possession or obtainable by him which may lead to the identification and apprehension of the pilot of or shooter carried by the aircraft, he commits an offence against this Act."

9. Liability of Crown for loss of wild animal—Section 35 (2) of the principal Act is hereby repealed.

10. Presumptions in connection with hunting and killing—(1) Section 38 (1) of the principal Act is hereby amended by omitting the words "may infer", and substituting the words "shall presume, until the contrary is proved,".

(2) Section 38 of the principal Act is hereby further amended by adding the following subsections:

"(4) In any prosecution for an offence against section 8 or section 24 of this Act, proof that any aircraft was used for hunting or killing any wild animal shall be evidence from which the Court shall presume, until the contrary is proved,—

"(a) That the pilot stipulated in the wild animal recovery service licence issued in respect of that aircraft was the pilot of that aircraft; or

"(b) If no wild animal recovery service licence was held in respect of that aircraft, that the person stipulated as the pilot of the aircraft in any flight record required to be kept by the operator of the aircraft under regulation 24A of the Civil Aviation Regulations 1953 was the pilot of the aircraft.

"(5) In any prosecution for an offence against this Act, a certificate confirming the status of any land in question—

"(a) As to any State forest land, by the chief surveyor for the relevant conservancy; or

"(b) As to any National Park, Maritime Park, or any Crown-owned land, by the chief surveyor for the relevant land district—

shall be conclusive proof of that status, unless the defendant proves to the contrary; and all plans, maps, certificates, and copies certified as true by the surveyor of the relevant conservancy or land district, as the case may be, shall be sufficient evidence of their contents without production of original records and without the personal attendance of those officers or proof of their signatures."

This Act is administered in the New Zealand Forest Service