



ANALYSIS

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1996, No. 4

An Act to amend the National Parks Act 1980

[13 March 1996

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the National Parks Amendment Act 1996, and shall be read together with and deemed part of the National Parks Act 1980 (hereinafter referred to as the principal Act).

(2) Sections 2, 4, 5, 6, 7, 8, 9, 10, and 12 of this Act shall come into force on the 1st day of July 1996.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the day on which it receives the Royal assent.

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Activity’ includes a trade, business, or occupation:

“‘Certified aerodrome’ means an aerodrome licensed under the Civil Aviation Regulations 1953 or certificated under rules made under the Civil Aviation Act 1990:

“ ‘Concession’ or ‘concession document’—

“(a) Means—

“(i) A lease; or

“(ii) A licence; or

“(iii) A permit; or

“(iv) An easement—

granted under section 49 of this Act; and

“(b) Includes any activity authorised by the concession document:

“ ‘Concessionaire’ means a person who is—

“(a) A lessee; or

“(b) A licensee; or

“(c) A permit holder; or

“(d) The grantee of an easement—

under section 49 of this Act:

“ ‘Lease’—

“(a) Means—

“(i) A grant of an interest in land that—

“(A) Gives exclusive possession of the land; and

“(B) Makes provision for any activity on the land that the lessee is permitted to carry out:

“(ii) Any document purporting to be a lease (whether or not the document gives the lessee exclusive possession of the land concerned) and issued under any enactment passed before the commencement of section 2 of the National Parks Amendment Act 1996:

“(iii) Any document purporting to be a lease (whether or not the document gives the lessee exclusive possession of the land concerned) and issued under this Act before the commencement of the said section 2; but

“(b) Does not include a licence referred to in paragraph (b) (ii) of the definition of the term ‘licence’;—

and ‘lessee’ has a corresponding meaning:

“ ‘Licence’—

“(a) Means—

“(i) A *profit à prendre* or any other grant that gives a non-exclusive interest in land; or

- “(ii) A grant that makes provision for any activity on the land that the licensee is permitted to carry out; and
- “(b) Includes—
- “(i) Any document purporting to be a licence (whether or not the licence gives an interest, or makes any provision, referred to in paragraph (a) of this definition) and issued under any enactment relating to national parks that was passed before the commencement of section 2 of the National Parks Amendment Act 1996; and
- “(ii) Any document purporting to be a licence and purporting to grant an exclusive interest in land, and issued under this Act before the date of commencement of the said section 2 or issued under any other enactment relating to national parks that was passed before that date; and
- “(iii) Any document purporting to be a licence (whether or not the licence gives an interest, or makes any provision, referred to in paragraph (a) of this definition) and issued under this Act before the commencement of the said section 2;—
- and ‘licensee’ has a corresponding meaning;
- “ ‘Permit’—
- “(a) Means a grant of rights to carry out an activity for a purpose referred to in section 49 of this Act that does not require an interest in land; and
- “(b) Includes any authorisation or licence granted before the commencement of this definition that granted similar rights;—
- and ‘permit holder’ has a corresponding meaning”.

3. Special provisions relating to wilderness areas under Reserves Act 1977 or Conservation Act 1987—The principal Act is hereby amended by inserting, after section 14, the following section:

“14A. (1) This section applies where land set apart as or declared to be a wilderness area under the Reserves Act 1977 or the Conservation Act 1987 is constituted as a park.

“(2) Notwithstanding any other provision of this Act, where this section applies, the Minister may, by notice in the *Gazette*, declare that the wilderness area shall continue to be set apart

as a wilderness area as if the land had been set apart as a wilderness area under section 14 of this Act.

“(3) A declaration under subsection (2) of this section shall have effect according to its tenor subject to the following provisions:

“(a) The Director-General (in preparing the first management plan for the area) and the Board (in considering that plan) and the Authority (before approving that plan) shall consider whether or not the area should continue to be a wilderness area and whether or not any boundary adjustments should be made to the area:

“(b) The Authority shall make a recommendation on the matter to the Minister:

“(c) After receipt of a recommendation under paragraph (b) of this subsection, the Minister may, by notice in the *Gazette*, make such further declarations or provisions with respect to the status of the area as a wilderness area as he or she considers appropriate; and that notice shall have effect according to its tenor.”

4. Procedure for preparing and reviewing management plans—Section 47 of the principal Act (as amended by section 119 of the Conservation Law Reform Act 1990) is hereby amended by adding the following subsection:

“(7) In exercising their functions, duties, and powers under this section, the Board, the Director-General, and the Authority shall have regard to any relevant concessions for the time being in force.”

5. Concessions—(1) The principal Act is hereby amended by repealing section 49, and substituting the following section:

“49. (1) The Minister may, in accordance with Part IIIb of the Conservation Act 1987, grant a concession in respect of any park; and the said Part IIIb shall apply as if references in that Part to a conservation area were references to a park and with any other necessary modifications.

“(2) Before granting any concession over a park, the Minister shall satisfy himself or herself that a concession—

“(a) Can be granted without permanently affecting the rights of the public in respect of the park; and

“(b) Is not inconsistent with section 4 of this Act.

“(3) The Minister may impose a reasonable charge for the use of any facilities (other than a path or track) provided by the Minister in or in respect of any park.

“(4) A concessionaire of any part of any park may, to the extent that the concessionaire’s concession document so provides, impose a reasonable charge for the use of any facilities (other than a path or track) provided by the Minister in or in respect of the park.

“(5) Any person who—

“(a) Has, in accordance with any concession or other consent of the Minister, erected any structure or facility in any park; or

“(b) Uses for camping sites or for parking places for vehicles any part of any park; or

“(c) Carries on any activity in any park—

may, subject to the relevant conservation management strategy or management plan (if any) and the terms and conditions (if any) of the concession document concerned, impose a reasonable charge in respect of access to or the use of structures, sites, or places, or the carrying on or products of the activity.

“(6) Nothing in this section authorises any person to do anything on or in respect of any private land.”

(2) The following enactments are hereby consequentially repealed:

(a) The National Parks Amendment Act 1988:

(b) Section 120 of the Conservation Law Reform Act 1990.

(3) Where any person lawfully occupied any park at the commencement of this Act in accordance with any right lawfully granted on or before 1 April 1987 under any Act or any contract made on or before 1 April 1987 then, notwithstanding sections 17U or 17W of the Conservation Act 1987, as inserted by section 7 of the Conservation Amendment Act 1996, the Minister may grant a concession to that occupant for the area lawfully occupied by that occupant, but the extent of the activities authorised by any such concession shall be no greater than was lawfully exercised by the occupant.

(4) Where any concession is granted under subsection (3) of this section to the occupant, any prior right given to the occupant to occupy the land shall be void and of no effect.

(5) The provisions of section 17T(4) and (5) of the Conservation Act 1987 (as so inserted) shall not apply to any concession granted under subsection (3) of this section.

6. Accommodation within parks—(1) Section 50 of the principal Act is hereby amended—

(a) By repealing paragraph (b) of subsection (1):

- (b) By omitting from subsection (2) the words “in the erection of, and the provision of access to, any building constructed under the authority of that subsection”:
- (c) By repealing subsection (3) (as added by section 121 (2) of the Conservation Law Reform Act 1990):
- (d) By omitting from subsection (4) (as so added) the words “or subsection (3)”.

(2) Section 50 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) Grant concessions over or in respect of land within the park as sites for dwellings for persons or bodies (whether incorporated or not) carrying on any activity within the park.”

(3) Section 121 (1) (b) of the Conservation Law Reform Act 1990 is hereby consequentially repealed.

(4) The policy adopted by resolution by the Authority on 19 October 1994 under section 44 of the National Parks Act 1980 as the “Policy of the New Zealand Conservation Authority on Concessions for Recreation and Tourism Business Operations in National Parks” is hereby consequentially revoked.

7. Farming within parks—The principal Act is hereby amended by repealing section 51, and substituting the following section:

“51. (1) This section applies to farming land and grazing land that, in the public interest, should continue to be farmed or grazed.

“(2) The Minister may, in accordance with the management plan for the park, grant concessions under section 49 of this Act over any part of the park that is land to which this section applies.”

8. Repeals—(1) Sections 52, 53, and 54 of the principal Act are hereby repealed.

(2) The Conservation Act 1987 is hereby consequentially amended by repealing so much of the Second Schedule as relates to sections 52 and 54 (2) of the principal Act.

9. Roads within parks—Section 55 (2) of the principal Act is hereby amended by repealing the words “, and no gravel, shingle, stone, or other material in the park may be removed for road construction purposes, whether within or outside the park”.

10. Offences in parks—(1) Section 60 (1) of the principal Act is hereby amended by repealing paragraph (j), and substituting the following paragraph:

“(j) Conducts in any park any activity for which a concession is required under this Act; or”.

(2) Section 60 (1) of the principal Act is hereby amended by adding the following paragraph:

“(l) Contravenes or fails to comply with section 51A of this Act.”

(3) Section 60 (2) of the principal Act is hereby amended—

(a) By omitting from paragraph (c) the words “lease, licence,” in both places where they occur, and substituting in each case the word “concession”;

(b) By omitting from paragraph (d) the words “licence, lease, permit”, and substituting the word “concession”.

11. Amendment to Local Government Official Information and Meetings Act 1987—Section 46 (8) of the Local Government Official Information and Meetings Act 1987 (as substituted by section 4 (1) of the Local Government Official Information and Meetings Amendment Act 1991) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) The New Zealand Conservation Authority established under section 6A of the Conservation Act 1987.”.

12. Transitional provisions relating to existing leases, etc.—(1) Every application made before the commencement of section 49 of the principal Act (as substituted by section 5 of this Act) for a lease, licence, permit, or easement under that Act shall,—

(a) Where the application has been publicly notified in accordance with section 52 of the principal Act, continue to be dealt with as if this Act had not been enacted:

(b) Where the application has not been publicly notified in accordance with section 52 of the principal Act, be dealt with under the said section 49:

(c) Where the application is for a permit, or the application is for a lease or licence or an easement but does not require public notification under the principal Act, be dealt with under the said section 49.

(2) Except as provided in section 17w of the Conservation Act 1987, section 49 of the principal Act (as so substituted) does not affect any lease, licence, permit, or easement granted before

the commencement of that section, but that section shall apply to every renewal of such a lease, licence, permit, or easement.

This Act is administered in the Department of Conservation.
