



ANALYSIS

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| <p>Title</p> <ol style="list-style-type: none"> 1. Short Title 2. Interpretation 3. Application for permit or certificate 4. Permit to import endangered species 5. Permit to import threatened species 6. Permit to import exploited species 7. Endangered species as personal or household effects | <ol style="list-style-type: none"> 8. Certificate for specimens bred in captivity or artificially propagated 9. Rights of entry 10. Powers of search 11. Taking and analysis of samples of specimens 12. Possession of specimens of endangered, threatened, or exploited species 13. Regulations |
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1998, No. 17

An Act to amend the Trade in Endangered Species Act 1989 [14 May 1998]

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

1. Short Title—This Act may be cited as the Trade in Endangered Species Amendment Act 1998, and is part of the Trade in Endangered Species Act 1989 (“the principal Act”).

2. Interpretation—Section 3 of the principal Act is amended by adding the following subsection:

“(5) For the avoidance of doubt, it is declared that sections 17 to 20 apply to specimens of endangered species that are deemed, by virtue of subsection (2) of this section, to be specimens of threatened species.”

3. Application for permit or certificate—Section 10 of the principal Act is amended by inserting, after subsection (5), the following subsection:

“(5A) Without limiting the generality of subsection (5), every applicant to whom that subsection applies must include, with every application for the export or re-export of a specimen in respect of which application the Director-General has required

any analysis to be carried out pursuant to section 43A, the results of such analysis.”

4. Permit to import endangered species—Section 14 (d) of the principal Act is amended by omitting the words “has been”, and substituting the words “will be”.

5. Permit to import threatened species—Section 18 of the principal Act is repealed, and the following section is substituted:

“18. Any person who proposes to import any specimen of a threatened species must present, before or at the time of import of the specimen, a permit to export or a certificate to re-export issued by the relevant authority of the country of export or re-export.”

6. Permit to import exploited species—Section 22 of the principal Act is repealed, and the following section is substituted:

“22. Any person who proposes to import any specimen of an exploited species must present, before or at the time of import of the specimen, a permit to export or a certificate to re-export issued by the relevant authority of the country of export or re-export.”

7. Endangered species as personal or household effects—Section 30 (2) of the principal Act is amended—

- (a) By omitting the words “by a person resident in New Zealand”; and
- (b) By omitting the words “unless that specimen was acquired before the provisions of this Act applied to such specimens”, and substituting the words “unless that specimen is accompanied by a certificate of acquisition or a certificate of exemption issued by the appropriate other management authority”.

8. Certificate for specimens bred in captivity or artificially propagated—Section 31 (2) of the principal Act is amended by omitting the words “other management authority” the second time they occur, and substituting the words “Director-General”.

9. Rights of entry—Section 37 of the principal Act is amended—

- (a) By adding, to subsection (1), the following new paragraph:

“(d) For the purpose of such analysis as the Director-General considers necessary to determine whether a breach of this Act or of any regulation made under it has occurred, take samples, subject to subsection (7), from any specimen in any vehicle or on any land or premises (including a dwellinghouse or a marae or any building associated with a marae) where the officer has reasonable grounds to believe that such specimen is evidence that a breach of this Act or of any regulation made under it has been or is being committed.”; and

(b) By inserting in subsection (2), after the word “marae” the second time it occurs, the words “or, in the case of the exercise of the power under subsection 1 (d), any other land or premises”; and

(c) By adding the following subsection:

“(7) Every officer proposing to take a sample under subsection (1) (d) from any live animal—

“(a) Must do so either personally or, where requested by the owner or person in charge of the animal, by instructing a veterinary surgeon to do so; and

“(b) Must make every effort to avoid unnecessary disturbance of the animal, including, with respect to an animal which is secured within an enclosure, exercising his or her powers only during the hours of daylight except where the officer judges that there will be less disturbance to the animal if the powers are exercised outside those hours.”

10. Powers of search—Section 38 of the principal Act is amended by adding the following subsection:

“(3) A search warrant is also required pursuant to subsection (2) of this section in the case of entry to any other land or premises for the purpose of the exercise of the power under section 37 (1) (d).”

11. Taking and analysis of samples of specimens—The principal Act is amended by inserting, before section 44, the following section:

“43A. (1) Where, in any application made under this Act, a question arises as to whether a specimen of any animal has been bred in captivity and the Director-General has reasonable cause to suspect that the specimen has not been bred in captivity, the Director-General may, prior to making a decision on the application, require that any specimen be subject to the taking of such samples for the purpose of such analysis as the Director-General considers necessary to determine whether the specimen concerned has been bred in captivity.

“(2) Subject to subsection (3), such samples are to be taken by and under the supervision of such person or persons as the Director-General specifies.

“(3) Every such sample from a live animal must be taken by a veterinary surgeon where requested by the owner or person in charge of the animal.

“(4) The Director-General may require an applicant to bear the cost of taking and analysis of samples required pursuant to this section.”

12. Possession of specimens of endangered, threatened, or exploited species—Section 45 of the principal Act is amended by inserting in subsection (1), after the word “knows”, the words “or has reasonable grounds for suspecting”.

13. Regulations—Section 54 of the principal Act is amended by inserting, after paragraph (e), the following paragraph:

“(ea) Specifying requirements with respect to taking and analysis of samples of specimens where such taking and analysis is authorised for any purpose under this Act:”.