



Wildlife (Penalties and Related Matters) Amendment Act 2000

Public Act 2000 No 43
Date of assent 14 October 2000
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Wildlife (Penalties and Related Matters) Amendment Act 2000.
- (2) In this Act, the Wildlife Act 1953 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is—

- (a) to increase the penalties for offences committed against the principal Act; and
- (b) to introduce a 3-tiered system of penalties for offences committed against the principal Act, with each tier providing a higher penalty for offences committed by bodies corporate; and
- (c) to abolish penalties for continuing offences and replace them with penalties for each head of wildlife and egg of wildlife in respect of which an offence is committed; and
- (d) to clarify the basis of liability for offences, by indicating which offences are offences of strict liability and which offences require the prosecution to prove that the defendant intended to commit the offence; and
- (e) to provide for other matters relating to the enforcement of the principal Act generally.

4 New section 56A inserted

The principal Act is amended by inserting, after section 56, the following section:

“56A Application of Customs and Excise Act 1996

Sections 149, 160, and 161 of the Customs and Excise Act 1996 apply in relation to the exportation of any absolutely protected or partially protected wildlife or any item of absolutely protected or partially protected wildlife as if that wildlife or item of wildlife were a prohibited export within the meaning of that Act.”

5 New section 65A inserted

The principal Act is amended by inserting, after section 65, the following section:

“65A Liability of directors and managers

- “(1) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is guilty of the same offence if the prosecution proves—

- “(a) that the act that constituted the offence took place with the director’s or manager’s authority, permission, or consent; or
 - “(b) that the director or manager knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.
- “(2) Where any director or person concerned in the management of a body corporate is convicted of an offence against this Act by virtue of subsection (1), the director or person is liable to the penalty applicable to an individual who commits the offence.”

6 New sections 67A to 67H inserted

The principal Act is amended by inserting, after section 67, the following sections:

“67A Penalties for offences in respect of absolutely protected wildlife

- “(1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—
- “(a) in the case of an individual,—
 - “(i) to imprisonment for a term not exceeding 6 months; or
 - “(ii) to a fine not exceeding \$100,000 plus a further fine not exceeding \$5,000 for each head of wildlife and egg of wildlife in respect of which the offence is committed;
 - “(b) in the case of a body corporate, to a fine not exceeding \$200,000 plus a further fine not exceeding \$10,000 for each head of wildlife and egg of wildlife in respect of which the offence is committed.
- “(2) The provisions are—
- “(a) section 56(5)(a) (which relates to capturing, having in possession for the purpose of liberating, or exporting absolutely protected wildlife):
 - “(b) section 63(1A)(a) (which relates to hunting, killing, buying, or selling absolutely protected wildlife, or robbing or disturbing the nest of absolutely protected wildlife):
 - “(c) section 65(2)(a) (which relates to receiving absolutely protected wildlife taken without authority):

“(d) section 65(3)(a) (which relates to being a party to an offence committed in respect of absolutely protected wildlife).

“67B Penalty for offence of liberating wildlife

A person convicted of an offence under section 56(4) (which relates to liberating wildlife) is liable,—

“(a) in the case of an individual,—

“(i) to imprisonment for a term not exceeding 6 months; or

“(ii) to a fine not exceeding \$100,000 plus a further fine not exceeding \$5,000 for each head of wildlife in respect of which the offence is committed:

“(b) in the case of a body corporate, to a fine not exceeding \$200,000 plus a further fine not exceeding \$10,000 for each head of wildlife in respect of which the offence is committed.

“67C Penalties for offences in respect of partially protected wildlife

“(1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—

“(a) in the case of an individual, to a fine not exceeding \$10,000 plus a further fine not exceeding \$500 for each head of wildlife and egg of wildlife in respect of which the offence is committed:

“(b) in the case of a body corporate, to a fine not exceeding \$20,000 plus a further fine not exceeding \$1,000 for each head of wildlife and egg of wildlife in respect of which the offence is committed.

“(2) The provisions are—

“(a) section 56(5)(b) (which relates to capturing, having in possession for the purpose of liberating, or exporting partially protected wildlife):

“(b) section 63(1A)(b) (which relates to hunting, killing, buying, or selling partially protected wildlife, or robbing or disturbing the nest of partially protected wildlife):

“(c) section 65(2)(b) (which relates to receiving partially protected wildlife taken without authority):

“(d) section 65(3)(b) (which relates to being a party to an offence committed in respect of partially protected wildlife).

“67D Penalty for offence of obstructing ranger

A person convicted of an offence under section 40(1) (which relates to obstructing a ranger or other authorised person) is liable,—

- “(a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000:
- “(b) in the case of a body corporate, to a fine not exceeding \$10,000.

“67E Penalties for offences in respect of game

“(1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—

- “(a) in the case of an individual, to a fine not exceeding \$5,000:
- “(b) in the case of a body corporate, to a fine not exceeding \$10,000.

“(2) The provisions are—

- “(a) section 17(8) (which relates to failing to comply with a written notice in respect of game):
- “(b) section 19(5) (which relates to failing to produce an appointment endorsed on a game licence):
- “(c) section 22A (which relates to acting as a game hunting guide without a licence):
- “(d) section 23(2A) (which relates to the sale of game and game shooting rights).

“(3) A person convicted of an offence under any of the provisions listed in subsection (4) is liable,—

- “(a) in the case of an individual, to a fine not exceeding \$5,000 plus a further fine not exceeding \$100 for each head of game and egg of game in respect of which the offence is committed:
- “(b) in the case of a body corporate, to a fine not exceeding \$10,000 plus a further fine not exceeding \$200 for each head of game and egg of game in respect of which the offence is committed.

- “(4) The provisions are—
- “(a) section 15(6) (which relates to hunting or killing game in a close season):
 - “(b) section 16(2) (which relates to hunting or killing game in breach of a notification):
 - “(c) section 17(2) (which relates to hunting or killing game in a designated area where food has been placed):
 - “(d) section 17(3) (which relates to hunting or killing game in a designated area where there are artificially formed waters):
 - “(e) section 17(6) (which relates to hunting or killing game where a person knows that food has been placed or there are artificially formed waters):
 - “(f) section 18(1A) (which relates to breaching restrictions on the taking of game):
 - “(g) section 19(1) (which relates to hunting or killing game without a licence):
 - “(h) section 22(1) (which relates to shooting at or attempting to shoot at a game bird not in flight):
 - “(i) section 63(1A)(c) (which relates to hunting, killing, buying, or selling game, or robbing or disturbing the nest of game):
 - “(j) section 65(2)(c) (which relates to receiving game taken without authority):
 - “(k) section 65(3)(c) (which relates to being a party to an offence committed in respect of game).

“67F **Penalties for other offences**

- “(1) A person convicted of an offence under any of the provisions listed in subsection (2) is liable,—
- “(a) in the case of an individual, to a fine not exceeding \$5,000:
 - “(b) in the case of a body corporate, to a fine not exceeding \$10,000.
- “(2) The provisions are—
- “(a) section 14(3A) (which relates to prohibited acts committed in wildlife refuges):
 - “(b) section 17(7) (which relates to destroying, defacing, or tampering with a notice):
 - “(c) section 51 (which relates to obstructing an inspector):

- “(d) section 53(7) (which relates to the failure of a person or officer to comply with an authorisation):
 - “(e) section 58(1) (which relates to certain acts committed in relation to homing pigeons):
 - “(f) section 59(5) (which relates to interfering with structures or services on land):
 - “(g) section 59(5A) (which relates to interfering with vehicles, animals, equipment, or supplies brought onto land):
 - “(h) section 59(6) (which relates to obstructing the Director-General or an officer in the exercise of powers):
 - “(i) section 61(2) (which relates to failing to produce a licence):
 - “(j) section 61(6) (which relates to failing to produce various items):
 - “(k) section 62(2) (which relates to transporting wildlife without proper information on the container):
 - “(l) section 65(1) (which provides for various miscellaneous offences):
 - “(m) section 65(3)(d) (which relates to being a party to an offence, other than an offence committed in respect of absolutely protected or partially protected wildlife or game):
 - “(n) section 66(2) (which relates to wilfully continuing an offence):
 - “(o) section 66(3) (which relates to failing to give a name, or giving a false name or address).
- “(3) A person convicted of an offence under any of the provisions listed in subsection (4) is liable,—
- “(a) in the case of an individual, to a fine not exceeding \$5,000 plus a further fine not exceeding \$100 for each head of wildlife and egg of wildlife in respect of which the offence is committed:
 - “(b) in the case of a body corporate, to a fine not exceeding \$10,000 plus a further fine not exceeding \$200 for each head of wildlife and egg of wildlife in respect of which the offence is committed.
- “(4) The provisions are—
- “(a) section 6(3) (which relates to hunting, killing, or possessing wildlife in breach of conditions imposed by the Minister):

- “(b) section 7(2) (which relates to hunting, killing, or possessing wildlife in contravention of a notification):
- “(c) section 7C(2) (which relates to farming certain unprotected animals without authorisation):
- “(d) section 9(4) (which relates to breaching a Proclamation in respect of a wildlife sanctuary):
- “(e) section 14(1C) (which relates to breaching a Proclamation or notice in respect of a wildlife refuge):
- “(f) section 14A(4) (which relates to breaching a Proclamation in respect of a wildlife management reserve):
- “(g) section 56(5)(c) (which relates to capturing, having in possession for the purpose of liberating, or exporting wildlife that is not absolutely protected or partially protected):
- “(h) section 64 (which relates to acts committed in wildlife sanctuaries).

“67G Sentence of community service

Despite section 29 of the Criminal Justice Act 1985, a Court may sentence any person who commits an offence against this Act to a sentence of community service (whether the offence is punishable by imprisonment or not) and the provisions of Part III of that Act apply with all necessary modifications.

“67H Offenders also liable for loss or damage

- “(1) A person convicted of an offence against this Act is liable, in addition to the penalty for the offence, for any loss or damage or expenses arising from or caused by the act constituting the offence.
- “(2) The amount payable under subsection (1) in respect of the loss, damage, or expense may be awarded by the Court in fixing the penalty and may be recovered as a fine.
- “(3) In assessing any amount payable under subsection (1), the Court—
 - “(a) may take into account salaries, wages, and incidental expenses incurred in the investigation of the act constituting the offence or in remedying the loss or damage caused by the act; and
 - “(b) must take into account all other relevant factors.”

7 New section 68AB inserted

The principal Act is amended by inserting, after section 68A, the following section:

“68AB Mens rea and strict liability offences

- “(1) In any prosecution for an offence under any of the provisions listed in subsection (5), the prosecution must prove that the defendant intended to commit the offence.
- “(2) In any prosecution for an offence under a provision that is not listed in subsection (5), it is not necessary for the prosecution to prove that the defendant intended to commit an offence.
- “(3) It is a defence in any prosecution for an offence not listed in subsection (5) if the defendant proves—
- “(a) that the defendant did not intend to commit the offence; and
 - “(b) that,—
 - “(i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done;
 - “(ii) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.
- “(4) The defence provided in subsection (3) is in addition to any other defence or excuse provided by this Act.
- “(5) The provisions are—
- “(a) section 17(6)(c) (which relates to hunting or killing waterfowl where a person knows that food has been placed or artificial waters formed);
 - “(b) section 40(1) (which relates to obstructing a ranger);
 - “(c) section 58(1)(a) (which relates to shooting at, killing, disabling, or injuring a homing pigeon);
 - “(d) section 59(5A) (which relates to interfering with vehicles, animals, equipment, or supplies brought onto land);
 - “(e) section 59(6) (which relates to obstructing the Director-General or an authorised officer in the exercise of powers);
 - “(f) section 65(2) (which relates to receiving wildlife);
 - “(g) section 66(2) (which relates to failing to give a name and address, or giving a false name and address).

“(6) Sections 63A and 63B continue to apply as if this section had not been enacted.”

8 Other amendments to principal Act

The principal Act is amended in the manner indicated in the Schedule.

Schedule

Other amendments to principal Act

s 8

Section 6

Repeal subsection (3) and substitute:

“(3) Every person who hunts, kills, or has in his or her possession any wildlife to which any notification under subsection (1) refers, otherwise than in accordance with any conditions prescribed by the Minister under this section, commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).”

Section 7

Repeal subsection (2) and substitute:

“(2) Every person who in any area and during any period specified in any notification under subsection (1) hunts, kills, or has in his or her possession any wildlife to which the notification refers, commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).”

Section 7C

Repeal subsection (2) and substitute:

“(2) *Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).*”

Section 9

Repeal subsection (4) and substitute:

“(4) Every person who does any act that is for the time being prohibited by a Proclamation issued under this section or fails to comply in any respect with any condition imposed in any such Proclamation commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).”

Section 14

Insert in subsection (1C), after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67F(3)”.

Insert, after subsection (3):

“(3A) Every person who contravenes subsection (3) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).”

Section 14A

Insert in subsection (4), after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67F(3)”.

Section 15

Repeal subsection (6) and substitute:

“(6) Every person who hunts or kills any game during a close season commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).”

Section 16

Repeal subsection (2) and substitute:

“(2) Every person who hunts or kills game, or during any open season has in his or her possession any game, otherwise than in terms of a notification, commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).

“(3) In any prosecution for an offence that the defendant has in his or her possession a number of game in excess of the number specified in a notification, it is a defence if the defendant proves that the excess game were taken by some other person or persons and all the game in the possession of the defendant have affixed or tied to the game a label on which the following particulars are legibly written:

“(a) the names and addresses of the persons by whom the game were taken; and

“(b) the numbers of the licences to hunt or kill game held by those persons; and

“(c) the name of the Fish and Game Council by which those licences were issued; and

“(d) the date or dates on which the game were taken.”

Section 17

Repeal subsections (2) and (3) and substitute:

“(2) Every person who, without the consent of the Minister, hunts or kills waterfowl in any designated area where, during an open season for game or within the period of 30 days immediately preceding the open season, any food has been cast, thrown, placed, or planted commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).

Section 17—continued

“(3) Every person who hunts or kills waterfowl in a designated area within which the waters were artificially formed during an open season for game or within the period of 30 days immediately preceding that open season commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).”

Insert in subsection (6), after the words “against this Act”, the words “and is liable to the penalty set out in section 67E(3)”.

Insert in subsection (7), after the words “against this Act”, the words “and is liable to the penalty set out in section 67F(1)”.

Insert in subsection (8), after the words “against this Act”, the words “and is liable to the penalty set out in section 67E(1)”.

Section 18

Insert, after subsection (1):

“(1A) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).”

Section 19

Repeal subsection (1) and substitute:

“(1) Except as provided in subsection (3), every person who hunts or kills game of any species during an open season in any area, unless that person is the holder of a licence under this Act to hunt or kill game of that species available in that area during that season, commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(3).”

Repeal subsection (2).

Add to subsection (5) the words “and is liable on conviction to the penalty set out in section 67E(1)”.

Section 22

Repeal subsection (1) and substitute:

“(1) Except as provided in subsection (1A), every person who shoots at or attempts to shoot at any game bird not in flight commits an offence against this Act and is liable to the penalty set out in section 67E(3).

“(1A) No person commits an offence under subsection (1)—

“(a) who shoots at or attempts to shoot at any game bird already wounded by shooting:

Section 22—continued

“(b) where that person was acting in accordance with any authorisation under sections 53 or 54:

“(c) where that person was acting in accordance with any notification given by the Minister.”

Section 22A

Omit the words “and is liable to a fine not exceeding \$5,000”, and substitute the words “against this Act and is liable on conviction to the penalty set out in section 67E(1).”

Section 23

Insert, after subsection (2):

“(2A) Every person who contravenes subsections (1) or (2) commits an offence against this Act and is liable on conviction to the penalty set out in section 67E(1).”

Section 40

Insert in subsection (1), after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67D”.

Insert in subsection (1), after the word “who” in each place where it appears, the word “wilfully”.

Repeal subsection (2).

Section 51

Insert, after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67F(1)”.

Section 53(7)

Add the words “and is liable on conviction to the penalty set out in section 67F(1)”.

Section 56

Omit from subsection (1)(a) the words “, or liberate or turn at large or allow to go at large,”.

Insert in subsection (1), after paragraph (a):

“(ab) liberate or turn at large, or allow to go at large any wildlife; or”.

Repeal subsection (4) and substitute:

“(4) Every person who contravenes subsection (1)(ab) commits an offence against this Act and is liable on conviction to the penalty set out in section 67B.

“(5) Every person who contravenes subsection (1)(a) or (b) commits an offence against this Act and,—

Section 56—continued

- “(a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
- “(b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
- “(c) in any other case, is liable on conviction to the penalty set out in section 67F(3).”

Section 58

Insert in subsection (1), after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67F(1)”.

Section 59

Repeal subsection (5) and substitute:

- “(5) Every person who, not being duly authorised, takes away or is found in possession of, or removes, destroys, displaces, or moves the position of, any tent or other structure or any services, conveniences, or amenities erected or provided on any land pursuant to subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).
- “(5A) Every person who, not being duly authorised, wilfully removes, injures, or damages in any way any vehicle, animal, equipment, or supplies brought onto any land pursuant to subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).”

Insert in subsection (6), after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67F(1)”.

Section 61

Insert in subsections (2) and (6), in each case after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67F(1)”.

Section 62

Add, as subsection (2):

- “(2) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1).”

Section 63

Repeal subsection (1) and substitute:

Section 63—continued

“(1) No person may, without lawful authority,—

- “(a) hunt or kill any absolutely protected or partially protected wildlife or any game:
- “(b) buy, sell, or otherwise dispose of, or have in his or her possession any absolutely protected or partially protected wildlife or any game or any skin, feathers, or other portion, or any egg of any absolutely protected or partially protected wildlife or of any game:
- “(c) rob, disturb, or destroy, or have in his or her possession the nest of any absolutely protected or partially protected wildlife or of any game.

“(1A) Every person who contravenes subsection (1) commits an offence and,—

- “(a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
- “(b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
- “(c) in respect of an offence committed in relation to game, is liable on conviction to the penalty set out in section 67E(3).”

Section 63A

Insert, after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67(fa)”.

Section 63B

Repeal subsection (5) and substitute:

- “(5) Every person who contravenes subsection (1) or subsection (2) commits an offence and is liable on conviction to the penalty set out in section 67(fb).”

Section 64

Repeal and substitute:

“64 Offences in relation to wildlife sanctuaries

Every person who, without lawful authority, breaches or fails to comply with any of the provisions of this Act relating to wildlife sanctuaries or of any Proclamation under section 9 commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(3).”

Section 65

Insert, after the words “against this Act”, the words “and is liable on conviction to the penalty set out in section 67F(1)”.

Repeal paragraphs (g) and (i).

Add, as subsections (2) and (3):

- “(2) Every person who, without lawful authority, receives any wildlife knowing that the wildlife was obtained without authority commits an offence against this Act and,—
- “(a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
 - “(b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
 - “(c) in respect of an offence committed in relation to game, is liable on conviction to the penalty set out in section 67E(1).
- “(3) Every person who counsels, aids, or assists in any breach of any of the provisions of this Act, or shares in any of the proceeds of that breach, commits an offence against this Act and,—
- “(a) in respect of an offence committed in relation to absolutely protected wildlife, is liable on conviction to the penalty set out in section 67A(1):
 - “(b) in respect of an offence committed in relation to partially protected wildlife, is liable on conviction to the penalty set out in section 67C(1):
 - “(c) in respect of an offence committed in relation to game, is liable on conviction to the penalty set out in section 67E(3):
 - “(d) in any other case, is liable on conviction to the penalty set out in section 67F(3).”

Section 66

Repeal subsection (2) and substitute:

- “(2) Every person who, after being required to desist from offending under subsection (1), wilfully continues the offence commits a further offence against this Act and is liable on conviction to the penalty set out in section 67F(1).
- “(3) Every person commits an offence against this Act and is liable on conviction to the penalty set out in section 67F(1) who,

Section 66—continued

after being required to give his or her Christian name, surname, and place of abode under subsection (1),—

“(a) fails to give his or her real Christian name, or surname, or place of abode:

“(b) gives a false name or place of abode.”

Section 67

Repeal paragraphs (a) to (f) and (g) of subsection (1).

Repeal subsection (2).

Add to the heading to this section the words “**for offences in respect of marine wildlife**”.

Heading to section 68B

Add the words “**to offences in respect of marine wildlife**”.

Section 72

Omit from subsection (2)(x) the expression “\$100” and substitute the expression “\$2,000”.

Omit from subsection (2A)(b)(i) the expression “\$2,000” and substitute the expression “\$5,000”.

Omit from subsection (2A)(b)(ii) the expression “\$20” and substitute the expression “\$100”.

Legislative history

3 December 1998	Introduction and first reading (Bill 248–1)
17 March 1999	Second reading and referral to Transport and Environment Committee
27 June 2000	Reported from Local Government and Environment Committee (Bill 248–2)
2 August 2000	Consideration of report
20 September 2000	Committee of the whole House
11 October 2000	Third reading
14 October 2000	Royal assent

This Act is administered in the Department of Conservation.
