

NOXIOUS ANIMALS BILL

EXPLANATORY NOTE

The general purpose of this Bill is to transfer to the New Zealand Forest Service the responsibility for controlling and eradicating noxious animals and to confer on the Minister of Forests the appropriate powers for that purpose. Those functions are at present carried out by the Wildlife Division of the Department of Internal Affairs under the provisions of the Wildlife Act 1953.

The term "noxious animal" is defined in *clause 2* as being any wild animal of any of the species described in the *Sixth Schedule* to the Wildlife Act 1953 (as set out in the *Second Schedule* to the *Wildlife Amendment Bill*). The animals in that Schedule are: all species of deer, chamois, goats, opossums, pigs, thar, and wallaby.

Clause 3 provides that any person may hunt or kill or have in possession any noxious animal in any part of New Zealand, but the Minister of Forests, where he considers that the hunting by other persons is likely to interfere with the studies and investigations of or campaigns against any noxious animals carried out by the Forest Service, may, by public notification, declare that any specified species of noxious animals may not be hunted or killed or had in possession in the area and during the period specified in the notification.

Clause 4 defines the general powers of the Minister of Forests under the Bill. The clause includes power to carry out noxious animal surveys, to co-ordinate the policies and activities of Departments of State, local authorities, and public bodies in relation to the control and eradication of noxious animals, to conduct noxious animal research work, and generally make provision for the administration of the Act.

Clause 5 authorises the Minister to fence any land held by the Crown for the purposes of the Act and to enter into agreements with occupiers of adjoining land as to the fencing of the common boundary.

Clause 6 authorises the Minister to grant tenancies to employees of the Forest Service of dwellinghouses on land held by the Crown for the purposes of the Act.

Clause 7 authorises the Minister to delegate his powers.

Clause 8 makes it an offence for any person, without the prior written authority of the Director of Forestry, to capture or have in his possession for the purpose of liberating or turning at large, or to liberate or turn at large, any noxious animal.

Clause 9 declares that all noxious animals living in a wild state belong to the Crown, but any noxious animal which has lawfully been taken or killed will belong to the person by whom it has been taken or killed. The clause also declares that, notwithstanding that noxious animals belong to the Crown, the Crown will not be under any obligation or liability in respect of damage done by them.

Clause 10 gives powers of entry on land for the purposes specified in the clause. Before land is entered on, reasonable notice must, where practicable, be given to the occupier, and the person entering must when required produce his authority.

Clause 11 declares that the expenses of carrying out noxious animals control and eradication are to be paid out of money appropriated by Parliament.

Clauses 12 to 19 confer powers on local authorities for the purposes of destroying noxious animals, and correspond largely to the powers conferred by Part IV of the Wildlife Act 1953 for the purpose of destroying injurious birds.

Under *clause 13* local authorities may apply money for the destruction of noxious animals and may raise necessary funds by means of a separate rate, but cannot exercise their powers under the clause in relation to deer, chamois, thar, or opossums without the prior consent of the Minister.

Clause 14 requires local authorities, before taking action for the destruction of noxious animals, to submit their plans to the Director of Forestry for his approval, who may approve them subject to conditions or require modifications to be made.

Clauses 15 to 19 relate to the appointment of Inspectors, the making of bylaws, concerted action by local authorities, action by the Minister on failure of local authority to act, obstructing Inspectors, and expenses in carrying out these provisions.

Clause 20 exempts from personal liability officers and employees of the Forest Service in respect of acts done by them in good faith in the exercise of their duties under the Act.

Clause 21 makes it an offence for any person to personate officers or employees of the Forest Service or other persons authorised to exercise powers under the Bill, to counterfeit any authority or identification mark used by the Forest Service, or to fail to comply with or to contravene the Act in any way.

Clause 22 requires persons offending against the Act to give their true name and address upon request by an officer or employee of the Forest Service.

Clause 23 prescribes the penalties for offences. Under *subclause (1)* the penalty for liberating noxious animals is a maximum fine of £250. Under *subclause (2)* the general penalty for offences is a maximum fine of £50 in the case of an offence by an individual, and £100 in the case of an offence by a body corporate, with provisions enabling an additional fine to be imposed in the case of continuing offences.

Clause 24 provides for the summary trial of offences, and authorises the Court to award part of the fine to persons instrumental in securing convictions.

Clause 25 authorises the making of regulations, and provides that the Opossum Regulations 1953 (made under the Wildlife Act 1953) are to continue in force as if made under the Bill.

Clause 26 provides that a report with respect to the operation of the Act is to be included in the annual report of the Forest Service.

Hon. Mr Smith

NOXIOUS ANIMALS

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A BILL INTITULED

An Act to make provision for the control and eradication of harmful species of wild animals

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

No. 7—1

1. Short Title and commencement—(1) This Act may be cited as the Noxious Animals Act 1956.

(2) This Act shall be deemed to have come into force on the *first* day of *April*, nineteen hundred and fifty-six:

Provided that no proceedings for an offence under this Act may be taken against any person in respect of anything done or omitted before the passing of this Act. 5

2. Interpretation—In this Act, unless the context otherwise requires,—

“Director” means the Director of Forestry: 10

“Firearm” means any gun, rifle, or air gun; and includes any kind of weapon or device from which any shot, bullet, arrow, stone, or other missile can be discharged; and “shoot” has a corresponding meaning:

“Forest Service” or “Service” means the New Zealand Forest Service under the Forests Act 1949: 15

“Hunt or kill”, in relation to any animal, includes hunting, killing, taking, trapping, or capturing by any means; and also includes pursuing, disturbing, or molesting the animal, taking or using a firearm, dog, or like method to hunt or kill the animal, whether this results in killing or capturing or not; and also includes any attempt to hunt or kill and every act of assistance of any other person to hunt or kill: 20

“Minister” means the Minister of Forests: 25

“Noxious animal” means any wild animal of any of the species for the time being specified in the Sixth Schedule to the Wildlife Act 1953:

“Occupier” means—

(a) In relation to any land, other than unoccupied land of the Crown, the person by whom or on whose behalf the land is actually occupied, if that person is in occupation by virtue of the fact that he is the owner or one of the owners of the fee simple of the land or of a lease or licence of the land: 30 35

(b) In relation to unoccupied land of the Crown, the Minister for the time being charged with the administration of the Department of State that has the control of the land:

“Wild animal” means any animal living in a wild state. 40

PART I

NOXIOUS ANIMALS CONTROL

3. **Hunting or killing of noxious animals**—(1) Any noxious animal may be hunted or killed or had in possession by any person in any part of New Zealand:

5 Provided that, where the Minister considers that the hunting by other persons is likely to interfere with the studies and investigations of or campaigns against any noxious animals carried out by the Forest Service, he may from time to time
10 in his discretion, by public notification, declare that any specified species of noxious animal may not be hunted or killed or had in possession in such area and during such period as are specified in the notification.

15 (2) No person shall in any area and during any period specified in any notification under subsection *one* of this section hunt or kill or have in possession any animal to which the notification refers.

4. **Minister's general powers**—(1) The Minister may from time to time—

- 20 (a) Prepare and carry out noxious animal surveys:
(b) Co-ordinate the policies and activities of Departments of State, local authorities, and public bodies in relation to the control and eradication of noxious animals:
25 (c) Conduct noxious animal research work, and collect and disseminate information relating to noxious animals:
(d) Prepare and issue plans and publications for the control and eradication of noxious animals:
30 (e) Use and develop land as a camping ground or hunting ground, or for the purpose of erecting residences and other buildings for the purposes of this Act:
(f) Make provision for the setting up of such advisory bodies as he thinks fit:
35 (g) Make provision generally for the administration of this Act.

(2) In the exercise of the powers conferred on him by subsection *one* of this section, the Minister may from time to time—

- 40 (a) Purchase any land or take any land on lease or other tenancy and acquire easements:
(b) Erect dwellings for occupation by officers and employees of the Service engaged in the administration of this Act, and erect other buildings, and provide all necessary conveniences and amenities:

- (c) Establish and carry on any operations or industry relative to the control and eradication of noxious animals and pay such bounties and subsidies and such other money as he thinks fit:
- (d) Sell or otherwise dispose of food, equipment, skins, or other articles used for, or recovered as the result of, any operations for the control and eradication of noxious animals: 5
- (e) Enter into any contract or agreement:
- (f) Appoint any local authority or any other person to act as his agent for such of the purposes of this Act as he thinks fit for such period, on such terms and conditions, and at such remuneration as may be agreed upon by the Minister and that local authority or person: 10 15
- (g) Purchase horses, dogs, or other animals or motor or other vehicles, and rent or charter and use aircraft, vehicles, vessels, or animals:
- (h) With the written consent of the occupier, and subject to the provisions of any other Act, construct and maintain on any land any roads, roadways, tracks, paths, bridges, culverts, ferries, and other means of access necessary for the purposes of this Act. 20
- (3) All documents that require to be executed for the purposes of this Act by or on behalf of Her Majesty may be executed by the Minister, and, if so executed, shall be as valid and effectual as if executed by or on behalf of Her Majesty. 25

5. Fencing of land—(1) The Minister may from time to time take such steps as he thinks fit for the fencing of any land held by the Crown for the purposes of this Act. 30

(2) The Minister may enter into any agreement upon such terms and conditions as he considers reasonable with the occupier within the meaning of the Fencing Act 1908 of land adjoining any land held by the Crown for the purposes of this Act for the fencing of the common boundary. 35

(3) Where any fence within the meaning of the Fencing Act 1908 is erected pursuant to an agreement with any such occupier, the occupier shall be liable, notwithstanding anything to the contrary in that Act, to pay such amount as may have been agreed upon by the Minister and the occupier, and that amount may be recovered from the occupier as a debt due to the Crown. 40

5 **6. Tenancies**—Subject to the Tenancy Act 1955, the Minister may grant tenancies or occupancies of dwellings on land held by the Crown for the purposes of this Act to officers or employees of the Service at such rent and upon such terms and conditions as may be approved by the Public Service Commission, or to any other person under such circumstances, at such rent, and upon such terms and conditions as the Minister determines.

10 **7. Delegation of Minister's powers**—(1) The Minister may from time to time delegate in writing to the Director or to any other officer or employee of the Service or to any local authority or to any other person any of his powers under this Act, including the power of delegation conferred by this section.

15 (2) Subject to any general or special directions given or conditions attached by the Minister, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and
20 not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

25 (4) Any delegation under this section may be made to a specified person or to persons of a specified class or may be made to the holder or holders for the time being of a specified office or of specified classes of offices.

30 (5) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Minister or by any other person making the delegation.

35 (6) Every delegation made under this section by the Minister or by any other person holding any office shall, until it is revoked, continue in force according to its tenor, notwithstanding the fact that the Minister or other officer by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

8. Restrictions on liberation of animals—(1) No person shall, without the prior written authority of the Director, granted subject to any regulations in that behalf under this Act, capture or attempt to capture or have in his possession for the purpose of liberating or turning at large, or liberate or turn at large or allow to go at large, any animal of any of the species specified in the Schedule to this Act. 5

(2) The Director in his discretion may refuse to grant his authority to do any act referred to in subsection *one* of this section, or may grant his authority either unconditionally or subject to such conditions as he thinks fit to impose. 10

(3) The Director may at any time revoke or vary any authority granted under subsection *one* of this section.

(4) Every person commits an offence against this Act who offends against or fails to comply with any of the provisions of this section. 15

9. Ownership of animals—All noxious animals shall belong to the Crown:

Provided that, where any noxious animal has been lawfully taken or killed pursuant to this Act or to any regulations under this Act, it shall cease to belong to the Crown, and the animal shall be deemed to belong to the person by whom it was so taken or killed: 20

Provided also that nothing in this section shall have effect so as to impose any obligation or liability on the Crown in respect of damage done by any noxious animal. 25

10. Entry on land for purposes of Act—(1) If in the opinion of the Minister any noxious animals are causing or are likely to cause injury or damage to any land, or to any person, or to any stock or crops, or to any chattel, or to any trees, shrubs, plants, or grasses which may tend to protect the habitat of any absolutely protected wildlife or game as defined in the Wildlife Act 1953 or to mitigate soil erosion or to promote soil conservation or the control of floods, he may authorise in writing the Director or any other officer or employee of the Service to enter at any time and from time to time on any land under the control of any local authority or public body or any Maori land or private land, with such assistants as he thinks fit, for all or any of the following purposes: 30 35

(a) To investigate the incidence on the land of any such noxious animals and to make studies or other investigations of any such noxious animals; 40

(b) To catch alive or to hunt or kill any such noxious animals:

(c) To erect and maintain tents or other structures on the land, and to provide all necessary services, conveniences, and amenities:

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(d) To erect notices advising or warning of any action being taken under this Act:

(e) To have access for any of the purposes specified in this subsection to any other land (whether adjoining or not) on which any such noxious animals are or may be:

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(f) To do any other act or thing necessary for any of the purposes specified in this subsection.

(2) Any person entering on any land pursuant to subsection *one* of this section may bring with him any vehicle, horse, or dog, and any equipment necessary for any of the purposes specified in that subsection, and may convey any necessary supplies on to or over that land.

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(3) Before entry on any land pursuant to this section, the Director or the officer or employee of the Service authorised by the Minister, shall, when practicable, give reasonable notice to the occupier or controlling authority of the land of the intention to enter thereon.

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(4) Every person commits an offence against this Act who, not being duly authorised, takes away or is found in possession of, or removes, destroys, or 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 this section, or wilfully removes or injures or damages in any way any vehicle or animal or equipment or supplies brought on to any land pursuant to this section.

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(5) Every person commits an offence against this Act who wilfully obstructs or hinders or resists the Director or any authorised officer or employee of the Service in the exercise of any of the powers conferred by this section.

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11. Financial provisions—(1) All money received by the Crown from the operation of this Act shall be paid into the Public Account and shall be credited to such fund or funds or accounts as may be determined from time to time by the Minister of Finance.

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(2) Subject to the provisions of section *nineteen* of this Act, all money payable under this Act shall be paid out of money from time to time appropriated by Parliament.

PART II

POWERS OF LOCAL AUTHORITIES

12. Interpretation—In this Part of this Act, the term “local authority” means, in the case of a county, borough, or town district, the Council thereof; and in counties where the Counties Act 1920 is not in force, means the Road Board, or, where there is no Road Board, means the Minister. 5

13. Local authority may apply or raise funds for destruction of noxious animals—(1) Notwithstanding anything to the contrary in any other Act, any local authority may from time to time, by ordinary resolution, apply money towards the destruction of noxious animals: 10

Provided that no local authority may exercise any powers under this section in relation to deer, chamois, thar, or opossums without the prior consent of the Minister. 15

(2) The local authority may, if it thinks fit, raise the funds necessary for that purpose by means of a separate general rate or a special rate, not in any case exceeding one-sixteenth of a penny in the pound on the capital value of all ratable property in its district, or the equivalent thereof on the annual value or unimproved value, according to the rating system in force in that district. 20

(3) The rating power conferred by this section may be exercised irrespective of any limit imposed by any Act on the rating power of the local authority. 25

14. Local authorities to submit plans for destruction for approval of Director—(1) Every local authority, before taking any action for the destruction of noxious animals in its district, shall prepare and submit its plans in that behalf to the Director for his approval. 30

(2) The Director may approve any such plans subject to such conditions as he in his discretion thinks fit, or may require the local authority to modify the plans.

(3) Where the Director approves the plans of any local authority under this section, he may authorise the local authority for the purposes of this Part of this Act to lay poisoned grain, seed, food, lure, bait, or other material on any roads or lands (whether public or private) within its district: 35

Provided that, before laying the same, public notice of the intention to do so shall be given by the local authority by advertisement in a newspaper circulating in its district:

5 Provided also that no poison shall be laid within a less distance than three hundred yards of an inhabited house without the consent of the owner or occupier thereof.

(4) It shall be the duty of the local authority to carry out its plans for the destruction of noxious animals as approved by the Director and in accordance with any conditions or
10 modifications prescribed by him.

15. Appointment of Inspectors, and bylaws—(1) For the purposes of this Part of this Act a local authority may from time to time—

15 (a) Appoint such Inspectors, with such powers of entry and other powers and functions, within its district as it thinks fit:

(b) Make such bylaws as it thinks fit.

(2) Bylaws made under this section may provide for fines not exceeding twenty-five pounds for any breach thereof.

20 (3) The Minister may at any time require any local authority to appoint Inspectors for the purposes of this Part of this Act.

(4) The Minister may at any time require any local authority to make any bylaws, or to revoke, alter, or add to any
25 bylaws made pursuant to this section.

(5) If a local authority does not within three months from the receipt of a requisition by the Minister under subsection *four* of this section make, revoke, alter, or add to any bylaws in the manner required by that requisition, the Governor-
30 ~~General~~ may, by Order in Council, make such regulations as he thinks fit to give effect to that requisition, and those regulations shall for all purposes be deemed to be, and have the same force and effect as, bylaws made by the local authority under this section.

35 **16. Provisions to secure concerted action—**In order to secure concerted and simultaneous action the following provisions shall apply:

(a) The Governor-General may from time to time, by
40 Order in Council, divide the whole or any portion of New Zealand into combined districts, with such names and boundaries as he thinks fit, those boundaries being as far as practicable so adjusted that no local authority's district shall be partly in one combined district and partly in another:

- (b) In and for each combined district a conference, consisting of one person appointed by the Governor-General and one delegate appointed by each local authority in the district, shall meet, at such time and place as the Governor-General appoints in that behalf, for the purpose of deciding on and recommending to the Governor-General a suitable day on which the work of destroying noxious animals in the district should commence, and also the methods that should be employed by each local authority in carrying out that work in its own district. The member appointed by the Governor-General shall be the chairman of the conference: 5 10
- (c) The Governor-General may from time to time, by Order in Council, direct all the local authorities in the combined district to adopt the day and methods so recommended, or such other day and methods as he thinks fit; and it shall be the duty of each such local authority to comply with that direction. 15

17. Minister may direct officers to carry out this Part if local authority fails to do so—In the event of any local authority failing to carry out the provisions of this Part of this Act to the satisfaction of the Minister, he may from time to time direct an employee of the Service, with such assistants as he deems necessary, to destroy the noxious animals in the district of the local authority, and for that purpose those persons may exercise all such powers of entry and other powers and functions as the Minister thinks fit to confer; and all expenses thereby incurred shall be a charge against the local authority and may be deducted by the Minister of Finance from any subsidy or other money payable at any time to the local authority. 20 25 30

18. Obstructing Inspector—Every person commits an offence against this Act who assaults, resists, impedes, or obstructs, or incites or encourages any other person to assault, resist, impede or obstruct, or uses abusive or threatening language or behaves in a threatening manner to, any Inspector or other authorised person while in the performance or execution of his duty under this Part of this Act. For the purposes of this section any person who refuses to allow any Inspector or other authorised person to exercise any of the powers conferred by this Part of this Act shall be deemed to obstruct that Inspector or other person. 35 40

5 **19. Expenses of carrying out this Part—**(1) All expenses incurred by any local authority in carrying out the provisions of this Part of this Act shall be paid out of its general fund or account, or, in the case of the Minister, out of money from time to time appropriated by Parliament.

10 (2) Subject to the provisions of section one hundred and nine of the Public Revenues Act 1953, all fines recovered under this Part of this Act on the information of any person appointed by a local authority shall be paid into and form part of the general fund or account of the local authority.

PART III

GENERAL PROVISIONS

15 **20. Protection of officers and others—**No matter or thing done by any person in good faith in the exercise of his powers or in the performance of his duties under this Act or under any regulations made under this Act or under any notification made under this Act shall subject that person to any personal liability in respect thereof.

20 **21. Offences—**Every person commits an offence against this Act who—

(a) Personates or falsely pretends to be an officer or employee of the Forest Service or any other person authorised to exercise any power under this Act:

25 (b) Counterfeits upon or without due authority fixes to any property any mark used by the Service as a means of identification of that property:

(c) Without due authority, makes or causes to be made, or uses or causes to be used, or has in his possession a brand or stamp such as is usually used by officers or employees of the Service:

30 (d) Fails to comply in any respect with any of the provisions of this Act or does any act in contravention thereof.

22. Offenders to give name and address to officers, etc.—

35 (1) Where any person is found offending against this Act or against any regulations or notification under this Act, it shall be lawful for any officer or employee of the Service to require the offender forthwith to desist from the offence and also to tell his real Christian name, surname, and place of abode.

(2) If the offender, after being so required, fails to tell his real Christian name or surname or place of abode, or gives a false name or address or gives such a description of his place of abode as is illusory for the purpose of discovery, or wilfully continues the offence, he commits a further offence under this Act. 5

23. Penalties—(1) Every person who commits an offence against section *eight* of this Act (which relates to the liberation of animals) is liable to a fine not exceeding two hundred and fifty pounds. 10

(2) Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this subsection is liable—

(a) In the case of an individual, to a fine not exceeding fifty pounds and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day during which the offence has continued: 15

(b) In the case of a body corporate, to a fine not exceeding one hundred pounds and, if the offence is a continuing one, to a further fine not exceeding ten pounds for every day during which the offence has continued. 20

24. Offences to be tried summarily—(1) Every offence against this Act or against any regulations under this Act shall be punishable on summary conviction before a Magistrate alone. 25

(2) Any officer or employee of the Service, although not the informant, may appear and conduct the prosecution in all proceedings for offences against this Act.

(3) The Court by which any person is convicted of any such offence may direct that any part, not exceeding half, of any fine recovered under this Act shall be paid to any person instrumental in securing the conviction in respect of which the fine is imposed (not being a person in the employment of the Crown acting in the course of his official duties), and, where such a direction is made, that part of the fine shall be paid to that person by the Registrar of the Court in which the conviction is recorded. 30 35

25. Regulations—(1) The Governor-General may from time to time, by Order in Council, make such regulations as he considers necessary or expedient for the control and eradication of noxious animals or for the due administration of this Act. 40

(2) Without limiting the general power to make regulations hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- 5 (a) Regulating or prohibiting the sale of noxious animals, and prescribing the purposes for which money arising from any such sale may be used:
- 10 (b) Regulating or prohibiting the sale, possession, or use of any toxic, poisonous, or narcotic substance or gas or other similar substance to hunt or kill or catch alive any noxious animals:
- 15 (c) Regulating or prohibiting or restricting the taking, killing, liberating, or harbouring of opossums, regulating the purchase and sale or other disposal and the keeping in possession or export of opossum skins, and providing for the licensing of dealers in opossum skins and for the inspection of stocks of opossum skins in the possession of dealers or other persons:
- 20 (d) Prescribing fines not exceeding fifty pounds for a breach of any such regulation.

(3) Regulations made under this section may apply generally throughout New Zealand or within any specified part or parts thereof.

25 (4) The Opossum Regulations 1953 shall continue in force as if they had been made under this Act, but may be amended or revoked under this Act.

30 (5) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

35 **26. Annual report**—The Director of Forestry shall, in his annual report with respect to all operations under the Forests Act 1949, include a report with respect to the operation of this Act as if it formed part of and was included in that Act.