

## WILDLIFE ACT 1972

1972/74 – 9 March 1972

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### To make provision for the protection in Niue of wild animals and wild birds

- 1 Short title**  
This is the Wildlife Act 1972.
- 2 Interpretation**  
In this Act –
- “absolutely protected animal” means any animal of a species which is under section 3 declared to be an absolutely protected species;
- “animal” means any mammal which is a wild species or any bird which is of a wild species, but does not include any mammal of a domesticated species or any bird of a domesticated species although it may be existing in a wild state;
- “bag limit” means the maximum number of partly protected animals of any one particular species which, during any one day outside any protection period relating to that species, any one person may kill or trap;
- “carcass” means the whole or any part of the dead body of any animal;
- “partly protected animal” means any animal of a species which is under section 3 declared to be a partly protected species;
- “protected animal” means
- (i) any absolutely protected animal; or
  - (ii) during any protection period relating to it, any partly protected animal;
- “protection period” means any period of time in any year during which under any notice issued under section 3, any partly protected animal is a protected animal;
- “vehicle” means any motor vehicle, any bicycle, any boat or any canoe, and includes any wheeled trailer towed or capable of being towed behind any motor vehicle;
- “wildlife warden” means any constable.

### 3 Powers of Cabinet

- (1) (a) Cabinet may, by notice in the *Gazette* declare, for the purposes of this Act, any species of animal to be an absolutely protected species or a partly protected species.
- (b) Any such notice may state that it is to have effect with reference only to some part or parts of Niue specified in the notice.
- (2) Cabinet shall, in any notice issued under subsection (1) declaring any species of animal to be a partly protected species, specify the period or periods of time in the year in which such species is a protected animal and shall, if it thinks fit, also specify in such notice a bag limit relating to that species.
- (3) Cabinet may, by notice in the *Gazette*, revoke, vary or amend any notice issued under subsection (1) or (2).

### 4 Protection of animals

- (1) No person shall, without the prior written permission of Cabinet –
- (i) Kill, injure or trap, or attempt to kill, injure or trap any protected animal; or
  - (ii) Destroy, damage or take, or attempt to destroy, damage or take the egg of any bird which is a protected animal; or
  - (iii) Disturb or attempt to disturb the nest or nesting place of any bird which is a protected animal; or
  - (iv) Disturb or attempt to disturb the lair or roosting place of any protected animal.
- (2) Any permission referred to in subsection (1) may be given either unconditionally or subject to any conditions which, in his absolute discretion, Cabinet may in writing deem fit to impose, and any such permission may be revoked by Cabinet.
- (3)(a) Any person who acts contrary to subsection (1) or who acts in breach of any conditions imposed under subsection (2) by Cabinet, commits an offence and, on conviction, shall be liable to a fine not exceeding forty dollars or to imprisonment for a term not exceeding one week;
- (b) No person shall be convicted of an offence under this subsection if he proves to the satisfaction of the Court that the act constituting the offence with which he is charged was, on his part, accidental and unintended.
- (4) Any person who in any one day kills or traps any number of partly protected animals of a particular species in excess of the bag limit relating to such species, commits an offence and, on conviction, shall be liable to a fine not exceeding 0.5 penalty units for each animal so killed or trapped by him in excess of such limit, or to imprisonment for a term not exceeding one week.
- (5) Any person who is, by a wildlife warden, found to have in his possession, custody or control any animal or carcass shall be presumed, in the absence of proof to the contrary, to have trapped or killed the animal concerned during the period of one day immediately preceding the point of time at which he is so found.

### 5 Powers of wildlife wardens

- (1) Where any wildlife warden has reason to believe that any person has committed an offence mentioned in section 4 he may, subject to subsection (2), exercise all or any of the following powers –
- (a) He may require that person immediately to give to him true and full particulars of such person's full names, occupation and place

of abode and, if such person fails to do so, or if the wildlife warden has reason to believe that all or any of such particulars are false, he may, without warrant, arrest such person;

- (b) He may, without warrant, search any such person or any container or vehicle in the possession or control, or in the apparent possession or control, of such person;
- (c) He may, without warrant, seize and take into his custody –
  - (i) Any animal or the carcass of any animal in the possession or control, or in the apparent possession or control, of such person;
  - (ii) Any firearm, ammunition, trap, snare or other device in the possession or control, or in the apparent possession or control, of such person used or capable of being used for killing or trapping any animal.

(2) A wildlife warden shall not, without the prior written permission of a Judge of the Court or of a Commissioner, exercise in any private dwellinghouse or in any private garden adjacent to any private dwellinghouse, any one or more of the powers conferred upon a wildlife warden by subsection (1) (b) and (c).

(3) Any person who, when lawfully required so to do, fails immediately to give to a wildlife warden all the particulars referred to in subsection (1) (a) or who otherwise resists or obstructs a wildlife warden in the lawful exercise of any one or more of the wildlife warden's powers under that subsection commits an offence and, on conviction, shall be liable to a fine not exceeding 0.5 penalty units or to imprisonment for a term not exceeding 2 weeks.

## **6 Forfeiture of property**

Where any person is convicted of an offence mentioned in section 4 (3) or (4), the Court may order that any protected animal trapped by such person, or the carcass of any protected animal killed by such person, or any egg taken by such person in the course of committing the offence, or any firearm, trap, snare or other device (other than a vehicle) owned by such person and used by such person for the purposes of committing the offence, shall be absolutely forfeited to the Crown; and, upon any such forfeiture, the animal carcass, egg or other thing so forfeited shall become the absolute property of the Crown and shall be disposed of in such manner as Cabinet may specify.

## **7 Prohibition orders**

(1) Where any person is convicted of an offence contrary to this Act, the Court may make an order prohibiting such person from killing, attempting to kill, trapping and attempting to trap any protected animal for any period not exceeding 2 years from and including the date of the conviction.

(2) The Court may cancel any such order or reduce the period mentioned in the order.

(3) Any person, in respect of whom any such order has been made and who, during the subsistence of the order, acts contrary to the order, commits an offence and, on conviction, shall be liable to a fine not exceeding 1 penalty unit or to imprisonment for a term not exceeding 3 weeks.

## **8 [Spent]**

## WILDLIFE

### WILDLIFE PROTECTED SPECIES NOTICE 1991

1991/9 - 19 November 1991

NOTICE IS HEREBY GIVEN that Cabinet acting under section 3(1) of the Wildlife Act 1972, has declared the species named in the Schedule to be a partly protected species throughout Niue, except for the period commencing on 1 December and ending on 31 December in each year.

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#### SCHEDULE

Pigeon (Lupe)

Flying Fox (Peka)