

Wildlife Ordinance 1972

NIUE

WILDLIFE ORDINANCE 1972

Ordinance 74 of 1972 - 9 March 1972

ANALYSIS

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AN ORDINANCE to make provision for the protection in Niue of wild animals and wild birds.

1. Short Title -

This Ordinance may be cited as the [Wildlife Ordinance 1972](#).

2. Interpretation -

(1) In this Ordinance, unless the context otherwise requires:

"The Act" means the Niue Act 1966 and its amendments;

"Absolutely protected animal" means any animal of a species which is, from time to time, pursuant to section 3 of this Ordinance 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;

"Day" means any one particular period of twenty four hours;

"Gazette" means the Niue Island Gazette;

"Partly protected animal" means any animal of a species which is, from time to time, pursuant to section 3 of this Ordinance declared to be a partly protected species;

"Protected animal" means:

(i) Any absolutely protected animal; or

(ii) During any protection period relating thereto, any partly protected animal;

"Protection period" means any period of time in any year during which, pursuant to any notice issued under section 3 of this Ordinance, 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.

(2) Subject to the provisions of subsection (1) of this section, words, phrases and expressions defined in the Act shall, unless a contrary intention appears, in this Ordinance have the meanings so defined.

3. Powers of Resident Commissioner -

(1) The Resident Commissioner may, from time to time, by notice in the Gazette declare, for the purposes of this Ordinance, any species of [animal to](#) be an absolutely protected species or a partly protected species:

Provided that 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) The Resident Commissioner shall, in any notice issued pursuant to subsection (1) of this section 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 he thinks it desirable so to do, also specify in such notice a bag limit relating to that species.

(3) The Resident Commissioner may, from time to time, by notice in the Gazette, revoke, vary or amend any notice issued pursuant to subsection (1) or subsection (2) of this section.

4. Protection of Animals -

(1) No person shall without the prior written permission of the Resident Commissioner:

(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) of this section may be given either unconditionally or subject to any conditions which, in his absolute discretion, the Resident Commissioner may in writing deem fit to impose, and any such permission may, at any time, be revoked by the Resident Commissioner.

(3) Any person who acts contrary to subsection (1) of this section, or who acts in breach of any conditions imposed, pursuant to subsection (2) of this section, by the Resident

Commissioner, commits an offence against this Ordinance and, on conviction, shall be liable to a fine not exceeding forty dollars or to imprisonment for a term not exceeding one week:

Provided that a person shall not 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 kill 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 against this Ordinance and, on conviction, shall be liable to a fine not exceeding five dollars each 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 of this Ordinance he may, subject to subsection (2) of this section, exercise all or any of the following powers, namely:

(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 on 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 High Court or of a Magistrate, 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 paragraphs (b) and (c) of subsection (1) of this section.

(3) Any person who, when lawfully required so to do, fails immediately to give to a wildlife warden all the particulars referred to in paragraph (a) of subsection (1) of this section, 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 against this Ordinance and, on conviction, shall be liable to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding two weeks.

6. Forfeiture of property -

Where any person on convicted of an offence mentioned in subsection (3) or subsection (4) of section 4 of this Ordinance, the High 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 a person and used by such person for the purpose 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 the Resident Commissioner may, in his absolute discretion, specify.

7. Prohibition orders -

(1) Where any person is convicted of an offence contrary to this Ordinance, the High 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 two years from and including the date of the conviction.

(2) The High Court may, at any time, 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 against this Ordinance and, on conviction, shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three weeks.

8. Regulations ceasing to be part of the law of Niue, and savings -

(1) Subject to subsection (2) of this section, regulations numbered respectively 4, 5 and 6 of the Regulations under the Cook Islands Act 1915 for the Protection of Indigenous and Imported Birds and to prevent the Introduction of Noxious Animals and Birds into the Cook Islands, made on the nineteenth day of June 1916 and published in the New Zealand Gazette Number 72 of the twenty-ninth day of June 1916, shall cease to be part of the law of Niue.

(2) Without limiting the provisions of the Acts Interpretation Act 1924 it is hereby declared that, notwithstanding the provisions of subsection (1) of this section, all matters, things and proceedings commenced under or in pursuance of anyone or more of such regulations numbered respectively 4, 5 and 6 and pending or in progress at the commencement of this Ordinance may be continued, completed and enforce as if this Ordinance had not been enacted.