



Wildlife (Mute Swan) Notice 2012

Pursuant to section 6 of the Wildlife Act 1953, the Minister of Conservation gives the following notice.

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Notice

- 1 Title**
This notice is the Wildlife (Mute Swan) Notice 2012.
- 2 Commencement**
This notice comes into force on the 28th day after the date of its notification in the *Gazette*.
- 3 Interpretation**
In this notice, unless the context requires otherwise, terms used in this notice have the same meaning as in the Wildlife Act 1953.

4 Possession of mute swan

- (1) A person may possess a mute swan if—
- (a) the person or another person possesses the swan legally on the day on which this notice comes into force; or
 - (b) the person finds the swan injured and is transporting it to a person authorised by the Director-General to hold the swan or to a veterinarian; or
 - (c) the swan is a descendant of a swan described in paragraph (a) or (b).
- (2) A person may possess the egg of a mute swan if—
- (a) the person or another person possesses the egg legally on the day on which this notice comes into force; or
 - (b) the egg is from a mute swan described in subclause (1).

5 Mute swan may be possessed in accordance with notice

Clauses 6 to 10 apply to a person who possesses a mute swan or the egg of a mute swan in accordance with clause 4.

6 Prevention or restriction of flight

- (1) A person referred to in clause 5 may restrict or prevent a mute swan from flying.
- (2) However, any method used to restrict or prevent a mute swan from flying must comply with the Animal Welfare Act 1999 and any regulation or code of welfare that addresses the restriction or prevention of flight by birds.

7 Killing of mute swan

A person referred to in clause 5 may kill a mute swan only if the swan—

- (a) poses a risk of disease or of serious harm to any other bird or animal; or
- (b) is sick or injured and is suffering unreasonable pain or distress that cannot be alleviated by treatment.

8 Mute swan not to be sold

No person may sell a mute swan (whether dead or alive), or any part of the swan (including its feathers), or the eggs of the swan.

9 Disposal of remains of mute swan

- (1) This clause applies if—
 - (a) a person kills a mute swan; or
 - (b) a mute swan in a person's possession dies.
- (2) The person must dispose of the remains of the mute swan in such a way as to avoid or minimise the risk of disease or the spread of a pest to another mute swan or any other bird or animal.

10 Disposal of live mute swan

- (1) This clause applies to a person who possesses a live mute swan and wishes to dispose of it.
- (2) The person must either—
 - (a) give the swan to another person or organisation that agrees to possess it in accordance with this notice; or
 - (b) notify the Director-General.
- (3) If the person notifies the Director-General under subclause (2)(b), the person must give the mute swan to the Director-General or to a person specified by the Director-General.

Dated at Wellington this 17th day of July 2012.

Hon Kate Wilkinson,
Minister of Conservation.

Explanatory note

This note is not part of the notice, but is intended to indicate its general effect.

This notice, which comes into force on the 28th day after its notification in the *Gazette*, permits the possession of a mute swan or the egg of a mute swan in specified circumstances and on specified conditions.

Wildlife listed in Schedule 3 of the Wildlife Act 1953 is protected except to the extent that the Minister of Conservation, by notice in the *Gazette*, authorises the hunting, killing, or possession of the wildlife.

Clause 4 allows a person to possess a mute swan that is legally in the person's possession or the possession of another person when the notice comes into force, or that is injured and cannot recover adequately to survive in the wild, or that is the offspring of a captive mute swan. A person may possess the egg of a mute swan if the egg or the swan that laid the egg is legally in the possession of a person when the notice comes into force.

Clause 5 provides that *clauses 6 to 10* apply to a person who possesses a mute swan or the egg of a mute swan in accordance with *clause 4*.

Clause 6 allows a person to restrict or prevent a mute swan from flying, but the person must comply with the Animal Welfare Act 1999 and any regulation or code of welfare that applies to the restriction or prevention of flight by birds.

Clause 7 provides that a person may kill a mute swan only if the swan poses a health or safety risk to other creatures or is so sick or injured that it is necessary to kill the swan to end its suffering.

Clause 8 prohibits the sale of a mute swan (whether dead or alive) and of any part of the swan or the eggs of a swan.

Clause 9 requires the remains of a mute swan to be disposed of in a way that avoids or minimises the risk of disease or transmission of pests to other creatures.

Clause 10 requires a person who wants to dispose of a live mute swan to give it to another person or inform the Director-General of Conservation.

In addition to the requirements of this notice, it is an offence—

- to hunt, kill, or capture a mute swan living in the wild otherwise than in accordance with this notice (section 6(3) of the Wildlife Act 1953);
- to release a mute swan without the permission of the Director-General of Conservation (section 56 of the Wildlife Act 1953).

Activities provided for in this notice are subject to any other legal requirements such as those in the Animal Welfare Act 1999.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 26 July 2012.

This notice is administered by the Department of Conservation.
