

Reprint
as at 3 February 2020



Trade in Endangered Species Regulations 1991

(SR 1991/274)

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 9th day of December 1991

Present:

Her Excellency the Governor-General in Council

Pursuant to section 54 of the Trade in Endangered Species Act 1989, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Department of Conservation.

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Regulations

1 Title and commencement

- (1) These regulations may be cited as the Trade in Endangered Species Regulations 1991.
- (2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

2 Interpretation

- (1) In these regulations, **the Act** means the Trade in Endangered Species Act 1989.
- (2) The descriptions in the second column of Schedule 1 are an indication of the content of the provisions they describe and are not intended to be used in the interpretation of those provisions.

Regulation 2(2): inserted, on 3 February 2020, by regulation 89 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

3 Recognised scientists and scientific institutions

- (1) Scientists and scientific institutions in New Zealand involved in the non-commercial loan, donation, and exchange with scientists and scientific institutions in other States recognised by the relevant authorities of those States of—
 - (a) herbarium and other preserved, dried, or embedded plants:
 - (b) live plants:
 - (c) preserved animals, and skins of animals:
 - (d) live animals,—
 that are specimens of an endangered, threatened, or exploited species may apply to be recognised by the Director-General for the purposes of section 32 of the Act.
- (2) Applications shall be made in writing to the Director-General, and shall include details of—
 - (a) the name and address of the scientist or scientific institution:
 - (b) the type of material to be involved:

- (c) the study purpose, including details of previous work:
 - (d) the scientists and institutions involved overseas, if known:
 - (e) the Convention Secretariat registration details of overseas scientists or institutions, if known:
 - (f) any previous registration by the Convention Secretariat for this purpose.
- (3) If the Director-General recognises the applicant under section 32 of the Act, the applicant shall be advised in writing and issued with a registration code and a set of labels for use with the class of materials and purposes approved by the Director-General and subject to any conditions set by the Director-General.
- (4) Every recognised scientist and scientific institution shall affix an approved label to every package of such material exported or re-exported and complete the following details on the label:
- (a) the registration code:
 - (b) the name and address of the consignee and consignor:
 - (c) the scientific and common name of the specimens enclosed:
 - (d) the number (or weight) and description of the specimens enclosed:
 - (e) the Appendix of the Convention in which the specimen is included:
 - (f) the signature of the person packaging the consignment.
- (5) Each recognised scientist and scientific institution shall make a return to the Director-General at the end of each calendar year providing the details of each such import, export, and re-export, and the number of labels used.

4 Breeding or holding of parrots in captivity

- (1) Every person breeding or holding parrots other than the species budgerigar *Melopsittacus undulatus*, cockatiel *Nymphicus hollandicus*, or ring necked parakeet *Psittacula krameri* in captivity shall, when required to do so by any Endangered Species Officer, furnish to the officer, as soon as is practicable, the particulars of all such parrots held by that person.
- (2) Without limiting subclause (1), the particulars that may be required to be furnished by a person under that subclause include—
- (a) the origin of all such parrots held by that person:
 - (b) the name and address of the supplier of any such parrots held by that person:
 - (c) proof of acquisition and the date of acquisition of any such parrots held by that person:
 - (d) the numbers on any bands fitted to such parrots held by that person.
- (3) No person shall be required to furnish specified particulars to an officer if the specified particulars would or could tend to incriminate that person.

5 Export and re-export of live birds

Every person or institution, other than publicly-owned zoological gardens, wishing to export or re-export live specimens of endangered, threatened, or exploited bird species shall, in addition to furnishing details as required in Part 6 of the Wildlife Regulations 1955 and section 10 of the Trade in Endangered Species Act 1989, furnish departure details (being the flight number, name of vessel, port or other place of departure, time, and date) to the Director-General at least 7 days before shipment.

6 Fees

- (1) Except as provided in subclauses (2) to (4), the fee payable for the grant or renewal of any permit or certificate under the Act shall be \$80.
- (2) The fee payable for the grant of a permit authorising the export of live parrots bred in captivity in New Zealand shall be,—
 - (a) in the case of the initial grant of the permit, \$600:
 - (b) in the case of a second or subsequent permit granted in respect of the same permit holder, where the birds have been supplied by the breeder (or other person) who supplied the birds for which the original permit was granted and are of the same species as those for which that permit was granted, \$260.
- (3) The fee payable for the grant of a certificate authorising the re-export of live parrots shall be \$260.
- (4) The fee payable for the grant (but not the renewal) of a certificate authorising the multiple export of artificially propagated plants shall be \$420.
- (5) The fees prescribed by this regulation are inclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

Regulation 6(1): amended, on 16 October 2008, by regulation 4(1) of the Trade in Endangered Species Amendment Regulations 2008 (SR 2008/317).

Regulation 6(2)(a): amended, on 16 October 2008, by regulation 4(2) of the Trade in Endangered Species Amendment Regulations 2008 (SR 2008/317).

Regulation 6(2)(b): amended, on 16 October 2008, by regulation 4(3) of the Trade in Endangered Species Amendment Regulations 2008 (SR 2008/317).

Regulation 6(3): amended, on 16 October 2008, by regulation 4(4) of the Trade in Endangered Species Amendment Regulations 2008 (SR 2008/317).

Regulation 6(4): amended, on 16 October 2008, by regulation 4(5) of the Trade in Endangered Species Amendment Regulations 2008 (SR 2008/317).

7 Offences

A person commits an offence and is liable on conviction to a fine not exceeding \$2,000 if the person, after being required under regulation 4 to furnish particulars to an Endangered Species Officer,—

- (a) knowingly furnishes false particulars to the officer; or

- (b) recklessly furnishes particulars to the officer that are false in a material respect.

Regulation 7: replaced, on 3 February 2020, by regulation 90 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

8 Infringement offences

A person commits an infringement offence and is liable to an infringement fee of \$800, or a fine imposed by a court not exceeding \$1,600, if the person,—

- (a) without reasonable excuse, fails to furnish to an Endangered Species Officer the particulars of parrots held in captivity, after being required to do so under regulation 4; or
- (b) fails to furnish departure details to the Director-General in accordance with regulation 5.

Regulation 8: inserted, on 3 February 2020, by regulation 91 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

9 Border infringement offences

An infringement offence prescribed under the Act or these regulations is a border infringement offence if it is committed by a person who is physically present—

- (a) at a Customs place designated under section 55 of the Customs and Excise Act 2018; or
- (b) in a Customs-controlled area licensed under section 56 of the Customs and Excise Act 2018; or
- (c) in a biosecurity control area at a port approved as a place of first arrival under section 37 of the Biosecurity Act 1993; or
- (d) at a port approved for the arrival of craft under section 37A of the Biosecurity Act 1993.

Regulation 9: inserted, on 3 February 2020, by regulation 91 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

10 Penalties for infringement offences in Act

The penalties for an infringement offence in section 50A of the Act are the penalties specified for that infringement offence in the third and fourth columns of Schedule 1.

Regulation 10: inserted, on 3 February 2020, by regulation 91 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

11 Infringement notice and reminder notice

- (1) An infringement notice issued under section 50E of the Act for an infringement offence (other than a border infringement offence) must be in form 1 set out in Schedule 2.

- (2) A reminder notice issued under section 50F of the Act must be in form 2 set out in Schedule 2.
- (3) An infringement notice issued under section 50E of the Act for a border infringement offence must be in form 3 set out in Schedule 2.

Regulation 11: inserted, on 3 February 2020, by regulation 91 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Schedule 1

Penalties for infringement offences under Trade in Endangered Species Act 1989

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Schedule 1: inserted, on 3 February 2020, by regulation 92 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Section	Description of offence	Infringement fee (\$)	Maximum fine (\$)
50A(1)(a)	Trading in any specimen of endangered species without permit	800	1,600
50A(1)(b)	Trading in any specimen of threatened species without permit	600	1,200
50A(1)(c)	Trading in any specimen of exploited species without permit	400	800
50A(1)(d)	Possessing or controlling any specimen of endangered, threatened, or exploited species that has been imported or introduced unlawfully	400	800
50A(1)(e)	Failing to comply with conditions in any permit or certificate granted under Act	400	800

Schedule 2
**Infringement notice, reminder notice, and infringement notice for
border infringement offence**

r 11

Schedule 2: inserted, on 3 February 2020, by regulation 92 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Form 1
Infringement notice

Section 50E, Trade in Endangered Species Act 1989

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by [*name or identification number of authorised person*].

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

†Not required if the notice is served on a company or other body corporate.

*Specify only if known.

Alleged infringement offence details

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Service details

This infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee is payable within 28 days after [*date infringement notice served*].

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

1 This notice sets out an alleged infringement offence.

Payments

2 If you pay the infringement fee for the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.

3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below do not apply, and you are not entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Defence

4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, a reminder notice in respect of the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

Further action, including right to request hearing

5 You may—

- (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; or
- (b) deny liability for the alleged offence and request a court hearing; or
- (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.

6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must sign the letter and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty, and you will be required to pay a hearing fee.

- 8 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your letter,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the written submissions you wish the court to consider.

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

Non-payment of fee

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice or within any further time that [*name of enforcement authority*] allows, you will be served with a reminder notice (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). Please note that in some circumstances, if you do not receive a reminder notice, you may still become liable to pay a fine and court costs.
- 11 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice,—
- (a) [*name of enforcement authority*] may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and
 - (b) if so, you will become liable to pay court costs as well as a fine.

- 12 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Correspondence

- 13 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the infringement notice number; and
 - (c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

Further details of your rights and obligations

- 14 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 2 form 1: inserted, on 3 February 2020, by regulation 92 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Form 2
Reminder notice

Section 50F, Trade in Endangered Species Act 1989

Reminder notice No:

Date of notice:

This notice is to remind you that you have been issued with an infringement notice.
The details of the infringement notice are as follows.

Enforcement authority

The infringement notice was issued by [*name or identification number of authorised person*].

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

†Not required if the notice is served on a company or other body corporate.

*Specify only if known.

Alleged infringement offence details

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

Service details

(To be provided for filing in court)

The infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

This reminder notice was served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee was payable to [*name of enforcement authority*] within 28 days after [*date infringement notice served*]. The infringement fee has not been paid.

The last day for payment of the infringement fee is [*date*], being 28 days after the date of service of this notice.

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

- 1 You have not paid the infringement fee described in this notice, or asked for a hearing, within 28 days after you were served with the infringement notice. That is why you have been served with this reminder notice.

Payments

- 2 If you pay the infringement fee for the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.
- 3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below do not apply, and you are not entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Defence

- 4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, this notice is served on you. Late payment or payment made in any other manner is not a defence.

Further action, including right to request hearing

- 5 You may—
 - (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; or
 - (b) deny liability for the alleged offence and request a court hearing; or
 - (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.
- 6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must

sign the letter and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty, and you will be required to pay a hearing fee.

- 8 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your letter,—

- (a) request a hearing; and
- (b) admit liability for the offence; and
- (c) set out the written submissions you wish the court to consider.

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

Non-payment of fee

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice, you will become liable to pay court costs as well as a fine (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

- 11 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Correspondence

- 12 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the reminder notice number; and

(c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

Further details of your rights and obligations

13 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 2 form 2: inserted, on 3 February 2020, by regulation 92 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Form 3

Infringement notice for border infringement offence

Sections 50E and 50G, Trade in Endangered Species Act 1989

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by [*name or identification number of authorised person*].

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Passport number:

*†Country of issue of passport:

*†Gender:

*†Occupation:

*Telephone number:

†Not required if the notice is served on a company or other body corporate.

*Specify only if known.

Alleged infringement offence details

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Service details

This infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee is payable within 14 days after [*date infringement notice served*].

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

You may choose to immediately pay the infringement fee by [*specify method(s)*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

1 This notice sets out an alleged infringement offence.

Payments

2 If you pay the infringement fee for the alleged infringement offence within 14 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.

Defence

3 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 14 days after, this notice is served on you. Late payment or payment made in any other manner is not a defence.

Further action, including right to request hearing

4 You may—

- (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; or
- (b) deny liability for the alleged offence and request a court hearing; or
- (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.

5 To take an action listed in paragraph 4, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must sign the letter and it must be delivered within 14 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.

6 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, if the court finds you guilty of

the offence, costs will be imposed in addition to any penalty, and you will be required to pay a hearing fee.

7 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your letter,—

- (a) request a hearing; and
- (b) admit liability for the offence; and
- (c) set out the written submissions you wish the court to consider.

8 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

Non-payment of fee

9 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 14 days after you have been served with this notice, you will become liable to pay court costs as well as a fine (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

10 The fine will be equal to the amount of the infringement fee.

Correspondence

11 When writing, please specify—

- (a) the date of the alleged infringement offence; and
- (b) the infringement notice number; and
- (c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

Further details of your rights and obligations

12 Further details of your rights and obligations are set out in section 50G of the Trade in Endangered Species Act 1989 and section 21 of the Summary Proceedings Act 1957.

Schedule 2 form 3: inserted, on 3 February 2020, by regulation 92 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 12 December 1991.

Reprints notes

1 *General*

This is a reprint of the Trade in Endangered Species Regulations 1991 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326): Part 8

Trade in Endangered Species Amendment Regulations 2008 (SR 2008/317)