

Tonga.

No. 24 of 1974.



I assent,

TU'IPELEHAKE,

26 June, 1975.

AN ACT

TO AMEND THE BIRDS AND FISH PRESERVATION ACT

[17th September, 1974]

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:-

1.—(1) This Act may be cited as The Birds and Fish Preservation Act (Amendment) Act, 1974. Citation

(2) The Birds and Fish Preservation Act (Chapter 75) is in this Act referred to as the Principal Act. 1967 R.E. Cap. 75

(3) This Act shall be read and construed as one with the Principal Act.

2. Sections 1 to 5 inclusive of the Principal Act hereby come under the heading "Part 1—Protection of Birds and Fish". Part 1

3. Section 2 of the Principal Act is hereby amended by adding hereto the following definition:— Amendment to Section 2

"protected area" shall mean any area comprising land, or water, or land and water, as is specified in the Third Schedule hereto."

4. Section 3 of the Principal Act is hereby amended by inserting, immediately before the word "Schedules", the words "First and Second". Amendment to Section 3

5. Section 4 of the Principal Act is hereby amended by inserting before the word "Schedules" in both cases in which it appears, the words "First and Second". Amendment to Section 4

6. Section 5 of the Principal Act is hereby repealed and there is substituted therefor the following:— New Section 5

"Offences under Part 1 5. If any person within the periods mentioned in the said First and Second Schedules shall catch or buy or sell or knowingly have in his possession or under his control any protected bird or fish he shall be liable to a fine not exceeding fifty pa'anga and in default of payment to imprisonment for a period not exceeding six months and the bird or fish, and any boat, net,

spear-gun, gear and equipment used in connection with the catching of the bird or fish, may be confiscated to the Government."

New Parts II and III 7. There is hereby added to the Principal Act new Part II and III as follows:—

Part II—Protected Areas

Protected areas

6. The area specified in the Third Schedule to this Act is hereby declared to be a protected area; and the Prime Minister may with the consent of Privy Council add to the said Third Schedule such other areas as he deems fit, and after such other areas have been proclaimed and scheduled in the Gazette as having been added to said Third Schedule, they shall be deemed to be protected areas.

Prohibitions within protected areas.

7.—(1) No person may, within a protected area, and without the prior consent in writing of the Prime Minister—

- (i) discharge or cause to be discharged into the protected area any effluent or noxious or toxic liquid or substance;
- (ii) erect any harbour, wharf, pier, jetty or other building works, temporary or permanent;
- (iii) cut, damage, remove or destroy any mangrove;
- (iv) erect any fish-fence, or set any fish trap; or trawl for fish (including shellfish) or engage in fishing for commercial purposes;
- (v) carry out any boring, drilling or dredging operations.

(2) Any person contravening the provisions of the last preceding subsection shall be guilty of an offence and shall be liable on conviction for every such offence to a fine not exceeding fifty pa'anga or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment, and, in the case of convictions under paragraph (iv) of the immediately preceding subsection any boat, net, trap, trawl, gear and equipment used in connection with the offence may be confiscated to the Government.

Part III—General

Powers of police officers and fisheries officers

8.—(1) Whenever any police officer or fisheries officer (being a person duly authorised in writing by the Prime Minister to act as such) suspects upon reasonable grounds that any person has committed an offence against this Act, he may inspect and search any baggage, package, vessel or vehicle belonging to such person, and if there is found as a consequence of such

search any protected bird, or protected fish, or fish unlawfully taken from a protected area appearing to have been obtained in contravention of this Act, the same may be seized and taken before a Court.

(2) Any police officer may enter upon any land for the purpose of carrying out the provisions of this Act or for preventing or detecting offences thereunder.

8. The Second Schedule to the Principal Act is hereby repealed and there is substituted therefor the following. Amendment
to Second
Schedule

"SECOND SCHEDULE

Local Name	English Name	Scientific Name	Period for which protected
1. 'Ava 'i Ano	Turtle (except the species known as Leatherback)	-	1st January to 31st December
2. Fonu (except the species known as Leatherback)	Leatherback Turtle	Dermochelys coriacea	1st November to 31st January
3. Leatherback Turtle			1st January to 31st December

9. There shall be added to the Principal Act a new Third Schedule as follows:- New Third
Schedule

"THIRD SCHEDULE

The following area is hereby declared to be a protected area:-

All and Whole the lagoon in Tongatapu known as Fanga'uta and Fanga Kakau, being the area lying to the South of a straight line drawn from Niutao to the Northmost point of Nukunuku Motu and including the Straits known as Holeva and all mangrove and foreshore.

Passed in the Legislative Assembly this 17th day of September, 1974.