

Reprint
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Marine Reserves Act 1971

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Contents

	Page
Title	2
1 Short Title	3
2 Interpretation	3
3 Marine reserves to be maintained in natural state, and public to have right of entry	6
4 Governor-General may declare an area to be a marine reserve	7
5 Procedure for declaring a marine reserve	9
6 General policy	14
7 Conservation management strategies	14

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

This Act is administered in the Ministry of Agriculture and Fisheries, and the Department of Conservation.

8	Conservation management plans	15
9	Control and management of reserves	16
10	Particular functions of Director-General in relation to marine reserves	16
11	Particular powers of Director-General in relation to marine reserves	17
12	Conservation objectives to be considered by Director-General	17
13	Conservation function of New Zealand Conservation Authority	18
14	Procedure for making bylaws <i>[Repealed]</i>	18
15	Proof of bylaws <i>[Repealed]</i>	18
16	Penalty for breach of bylaws <i>[Repealed]</i>	18
17	Rangers	18
18	General powers of rangers	20
18A	Powers of seizure	21
18B	Director-General may release seized property under bond	22
18C	Seized property to be held by Crown if not released	23
18D	Crown to release seized property in certain circumstances	24
18E	Seized property forfeited to Crown if ownership not established	25
18F	Protection of Crown	25
18G	Forfeiture of property on conviction	26
18H	Provisions relating to forfeit property	27
18I	Offences	31
18J	Additional penalty for removing substance from or damaging reserve	33
19	Offences within a reserve <i>[Repealed]</i>	33
20	Time within which information may be laid	34
21	Penalties <i>[Repealed]</i>	34
22	Boundaries of marine reserves to be marked	34
23	Rights of access and navigation	34
24	Regulations	35
25	Consequential amendment <i>[Repealed]</i>	36

An Act to provide for the setting up and management of areas of the sea and foreshore as marine reserves for the purpose of preserving them in their natural state as the habitat of marine life for scientific study

1 Short Title

This Act may be cited as the Marine Reserves Act 1971.

2 Interpretation

In this Act, unless the context otherwise requires,—

Area means any part of—

(a) The seabed vertically below an area of the surface of—

(i) The territorial sea of New Zealand ; or

(ii) The internal waters of New Zealand as defined by section 4 of the Territorial Sea and Exclusive Economic Zone Act 1977; or

(b) The foreshore of the coast of New Zealand;—

and includes any water at any material time upon or vertically above it

Area: paragraph (a)(i) was amended, as from 1 October 1977, by section 33(1) Territorial Sea and Exclusive Economic Zone Act 1977 (1977 No 28) by omitting the words “as defined by section 3 of the Territorial Sea and Fishing Zone Act 1965”. Paragraph (a)(ii) was amended, as from 1 October 1977, by that Act, by substituting the words “the Territorial Sea and Exclusive Economic Zone Act 1977” for the words “that Act”.

Board means a Conservation Board established under section 6L of the Conservation Act 1987

Board: this definition was inserted, as from 10 April 1990, by section 49 Conservation Law Reform Act 1990 (1990 No 31).

Conservation Authority means the New Zealand Conservation Authority established under section 6A of the Conservation Act 1987

Conservation Authority: this definition was inserted, as from 10 April 1990, by section 49 Conservation Law Reform Act 1990 (1990 No 31).

Conservation management plan means a conservation management plan approved under section 8 of this Act

Conservation management plan: this definition was inserted, as from 10 April 1990, by section 49 Conservation Law Reform Act 1990 (1990 No 31).

Conservation management strategy means a conservation management strategy approved under section 17F of the Conservation Act 1987

Conservation management strategy: this definition was inserted, as from 10 April 1990, by section 49 Conservation Law Reform Act 1990 (1990 No 31).

Department means the Department of Conservation

Department: this definition was inserted, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

Department: this definition was substituted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Director-General means the Director-General of Conservation

Director-General: this definition was inserted, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

Director-General: this definition was substituted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Firearm means anything from which any shot, bullet, missile, or other projectile can be discharged (whether or not by force of explosive); and includes any firearm as defined in section 2 of the Arms Act 1983; and **to shoot** has a corresponding meaning

Firearm: this definition was substituted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Hunt or kill*[Repealed]*

Hunt or kill: this definition was repealed, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

[Repealed]

Marine life means any species of the plant or animal kingdoms which at any time of the life of the species inhabits the sea or foreshore; and includes any specimen of the species whether alive or dead, and any part of any specimen, and the seed, spores, eggs, spawn, young, fry, and offspring of the species; but does not include wildlife within the meaning of the Wildlife Act 1953

Marine reserve or **reserve** means a marine reserve constituted under section 4 of this Act

Mining interest means—

- (a) A coal mining right within the meaning of the Coal Mines Act 1979:
- (b) A mining licence or prospecting licence within the meaning of the Petroleum Act 1937:
- (c) Any authority to prospect or mine for ironsands granted by the Ministry of Energy pursuant to section 3 of the Iron and Steel Industry Act 1959, and any authority to enter on land given by him pursuant to section 6 of that

Act, and any right to prospect or mine for ironsands which by virtue of section 5 of that Act may continue to be exercised as if the said section 3 had not been passed:

- (d) While the Mining Act 1926 continues in force, a mining privilege within the meaning of that Act:
- (e) After the commencement of the Mining Act 1971, a mining privilege within the meaning of that Act:
- (f) Any licence issued under section 5 of the Continental Shelf Act 1964 to prospect or mine for any mineral, or carry on any operations for the recovery of any mineral:
- (g) Any right to prospect or mine for minerals conferred by any other enactment or by any instrument:

Mining interest: the reference to the “Coal Mines Act 1979” was substituted, as from 1 April 1980, for a reference to the “Coal Mines Act 1925” pursuant to section 268(2) Coal Mines Act 1979 (1979 No 21).

Mining interest: the words “the Minister of Energy” were substituted, as from 1 April 1978, for the words “the Minister of Mines” pursuant to section 16(2)(a) Ministry of Energy Act 1977 (1977 No 33).

Minister means the Minister of Conservation

Minister: this definition was substituted, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

Minister: this definition was substituted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Ranger means a ranger appointed or deemed to be appointed under this Act

Secretary for Marine*[Repealed]*

Secretary for Marine: this definition was repealed, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

[Repealed]

Sell includes—

- (a) Barter and any form of exchange for consideration:
- (b) Offering or attempting to sell:
- (c) Receiving for sale or having in possession for sale:
- (d) Exposing for sale:
- (e) Sending or delivering for sale:
- (f) Causing or allowing to be sold, offered for sale, or exposed for sale;—

and **sale** and **sold** have corresponding meanings

Sell: this definition was inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Taking, in relation to any marine life, includes taking, catching, fishing, killing, or pursuing by any means or device; and, in relation to any plant, includes uprooting and transplanting; and also includes any attempt at taking; and **to take** has a corresponding meaning

Use includes any attempt to use or assistance given or attempted to be given in using.

3 Marine reserves to be maintained in natural state, and public to have right of entry

- (1) It is hereby declared that the provisions of this Act shall have effect for the purpose of preserving, as marine reserves for the scientific study of marine life, areas of New Zealand that contain underwater scenery, natural features, or marine life, of such distinctive quality, or so typical, or beautiful, or unique, that their continued preservation is in the national interest.
- (2) It is hereby further declared that, having regard to the general purpose specified in subsection (1) of this section, marine reserves shall be so administered and maintained under the provisions of this Act that—
 - (a) They shall be preserved as far as possible in their natural state:
 - (b) The marine life of the reserves shall as far as possible be protected and preserved:
 - (c) The value of the marine reserves as the natural habitat of marine life shall as far as possible be maintained:
 - (d) Subject to the provisions of this Act and to the imposition of such conditions and restrictions as may be necessary for the preservation of the marine life or for the welfare in general of the reserves, the public shall have freedom of access and entry to the reserves, so that they may enjoy in full measure the opportunity to study, observe, and record marine life in its natural habitat.
- (3) For the purposes of this section but subject to any authorisation given under section 11(b) of this Act, no person shall fish in a marine reserve except—

- (a) Persons (not being persons holding a permit issued under Part 4 of the Fisheries Act 1983) authorised by notice in the *Gazette* given by the Minister after having regard to the purpose specified in subsection (1) of this section; and
 - (b) In accordance with such conditions as to time, place, species of fish, methods, and gear to be used in fishing, as may be specified in the notice; and
 - (c) Where not inconsistent with any conditions imposed under paragraph (b) of this subsection, in compliance with restrictions imposed on fishing by the Fisheries Act 1996 and any regulations made under it.
- (4) Nothing in this section shall apply to prohibit any person from fishing in the reserve in accordance with any conditions imposed by any Order in Council made under section 5 of this Act.

Subsection (3) (as inserted, as from 14 February 1978, by section 2 Marine Reserves Amendment Act 1977 (1977 No 136)), was substituted, as from 10 April 1990, by section 50 Conservation Law Reform Act 1990 (1990 No 31).

In subsection (3)(a), Part 3 of the Fisheries Act 1983 has been substituted for Part 1 of the repealed Fisheries Act 1908.

In subsection (3)(c), the Fisheries Act 1996 has been substituted for the repealed Fisheries Act 1908.

Subsection (4) was inserted, as from 13 January 1981, by section 2 Marine Reserves Amendment Act 1980 (1980 No 121).

4 Governor-General may declare an area to be a marine reserve

- (1) Subject to section 5 of this Act, the Governor-General may from time to time, by Order in Council, declare that any area described in the Order shall be a marine reserve subject to this Act, and to such conditions as may be recommended to him by the Minister under subsection (9) of section 5 of this Act; but no area in respect of which any lease or licence under the Marine Farming Act 1971 is for the time being in force shall be declared a marine reserve.
- (2) No area within the jurisdiction of any harbour board shall be declared a marine reserve without the consent of the harbour board.

- (3) Notwithstanding anything in the Public Works Act 1981 or any other Act, no public work, other than a work authorised by this Act, may be undertaken or constructed on any area included in a marine reserve except with the consent of the Minister, and the Minister in charge of the department in control of the work, and subject to such conditions as those Ministers may jointly impose.
- (4) Subject to subsection (5) of this section, and to section 25 of this Act, nothing in this Act or regulations made under this Act shall affect the Coal Mines Act 1979, the Mining Act 1926, the Mining Act 1971, the Petroleum Act 1937, the Iron and Steel Industry Act 1959, or the Continental Shelf Act 1964.
- (5) The right to do anything in a marine reserve by virtue of a mining interest (whether in force at, or after, the commencement of this Act) may, notwithstanding anything in the interest or in any of the Acts mentioned in subsection (4) of this section, be made subject to this Act or to any provision of it by the Minister of Energy, with the concurrence of the Minister, so notifying in writing the holder of the interest.
- (6) If the right to do anything in a marine reserve by virtue of a mining interest is made subject to this Act or to any provision of this Act, it may continue to be exercised in the marine reserve only to the extent that it can be exercised in accordance with this Act or with the provision, as the case may be; and if it cannot be exercised in accordance with this Act or with the particular provision of this Act, it shall not be exercised at all.

The Public Works Act 1981 referred to in subsection (3) was substituted, as from 1 February 1982, for a reference to the Public Works Act 1928 pursuant to section 248(1) Public Works Act 1981 (1981 No 35).

Subsections (3) and (5) were amended, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3) by substituting the words “Minister of Agriculture and Fisheries” for the words “Minister of Marine”. They were further amended, as from 1 April 1987 by section 11(1) State-Owned Enterprises Amendment Act 1987 (1987 No 117) by omitting the words “of Agriculture and Fisheries”.

Subsection (4) was amended, as from 10 April 1990, by section 51 Conservation Law Reform Act 1990 (1990 No 31) by omitting the words “or in any bylaws”.

The Coal Mines Act 1979 referred to in subsection (4) substituted, as from 1 April 1980, a reference to the Coal Mines Act 1925 pursuant to section 268(2) Coal Mines Act 1979 (1979 No 21).

The words “the Minister of Energy” referred to in subsection (5) were substituted, as from 1 April 1978, for the words “the Minister of Mines” pursuant to section 16(2)(a) Ministry of Energy Act 1977 (1977 No 33).

5 Procedure for declaring a marine reserve

- (1) No Order in Council shall be made under section 4 of this Act unless—
- (a) Application for the Order in Council is made to the Director-General by one or more of the following:
 - (i) Any university within the meaning of the Universities Act 1961:
 - (ii) Any body appointed to administer land subject to the Reserves Act 1977 if such land has frontage to the seacoast:
 - (iii) Any body corporate or other organisation engaged in or having as one of its objects the scientific study of marine life or natural history:
 - (iv) Maori iwi or hapu who have tangata whenua status over the area:
 - (v) The Director-General:
 - (b) Notice of intention to apply for an Order in Council declaring the area a marine reserve has, after consultation with the Director-General, been published by the applicant for the Order at least twice, with an interval of not less than 5 nor more than 10 days between each publication, in some newspaper circulating at or nearest to the place where the area is situated, and at least once in each of 4 daily newspapers, one of which shall be published in Auckland, one in Wellington, one in Christchurch, and one in Dunedin:
 - (c) Every notice published pursuant to paragraph (b) of this subsection—
 - (i) States the date of first publication of that notice:
 - (ii) States the place where the plan referred to in subsection (2) of this section may be inspected:
 - (iii) Gives a general description of the area proposed to be declared a marine reserve:
 - (iiia) states the proposed name of the proposed marine reserve:
 - (iv) Gives an address for service:

- (v) Calls upon all persons wishing to object to the making of the Order to send their objections in writing, specifying the grounds thereof, to the Director-General within 2 months from the date of first publication of the notice and to serve a copy of the objections, specifying the grounds thereof, on the applicant within the same time:
- (d) Notice in writing of the proposed marine reserve is given by the applicant to—
 - (i) All persons owning any estate or interest in land in or adjoining the proposed reserve. For the purposes of this subparagraph, land shall be deemed to adjoin a proposed marine reserve notwithstanding that it is separated from it by the foreshore or by any road, or that is at a distance of not more than 100 metres from the proposed marine reserve if separated from it by any other reserve of any kind whatsoever or any marginal strip within the meaning of the Conservation Act 1987:
 - (ii) Any harbour board if the area or any part of the area proposed as a marine reserve is within the jurisdiction of that harbour board:
 - (iii) Any local authority or public body in which the foreshore or the control of the foreshore is vested if that foreshore or any part of it is within the area proposed as a marine reserve:
 - (iv) The Secretary for Transport:
 - (v) The Director-General of Agriculture and Fisheries.
- (2) The Director-General shall cause a plan to be prepared on a suitable scale showing all tidal waters coloured blue, and the boundaries and extent of the area sought to be declared a marine reserve. The plan shall be open for inspection free of charge during ordinary office hours by any person at the office of the Department nearest to the proposed reserve.
- (3) All persons wishing to object to the making of the Order shall, within 2 months from the date of first publication of the notice published pursuant to paragraph (b) of subsection

- (1) of this section, send their objections in writing, specifying the grounds thereof, to the Director-General and shall serve a copy of their objections, specifying the grounds thereof, on the applicant within the same time.
- (4) The applicant may, on receiving any copy of objections under subsection (3) of this section, answer those objections in writing to the Director-General within 3 months from the date of first publication of the notice published pursuant to paragraph (b) of subsection (1) of this section, and the Director-General shall send any such answer he may receive within that time to the Minister for consideration.
- (5) The Director-General shall refer to the Minister all such objections received within the said period of 2 months, and any answer received within the said period of 3 months.
- (6) Where any objection has been made in accordance with subsection (3) of this section, the Minister shall, before considering the application, decide whether or not the objection should be upheld and, in doing so, shall take into consideration any answer made to the objection by the applicant and, if the applicant is the Director-General, any report on the objection and the application the Minister may have obtained from an independent source. If the objection is upheld the area shall not be declared a marine reserve. In making any such decision, the Minister shall not be bound to follow any formal procedure, but shall have regard to all submissions made by or on behalf of the objector, and to any answer made by the applicant, and shall uphold the objection if he is satisfied that declaring the area a marine reserve would—
- (a) Interfere unduly with any estate or interest in land in or adjoining the proposed reserve:
 - (b) Interfere unduly with any existing right of navigation:
 - (c) Interfere unduly with commercial fishing:
 - (d) Interfere unduly with or adversely affect any existing usage of the area for recreational purposes:
 - (e) Otherwise be contrary to the public interest.
- (7) The decision of the Minister shall be final.
- (7A) Before the decision of the Minister becomes final under subsection (7), the proposal must, to the extent that it relates

to the proposed name of the proposed marine reserve, be referred to the New Zealand Geographic Board under section 27(2) or 30 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008, as the case may be.

- (8) The Director-General shall cause the Minister's decision, together with the grounds therefor, to be notified in writing to the objector and to the applicant.
- (9) If, after consideration of all objections, the Minister is of the opinion that no objection should be upheld and that to declare the area a marine reserve will be in the best interests of scientific study and will be for the benefit of the public, and it is expedient that the area should be declared a marine reserve, either unconditionally or subject to any conditions (including any condition as to providing the cost of marking the boundaries of the marine reserve under section 22 of this Act, and any condition permitting fishing within the reserve by persons not holding a permit issued under Part 4 of the Fisheries Act 1983), the Minister shall, if the Ministers of Transport and Fisheries concur, recommend to the Governor-General the making of an Order in Council accordingly.
- (10) If notice is required by this section to be given to any person, it shall be deemed to be given to all the owners of any Maori land within the meaning of the Maori Affairs Act 1953, when it is given to such owners as have been nominated for the purpose by the Registrar of the Maori Land Court at the request of the person required to give the notice. On receiving any such request the Registrar shall nominate all owners whose current addresses are known to him.
- (11) For the purposes of this section the expression "estate or interest in land" shall include any mining interest.
- (12) This section shall bind the Crown.

Subsection (1)(a) was amended, as from 14 February 1978, by section 3(1) Marine Reserves Amendment Act 1977 (1977 No 136) by inserting the words "or the Director-General". The reference to the Reserves Act 1977 in subsection (1)(a) was substituted, as from 1 April 1978, for the reference to the Reserves and Domains Act 1953, pursuant to section 125 Reserves Act 1977 (1977 No 66).

Subsection (1)(a) was amended, as from 1 April 1981, by section 80(1) National Parks Act 1980 (1980 No 66) by substituting the words “Director-General of Lands” for the words “National Parks Authority”.

Subsection (1)(a) was amended, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65) and section 11(1) State-Owned Enterprises Amendment Act 1987 (1987 No 117) by omitting the words “or the Director-General of Lands”.

Subsection (1)(a) was substituted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Section 5(1)(c)(iii): inserted, on 1 November 2008, by section 38 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (2008 No 30).

Subsection (1)(d)(i) was amended, as from 9 October 1975, by section 2 Marine Reserves Amendment Act 1975 (1975 No 90) by substituting the expression “100 metres” for the expression “5 chains”.

Subsection (1)(d)(i) was amended, as from 1 April 1987, section 65(1) Conservation Act 1987 (1987 No 65) by substituting the words “or any marginal strip within the meaning of the Conservation Act 1987” for the words “or any land reserved from sale or other disposition pursuant to section 58 of the Land Act 1948 or the corresponding provisions of any former Land Act”.

Subsection (1)(d)(iv) was inserted, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

Subsection (1)(d)(v) was inserted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (2) was amended, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3) by substituting the word “Department” for the words “Marine Department”.

Subsection (6) was amended, as from 14 February 1978, by section 3(2) Marine Reserves Amendment Act 1977 (1977 No 136) by inserting the words “and, if the applicant from an independent source”.

Section 5(7A): inserted, on 1 November 2008, by section 38 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (2008 No 30).

Subsection (9) was amended, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3) and was amended, as from 14 February 1978, by section 3(3) Marine Reserves Amendment Act 1977 (1977 No 136).

Subsection (9) was amended, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Subsection (9) was substituted, as from 10 April 1990, by section 52 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (12) was inserted, as from 14 February 1978, by section 3(4) Marine Reserves Amendment Act 1977 (1977 No 136).

The words “Director-General” referred to throughout the section were substituted, as from 1 September 1972, for the words “Secretary for Marine” pursuant to section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

6 General policy

- (1) The Minister may approve statements of general policy for the implementation of this Act in any area or areas; and may from time to time amend any such statement in the light of changing circumstances or increased knowledge.
- (2) Nothing in any such general policy shall derogate from any provision in this Act or any other Act.
- (3) For the purposes of this section, sections 17B(3), 17B(4), and 17N of the Conservation Act 1987 shall, with any necessary modifications, apply with respect to such general policies, subject to the following provisions:
 - (a) In addition to the consultation required by section 17B(3)(a) of that Act, the Director-General shall also consult the Director-General of Agriculture and Fisheries, the Secretary for Transport, and the Secretary for the Environment before preparing any such policy:
 - (b) As soon as practicable after a draft policy is prepared under section 17B(3) of that Act, the Director-General shall send a copy of it to each of the persons referred to in paragraph (a) of this subsection:
 - (c) Before sending a draft policy to the Conservation Authority, the Director-General shall consider any comments made by the persons referred to in paragraph (a) of this subsection.

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

7 Conservation management strategies

- (1) Every conservation management strategy shall establish objectives for the integrated management of marine reserves under this Act.
- (2) For the purposes of this section, the following provisions shall apply in addition to those in section 17F of the Conservation Act 1987:
 - (a) The Director-General shall consult the Director-General of Agriculture and Fisheries before notifying a draft strategy under section 17F(a) of that Act:
 - (b) As soon as practicable after the draft strategy has been prepared, the Director-General shall send a copy of the

draft strategy to the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all regional councils within the meaning of the Local Government Act 2002 that are affected:

- (c) Before sending the draft strategy to the Conservation Boards affected, the Director-General shall consider any comments made by the Director-General of Agriculture and Fisheries, the Secretary for Transport, and such regional councils.

Subsection (2)(a) was amended, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

Subsection (2)(b) was substituted, as from 14 February 1978, by section 4(1) Marine Reserves Amendment Act 1977 (1977 No 136).

Subsection (2)(c) was inserted, as from 1 April 1987, by section 65(1) Conservation Act 1987 (1987 No 65).

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (2)(b) was amended, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84), by substituting the words “all regional councils within the meaning of the Local Government Act 2002 that are affected” for the words “all affected regional councils constituted under the Local Government Act 1974”. See sections 273 to 314 of that Act as to the savings and transitional provisions.

8 Conservation management plans

- (1) The purpose of a conservation management plan under this section is to establish objectives for the management of a marine reserve or reserves.
- (2) For the purposes of this section, sections 17E (except subsections (1), (4), (6), and (7)), 17G, and 17N of the Conservation Act 1987 shall, with any necessary modifications, apply with respect to conservation management plans under this section, subject to the following provisions:
 - (a) In addition to the consultation required by section 17F(a) of that Act (as applied by section 17G(1) of that Act), the Director-General shall also consult the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all regional councils within the meaning of the Local Government Act 2002 that are affected:

- (b) In addition to the notification required by section 17F(a) of that Act (as so applied), the Director-General shall also send a copy of the draft plan to the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all such regional councils that are affected:
- (c) Before sending the draft plan to the Boards affected, the Director-General shall consider any comments made by the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all such regional councils that are affected.

Subsection (2) was amended, as from 14 February 1978, by section 4(2) Marine Reserves Amendment Act 1977 (1977 No 136).

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (2)(a) was amended, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84), by substituting the words “all regional councils within the meaning of the Local Government Act 2002 that are affected” for the words “all affected regional councils constituted under the Local Government Act 1974”. *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Subsection (2)(b) was amended, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84), by substituting the words “regional councils that are affected” for the words “affected regional councils”. *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Subsection (2)(c) was amended, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84), by substituting the words “regional councils that are affected” for the words “affected regional councils”. *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

9 Control and management of reserves

Subject to this Act, the Director-General shall administer, manage, and control marine reserves in accordance with approved general policies, conservation management strategies, and conservation management plans.

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

10 Particular functions of Director-General in relation to marine reserves

The Director-General shall—

- (a) Inquire into and report to the Minister on any matter arising out of or relating to marine reserves or marine life within or outside reserves that the Minister may refer to the Director-General for a report:
- (b) Advise the Minister on matters relating to the administration, management, control, protection, and regulation of marine reserves and to make recommendations on those matters as the Director-General thinks fit.

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

11 Particular powers of Director-General in relation to marine reserves

Without limiting the generality of section 9 of this Act, the Director-General may do all or any of the following:

- (a) Manage reserves in the interests of the conservation, propagation, and preservation of species, and ensure the protection and wellbeing of marine life of reserves:
- (b) Authorise the taking for scientific purposes of any specimens of marine life or material in any reserve, and prescribe the conditions of such taking and retention or disposal of those specimens or for their return to any reserve:
- (c) Take such steps as may be necessary to ensure the continued welfare of any reserve in the interests of scientific study of marine life and for the enjoyment of the reserve by the public.

Section 11 was substituted, as from 1 September 1972, by section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

12 Conservation objectives to be considered by Director-General

In the exercise of any of the powers conferred on the Director-General by this Act, the Director-General shall have regard to the desirability of preserving the natural features and marine life of reserves, and, in particular, shall ensure that—

- (a) Reserves are maintained so far as possible in a state of nature; and

- (b) Reserves are available for the purposes of scientific research.

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

13 Conservation function of New Zealand Conservation Authority

The New Zealand Conservation Authority shall bring to the attention of the Director-General such matters concerning the welfare of marine reserves as it considers necessary to promote the continued welfare of marine reserves.

Sections 6 to 13 were substituted, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

14 Procedure for making bylaws

[Repealed]

Sections 14 to 16 were repealed, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

15 Proof of bylaws

[Repealed]

Sections 14 to 16 were repealed, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

16 Penalty for breach of bylaws

[Repealed]

Sections 14 to 16 were repealed, as from 10 April 1990, by section 53 Conservation Law Reform Act 1990 (1990 No 31).

17 Rangers

- (1) The Director-General may from time to time appoint any suitable person to be a ranger in an honorary capacity for the purposes of this Act.
- (2) Every ranger appointed under this section shall be appointed for such term not exceeding 3 years as the Director-General thinks fit.
- (3) The Director-General shall supply to every ranger a written warrant signed by himself or on his behalf evidencing the

appointment, and the production of that warrant shall be sufficient proof of the appointment.

- (4) Any ranger may at any time be removed from office by the Director-General for incapacity, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Director-General.
- (5) Any ranger shall, on the expiration of the term of his appointment, or on the sooner expiry of his appointment by removal from office or resignation, surrender to the Director-General his warrant of appointment and any badge of office that may have been issued to him.
- (6) No person appointed by the Director-General under this section to be a ranger shall by virtue of that appointment be deemed to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988 or of the Government Superannuation Fund Act 1956.
- (7) Every member of the police, every person appointed as a Fishery Officer under subsection (1) or deemed to have been appointed as a Fishery Officer by subsection (4) of section 76 of the Fisheries Act 1983, and every person appointed as a warranted officer under subsection (1) or deemed to have been appointed as a warranted officer by subsection (9) of section 59 of the Conservation Act 1987, shall by virtue of that person's office be deemed to be a ranger appointed by the Director-General to exercise the duties of a ranger under this Act generally in marine reserves throughout New Zealand.

The words "Director-General" referred to in subsections (1) to (6) were substituted, as from 1 September 1972, for the words "Secretary for Marine" pursuant to section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

The reference to the "State Sector Act 1988" referred to in subsection (6) replaced a reference to the "State Services Act 1962", as from 1 April 1988, pursuant to section 90(a) State Sector Act 1988 (1988 No 20).

The reference to the "Government Superannuation Fund Act 1956" referred to in subsection (6) replaced a reference to the "Superannuation Act 1956", as from 1 November 1976, pursuant to section 3(3) of the Government Superannuation Fund Amendment Act 1976 (1976 No 30).

The original subsection 97) was amended, as from 14 February 1987, by section 5 Marine Reserves Amendment Act 1977 (1977 No 136) by inserting the words "and every Inspector of Sea Fishing within the meaning of section 4 of the Fisheries Act 1908".

Subsection (7) was substituted, as from 10 April 1990, by section 54 Conservation Law Reform Act 1990 (1990 No 31).

18 General powers of rangers

- (1) Every ranger may, in the exercise of his or her duty and upon production of his or her warrant of appointment (if so required),—
 - (a) Require any person whom he or she reasonably believes to have committed or to be committing or about to commit an offence against this Act or any regulations made under this Act to refrain or desist from that act:
 - (b) Require any person whom he or she reasonably believes to have committed or to be committing or about to commit an offence against this Act or any regulations made under this Act to give his or her full name and residential address and to produce evidence of those particulars:
 - (c) Pursue and apprehend, without warrant, any person whom he or she reasonably believes to have committed or to be committing an offence against this Act or any regulations made under this Act:
 - (d) Stop any vessel, vehicle, or other conveyance, or any aircraft while on the ground or on the water, or any other device for carriage or transportation, or stop in transit any parcel, package, case, bag, luggage, or other container that is or that he or she reasonably believes to be in the possession of the owner or of any other person (including any carrier or forwarding agent, whether by land, sea, or air), if he or she reasonably believes that any breach of this Act or of any regulation made under this Act has been committed by the owner or by the person in possession thereof or by any other person, and, in the presence of the owner or other person or of any servant of any of them, enter and search any such vessel, vehicle, other conveyance, aircraft, or other device, and in such presence open and search any such parcel, package, case, bag, luggage, or other container.
- (2) The powers of a ranger under this Act shall be exercisable within any marine reserve; and if a ranger is in fresh pursuit of an offender the ranger may, without warrant, apprehend the

offender outside a marine reserve and may exercise any power conferred on a ranger by this Act.

Subsection (1)(a) was amended, as from 10 April 1990, by section 55(a) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “Director-General” for the words “management committee for that reserve”.

Subsection (1)(f) was amended, as from 10 April 1990, by section 55(b) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “reasonably believes” for the words “has reason to suspect”.

The words “Director-General” were substituted, as from 1 September 1972, for the words “Secretary for Marine” pursuant to section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972 (1972 No 3).

Section 18 was substituted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18A Powers of seizure

- (1) A ranger may seize—
- (a) Any vessel or vehicle or other conveyance which he or she believes on reasonable grounds is being or has been used or is intended to be used in the commission of an offence against subsection (1) or subsection (3)(d) of section 18I of this Act that involves the taking of marine life:
 - (b) Any fishing gear, implement, appliance, material, container, goods, equipment, or thing which he or she believes on reasonable grounds is being or has been used or is intended to be used in the commission of an offence against this Act or any regulations made under this Act:
 - (c) Any marine life which he or she believes on reasonable grounds are being or have been taken, transported, bought, sold, or found in the possession of any person, in contravention of this Act or any regulations made under this Act; or any other marine life with which such marine life has been intermixed:
 - (d) Any article, record, document, or thing which he or she believes on reasonable grounds is evidence of the commission of an offence against this Act or any regulations made under this Act:
 - (e) All nets, traps, firearms, ammunition, explosives, engines, instruments, appliances, equipment, or devices

that he or she believes on reasonable grounds are being used or are intended to be used or have been used in breach of this Act or any regulations made under this Act:

- (f) Any bag, container, or other article that he or she believes on reasonable grounds is being used for the purpose of carrying any marine life or any part of any marine life, or any sand, stones, gravel, or other material illegally taken or had in possession or that he or she believes on reasonable grounds is being so used.
- (2) Any marine life seized by a ranger shall, if alive and likely to survive, be returned to the reserve, or, if survival is unlikely, shall be disposed of—
 - (a) In such manner and for such price as the Director-General may determine in any specific instance; or
 - (b) According to any regulations made under this Act, if disposal is provided for by such regulations.
 - (3) The decision whether or not to lay any information or charge in respect of an alleged offence for which any property is seized under this Act shall be made as soon as reasonably practicable after the property is seized, taken possession of, or detained.
 - (4) A ranger who, acting under subsection (2) of this section, at the time of seizure returns to the reserve any marine life that he or she believes to be alive, shall not be under any civil or criminal liability to the person from whom the marine life was seized in the event of a decision being made not to lay an information or charge in respect of the marine life, or of the person being acquitted of the charge.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18B Director-General may release seized property under bond

- (1) The Director-General may, at any time until an information or charge is laid in respect of the alleged offence for which the property was seized, at his or her discretion or on application by—
 - (a) The person from whom the property was seized; or

- (b) The owner or person entitled to the possession of the property seized or any person having a legal or equitable interest in the property,—
release the property to any such person under bond in such sum and under such sureties and conditions (if any) as the Director-General may specify.
- (2) If any person to whom property is released under subsection (1) of this section fails to comply with the conditions of any bond or with any condition specified by the Director-General,—
- (a) The property may be resealed at any time at the direction of the Director-General; and
- (b) The provisions of this section shall thereupon apply to the property as if it had been seized under section 18A of this Act; and
- (c) The Director-General may, in the case of failure to comply with the conditions of any bond, apply to a court presided over by a District Court Judge for an order for estreat of the bond; and
- (d) If the Director-General so applies, the Registrar shall fix a time and place for the hearing of the application, and shall, not less than 7 days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed; and
- (e) If on the hearing of any such application it is proved to the satisfaction of the Court that any condition of the bond has not been kept, the Court may make an order to estreat the bond to such an amount as it thinks fit to any person bound thereby on whom notice is proved to have been served in accordance with this subsection; and
- (f) Any penalty payable in accordance with this subsection shall be recoverable as if it were a fine.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18C Seized property to be held by Crown if not released

All property seized under section 18A of this Act and the proceeds from the sale of any such property under subsection (2) of that section, except if such property or proceeds have

been forfeited to the Crown under section 18E of this Act, shall, subject to section 18B of this Act, be held in the custody of the Crown—

- (a) Until a decision is made not to lay any information or charge in respect of the alleged offence in respect of which the property was seized; or
- (b) If such a charge or information is laid for an offence in respect of which the property was seized, until the completion of such proceedings and, if the property is forfeit, until the disposal of the property under this Act or until such sooner time as the Court may determine.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18D Crown to release seized property in certain circumstances

- (1) If any property has been seized under section 18A(1) of this Act, and that property or the proceeds of sale of the property under that section remains in the custody of the Crown, then such property shall forthwith be released from the custody of the Crown—
 - (a) If a decision is made not to lay an information or charge, or on the withdrawal or dismissal of an information or charge; or
 - (b) On the acquittal of all persons charged with any offence for which forfeiture of the property or proceeds is a consequence of conviction.
- (2) If any information or charge has been laid for any alleged offence in respect of which the property was seized under section 18A of this Act and that property, or the proceeds from the sale of the property under that section, remains in the custody of the Crown, the Court may at any time release the property or proceeds, on application by—
 - (a) The person from whom the property was seized; or
 - (b) The owner or person entitled to the possession of the property seized or any person having a legal or equitable interest in the property,—and any such release may be subject to such sureties and conditions as the Court may specify.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18E Seized property forfeited to Crown if ownership not established

- (1) If the ownership of any property cannot be established at the time of seizure or within 90 days after the date of seizure, the property seized shall be forfeit to the Crown and shall be disposed of as directed by the Director-General.
- (2) If there is a dispute as to the ownership of any property that has been seized under this Act, the Director-General may apply to a District Court for directions as to the holding and disposal of the property and the Court may give such directions accordingly.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18F Protection of Crown

- (1) Any person who,—
 - (a) Pursuant to this Act, examines or renders ineffective any net, line, pot, gear, tackle, or device which the person has reasonable cause to believe has been set for the purpose of taking marine life in contravention of this Act or any regulations made under this Act, or of any conditions of any permit, authority, or licence issued in respect of the taking; or
 - (b) Does any act under this Act, or any regulations made under this Act, or omits to do any act required by this Act or by any regulations made under this Act,—shall not be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he or she has acted in bad faith or without reasonable cause.
- (2) The Crown shall not be held directly or indirectly liable for any such act or omission of any such person, unless the person himself or herself would incur liability for the act or omission.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18G Forfeiture of property on conviction

- (1) On conviction of any person for any offence against section 18I(1) of this Act—
 - (a) Any property used in respect of the commission of the offence, including any vessel or vehicle or other conveyance (whether or not the property was seized under section 18A of this Act); and
 - (b) Any marine life in respect of which the offence was committed (whether or not seized under section 18A of this Act); and
 - (c) Any proceeds from the sale of such marine life under section 18A(2) of this Act—

may, on the order of the Court, be forfeit to the Crown if the Court thinks fit to so order.
- (2) On conviction of any person for any offence against section 18I of this Act other than an offence against subsection (1) of that section,—
 - (a) Any property used in respect of the commission of the offence other than any vessel or vehicle or other conveyance (whether or not the property was seized under section 18A of this Act); and
 - (b) Any marine life in respect of which the offence was committed (whether or not seized under section 18A of this Act); and
 - (c) Any proceeds from the sale of such marine life under section 18A(2) of this Act—

may, on the order of the Court, be forfeit to the Crown if the Court thinks fit to so order.
- (3) No person may be discharged without conviction in respect of any offence against section 18I unless the Court for special reasons relating to the offence thinks fit to order that the property, marine life, or proceeds not be forfeit.
- (4) If any property is forfeit to the Crown under this section, the property shall thereupon vest in the Crown absolutely and free of all encumbrances.

- (5) Before disposing of any seized property under this Act, the Director-General shall give the owner notice of the Crown's intention to dispose of the property and if, as at the expiration of 90 days commencing on the date of that notice, the owner has not lodged an appeal against the intended disposal, the Director-General may then dispose of the property; but, if the seized property is perishable, the Director-General may dispose of the property at any time during that 90-day period and hold the proceeds until the expiration of that period.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Subsection (1) was amended, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9) by omitting the words "or on the discharge of any person under section 19 of the Criminal Justice Act 1985 in respect of any such offence". See sections 148 to 160 of that Act for the transitional and savings provisions. See clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

Subsection (2) was amended, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9) by omitting the words "or on the discharge of any person under section 19 of the Criminal Justice Act 1985 in respect of any such offence". See sections 148 to 160 of that Act for the transitional and savings provisions. See clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

Subsection (3) was substituted, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9) See sections 148 to 160 of that Act for the transitional and savings provisions. See clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

18H Provisions relating to forfeit property

- (1) In this section, unless the context otherwise requires,—

Forfeit property means any—

(a) Marine life and any proceeds from the sale of marine life; or

(b) Property—

forfeit to the Crown under section 18G of this Act

Interest means a legal or equitable interest in that forfeit property that existed at the time of the forfeiture; but does not include any interest (including ownership) in any foreign vessel or foreign-owned New Zealand fishing vessel or a foreign-operated fish carrier.

- (2) The Director-General shall, within 10 working days after the date of any forfeiture under section 255 of this Act, publicly notify the details of the forfeit property and the rights of persons to apply under this section.
- (3) Any person claiming an interest in any forfeit property may, within 35 working days after the date of the forfeiture, apply to a District Court for relief from the effect of forfeiture on that interest.
- (4) Every application under subsection (2) of this section shall contain sufficient information to identify the interest and the property in which it is claimed, and shall include—
 - (a) A full description of the forfeit property in which the interest is claimed, including reference to any registration or serial number; and
 - (b) Full details of the interest or interests claimed, including,—
 - (i) Whether the interest is legal or equitable; and
 - (ii) Whether the interest is by way of security or otherwise; and
 - (iii) If the interest is by way of security, details of the security arrangement and any other property included in that arrangement; and
 - (iv) Whether the interest is noted on any register maintained pursuant to statute; and
 - (v) Any other interests in the property known to the applicant; and
 - (c) The applicant's estimate of the value of the forfeit property and of the value of the claimed interest.
- (5) The Court shall hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so.
- (6) The Court shall, in respect of every application made under subsection (3) of this section,—
 - (a) Determine the value of the forfeit property, being the amount the property would realise if sold at public auction in New Zealand;
 - (b) Determine the nature, extent, and, if possible, the value of any applicant's interest in the property:

- (c) Determine the cost to the Department of the prosecution of the offence which resulted in the forfeiture, and the seizure, holding, and anticipated cost of disposal of the forfeit property, including the Court proceedings in respect of that seizure, holding, and disposal.
- (7) Having determined the matters specified in subsection (6) of this section, the Court may, after having regard to—
- (a) The purpose of this Act; and
 - (b) The effect of the offence from which the forfeiture arose on the marine reserve; and
 - (c) The effect of the offence from which the forfeiture arose on persons who use the marine reserve; and
 - (d) The effect of offending of the type from which the forfeiture arose on the marine reserve; and
 - (e) The effect of offending of the type from which the forfeiture arose on persons who use the marine reserve; and
 - (f) The social and economic effects on the person who owned the property, and on persons employed by that person, of non-release of the property or quota; and
 - (g) The previous offending history (if any) of the persons from whose convictions the forfeiture arose; and
 - (h) The economic benefits that accrued or might have accrued to the owners of the property through the commission of the offence; and
 - (i) The prevalence of offending of the type from which the forfeiture arose; and
 - (j) The cost to the Department of the prosecution of the offence which resulted in the forfeiture, and the seizure, holding, and anticipated cost of disposal of the property, including the Court proceedings in respect of that seizure, holding, and disposal; and
 - (k) Such other matters as the Court thinks relevant,—
- and, subject to subsections (8) and (9) of this section, make an order or orders providing relief (either in whole or part) from the effect of forfeiture on any of the interests determined under subsection (6) of this section.
- (8) No order shall be made under subsection (7) of this section, unless it is necessary to avoid manifest injustice.

- (9) If the owner of the forfeit property was the person convicted of the offence in respect of which the property was forfeit, no order made under subsection (7) of this section in respect of that forfeit property shall have effect to the extent that it, together with any other order made under that subsection in respect of the same forfeit property, has the effect of allowing less than 40 percent of the value of the forfeit property to remain forfeit to the Crown.
- (10) Subsection (9) of this section does not prevent the return of up to 100 percent of the value of any forfeit property to any owner of property other than the person convicted of the offence in respect of which the property was forfeit.
- (11) Without limiting subsection (7) of this section, any order under that subsection may order one or more of the following:
 - (a) The retention of the forfeit property by the Crown:
 - (b) The return of some or all of the forfeit property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:
 - (c) The sale of some or all of the forfeit property, with directions as to the manner of sale and dispersal of proceeds:
 - (d) The delivery of some or all of the forfeit property to a person with an interest in the property, with or without directions as to payment of a sum of money to specified persons (including the Crown) prior to such delivery:
 - (e) The reinstatement (notwithstanding the forfeiture) of any interest that was forfeit or cancelled as a result of a forfeiture.
- (12) This section does not require the Crown to pay, or secure the payment of, any sum of money to any person claiming an interest in forfeit property, other than the net proceeds of sale of forfeit property under a court order made under subsection (7) of this section.
- (13) For the purpose of assisting the Court in determining any application for relief, the Director-General and any employee or agent of the Ministry is entitled to appear before the Court and be heard.
- (14) Any forfeiture under section 18G of this Act, or any payment of a sum of money or delivery of property under subsection (7) of this section, to persons claiming an interest, shall be in

addition to, and not in substitution for, any other penalty that may be imposed by the Court or by this Act.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18I Offences

- (1) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$250,000, or to both, who, without lawful authority or reasonable excuse, takes or removes from a marine reserve for commercial purposes any marine life.
- (2) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$50,000, or to both, who, without lawful authority or reasonable excuse, discharges or causes to be discharged or deposits, whether directly or indirectly, in or into a marine reserve any toxic substance or pollutant or other substance or article of any kind injurious to marine life.
- (3) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$10,000, or to both, who, without lawful authority or reasonable excuse,—
 - (a) Introduces in or into a marine reserve any living organism; or
 - (b) Wilfully damages or wilfully injures any marine life, or wilfully damages the foreshore or seabed, or any of the natural features in a marine reserve; or
 - (c) Uses in a marine reserve any explosive; or
 - (d) Takes or removes from a marine reserve any marine life, mineral, sand, shingle, or other natural material or thing of any kind.
- (4) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000, or to both, who, without lawful authority or reasonable excuse,—
 - (a) Discharges any firearm in or into a marine reserve; or
 - (b) Erects any structure in or over a marine reserve; or

- (c) Wilfully interferes with or wilfully disturbs in a marine reserve any marine life, foreshore or seabed, or any of the natural features.
- (5) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$2,500, or to both, who, without lawful authority or reasonable excuse,—
- (a) Deposits or throws in or into a marine reserve any rubbish, except in a place or receptacle approved and provided by the Director-General; or
 - (b) Uses, sells, or otherwise disposes of, or is in possession of, any marine life, mineral, gravel, sand, or other substance or thing whatever knowing the same to have been removed unlawfully from a reserve; or
 - (c) Fails to comply with any requirement of a ranger under section 18(1) of this Act; or
 - (d) After being required under section 18(1)(b) of this Act to give his or her name and residential address or to produce evidence of any of those particulars,—
 - (i) Gives an untrue or fictitious name or address, or gives such a general description of his or her place of abode as is illusory for the purposes of discovery; or
 - (ii) Gives false evidence of his or her full name and address; or
 - (e) Impersonates or falsely pretends to be a ranger; or
 - (f) Obstructs, threatens, or attempts to intimidate a ranger, or uses language that is abusive or threatening to a ranger, or behaves in a manner threatening to a ranger, while the ranger is acting in the exercise of his or her powers or the discharge of his or her duties under this Act; or
 - (g) Gives, or agrees to give, or offers to any such ranger any gift or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown, by that ranger, or being a ranger accepts or agrees to accept or solicits any such gift or consideration.

- (6) A person shall be deemed to have taken or removed marine life for commercial purposes if he or she is found in possession of an amount exceeding 3 times the amateur individual limit (if any) prescribed in respect of that marine life in regulations made under the Fisheries Act 1996.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

18J Additional penalty for removing substance from or damaging reserve

- (1) Any person convicted of an offence against section 18I of this Act shall, in addition to any penalty for which the person may be liable under this Act, pay to the Department the full market value of any substance removed from, or for the damage done to, the reserve or to any marine life growing or being in the reserve.
- (2) The value or damage or cost shall be assessed by a District Court Judge, and shall be recoverable in the same manner as a fine.

Sections 18A to 18J were inserted, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

19 Offences within a reserve

[Repealed]

Subsection (1) was amended, as from 13 January 1981, by section 3 Marine Reserves Amendment Act 1980 (1980 No 121) by inserting the words “by an Order in Council section 3(3) of this Act or”. It was further amended, as from 10 April 1990, by section 56(1)(a) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “Director-General” for the words “management committee for that reserve”.

Subsection (1)(j) was amended, as from 10 April 1990, by section 56(1)(b) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “Director-General” for the words “management committee”.

Subsection (3) was amended, as from 10 April 1990, by section 56(1)(b) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “Director-General” for the words “management committee”.

Subsections (6) and (7) were amended, as from 10 April 1990, by section 56(1)(b) Conservation Law Reform Act 1990 (1990 No 31) by substituting the words “Director-General” for the words “management committee”.

Subsection (8) was substituted, as from 10 April 1990, by section 56(2) Conservation Law Reform Act 1990 (1990 No 31).

The words “District Court Judge” were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18(2) District Courts Amendment Act 1979 (1979 No 125).

Section 19 was repealed, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

20 Time within which information may be laid

Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against this Act or any regulation made under this Act may be laid at any time within one year from the time when the matter of the information arose.

Section 20 was amended, as from 10 April 1990, by section 57 Conservation Law Reform Act 1990 (1990 No 31) by omitting the words “or bylaw”.

21 Penalties

[Repealed]

Section 21 was repealed, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88). *See* clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

22 Boundaries of marine reserves to be marked

- (1) Subject to subsection (2) of this section, the Director-General may cause to be marked and at all times to be kept marked, by means of such beacons, lights, buoys, or marks as the Director-General considers may be necessary, the boundaries of the marine reserve.
- (2) The Director-General shall act under this section only with the concurrence of the Secretary for Transport.

Section 22 second proviso was inserted section 6(1) Ministry of Agriculture and Fisheries Amendment Act 1972.

Section 22 second proviso was omitted, as from 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 22 was substituted, as from 10 April 1990, by section 58 Conservation Law Reform Act 1990 (1990 No 31).

23 Rights of access and navigation

- (1) Subject to any regulations made under this Act, any right of access to or upon any foreshore or part of the foreshore comprised in any marine reserve or any right of navigation

(other than anchorage) through or across any water at any material time comprised in any marine reserve shall remain unaffected.

- (2) Notwithstanding anything in this Act, or in any regulations made under this Act, in time of stress or emergency any vessel may anchor within a marine reserve and such measures may be taken by any person to avoid loss of human life or of property or injury to human life or to property as in the circumstances shall be expedient.

Subsection (1) was amended, as from 10 April 1990, by section 59(a) Conservation Law Reform Act 1990 (1990 No 31) by substituting the word “regulations” for the word “bylaw”.

Subsection (2) was amended, as from 10 April 1990, by section 59(b) Conservation Law Reform Act 1990 (1990 No 31) by omitting the words “or bylaws”.

24 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make, either generally or with respect to any specified marine reserve, all such regulations as are necessary for the due administration of, and for giving full effect to, the provisions of this Act.
- (2) Without limiting the generality of subsection (1) of this section, any such regulations may—
- (a) Provide for the management, safety, and preservation of reserves, the conduct and control of scientific study within reserves, and the safety and preservation of the marine life in reserves:
 - (b) Provide for the keeping of order in any reserve:
 - (c) Authorise the Director-General to exclude the public from any specified part or parts of any reserve:
 - (d) Prescribe the conditions on which persons shall have access to or be excluded from any reserve or part of any reserve:
 - (e) Prescribe the conditions on which persons may remain within any reserve:
 - (f) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amount of the fines that may be imposed on summary conviction in respect of any such

offences, which fines shall be an amount not exceeding \$2,500.

Subsection (2) was inserted, as from 10 April 1990, by section 60 Conservation Law Reform Act 1990 (1990 No 31).

Subsection (2)(f) was amended, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88) by substituting the expression "\$2,500" for the expression "\$200". See clause 2 Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

25 Consequential amendment

[Repealed]

Section 25 was repealed, as from 1 October 1975, by section 9 Petroleum Amendment Act 1975 (1975 No 43).

Contents

- 1 General
 - 2 About this eprint
 - 3 List of amendments incorporated in this eprint (most recent first)
-

Notes

1 *General*

This is an eprint of the Marine Reserves Act 1971. It incorporates all the amendments to the Act as at 1 November 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (2008 No 30): section 37
