



Cabinet Legislation Committee

Summary

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Conservation Infringement Offences Regulations

Portfolio	Conservation
Purpose	<p>This paper seeks authorisation for the submission to the Executive Council of the:</p> <ul style="list-style-type: none"> • Conservation (Infringement Offences) Regulations 2019; • Conservation (Infringement Offences in Regulations) Amendment Regulations 2019; • National Parks (Infringement Offences) Regulations 2019; • Reserves (Infringement Offences) Regulations 2019; • Wild Animal Control (Infringement Offences) Regulations 2019.
Previous Consideration	<p>In 2016, the previous government made a number of policy decisions relating to an infringement system for less serious conservation offending and noted that the amendments would be given effect through the Conservation (Infringement System) Bill [EGI-16-MIN-0058].</p>
Summary	<p>The Regulations give effect to the above decisions.</p> <p>The Regulations provide infringement fees for less serious conservation offences but create no new offences. The Regulations set fees for new infringement offences now in the conservation legislation, and make most existing offences in conservation regulations to be infringement offences and set their fees. The Conservation (Infringement System) Act 2018 allows the infringement system to be used only by:</p> <ul style="list-style-type: none"> • DOC for offences in all eight conservation statutes; • local authorities for offences in relation to reserves they administer; and • fish and game councils in relation to their sports fish and game bird functions, but only if the Minister of Conservation has approved a national fish and game compliance and law enforcement policy which includes provisions relating to infringements, and in accordance with some specific restrictions set out in the Conservation Act. <p>Offences where any breach of the law would have a major effect on conservation values, safety, or be contrary to the administration of justice, are excluded from the infringement system.</p>

Regulatory Impact Analysis	A Regulatory Impact Assessment was prepared at the policy approval stage.
Compliance	Parliamentary Council certified the Regulations on 9 December 2019 except for the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 which are in draft form.
Timing Issues	All of the Regulations are proposed to come into force on 3 February 2020.
Announcement	There are already mechanisms in place that provide advice to the public on the rules that apply in regard to conservation areas and wildlife, including signage within protected areas, information on the website in relation to great walks camping, and publicity relating to wildlife and marine mammals.
Proactive Release	The attached paper will be proactively released.
Consultation	<p>Paper prepared by DoC. MoJ was consulted.</p> <p>The Minister of Conservation indicates that the Prime Minister, the Deputy Prime Minister, the Minister of Finance, the Deputy Leader of the House, the Associate Minister of Transport (Hon Julie Anne Genter), the Minister for Biosecurity, the Minister for the Environment, the Minister of Fisheries, the Minister of Internal Affairs, the Minister of Justice and the Minister of State Services were consulted.</p> <p>The Minister also indicates that New Zealand First and the Green Party and the Labour Party were consulted.</p>

The Minister of Conservation recommends that the Committee:

- 1 note that on 6 April 2016, the previous government approved the introduction of an infringement system for less serious conservation offences subject to specified criteria [EGI-16-MIN-0058];
- 2 note that on 21 December 2018, the Conservation (Infringement System) Act 2018 (2018/61) came into force and included the regulation-making power necessary to make the regulations referred to in paragraph 7 below;
- 3 note that the proposed regulations will:
 - 3.1 prescribe infringement offences for the contravention of regulations made under the Conservation Act 1987, Marine Mammals Protection Act 1978, Marine Reserves Act 1971, National Parks Act 1980, Reserves Act 1977, Trade in Endangered Species Act 1989, Wild Animal Control Act 1977, and Wildlife Act 1953;

- 3.2 prescribe penalties for infringement offences, which,—
- 3.2.1 in the case of infringement fees, must not be more than \$1,000; and
 - 3.2.2 in the case of maximum fines, must not be more than twice the amount of the infringement fee for the offence;
- 3.3 prescribe information to be included in infringement notices and reminder notices;
- 4 note that the five sets of regulations will give effect to the decision referred to in paragraph 1 above, as adjusted by policy decisions made during Parliamentary consideration of the Act referred to in paragraph 2 above;
- 5 note that the legislation as enacted made it possible for fish and game councils to use an infringement system if certain conditions were met, which the Bill as introduced did not;
- 6 note that the infringement system cannot be implemented until regulations have been made to set infringement fee levels, and to create infringement offences where the existing offences sit in regulations or bylaws rather than in primary legislation;
- 7 authorise the submission to the Executive Council of the:
- 7.1 Conservation (Infringement Offences) Regulations 2019 [PCO 21972/10.0];
 - 7.2 Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 [PCO 21973], subject to the final version being confirmed by Cabinet;
 - 7.3 National Parks (Infringement Offences) Regulations 2019 [PCO 22100/8.0];
 - 7.4 Reserves (Infringement Offences) Regulations 2019 [PCO 22101/9.0];
 - 7.5 Wild Animal Control (Infringement Offences) Regulations 2019 [22102/8.0];
- 8 note that the regulations will come into force on 3 February 2020.

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Committee Secretary

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