

The Conservation (Natural Heritage Protection) Act 2013 Comes into Force

In August we reported on progress of the Conservation (Natural Heritage Protection) Bill through parliament. The Bill has now been passed into law. The Conservation (Natural Heritage Protection) Act 2013 came into force on 25 October. It amends six of the main Acts administered by the Department of Conservation, namely the Conservation Act 1987, National Parks Act 1980, Reserves Act 1977, Wildlife Act 1953, Wild Animal Control Act 1977 and, as a result of public submission on the Bill, also the Marine Mammals Protection Act 1978 (and associated bylaws and regulations).

As stated by Minister Jacqui Deans, who brought forward the changes as a member's bill, "the Act seeks to better safeguard New Zealand's protected native wildlife, public conservation lands, and other natural and historic resources. To do so, the changes seek to create effective deterrent against conservation-related offending, with a clearly formulated and consistent penalty framework that is in line with the modern era."

The Act provides for increased penalties for illegal activities:

- Penalties for offending motivated by commercial gain or reward – for individuals: a term of imprisonment not exceeding five years or a fine not exceeding \$300,000, or both; for bodies corporate: a fine not exceeding \$300,000; and for a continuing offence: a further fine not exceeding \$20,000 per day.
- Penalties for offending that is not motivated by commercial gain or reward – for individuals: a term of imprisonment not exceeding 2 years or a fine not exceeding \$100,000, or both, for bodies corporate: a fine not exceeding \$200,000; and for a continuing offence: a further fine not exceeding \$10,000 per day. As an example, offending under the Conservation Act includes carrying out an activity in a conservation area without a concession, resisting or obstructing an officer or ranger, taking a plant from a conservation area, disposing of a contaminant into or onto any conservation area.
- Penalties for offending where a specific penalty is not prescribed - for individuals: a term of imprisonment not exceeding 1 year or a fine not exceeding \$100,000, or both, for bodies corporate: a fine not exceeding \$200,000; and for a continuing offence: a further fine not exceeding \$10,000 per day.
- Penalties for breaches of regulations and bylaws made under the six Acts are increased to a maximum of \$5,000, or \$10,000 in some specific cases (for example, breaching a bylaw under the National Parks Act which prohibits any aircraft from hovering over or landing on any part of a national park); and for a continuing offence: a further fine not exceeding \$500 per day.

The sentencing Court will determine whether it is satisfied beyond reasonable doubt that the offence was committed for commercial gain or reward (whether or not any gain or reward was realised).

The increased penalties should help to protect the interests of legitimate tourism operators within conservation areas and national parks, and help to ensure that they are not undermined by those acting without proper authority. The increased penalties should also serve to meaningfully deter and punish offending, for example to deter smugglers from stealing New Zealand's precious plants and creatures. Overall, it is hoped that the changes arising from the Act will better protect our natural heritage.