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Tonga

# **BIRDS AND FISH PRESERVATION ACT**

**1988 Revised Edition**





## BIRDS AND FISH PRESERVATION ACT

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## BIRDS AND FISH PRESERVATION ACT

*Acts Nos. 1 of 1915, 13 of 1916, 13 of 1934, 24 of 1974,  
21 of 1988, 46 of 1988*

### AN ACT TO MAKE PROVISION FOR THE PRESERVATION OF WILD BIRDS AND FISH

Commencement [20th November, 1915]

## PART I.—PROTECTION OF BIRDS AND FISH

### 1 Short title.

This Act may be cited as The Birds and Fish Preservation Act.

### 2 Definition.

In this Act —

“**protected area**” means any area comprising land, or water, or land and water, as is specified in the Third Schedule hereto; (*Inserted by Act 24 of 1974.*)

“**protected bird**” includes all such birds whether imported into or indigenous to the Kingdom and the eggs and progeny of any such birds as are mentioned in Schedule I hereto;

“**protected fish**” includes all such species of fish or turtle and the spawn and progeny of any such fish or turtle as are mentioned in Schedule II hereto.

### **3 Penalty for taking protected bird or fish.**

Any person who shall wilfully kill, shoot, capture, take or destroy any protected bird or fish at any time within the period set opposite their respective names in the said First and Second Schedules or shall use any means whatever within the said respective periods for the purpose of killing, shooting, capturing, taking or destroying any protected bird or fish shall be liable for every such offence to a penalty not exceeding \$20 or in default of payment to imprisonment with hard labour for a period not exceeding 2 months:

Provided always that the Minister of Agriculture, Forests and Fisheries may at any time with the consent of the Cabinet permit any person to collect specimens subject to such conditions as he may impose of any or all protected birds or fishes. (*Amended by Acts 24 of 1974, 21 of 1988 and 46 of 1988.*)

### **4 Power to amend the Schedules.**

The Prime Minister may by Order with the consent of the Privy Council amend the First or the Second Schedule. (*Substituted by Act 21 of 1988.*)

### **5 Offences under Part I.**

If any person within the periods mentioned in the said First and Second Schedules shall catch or buy or sell or offer or expose for sale or knowingly have in his possession or under his control any protected bird or fish he shall be liable to a fine not exceeding \$50 and in default of payment to imprisonment for a period not exceeding 6 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 forfeited to the Crown and shall be disposed of in such manner as the Prime Minister thinks fit. (*Amended by Acts 24 of 1974 and 21 of 1988.*)

## **PART II.—PROTECTED AREAS**

### **6 Protected areas.**

The area specified in the Third Schedule to this Act is hereby declared to be a protected area; and the Prime Minister may by Order with the consent of Privy Council amend the Third Schedule. (*Amended by Act 21 of 1988.*)

**7 Prohibitions within protected areas.**

- (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 \$500 or to imprisonment for a period not exceeding 6 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 forfeited to the Crown and shall be disposed of in such manner as the Prime Minister thinks fit. (*Inserted by Act 24 of 1974 and Amended by Act 21 of 1988.*)

**PART III.—GENERAL****8 Power of police officers and fisheries officers.**

- (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 or in his possession or control, 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. (*Amended by Act 21 of 1988.*)
- (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. (*Inserted by Act 24 of 1974.*)

## FIRST SCHEDULE

## PROTECTED BIRDS

(Act No. 13 of 1934, G. 118/31, 29/33)

Local Name	English Name	Scientific Name	Period for which protected
1. Pekepeka	Edible Swiftlet	<i>Collocalia francica</i> (Gmel.)	1st January to 31st December
2. Fuleheu	Land Bird	—	
3. Henga	Samoa blue Lory	<i>Vini Australis</i> (Gmel.)	
4. Kaka	Parrot (peculiar to 'Eua)	—	
5. Kaleva	Small Land Bird	<i>Ptilopus</i>	
6. Kulukulu	Purple crowned Dove	<i>porphyraceus</i> (Forster)	
7. Malau	Megapod	—	1st May to 31st January
8. Misi	Savage Island Starling	<i>Aplonis Tabuensis</i> (Gmel.)	
9. Moho	Tongan Rail	<i>Porzana Tabuensis</i>	
10. Tu	Land Bird	-	
11. Lupe	Wild Pigeon	-	

## SECOND SCHEDULE

## PROTECTED FISH AND TURTLE

*(Replaced by Act 24 of 1974.)*

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

**THIRD SCHEDULE****PROTECTED AREA**

*(Inserted by Act 24 of 1974)*

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.