Version
as at 28 October 2021

Native Plants Protection Act 1934

Public Act	1934 No 15
Date of assent	23 October 1934
Commencement	see section 1

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An Act to provide for the protection of native plants

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Department of Conservation.

1 Short Title

This Act may be cited as the Native Plants Protection Act 1934, and shall come into operation on 1 January 1935.

2 Interpretation

In this Act, unless inconsistent with the context,—

Crown land includes all land vested in the Sovereign which is not for the time being held under lease or licence, or which has not been set apart in any manner for a public purpose, and also includes customary land as defined by the Maori Land Act 1931

Minister means the Minister for the time being charged with the administration of this Act

native plant means any plant which is indigenous to New Zealand, and includes any part thereof except ripe fruit, ripe seed and spores

private land includes all land other than Crown land or land comprised in any State forest land or public reserve

protected native plant means any native plant for the time being declared pursuant to this Act to be a native plant protected under this Act

public reserve includes any land which is not for the time being held under lease or licence, and is subject to the provisions of the Public Reserves, Domains, and National Parks Act 1928, the Tourist and Health Resorts Control Act 1908, the Scenery Preservation Act 1908, the Tongariro National Park Act 1922, the Egmont National Park Act 1924, or the Peel Forest Act 1926, and also includes all lands reserved from sale or other disposition by virtue of section 129 of the Land Act 1924, and any other land which may be declared by the Governor-General by Proclamation to be a public reserve for the purposes of this Act

State forest land includes all land comprised in permanent State forest land or provisional State forest land under the Forests Act 1949 which is not for the time being held under lease or licence

to take, in relation to a protected native plant includes gathering, plucking, cutting, pulling up, destroying, digging up, removing, or injuring the native plant.

Section 2 **Crown land**: editorial change made by the PCO, on 7 August 2024, under sections 86(1) and 87(a) of the Legislation Act 2019 (2019 No 58).

Section 2 **Crown land**: amended, on 27 November 1947, pursuant to section 4(1) of the Maori Purposes Act 1947 (1947 No 59).

Section 2 **private land**: amended, on 1 January 1950, pursuant to section 18(5) of the Forests Act 1949 (1949 No 19).

Section 2 **State forest land**: amended, on 1 January 1950, pursuant to section 18(5) of the Forests Act 1949 (1949 No 19).

Section 2 **State forest land**: amended, on 1 January 1950, pursuant to section 73(1) of the Forests Act 1949 (1949 No 19).

3 Native plants may be protected

(1) The Governor-General may by Warrant under his hand declare any native plant specified in such Warrant to be protected under this Act.

(2) Such protection may apply throughout the whole of New Zealand or in such part or parts only as may be specified in the Warrant, and may be subject to such conditions (if any) as the Governor-General may think fit.

(3) Any such Warrant may at any time be in like manner amended or revoked.

(4) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a Warrant under this section; and

(b) an amendment to or revocation of a Warrant under this section.

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 3(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4 Offence to take protected native plant

(1) Subject to the provisions of this Act, every person commits an offence who takes any protected native plant that is growing on any Crown land, or in any State forest land or public reserve, or on any road or street, or who, without the consent of the owner or occupier of any private land, takes any protected native plant that is growing thereon.

(2) Nothing in the foregoing provisions of this section shall apply to the taking, in reasonable quantities, of any protected native plants required or intended for medicinal purposes or for purposes of bona fide scientific research or nature study in schools or elsewhere or for propagation in private or school gardens:

provided that nothing herein shall be deemed to authorise the taking of any protected native plant in such a manner as to deplete the species of that plant in any one habitat.

Section 4(1): amended, on 1 January 1950, pursuant to section 18(5) of the Forests Act 1949 (1949 No 19).

5 Possession of protected native plant prima facie evidence of offence

In any prosecution for an offence under the last preceding section, proof that a protected native plant was found in the possession of the defendant shall be prima facie evidence that he has committed an offence against that section, and the onus of proof to the contrary shall be upon him.

6 Power to give authority to take protected native plant

(1) The Minister may, subject to any limitation as to locality and to any other conditions he thinks proper, issue permits authorising the holders thereof to take the protected native plants specified therein for scientific purposes, or for any other purpose approved by the Minister.

(2) The Minister may, subject to such conditions as he thinks proper, delegate any of the powers conferred on him by this section to any other person or authority.

7 Refusal by person suspected of offence against this Act to give name and address to authorised person

Every person commits an offence against this Act who, being reasonably suspected of having committed an offence against section 4, refuses to give his name and address, or gives a false name or address, or refuses to deliver up any protected native plant found in his possession, to any constable, or to any officer of the Crown whom the Minister may authorise in that behalf by notification in the *Gazette*, or to any officer of any local authority, Board, or trustees having control of any public reserve, or (where such person is found on any private land on which the offence is suspected to have been committed) to the owner, lessee, or licensee of that private land.

Section 7: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

8 Penalties

Every person who commits an offence against this Act is liable on conviction for the first offence to a fine of 5 pounds, for the second offence to a fine of 10 pounds, and for every subsequent offence to a fine of 20 pounds.

Section 8: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

9 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations—

(a) prescribing the forms required under this Act:

(b) prescribing any other matters for which regulations are contemplated or required by this Act or which he deems necessary for the efficient administration thereof.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 9(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

10 Other Acts not affected

Nothing in this Act shall be construed to limit the provisions of the Scenery Preservation Act 1908, or of the Forests Act 1921–22, or of the Public Reserves, Domains, and National Parks Act 1928, or of any other Act.

Notes

1 General

This is a consolidation of the Native Plants Protection Act 1934 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Secondary Legislation Act 2021 (2021 No 7): section 3

Criminal Procedure Act 2011 (2011 No 81): section 413

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Forests Act 1949 (1949 No 19): sections 18(5), 73(1)

Maori Purposes Act 1947 (1947 No 59): section 4(1)

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