

Ministry of Agriculture and Fisheries

The legal aspects of deer capture in New Zealand are contained in eight acts and regulations and are summarised below. The acts are:

Misuse of Drugs Act 1975
Misuse of Drugs Regulations 1977
Poisons Act 1960
Poisons Regulations 1964
Wild Animal Control Act 1977
Civil Aviation Regulations 1953
Animals Protection Act 1960
The Game Regulations 1975

Definition of controlled drug

Controlled drugs are those specified or described in the first, second or third schedule to this Act. Fentanyl is included in the second schedule part 3.

The limitations applicable to dealing with, possessing and using controlled drugs are described in sections 6 and 7 of the Act.

Exemptions (Section 8): This lists the exemptions to the restrictions listed in sections 6 and 7 and includes the following:

- Veterinarians may prescribe controlled drugs for animals under their care.
- A controlled drug may be administered by the veterinarian or the person having care of the animal for which the drug was prescribed.

A person permitted or licensed to possess a controlled drug may obtain it from a person lawfully entitled to supply it, and may use it in the manner and for the purpose expressed in the licence.

Theft of controlled drugs (Section 11): A person who steals, or procures by fraud or false pretences a controlled drug, commits an offence; and is liable, on conviction, to imprisonment for up to 7 years.

Use of premises or vehicle (Section 12): A person knowingly permitting premises or a vehicle to be used in commission of an offence, himself commits an offence.

Licences (Section 14): Licences granted under the Act:

- Shall be in such form and subject to such conditions as may be prescribed, permitted, or imposed; and
- May not be granted to any person who has been convicted of an offence against the Act or any relevant Act.

A person commits an offence if he contravenes or fails to comply with any conditions stated in his licence.

False statements (Section 15): It is an offence:

- To obtain a licence under the Act by making false statements or declarations; or
- To use documents which are not genuine.

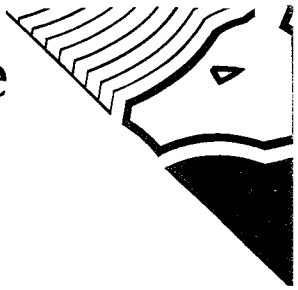
Power to inspect (Section 19): The police, or anyone authorised by the Minister of Health, are empowered to enter premises and inspect records and documents related to controlled drugs, and to measure, inspect, and record stocks.

Power to prohibit prescribing (Section 23): The Minister of Health may prohibit specified persons from prescribing. Penalties for offences are stated.



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Deer Capture Legislation

Misuse of Drugs Regulations 1977

Application for licence (Section 3): A person requiring a licence, applies on a form provided or in writing, to the Director-General of Agriculture and Fisheries, who may require information, by statutory declaration or otherwise, as to the nature of business, extent of use of drugs, and other relevant matters. Such application should be made through the local MAF field veterinarian.

If satisfied as to the propriety of the application, and the character of the applicant, and that there is no conflict with international obligations, the Director-General of Health shall, after a fee of \$10 has been paid, grant a licence to the applicant for the purpose stated in the application and under the conditions laid down by the Director-General of Health.

Particulars of licences will be kept in a register and licences will be in the form set by the Director-General.

Licence to possess controlled drugs (Section 9): A licence may be granted to a person if the Director-General of Health believes that:

- The applicant has no other legal right to possess controlled drugs for the purpose required; and
- The purpose is a proper purpose.

The licence shall specify:

- The clause under which it is granted, and
- The purpose for which it is granted, and
- The controlled drug to which it applies.

It may specify the quantities that may be in possession of the licensee at any one time.

The licence does not give the licensee authority to possess any other controlled drug or any other quantity than that stated in the licence. The licence expires on the date stated in it.

Licence not assignable (Section 10): The licence shall apply only to the person who is named in it and cannot be assigned to another person or persons.

Revocation of licence (Section 11): The Minister of Health may revoke a licence by Gazette Notice:

- If the licensee is convicted of an offence against the Act or the Regulations, or
- If the licensee contravenes the terms of the licence, or
- If the licence has been obtained by error, fraud, or misrepresentation.

If revoked the licence must be returned to the Director-General of Health.

Labelling of containers (Section 25): This deals with the labelling of containers of controlled drugs supplied to a veterinarian; but does not apply to darts filled with Fentaz supplied by a veterinarian to a licence holder.

Custody of controlled drugs (Section 28): Every person possessing a controlled drug that is not required for immediate use shall:

- Keep it in a locked compartment made of metal or concrete of an approved type;
- Ensure that the compartment is part of or securely fixed to the building, boat, aircraft, or vehicle used in deer capture;
- Ensure that the key to the compartment is kept in a safe place.

If the compartment is left unattended then the key shall not be within the building, boat, aircraft or vehicle; and the place where the controlled drug is left shall, by all reasonable steps, be secured against unlawful entry.

Duty to supply information (Section 35): Every practitioner shall answer in writing any questions asked by the Medical Officer of Health about his prescribing, administering or supplying controlled drugs; and about to whom they were prescribed, administered or supplied.

Registers and records (Section 37): A dispensing practitioner shall keep:

- A Controlled Drug Register in the form stated in the First Schedule to these regulations (Fig. 1); and
- A Prescription Book which records the name, initials, and address of the person for whom the prescription is intended; the name and address of the prescriber; the quantity dispensed; and the date dispensed.

Stocktaking (Section 43): Persons required to keep a Controlled Drugs Register shall balance it on 30 June and 31 December each year.

Penalty (Section 52): Every person committing an offence against these regulations is liable to a fine of up to \$500; and, if an offence continues, to a further fine of up to \$20 per day.

Poisons Act 1960

Selling (Section 8): Any person who sells a prescription poison is liable to imprisonment for 6 months or a fine of \$1,000 or both, unless he has a licence or is a veterinary surgeon.

Under Sections 11 2b and 13 a veterinary surgeon may sell any poison in the practice of his profession and for the treatment of an animal under his care.

Custody of poisons (Section 24): It is an offence to have a poison that is not in a container that conforms with the Act. The poison may be kept in the container in which it was received.

Storage of poisons (Section 25): Poisons must not be stored where food or drink is kept. Any person having possession of a prescription poison shall not leave it unsecured.

Restriction on possession and use of prescription and restricted poisons (Section 26): A person must have a reasonable excuse to procure, possess or use a prescription or restricted poison.

A "reasonable excuse" is: if one holds a licence, is a carrier, has had a poison prescribed for an animal under his care, or has had a poison lawfully prescribed for a lawful purpose. The person in possession must prove that his excuse is reasonable.

Poisons Regulations 1964

Selling and dispensing prescription poisons (Section 12): No person shall sell or dispense a prescription poison except on a veterinarian's prescription given for an animal under his care.

Conditions under which veterinarians may prescribe (Section 16): A veterinarian may prescribe in the practice of his profession for the "treatment" of an animal under his care.

Sale of poisons book (Sections 57–62): Every person who sells prescription and/or restricted poisons must keep a record of sale, to whom, and in what quantities. A prescription book or day book may be a sufficient record.

The records are to be kept at the place of business for 3 years from the date of sale.

Wild Animal Control Act 1977

Definitions: Some words used in this Act are defined below.

- Carcass** — part or all of the dead body of any wild animal.
- Commercial** — the hunting, killing, capturing, or holding of any wild animal for personal gain or pecuniary reward.
- Domestic animal** — any cattle, sheep, horse, mule, dog, cat, pig or goat that is not a wild animal.
- Firearm** — any gun, rifle, airgun or air rifle; any device which discharges any shot, bullet, arrow, spear, stone or other missile.
- Hunt or kill** — to hunt, search, kill, trap, capture, have in possession, tranquillise, or immobilise any wild animal; to use any dog, vehicle, vessel, snare, trap, etc; to attempt to capture for export, farming, sale, breeding, etc.
- Keep in captivity** — to enclose, restrain, detain or harbour an animal by any means; to transport in a secure conveyance.
- Poison** — to use, possess or attempt to use any preparation that immobilises, tranquillises or kills a wild animal.

Hunting or killing wild animals (Section 8): Subject to certain provisions any wild animal may be hunted or killed or kept in possession by any person anywhere in New Zealand, but the person must first have the authority of the owner or occupier of the land.

From time to time the Minister of Forests may specify areas where wild animals may not be hunted and areas

Date	Name and address of person supplied	Licence no.	In	Out	Balance	Issued by	Signed by issuer

Fig. 1: Format of Controlled Drug Register (First Schedule)

where recreational or guided hunting or wild animal recovery may take place.

The Minister may:

- Set times during which and purposes for which specified areas may be hunted;
- Specify rights for a person to enter, remain on or use areas for hunting, killing or capturing wild animals.

Ownership of wild animals (Section 9): All wild animals shall be the property of the Crown until lawfully taken or killed or held.

The presence of any wild animal on any land does not confer any ownership right on the owner or occupier of the land unless the animal is captured or held under a valid permit or is killed by the occupier or owner, or by consent of the occupier or owner.

The taking or killing of any wild animal is unlawful if taken:

- On land without the owner's permission; or
- By any unlawful means; or
- By committing an offence against the Trespass Act, the Civil Aviation Act or the Air Services Licensing Act; or
- By discharging a firearm over any land without the occupier's permission.

Where a carcass is to be sold it is an offence to sell it or deliver it without the ears attached.

Keeping wild animals in captivity (Section 12): No person shall keep a wild animal for farming or in a zoo unless he has the required permit or licence. The Director-General of Forests may issue a licence to capture, hold, or convey a wild animal; but this may be revoked if the licence holder fails to comply with any of the provisions of the Act.

Any Forest Officer may enter, at any reasonable time, any land or premises to find out if any animal is being kept outside the conditions of any permit; but may not enter a dwellinghouse without a magistrate's warrant.

If a wild animal lawfully held under permit escapes, it again becomes a wild animal and may be hunted.

Power to issue permits to enter Crown land for wild animal recovery (Section 21): The Director-General of Forests has exclusive authority to issue permits to enter Crown-owned land, National Parks, and Maritime Parks and to use aircraft for hunting and recovery in these areas.

He has the authority to refuse, vary, or revoke a permit.

His authority extends to transporting hunters in and out of hunting areas and transporting out live wild animals or carcasses by aircraft.

If the Director-General refuses to grant a permit or revokes one, the applicant may appeal to the Minister of

Forests whose decision is final. The permits are not transferable and must be carried on the aircraft at all times. These permits must stipulate:

- The make, model, registration number, and identification of the aircraft;
- The full name and address of the pilot of the aircraft;
- The full names and addresses of the hunters who work with the pilot;
- The number, date of issue and expiry, and conditions and localities covered by the licence;
- The licence held by the pilot – commercial or higher;
- The name and address of the employer of the pilot and the owner of the aircraft;
- The name and address of the game packing house to be used;

- A description of the area covered by permit and any prohibited areas.

It is an offence to recover any wild animal from any area without a permit issued under this section of the Act.

Licensing of operators for wild animal recovery (Section 24): The Director-General of Forests may issue a licence to operate a wild animal recovery service on any land; but if he refuses an application the applicant may appeal to the Minister of Forests giving the grounds of his appeal. The Minister may consult any appeal authority or set up an authority whose decision is final.

Under Section 25 any holder of a permit entering Crown-owned land or other land must obtain the written approval of the owner or occupier before using an aerodrome, accommodation, road, etc.

Civil Aviation Regulations 1953

Regulation 18: Failure to comply with a Civil Aviation Safety Order is an offence.

Regulation 31a Carriage of firearms (Section 6): Subject to the provisions and regulations of the Arms Act 1958 and under any conditions that the Director of Civil Aviation may prescribe; a person may carry in, or discharge in or from a helicopter, a loaded firearm or tranquilliser gun so as to shoot or immobilise wild animals provided that the person complies with the conditions below.

To carry out an aerial search for, or to shoot, immobilise, or recover a wild animal, an operator must obtain prior written approval from either the:

- Statutory board, Government department, or other public body controlling or administering the place over which the operations are to be carried out, or the
- Public body administering the Noxious Animals Act 1956 in that place, or the
- Occupier or owner of that place, if there is no such controlling or administering authority.

Such approval must be in possession of the operator and be seen by the pilot in command and the shooter or crew before the flight begins.

The operation is not an air transport operation within the meaning of the regulations.

The operator and pilot in command shall ensure that, whether the helicopter is on the ground or in the air, firearms being carried in it are unloaded, magazines removed, and tranquilliser guns unloaded of both darts and the means of propellant, except when the helicopter is flying over the area where shooting is authorised to take place.

The operator shall be satisfied, and the pilot in command shall ensure that the discharge of firearms or tranquilliser guns from the helicopter will not injure people or damage property. If such injury or damage occurs, it shall be sufficient proof of non-compliance with this safety order.

The operator and pilot in command shall ensure there is a seat provided with an approved safety harness for each person in the helicopter.

The operator shall obtain prior approval of the Director of Civil Aviation if the flight is to be carried out at an altitude lower than the minimum safe heights specified in Regulation 38.

The pilot in command shall ensure that:

- All shooting is carried out at an angle of at least 30° below the plane of rotation of the main helicopter rotors;
- The operation creates no danger to the helicopter, to people in it, or to people on the ground.

Animals Protection Act 1960

Definitions (Section 2): Some words used in this Act are defined below.

Aggravated cruelty —	cruelty which results in the death, or disablement of an animal, necessitating its destruction to terminate its suffering.
Animal —	any species which depends on man for its care and sustenance or is kept in a state of captivity. The Minister of Agriculture may extend this meaning to other species.
Cruelty —	the wilful infliction of pain which is unreasonable or unnecessary upon an animal.
Ill-treat —	to wound, maim, terrify, overdrive or cause distress.

Offences of cruelty (Section 3): A person commits an offence of cruelty if he:

- Being in charge of an animal, wilfully causes it distress;
 - Slaughters, brands, confines, or carries any animal in such a way as to cause it unnecessary pain or suffering;
 - Keeps alive any animal which is in such a condition that it is cruel to keep it alive;
 - Being in charge of or the owner of any animal, wilfully abandons it;
 - Aids or abets any other persons to do anything which causes unnecessary suffering.
- Conviction gives rise to up to 2 years imprisonment.

Offences relating to traps and similar contrivances (Section 6): Any person who causes to be set or sets a trap to catch animals shall inspect it once in 24 hours, and remove at the time of inspection any living creature found trapped.

Transport of animals (Section 7): Persons in charge of vehicles, boats, or aircraft in which animals are being transported shall ensure the animals are reasonably comfortable and secure, and provide their food and water needs.

Appointment of inspectors (Section 9): The Minister of Agriculture may appoint any suitable person as an inspector; and all policemen are given the powers of an inspector.

Powers of inspectors (Section 10): An inspector may enter any vehicle, boat, aircraft, land, or premises (except a dwellinghouse) by force if necessary, if he is satisfied that an offence is or has been committed against an animal; but he must produce his warrant of appointment on request. A Justice may, on suitable evidence, issue a warrant to enter a dwellinghouse.

An inspector may take any necessary steps to alleviate the suffering of a confined animal including supplying food and water.

Power to disqualify (Section 16): Where a person is convicted of an offence under this Act the court may disqualify him from having custody of any animal.

The Game Regulations 1975

Definitions (Section 2): Some words used in this Act are defined below.

Game —	the killed body of deer, chamois, thar, hare, or unfarmed pig and goat, which is fit for human consumption.
Game depot —	an approved place for holding killed game before delivery to a game packing or inspection house.

Killed game —

game that is not farmed deer slaughtered in deer slaughtering premises.

Slaughter —

stunning farmed deer then bleeding them to death in a hanging position.

Deer slaughtering premises (Section 6): Premises for the slaughter or dressing of farmed deer must be licensed.

Records (Section 26): Game packing houses are required to keep records of:

- The quantity, origin, and nature of game products handled; and
- Where the licence is unrestricted, the nature and quantity of game products disposed of to retailers, wholesalers, restaurants, or hotels.

Licensing of game exporters (Sections 28–32): Game exporters' licences may be granted to applicants who satisfy the Minister of Agriculture they are suitable persons. The licence will specify the quantity, kind, and form in which the game or game products may be exported and the countries to which they may be exported. The licences must be renewed in June each year. The Minister may cancel a licence for breach of its terms and may refuse to renew it for similar reasons.

Transport of game (Section 78): Vehicles used to transport game to or from a game establishment must be approved by an inspector as suitable to protect the game from deterioration or contamination. They must have, for example, insulation and sealing.

Slaughter of farmed deer (Sections 79–82): An inspector must be present at slaughter in a licensed premises, and all animal parts shall be identified with the carcass and inspected and kept free of contamination.

Procurement of killed game (Sections 83–87): Immediately after being killed, game are to be bled, opened, and the alimentary tract and urogenital tract (except kidneys) removed. The heart, lungs, liver, kidneys, and skin are to remain attached, and the whole are to be cooled to less than 7°C within 10 hours.

The carcass should reach the inspection premises within 24 hours of killing.

Submitters of killed game are required to report any apparent signs of disease likely to be harmful to human health.

The killed game may not be accepted:

- if it has not been properly bled and eviscerated;
- if it has been frozen before inspection;
- if any part of the skin has been removed; or
- if it appears to be unfit for human consumption.

Game treated with drugs (Section 98): Farmed deer sent for slaughter shall not have been exposed to any biological product, antibiotic, drug, or chemical which would leave residues not permitted by the Food and Drugs Regulations.

Killed game shall not be sent to a game establishment if it has been treated or exposed to any biological product, antibiotic, drug or chemical within 14 days of death; or if such a chemical is known to exceed permissible residues. This means that animals which inadvertently die during capture may not be salvaged by being sent to a game establishment.

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