



Tonga

BIRDS PRESERVATION ACT

Chapter 47.12
2016 Revised Edition



BIRDS PRESERVATION ACT

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BIRDS PRESERVATION ACT

AN ACT TO MAKE PROVISION FOR THE PRESERVATION OF WILD BIRDS¹

Commencement [20th November, 1915]

PART I – PROTECTION OF BIRDS²

1 Short title

This Act may be cited as the Birds Preservation Act.³

2 Definition⁴

In this Act —

“**Minister**” means the Minister responsible for environment;⁵

“**protected area**” means any area comprising land, or water, or land and water, as is specified in the Second Schedule hereto;⁶

“**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 the First Schedule hereto;

3 Penalty for taking protected birds

Any person who shall wilfully kill, shoot, capture, take or destroy any protected bird at any time within the period set opposite their respective names in the said First Schedule or shall use any means whatever within the said respective periods for the purpose of killing, shooting, capturing, taking or destroying any protected bird 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:⁷

Provided always that the Minister responsible for forests and 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.⁸

4 Power to amend the Schedules

The Minister may by Order with the consent of the Cabinet amend the First Schedule.⁹

5 Offences under Part I

If any person within the periods mentioned in the said First Schedule 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 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, and any boat, net, gear and equipment used in connection with the catching of the bird, may be forfeited to the Crown and shall be disposed of in such manner as the Minister thinks fit.¹⁰

PART II – PROTECTED AREAS

6 Protected areas

The area specified in the Second Schedule to this Act is hereby declared to be a protected area; and the Minister may by Order with the consent of Cabinet amend the Second Schedule.¹¹

7 Prohibitions within protected areas

- (1) No person may, within a protected area, and without the prior consent in writing of the 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) carry out any boring, drilling or dredging operations.¹²
- (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 Minister thinks fit.¹³

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 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 appearing to have been obtained in contravention of this Act, the same may be seized and taken before a Court.¹⁴
- (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.¹⁵

FIRST SCHEDULE

PROTECTED BIRDS¹⁶

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	Samoan 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 AREA¹⁷**

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.

ENDNOTES

¹ **1988 Revised Edition, Chapter 125** - Acts 1 of 1915, 13 of 1916, 13 of 1934, 24 of 1974, 21 of 1988, 46 of 1988

Amending Act after 1988

Amending Acts	Commencement
Act 20 of 1989	22 December 1989
Act 42 of 2010	24 November 2010
Act 5 of 2012	30 July 2012

² Amended by Act 20 of 1989

³ Amended by Act 20 of 1989

⁴ Amended by Act 20 of 1989

⁵ Inserted by Act 5 of 2012

⁶ Inserted by Act 24 of 1974

⁷ Amended by Act 20 of 1989

⁸ Amended by Acts 24 of 1974, 21 of 1988, 46 of 1988 and 5 of 2012

⁹ Substituted by Act 21 of 1988

Amended by Acts 20 of 1989 and 42 of 2010

¹⁰ Amended by Acts 24 of 1974 and 21 of 1988

Amended by Act 20 of 1989

¹¹ Amended by Acts 21 of 1988 and 42 of 2010

¹² Amended by Act 20 of 1989

¹³ Inserted by Act 24 of 1974 and Amended by Act 21 of 1988

¹⁴ Amended by Act 21 of 1988

Amended by Act 20 of 1989

¹⁵ Inserted by Act 24 of 1974

¹⁶ Act No. 13 of 1934, G. 118 of 1931, 29 of 1933

¹⁷ Inserted by Act 24 of 1974