

1995—No. 454

BICENTENNIAL PARK TRUST ACT 1987—REGULATION

(Bicentennial Park Trust Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Bicentennial Park Trust Act 1987, has been pleased to make the Regulation set forth hereunder.

PAM ALLAN, M.P.,
Minister for the Environment.

PART I—PRELIMINARY

Citation

1. This Regulation may be cited as the Bicentennial Park Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**animal**” includes bird, fish, reptile and mammal;

“**authorised person**” means a person appointed in writing by the Trust as an authorised person for the purposes of this Regulation;

“**person**” includes an organisation or group of people;

“**the Act**” means the Bicentennial Park Trust Act 1987;

“**vehicle**” includes:

- (a) a motor vehicle; and
- (b) a trailer or caravan, whether or not it is in the course of being towed; and
- (c) an apparatus that is propelled by human, animal or mechanical power, or by the wind, and is wholly or partly used for the conveyance of persons or things, other than a wheelchair, pram or stroller; and
- (d) a boat, raft, canoe, ski, barge or other vessel.

PART 2—USE OF TRUST LANDS

Entry

4. (1) The Trust may designate points on the perimeter of the trust lands as entrances to the trust lands by a sign or signs displayed adjacent to those points.

(2) A person must not enter the trust lands otherwise than at a point designated in accordance with this clause.

Maximum penalty: 2 penalty units.

(3) A person must not drive a vehicle into or within the trust lands after sunset and before sunrise, except with the written permission of the Trust or the Manager.

Maximum penalty: 2 penalty units.

(4) Pedestrians may enter the trust lands at any time.

Parking

5. (1) The Trust may regulate the parking of vehicles on any part of the trust lands by a sign or signs displayed on or adjacent to the part.

(2) A person must not park a vehicle on a part of the trust lands in contravention of a sign displayed in accordance with this clause.

Maximum penalty: 2 penalty units.

Parts approved for designated purposes

6. (1) The Trust may designate part of the trust lands for use for the purpose of:

- (a) an organised sporting activity; or
- (b) an organised entertainment; or

- (c) an organised ceremony; or
- (d) any other organised activity.

(2) A person may, with the written permission of the Trust or the Manager, use a part of the trust lands for a purpose designated in respect of the land under this clause.

(3) The use of a part of the trust lands in accordance with a permission granted under this clause is not a contravention of clause 10 (Commercial and other activities on trust lands).

Fees for use of trust lands

7. (1) The Trust may from time to time determine the fees payable by a person to whom the Trust has given a permission to use part of the trust lands (including a permission under clause 6). The Trust may require payment of such fee in advance.

(2) The person to whom the permission is granted is liable to the Trust for payment of the fee.

(3) Any unpaid fee may be recovered by the Trust from the person liable to pay it as a debt in a court of competent jurisdiction.

(4) The Trust may reduce, or waive payment of, a fee payable under this clause.

Conditions attaching to permission to use trust lands

8. (1) The Trust or the Manager may give a permission under this Regulation subject to such conditions as the Trust or the Manager thinks fit.

(2) An example of such a condition is a requirement that any fee payable in connection with a permission to use trust lands be paid before that use is commenced.

(3) The Trust or the Manager may require a person to whom a permission under this Regulation is proposed to be given to give security in such amount and form as the Trust or the Manager determines for fulfilment of the person's obligations under the conditions of that permission.

(4) A person who fails to comply with any condition to which a permission is subject is guilty of an offence.

Maximum penalty (subclause (4)): 2 penalty units.

Parts of trust lands and buildings may be closed to the public

9. (1) The Trust, the Manager or an authorised person may close to the public any part of the trust lands or any building within the trust lands by a sign or signs displayed on or adjacent to the part or building.

(2) A person must not, except with the written permission of the Trust or the Manager, enter any part of the trust lands, or any building within the trust lands, that is fenced off, or locked, or closed to the public by a sign or signs displayed in accordance with this clause.

Maximum penalty: 2 penalty units.

(3) In this clause:

“**building**” includes part of a building;

“**fenced off**” means surrounded by a fence with no open pedestrian or vehicular access;

“**part of the trust lands**” includes a road, a footpath (including the Boardwalk) and a cycle track within the trust lands.

Commercial and other activities on trust lands

10. A person must not on the trust lands, except with the written permission of the Trust or the Manager, do any of the following things or assist a person to do any of the following things:

- (a) collect or attempt to collect money;
- (b) sell or hire or attempt to sell or hire, expose for sale or hire or solicit for sale or hire any papers, printed matter, food, article, thing or service;
- (c) conduct or cause the conduct of an amusement, entertainment, promotion, instruction or performance, whether free of charge or for money or consideration, of any kind or so as to compete with or hinder the commercial operations of any person holding a lease or licence from the Trust;
- (d) establish or operate a business;
- (e) organise or participate in, or cause to be organised, a public meeting, public function, public demonstration, public gathering or other public activity;
- (f) use television, cinematographic or photographic equipment for commercial or promotional purposes;
- (g) erect a hoarding, banner or notice, or display or distribute any commercial, promotional or political advertising matter, sign, bill, poster or other printed matter-

Maximum penalty: 2 penalty units.

Races on trust lands

11. A person must not on trust lands, except with the written permission of the Trust or the Manager, organise or conduct a foot race, cycle race, wheelchair race, fun run or similar event.

Maximum penalty: 2 penalty units.

Camping, erection or occupation of tents and similar activities on trust lands

12. (1) A person must not on the trust lands, except with the written permission of the Trust or the Manager:

- (a) camp or reside; or
- (b) erect or occupy or cause to be erected or occupied a building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty: 2 penalty units.

(2) A person who has erected or occupied or caused to be erected or occupied a building, tent, screen, awning, enclosure or other structure or thing contrary to this clause must, when directed to do so by the Trust, the Manager, an authorised person or a police officer, immediately remove that building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty: 2 penalty units.

(3) If a person fails to comply with a direction given under this clause, the Trust, the Manager, an authorised person or a police officer:

- (a) may remove, or cause to be removed, the building, tent, screen, awning, enclosure or other structure or thing to the care of the person to whom the direction was given; or
- (b) may impound the building, tent, screen, awning, enclosure or other structure or thing.

(4) Property that is impounded under this clause is taken to be impounded under the Impounding Act 1993, and is to be dealt with accordingly.

Damage to or interference with trust lands, vegetation or other things

13. A person must not on the trust lands, except with the written permission of the Trust or the Manager, do any of the following:

- (a) damage a lawn or green except in the course of, and as a normal incident of, recreational or sporting activity on a part designated for use for that activity under clause 6;

- (b) remove, uproot, or cause damage to, or remove a part from, a tree, shrub, fern, creeper, vine, palm, plant or other vegetation;
- (c) remove any timber, log or stump, standing or fallen;
- (d) deface, dig up or remove any rock, soil, sand, stone or similar substance;
- (e) write on, paint on, damage, deface, interfere with, destroy or remove any machinery, equipment, road, path, fence, barrier, gate, lock, latch, fence-post, wall, building, seat, furniture, play equipment, fountain, statue, ornament or monument or any article, sign, notice, descriptive plate, label or other fixture, fitting or structure erected, displayed or placed by the Trust or the Manager;
- (f) destroy, capture, injure or annoy an animal;
- (g) destroy or interfere with the habitat of an animal.

Maximum penalty: 2 penalty units.

Recreational activities on trust lands

14. A person must not on the trust lands, except with the written permission of the Trust or the Manager, do any of the following:

- (a) operate a motorised model aircraft, boat, car or similar thing;
- (b) bathe, wade, wash or swim in a lake, pond or stream or in ornamental water;
- (c) play or practise golf;
- (d) light a fire except in portable gas cooking equipment;
- (e) discharge fireworks;
- (f) operate or attempt to operate a hang-glider;
- (g) land an aircraft, helicopter, hot-air balloon or parachute.

Maximum penalty: 2 penalty units.

Activities involving animals

15. A person must not on the trust lands, except with the written permission of the Trust or the Manager, do any of the following:

- (a) allow any stock to depasture;
- (b) bring any animal other than a dog;
- (c) bring a dog, except on a lead, or fail to keep the dog on a lead and under control at all times;

- (d) bring a dog into any part of the trust lands designated by the Trust by a sign or signs displayed in or near the part as a part in which dogs are prohibited.

Maximum penalty: 2 penalty units.

Cycles and other vehicles

16. A person must not on the trust lands, except with the written permission of the Trust or the Manager, do any of the following:

- (a) ride a cycle on a grassed portion;
- (b) drive a vehicle other than on a sealed road;
- (c) teach a person to drive or ride a motor vehicle;
- (d) learn to drive or ride a motor vehicle;
- (e) cause or permit a vehicle to be driven or stood or parked on any lawn, grass, parkland, green, garden, footpath or cycle track unless the area is designated for that purpose by the Trust or the Manager by a sign or signs displayed on or near the area;
- (f) drive, ride or park a vehicle contrary to, or act contrary to, a sign approved by the Trust or the Manager that regulates the movement or parking of vehicles;
- (g) drive or ride a vehicle at a speed exceeding 30 kilometres per hour;
- (h) drive or ride a vehicle over a pedestrian crossing at a speed exceeding 15 kilometres per hour;
- (i) use a skateboard, inline skates, roller-skates or grass skis;
- (j) ride a three wheeled pedal car.

Maximum penalty: 2 penalty units.

Pollution of trust lands

17. (1) A person must not on the trust lands do any of the following:

- (a) deposit refuse, rubbish or waste (including industrial waste);
- (b) leave any litter, bottle, broken glass, china, pottery, plastic, rubbish, refuse or waste material other than in a receptacle provided by the Trust or the Manager for that purpose;
- (c) deposit oil or allow oil to escape;
- (d) pollute any water.

Maximum penalty: 2 penalty units.

(2) A person must not on the trust lands, except with the written consent of the Trust or the Manager:

- (a) operate a radio, cassette player, record player, compact disc player or other similar device at a volume likely to cause nuisance or annoyance to a person; or
- (b) operate a public address system or similar device.

Maximum penalty: 2 penalty units.

Personal conduct

18. A person must not on the trust lands do any of the following:

- (a) obstruct a person in the performance of that person's work or duties;
- (b) fail to comply with a reasonable request or direction given, for the purpose of securing good order and management and enjoyment of the trust lands, by a member of the Trust, the Manager, an authorised person or a police officer.

Maximum penalty: 2 penalty units.

Persons to leave on request

19. (1) A person who trespasses or causes annoyance or inconvenience on the trust lands or who commits a breach of this Part must leave the trust lands if requested to do so by the Trust, the Manager, an authorised person or a police officer.

(2) A person who fails to comply with a request made under this clause may be removed from the trust lands by the Trust, the Manager, an authorised person or a police officer.

Requirement to state name and address

20. (1) The Manager, an authorised person or a police officer who suspects on reasonable grounds that a person on the trust lands has committed an offence against the Act or this Regulation may require the person to state his or her full name and residential address.

(2) A person must not:

- (a) fail without reasonable cause to comply with a requirement under this clause; or
- (b) in purported compliance with such a requirement, furnish information that the person knows to be false or misleading in a material particular.

Maximum penalty: 2 penalty units.

(3) A person is not guilty of an offence under this section unless it is established that the Manager, authorised person or police officer warned the person that failure to comply with the requirement is an offence.

Penalty notice offences

21. For the purposes of section 23 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence; and
- (b) the prescribed penalty for such an offence is the amount specified in Column 3 of Schedule 1; and
- (c) the Manager, an authorised person and a police officer are prescribed officers.

Short descriptions

22. (1) For the purposes of section 145B of the Justices Act 1902, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 1 is:

- (a) the expression specified in Column 2 of that Schedule; or
- (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.

(2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.

(3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.

(4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

Lessees and licensees

23. An act or omission does not constitute a breach of this Regulation, despite any other provision of this Regulation, if it is authorised expressly or impliedly by the terms or conditions of any lease or licence granted by the Trust.

Application of Regulation to employees and certain other persons

24. Nothing in this Regulation prevents a person employed under section 18 of the Act or an authorised person from doing, in the exercise of his or her functions under the Act, any act or thing the doing of which is otherwise prohibited by this Regulation.

PART 3—MISCELLANEOUS

Repeal

25. (1) The Bicentennial Park Regulation 1987 is repealed.

(2) Any act, matter or thing that was done for the purposes of or, immediately before the repeal of the Bicentennial Park Regulation 1987, had effect under that Regulation is taken to have been done for the purposes of or to have effect under this Regulation.

SCHEDULE 1—PENALTY NOTICE OFFENCES

(Cl. 21, 22)

Column 1 Provision	Column 2 Short description	Column 3 Penalty
Clause 4 (2)	enter trust lands other than at designated entrance	\$50
Clause 4 (3)	drive vehicle between sunset and sunrise	\$50
Clause 5 (2)	park vehicle contrary to sign	\$75
Clause 8 (4)	fail to comply with permission condition	\$75
Clause 9 (2)	enter trust lands/building fenced off/locked/ closed to public contrary to sign	\$75
Clause 10 (a)	collect/attempt to collect money	\$75
Clause 10 (b)	sell/hire/attempt to sell/hire/expose for sale/hire/solicit for sale/hire papers/ printed matter/food/article/ thing/service	\$75
Clause 10 (c)	conduct/cause conduct of amusement/ entertainment/promotion/instruction/ performance/competewith/hinder commercial operations	\$75
Clause 10 (d)	establish/operate a business	\$75

Column 1 Provision	Column 2 Short description	Column 3 Penalty
Clause 10 (e)	organise/participate in/cause to be organised public meeting/public function/public demonstration/public gathering/public activity	\$100
Clause 10 (f)	use television/cinematographic/photographic equipment	\$100
Clause 10 (g)	erect hoarding/banner/notice display/distribute advertising matter/sign/bill/poster/printed matter	\$50
Clause 11	organise/conduct foot race/cycle race/wheelchair race/fun run/event	\$100
Clause 12 (1) (a)	camp/reside	\$75
Clause 12 (1) (b)	erect/occupy/cause to be erected/occupied building/tent/screen/awning/enclosure/structure/thing	\$75
Clause 12 (2)	fail to remove building/tent/screen/awning/enclosure/structure/thing	\$100
Clause 13 (a)	damage lawn/green	\$75
Clause 13 (b)	remove/uproot/cause damage to/remove a part from tree/shrub/fern/creeper/vine/palm/plant/vegetation	\$75
Clause 13 (c)	remove timber/log/stump	\$75
Clause 13 (d)	deface/dig up/remove rock/soil/sand/stone/substance	\$75
Clause 13 (e)	write on/paint on/damage/deface/interfere with/destroy/removemachinery/equipment/road/path/fence/barrier/gate/lock/latch/fence-post/wall/building/seat/furniture/playequipment/fountain/statue/ornament/monument/article/sign/notice/descriptive plate/label/fixture/fitting/structure	\$75
Clause 13 (f)	destroy/capture/injure/annoy animal	\$75
Clause 13 (g)	destroy/interfere with habitat of animal	\$75
Clause 14 (a)	operate motorised model aircraft/boat/car/thing	\$50
Clause 14 (b)	bath/wade/wash/swim	\$50
Clause 14 (c)	play/practise golf	\$50
Clause 14 (d)	light fire	\$50

1995—No. 454

Column 1 Provision	Column 2 Short description	Column 3 Penalty
Clause 14 (e)	discharge fireworks	\$50
Clause 14 (f)	operate/attempt to operate hang-glider	\$50
Clause 14 (g)	land aircraft/helicopter/hot-air balloon/ parachute	\$100
Clause 15 (a)	depasture stock	\$50
Clause 15 (b)	bring animal	\$50
Clause 15 (c)	bring dog not on lead/fail to keep dog on lead	\$50
Clause 15 (d)	bring dog contrary to sign	\$50
Clause 16 (a)	ride cycle on grass	\$75
Clause 16 (b)	drive vehicle other than on sealed road	\$75
Clause 16 (c)	teach person to drive/ride vehicle	\$75
Clause 16 (d)	learn to drive/ride vehicle	\$75
Clause 16 (e)	cause/permit vehicle to be driven/stood/ parked	\$75
Clause 16 (f)	drive/ride/park/act contrary to sign	\$75
Clause 16 (g)	drive/ride vehicle in excess of 30 kph	\$75
Clause 16 (h)	drive/ride vehicle over crossing in excess of 15 kph	\$75
Clause 16 (i)	use skateboard/inline skates/roller-skates/ grass skis	\$75
Clause 16 (j)	ride pedal car	\$75
Clause 17 (1) (a)	deposit/refuse/rubbish/waste	\$200
Clause 17 (1) (b)	leave litter other than in receptacle	\$200
Clause 17 (1) (c)	deposit oil/allow oil to escape	\$200
Clause 17 (1) (d)	pollute water	\$200
Clause 17 (2) (a)	operate radio/cassette player/record played compact disc player/device	\$75
Clause 17 (2) (b)	operate public address system/device	\$75
Clause 18 (a)	obstruct person in performance of work	\$100
Clause 18 (b)	fail to comply with reasonable request/ direction	\$100
Clause 20 (2) (a)	fail to state name/address	\$100
Clause 20 (2) (b)	give false/misleading information/evidence	\$100

NOTES
TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Citation
2. Commencement
3. Definitions

PART 2—USE OF TRUST LANDS

4. Entry
5. Parking
6. Parts approved for designated purposes
7. Fees for use of trust lands
8. Conditions attaching to permission to use trust lands
9. Parts of trust lands and buildings may be closed to the public
10. Commercial and other activities on trust lands
11. Races on trust lands
12. Camping, erection or occupation of tents and similar activities on trust lands
13. Damage to or interference with trust lands, vegetation or other things
14. Recreational activities on trust lands
15. Activities involving animals
16. Cycles and other vehicles
17. Pollution of trust lands
18. Personal conduct
19. Persons to leave on request
20. Requirement to state name and address
21. Penalty notice offences
22. Short descriptions
23. Lessees and licensees
24. Application of Regulation to employees and certain other persons

PART 3—MISCELLANEOUS

25. Repeal

SCHEDULE 1—PENALTY NOTICE OFFENCES

EXPLANATORY NOTE

The object of this Regulation is to repeal the Bicentennial Park Regulation 1987 and to replace it with this Regulation. This Regulation covers substantially the same matters as the repealed Regulation with the exception of

- (a) the omission of a provision dealing with the impounding of abandoned vehicles, as it is proposed that the Bicentennial Park Trust will be prescribed as an impounding authority under the Impounding Act 1993; and
- (b) the inclusion of provisions dealing with prescribed penalties for penalty notice offences and short descriptions of those offences.

1995—No. 454

This Regulation deals with the lands vested in the Bicentennial Park Trust and provides for the management, use and regulation of those trust lands.

This Regulation is made under the Bicentennial Park Trust Act 1987, including section 23 (which deals with penalty notices) and section 26 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
