



New South Wales

National Parks and Wildlife (Land Management) Amendment Regulation 1997

under the

National Parks and Wildlife Act 1974

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *National Parks and Wildlife Act 1974*.

PAM ALLAN, M.P.,

Minister for the Environment

Explanatory note

The object of this Regulation is to make a number of miscellaneous amendments to the *National Parks and Wildlife (Land Management) Regulation 1995* (the *principal Regulation*). The amendments are listed in Schedule 1 to the Regulation. They include amendments for the following purposes:

- (a) to provide that camping includes residing temporarily whether or not in a tent, caravan, cabin, vehicle, trailer or other structure (Item 1),
- (b) to make it clear that *driving* includes riding or drawing a vehicle and riding or leading an animal (Item 2),
- (c) to make provisions in relation to the application of the principal Regulation to regional parks (established following the commencement of the *National Parks and Wildlife Amendment Act 1996*) (Items 3, 4 and 21),
- (d) to make provisions in relation to the application of the principal Regulation to karst conservation reserves of which the Jenolan Caves Reserve Trust is trustee (Item 4),

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- (e) to make it clear that provisions relating to tracks also apply to roads, trails, ways and certain other areas (Items 5, 19, 20 and 25),
- (f) to extend the definition of waters to include estuaries (Item 6),
- (g) to ensure that provisions concerning the regulation of persons by the display of notices apply to persons whether on foot or driving vehicles or horses (Items 8 and 10),
- (h) to provide for the imposition of fees and charges by a park authority on persons driving vehicles or horses on roads traversing a park (Item 9),
- (i) to make it clear that a park authority can, by way of display of notices, impose conditions on persons entering or using a park, the facilities in a park or roads traversing a park (Item 12),
- (j) to create the offence of remaining; or leaving a vehicle parked, in a park after the time that the park is closed to the public (Item 13),
- (k) to make it clear that a person must not drive a vehicle into a park otherwise than on a road (Item 18),
- (l) to amend provisions relating to the depositing or leaving of rubbish or other matter (waste) in a park (Items 22 and 24),
- (m) to create the offence of abandoning a vehicle or part of a vehicle in a park (Item 23),
- (n) to clarify the provisions concerning the lighting of fires in parks (Items 26 and 27),
- (o) to create the offence of a person's having a chainsaw in his or her possession in a park (Item 28),
- (p) to provide that concerts, public meetings, functions, demonstrations, gatherings or group activities involving 20 persons or fewer in a park do not require the consent of the park authority (Items 29 and 30),
- (q) to provide that an authorised officer may direct a person to leave a park if the officer is of the opinion that the person is trespassing, is causing annoyance or inconvenience to any other person in the park, has committed an offence or is likely to commit an offence (Item 32),
- (r) to provide that **authorised officer** includes an officer or employee of the National Parks and Wildlife Service and a police officer (Item 33),
- (s) to omit clause 42 of the principal Regulation, which repeats the provisions of a section of the *National Parks and Wildlife Act 1974* (Item 34),

- (t) to provide for a maximum penalty of 30 penalty units (currently \$3,000) for a second or subsequent offence against the Regulation (Item 35),
- (u) to make alterations of a minor, consequential or ancillary nature (the remaining Items of Schedule 1).

This Regulation is made under the *National Parks and Wildlife Act 1974*, including sections 154, 155 and 156 (the general regulation making powers).

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1 Name of Regulation

This Regulation is the *National Parks and Wildlife (Land Management) Amendment Regulation 1997*.

2 Commencement

This Regulation commences on 1 June 1997.

3 Amendment of National Parks and Wildlife (Land Management) Regulation 1995

The *National Parks and Wildlife (Land Management) Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Omit “reside temporarily in a tent, caravan, cabin, vehicle, trailer or other structure” from the definition of *camp*.

Insert instead “residetemporarily (whether or not in a tent, caravan, cabin, vehicle, trailer or other structure)”.

[2] Clause 3

Insert in alphabetical order:

drive includes ride or draw (in relation to a vehicle) and ride or lead (in relation to an animal).

[3] Clause 3, definition of “park”

Insert “regional park,” after “state recreation area,” in paragraph (a).

[4] Clause 3, definition of “park authority”

Omit the definition. Insert instead:

park authority means:

- (a) in relation to a state recreation area:
 - (i) except when used in connection with the imposition or waiver of fees and charges—the trust having the care, control and management of the area (or, if there is no such trust, the Director-General), or
 - (ii) when used in connection with the imposition or waiver of fees and charges—the Minister, and

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- (b) in relation to a regional park:
 - (i) except when used in connection with the imposition or waiver of fees and charges—the trust or local council having the care, control and management of the park (or, if there is no such trust or local council, the Director-General), or
 - (ii) when used in connection with the imposition or waiver of fees and charges—the Minister, and
- (c) in relation to a karst conservation reserve of which the Jenolan Caves Reserve Trust is trustee—the Jenolan Caves Reserve Trust, and
- (d) in relation to a national park, historic site, nature reserve, state game reserve, karst conservation reserve (other than a karst conservation reserve of which the Jenolan Caves Reserve Trust is trustee) or Aboriginal area—the Director-General.

[5] Clause 3, definition of “track”

Omit the definition.

[6] Clause 3, definition of “waters”

Insert “estuary,” after “river,”.

[7] Clause 4 Regulation by notice

Insert “, or at the boundary of,” after “displayed in” in clause 4 (1).

[8] Clause 4 (1) (d)

Insert “(whether on foot or driving vehicles or horses)” after “persons”.

[9] Clause 4 (1) (d)

Insert “and on persons driving vehicles or horses who enter or use any public or other road traversing the park” after “in the park”.

[10] Clause 4 (1) (e)

Insert “(including driving vehicles or horses)” after “activities”.

[11] Clause 4 (1) (f)

Omit “park.”. Insert instead “park,”.

[12] Clause 4 (1) (g) and (h)

Insert after clause 4 (1) (f):

- (g) it may impose conditions, including conditions relating to the payment of fees or charges, on persons (whether on foot or driving vehicles or horses) entering or using the park, any part of the park or any facilities in the park,
- (h) it may impose conditions relating to the payment of fees or charges by persons driving vehicles or horses who enter or use any public or other road traversing the park.

[13] Clause 4 (2) (a1)

Insert after clause 4 (2) (a):

- (a1) remain, or leave a vehicle parked, in any park or part of a park after the time that it is closed to the public in accordance with this clause, or

[14] Clause 4 (2) (d)

Insert “or any public or other road traversing a park” after “part of a park”.

[15] Clause 4 (2) (e)

Insert “(including driving a vehicle or horse)” after “activity”.

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[16] Clause 4 (2) (e)

Omit “clause.”. Insert instead “clause, or”.

[17] Clause 4 (2) (f)

Insert after clause 4 (2) (e):

- (f) enter or use any park, any part of a park, any facilities in a park or any public or other road traversing a park otherwise than in accordance with any conditions imposed in accordance with this clause.

[18] Clause 5

Omit the clause. Insert instead:

5 Entry of vehicles to parks

- (1) A person must not drive a vehicle into a park otherwise than on a road leading into or traversing the park.
Maximum penalty: 10 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted with the consent of a park authority and in accordance with any conditions to which the consent is subject.

[19] Clause 6 Use of vehicles, vessels, horses

Omit clause 6 (1) (a). Insert instead:

- (a) drive a vehicle or horse, or tether a horse, in a park otherwise than on a road, track, trail or way, or in an area, set aside for that purpose.

[20] Clause 6 (2)

Omit the subclause. Insert instead:

- (2) A person must not drive or park a vehicle on a road, track, trail or way, or in an area, in a park if a gate, barrier or similar device is positioned in such a way as to restrict or obstruct vehicular access to the road, track, trail, way or area.

[21] Clause 7 Entry to and keeping of animals in parks

Insert after clause 7 (2):

- (3) In this clause, *park* does not include a regional park. This subclause does not prevent a park authority for a regional park from prohibiting the things referred to in subclause (1) by means of notices displayed in accordance with this Regulation.

[22] Clause 9 Littering and damage

Omit clause 9 (1) (c). Insert instead:

- (c) deposit or leave any waste in a park,

[23] Clause 9 (1) (g)

Omit the paragraph. Insert instead:

- (g) deposit, leave or abandon a vehicle or part of a vehicle in a park, or

[24] Clause 9 (1A)

Insert after clause 9 (1):

- (1A) For the purpose of subclause (1) (c), waste includes the following:
- (a) rubbish and refuse,
 - (b) marine craft and aircraft and parts of them,
 - (c) household effects, appliances and materials,
 - (d) clothing,
 - (e) agriculture, building, commercial and industrial materials,
 - (f) machinery, plant and equipment and parts of them,
 - (g) chemicals, minerals and metals,
 - (h) vegetable matter,
 - (i) stone, sand, shells, clay, earth and ash,
 - (i) radioactive material.

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[25] Clause 11 Offensive conduct

Insert “, trail or way, or in an area,” after “track” in clause 11 (2).

[26] Clause 12 Lighting of fires

Omit clause 12 (1) (a). Insert instead:

- (a) light, maintain or use a fire in the open:
 - (i) if there are public fireplaces—elsewhere than in such a fireplace, or
 - (ii) if there are no public fireplaces—elsewhere than in a temporary fireplace situated at least 4.5 metres from any log or stump and at least 1.5 metres from any other flammable material, or
 - (iii) in any case—in contravention of a notice regulating the use of fire in the park, or

[27] Clause 12 (2)

Omit the subclause.

[28] Clause 15 Protection of vegetation

Insert after clause 15 (1) (a):

- (a1) have a chainsaw in the person’s possession in a park (except when the person is on a road traversing the park), or

[29] Clause 19 Sporting and recreational activities

Insert “involving more than 20 persons” after “gathering” in clause 19 (1) (b).

[30] Clause 19 (1) (c)

Omit “of any kind”.

Insert instead “involving more than 20 persons”.

[31] Clause 40 Measures for protection of the environment

Insert “in a park” after “destruction” in clause 40 (a).

[32] Clause 41 Removal of certain persons

Omit clause 41 (1). Insert instead:

- (1) An authorised officer may direct a person to leave a park or any part of a park if, in the opinion of the authorised officer, the person:
 - (a) is trespassing, or
 - (b) is causing annoyance or inconvenience to any other person in the park, or
 - (c) has committed an offence under the Act or this Regulation or is likely to commit such an offence.

[33] Clause 41 (4)

Omit the subclause. Insert instead:

- (4) In this clause, *authorised officer*, in relation to a park, means an officer or employee of the Service, a person who is authorised by the park authority to exercise the powers conferred by this clause or a police officer,

[34] Clause 42

Omit the clause.

[35] Clause 47A

Insert after clause 47:

47A Second and subsequent offences

- (1) A person who commits (or is, by virtue of section 159 of the Act, guilty of) a second or subsequent offence against this Regulation is liable to a maximum penalty of 30 penalty units in respect of the second and each subsequent offence.
- (2) For the purpose of this clause, a person is taken to have committed (or to be guilty of) an offence against this Regulation if a court:
 - (a) convicts the person of the offence, or

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- (b) makes an order under section 556A of the *Crimes Act 1900* or section 33 (1) (a) of the *Children (Criminal Proceedings) Act 1987* in respect of the person in relation to the offence.

[36] Schedule 1 Penalty notice offences

Omit the matter relating to clause 4 (2) (a)-(e). Insert instead:

Clause 4 (2) (a)	enter closed park/part of park in contravention of notice	\$150
Clause 4 (2) (a1)	remain/leave vehicle parked in closed park/part of park	\$150
Clause 4 (2) (b)	enter reserved park/part of park in contravention of notice	\$150
Clause 4 (2) (c)	use of reserved park/part of park in contravention of notice	\$150
Clause 4 (2) (d)	not pay fee/charge for entry to/use of park/part of park/road traversing park	\$200
Clause 4 (2) (e)	use facilities/carry out activity in contravention of notice	\$150
Clause 4 (2) (f)	enter/use park/part of park/facilities/road traversing park in contravention of conditions on notice	\$150

[37] Schedule 1

Omit “drive/ride/tether” from the matter relating to clause 6 (1) (a).
Insert instead “drive vehicle/horse/tether”.

[38] Schedule 1

Omit “track” from the matter relating to clause 6 (2).
Insert instead “road/track/trail/way/area”.

[39] Schedule 1

Omit “mineral/metal/” from the matter relating to clause 9 (1) (c).

[40] Schedule 1

Omit “track” from the matter relating to clause 11 (2).
Insert instead ““track/trail/way/area”.

[41] Schedule 1

Omit “unauthorised place” from the matter relating to clause 12 (1) (a).
Insert instead “unauthorised place/in contravention of notice”.

[42] Schedule 1

Insert after the matter relating to clause 15 (1) (a):

Clause 15 (1) (a1)	possess chainsaw in park	\$300
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