

1995—No. 394

**NATIONAL PARKS AND WILDLIFE ACT 1974—
REGULATION**

(National Parks and Wildlife (Land Management) Regulation 1995)

NEW SOUTH WALES



(Published in Gazette No. 102 of 25 August 1995)

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the National Parks and Wildlife Act 1974, has been pleased to make the Regulation set forth hereunder.

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

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the National Parks and Wildlife (Land Management) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**Aborigine**” means a person:

- (a) who is a member of the Aboriginal race of Australia; and
- (b) who identifies as an Aborigine; and
- (c) who is accepted by the Aboriginal community as an Aborigine;

“**camp**” means reside temporarily in a tent, caravan, cabin, vehicle, trailer or other structure or use any part of a park for the purpose of camping;

“Director-General” means the Director-General of National Parks and Wildlife;

“moor” a vessel includes to attach the vessel to a mooring by any means;

“mooring” means any post, stake, pile, float, pontoon or any other object (other than the anchor of a vessel) secured by any direct or indirect means to the waters’ bed for the purpose of attaching a vessel to the bed;

“park”:

- (a) when used as a noun, means a national park, historic site, state recreation area, nature reserve, state game reserve, conservation reserve or Aboriginal area, or any land acquired by the Minister under Part 11 of the Act, and includes all roads and waters within the boundaries of any such park, site, reserve, area or land; or
- (b) when used as a verb, means to park a vehicle or to cause or allow a vehicle to park, stand or wait;

“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 trustees or (in the case of a state recreation area for which there are no trustees) the Director-General; or
 - (ii) when used in connection with the imposition or waiver of fees and charges—the Minister; and
- (b) in relation to a national park, historic site, nature reserve, state game reserve, karst conservation reserve or Aboriginal area—the Director-General;

“Service” means the National Parks and Wildlife Service;

“the Act” means the National Parks and Wildlife Act 1974;

“track” includes any trail, ride, drive, road or area set aside for use as a track;

“waters” includes a stream, creek, river, dam, lake or reservoir.

PART 2—REGULATION OF USE OF PARKS**Division I—Regulation by public notices****Regulation by notice**

4. (1) A park authority may do any of the following by means of notices displayed in the park or part of the park to which the notices relate:

- (a) it may designate points of entry to the park;
- (b) it may close the park, or any part of the park, to the public;
- (c) it may reserve the park, or any part of the park, for a particular use or for the use of particular persons or bodies or a particular sector of the public;
- (d) it may impose fees and charges on persons entering or using the park, any part of the park or any facilities in the park;
- (e) it may regulate or prohibit the use of any facilities in the park or the carrying out of activities in the park;
- (f) it may grant any consent that is required by this Regulation in relation to the use of the park.

(2) A person must not:

- (a) enter any park or part of a park that is closed to the public in accordance with this clause; or
- (b) enter any park or part of a park that is reserved for the use of particular persons or bodies or for a particular sector of the public in accordance with this clause unless the person is a person, or belongs to a body or sector of the public, for whose use it is reserved; or
- (c) use any park or part of a park for a use other than that for which it is reserved; or
- (d) enter or use any park or part of a park without paying any fee or charge that is imposed in that regard in accordance with this clause; or
- (e) use any facilities in a park or carry out any activity in a park in contravention of the terms of a notice under this clause.

Maximum penalty: 10 penalty units.

(3) 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.

(4) A park authority may waive payment by any person or class of persons of any fee or charge imposed under this clause.

Division 2—Regulation of traffic**Entry of vehicles to parks**

5. (1) A person must not drive a vehicle into a park for which there are one or more designated entrances otherwise than at a designated entrance.

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.

(3) In this clause:

“**designated entrance**” to a park means a place at the boundary of the park that the park authority has designated, in accordance with clause 4, as a point of entry to the park.

Use of vehicles, vessels, horses

6. (1) A person must not:

- (a) drive a vehicle in a park, or ride or tether a horse in a park, otherwise than on a track set aside for use by the public; or
- (b) park a vehicle in a park otherwise than in an area set aside for the parking of vehicles; or
- (c) moor a vessel in a park otherwise than in an area set aside for the mooring of vessels; or
- (d) operate or use a vessel on any waters in a park in a commercial operation; or
- (e) operate or use any heavy or noisy machinery in a park; or
- (f) operate, drive or use any vehicle or aircraft in a park (other than a motor car, motor omnibus, motor truck, motor cycle, motor scooter, bicycle or horse drawn carriage); or
- (g) operate, drive, use or have within the person’s control or possession in a park an oversnow vehicle.

Maximum penalty: 10 penalty units.

(2) A person must not drive or park a vehicle in a park on any part of a track to which access by vehicles is obstructed by a gate or barrier that the park authority has locked or placed in position.

Maximum penalty: 10 penalty units.

(3) 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.

Division 3—Regulation of conduct generally**Entry to and keeping of animals in parks**

7. (1) A person must not:

- (a) take an animal into a park; or
- (b) place or keep an animal in a park; or
- (c) have charge, possession or control of an animal in a park; or
- (d) fail to prevent an animal of which the person has charge, possession or control from entering a 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.

Camping and residing

8. (1) A person must not camp in any park otherwise than in an area set aside for camping.

Maximum penalty: 10 penalty units.

(2) A person must not permanently reside in a park.

Maximum penalty: 10 penalty units.

(3) 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.

Littering and damage

9. (1) A person must not:

- (a) deposit or leave any litter in a park except in an area or receptacle provided by the park authority for that purpose; or
- (b) if no area or receptacle for litter is provided by the park authority, fail to remove from the park all litter taken into or created by the person in the park; or
- (c) deposit or leave any mineral, metal or mineral or metal waste in a park; or
- (d) deposit, discharge or leave in a park any offal, filth, dung or dead animal or any noisome, noxious, offensive or polluting substance, matter or thing; or
- (e) wilfully break any article of glass, china, pottery or plastic in a park; or

- (f) write or paint or otherwise mark or affix any bill, notice or advertisement on or to, or deface by painting, carving, scratching or any other means, or damage, destroy, remove or interfere with, any fixture, improvement, rock, tree, equipment, water supply or relic in a park; or
- (g) abandon a vehicle in a park; or
- (h) interfere with, dig up, cut up, collect or remove for any purpose any soil, sand, gravel, clay, rock, ochre, mineral, timber (whether or not consisting of or including dead timber), gum resin, humus or other natural substance or object in a park, whether on land or on or under water; or
- (i) dam, divert or pollute the water in any waters or water tank in a 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.

Protection of animals

10. (1) A person must not:

- (a) carry, lay or set any trap, snare or poison, or drop from an aircraft or otherwise deposit any poison bait or poisonous chemical substance in a park; or
- (b) interfere with, injure, hurt, capture, destroy, trap or snare, or have in the person's possession, an animal in a park; or
- (c) take any animal's nest or egg, or interfere with any animal's nest or egg or habitation or resting place or any beehive, in a park; or
- (d) set any trap or net for fish in any waters, or have in the person's possession any fish trap or fishing net other than a landing net, in a 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.

Offensive conduct

11. (1) A person must not in a park:

- (a) behave in a disorderly manner or use insulting or offensive language or commit a nuisance or act of indecency or cause annoyance or inconvenience to other persons; or

- (b) drive, ride, operate or use any machinery, plant, radio, television, cassette, record player or other equipment for relaying music or sound, or any vehicle, vessel or aircraft (including any model vehicle, vessel or aircraft) in a manner likely to interfere with or cause a nuisance to any person or animal.

Maximum penalty: 10 penalty units.

- (2) A person must not ride or use a skate board, roller skates, bicycle or other means of conveyance on a track set aside in a park for pedestrian traffic only.

Maximum penalty: 10 penalty units.

- (3) 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.

Lighting of fires

- 12. (1)** A person must not in a park:

- (a) light, maintain or use a fire in the open unless:
- (i) if there are public fireplaces, the fire is located in such a fireplace; or
 - (ii) if there are no public fireplaces, the fire is located in a temporary fireplace situated at least 4.5 metres from any log or stump and at least 1.5 metres from any other inflammable matter; or
- (b) leave unattended any fire that the person has lit, maintained or used; or
- (c) fail to call for help to control or extinguish a fire that the person has lit, maintained or used and that is beyond the person's power to control or extinguish; or
- (d) handle any inflammable substance (such as petrol, matches or cigarettes) in a manner that is likely to cause a fire in the park.

Maximum penalty: 10 penalty units.

- (2) Subclause (1) (a) does not permit a person to light, maintain or use a fire in contravention of a notice referred to in clause 4.

- (3) 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.

Cultural heritage

- 13. (1)** A person must not deposit or leave any bone, shell, charcoal, stone or wood within an Aboriginal area.

Maximum penalty: 10 penalty units.

(2) A person must not within any Aboriginal area have in the person's possession:

- (a) any chalk, paint or other colouring substance, matter or thing; or
- (b) any sieve, spade, shovel, fork, mattock, pick, bar, axe, chisel, hammer or similar implement.

Maximum penalty: 10 penalty units.

(3) A person must not in a park:

- (a) carry, use or have in the person's possession any metal detector or other apparatus which may be used for detecting any metal or metal object; or
- (b) touch or interfere with or do anything which may cause or assist the mutilation or destruction of any relic; or
- (c) take any rubbing, latex peel or impression by whatever means of any relic; or
- (d) interfere with or remove or assist in the removal of any deposit, object or material evidence relating to the settlement or occupation of New South Wales or a part of New South Wales (not being Aboriginal settlement or occupation) if the deposit, object or material evidence is more than 25 years old at the date of the interference or removal; or
deposit or leave any relic in a park.

Maximum penalty: 10 penalty units.

(4) 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.

Erection of structures

14. (1) A person must not:

- (a) erect, alter, extend or occupy any building in a park; or
- (b) install, use or occupy a moveable dwelling in a park; or
- (c) construct, operate or use any structure, installation, engineering work, plant, equipment, amusement device, fixture or improvement in a park; or
- (d) erect a hoarding or notice, or exhibit any commercial or political advertising matter, sign, bill or poster, in a 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.

Protection of vegetation

15. (1) A person must not:

- (a) cut, fell, remove, damage or destroy any vegetation in a park; or
- (b) have any vegetation in the person's possession in a park, whether for removal or otherwise; or
- (c) introduce any exotic vegetation into a 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.

(3) In this clause, “**vegetation**” means the whole or part of any tree, shrub, fern, creeper, vine, palm, plant or seed.

Beehives

16. (1) A person must not remove any beehive from, or place any beehive in, a 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.

Weapons

17. (1) A person must not in a park:

- (a) unless the person is a police officer, carry or discharge or have in the person's possession any firearm within the meaning of the Firearms Act 1989 or prohibited weapon within the meaning of the Prohibited Weapons Act 1989; or
- (b) carry or discharge or have in the person's possession any airgun, speargun or other lethal weapon; or
- (c) carry or use or have in the person's possession any explosive or firework; or
- (d) throw any object likely to cause damage or injury to any person, animal or thing.

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.

Commercial activities

18. (1) A person must not in a park:

- (a) sell or hire, attempt to sell or hire, expose for sale or hire or solicit for sale or hire any article, thing or service to any person; or
- (b) conduct, or assist in the conduct of, any amusement, entertainment, instruction, performance or activity for money or other consideration of any kind; or
- (c) compete with or hinder the commercial operations of any person, business or corporate body possessing a lease, licence, occupancy or franchise from the Minister or the Director-General for a specific purpose or purposes; or
- (d) take any photograph, video, movie or television film for sale, hire or profit.

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.

Sporting and recreational activities

19. (1) A person must not in a park:

- (a) conduct or take part in any sporting activity that forms part of an organised competition or tournament; or
- (b) organise, attend or participate in any concert, public meeting, function, demonstration or gathering; or
- (c) organise, attend or participate in any group activity of any kind, any manoeuvre whether of a military, naval, aerial nature or otherwise, any course of training or any similar activity; or
- (d) engage in any activity or recreational pursuit which involves risking the safety of the person or the safety of other persons.

Maximum penalty: 10 penalty units.

(2) Without limiting the generality of subclause (1) (d), the activities and recreational pursuits to which that paragraph applies include abseiling, base jumping, bunjey jumping, rock climbing, caving, parachuting, white water boating and hang gliding.

(3) 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.

Research activities

20. (1) A person must not carry out any kind of research in a 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.

Caves

21. (1) A person must not enter or remain in a cave in a park except with the consent of the park authority.

Maximum penalty: 10 penalty units.

(2) A person must not in a park:

- (a) exhibit a number or other identifying mark in or near a cave in a manner which suggests that the number or mark has been allocated to identify the cave; or
- (b) carry out any excavation, or use any explosive, in or in the vicinity of a cave; or
- (c) use any string or other thing for the purpose of laying a track in a cave; or
- (d) remove from a cave:
 - (i) any rocks, soil, sand, stone or other similar substances; or
 - (ii) any flora or fauna; or
 - (iii) any equipment; or
- (e) interfere with any equipment in a cave; or
- (f) smoke any substance or any cigar, cigarette, pipe or other device in a cave; or
- (g) light a fire in a cave; or
- (h) leave any equipment in a cave whether or not the person intends to return to the cave; or
- (i) urinate or defecate in a cave.

Maximum penalty: 10 penalty units.

(3) 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.

Division 4—Mooring vessels within Ku-ring-gai Chase National Park

Definitions

22. In this Division:

“**Cowan Water**” includes all tributaries of Cowan Water within the boundaries, of the Ku-ring-gai Chase National Park;

“**licence**” means a licence issued by the Minister or Director-General to permit occupation for the purpose of placing a mooring;

“**public mooring**” means a mooring set up by the Director-General;

“**set up**” a mooring includes erect, construct or lay down a mooring.

Setting up of moorings

23. (1) The Director-General may grant licences for marinas and moorings in Cowan Water.

(2) Except as authorised by a licence, a person must not set up a mooring in Cowan Water.

Maximum penalty: 10 penalty units.

(3) The Director-General may direct a person by whom an unlicensed mooring has been set up to remove the mooring.

(4) Such a direction may be served on the person to whom it is addressed personally or by leaving it on, or attaching it to, the mooring.

(5) A person on whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 10 penalty units.

(6) The Director-General may remove from Cowan Water:

- (a) any mooring to which such a direction relates that is not removed within 21 days after the direction is served; or
- (b) any mooring which has been abandoned or has become submerged, come adrift or fallen into a state of disrepair; or
- (c) any part of a mooring that has become separated from the mooring or that constitutes, in the opinion of the Director-General, a danger, hazard, impediment or menace to the use of Cowan Water.

(7) The Director-General may, in any court of competent jurisdiction, recover the cost and expenses incurred as a result of a removal:

- (a) authorised by subclause (6) (a), from the person by whom the unlicensed mooring was set up; or
- (b) authorised by subclause (6) (b) or (c), from the current licensee or (if the licence is no longer in force) the previous licensee.

(8) This clause does not apply to a public mooring.

Mooring of vessels

24. (1) A person must not moor a vessel on any part of Cowan Water otherwise than:

- (a) at a public mooring; or

- (b) at a mooring in respect of which the person:
 - (i) is the licensee; or
 - (ii) is the hirer from the licensee of the mooring to which the licence relates; or
 - (iii) has the consent of the licensee or hirer to use the mooring.

Maximum penalty: 10 penalty units.

(2) A person must not moor a vessel at a public mooring in Cowan Water for more than 24 hours at any one time.

(3) A person must not moor at any mooring (not being a mooring forming part of a marina) in Cowan Water:

- (a) more than one vessel (whether or not secured directly to the mooring or to another vessel secured to the mooring); or
- (b) any vessel in contravention of the terms and conditions applicable to the licence in respect of the mooring.

Maximum penalty: 10 penalty units.

(4) The holder of a licence in respect of a marina must not moor at a mooring forming part of the marina in Cowan Water:

- (a) more than one vessel (whether or not secured directly to the mooring or to another vessel secured to the mooring); or
- (b) any vessel in contravention of the terms and conditions applicable to the licence in respect of the marina.

Maximum penalty: 10 penalty units.

Misrepresentation of authority to moor vessel

25. A person must not falsely represent (by the display of numbers or names, the production of documents or otherwise) that the person is authorised to moor a vessel, or to permit other persons to moor vessels, in Cowan Water.

Maximum penalty: 10 penalty units.

PART 3—INTERIM PROTECTION ORDERS

Terms of interim protection orders: sec. 91B

26. (1) For the purposes of section 91B (3) of the Act, an interim protection order may contain terms of either or both of the following kinds:

- (a) terms that prohibit the owner or occupier of land subject to the order from doing any one or more of the things listed in subclause (2) or from causing or permitting them to be done;

- (b) terms that allow the owner or occupier to do any one or more of those things (or to cause or permit them to be done) only with the consent of the Minister or only subject to other conditions.

(2) The things which may be prohibited or regulated by an interim protection order are:

- (a) the total or partial demolition, damaging, defacing, destruction, pulling down or removal of any building, structure or work on the land;
- (b) the damaging or despoiling of the land or any part of it;
- (c) the carrying on of any activity on the land which would constitute the carrying out of development (within the meaning of Division 7 of Part 4 of the Act) if the land were within a conservation area, whether or not it is within such an area;
- (d) the exhibition of any notice or advertisement on the land;
- (e) the damaging or destruction of any tree or other vegetation on, or the removal of any tree or other vegetation from, the land;
- (f) the carrying on (whether or not within a park) of any activity referred to in Division 2 or 3 of Part 2 that may affect the preservation, protection or maintenance of the land or any fauna, plant, relic or place on or within the land.

PART 4—PUBLIC HEALTH IN KOSCIUSKO NATIONAL PARK

Definitions

27. In this Part:

“**premises**” means premises in the park;

“**the park**” means the Kosciusko National Park.

Object of Part

28. (1) The object of this Part is, under section 155A of the Act, to confer or impose on the Director-General certain functions relating to the health of the public in the park.

(2) The functions concerned are, in accordance with section 155A of the Act, the same (but for being modified by this Part) as certain functions conferred or imposed on a council constituted by the Local Government Act 1993 in relation to the health of the public in its area.

Orders requiring the preservation of healthy conditions in the park

29. (1) The Director-General may, if any premises, vehicle or article in the park, used for the manufacture, preparation, storage, sale or transportation of food to the public are not in a clean or sanitary condition, order the occupier of the premises, or the owner or operator of the vehicle or article, to put the premises, vehicle or article into a clean or sanitary condition.

(2) The Director-General may, if premises are not in a safe or healthy condition, order the occupier of the premises to do or refrain from doing such things as are specified in the order to ensure that the premises are placed or kept in a safe or healthy condition.

(3) The Director-General may, if waste (other than waste that is dealt with under the Waste Disposal Act 1970) is present or generated on premises and it is not being satisfactorily dealt with, order the occupier of the premises, or the person responsible for the waste or for any receptacle or container in which the waste is contained, to store, treat, process, collect, remove, dispose of or destroy the waste in the manner specified in the order.

(4) The Director-General may, if premises are not connected to any available water supply or sewerage system, order the occupier of the premises to connect the premises to an available water supply and sewerage system by a date specified in the order.

(5) The Director-General may, if in the opinion of the Director-General it is necessary for the purpose of protecting the health of the public in the park, order the occupier of premises not to use or permit the use of a human waste storage facility on the premises after a date specified in the order.

(6) A person to whom an order under this clause is given must not fail to comply with the order.

Maximum penalty: 10 penalty units.

Orders requiring the doing of things to or on premises

30. (1) The Director-General may, if it is necessary or expedient to do so in the interests of public health, order the occupier of premises to repair or make structural alterations to the premises (including the renewal or repair of a roof) or to erect a fence between the land on which the premises are located and an adjoining place that is open to the public.

(2) A person to whom an order under this clause is given must not fail to comply with the order.

Maximum penalty: 10 penalty units.

Orders relating to premises used for share accommodation

31. (1) The Director-General may, if premises used for shared accommodation do not comply with the standards set out in Schedule 1 to the Local Government (Orders) Regulation 1993, order the occupier of the premises to take such action as is necessary to bring the premises into compliance with those standards.

(2) A person to whom an order under this clause is given must not fail to comply with the order.

Maximum penalty: 10 penalty units.

Orders requiring that premises not be used in Specified ways

32. (1) The Director-General may, if an activity conducted on premises constitutes or is likely to constitute a threat to the health of the public in the park, order the person apparently engaged in promoting, conducting or carrying out the activity not to conduct, or to cease conducting, the activity.

(2) A person to whom an order under this clause is given must not fail to comply with the order.

Maximum penalty: 10 penalty units.

(3) If the person fails to comply with the order, the Director-General may:

- (a)** order the person to cease the use of the premises or to evacuate the premises; and
- (b)** order any other person or persons to leave the premises or not to enter the premises.

Procedures to be observed before giving orders and provisions relating to orders generally

33. (1) Sections 129, 130, 132–137, 139–141, 143–148, 152 and 153 (1) of the Local Government Act 1993 apply in relation to orders given by the Director-General under clauses 29–32 of this Part in the same way as they apply to orders given by a council constituted under that Act.

(2) Accordingly, references in those sections to a council are, for the purposes of this clause, to be read as references to the Director-General.

Provision of services relating to the health of the public in the park

34. (1) The Director-General may provide public health services and facilities, and carry out activities relating to public health, appropriate to the needs of the public in the park.

(2) In particular, the Director-General may provide for, or enter into arrangements for, the collection, removal and treatment of garbage, rubbish, refuse or other forms of waste from premises in the park.

(3) The Director-General may, in the interests of the health of the public in the park and in such manner as the Director-General thinks fit:

- (a) maintain and regulate depots in the park for the disposal and destruction of garbage, rubbish, refuse or other forms of waste; and
- (b) control and regulate the depositing on land in the park of any material likely to give rise to a condition which will endanger public health.

(4) The Director-General may give directions to ensure that any requirement imposed by the Director-General in connection with the Director-General's functions under this clause is complied with.

Power of entry and inspection

35. (1) The Director-General may, in exercising the Director-General's functions under this Part, exercise the same functions as a council may exercise under Part 2 of Chapter 8 of the Local Government Act 1993 for the purpose of enabling the council to exercise its functions relating to public health under that Act.

(2) Accordingly, references in that Part to a council are, for the purposes of this clause, to be read as references to the Director-General, and the reference in section 199 (2) (f) of that Act to the general manager is to be read as a reference to the Director-General.

Functions relating to Public Health Act 1991

36. (1) The Director-General may exercise the functions of an environmental health officer under Part 4 of the Public Health Act 1991 (microbial control) and Part 4 of the Public Health Regulation 1991 (swimming pools and spa pools) in relation to any park.

(2) For the purposes of this clause, the Service is taken to be a local authority (within the meaning of the Public Health Act 1991) and the Director-General is taken to be the general manager of that authority.

PART 5—EXEMPTIONS IN FAVOUR OF ABORIGINES

Exemption: sec. 70

37. (1) The object of this clause is to exempt Aborigines from the provisions of section 70 (1) of the Act that prohibit a person from taking or killing fauna within a wildlife district, wildlife refuge, wildlife management area, conservation area, wilderness area or area subject to a wilderness protection agreement.

(2) Aborigines are exempted from the provisions of section 70 (1) of the Act to the extent to which those provisions would, but for this subclause, prohibit Aborigines from hunting fauna for their own domestic purposes.

(3) The exemption does not apply to raptors, parrots or endangered fauna.

(4) This clause applies to and in respect of any dependants (whether Aboriginal or not) of Aborigines in the same way as it applies to and in respect of Aborigines.

Exemption: sec. 71

38. (1) The object of this clause is to exempt Aborigines from the provisions of section 71 (1) of the Act that prohibit a person from picking native plants, or having native plants in possession, within a wildlife refuge, wildlife management area, conservation area, wilderness area or area subject to a wilderness protection agreement.

(2) Aborigines are exempted from the provisions of section 71 (1) of the Act to the extent to which those provisions would, but for this subclause, prohibit Aborigines from gathering or harvesting the fruit, flowers or other parts of a native plant for their own domestic purposes.

(3) This clause applies to and in respect of any dependants (whether Aboriginal or not) of Aborigines in the same way as it applies to and in respect of Aborigines.

Exemption: sec. 117

39. (1) The object of this clause is to exempt Aborigines from the provisions of section 117 (1) of the Act that prohibit a person from picking protected native plants, or having protected native plants in possession.

(2) Aborigines are exempted from the provisions of section 117 (1) of the Act to the extent to which those provisions would, but for this subclause, prohibit Aborigines from gathering or harvesting the fruit, flowers or other parts of a protected native plant for their own domestic purposes.

(3) The exemption applies to protected native plants only if the gathering or harvesting is done in a way that does not harm the plant or interfere unreasonably with its means of propagation.

(4) This clause applies to and in respect of any dependants (whether Aboriginal or not) of Aborigines in the same way as it applies to and in respect of Aborigines.

PART 6—MISCELLANEOUS**Measures for protection of the environment****40. The Director-General:**

- (a) may authorise the taking or killing or destruction of any animal, tree, vegetation or plant which, in the Director-General's opinion, has assumed pest proportions or is feral or noxious or is required for scientific or other appropriate purposes; and
- (b) may exempt by notice in writing in such form and subject to such conditions and payment of such charges, if any, as the Director-General may determine, any person engaged by the Service in the taking or killing or destruction of feral or noxious species of animals, trees, vegetation or plants or of animals, trees, vegetation or plants which have assumed pest proportions from some or all of the provisions of sections 45 (1), 56 (1), 57 (1) and (2), 58H (1), 58I (1) and (2), 58Q (1), 58R (1) and (2), 110 (1) and (2) and 117 (1) of the Act; and
- (c) may authorise the removal of any dog, cat or other domestic animal found in the park.

Removal of certain persons

41. (1) An authorised officer may direct any person to leave a park, or any part of a park, if the person:

- (a) is trespassing; or
- (b) is causing annoyance or inconvenience to any other person in the park.

(2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 10 penalty units.

(3) An authorised officer may remove from a park, or any part of a park, any person who fails to comply with a direction under this clause and any vehicle, vessel, animal or other property in the possession of the person.

(4) In this clause, “**authorised officer**”, in relation to a park, means any person who is authorised by the park authority to exercise the powers conferred by this clause.

Authorised officer may demand name and address

42. (1) An authorised officer who suspects that a person who is in a park has contravened a provision of this Regulation may direct the person to provide his or her full name and residential address to the authorised officer.

(2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 2 penalty units.

(3) A person is not guilty of an offence under this clause unless the person was warned, when the direction was given, that failure to comply with the direction would constitute an offence.

(4) In this clause, “**authorised officer**,” in relation to a park, means any person who is authorised by the park authority to exercise the powers conferred by this clause.

Consents

43. (1) The consent of a park authority may be given:

- (a) by means of a written statement; or
- (b) by means of a notice referred to in clause 4; or
- (c) in the form of a licence, permit, approval or other form of authorisation.

(2) Such a consent may be given:

- (a) either generally or in a particular case; and
- (b) either unconditionally or subject to conditions.

Exercise of park authority's functions

44. Any function that is conferred on a park authority by this Regulation may be exercised by the authority or by any person authorised by the authority to exercise that function.

Defences

45. A person does not commit an offence under this Regulation for anything done or omitted:

- (a) by a member of staff of a park authority in the exercise of his or her employment as such; or
- (b) under the direction of a park authority.

Penalty notice offences: sec. 160

46. (1) For the purposes of section 160 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) each person referred to in subclause (2) is an authorised officer.

(2) The following persons are authorised officers for all offences referred to in Schedule 1:

- (a) the Director-General;
- (b) any officer or employee of the Service;
- (c) any officer or employee of a government department in respect of which an arrangement has been made under section 11 (1) of the Act;
- (d) any officer, employee or servant of a statutory corporation or council, or of trustees, in respect of whom or which an arrangement has been made under section 11 (2) or (4) of the Act.

Short descriptions

47. (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.

Repeals

48. (1) The provisions of Parts 2, 2A and 3, and clauses 58–62, of the National Parks and Wildlife (Land Management) Regulation 1987 are repealed.

(2) Any act, matter or thing that, immediately before the repeal of the provisions referred to in subclause (1), had effect under those provisions continues to have effect under this Regulation.

SCHEDULE 1—PENALTY NOTICE OFFENCES

(CII. 46, 47)

Column 1 Provision	Column 2 Short description	Column 3 Penalty
Clause 4 (2) (a)	enter closed park/part of park	\$150
Clause 4 (2) (b)	unauthorised entry into reserved park/part of Park	\$150
Clause 4 (2) (c)	unauthorised use of reserved park/part of park	\$150
Clause 4 (2) (d)	fail to pay fee	\$200
Clause 4 (2) (e)	unauthorised activity/use of facilities in park	\$150
Clause 5 (1)	enter park at unauthorised point	\$150
Clause 6 (1) (a)	drive/ride/tether horse on unauthorised area	\$300
Clause 6 (1) (b)	unauthorised parking in park	\$150
Clause 6 (1) (c)	unauthorised mooring in park	\$150
Clause 6 (1) (d)	unauthorised commercial use of vessel in park	\$150
Clause 6 (1) (e)	operate/use heavy/noisy machinery in park	\$200
Clause 6 (1) (f)	operate/drive/use vehicle/aircraft in park	\$150
Clause 6 (1) (g)	unauthorised use/possession of oversnow vehicle	\$150
Clause 6 (2)	drive/park vehicle on access-barred track	\$300
Clause 7 (1) (a)	take animal into park	\$200
Clause 7 (1) (b)	place/keep animal in park	\$200
Clause 7 (1) (c)	be in charge of/possess/control animal in park	\$200
Clause 7 (1) (d)	fail to prevent animal entering park	\$200
Clause 8 (1)	unauthorised camping in park	\$150
Clause 8 (2)	reside in park	\$300
Clause 9 (1) (a)	deposit/leave litter in park	\$200
Clause 9 (1) (b)	fail to remove litter from park	\$200
Clause 9 (1) (c)	deposit/leave mineral/meta/waste in park	\$200
Clause 9 (1) (d)	deposit/discharge/leave offal/filth/dung/dead animal/noisome/noxious/offensive/polluting substance	\$200

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Clause 9 (1) (e)	break glass/china/pottery/plastic	\$200
Clause 9 (1) (f)	write on/paint/mark/affix bill/notice/ advertisement to/deface/damage/destroy/remove/ interfere with part of park	\$300
Clause 9 (1) (g)	abandon vehicle in park	\$300
Clause 9 (1) (h)	interfere with/dig up/cut up/collect/remove natural feature from park	\$200
Clause 9 (1) (i)	dam/divert/pollute waters/water tank in park	\$300
Clause 10 (1) (a)	carry/lay/set/drop/deposit any trap/snare/poison in park	\$300
Clause 10 (1) (b)	interfere with/injure/hurt/capture/destroy/trap/ snare/possess animal in park	\$300
Clause 10 (1) (c)	take/interfere with any nest/egg/habitation place/resting place/bee hive in park	\$300
Clause 10 (1) (d)	set/possess trap/net for fish in park	\$300
Clause 11 (1) (a)	disorderly behaviour/offensive language/cause annoyance/inconvenience	\$200
Clause 11 (1) (b)	use article causing nuisance to person/animal	\$200
Clause 11 (2)	ride on pedestrian track	\$200
Clause 12 (1) (a)	light/maintain/use fire in unauthorised place	\$300
Clause 12 (1) (b)	leave fire unattended	\$300
Clause 12 (1) (c)	fail to call for help with fire	\$300
Clause 12 (1) (d)	handle inflammable substance incorrectly	\$300
Clause 13 (1)	deposit/leave any bone/shell/charcoal/stone/ wood in Aboriginal area	\$200
Clause 13 (2) (a)	possess chalk/paint/colouring substance/matter/ thing in Aboriginal area	\$300
Clause 13 (2) (b)	possess sieve/spade/shovel/fork/mattock/pick/ bar/axe/chisel/hammer/implement in Aboriginal area	\$300
Clause 13 (3) (a)	carry/use/possess metal detector/detecting apparatus	\$300
Clause 13 (3) (b)	touch/interfere with/mutilate/destroy relic	\$300
Clause 13 (3) (c)	take rubbing/latex peel/impression of relic	\$300
Clause 13 (3) (d)	interfere with/remove object more than 25 years old	\$300
Clause 13 (3) (e)	deposit/leave relic in park	\$300
Clause 14 (1) (a)	erect/alter/extend/occupy building in park	\$300

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Clause 14 (1) (b)	install/use/occupy moveable dwelling in park	\$300
Clause 14 (1) (c)	construct/operate/use any structure/installation/ engineering work/plant/equipment/amusement device/fixture/improvement in park	\$300
Clause 14(1) (d)	erect/display signage	\$200
Clause 15 (1) (a)	cut/fell/remove/damage/destroy vegetation in park	\$300
Clause 15 (1) (b)	possess vegetation in park	\$300
Clause 15 (1) (c)	introduce exotic vegetation into park	\$300
Clause 16 (1)	remove beehive from/place beehive in park	\$150
Clause 17 (1) (a)	carry/discharge/possess firearm/prohibited weapon	\$300
Clause 17 (1) (b)	carry/discharge/possess airgun/speargun/lethal weapon	\$300
Clause 17 (1) (c)	carry/use/possess explosive/firework	\$300
Clause 17 (1) (d)	throw object in park	\$300
Clause 18 (1) (a)	sell/hire/attempt to/sell/hire/expose/solicit for sale/hire any article/thing/service in park	\$200
Clause 18 (1) (b)	conduct/assist in operation of amusement/ entertainment/instruction/performance in park	\$200
Clause 18 (1) (c)	compete with/hinder authorised commercial operations in park	\$200
Clause 18 (1) (d)	photograph/video/film for profit in park	\$200
Clause 19 (1) (a)	conduct/participate in organised sport	\$150
Clause 19 (1) (b)	organise/attend/participate in concert/public meeting/function/demonstration/gathering in a park	\$150
Clause 19 (1) (c)	organise/attend/participate in manoeuvre	\$150
Clause 19 (1) (d)	risk safety of any person in park	\$150
Clause 20 (1)	conduct research in park	\$200
Clause 21 (1)	unauthorised entry/stay in cave	\$200
Clause 21 (2) (a)	unauthorised numbering/markings of cave	\$200
Clause 21 (2) (b)	excavate/use explosive in/near cave	\$300
Clause 21 (2) (c)	lay track in cave	\$200
Clause 21 (2) (d) (i)	remove rock/soil/sand/stone from cave in park	\$300
Clause 21 (2) (d) (ii)	remove flora/fauna from cave in park	\$300
Clause 21 (2) (d) (iii)	remove equipment from cave in park	\$200

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Clause 21 (2) (e)	interfere with equipment in cave in park	\$200
Clause 21 (2) (f)	smoke in cave in park	\$200
Clause 21 (2) (g)	light fire in cave in park	\$300
Clause 21 (2) (h)	leave equipment in cave in park	\$200
Clause 21 (2) (i)	urinate/defecate in cave in park	\$300
Clause 23 (2)	unauthorised setting up of mooring in Cowan Water	\$200
Clause 23 (5)	fail to remove mooring in Cowan Water	\$150
Clause 24 (1)	unauthorised mooring in Cowan Water	\$150
Clause 24 (2)	moor vessel at public mooring for more than 24 hours	\$150
Clause 24 (3) (a)	moor more than one vessel in Cowan Water	\$150
Clause 24 (3) (b)	moor vessel in Cowan Water contrary to licence	\$150
Clause 24 (4) (a)	moor more than one vessel at marina in Cowan Water	\$150
Clause 24 (4) (b)	unauthorised mooring of more than one vessel at marina in Cowan Water	\$150
Clause 25	false representation regarding authority to moor vessel	\$200
Clause 29 (6)	fail to comply with order regarding healthy conditions	\$300
Clause 30 (2)	fail to comply with order regarding premises	\$300
Clause 31 (2)	fail to comply with order regarding share accommodation premises	\$300
Clause 32 (2)	fail to comply with order regarding use of premises	\$300
Clause 34 (2)	fail to comply with order regarding microbial control	\$300
Clause 41 (2)	fail to leave park	\$200

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SCHEDULE 1—PENALTY NOTICE OFFENCES

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor amendments, certain provisions of the National Parks and Wildlife (Land Management) Regulation 1987. The remaining provisions of that Regulation are to be repealed and remade in a separate Regulation. The new Regulation deals with the following matters:

- (a) the regulation of the use of national parks and other areas administered by the National Parks and Wildlife Service (Part 2);
- (b) the making of interim protection orders in relation to land of significant natural, scientific or cultural value (Part 3);
- (c) the preservation of public health in Kosciusko National Park (Part 4);
- (d) the exemption of Aborigines from the restrictions imposed by various sections of the Act on the hunting of certain animals and the gathering of certain plants (Part 5);
- (e) other matters of a minor, consequential or ancillary nature (Parts 1 and 6).

This Regulation is made under the National Parks and Wildlife Act 1974, including section 154 (the general regulation making power), section 155 (the general power to make regulations in relation to parks) and various other sections referred to in the Regulation.

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