

**NATIONAL PARKS AND WILDLIFE (AMENDMENT) ACT
1989 No. 84**

NEW SOUTH WALES



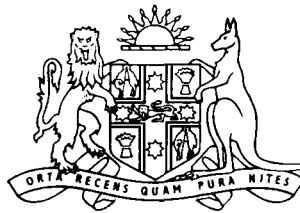
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NATIONAL PARKS AND WILDLIFE (AMENDMENT) ACT 1989
No. 84

NEW SOUTH WALES



Act No. 84, 1989

An Act to amend the National Parks and Wildlife Act 1974 to make further provision relating to the preservation and management of national parks, historic sites and certain other areas and the protection of fauna, native plants and Aboriginal relics; and for other purposes. [Assented to 2 June 1989]

See also Wilderness (Plans of Management) Amendment Act 1989.

National Parks and Wildlife (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the National Parks and Wildlife (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of National Parks and Wildlife Act 1974 No. 80

3. The National Parks and Wildlife Act 1974 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 5 (**Definitions**)—

(a) Section 5 (1)—

After the definition of “Aboriginal place”, insert:

“Aboriginal remains” means the body or the remains of the body of a deceased Aboriginal, but does not include—

- (a) a body or the remains of a body buried in a cemetery in which non-Aboriginals are also buried; or
- (b) a body or the remains of a body dealt with or to be dealt with in accordance with a law of the State relating to medical treatment or the examination, for forensic or other purposes, of the bodies of deceased persons;

(b) Section 5 (1), definition of “relic”—

After “extraction”, insert “, and includes Aboriginal remains”.

(2) Section 72 (**Plans of management**)—

Section 72 (3), (4) (k)—

Omit “section 145, 146 or 147” wherever occurring, insert instead “Part 11”.

(3) Section 72A—

After section 72, insert:

Plans of management for combined areas and areas adjoining State borders

72A. (1) A single plan of management may be prepared under this Part for a combination of contiguous or related areas for which separate plans of management may be prepared under this Part or under the Wilderness Act 1987.

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SCHEDULE 1—AMENDMENTS—*continued*

(2) With the consent or on the request of the Minister, the Director may, together with the relevant authority of another State or a Territory, cause a joint plan of management to be prepared for an area comprising an area within that other State or Territory and an area for which a plan of management may be prepared under this Part or under the Wilderness Act 1987.

(3) The provisions of this Act or the Wilderness Act 1987 with respect to a plan of management for a particular area apply to—

(a) a single plan of management referred to in subsection (1);
or

(b) a joint plan of management referred to in subsection (2),
in so far as any such plan relates to any such area.

(4) A plan of management prepared in accordance with this section may include provisions relating to any lands acquired or occupied or proposed to be acquired or occupied under Part 11.

(4) Section 80 (**Lands submerged by water**)—

Section 80 (1)—

Omit “Director shall, before submitting to the Minister for adoption by him the plan of management, refer it”, insert instead “plan, before being made or adopted by the Minister, shall be referred”.

(5) Section 81 (**Operations under plan of management**)—

(a) Section 81 (3A), (4)—

Omit section 81 (4), insert instead:

(3A) Where a plan of management has been made for a state recreation area, it shall be carried out and given effect to—

(a) by the trustees or administrator of the area; or

(b) by the Minister, in the event that no trustees or administrator hold office in relation to the area.

(4) Despite anything in this or any other Act or in any instrument made under this or any other Act, if the Minister has adopted a plan of management under this Part, no operations shall be undertaken in relation to the lands to which the plan relates unless the operations are in accordance with that plan.

(b) Section 81 (5) (a)—

Omit “section 145 or 147”, insert instead “Part 11”.

(c) Section 81 (5) (b)—

Omit “section 146 or 147”, insert instead “Part 11”.

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(6) Section 85—

Omit the section, insert instead:

Director's responsibilities as to relics and Aboriginal places

85. (1) The Director shall be the authority for the protection of relics and Aboriginal places in New South Wales.

(2) In particular, the Director shall be responsible—

- (a) for the proper care, preservation and protection of any relic or Aboriginal place on any land reserved or dedicated under this Act; and
- (b) subject to section 87, for the proper restoration of any such land that has been disturbed or excavated for the purpose of discovering a relic.

(7) Section 90 (**Destruction etc. of relics or Aboriginal places**)—

Section 90 (1)—

Omit the subsection, insert instead:

(1) A person who, without first obtaining the consent of the Director, knowingly destroys, defaces or damages, or knowingly causes or permits the destruction or defacement of or damage to, a relic or Aboriginal place is guilty of an offence against this Act.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both (or 200 penalty units in the case of a corporation).

(8) Section 140 (**Community service contribution**)—

(a) Section 140 (3)—

Omit the subsection.

(b) Section 140 (4)—

Omit “or the payment of any such interest or part thereof”.

(9) Section 144A—

After section 144, insert:

Overdue community service contributions, charges, fees etc.

144A. (1) Interest on overdue money payable in respect of—

- (a) leases, licences, permits or occupancies within reserved or dedicated lands; and
- (b) leases and licences granted under section 151 (2); and
- (c) royalties, fees and charges under this Act; and
- (d) franchises granted under section 152; and
- (e) easements or rights of way granted under section 153; and

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(f) community service contributions under section 140, shall be payable in accordance with this section.

(2) If payment of the whole or any part of an amount payable in respect of a matter referred to in subsection (1) has not been made at the date when the amount was due, the balance due from time to time after that date shall attract interest calculated at the rate and in the manner prescribed by the regulations.

(3) If the Minister, on the recommendation of the Director, is satisfied that circumstances warrant it, the Minister may—

- (a) direct that an amount due shall not attract interest in accordance with this section; or
- (b) grant an extension of time after the due date during which the amount payable or due for the time being will not attract interest; or
- (c) remit the payment of the whole or any part of any interest payable under this section.

(4) No refund shall be made as a consequence of a remission under subsection (3) (c).

(5) This section applies to overdue money payable before, as well as on or after, the commencement of this section, in so far as it is due on and after that commencement, and so applies notwithstanding the terms of any lease, agreement or other instrument under which the money is payable.

(6) Interest payable under this section may be recovered in the same way as the money in respect of which it is payable.

(10) Section 146 (**Acquisition or occupation of lands for certain purposes**)—

Section 146 (3)—

After section 146 (2), insert:

(3) The Minister or Director may, for the purpose of the management, maintenance or improvement of any land reserved or dedicated under this Act, enter into and give effect to an agreement with the owner or lessee of the land, as the case requires, concerning the management or care of any land adjoining or in the vicinity of land so reserved or dedicated.

(11) Section 155 (**Regulations relating to parks**)—

Section 155 (2D)—

After section 155 (2C), insert:

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(2D) If an agreement under section 146 relates to land adjoining or in the vicinity of lands reserved or dedicated under this Act, the Governor may make regulations for or with respect to that land, not inconsistent with this Act or with any Act affecting the land—

(a) for the purpose of giving effect to the agreement; and

(b) for or in respect of a matter (not relating to the imposition of fees, charges or royalties) for which regulations may be made under subsection (2) in relation to a park.

(12) Section 164 (**Powers of entry and seizure**)—

(a) Section 164 (1), (5)—

Omit “an officer of the Service” wherever occurring, insert instead “any person”.

(b) Section 164 (5)—

Omit “officer” where secondly occurring, insert instead “person”.

(13) Section 165 (**Persons to deliver up fauna etc. when required**)—

(a) Section 165 (1)—

Omit “an officer of the Service”, insert instead “any person”.

(b) Section 165 (2)—

Omit “any such officer”, insert instead “person”.

(14) Section 171 (**Authority of officers to take or kill etc.**)—

(a) Section 171 (1)—

Omit “an officer of the Service, an ex-officio ranger or an honorary ranger”, insert instead “any person”.

(b) Section 171 (1) (a)—

Omit “any animals of a class or description specified by the Director, being” wherever occurring.

(c) Section 171 (1) (a) (i)—

After “state game reserve,”, insert “state recreation area,”.

(d) Section 171 (1) (b), (c)—

Omit “of a class or description specified by the Director,” wherever occurring.

(e) Section 171 (1A)—

After section 171 (1), insert:

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(1A) The Director may, in an authority given under subsection (1) or in another instrument served on the person to whom the authority is given, limit the kinds or numbers of animals, trees, timber, vegetation or native plants with respect to which an authority has effect.

(f) Section 171 (2)—

Omit “An officer of the Service, an ex-officio ranger or an honorary ranger”, insert instead “A person”.

(g) Section 171 (2)—

Omit “subsection (1)”, insert instead “this section”.

(15) Sections 175A, 175B—

After section 175, insert:

Offences by directors or managers of corporations

175A. (1) If a person contravenes any provision of this Act or the regulations—

- (a) while acting in the capacity of a director, a person concerned in the management, or an employee or an agent, of a corporation; or
- (b) at the direction or with the consent or agreement (whether express or implied) of such a director, person, employee or agent,

the corporation shall be taken to have contravened the same provision.

(2) A corporation may be proceeded against and convicted under a provision pursuant to subsection (1), whether or not the director, person, employee or agent has been proceeded against or convicted under that provision.

(3) Nothing in this section affects any liability imposed on a person for an offence committed by the person against this Act or the regulations.

Offences by corporations

175B. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation shall be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

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SCHEDULE 1—AMENDMENTS—*continued*

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1), whether or not the corporation has been proceeded against or convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

(16) Section 176 (**Proceedings for offences**)—

(a) Section 176 (1AA)—

After “section”, insert “90,”.

(b) Section 176 (1A)—

Omit “\$4,000”, insert instead “50 penalty units”.

(17) Schedule 3 (**Savings, transitional and other provisions**)—

Clause 21—

After clause 20, insert:

Validation of plans of management and authorities

21. (1) In this clause, “the amending Act” means the National Parks and Wildlife (Amendment) Act 1989.

(2) Any act, matter or thing done before the commencement of this clause in relation to the preparation of a plan of management for any lands that was not validly done, but that would have been validly done if the amending Act had been in force at the time it was done, is validated.

(3) An authority that purported to have been given to a person under section 164 or 165 before the commencement of this clause shall be deemed to have been given under the section concerned as if the amending Act had been in force when the authority was given.

(18) Schedule 8 (**Advisory committees**)—

(a) Clause 2—

Omit “Governor”, insert instead “Minister”.

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SCHEDULE 1—AMENDMENTS—*continued*

(b) Clause 2 (2)—

At the end of clause 2, insert:

(2) Without limiting the generality of subclause (1), the Minister may remove from office a member of an advisory committee who is absent without leave of the advisory committee (or without being excused by the committee) from 3 consecutive meetings held by the advisory committee over any period of 12 months.

(c) Clause 3 (d)—

Omit “Governor”, insert instead “Minister”.

[*Minister's second reading speech made in—
Legislative Assembly on 21 September 1988
Legislative Council on 23 May 1989*]