

1995—No. 393

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

(National Parks and Wildlife (Administration) 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 (Administration) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. (1) In this Regulation:

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

“**Service**” means the National Parks and Wildlife Service;

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

“**trustees**”, in relation to a state recreation area, means:

(a) the trustees of the area appointed under the Act;

(b) a person appointed as administrator of the area under the Act;

or

(c) if there are no trustees and no administrator of the area, the Director-General.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

PART 2—ADVISORY COMMITTEES

Application of Part

4. This Part applies to and in respect of an advisory committee constituted under section 24 of the Act.

Meetings to be held

5. (1) An advisory committee must hold an annual general meeting before the end of February each year.

(2) The first annual general meeting of an advisory committee must be held within 3 months of the constitution of the committee.

(3) An advisory committee must also hold ordinary meetings at least once every 3 months.

(4) A meeting (including an annual general meeting) must be held when and where convened by the chairperson or, in the chairperson's absence, by the deputy chairperson.

Appointment of officers

6. (1) At each annual general meeting, the members must appoint a chairperson, deputy chairperson and secretary.

(2) The chairperson is to be elected from among the members unless (in the case of the KOsciusko National Park Advisory Committee) a chairperson is holding office under subclause (7).

(3) The deputy chairperson is to be elected from among the members.

(4) The secretary may be elected from among the members or, with the concurrence of the Director-General, may be a person who is not a member appointed by the members.

(5) Except as otherwise provided by the Act or this Regulation, a person elected or appointed as a chairperson, deputy Chairperson or secretary:

(a) holds office until a successor is elected or appointed; and

(b) is eligible for re-election or re-appointment at the next annual general meeting.

(6) An elected chairperson, deputy chairperson or secretary ceases to hold office as such if he or she ceases to be a member.

(7) The Minister may appoint a chairperson of the Kosciusko National Park Advisory Committee from among the members of that Committee.

(8) A vacancy in any office must be filled at the next meeting after the vacancy occurs.

Presiding member

7. (1) The chairperson, or in the chairperson's absence the deputy chairperson, is to preside at the meetings of an advisory committee, but if both are absent, the members are to elect a person from among the members to preside as chairperson.

(2) The presiding member has a deliberative vote on any matter before the meeting and, in the case of an equality of votes, a casting vote.

Administrative matters

8. (1) The secretary must circulate to each member an agenda and associated business papers at least 7 days before any meeting of the advisory committee.

(2) The secretary (or a member on the secretary's behalf) must keep minutes of each meeting and must supply the members with a copy of the minutes of the meeting not later than one calendar month after the date of the meeting.

(3) The secretary of an advisory committee is responsible for the care of all business papers and correspondence.

(4) The secretary must forward to the Director-General not later than 31 December in each year particulars of the dates of, and of members attending at, each meeting during that year.

PART 3—TRUSTEES

Application of Part

9. This Part applies to and in respect of trustees appointed under clause 2 of Schedule 9A to the Act.

Meetings to be held

10. (1) The trustees must hold an annual general meeting before the end of May each year.

(2) The trustees must also meet at least 10 times a year at intervals not exceeding 2 months.

(3) A meeting must be held when and where convened by the president or, in the president's absence, by the deputy president.

Special meetings

11. (1) Any 2 trustees may, by notice in writing, request the president to call a special meeting for a purpose specified in the notice.

(2) On receiving such a request, the president must call a special meeting to be held within 28 days after the president receives the request.

Appointment of officers

12. (1) At each annual general meeting, the trustees must appoint a president, deputy president, secretary, treasurer and auditor.

(2) The president and deputy president are to be elected from among the members.

(3) The secretary, treasurer and auditor may be elected from among the members or may be persons who are not members appointed by the members.

(4) Except as otherwise provided by the Act or this Regulation, a person elected or appointed as president, deputy president, secretary, treasurer or auditor:

- (a) holds office until a successor is elected or appointed; and
- (b) is eligible for re-election or re-appointment at the next annual general meeting.

(5) A vacancy in any office must be filled at the next meeting after the vacancy occurs.

Presiding member

13. (1) The president, or in the president's absence the deputy president, is to preside at meetings of the trustees, but if both are absent, the trustees are to elect a person from among their number to preside.

(2) The person presiding at a meeting of the trustees has a deliberative vote and, in the case of an equality of votes, a casting vote.

Conduct of meetings

14. (1) Meetings of the trustees must be conducted, as far as is practicable, in accordance with the procedures set out in the Local Government (Meetings) Regulation 1993.

(2) A resolution that has been passed by the trustees must not be altered or rescinded except by a motion to that effect of which at least 7 days' written notice has been given to each trustee.

Committees

15. (1) The trustees may appoint one or more committees to carry out such work or perform such duties as the trustees may determine.

(2) A committee may consist of trustees, of persons who are not trustees or of both trustees and persons who are not trustees.

Common seal

16. The common seal of the trustees:

- (a) may only be affixed to an instrument or a document following a resolution to do so passed at a meeting of the trustees; and
- (b) must be affixed in the presence of a trustee and either the secretary or treasurer, each of whom must attest the fact of the affixing of the common seal by signing the instrument or document.

Administrative matters

17. (1) The president must circulate to each trustee an agenda and associated business papers at least 10 days before any meeting of the trustees.

(2) Subclause (1) does not apply to a special meeting if:

- (a) the president believes that the meeting should be held as soon as possible; and
- (b) it is impracticable to circulate an agenda and associated business papers before the start of the meeting,

in which case the president may give notice of the meeting and of the agenda for the meeting in such manner as the president considers appropriate.

(3) The secretary must keep minutes of each meeting and is responsible to the trustees for the keeping of proper financial records in collaboration with the treasurer.

(4) If no president has been appointed or there is a vacancy in the office of president, the Director-General may perform the functions of the president under this Part.

Financial matters

18. (1) All money received by the trustees must be paid into the National Parks and Wildlife Fund except money allocated to the trustees by the Minister for wages, for associated ancillary costs or for other specific purposes.

(2) Money allocated to the trustees by the Minister under this clause must be paid into a bank in New South Wales to the credit of an account in the name of the state recreation area for which the trustees are appointed.

(3) Interest earned on money standing to the credit of such an account must be expended only for the purposes for which the money was allocated by the Minister under this clause.

(4) No reallocation of money or variation of staff establishments on which an allocation under this clause is based may be made without the approval of the Minister.

(5) Each item of expenditure must be authorised, or the payment of such an item of expenditure must be confirmed, at a duly constituted meeting of the trustees through tabling and approval of a treasurer's report relating to that item of expenditure.

(6) Cheques drawn on a trustees' account kept under this clause must be signed by:

- (a) two trustees; or
- (b) one trustee, and the secretary or treasurer to the trustees; or
- (c) one trustee, and the manager, assistant manager or deputy manager of the state recreation area for which the trustees are appointed.

(7) The trustees' financial year ends on 30 June each year.

PART 5—MISCELLANEOUS

Ex-officio rangers: secs. 16 and 19

19. (1) For the purposes of section 16 (2) of the Act, the following classes and descriptions of officers and employees of the Forestry Commission are prescribed:

District Foresters

Foresters

Forest Assistants

Foremen under the Forestry Employees (Forestry Commission of New South Wales) Award

Forest Rangers under the Forestry Employees (Forestry Commission of New South Wales) Award

Regional Wildlife Managers

(2) For the purposes of section 19 (1) of the Act, an ex-officio ranger (whether a police officer, an inspector within the meaning of the Fisheries

Act 1935 or an ex-officio ranger prescribed by subclause (1)) has the powers, authorities, duties and functions conferred or imposed on officers of the Service by or under sections 157 (1) and 158 of the Act.

Notice of preparation of plan of management: sec. 75

20. If a plan of management has been prepared for a national park or historic site, the Director-General must give the notice required by section 75 (1) of the Act by an advertisement published in the Gazette.

Appeals: secs. 90 and 135

21. (1) An appeal under section 90 or 135 of the Act:

- (a) may only be made within 28 days after the date of the refusal, cancellation or attaching of the condition or restriction against which the appeal is brought; and
- (b) is to be made by delivering a written statement to the Director-General, containing:
 - (i) the appellant's name and address;
 - (ii) particulars of any application, consent, licence, certificate, condition or restriction relevant to the appeal; and
 - (iii) the grounds of the appeal.

(2) If a statement is delivered to the Director-General under this clause, the Director-General must as soon as practicable deliver the statement to the Minister.

Notification of site of relics: sec. 91

22. For the purposes of section 91 of the Act, the prescribed manner of notifying the Director-General of the location of a relic is by means of a written notice in a form approved by the Director-General.

Interest on overdue money: sec. 144A

23. The rate of interest prescribed for the purposes of section 144A (2) (a) of the Act is the rate for the time being prescribed under section 95 (1) of the Supreme Court Act 1970 for payment of interest on a judgment debt.

Penalty notice offences: sec. 160

24. (1) For the purposes of section 160 of the Act:

- (a) each of the following persons is a prescribed person:
 - (i) the Director-General;
 - (ii) an officer or employee of the Service;

- (iii) an officer or employee of a government department in respect of which an arrangement has been made under section 11 (1) of the Act;
 - (iv) an 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; and
- (b) each offence created by a provision specified in Column 1 of Schedule 2 is a prescribed offence; and
 - (c) the penalty specified in Column 3 of Schedule 2 in relation to a particular offence is the prescribed penalty for the offence.

Short descriptions

25. (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 Schedule 2 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 2, 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.

Evidence of authority: secs. 164 and 165

26. (1) For the purposes of sections 164 and 165 of the Act, the prescribed evidence of a person's authority is a written instrument of authority signed by the Director-General that identifies the person so authorised.

(2) For the purposes of section 164 (1) (a) (iii) of the Act, the prescribed form of receipt is a receipt in Form 1.

Nomination by universities of persons for appointment to Advisory Council: cl. 1 of Sch. 7

27. The nomination of a person by a university under clause 1 (3) (g) of Schedule 7 to the Act:

- (a) must contain the following information:
 - (i) the full name of the nominee;
 - (ii) the date of birth of the nominee;
 - (iii) the qualifications of the nominee and whether the nominee possesses special fitness, by reason of the nominee's work or interest, to undertake wildlife conservation; and
- (b) must reach the Minister not later than the date directed by the Minister by notice in writing to the university or by such later date as the Minister may allow; and
- (c) must be in writing; and
- (d) must be executed under the seal of the university; and
- (e) must be endorsed with or accompanied by the written consent of the nominee to the nomination.

Repeal

28. (1) The provisions of Parts 4 and 5, and clauses 51—56, 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.

Amendment

29. The National Parks and Wildlife (Fauna Protection) Regulation 1994 is amended by omitting clauses 21 and 22 and Form 1 in Schedule 1.

SCHEDULE 1—FORMS

(Cl. 26)

Form 1

SEIZURE RECEIPT

(National Parks and Wildlife Act 1974)

No.

I,
acknowledge receipt of the following
.....

Number	Description	Number	Description

seized by me from
of at
time/date
under the National Parks and Wildlife Act 1974.

.....
Owner/Person present
.....
Authorised officer

SCHEDULE 2—PENALTY NOTICE OFFENCES

(Cll. 24, 25)

OFFENCES UNDER THE NATIONAL PARKS AND WILDLIFE ACT 1974

Column 1	Column 2	Column 3
Offence	Short description	Penalty
Section 45 (1) (a)	take/kill animal within national park/ historic site	\$300
Section 45 (1) (b)	discharge prohibited weapon in national park/historic site	\$300
Section 56 (1) (a)	take/kill animal within nature reserve	\$300
Section 56 (1) (b)	use animal/firearm/explosive/net/trap/ hunting device/hunting instrument/to/ take/kill animal within nature reserve	\$300
Section 56 (1) (c)	carry/discharge/possess prohibited weapon in nature reserve	\$300
Section 56 (1) (d)	carry/possess explosive/net/trap/hunting device in nature reserve	\$300
Section 56 (1) (e)	be accompanied by dog in nature reserve	\$200
Section 57 (1)	fell/cut/destroy/injure/pick/remove/set fire to tree/timber/plant/flower/vegetation in nature reserve	\$300
Section 57 (2)	possess native plant within nature reserve	\$300
Section 58H (1) (a)	take/kill animal in state game reserve	\$300
Section 58H (1) (b)	use animal/firearm/explosive/net/trap hunting device/hunting instrument/to/ take/kill animal in state game reserve	\$300
Section 58H (1) (c)	carry/discharge/possess prohibited weapon in state game reserve	\$300
Section 58H (1) (d)	carry/possess explosive/net/trap/ hunting device in state game reserve	\$300
Section 58H (1) (e)	be accompanied by dog in state game reserve	\$200

1995—No. 393

Section 58I (1)	fell/cut/destroy/injure/pick/remove/set fire to tree/timber/plant/flower/ vegetation in state game reserve	\$300
Section 58I (2)	possess native plant within state game reserve	\$300
Section 58Q (1) (a)	take/kill animal within karst conservation reserve	\$300
Section 58Q (1) (b)	use animal/firearm/explosive/net/trap hunting devices/hunting instrument/ to/ take/kill animal in karst conservation reserve	\$300
Section 58Q (1) (c)	carry/discharge/possess prohibited weapon in karst conservation reserve	\$300
Section 58Q (1) (d)	carry/possess/explosive/net/trap/hunting device in karst conservation reserve	\$300
Section 58Q (1) (e)	be accompanied by dog in karst conservation reserve	\$200
Section 58R (1)	fell/cut/destroy/injure/pick/remove/set fire to tree/timber/plant/flower/ vegetation in karst conservation reserve	\$300
Section 58R (2)	possess native plant within karst conservation reserve	\$300
Section 70 (1) (a)	take/kill fauna in wildlife district/wildlife refuge/wildlife management area/ conservation area/wilderness area/area subject to wilderness protection agreement	\$300
Section 70 (1) (b)	use animal/firearm/explosive/net/trap/ hunting device/hunting instrument to take/kill fauna in a wildlife district/ wildlife refuge/wildlife management area/conservation area/wilderness area/ area subject to wilderness protection agreement	\$300
Section 70 (2) (a)	carry/discharge/possess prohibited weapon in wildlife refuge/wildlife management area/conservation area/wilderness area/ area subject to wilderness protection agreement	\$300

Section 70 (2) (b)	carry/possess explosive/net/trap/hunting device in wildlife refuge/wildlife management area/conservation area/wilderness area/area subject to wilderness protection agreement	\$300
Section 70 (2) (c)	be accompanied by dog in wildlife refuge/wildlife management area/conservation area/wilderness area/area subject to wilderness protection agreement	\$300
Section 71 (1)	pick/possess native plant within wildlife refuge/wildlife management area/conservation area/wilderness area/area subject to wilderness protection agreement	\$300
Section 86 (a)	disturb/excavate land/cause land to be disturbed/excavated to discover relic	\$300
Section 86 (b)	disturb/move relic that is Crown property	\$300
Section 86 (c)	possess relic in national park/historic site/state recreation area/nature reserve/state game reserve/karst conservation reserve/Aboriginal area	\$300
Section 86 (d)	remove relic from national park/historic site/state recreation area/state recreation area/nature reserve/state game reserve/karst conservation reserve/Aboriginal area	\$300
Section 86 (e)	erect/maintain building/structure in national park/historic site/karst conservation reserve/Aboriginal area for custody/storage/exhibition of relic	\$300
Section 91	fail to notify location of relic in reasonable time	\$300
Section 98 (2) (a)	take/kill protected fauna	\$300
Section 98 (2) (b)	use animal/firearm/explosive/net/trap/hunting device/hunting instrument to take/kill protected fauna	\$300
Section 101	sell/possess/control protected fauna	\$300

1995—No. 393

Section 102 (2)	fail to comply with direction regarding protected fauna	\$250
Section 103 (1)	take/kill fauna for sale	\$300
Section 104 (1) (a)	exercise/carry on business of fauna dealer	\$300
Section 104 (1) (b)	advertise/notify/state that carry on/willing to business of fauna dealer	\$300
Section 104 (1) (c)	hold out as ready to exercise/carry on business of fauna dealer	\$300
Section 105 (a)	exercise/carry on business of skin dealer	\$300
Section 105 (b)	advertise, notify/state that carry on/willing to business of skin dealer	\$300
Section 105 (c)	hold out as ready to exercise/carry on business of skin dealer	\$300
Section 106 (1)	import/export protected fauna from New South Wales	\$300
Section 107	exhibit protected fauna	\$300
Section 108	possess/control more than 19 birds being protected fauna	\$300
Section 109 (1)	liberate animal	\$300
Section 109 (2)	liberate captured animal native to New South Wales	\$300
Section 110 (1)	use prescribed substance to take/kill/attempt to take/kill protected fauna	\$300
Section 110 (2)	use prescribed substance to take/kill/attempt to take/kill bird	\$300
Section 111	use firearm to take/kill protected fauna	\$200
Section 117 (1)	pick/possess protected native plant	\$300
Section 118	sell protected native plant	\$300
Section 133 (4)	contravene/fail to comply with condition/restriction of licence/certificate	\$300
Section 157 (3) (a)	fail to give name/address	\$250

Section 157 (3) (b)	give false name/address	\$250
Section 158 (2) (a)	fail to give name/address/information relating to name and address/of driver	\$250
Section 158 (2) (b)	give false/misleading information about driver	\$250

NOTES

TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Citation
2. Commencement
3. Definitions

PART 2—ADVISORY COMMITTEES

4. Application of Part
5. Meetings to be held
6. Appointment of officers
7. Presiding member
8. Administrative matters

PART 3—TRUSTEES

9. Application of Part
10. Meetings to be held
11. Special meetings
12. Appointment of officers
13. Presiding member
14. Conduct of meetings
15. Committees
16. Common seal
17. Administrative matters
18. Financial matters

PART 4—MISCELLANEOUS

19. Ex-officio rangers: secs. 16 and 19
20. Notice of preparation of plan of management: sec. 75
21. Appeals: secs. 90 and 135
22. Notification of site of relics: sec. 91
23. Interest on overdue money: sec. 144A
24. Penalty notice offences: sec. 160
25. Short descriptions
26. Evidence of authority: secs. 164 and 165

1995—No. 393

- 27. Nomination by universities of persons for appointment to Advisory Council: cl. 1 of Sch. 7
- 28. Repeal
- 29. Amendment

SCHEDULE 1—FORMS

SCHEDULE 2—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) advisory committees appointed under section 24 of the National Parks and Wildlife Act 1974 (Part 2);
- (b) trustees of state recreation areas appointed under Schedule 9A to the Act (Part 3);
- (c) other matters of a minor, consequential or ancillary nature (Parts 1 and 4).

This Regulation also amends the National Parks and Wildlife (Fauna Protection) Regulation 1994 consequent on the transfer of certain provision of that Regulation to the new Regulation.

This Regulation is made under the National Parks and Wildlife Act 1974, including section 154 (the general regulation making power), sections 16, 19, 24, 75, 90, 91, 135, 144A, 160, 164, 165 and Schedules 7 and 9.

This Regulation comprises or relates to matters of a machinery nature.

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