



New South Wales

National Parks and Wildlife Regulation 2002

under the

National Parks and Wildlife Act 1974

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

BOB DEBUS, M.P.,

Minister for the Environment

Explanatory note

The object of this Regulation is to repeal and remake the *National Parks and Wildlife (Administration) Regulation 1995*, the *National Parks and Wildlife (Fauna Protection) Regulation 2001* and the *National Parks and Wildlife (Land Management) Regulation 1995* so as to consolidate those Regulations.

This Regulation makes provision for or with respect to the following:

- (a) the regulation of the use of national parks and other areas administered by the National Parks and Wildlife Service (Part 2),
- (b) the preservation of public health in Kosciuszko National Park (Part 3),
- (c) licences and certificates (Part 4),
- (d) the protection of fauna (Part 5),
- (e) the exemption of Aboriginal people from the restrictions imposed by various sections of the Act on the hunting of certain animals and the gathering of certain plants (Part 6),
- (f) boards of management and plans of management in relation to Aboriginal land (Part 7),
- (g) advisory committees constituted under section 24 of the *National Parks and Wildlife Act 1974* (Part 8),

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Explanatory note

- (h) trustees of state recreation areas and regional parks (Part 9),
- (i) the issue of penalty notices (Part 10),
- (j) other matters of a minor, consequential or ancillary nature (Parts 1 and 11).

The Regulation is made under the *National Parks and Wildlife Act 1974*, including sections 154 (the general regulation-making power), 155 (the general power to make regulations in relation to parks), 155A (the power to make certain regulations relating to Kosciuszko National Park) and 156.

In so far as this Regulation repeals and remakes the two 1995 Regulations referred to above, it is made in connection with the staged repeal of subordinate legislation.

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Clause 1 National Parks and Wildlife Regulation 2002

Part 1 Preliminary

National Parks and Wildlife Regulation 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *National Parks and Wildlife Regulation 2002*.

2 Commencement

This Regulation commences on 1 September 2002.

3 Definitions

(1) In this Regulation:

Aboriginal person means a person:

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

determining authority has the same meaning as it has in Part 5 of the *Environmental Planning and Assessment Act 1979*.

Director-General means the Director-General of National Parks and Wildlife.

disability assistance aid means a vehicle other than a motor car designed for use by a disabled person and includes a motorised wheelchair.

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

litter includes:

- (a) any solid or liquid domestic or commercial refuse, debris or rubbish deposited in or on a place, and includes any glass, metal, cigarette butts, paper, fabric, wood, food, construction or demolition material, garden remnants and clippings, soil, sand or rocks, and

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- (b) any other material, substance or thing deposited in or on a place if its size, shape, nature or volume makes the place where it is deposited disorderly or detrimentally affects the proper use of that place,

whether or not it has any value when or after being deposited in or on the place.

moor a vessel includes attach a 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 or placed on 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, regional park, nature reserve, state game reserve, karst 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, area, reserve or land, and
- (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 the following:

- (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,
- (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,

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Part 1 Preliminary

- (c) in relation to a karst conservation reserve of which the Jenolan Caves Reserve Trust is trustee—the Jenolan Caves Reserve Trust,
- (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), Aboriginal area or any land acquired by the Minister under Part 11 of the Act—the Director-General,
- (e) in relation to each area of land reserved or dedicated under Part 4A of the Act:
 - (i) until such time as a board of management is established, in accordance with Division 6 of Part 4A, for the area—the Director-General, and
 - (ii) on and from the establishment of the board of management—the board of management.

park user means a person in a park or intending to enter a park.

tag includes a label, slip or other object for affixing or attaching to the skins or carcasses of fauna.

the Act means the *National Parks and Wildlife Act 1974*.

trustees, in relation to a state recreation area or regional park, means:

- (a) the trustees of the area or regional park appointed under the Act, or
- (b) a person appointed as administrator of the area or regional park under the Act, or
- (c) if there are no trustees and no administrator of the area or regional park, the Director-General.

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

- (2) Notes in the text of this Regulation do not form part of this Regulation.

Part 2 Regulation of use of parks

Division 1 Regulation by notices or direction

4 Regulation by public or other notice

- (1) A park authority may do any of the following by means of notices displayed in, or at the boundary of, the park or part of the park to which the notices relate or by means of written notices given to park users:
- (a) designate points of entry to the park,
 - (b) close the park, or any part of the park, to the public,
 - (c) 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) impose fees and charges on persons (whether on foot or driving vehicles, horses or camels) entering or using the park, any part of the park or any facilities in the park and on persons driving vehicles, horses or camels who enter or use any public or other road traversing the park,
 - (e) regulate or prohibit the use of any facilities in the park or the carrying out of activities (including driving vehicles, horses or camels or operating or mooring vessels) in the park,
 - (f) grant any consent that is required by this Regulation in relation to the use of the park,
 - (g) impose conditions, including conditions relating to the payment of fees or charges, on persons (whether on foot or driving vehicles, horses or camels) entering or using the park, any part of the park or any facilities in the park,
 - (h) impose conditions relating to the payment of fees or charges by persons driving vehicles, horses or camels who enter or use any public or other road traversing 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

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Part 2 Regulation of use of parks

Division 1 Regulation by notices or direction

- (b) 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
- (c) 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
- (d) use any park or part of a park for a use other than that for which it is reserved, or
- (e) enter or use any park or part of a park or any public or other road traversing a park without paying any fee or charge that is imposed in that regard in accordance with this clause, or
- (f) use any facilities in a park or carry out any activity (including driving a vehicle, horse or camel) in a park in contravention of the terms of a notice under this clause, or
- (g) 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.

Maximum penalty: 30 penalty units.

- (3) A person does not commit an offence under this clause for anything done or omitted to be done 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.

5 Regulation by direction

- (1) A park authority may issue an oral direction to a park user in relation to any of the following:
 - (a) points of entry to the park to be used by the park user,
 - (b) the closing of the park, or any part of the park, to the park user,
 - (c) reserving 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) the regulation or prohibition of the use of any facilities in the park or the carrying out of activities (including driving vehicles, horses or camels) in the park,
 - (e) the granting of any consent that is required by this Regulation in relation to the use of the park,
 - (f) the imposition of conditions, including conditions relating to the payment of fees or charges, on the park user (whether on foot or driving vehicles, horses or camels) entering or using the park, any part of the park or any facilities in the park.
- (2) A park user to whom such a direction is given must comply with the direction.
- Maximum penalty: 30 penalty units.
- (3) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in compliance with a direction under this clause.

Division 2 Regulation of traffic

6 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: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

7 Use of vehicles, camels, horses, vessels and machines in parks

- (1) A person must not do any of the following in a park:
- (a) operate, drive or use any vehicle (other than a motor car, motor omnibus, motor truck, motor cycle, motor scooter, bicycle or other human powered wheeled vehicle, quadbike, disability assistance aid or horse drawn carriage),
 - (b) operate, drive, use or have within the person's possession an oversnow vehicle,
 - (c) drive or park a vehicle that does not clearly display a valid pass for entry into the park,

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Part 2 Regulation of use of parks

Division 2 Regulation of traffic

- (d) drive or park a vehicle that is not registered,
- (e) drive or park a vehicle that does not display a valid registration label,
- (f) drive or park a vehicle that has no number-plate or registration plate or that has its number-plate or registration plate covered or obscured,
- (g) drive a vehicle, camel or horse, or tether a camel or horse, otherwise than on a road, track, trail or way, or in an area, set aside for that purpose,
- (h) drive a vehicle, camel or horse in a dangerous or reckless manner,
- (i) park a vehicle otherwise than in an area set aside for the parking of vehicles,
- (j) operate or use a vessel on any waters on which the operation or use of such a vessel is prohibited,
- (k) operate or use a vessel in such a manner as to cause a nuisance or endanger the safety of other users of the park,
- (l) operate or use a vessel in a commercial operation,
- (m) tie a vessel by any means to any vegetation,
- (n) moor a vessel otherwise than in an area set aside for the mooring of vessels,
- (o) operate or use any heavy or noisy machinery.

Maximum penalty: 30 penalty units.

- (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) a gate, barrier or similar device is positioned, or an obstruction has been created by any means, in such a way as to restrict or obstruct vehicular access to the road, track, trail, way or area, or
 - (b) vehicular access to a road, track, trail, way or area is restricted or obstructed in any other way.

Maximum penalty: 30 penalty units.

- (3) A person must not drive a vehicle so as to cause damage to any road, track, trail, way or area in a park if vehicular access to the road, track, trail, way or area has been prohibited or restricted by the park authority in any way.

Maximum penalty: 30 penalty units.

- (4) A person must not:
- (a) open, damage or destroy any gate, barrier or similar device in a park, or
 - (b) remove, shift, damage or destroy any obstruction that has been positioned or created, by any means, so as to restrict or obstruct vehicular access to any road, track, trail, way or area in a park.

Maximum penalty: 30 penalty units.

- (5) A person does not commit an offence under this clause for anything done with the consent of a park authority and in accordance with any conditions to which the consent is subject.
- (6) A person does not commit an offence under subclause (1) (i) if no area has been set aside for parking, and the person parks a vehicle on a road, track or trail in such a way as not to obstruct the use of the road, track or trail by other vehicles, or endanger the safety of other park users, or damage or destroy any vegetation.

- (7) In this clause:

horse means any animal of the genus *Equus*, including an ass.

number-plate means a number-plate issued:

- (a) under the *Road Transport (Vehicle Registration) Act 1997*, or
- (b) by a competent authority of another jurisdiction.

registered means registered:

- (a) under the *Road Transport (Vehicle Registration) Act 1997*, or
- (b) by a competent authority of another jurisdiction, or
- (c) in New South Wales under the *Interstate Road Transport Act 1985* of the Commonwealth.

registration plate means a registration plate issued:

- (a) under the *Recreation Vehicles Act 1983*, or
- (b) by a competent authority of another jurisdiction.

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Part 2 Regulation of use of parks

Division 2 Regulation of traffic

vessel includes a boat, surf board, boogie board, wind surfer, wave jumper, sail board, raft, kayak, canoe, dinghy, jet ski and the like.

Division 3 Regulation of conduct generally

8 Removal of certain persons

- (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.

- (2) A person to whom such a direction is given must comply with the direction.

Maximum penalty: 30 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) A person who has been given a direction under subclause (1), or who has been removed from a park under subclause (3), must not re-enter the park for a period of 24 hours after the direction was given or after he or she was removed from the park, whichever is later.

Maximum penalty: 30 penalty units.

- (5) A person does not commit an offence under subclause (4) by doing or omitting anything with the consent of an authorised officer and in accordance with any conditions to which that consent is subject.

- (6) In this clause:

authorised officer, in relation to a park, means:

- (a) an officer or employee of the National Parks and Wildlife Service, or
- (b) a person who is authorised by the park authority to exercise the powers conferred by this clause, or
- (c) a police officer.

9 Taking and keeping of animals in parks

- (1) A person must not:
- (a) take into or release an animal in a park or onto any public or other road traversing a park, or
 - (b) place or keep an animal in a park or on any public or other road traversing a park, or
 - (c) have charge, possession or control of an animal in a park or on any public or other road traversing a park, or
 - (d) fail to prevent an animal of which the person has charge, possession or control from entering a park or entering onto any public or other road traversing a park.

Maximum penalty: 30 penalty units.

- (2) A person does not commit an offence under this clause:
- (a) if the animal is an assistance animal, or
 - (b) if a person takes an animal into a park or onto any public or other road traversing a park, in accordance with and subject to any conditions stated in a plan of management for a park, unless a notice erected in the park or given to the person prohibits the taking of animals into the park or any part of the park to which the plan of management relates, or
 - (c) 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) Nothing in this clause prevents 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.

- (4) In this clause:

assistance animal means an animal referred to in section 9 (Disability discrimination—guide dogs, hearing assistance dogs and trained animals) of the *Disability Discrimination Act 1992* of the Commonwealth.

park does not include a regional park.

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Clause 10 National Parks and Wildlife Regulation 2002

Part 2 Regulation of use of parks

Division 3 Regulation of conduct generally

10 Camping and residing

- (1) A person must not camp in a park except in an area set aside for camping.

Maximum penalty: 30 penalty units

- (2) A person must not camp in a park:
- (a) for a continuous period of more than 21 days, or
 - (b) if a different maximum number of days is set out in a plan of management for the park but not in any notice erected in the park or given to the person—for more than the maximum number of days for camping in the park set out in the plan of management, or
 - (c) if a different maximum number of days is set out in a notice erected in the park or given to the person—for more than the maximum number of days set out in the notice.

Maximum penalty: 30 penalty units.

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

Maximum penalty: 30 penalty units.

- (4) A person does not commit an offence under this clause:

- (a) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
- (b) if a plan of management for a park makes provision for camping otherwise than by setting aside an area for camping—the person camps in the park in accordance with the plan of management, or
- (c) if there is no plan of management for the park—the person camps in a non-designated camping area if that area is more than 1 kilometre from any designated camping area, car parking area or picnic area or from a road, track or trail designated for vehicular use by the public.

- (5) A person does not commit an offence under subclause (3) if the person has been granted a lease or licence by the Minister under the Act that allows the person to reside in the park.

- (6) Despite subclause (4) (b) and (c), a person must not camp in a park if a notice erected in the park or given to the person prohibits camping in the park or any part of the park.

Maximum penalty: 30 penalty units.

- (7) In this clause:

camp means reside temporarily (whether or not in a tent, caravan, cabin, vehicle, trailer or other structure) or use any part of a park for the purpose of camping.

11 Littering and damage

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

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Clause 11 National Parks and Wildlife Regulation 2002

Part 2 Regulation of use of parks

Division 3 Regulation of conduct generally

- (j) carry or possess 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, or
 - (k) carry, possess or use any spray cans of paint, or any bolt cutters, oxy-acetylene equipment, angle grinder or other cutting equipment in a park, or
 - (l) possess or have custody of any key or other similar device that is capable of opening any lock or other device securing a gate or barricade located in a park, or
 - (m) discharge stormwater into a park.
- Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted:
- (a) with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
 - (b) if the act or omission was necessary for the carrying out of:
 - (i) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
 - (ii) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*), or
 - (c) if the act or omission was authorised by or under Part 2 of the *Rural Fires Act 1997*, the *State Emergency and Rescue Management Act 1989* or the *State Emergency Service Act 1989* and was reasonably necessary in order to avoid a threat to life or property.
- (3) A person does not commit an offence under subclause (1) (j) if the substance or object referred to in that subclause was obtained by the person from a person authorised to sell such substances or objects or from an area outside a park.
- (4) A person does not commit an offence under subclause (1) (k) merely because the person carries or possesses any object referred to in that subclause on a road traversing a park if the person does not stop in the park.

(5) For the purposes of subclause (1) (c), *waste* includes the following:

- (a) rubbish and refuse,
- (b) marine craft, aircraft and parts of them,
- (c) household effects, appliances and materials,
- (d) clothing,
- (e) agricultural, 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,
- (j) radioactive material.

(6) In this clause:

divert includes extract water (whether by means of a pump or not) otherwise than pursuant to, and in accordance with the conditions of, a water licence issued under Division 3 of Part 2 of the *Water Act 1912* by a competent authority.

12 Protection of animals

(1) A person must not in a park:

- (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, or
- (b) hunt, shoot, poison, net, spear, pursue, interfere with, injure, hurt, capture, destroy, trap or snare, or have in the person's possession, an animal, 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, 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, or
- (e) carry, possess or use a spiked collar, a breast plate or radio tracking equipment for use on any dog, or
- (f) have under the person's control any dog on which a spiked collar, a breast plate or radio tracking equipment is carried, or

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Clause 12 National Parks and Wildlife Regulation 2002

Part 2 Regulation of use of parks

Division 3 Regulation of conduct generally

(g) feed any animal.

Maximum penalty: 30 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) A person does not commit an offence under this clause in relation to netting or trapping if that netting or trapping is authorised under or by the *Fisheries Management Act 1994*.
- (4) In this clause, ***interfere with*** includes brand, chase, harass, herd, mark and tag.

13 Offensive conduct

- (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) use, or be affected by, any prohibited drugs (within the meaning of the *Drug Misuse and Trafficking Act 1985*), or
 - (c) drive, ride, operate or use any machinery, plant, radio, television, cassette player, compact disc player, 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: 30 penalty units.

- (2) A person must not ride or use a skate board, roller skates, bicycle, scooter or other means of conveyance (other than a disability assistance aid) on a track, trail or way, or in an area, set aside in a park for pedestrian traffic only.

Maximum penalty: 30 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.

14 Lighting of fires

- (1) A person must not in a park:
- (a) light, maintain or use a fire:
 - (i) if there are fireplaces designated for that purpose by a park authority—elsewhere than in such a fireplace, or
 - (ii) if there are no fireplaces designated for that purpose—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 erected or displayed or given to a park user by a park authority regulating the use of fire in the park, or
 - (iv) when a total fire ban has been imposed under the *Rural Fires Act 1997*, 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: 30 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) A person does not commit an offence under subclause (1) (a) (iv) by doing anything authorised by or under the *Rural Fires Act 1997*.

15 Cultural heritage

- (1) A person must not deposit or leave any bone, shell, charcoal, stone or wood within an Aboriginal area or Aboriginal place.
- Maximum penalty: 30 penalty units.
- (2) A person must not within any Aboriginal area or Aboriginal place have in the person's possession:
- (a) any chalk, paint or other colouring substance, matter or thing, or

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- (b) any sieve, spade, shovel, fork, mattock, pick, bar, axe, chisel, hammer or similar implement.

Maximum penalty: 30 penalty units.

- (3) A person must not in a park:
 - (a) use any metal detector or other apparatus for detecting any metal or metal object, or
 - (b) touch or interfere with or do anything that 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
 - (e) deposit or leave any relic in a park.

Maximum penalty: 30 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.
- (5) A person does not commit an offence under subclause (3) (d) if the interference or removal was necessary for the carrying out of:
 - (a) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
 - (b) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*.

16 Erection of structures

- (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: 30 penalty units.

- (2) A person does not commit an offence under this clause for anything done or omitted:
 - (a) with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
 - (b) if the act or omission was necessary for the carrying out of:
 - (i) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
 - (ii) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*.
- (3) A person does not commit an offence under subclause (1) (b) if the person camps in a manner that is not prohibited by clause 10.
- (4) In this clause, **moveable dwelling** means any tent or any caravan or other van or other portable device (whether on wheels or not), used for human habitation.

17 Protection of vegetation

- (1) A person must not:
 - (a) gather, pluck, pull up, poison, take, dig up, 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: 30 penalty units.

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- (2) A person does not commit an offence under this clause for anything done or omitted:
- (a) with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
 - (b) if the act or omission was necessary for the carrying out of:
 - (i) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
 - (ii) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*), or
 - (c) if the act or omission was authorised by or under Part 2 of the *Rural Fires Act 1997*, the *State Emergency and Rescue Management Act 1989* or the *State Emergency Service Act 1989* and was reasonably necessary in order to avoid a threat to life or property.
- (3) A person does not commit an offence under subclause (1) (b) if the person has in his or her possession vegetation (including firewood) that was lawfully obtained from outside the park.
- (4) A person does not commit an offence under this clause by using firewood:
- (a) that has been provided at established visitor use areas in the park where the burning of fires is permitted, or
 - (b) that comes from deadfalls of timber, if timber is not provided at established visitor use areas in the park.
- (5) In this clause:
vegetation means the whole or part of any tree, shrub, fern, creeper, vine, palm, plant or seed, whether alive or dead.

18 Beehives

- (1) A person must not remove any beehive from, or place any beehive in, a park.
Maximum penalty: 30 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 Weapons

- (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 1996* or prohibited weapon within the meaning of the *Weapons Prohibition Act 1998*, 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, flare or firework, or
 - (d) throw or propel by any means any object likely to cause damage or injury to any person, animal or thing, or
 - (e) without reasonable excuse, carry, use, possess or have custody of a knife in a park.

Maximum penalty: 30 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) For the purposes of subclause (1) (e), a person has a reasonable excuse to carry, use, possess or have custody of a knife if:
- (a) the possession or custody is reasonably necessary in all the circumstances for any of the following:
 - (i) the preparation or consumption of food or drink,
 - (ii) participation in a lawful entertainment, recreation or sport,
 - (iii) the wearing of an official uniform, or
 - (b) the possession or custody is reasonably necessary in the circumstances during travel to or from or incidental to an activity referred to in paragraph (a).
- (4) For the purposes of subclause (1) (e), it is not a reasonable excuse for a person to have possession or custody of a knife, or to carry or use a knife, solely for the purpose of self defence or the defence of another person.
- (5) A person does not commit an offence under subclause (1) (b) if the person carries or possesses an unloaded speargun in a park, unless a plan of management for a park or a notice erected in the park or given

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to the person prohibits the carrying or possession of a speargun (whether loaded or unloaded) in a park or any part of the park.

- (6) A person does not commit an offence under subclause (1) (c) if the flare is carried in a boat as a part of the boat's safety equipment as required by or under any other Act or when used as a distress signal.
- (7) In this clause, *unloaded speargun* means:
- (a) an assembled rubber powered speargun that does not have the shaft engaged in the trigger mechanism and the rubbers stretched and engaged in the shaft, or
 - (b) in the case of a pneumatic, spring or gas powered speargun—one that does not have the spear shaft located within the barrel of the speargun.

20 Commercial activities

- (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: 30 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.

21 Sporting, recreational and other activities

- (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 involving more than 40 persons or such other number of persons as is stated in a plan of management for the park, or stated in a notice erected in the park or given to a park user, whichever is the lesser, or
- (c) organise, attend or participate in any group activity involving more than 40 persons, or such other number of persons as is stated in a plan of management for the park, or stated in a notice erected in the park or given to a park user, whichever is the lesser, 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 that involves risking the safety of the person or the safety of other persons or damaging the environment.

Maximum penalty: 30 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, bungee jumping, rock climbing, caving, parachuting, white water boating, paragliding, parasailing and hang gliding, but the paragraph will not apply if the activity is permitted in a plan of management for the park.
- (3) A person does not commit an offence under this clause:
 - (a) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
 - (b) if a plan of management for a park makes provision for the undertaking of an activity in the park, the person undertakes the activity in the park in accordance with the plan of management, or
 - (c) if there is no plan of management for a park, the person undertakes an activity in a park in accordance with a notice erected in the park or given to the person which permits the undertaking of the activity in the park.
- (4) Despite subclause (3) (b), a person must not undertake an activity in a park if a notice erected in the park or given to the person prohibits the undertaking of the activity in the park or any part of the park.

Maximum penalty: 30 penalty units.

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22 Research activities

- (1) A person must not carry out any kind of research in a park.
Maximum penalty: 30 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.

23 Caves

- (1) A person must not enter or remain in a cave in a park except with the consent of the park authority.
Maximum penalty: 30 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 that 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, or
 - (j) damage any speleothems in a cave, or
 - (k) vandalise any cave, or

- (1) interfere with, dig or disturb in a cave or remove from a cave any Aboriginal objects.

Maximum penalty: 30 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 person does not commit an offence under subclause (2) (c) if the person is authorised to enter a cave and lays a track as a temporary safety measure and removes the track when the person leaves the cave.

24 Interference with park management

A person must not:

- (a) destroy, damage or remove any thing that is being used or intended to be used by the park authority for the suppression or destruction of any animals in a park, or
- (b) interfere with any thing that is being used or intended to be used by the park authority for the suppression or destruction of any animals in a park in a manner that is likely to impair its effectiveness, or
- (c) remove, relocate, damage, destroy or obscure by any means any sign or notice that has been erected or displayed in a park by a park authority or that has been erected or displayed in a park with the consent of the park authority, or
- (d) interfere with or obstruct any action taken by a park authority for the purpose of the care, control and management of the park, or
- (e) attempt to do any of the things referred to in paragraphs (a)–(d).

Maximum penalty: 30 penalty units.

25 Use of snow chains in Kosciuszko National Park

- (1) A person travelling by motor vehicle on any designated snow/ice risk road within Kosciuszko National Park at any time on or after 1 June and before 11 October in any year must carry snow chains suitable for use on the tyres of the motor vehicle.

Maximum penalty: 30 penalty units.

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- (2) A person travelling by motor vehicle within Kosciuszko National Park between 1 June and 10 October in any year must use snow chains on the tyres of the motor vehicle when directed to do so by an authorised officer or by a notice erected in the park or given to the park user.

Maximum penalty: 30 penalty units.

- (3) In this clause:

authorised officer, in relation to a park, means:

- (a) an officer or employee of the National Parks and Wildlife Service, or
- (b) a person who is authorised by the park authority to exercise the powers conferred by this clause, or
- (c) a police officer.

designated snow/ice risk road means a road on which there is a sign, erected by or on behalf of the Director-General, requiring snow chains to be carried on the road.

motor vehicle does not include a four-wheel drive vehicle.

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

26 Definitions

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.

vessel means any boat, yacht, cruiser, houseboat, barge or other floating craft used for the conveyance of persons or things that has been, or is required to be, registered by the relevant authority, but does not include a raft, kayak, canoe, dinghy or other small floatation device.

27 Setting up of moorings

(1) The Director-General may grant licences for marinas and moorings in Cowan Water, subject to any terms and conditions that may be imposed by the Director-General.

(2) The Director-General may revoke, or vary the terms of, any such licence.

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

Maximum penalty: 30 penalty units.

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

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

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

Maximum penalty: 30 penalty units.

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

(a) any unlicensed mooring or marina, or

(b) any mooring or marina that has been abandoned or has become submerged, come adrift or fallen into a state of disrepair, or

(c) any part of a mooring or marina that has become separated from the mooring or marina or that constitutes, in the opinion of the Director-General, a danger, hazard, impediment or menace to the use of Cowan Water.

(8) The Director-General may, in any court of competent jurisdiction, recover the cost and expenses:

(a) incurred as a result of a removal authorised by subclause (7) (a)—from the person by whom the unlicensed mooring or marina was set up, or

(b) incurred as a result of a removal authorised by subclause (7) (b) or (c)—from the current licensee or (if the licence is no longer in force) the previous licensee.

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

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Part 2 Regulation of use of parks

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

- (10) For the purposes of this clause, a marina or mooring is unlicensed if:
- (a) no licence has been issued in relation to it, or
 - (b) a licence has been issued in relation to it subject to terms and conditions that have not been met.

28 Mooring of vessels

- (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: 30 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.

Maximum penalty: 30 penalty units.

- (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: 30 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: 30 penalty units.

- (5) An authorised officer may direct a person to remove a vessel from a mooring if the vessel is moored in contravention of this clause.

- (6) A person must not, without reasonable excuse, fail to comply with a direction given under subclause (5).

Maximum penalty: 30 penalty units.

- (7) In this clause:

authorised officer means:

- (a) an officer or employee of the National Parks and Wildlife Service, or
- (b) a person who is authorised by the park authority for Ku-ring-gai Chase National Park to exercise the powers conferred by this clause, or
- (c) a police officer.

29 Misrepresentation of authority to moor vessel

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: 30 penalty units.

Division 5 Miscellaneous

30 Consents

- (1) The consent of a park authority under this Part 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 permit, licence, 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.

31 Exercise of park authority's functions

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

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Part 2 Regulation of use of parks

Division 5 Miscellaneous

32 Defences

A person does not commit an offence under this Part 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.

33 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 Part is liable to be excluded from a park by the park authority for any period of time determined by the park authority.
- (2) For the purpose of this clause, a person is taken to have committed (or to be guilty of) an offence against this Part if:
 - (a) a court convicts the person of the offence, or
 - (b) a court makes an order under section 10 of the *Crimes (Sentencing Procedure) Act 1999* or section 33 (1) (a) of the *Children (Criminal Proceedings) Act 1987* in respect of the person in relation to the offence, or
 - (c) a penalty notice has been issued in respect of an offence and the penalty notice amount has been paid.
- (3) A person who has been excluded from a park under this clause must not re-enter the park before the period of exclusion ends.

Maximum penalty: 30 penalty units.

Part 3 Public health in Kosciuszko National Park

34 Definitions

In this Part:

premises means premises in the park.

the park means the Kosciuszko National Park.

35 Object of Part

- (1) The object of this Part is to confer or impose on the Director-General, under section 155A of the Act, 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.

36 Orders requiring the preservation of healthy conditions in the park

- (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 all things that 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 Avoidance and Resource Recovery Act 2001*) 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.

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Part 3 Public health in Kosciuszko National Park

- (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: 30 penalty units.

37 Orders requiring the doing of things to or on premises

- (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: 30 penalty units.

38 Orders relating to premises used for shared accommodation

- (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 1999*, order the occupier of the premises to take the action that 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: 30 penalty units.

39 Orders requiring that premises not be used in specified ways

- (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: 30 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.

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

- (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 36–39 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.

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

- (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 whatever manner 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

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Part 3 Public health in Kosciuszko National Park

- (b) control and regulate the depositing on land in the park of any material likely to give rise to a condition that 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.

42 Power of entry and inspection

- (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.

43 Functions relating to Public Health Act 1991

- (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 the *Public Health (Swimming Pools and Spa Pools) Regulation 2000* in relation to any park.
- (2) For the purposes of this clause, the National Parks and Wildlife 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 4 Licences and certificates

44 Applications for licences or registration certificates

- (1) An application for the issue of a licence or a registration certificate under the Act must be made in a form approved by the Director-General.
- (2) If a form of application requires a fee or charge to accompany it, that fee or charge must be lodged with the application.
- (3) A person must not, in connection with an application for the issue of a licence or a registration certificate under the Act, make any statement or provide any information or other material that the person knows, or ought reasonably to know, is false or misleading.

Maximum penalty: 30 penalty units.

45 Terms of licences or registration certificates

A licence or registration certificate issued under the Act is in force (unless cancelled):

- (a) until midnight on 31 December following the date of issue, or
- (b) if an expiry date is specified in the licence or certificate—until midnight on that date.

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Clause 46 National Parks and Wildlife Regulation 2002

Part 5 Fauna protection

Division 1 Preliminary

Part 5 Fauna protection

Division 1 Preliminary

46 Meaning of “authorised officer”

In this Part, *authorised officer* has the same meaning as in section 119 of the Act.

Division 2 Licences and certificates

47 Authorisation for issue of licences

In accordance with paragraph (b) (ii) of the definition of *authorised officer* in section 119 of the Act, each of the following is a prescribed office, position or rank for the purposes of the provisions of Part 9 of the Act:

- (a) Manager, Biodiversity Research and Management Division,
- (b) Manager, Biodiversity Management Unit,
- (c) Coordinator, Wildlife Licensing.

48 Issue of tags

- (1) The Director-General or an officer authorised by the Director-General may (on payment of any fees or charges fixed by the Director-General) issue tags for affixing or attaching to the skin or carcase of any fauna in compliance with a condition of a licence under Part 9 of the Act.
- (2) Commercial tags may be issued for affixing or attaching to the skins or carcasses of kangaroos, wallaroos or wallabies harmed for sale.
- (3) Non-commercial tags may be issued for affixing or attaching to the skins or carcasses of kangaroos, wallaroos or wallabies harmed otherwise than for sale.
- (4) A separate series of commercial tags is to be issued for each year. Commercial tags may be used only during the year for which they are issued.

49 Supply of tags to trappers

An occupier's licence authorising the licensee to permit a person to harm kangaroos, wallaroos or wallabies is subject to the condition that the licensee must make available to any person permitted to harm kangaroos, wallaroos or wallabies under the licence a quantity of commercial tags or non-commercial tags equal in number to the number of kangaroos, wallaroos or wallabies that the person is permitted to harm.

50 Grounds for refusing import or export licence

For the purposes of section 126 (3) of the Act, the grounds on which an application for an import or export licence may be refused are as follows:

- (a) that, in the opinion of the Director-General, the proposed import or export of protected fauna, if effected:
 - (i) could be detrimental to the protection and conservation of fauna in the State, or
 - (ii) could result in a person contravening a law of the State, or
 - (iii) could result in a person contravening a law of the place from which it is intended to import, or to which it is intended to export, the protected fauna, or
 - (iv) could introduce species of protected fauna that do not normally occur in the State and that may constitute a threat to agricultural or horticultural activities in the State, or
 - (v) could introduce species of protected fauna that cannot readily be kept in captivity or confinement, or
 - (vi) could introduce a species of protected fauna that may constitute a threat to human health or safety,
- (b) that the applicant is not the holder of a licence under the Act (other than an import or export licence) that authorises dealings with the protected fauna proposed to be imported or exported,
- (c) that the applicant has not given a written undertaking to the Director-General:
 - (i) in the case of an application for an import licence—to notify an authorised officer of details of the protected fauna imported, and of the time of import, within the 48 hours immediately following that time, or

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Clause 50 National Parks and Wildlife Regulation 2002

Part 5 Fauna protection

Division 2 Licences and certificates

- (ii) in the case of an application for an export licence—to notify the authority (if any) responsible for the protection of fauna at the place to which the protected fauna is proposed to be exported of details of the protected fauna, and of the time of intended export, within the 48 hours immediately preceding that time,
- (d) that the applicant has, within the period of 2 years immediately preceding the making of the application, been convicted of:
 - (i) an offence under a provision of Part 7 of the Act or an offence under a similar provision of the fauna protection legislation of another State or Territory, or
 - (ii) an offence under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or
 - (iii) an offence under the *Prevention of Cruelty to Animals Act 1979* or the *Exhibited Animals Protection Act 1986*.

51 Grounds for cancelling import or export licence

For the purposes of section 134 (2) of the Act, the grounds on which an import or export licence may be cancelled are as follows:

- (a) that the licensee has made a statement that the licensee knows, or ought reasonably to know, is false or misleading in, or in connection with, the application for the licence,
- (b) that the licensee has been convicted of an offence under a provision of Part 7 of the Act or an offence under a similar provision of the fauna protection legislation of another State or Territory,
- (c) that the licensee has been convicted of an offence under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
- (d) that the licensee has been convicted of an offence under the *Prevention of Cruelty to Animals Act 1979* or the *Exhibited Animals Protection Act 1986*.

52 Payment of royalty

- (1) A fauna dealer (kangaroo) who deals as a wholesaler must pay to the Director-General, at times determined by the Director-General, a royalty of 80 cents for each skin or carcase of a kangaroo, wallaroo or wallaby received from the holder of a trapper's licence.

- (2) The holder of a trapper's licence (birds) must, in accordance with the conditions of the licence, pay a royalty of \$2.50 for each bird harmed.

- (3) In this clause:

fauna dealer (kangaroo) means a person licensed under section 125 of the Act to deal in the skins of kangaroos, wallaroos or wallabies (but not in the skins of any other kind of fauna).

trapper's licence (birds) means a trapper's licence (issued under section 123 of the Act) that authorises a person to harm birds for the purpose of sale.

wholesaler means a person who deals in kangaroos, wallaroos or wallabies otherwise than by retail or as a skin dealer.

Note. Section 142 (2) of the Act provides that royalty is not payable in respect of a skin or carcase to which there has been affixed or attached (in compliance with a condition of a licence) a tag for which a fee or charge has been paid pursuant to regulations made under section 154 (e) of the Act.

53 False receipts and records

- (1) A person who is required as a condition of a licence to issue receipts must not issue any false receipt.

Maximum penalty: 30 penalty units.

- (2) A person who is required as a condition of a licence to keep records must not make a false entry in any record, or otherwise keep a false record.

Maximum penalty: 30 penalty units.

- (3) A person who is required as a condition of a licence to provide records or information to the Director-General must not provide false or misleading records or information.

Maximum penalty: 30 penalty units.

Division 3 Care and protection of fauna

54 Caging and confinement of protected fauna

- (1) A person who consigns or offers for sale any protected fauna must comply with the conditions set out in Schedule 1.

Maximum penalty: 30 penalty units.

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Clause 54 National Parks and Wildlife Regulation 2002

Part 5 Fauna protection

Division 3 Care and protection of fauna

- (2) A person who keeps any protected fauna must comply with the conditions specified in clause 1 (5)–(10) of Schedule 1.

Maximum penalty: 30 penalty units.

- (3) A person must comply with any requirement of the Director-General or an officer duly authorised by the Director-General to ring, band, microchip, obtain or permit the collection of tissue or blood samples for the purpose of analysis, or otherwise mark or identify protected fauna kept in captivity by the person.

Maximum penalty: 30 penalty units.

- (4) A person must not remove or interfere with any such ring, band, microchip, mark or identification unless authorised to do so by the Director-General.

Maximum penalty: 30 penalty units.

- (5) This clause does not apply:

- (a) to birds or reptiles being transported or consigned to, or exhibited at, a show conducted or sponsored by a recognised avicultural or herpetological association, society or other organisation that adopts internationally accepted standards for display and showing, or
- (b) to sick or injured protected fauna held temporarily in strict confinement for the purpose of treatment, or
- (c) to protected fauna being transported or consigned to, or held for treatment by, a registered veterinary surgeon, or
- (d) to protected fauna being transported, consigned or kept under a licence issued under the Act for the purpose of scientific research.

55 Consignment or sale of young birds

A person must not consign or offer for sale any of the following:

- (a) a young bird that is (except in the case of a naturally flightless bird) incapable of flight unaided,
- (b) a young bird that cannot stand unaided,
- (c) a young bird that is incapable of feeding itself.

Maximum penalty: 30 penalty units.

56 Native waterfowl not to be interbred with non-native waterfowl

- (1) A person must not interbreed, or allow the interbreeding of, native ducks, geese or swans that are under the person's control with ducks, geese or swans that are not native.

Maximum penalty: 30 penalty units.

- (2) In this clause:

native means native to Australia.

57 Minimum approach distances to certain marine mammals

- (1) This clause applies to all marine mammals except the following:

- (a) *Delphinus delphis* (Common Dolphin),
- (b) *Tursiops truncatus* (Bottlenose Dolphin).

- (2) For the purposes of section 112G of the Act, the following distances are prescribed in respect of a marine mammal to which this clause applies:

- (a) 30 metres, if the person approaching the mammal is a pedestrian, swimmer or diver,
- (b) 300 metres, if the person approaching the mammal:
 - (i) is in an aircraft (including a glider or hang-glider but not including a helicopter), or
 - (ii) is in or on a vessel (powered or unpowered but not including a jet ski) or a motor vehicle,
- (c) 400 metres, if the person approaching the mammal:
 - (i) is in a helicopter, or
 - (ii) is on a jet ski.

- (3) However:

- (a) if a slow speed approach is made by a vessel (other than a jet ski) from a distance of at least 300 metres, the minimum approach distance is:
 - (i) 200 metres, if the animal is a calf or accompanying a calf, and
 - (ii) 100 metres, in any other case, or
- (b) if a slow speed approach is made by a jet ski from a distance of at least 400 metres, the minimum approach distance is 300 metres.

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Clause 57 National Parks and Wildlife Regulation 2002

Part 5 Fauna protection

Division 3 Care and protection of fauna

(4) The prescription of a distance under this clause does not apply to a person approaching a sick, injured or stranded marine mammal if an officer of the National Parks and Wildlife Service has given a direction as to the manner of approaching the mammal and the person is approaching the mammal in accordance with that direction.

(5) In this clause:

motor vehicle means a motor car, motor carriage, motor cycle, or other apparatus propelled on land wholly or partly by volatile spirit, steam, gas, oil or electricity.

slow speed approach means an approach at a constant, slow, no wake speed that is no faster than the speed of the mammal (or slowest mammal) being approached.

vessel includes boat, surf boat, boogie board, wind surfer, wave jumper, sail board and any other water-borne craft used or capable of being used for the conveyance of a person (including use wholly or partly submerged).

Division 4 Miscellaneous

58 Notification of possession of certain animals

For the purposes of sections 101 (5) (c) (ii) and 118B (5) (b) (ii) of the Act:

- (a) the prescribed manner of notification is by a notice in writing to the Director-General, and
- (b) the prescribed time is the period ending 7 days after the animal comes into the person's possession.

59 Prescribed substances

(1) For the purposes of section 110 of the Act (Use of certain substances for harming fauna), the following substances are prescribed:

- (a) the substances stated in the Poisons List (proclaimed under section 8 of the *Poisons and Therapeutic Goods Act 1966*) as in force for the time being,
- (b) glue, gel and other adhesive substances and viscid substances.

- (2) A person authorised to use a prescribed substance by the Director-General (or an officer of the National Parks and Wildlife Service authorised by the Director-General) is exempt from the provisions of section 110 (1) and (2) of the Act if the person uses the prescribed substance in accordance with the authorisation.
- (3) A person using taste aversion substances to deter birds is exempt from the provisions of section 110 (1) and (2) of the Act.

60 Notice of preparation of plan of management for marine mammals

For the purposes of section 112D (1) of the Act, the prescribed notice is a notification published in the Gazette.

61 Proceedings for offences—prescribed officers of the National Parks and Wildlife Service who may issue evidentiary certificates

- (1) For the purposes of section 181 (5) of the Act, the following are prescribed officers:
 - (a) Director, Policy and Science Directorate,
 - (b) Manager, Biodiversity Research and Management Division,
 - (c) Manager, Biodiversity Research and Management Unit,
 - (d) Coordinator, Wildlife Licensing,
 - (e) Chief Law Enforcement Officer of the Investigation Unit,
 - (f) Principal Legal Officer,
 - (g) Senior Legal Officer.
- (2) This clause applies to and in respect of matters arising under the fauna provisions of the Act only.
- (3) In this clause:
fauna provisions of the Act means Parts 7, 7A and 9 of the Act and, to the extent to which any other provisions of the Act relate to fauna, those other provisions.

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Clause 62 National Parks and Wildlife Regulation 2002

Part 6 Exemptions in favour of Aboriginal people

Part 6 Exemptions in favour of Aboriginal people

62 Exemption: section 70

- (1) The object of this clause is to exempt Aboriginal people from the provisions of section 70 (1) of the Act that prohibit a person from harming fauna within a wildlife district, wildlife refuge, wildlife management area, conservation area, wilderness area or area subject to a wilderness protection agreement.
- (2) Aboriginal people 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 Aboriginal people from hunting fauna for their own domestic purposes.
- (3) The exemption does not apply to raptors, parrots or threatened species, populations and ecological communities within the meaning of the *Threatened Species Conservation Act 1995*.
- (4) This clause applies to and in respect of any dependants (whether Aboriginal or not) of Aboriginal people in the same way as it applies to and in respect of Aboriginal people.

63 Exemption: section 71

- (1) The object of this clause is to exempt Aboriginal people from the provisions of section 71 (1) of the Act that prohibit a person from picking native plants, or having native plants in the person's possession, within a wildlife refuge, wildlife management area, conservation area, wilderness area or area subject to a wilderness protection agreement.
- (2) Aboriginal people 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 Aboriginal people 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 Aboriginal people in the same way as it applies to and in respect of Aboriginal people.

64 Exemption: section 98

(1) In this clause:

relevant provisions means:

- (a) section 98 (2) (a), which prohibits a person from harming any protected fauna, and
 - (b) so much of section 98 (2) (b) as prohibits the use of any animal, firearm, net, trap or hunting device for the purpose of harming any protected fauna.
- (2) Aboriginal people are exempted from the relevant provisions to the extent to which the relevant provisions would, but for this subclause, prohibit Aboriginal people from harming fauna for their own domestic purposes.
- (3) This clause does not apply in respect of raptors or parrots.
- (4) This clause applies to and in respect of any dependants (whether Aboriginal or not) of Aboriginal people in the same way as it applies to and in respect of Aboriginal people.

65 Exemption: section 117

- (1) The object of this clause is to exempt Aboriginal people 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 the person's possession.
- (2) Aboriginal people 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 Aboriginal people from gathering or harvesting the fruit, flowers or other parts of a protected native plant for their own domestic purposes.
- (3) The exemption applies in respect of:
- (a) woody species of protected native plants only if the gathering or harvesting is done in a way that does not significantly harm the plant or interfere unreasonably with its means of propagation, and
 - (b) herbaceous species of protected native plants only if the gathering or harvesting is done in a way that does not significantly deplete the local population or interfere unreasonably with its means of propagation.

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Clause 65 National Parks and Wildlife Regulation 2002

Part 6 Exemptions in favour of Aboriginal people

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

Part 7 Aboriginal land

Division 1 Boards of management

66 Definitions

In this Division:

board of management means a board of management established under Part 4A (Aboriginal land) of the Act.

member means a member of a board of management.

67 Appointment of deputies of members of boards of management

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) The person appointed must be selected from the same category of persons specified in section 71AN (3) of the Act, and in accordance with the terms of any relevant lease, as the member for whom the person is to deputize.
- (3) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (4) While acting in the place of a member, a person has all the functions of the member and is taken to be a member.
- (5) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

68 Chairing of meetings

- (1) At the first meeting of a board of management after the commencement of this clause, the members of the board are to elect as deputy chairperson of the board a person referred to in section 71AN (3) (a) of the Act.
- (2) In the absence of the chairperson, the deputy chairperson may, if available, act in the place of the chairperson.
- (3) If both the chairperson and the deputy chairperson are absent from a meeting of a board of management, the members present are to elect

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Clause 68 National Parks and Wildlife Regulation 2002

Part 7 Aboriginal land

Division 1 Boards of management

another person referred to in section 71AN (3) (a) of the Act to chair the meeting.

- (4) While acting in the place of the chairperson, the deputy chairperson or person elected under subclause (3) has all the functions of the chairperson and is taken to be the chairperson.

Division 2 Plans of management

69 Land for community development purposes

Development (by the Aboriginal Land Council, the Local Aboriginal Land Council, Aboriginal owners or the board of management for the area concerned) for the purpose of the following facilities is prescribed under section 72 (2AA) of the Act in respect of Mutawintji Historic Site, Mutawintji National Park and Mutawintji Nature Reserve if the facilities are for the use (but not necessarily the exclusive use) of Aboriginal owners:

- (a) residential housing facilities (whether for permanent or temporary accommodation),
- (b) camping facilities,
- (c) meeting facilities,
- (d) administration facilities,
- (e) tourism facilities,
- (f) recreation facilities,
- (g) cultural facilities,
- (h) cemeteries,
- (i) facilities for the following services:
 - (i) utilities (energy, water and waste management),
 - (ii) health services,
 - (iii) telecommunications,
 - (iv) roads, tracks and airstrips,
- (j) ancillary facilities.

Note. Section 72 of the *National Parks and Wildlife Act 1974* deals with plans of management. Section 72 (2AA) provides that a plan of management for lands reserved or dedicated under Part 4A (Aboriginal lands) of the Act may provide for the use of lands for any community development purpose prescribed by the regulations.

Part 8 Advisory committees

70 Application of Part

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

71 Meetings to be held

- (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.

72 Appointment of officers

- (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.
 - (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 Part, 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) A vacancy in any office must be filled at the next meeting after the vacancy occurs.
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Clause 73 National Parks and Wildlife Regulation 2002

Part 8 Advisory committees

73 Presiding member

- (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.

74 Administrative matters

- (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 9 Trustees

75 Application of Part

This Part applies to and in respect of trustees appointed to trust boards for state recreation areas and regional parks under the Act.

76 Meetings to be held

- (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 or such number of times and at such intervals as the Minister determines.
- (3) A meeting must be held when and where convened by the chairperson or, in the chairperson's absence, by the deputy chairperson.

77 Special meetings

- (1) Any 2 trustees may, by notice in writing, request the chairperson to call a special meeting for a purpose specified in the notice.
- (2) On receiving such a request, the chairperson must call a special meeting to be held within 28 days after the chairperson receives the request.

78 Appointment of officers

- (1) At each annual general meeting, the trustees must appoint a chairperson, deputy chairperson, secretary, treasurer and auditor.
- (2) The chairperson and deputy chairperson 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 Part, a person elected or appointed as chairperson, deputy chairperson, 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.

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Clause 78 National Parks and Wildlife Regulation 2002

Part 9 Trustees

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

79 Presiding member

- (1) The chairperson, or in the chairperson's absence the deputy chairperson, 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.

80 Conduct of meetings

- (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 1999*.
- (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.

81 Committees

- (1) The trustees may appoint one or more committees to carry out any work or perform any duties that 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.

82 Common seal

The common seal of the trustees:

- (a) may be affixed to an instrument or a document only 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.

83 Administrative matters

- (1) The chairperson 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 chairperson 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 chairperson may give notice of the meeting and of the agenda for the meeting in the manner that the chairperson 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 chairperson has been appointed or there is a vacancy in the office of chairperson, the Director-General may perform the functions of the chairperson under this Part.

84 Financial matters

- (1) All money received by the trustees must be paid into the National Parks and Wildlife Fund referred to in section 137 of the Act 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 an authorised deposit-taking institution in New South Wales to the credit of an account in the name of the state recreation area or regional park 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.

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Clause 84 National Parks and Wildlife Regulation 2002

Part 9 Trustees

- (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 or regional park for which the trustees are appointed.
- (7) The trustees' financial year ends on 30 June each year.

Part 10 Penalty notices

85 Penalty notice offences

- (1) For the purposes of section 160 of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 2 is a prescribed offence, and
 - (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 2, and
 - (c) each person referred to in subclause (2) is a prescribed person.
- (2) For the purposes of section 160 of the Act, the following persons are prescribed persons for all offences referred to in Schedule 2:
 - (a) the Director-General,
 - (b) any officer or employee of the National Parks and Wildlife Service,
 - (c) any police officer,
 - (d) any officer or employee of a government department in respect of which an arrangement has been made under section 11 (1) of the Act,
 - (e) 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.

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Clause 86 National Parks and Wildlife Regulation 2002

Part 11 Miscellaneous

Part 11 Miscellaneous

86 Ex-officio rangers

- (1) For the purposes of section 16 (2) of the Act, the following classes and descriptions of officers and employees of State Forests (the Forestry Commission) are prescribed:
 - (a) General Managers,
 - (b) Deputy General Managers,
 - (c) Sales and Harvesting Managers,
 - (d) Operations Managers,
 - (e) Planning Managers,
 - (f) Foresters,
 - (g) Forest Assistants,
 - (h) Foremen under the *Forestry Employees (Forestry Commission of New South Wales) Award*,
 - (i) Forest Rangers under the *Forestry Employees (Forestry Commission of New South Wales) Award*,
 - (j) Regional Ecologists,
 - (k) Scientific Officers (Research Officers, Research Scientists),
 - (l) Project Officers,
 - (m) Technical Officers.
- (2) For the purposes of section 19 (1) of the Act, an ex-officio ranger (whether a police officer, a fisheries officer within the meaning of the *Fisheries Management Act 1994* or an ex-officio ranger prescribed by subclause (1)) has the powers, authorities, duties and functions conferred or imposed on officers of the National Parks and Wildlife Service by or under sections 157 (1) and (2) and 158 of the Act.

87 Notice of preparation of plans of management

- (1) If a plan of management has been prepared for a park (other than for Jenolan Caves Reserve Trust lands), the Director-General must give the notice required by section 75 (1) of the Act by an advertisement published in the Gazette.

- (2) If a plan of management has been prepared for any Jenolan Caves Reserve Trust lands, the Jenolan Caves Reserve Trust must give the notice required by section 75B (2) by an advertisement published in the Gazette.

88 Transfer of relics

For the purposes of section 85A (1) (c) of the Act, the following are prescribed:

- (a) an Aboriginal person,
- (b) an organisation representing Aboriginal people.

Note. Section 85A of the *National Parks and Wildlife Act 1974* enables the Director-General of the National Parks and Wildlife Service to dispose of relics (within the meaning of that Act) that are the property of the Crown:

- (a) by returning the relics to an Aboriginal owner or Aboriginal owners entitled to, and willing to accept possession, custody or control of the relics in accordance with Aboriginal tradition, or
- (b) by otherwise dealing with the relics in accordance with any reasonable directions of an Aboriginal owner or Aboriginal owners referred to in paragraph (a), or
- (c) if there is or are no such Aboriginal owner or Aboriginal owners—by transferring the relics to a person, or a person of a class, prescribed by the regulations for safekeeping.

89 Appeal period

- (1) For the purposes of section 90 (7) (b) of the Act, an application for consent under section 90 (1) is taken to be refused (unless the consent is earlier granted or refused) on the expiration of the period of 60 days after the date on which the application was received by the Director-General.
- (2) For the purposes of section 90 or 135 of the Act, the period within which an appeal is to be made is 28 days after the date of the refusal, cancellation or attaching of the condition or restriction against which the appeal is brought.

90 Appeals

- (1) An appeal under section 90 or 135 of the Act is to be made by delivering a written statement to the Director-General, containing:
 - (a) the appellant's name and address, and
 - (b) particulars of any application, consent, licence, certificate, condition or restriction relevant to the appeal, and

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Part 11 Miscellaneous

- (c) 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.

91 Notification of site of relics

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.

92 Terms of interim protection orders

- (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 that 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 that 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 that may affect the preservation, protection or maintenance of the land or any threatened species, population or ecological community, or its habitat (within the meaning of the

Threatened Species Conservation Act 1995), or any fauna, plant, relic or place on or within the land.

93 Interest on overdue money

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.

94 Evidence of authority

- (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 of Schedule 3 or in any other form that may be approved by the Director-General.

95 Disposal of property seized or delivered up

- (1) For the purposes of section 168 (1) (c) of the Act, the court making the conviction is the prescribed court.
- (2) For the purposes of section 168 (2) of the Act, if the proceedings referred to in section 168 (2) (b):
 - (a) have been dismissed—the court dismissing the proceedings is the prescribed court, or
 - (b) have not been commenced within 2 years after the seizure or delivering up of the property—the Local Court is the prescribed court.

Note. Section 168 of the *National Parks and Wildlife Act 1974* provides for the making of applications to a "court prescribed" for an order that property seized under section 164 of the Act or delivered up under section 165 of the Act be delivered to a specified person.

96 Nomination by universities of persons for appointment to Advisory Council

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,

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Part 11 Miscellaneous

- (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 any later date that 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.

97 Repeal and savings

- (1) The following regulations are repealed:
 - (a) the *National Parks and Wildlife (Land Management) Regulation 1995*,
 - (b) the *National Parks and Wildlife (Fauna Protection) Regulation 2001*,
 - (c) the *National Parks and Wildlife (Administration) Regulation 1995*.
- (2) Any act, matter or thing that, immediately before the repeal of the *National Parks and Wildlife (Land Management) Regulation 1995*, the *National Parks and Wildlife (Fauna Protection) Regulation 2001* or the *National Parks and Wildlife (Administration) Regulation 1995* had effect under those Regulations continues to have effect under this Regulation.

Schedule 1 Caging of protected fauna

(Clause 54)

1 Conditions for caging of protected fauna

- (1) Cages used for the housing of birds offered for sale must contain a removable tray having a flat base.
- (2) Birds offered for sale in cages must be housed in cages of a box type enclosed all over (with the exception of the front, which must be wired).
- (3) Birds consigned for sale in cages must be housed in cages of a box type.
- (4) Birds must be housed in cages and aviaries so as to provide adequate ventilation (to the satisfaction of the Director-General or an officer authorised by the Director-General) with direct or indirect draughts avoided as far as reasonably possible.
- (5) Cages and aviaries used in the housing of birds must be maintained in an adequate sanitary state to the satisfaction of the Director-General or an officer authorised by the Director-General.
- (6) Cages and aviaries used in the housing of birds must contain (in addition to roosting perches) one or two perches for the purpose of steps, but one perch is sufficient for one bird.
- (7) A sufficient number of roosting perches of a size adequate for the bird or birds housed must be provided in a cage or aviary, the perches being so situated that:
 - (a) each bird has sufficient room to turn around and sit without any part of its plumage touching the cage or aviary, and
 - (b) each bird's tail does not rub the sides or bottom of the cage or aviary nor its head touch the top when it is perched, and
 - (c) drinking vessels and food receptacles in the cage or aviary will not be fouled.
- (8) Sufficient space must be provided in each cage and aviary to enable the birds in it to roost comfortably without overcrowding.

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Schedule 1 Caging of protected fauna

- (9) Mammals such as kangaroos or wallabies, and large birds such as emus, being consigned or offered for sale in cages must be given sufficient room to enable them to turn completely around, stand erect at full height and have free movement.
- (10) Drinking vessels and food receptacles containing sufficient clean water and food to sustain the fauna in the cage or aviary must be placed in each cage and aviary.

Schedule 2 Penalty notice offences

(Clause 85)

Column 1	Column 2
Provision	Penalty \$
Offences under National Parks and Wildlife Regulation 2002	
Clause 4 (2) (a)	300
Clause 4 (2) (b)	300
Clause 4 (2) (c)	300
Clause 4 (2) (d)	300
Clause 4 (2) (e)	300
Clause 4 (2) (f)	300
Clause 4 (2) (g)	300
Clause 5 (2)	300
Clause 6 (1)	300
Clause 7 (1) (a)	300
Clause 7 (1) (b)	300
Clause 7 (1) (c)	60
Clause 7 (1) (d)	300
Clause 7 (1) (e)	200
Clause 7 (1) (f)	300
Clause 7 (1) (g)	300
Clause 7 (1) (h)	300
Clause 7 (1) (i)	300
Clause 7 (1) (j)	300

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Schedule 2 Penalty notice offences

Column 1	Column 2
Provision	Penalty \$
Clause 7 (1) (k)	200
Clause 7 (1) (l)	300
Clause 7 (1) (m)	300
Clause 7 (1) (n)	300
Clause 7 (1) (o)	300
Clause 7 (2)	300
Clause 7 (3)	300
Clause 7 (4) (a)	300
Clause 7 (4) (b)	500
Clause 8 (2)	500
Clause 8 (4)	300
Clause 9 (1) (a)	200
Clause 9 (1) (b)	200
Clause 9 (1) (c)	200
Clause 9 (1) (d)	200
Clause 10 (1)	300
Clause 10 (2)	300
Clause 10 (3)	500
Clause 10 (6)	300
Clause 11 (1) (a)	300
Clause 11 (1) (b)	300
Clause 11 (1) (c)	300
Clause 11 (1) (d)	500

National Parks and Wildlife Regulation 2002

Penalty notice offences

Schedule 2

Column 1	Column 2
Provision	Penalty \$
Clause 11 (1) (e)	300
Clause 11 (1) (f)	300
Clause 11 (1) (g)	300
Clause 11 (1) (h)	300
Clause 11 (1) (i)	500
Clause 11 (1) (j)	500
Clause 11 (1) (k)	500
Clause 11 (1) (l)	500
Clause 11 (1) (m)	500
Clause 12 (1) (a)	500
Clause 12 (1) (b)	500
Clause 12 (1) (c)	500
Clause 12 (1) (d)	300
Clause 12 (1) (e)	500
Clause 12 (1) (f)	500
Clause 12 (1) (g)	500
Clause 13 (1) (a)	300
Clause 13 (1) (b)	300
Clause 13 (1) (c)	300
Clause 13 (2)	300
Clause 14 (1) (a)	300
Clause 14 (1) (b)	500
Clause 14 (1) (c)	500
Clause 14 (1) (d)	300

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National Parks and Wildlife Regulation 2002

Schedule 2 Penalty notice offences

Column 1	Column 2
Provision	Penalty \$
Clause 15 (1)	300
Clause 15 (2) (a)	500
Clause 15 (2) (b)	500
Clause 15 (3) (a)	500
Clause 15 (3) (b)	500
Clause 15 (3) (c)	300
Clause 15 (3) (d)	300
Clause 15 (3) (e)	300
Clause 16 (1) (a)	500
Clause 16 (1) (b)	500
Clause 16 (1) (c)	500
Clause 16 (1) (d)	300
Clause 17 (1) (a)	300
Clause 17 (1) (b)	300
Clause 17 (1) (c)	300
Clause 18 (1)	300
Clause 19 (1) (a)	500
Clause 19 (1) (b)	500
Clause 19 (1) (c)	500
Clause 19 (1) (d)	500
Clause 19 (1) (e)	500
Clause 20 (1) (a)	500
Clause 20 (1) (b)	500

National Parks and Wildlife Regulation 2002

Penalty notice offences

Schedule 2

Column 1	Column 2
Provision	Penalty \$
Clause 20 (1) (c)	500
Clause 20 (1) (d)	500
Clause 21 (1) (a)	300
Clause 21 (1) (b)	300
Clause 21 (1) (c)	300
Clause 21 (1) (d)	500
Clause 21 (4)	300
Clause 22 (1)	300
Clause 23 (1)	300
Clause 23 (2) (a)	300
Clause 23 (2) (b)	500
Clause 23 (2) (c)	200
Clause 23 (2) (d) (i)	300
Clause 23 (2) (d) (ii)	300
Clause 23 (2) (d) (iii)	200
Clause 23 (2) (e)	200
Clause 23 (2) (f)	200
Clause 23 (2) (g)	300
Clause 23 (2) (h)	200
Clause 23 (2) (i)	300
Clause 23 (2) (j)	300
Clause 23 (2) (k)	300
Clause 23 (2) (l)	300

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Schedule 2 Penalty notice offences

Column 1	Column 2
Provision	Penalty \$
Clause 24 (a)	500
Clause 24 (b)	500
Clause 24 (c)	500
Clause 24 (d)	500
Clause 24 (e)	500
Clause 25 (1)	300
Clause 25 (2)	300
Clause 27 (3)	500
Clause 27 (6)	500
Clause 28 (1)	300
Clause 28 (2)	300
Clause 28 (3) (a)	300
Clause 28 (3) (b)	300
Clause 28 (4) (a)	300
Clause 28 (4) (b)	300
Clause 28 (6)	300
Clause 29	200
Clause 33 (3)	500
Clause 36 (6)	500
Clause 37 (2)	500
Clause 38 (2)	500
Clause 39 (2)	500
Clause 44 (3)	500

National Parks and Wildlife Regulation 2002

Penalty notice offences

Schedule 2

Column 1	Column 2
Provision	Penalty \$
Clause 53 (1)	500
Clause 53 (2)	500
Clause 53 (3)	500
Clause 54 (1)	500
Clause 54 (2)	500
Clause 54 (3)	500
Clause 54 (4)	500
Clause 55	500
Clause 56 (1)	500
Offences under National Parks and Wildlife Act 1974	
Section 45 (1) (a)	500
Section 45 (1) (b)	500
Section 56 (1) (a)	500
Section 56 (1) (b)	500
Section 56 (1) (c)	500
Section 56 (1) (d)	500
Section 56 (1) (e)	300
Section 57 (1)	300
Section 57 (2)	500
Section 58H (1) (a)	500
Section 58H (1) (b)	500
Section 58H (1) (c)	500
Section 58H (1) (d)	500

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National Parks and Wildlife Regulation 2002

Schedule 2 Penalty notice offences

Column 1	Column 2
Provision	Penalty \$
Section 58H (1) (e)	300
Section 58I (1)	300
Section 58I (2)	300
Section 58Q (1) (a)	500
Section 58Q (1) (b)	500
Section 58Q (1) (c)	500
Section 58Q (1) (d)	500
Section 58Q (1) (e)	200
Section 58R (1)	300
Section 58R (2)	300
Section 70 (1) (a)	500
Section 70 (1) (b)	500
Section 70 (2) (a)	500
Section 70 (2) (b)	500
Section 70 (2) (c)	300
Section 71 (1)	300
Section 86 (a)	500
Section 86 (b)	300
Section 86 (c)	300
Section 86 (d)	300
Section 86 (e)	300
Section 91	300
Section 98 (2) (a)	300

National Parks and Wildlife Regulation 2002

Penalty notice offences

Schedule 2

Column 1	Column 2
Provision	Penalty \$
Section 98 (2) (a1)	300
Section 98 (2) (b)	300
Section 101	300
Section 102 (2)	300
Section 103 (1)	300
Section 104 (1) (a)	500
Section 104 (1) (b)	500
Section 104 (1) (c)	500
Section 105 (a)	500
Section 105 (b)	500
Section 105 (c)	500
Section 105A (1) (a)	500
Section 105A (1) (b)	500
Section 105A (1) (c)	500
Section 106 (1)	300
Section 107	300
Section 108	300
Section 109 (1)	300
Section 109 (2)	300
Section 110 (1)	300
Section 110 (2)	300
Section 111	200
Section 117 (1)	300

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Schedule 2 Penalty notice offences

Column 1	Column 2
Provision	Penalty \$
Section 118	300
Section 133 (4)	300
Section 157 (3) (a)	500
Section 157 (3) (b)	500
Section 158 (2) (a)	500
Section 158 (2) (b)	500

Schedule 3 Form

(Clause 95)

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

BY AUTHORITY