



New South Wales

National Parks and Wildlife Amendment (Threatened Species) Regulation 2005

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 amend the *National Parks and Wildlife Regulation 2002*:

- (a) to limit the operation of the defence for routine farming practice activities under section 118G (1) (b) of the *National Parks and Wildlife Act 1974* (**the Act**), and
- (b) to allow penalty notices to be used to deal with offences under Part 8A of the Act (concerned with harming and picking threatened species, endangered populations or endangered ecological communities, buying, selling or possessing threatened species or endangered populations, damaging critical habitat, and damaging habitat of threatened species, endangered populations or endangered ecological communities).

The routine farming practice activity defence under section 118G (1) (b) is a defence to various harming/picking offences under section 98 (Harming protected fauna, other than threatened species, endangered populations or endangered ecological communities) and Part 8A of the Act and will be limited by:

- (a) excluding the activities of buying, selling, possessing or controlling any animal or plant of a threatened species or endangered population, and
- (b) excluding any activity carried out for the purpose of mitigating damage to crops, livestock or farming infrastructure if the activity results or is likely to result in the harming of protected fauna, or an animal that is part of a threatened species, an endangered population or an endangered ecological community.

This Regulation is made under the *National Parks and Wildlife Act 1974*, including sections 118G, 154 (the general regulation-making power) and 160.

2005 No 681

Clause 1 National Parks and Wildlife Amendment (Threatened Species)
Regulation 2005

National Parks and Wildlife Amendment (Threatened Species) Regulation 2005

under the

National Parks and Wildlife Act 1974

1 Name of Regulation

This Regulation is the *National Parks and Wildlife Amendment (Threatened Species) Regulation 2005*.

2 Commencement

This Regulation commences on 31 October 2005.

3 Amendment of National Parks and Wildlife Regulation 2002

The *National Parks and Wildlife Regulation 2002* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 85 Penalty notice offences

Insert “or, if the person alleged to have committed the offence is a corporation and a penalty is specified in Column 3 of Schedule 2, the amount specified in Column 3 of Schedule 2” after “Schedule 2” in clause 85 (1) (b).

[2] Clause 85 (1A)

Insert after clause 85 (1):

- (1A) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

[3] Clause 96

Insert after clause 95:

96 Limitations on routine farming practice activities

- (1) A routine farming practice activity referred to in section 118G (1) (b) of the Act is limited by excluding the activities of buying, selling, possessing or controlling any animal or plant that is, or is part of, a threatened species or endangered population.
- (2) A routine farming practice activity referred to in section 118G (1) (b) of the Act is limited by excluding any activity carried out for the purpose of preventing, reducing, minimising or eliminating:
- (a) damage to or loss of crops, livestock or farming infrastructure (such as dams, fences, buildings, sheds, windmills, bores, air strips, stockyards and farm roads), or
- (b) injury to the health of livestock,
- if the activity results in or is likely to result in the harming of:
- (c) any protected fauna within the meaning of section 98 of the Act, or
- (d) any animal that is of, or is part of, a threatened species, an endangered population or an endangered ecological community.

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Schedule 1 Amendments

[4] Schedule 2 Penalty notice offences

Omit “Penalty \$” from the heading to Column 2.

Insert instead “Penalty for individuals (and corporations where no penalty in Column 3) \$”.

[5] Schedule 2

Insert a Column 3 in the Schedule with the following heading:

**Column 3
Penalty for corporations \$****[6] Schedule 2**Insert in appropriate order in respect of offences under the *National Parks and Wildlife Act 1974* in Columns 1, 2 and 3:

Section 118A (1), in respect of any endangered species, population or ecological community	1500	3000
Section 118A (1), in respect of any vulnerable species	500	1000
Section 118A (2), in respect of any endangered species, population or ecological community	1500	3000
Section 118A (2), in respect of any vulnerable species	500	1000
Section 118B (1), in respect of any endangered species or endangered population	1500	3000
Section 118B (1), in respect of any vulnerable species	500	1000
Section 118C (1)	1500	3000
Section 118D (1)	1500	3000

BY AUTHORITY