



New South Wales

# National Parks and Wildlife Amendment (Prohibited Conduct) Regulation 2016

under the

National Parks and Wildlife Act 1974

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

MARK SPEAKMAN, MP  
Minister for the Environment

## Explanatory note

The object of this Regulation is to amend the *National Parks and Wildlife Regulation 2009* to prohibit smoking in national parks and other areas under the *National Parks and Wildlife Act 1974*, to prescribe that offence as a penalty notice offence and to update obsolete references.

This Regulation is made under the *National Parks and Wildlife Act 1974*, including sections 154, 155, 156 (the general regulation-making provisions) and 192.

## **National Parks and Wildlife Amendment (Prohibited Conduct) Regulation 2016**

under the

National Parks and Wildlife Act 1974

### **1 Name of Regulation**

This Regulation is the *National Parks and Wildlife Amendment (Prohibited Conduct) Regulation 2016*.

### **2 Commencement**

This Regulation commences on 1 May 2016 and is required to be published on the NSW legislation website.

## Schedule 1 Amendment of National Parks and Wildlife Regulation 2009

[1] **Clause 3 Definitions**

Omit the definitions of *Director-General* and *national parks officer* from clause 3 (1).

[2] **Clause 3 (1), definition of “national parks officer”, “smoke” and “smoking substance”**

Insert in alphabetical order:

*national parks officer* means a person employed in the Office of Environment and Heritage who is principally involved in the administration of the following Acts:

- (a) the Act,
- (b) *Threatened Species Conservation Act 1995*,
- (c) *Wilderness Act 1987*,
- (d) *Marine Estate Management Act 2014*.

*smoke* means smoke, hold or otherwise have control over, an ignited or heated smoking substance.

*smoking substance* means any tobacco or other substance that is intended to be smoked.

[3] **Clause 15A**

Insert after clause 15:

**15A Smoking**

- (1) A person must not smoke in a park.  
Maximum penalty: 5 penalty units.
- (2) This clause does not apply to a cave in a park.  
**Note.** Clause 24 (2) (e) creates an offence of smoking in a cave.
- (3) A person does not commit an offence under this clause:
  - (a) if a person smokes in an accommodation area, where smoking is not otherwise prohibited, or
  - (b) 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) In this clause:  
*accommodation area* means an area used for residential accommodation or accommodation for visitors and tourists (other than accommodation for visitors and tourists that is managed by, or on behalf of, the National Parks and Wildlife Service) on land the subject of a lease or licence granted under the Act.

[4] **Clause 24 Caves**

Omit clause 24 (2) (e). Insert instead:

- (e) smoke in a cave, or

**[5] Clause 60 (1) (d) and 61 (2) (c)**

Omit “Department of Industry and Investment” wherever occurring.

Insert instead “Department of Industry, Skills and Regional Development”.

**[6] Clauses 60 (1) (f), 61 (2) (e) and 80C (5) (b)**

Omit “Department of Environment, Climate Change and Water” wherever occurring.

Insert instead “Office of Environment and Heritage”.

**[7] Clause 60 Application of Division**

Omit paragraphs (f)–(i) from the definition of *law enforcement agency* in clause 60 (3).

Insert instead:

- (f) Roads and Maritime Services,
- (g) the Australian Quarantine and Inspection Service,
- (h) the Department of Industry, Skills and Regional Development,
- (i) the Office of Environment and Heritage.

**[8] Schedule 2 Penalty notice offences**

Insert in appropriate order in Columns 1 and 2, respectively, under the heading “**Offences under *National Parks and Wildlife Regulation 2009***”:

Clause 15A (1)

300