

Passed by both Houses



New South Wales

Motor Sports (World Rally Championship) Bill 2009

Contents

| | Page |
|---------------|--|
| Part 1 | Preliminary |
| 1 | Name of Act 2 |
| 2 | Commencement 2 |
| 3 | Definitions 2 |
| Part 2 | Conduct of rally events |
| 4 | Declared rally area and declared rally period 3 |
| 5 | Authorisation of rally promoter and conduct of rally event 3 |
| 6 | Temporary works 4 |
| 7 | Reinstatement of land 5 |
| 8 | Powers of public authorities 6 |
| 9 | Directions by police officers 6 |

| | Page |
|---------------|--|
| Part 3 | Application of other laws |
| 10 | Application of Environmental Planning and Assessment Act 1979 7 |
| 11 | Application of National Parks and Wildlife Act 1974 7 |
| 12 | Application of Fisheries Management Act 1994 8 |
| 13 | Application of Local Government Act 1993 8 |
| 14 | Application of Forestry Act 1916 8 |
| 15 | Application of Water Management Act 2000 8 |
| 16 | Application of Crown Lands Act 1989 9 |
| 17 | Suspension of certain road and noise legislation 9 |
| 18 | No liability in nuisance 9 |
| Part 4 | Miscellaneous |
| 19 | Delegation of Minister's functions 10 |
| 20 | Protection of exercise of functions of Minister and public authorities under this Act 10 |
| 21 | Offences by corporations 11 |
| 22 | Proceedings for offences 11 |
| 23 | Authority to institute proceedings 11 |
| 24 | Regulations 12 |
| 25 | Review of Act 12 |

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2009

Clerk of the Parliaments



New South Wales

Motor Sports (World Rally Championship) Bill 2009

Act No , 2009

An Act to facilitate the conduct of the motor sport known as the World Rally Championship.

Clause 1 Motor Sports (World Rally Championship) Bill 2009

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Motor Sports (World Rally Championship) Act 2009*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Definitions

(1) In this Act:

declared rally area—see section 4.

declared rally period—see section 4.

exercise a function includes perform a duty.

function includes a power, authority or duty.

Northern Rivers region means the local government areas of Kyogle and Tweed.

public authority has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

rally event means a round of the Fédération Internationale de l'Automobile World Rally Championship.

rally promoter means the person authorised to conduct a rally event under section 5.

temporary works—see section 6.

(2) Notes included in this Act do not form part of this Act.

Part 2 Conduct of rally events

4 Declared rally area and declared rally period

- (1) The Minister may, by order, declare any area within the Northern Rivers region, or within any other region of the State prescribed by the regulations, as the area within which a rally event may be conducted (the *declared rally area*).
- (2) The Minister may, by order, designate the period during which a rally event may be conducted (the *declared rally period*).
- (3) A declared rally period is to include the periods during which:
 - (a) the rally event will be run, and
 - (b) any temporary works are to be carried out and dismantled, and
 - (c) land is to be reinstated.
- (4) An order under this section may not enable the conduct of a rally event after the year 2017, unless the regulations authorise the conduct of a rally event after that date.
- (5) An order under this section is required to be published in the Gazette, and may be amended or revoked by a further order published in the Gazette.

5 Authorisation of rally promoter and conduct of rally event

- (1) The Minister may, by order, authorise a person (the *rally promoter*) to conduct a rally event within the declared rally area during the declared rally period, subject to and in accordance with this Act.
- (2) An authorisation may be subject to such conditions as the Minister considers reasonable to impose by written notice to the rally promoter, including (but not limited to) conditions relating to any of the following:
 - (a) public safety,
 - (b) environmental protection,
 - (c) insurance,
 - (d) reporting requirements,
 - (e) transport arrangements and traffic management,
 - (f) reinstatement of land,
 - (g) consultation requirements,
 - (h) financial arrangements (including the provision of security and the fees or charges for use of land or services),
 - (i) temporary works requirements,

- (j) emergency vehicle and other property access.
- (3) Any conditions may be amended or revoked (or additional conditions imposed) by the Minister at any time by notice in writing to the rally promoter.
- (4) Before imposing or amending a condition, the Minister must advise the rally promoter in writing of the proposed condition or amendment and allow the rally promoter 14 days (or other period agreed between the Minister and the promoter) within which to make written submissions to the Minister in relation to the proposed condition or amendment.
- (5) If the rally promoter contravenes a condition of an authorisation under this section, the Minister may revoke the authorisation.
- (6) If any condition of an authorisation under this section relating to public safety, environmental protection or insurance is contravened, the rally promoter is guilty of an offence.
Maximum penalty:
 - (a) in the case of an individual—\$250,000, or
 - (b) in the case of a corporation—\$1,000,000.
- (7) It is a defence in any proceedings for an offence under subsection (6) if the rally promoter establishes that:
 - (a) the commission of the offence was due to causes over which the rally promoter had no control, and
 - (b) the rally promoter took reasonable precautions and exercised due diligence to prevent the commission of the offence.

6 Temporary works

- (1) An authorisation under section 5 may also authorise the rally promoter to carry out and dismantle temporary works associated with a rally event within the declared rally area and the declared rally period, subject to any conditions imposed under section 5.
- (2) **Temporary works** include, but are not limited to, any of the following (and such other things as are reasonably necessary for or incidental to those temporary works):
 - (a) service roads, ramps and vehicle parking,
 - (b) security and other fencing, safety barriers, hoardings and gates,
 - (c) traffic and rally control facilities, including signage,
 - (d) power and water supply and waste management facilities,
 - (e) telecommunications, media recording, broadcast, public announcement and lighting facilities,

- (f) facilities for vehicle refuelling, servicing, repair and washdown,
 - (g) temporary structures to support crew, media and spectators such as seating, stands, shading, catering and toilet facilities,
 - (h) advertising signage,
 - (i) emergency fire fighting and fire prevention facilities and medical and rescue facilities,
 - (j) grading or other road maintenance works,
 - (k) use of Walter Peate Reserve, Kingscliff (or any other area prescribed by the regulations) as a temporary helipad if:
 - (i) there are no more than 50 flights per day, and
 - (ii) the flights are conducted only between 6.00 am and 6.00 pm.
- (3) The rally promoter must comply with any written direction of the Minister in relation to any authorised temporary works:
- (a) to ensure compliance with a condition, or
 - (b) to rectify any matter that the Minister considers constitutes a breach of a condition.

7 Reinstatement of land

- (1) The rally promoter must reinstate land, within the declared rally period, by:
- (a) repairing any damage to land (including any fixtures) within the declared rally area arising from the conduct of a rally event, and
 - (b) removing any rubbish generated by the conduct of a rally event from land within the declared rally area, and
 - (c) reinstating any land within the declared rally area affected by the conduct of a rally event, so far as is practicable, to the condition it was in before the carrying out, and dismantling, of any temporary works and the conduct of the rally event.
- (2) If the rally promoter fails to carry out the work required to comply with subsection (1), the Minister:
- (a) may cause the work to be carried out, and
 - (b) may, by proceedings brought in a court of competent jurisdiction, recover from the rally promoter the cost of carrying out the work.
- (3) A document signed by the Minister certifying the cost of carrying out work in accordance with subsection (2) is admissible in any proceedings and is evidence of that cost.

- (4) Nothing in subsection (1) is to be construed as requiring the rally promoter to repair damage, remove rubbish or reinstate affected land that was caused by:
- (a) the deliberate vandalism of a person not acting on behalf of the rally promoter, or
 - (b) the actions of a person aiming to disrupt or obstruct the conduct of a rally event.

8 Powers of public authorities

- (1) A public authority is authorised to assist in the conduct of a rally event and any related works or activities (including by providing advice or services or by carrying out works).
- (2) A power conferred by this section is in addition to the other statutory functions of the public authority.

9 Directions by police officers

- (1) A police officer may give a direction to a person on a road on which a rally event is being conducted, or on public or private land adjacent to, or in the vicinity of, that road, if the police officer believes on reasonable grounds that it is necessary for the safety of that or any other person from the conduct of the rally event (including any risks to the participants in the rally event).
- (2) A direction given by a police officer must be reasonable in the circumstances for the purpose of reducing or eliminating the risk to the safety of any person.
- (3) A direction under this section may be given to persons comprising a group and in any such case the police officer is not required to repeat the direction, or the information and warning referred to in section 201 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to each person in the group.
- (4) However, just because the police officer is not required to repeat any such direction, information or warning does not in itself give rise to any presumption that each person in the group has received the direction, information or warning.
- (5) A person must not, without reasonable excuse, refuse or fail to comply with a direction given in accordance with this section.
Maximum penalty: \$220.
- (6) A person is not guilty of an offence under this section unless it is established that the person persisted, after the direction concerned was given, to engage in the relevant conduct.

Part 3 Application of other laws

10 Application of Environmental Planning and Assessment Act 1979

- (1) Part 5 of the *Environmental Planning and Assessment Act 1979* does not apply to or in respect of:
 - (a) an order, or amendment of an order, declaring an area as a declared rally area or a period as a declared rally period, or
 - (b) an authorisation, or an amendment of an authorisation, to conduct a rally event (including the conditions of the authorisation), or
 - (c) the conduct of a rally event during the declared rally period, or
 - (d) the carrying out of rally-related activities during the declared rally period.
- (2) An environmental planning instrument under the *Environmental Planning and Assessment Act 1979* cannot prohibit, require development consent for or otherwise restrict the conduct of a rally event, or the carrying out of rally-related activities, during the declared rally period. This subsection applies to an environmental planning instrument made before or after the commencement of this Act.
- (3) The conduct of a rally event, or the carrying out of rally-related activities, during the declared rally period cannot be declared to be a project under Part 3A of the *Environmental Planning and Assessment Act 1979*.
- (4) An order under Division 2A of Part 6 of the *Environmental Planning and Assessment Act 1979* does not have effect to the extent that it prevents or interferes with the conduct of a rally event, or the carrying out of rally-related activities, during the declared rally period.
- (5) In this section, *rally-related activities* means the carrying out or dismantling of any temporary works authorised by or under this Act, the reinstatement of land required by or under this Act or the exercise of powers by a public authority under section 8.

11 Application of National Parks and Wildlife Act 1974

- (1) A person who is authorised, permitted or required to do anything by or under this Act in relation to roads and areas immediately adjacent to roads may do that thing despite the fact that the doing of it is not authorised (when required to be) or is not permitted by or under the *National Parks and Wildlife Act 1974*.
- (2) For the purposes of Part 8A of the *National Parks and Wildlife Act 1974*, any act that is authorised, permitted or required by or under this Act is taken to be an act that is essential for the carrying out of

Clause 12 Motor Sports (World Rally Championship) Bill 2009

Part 3 Application of other laws

development in accordance with a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*.

12 Application of Fisheries Management Act 1994

For the purposes of Part 7A of the *Fisheries Management Act 1994*, any act that is authorised, permitted or required by or under this Act is taken to be an act that is essential for the carrying out of development in accordance with a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*.

13 Application of Local Government Act 1993

- (1) A person who is authorised, permitted or required to do anything by or under this Act may do that thing despite the fact that the doing of it is not authorised (when required to be) or is not permitted by or under the *Local Government Act 1993*.
- (2) A person who is authorised, permitted or required to do anything by or under this Act may do that thing despite the fact that the doing of it is contrary to, or inconsistent with, the terms or conditions of an approval granted under the *Local Government Act 1993*.
- (3) A person who is exempt from the requirement to obtain an approval under section 68 of the *Local Government Act 1993* does not cease to be exempt from the requirement by the doing of anything that is reasonably necessary to be done under, or as a consequence of the operation of, this Act.
- (4) Nothing in the *Local Government Act 1993* or an instrument made under that Act, including a plan of management for community land, prevents or restricts the use of community land for anything that is authorised, permitted or required by or under this Act.

14 Application of Forestry Act 1916

A person who is authorised, permitted or required to do anything by or under this Act in relation to roads and areas immediately adjacent to roads may do that thing despite the fact that the doing of it is not authorised (when required to be) or is not permitted by or under the *Forestry Act 1916*.

15 Application of Water Management Act 2000

A person who is authorised, permitted or required to do anything by or under this Act may do that thing despite the fact that the doing of it is not approved as a controlled activity (when required to be) or is not permitted by or under the *Water Management Act 2000*.

16 Application of Crown Lands Act 1989

- (1) Nothing in the *Crown Lands Act 1989* or an instrument made under that Act, including any by-law or plan of management for a reserve, prevents or restricts the use of a reserve for anything that is authorised, permitted or required by or under this Act.
- (2) In this section, *reserve* has the same meaning as in section 78 of the *Crown Lands Act 1989*.

17 Suspension of certain road and noise legislation

- (1) This section applies to the extent that the regulations otherwise provide and subject to any modifications specified in the regulations.
- (2) The provisions of:
 - (a) the *Motor Vehicle Sports (Public Safety) Act 1985* or an instrument made under that Act, and
 - (b) section 40 of the *Road Transport (Safety and Traffic Management) Act 1999* or an instrument made under that Act in relation to the matters contained in section 40, and
 - (c) the *Roads Act 1993* or an instrument made under that Act,do not apply, during a declared rally period, in relation to the conduct of a rally event or the area in which it is conducted.
- (3) For the purposes of the road transport legislation, within the meaning of the *Road Transport (General) Act 2005*, any road or road related area temporarily closed for the purposes of enabling participants in a rally event to use the road or road related area during a stage of the rally event is not, while so closed, a road or road related area within the meaning of that legislation.
- (4) The provisions of or made under the *Protection of the Environment Operations Act 1997* (being those provisions that relate to noise) do not apply in respect of anything that is authorised, permitted or required by or under this Act.

18 No liability in nuisance

Anything done or omitted to be done by any person:

- (a) in the exercise of a function under this Act or the regulations, or
- (b) pursuant to any of the provisions of this Act or the regulations, or
- (c) in accordance with any authorisation under this Act or the regulations,

does not constitute a nuisance.

Part 4 Miscellaneous

19 Delegation of Minister's functions

- (1) The Minister may delegate to an authorised person any of his or her functions, other than this power of delegation.
- (2) In this section, *authorised person* means a public authority or a member of staff of a public authority.

20 Protection of exercise of functions of Minister and public authorities under this Act

- (1) This section applies to a function (a *protected function*) conferred or imposed on the Minister or a public authority, including a delegate of the Minister or public authority, (a *protected person*) by or under this Act.
- (2) The exercise by any protected person of any protected function may not be:
 - (a) challenged, reviewed, quashed or called into question before any court of law or administrative review body in any proceedings, or
 - (b) restrained, removed or otherwise affected by any proceedings.
- (3) Without limiting subsection (2), that subsection applies whether or not the proceedings relate to any question involving compliance or non-compliance, by a protected person, with the provisions of this Act or the rules of natural justice (procedural fairness).
- (4) Accordingly, no court of law or administrative review body has jurisdiction or power to consider any question involving compliance or non-compliance, by the protected person, with those provisions or with those rules so far as they apply to the exercise of any protected function.
- (5) This section has effect despite any provision of this Act or other legislation or any other law (whether written or unwritten).
- (6) In this section:

exercise of functions includes:

 - (a) the purported exercise of functions, and
 - (b) the non-exercise or improper exercise of functions, and
 - (c) the proposed, apprehended or threatened exercise of functions.

proceedings includes:

 - (a) proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, and

- (b) without limiting paragraph (a), proceedings in the exercise of the inherent jurisdiction of the Supreme Court or the jurisdiction conferred by section 23 of the *Supreme Court Act 1970*, but does not include any investigation or proceedings under the *Independent Commission Against Corruption Act 1988*.

21 Offences by corporations

- (1) If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation, or who is concerned in the management of the corporation, is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or has been convicted under the provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.

22 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations may be dealt with:
 - (a) summarily before a Local Court, or
 - (b) summarily before the Supreme Court in its summary jurisdiction.
- (2) If proceedings are brought in a Local Court, the maximum monetary penalty that the Local Court may impose for the offence is 100 penalty units despite any higher maximum monetary penalty provided in respect of the offence.

23 Authority to institute proceedings

- (1) Proceedings for an offence against this Act or the regulations may be instituted by a person only with the consent of the Minister.
- (2) The following proceedings may only be instituted by, or with the authority of, the Environment Protection Authority if they relate to, or arise out of, the conduct of a rally event:
 - (a) proceedings under sections 219, 252 and 253 of the *Protection of the Environment Operations Act 1997*,
 - (b) proceedings referred to in section 20 (2) of the *Land and Environment Court Act 1979* that relate to the *Protection of the Environment Operations Act 1997*.

24 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (3) The regulations may create an offence punishable by a maximum penalty of 50 penalty units.

25 Review of Act

- (1) The Minister is to conduct a review of the impact in the Northern Rivers region of the rally event to determine whether future rally events should be conducted in that region. The review is to include, but not limited to, the impact of the rally event on:
 - (a) the tourism industry, and
 - (b) the environment, and
 - (c) Aboriginal cultural heritage, and
 - (d) public safety, and
 - (e) the local community.
- (2) The review is to be undertaken as soon as practicable after the end of the declared rally period in 2009.
- (3) The Minister is to ensure that the review includes consultation with the local community of the Northern Rivers region, Kyogle Council and Tweed Shire Council.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months from the end of the declared rally period in 2009.