

Act No. 84 of 1989

NATIONAL PARKS AND WILDLIFE (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Wilderness (Plans of Management) Amendment Bill 1988 is cognate with this Bill.

The object of this Bill is to amend the National Parks and Wildlife Act 1974 to facilitate the administration of that Act and promote the more effective preservation and management of lands under that Act and protection of fauna, native plants and Aboriginal relics.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Relics and Aboriginal places

Schedule 1 (1) amends the definition of "relic" in section 5 (1) of the Principal Act to make it clear that the term includes Aboriginal remains.

Schedule 1 (6) substitutes section 85 of the Principal Act. The new provision makes it clear that the Director is responsible for the protection of relics and Aboriginal places in the same way as the Director is responsible for the protection of fauna and native plants.

Schedule 1 (7) amends section 90 of the Principal Act to make it an offence to knowingly cause or permit the destruction or defacement of, or damage to, a relic or Aboriginal place without the consent of the Director. (At present it is an offence only if a person knowingly destroys, defaces or damages such a relic or place.) The amendment also increases the penalties for an offence under that section from a maximum of \$1,000 to \$5,000 in the case of an individual and to a maximum of \$20,000 in the case of a corporation.

National Parks and Wildlife (Amendment) 1988

Schedule 1 (17) amends section 176 of the Principal Act to enable offences under section 90 to be dealt with by the Land and Environment Court in its summary jurisdiction or by a Local Court, as may be appropriate to the penalty recoverable. The amendment also increases the maximum pecuniary penalty that a Local Court may impose from \$4,000 to \$5,000.

Plans of management

Schedule 1 (3) and (5) amend Part 5 of the Principal Act (Plans of Management). The amendments enable plans to be prepared for any combination of contiguous or related parks, sites, areas, reserves or refuges (not only, as at present, for individual parks, sites, areas, reserves and refuges) managed under the Act or the Wilderness Act 1987.

Schedule 1 (18) validates action taken to prepare plans of management for such lands before the commencement of the relevant amendment.

Community service contribution

Schedule 1 (9) repeals section 140 (3) of the Principal Act, which provides for interest at 9 per cent per annum to be payable on outstanding community service contributions under section 140.

Schedule 1 (10) inserts a new section 144A into the Principal Act, which provides for interest at a rate prescribed by the regulations to be payable on outstanding contributions under section 140 and outstanding charges, fees and other amounts payable under the Act.

Acquisition or occupation of land for certain purposes

Schedule 1 (11) amends section 146 of the Principal Act to enable the Minister or the Director to enter into and give effect to arrangements in relation to land adjoining or in the vicinity of reserved or dedicated land so as to facilitate the management, maintenance and improvement of the reserved or dedicated land.

Schedule 1 (8) makes a consequential amendment to section 139 of the Principal Act so as to enable the cost of the arrangements described above to be met from the National Parks and Wildlife Fund.

Schedule 1 (12) inserts a new subsection into section 155 of the Principal Act, which provides that regulations may be made in relation to section 146 arrangements.

Powers of entry and seizure etc.

Schedule 1 (13) and (14) amend sections 164 and 165, respectively, of the Principal Act to enable the Director to authorise any person to exercise powers of entry and seizure under those sections.

Schedule 1 (18) validates certain authorities mistakenly issued to persons other than officers of the Service before the commencement of the relevant amendment. The validation authorises the exercise, on and from the commencement of Schedule 1 (18), of powers and functions in accordance with the authority.

Authority of officers to take or kill fauna etc.

Schedule 1 (15) amends section 171 of the Principal Act. The amendments enable the Director to authorise any person to take or kill animals and take certain action under that section in respect of trees, timber and vegetation within parks, sites, areas, reserves, districts and refuges. (At present such authorisations may be given only to officers of the Service and ex-officio and honorary rangers.) The amendments also enable such authorisations to be given without limitation as to the class or description of animals, trees, timber, vegetation or native plants concerned, while retaining the power of the Director (or a delegate of the Director) to limit authorities. The amendments enable such authorisations to be given for the taking of such action in state recreation areas as well as other lands reserved or dedicated under the Principal Act.

National Parks and Wildlife (Amendment) 1988

Offences by corporations and by directors or managers of corporations

Schedule 1 (16) inserts new sections 175A and 175B into the Principal Act. Proposed section 175A provides that a corporation will be taken to have engaged in certain conduct engaged in on behalf of the corporation by its directors, managers, employees or agents. Proposed section 175B provides that, if a corporation contravenes any provision of the Act or regulations, each person who is a director of the corporation or who is concerned in the management of the corporation shall be taken to have contravened the same provision if the person has knowingly authorised or permitted the contravention.

Advisory committees

Schedule 1 (19) amends Schedule 8 to the Principal Act so as to enable the Minister to remove members of an advisory committee from office and to state that it will be a sufficient reason (among others) for removal of members if they fail to attend 3 consecutive meetings of the committee held during any year without approval.

Other amendments

Minor or consequential amendments are made by Schedule 1 (2) and (4).
