

Act No. 22 of 1989

NATIONAL PARKS AND WILDLIFE (UNAUTHORISED USE OF LAND) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the National Parks and Wildlife Act 1974 to provide for the removal of unauthorised structures and unauthorised occupiers of structures from land reserved or dedicated under that Act.

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 to the Principal Act.

SCHEDULE 1—AMENDMENTS

Removal of unauthorised structures and unauthorised occupiers of structures

Schedule 1 (1) inserts new sections 160A–160F into the Principal Act. Of the proposed sections:

Section 160A (**Removal of unauthorised structures and occupiers**) empowers the Minister to cause the removal of unauthorised structures, the contents of any such structure and unauthorised occupiers of any structure from “prescribed land” (consisting of national parks, historic sites, nature reserves, state game reserves, Aboriginal areas, state recreation areas and land acquired for the purposes of the Principal Act).

Section 160B (**Forfeiture of unauthorised structures and their contents**) provides that any property so removed is forfeited to the Crown. It may be destroyed, sold or stored, or returned to anyone who is found to have been entitled to it before it was so removed.

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Section 160C (**Cost of removing structures and contents**) enables the Minister to recover the cost of so removing any such structure and its contents from a person who unlawfully erected or maintained it or unlawfully used it after having been prohibited from doing so.

Section 160D (**Notice to state interest in structure or contents**) provides for the display or publication of a notice requesting persons to disclose their interests in structures on prescribed land and their contents. A person who does not state an interest as requested is precluded from claiming compensation if the structure or its contents are removed or destroyed.

Section 160E (**Notice to remove structure**) authorises the service of a notice on a person who is reasonably believed to have erected or placed, or to be maintaining, a structure on prescribed land without authority. Unless the person can establish that authority, the person is guilty of an offence if the structure and its contents are not removed in accordance with the notice.

Section 160F (**Notice prohibiting use of structure**) authorises the service of a notice on a person who is reasonably believed to be making use of a structure (whether authorised or not) without authority. Unless the person can establish authority to use the structure, the person is guilty of an offence if the person does not cease using it in accordance with the notice.

Removal of trespassers

Schedule 1 (2) repeals section 173 of the Principal Act which provides for the removal of trespassers from national parks, historic sites, state recreation areas, nature reserves, state game reserves and Aboriginal areas.

When proposed sections 160A and 160F are in force it is considered that, because of those provisions and other powers, adequate power will exist for the removal of trespassers from those areas without requiring the use of section 173.
