

Protection of the Environment Operations Amendment (Balloons) Act 2000 No 82

[2000-82]



New South Wales

Status Information

Currency of version

Repealed version for 29 November 2000 to 28 November 2002 (accessed 19 December 2024 at 21:09)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2002 No 112](#), Sch 3 with effect from 29.11.2002.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Protection of the Environment Operations Amendment (Balloons) Act 2000 No 82



New South Wales

An Act to amend the *Protection of the Environment Operations Act 1997* so as to prohibit the mass release of lighter-than-air balloons, and for other purposes.

1 Name of Act

This Act is the *Protection of the Environment Operations Amendment (Balloons) Act 2000*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation.
- (2) The day appointed for the commencement of so much of Schedule 1 [1] as inserts section 146E into the *Protection of the Environment Operations Act 1997* must not be earlier than 1 July 2001.

3 Amendment of *Protection of the Environment Operations Act 1997 No 156*

The *Protection of the Environment Operations Act 1997* is amended as set out in Schedule 1.

4 Amendment of *Protection of the Environment Operations (Penalty Notices) Regulation 1999*

- (1) The *Protection of the Environment Operations (Penalty Notices) Regulation 1999* is amended as set out in Schedule 2.
- (2) Sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to the amendment set out in Schedule 2.

Schedule 1 Amendment of *Protection of the Environment Operations Act 1997*

(Section 3)

[1] Section 146E

Insert after section 146D:

146E Restrictions on release of balloons

- (1) **Offence of releasing balloons** A person who releases 20 or more balloons at or about the same time is guilty of an offence if the balloons are inflated with a gas that causes them to rise in the air.

Maximum penalty (for a corporation or an individual): 10 penalty units.

- (2) **Offence of causing or permitting release of balloons** A person who causes or permits the release (whether by one or more than one person) of 20 or more balloons at or about the same time is guilty of an offence if the balloons are inflated with a gas that causes them to rise in the air.

Maximum penalty (for a corporation or an individual): 10 penalty units.

- (3) **Aggravated offence** A person is guilty of an aggravated offence under this subsection if the person commits an offence under subsection (1) or (2) and the number of balloons released is more than 100.

Maximum penalty (instead of any penalty under subsection (1) or (2)):

- in the case of a corporation—55 penalty units, or
- in the case of an individual—33 penalty units.

- (4) **Exceptions** Subsections (1)–(3) do not apply if:

- (a) the balloons are released unintentionally and without negligence, or
- (b) the balloons are released inside a building or structure and do not make their way into the open air, or
- (c) the balloons are hot air balloons that are recovered after landing, or
- (d) the balloons are released for scientific (including meteorological) purposes.

- (5) **Aggravation not proved** If the court is satisfied that a person charged with an offence under subsection (3) is not guilty of that offence but is satisfied on the evidence that the person is guilty of an offence under subsection (1) or (2), the court may find the person guilty of the offence under subsection (1) or (2), and the person is liable to punishment accordingly.

- (6) **Evidence** In any proceedings under this section:

- (a) it is not necessary for the prosecutor to establish the exact number of balloons released, and
- (b) evidence that a balloon rose in the air after being released is, in the absence

of evidence to the contrary, evidence that the balloon was inflated with a gas that caused it to rise in the air.

[2] Section 256 Onus of proof of certain matters

Omit “or 146B (3)” from section 256 (2).

Insert instead “, 146B (3) or 146E (4)”.

Schedule 2 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999

(Section 4)

Schedule 1 Penalty notice offences

Insert in Schedule 1 in numerical order under the heading **Protection of the Environment Operations Act 1997**:

Section 146E (1)	Release 20 or more balloons	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (2)	Cause/permit release of 20 or more balloons	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (3)	Release/cause/permit release of more than 100 balloons	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13	\$375	\$750