

Passed by both Houses



New South Wales

Protection of the Environment Operations Amendment (Balloons) Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to prevent the mass release of lighter-than-air balloons. The Bill will make it an offence to release (or cause or permit the release of) 20 or more lighter-than-air balloons at or about the same time. The maximum penalty will be greater if more than 100 balloons are released. There are to be exceptions where:

- (a) the balloons are released unintentionally and without negligence, or
- (b) the balloons are released and contained indoors, or
- (c) the balloons are hot air balloons that are recovered after landing, or
- (d) the balloons are released for scientific (including meteorological) purposes.

Outline of provisions

Clause 1 sets out the name (also called 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 giving effect to the amendments to the *Protection of the Environment Operations Act 1997* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Protection of the Environment Operations (Penalty Notices) Regulation 1999* set out in Schedule 2.

Schedule 1 Amendment of Protection of the Environment Operations Act 1997

Schedule 1 [1] makes the amendments described in the Overview of the Bill.

Schedule 1 [2] makes a consequential amendment.

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

The Schedule provides for on-the-spot penalty notices to be given for the offences proposed to be inserted in the Act by Schedule 1 [1].

Passed by both Houses



New South Wales

Protection of the Environment Operations Amendment (Balloons) Bill 2000

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Protection of the Environment Operations Act 1997 No 156	2
4 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999	2
Schedules	
1 Amendment of Protection of the Environment Operations Act 1997	3
2 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999	5

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

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2000*



New South Wales

Protection of the Environment Operations Amendment (Balloons) Bill 2000

Act No , 2000

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.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:**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