

NATIONAL PARKS AND WILDLIFE (AMENDMENT) BILL

*Schedule of Amendments referred to in Legislative Council's
Message of 23 September, 1971.*

No. 1.—Page 15, clause 6, line 32. *Omit* “, license or permit”.

No. 2.—Page 46. *After* line 18 *insert*:—

17. (1) The dedication under the Fauna Protection Act, 1948, of all that piece or parcel of land containing 299 acres 1 rood 20 $\frac{1}{4}$ perches situate in the County of Camden being Lot 1 in Deposited Plan 548559 and Lot 1 in Deposited Plan 548561 Parish Kiama and Portion 137 inclusive of reserved roads and exclusive of public road Parish Wallaya below a depth of 50 feet is hereby revoked and that land is hereby vested in the persons entitled thereto immediately before the resumption of that land under and in pursuance of the provisions of section 197 of the Crown Lands Consolidation Act, 1913, notification whereof was published in the Government Gazette of the thirteenth day of August, one thousand nine hundred and seventy-one, and is so vested for such estates and interests as were, and with and subject to such rights as were, subsisting in respect of that land immediately before that resumption, and subject to any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements from which it was freed and discharged by the resumption as if the resumption had not taken place and shall also be subject to any interests in or equities binding on the compensation moneys created since the resumption which but for this Act may have been recoverable or payable. Revocation of dedication of certain lands.

(2) The Registrar General shall cancel any recording in the Register made by him pursuant to section 31A of the Real Property Act, 1900, in relation to the resumption referred to in subsection one of this section, in so far as the recording relates to the land referred to in that subsection and, for the purpose of any dealing with that land, such a recording shall be deemed never to have been made.

(3) Compensation shall not be, and shall be deemed never to have been, payable pursuant to the Crown Lands Consolidation Act, 1913, or otherwise in respect of the resumption referred to in subsection one of this section in so far as it affected the land referred to in that subsection or in respect of any loss or damage whatsoever arising in any way as a consequence of that resumption or revesting by this Act of that land.

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of growth and development. It begins with the first settlers who came to the continent in search of a new home. These settlers found a land of vast resources and potential, but they also found a land that was already inhabited by a diverse and rich culture of Native Americans. The story of the United States is a story of the struggle for independence, the fight for equality, and the pursuit of a better life for all. It is a story of the challenges and triumphs of a young nation, and it is a story that continues to shape the world today.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 7 September, 1971.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
Amendments.*

A. W. SAXON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 23 September, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to revise the procedure for the reservation of national parks, state parks and historic sites; to make further provisions with respect to the protection and preservation of aboriginal relics, fauna, wild flowers and native plants; to make provisions with respect to the protection and preservation of reptiles; to make provisions with respect to parking offences in national parks and state parks and at historic sites; to increase penalties; for these and other purposes to amend

the

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NOTE.—The words to be *omitted* are ruled through; those to be *inserted* are printed in **black letter**.

National Parks and Wildlife (Amendment).

the National Parks and Wildlife Act, 1967, the Fauna Protection Act, 1948, and the Wild Flowers and Native Plants Protection Act, 1927; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "National Parks and Wildlife (Amendment) Act, 1971".

Short title
and com-
mencement.

(2) A provision of this Act (sections one, two and three excepted) commences on the day that is appointed by the Governor and notified by proclamation published in the Gazette as the day on which the provision is to commence.

(3) Sections one, two and three of this Act commence on the day on which this Act receives the Royal assent.

(4) The National Parks and Wildlife Act, 1967, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
35, 1967.

(a) by omitting from the definition of "Historic site" in subsection one of section three the words "for the purposes of this Act";

Sec. 3.
(Defini-
tions.)

(b) by omitting from the definition of "Lands of the Crown" the words "statutory body" and by inserting in lieu thereof the words "public authority";

(c)

National Parks and Wildlife (Amendment).

(c) by inserting next after the same definition the following new definition :—

5 “Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled upon land wholly or partly by volatile spirit, steam, gas, oil or electricity.

(d) by omitting from the definition of “National park” the words “for the purposes of this Act”;

10 (e) by omitting from the definition of “State park” the words “for the purposes of this Act”;

(f) by inserting next after the same definition the following new definition :—

“Vehicle” includes—
 15 (a) a boat or other object that, while floating on water, is wholly or partly used for the conveyance of persons or things;
 (b) a motor vehicle;
 20 (c) any apparatus propelled upon land, snow or ice by human or animal power or by the wind;
 (d) a trailer or caravan, whether or not it is in the course of being towed.

3. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

25 (a) by inserting next after section six the following new section :—

30 6A. Where the Director or an officer or employee of the National Parks and Wildlife Service or of any Government Department in respect of which an arrangement has been made under subsection two of section five of this Act requires a person whom

Unlawful refusal to state name and place of abode.

National Parks and Wildlife (Amendment).

whom he reasonably suspects of offending against this Act or the regulations to state his full name and his place of abode, that person is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars if he—

5

(a) fails or refuses to comply with the requirement; or

10

(b) in purported compliance with the requirement, states a name that is not his name or a place of abode that is not his place of abode.

15

(b) (i) by omitting from subsection one of section Sec. 7. seven the words “under this Act” and by (Power to insert in lieu thereof the words “by this Act delegate.) and the regulations”;

20

(ii) by inserting in the same subsection after the figures “1948,” the words “and the regulations made under that Act,”;

(iii) by inserting in the same subsection after the figures “1927” the words “, and the regulations made under that Act”;

25

(c) by inserting next after subsection four of section Sec. 8. eight the following new subsection :—

(5) Where the Minister acquires property (Power of Minister to accept gifts, etc.) pursuant to subsection one of this section—

30

(a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and

(b) the property, or the value of property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

(d)

National Parks and Wildlife (Amendment).

- (d) by omitting from paragraph (h) of subsection two of section nine the words "Minister for Education" and by inserting in lieu thereof the words "Minister administering the Australian Museum Act, 1902"; Sec. 9. (National Parks and Wildlife Advisory Council.)
- 5 (e) by inserting next after subsection nine of section eleven the following new subsection :— Sec. 11. (Establishment of local committees.)
- (10) Each member of a local committee shall be entitled to receive such travelling and other expenses as the Minister may determine.
- 10 (f) by inserting next after section nineteen the following new sections :— New secs. 19A and 19B.
- 15 19A. Where the Minister is of the opinion that it is desirable to acquire any land for reservation as, or as part of, a national park, state park or historic site, he may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, or surrender to, Her Majesty of the land. Acquisition of land for national park, etc.
- 20 19B. For the purposes of— Acquisition or occupation for certain purposes of land adjoining or near national park, etc.
- (a) improving access to a national park, state park or historic site;
- (b) the management, maintenance or improvement of a national park, state park or historic site; or
- 25 (c) carrying out works for any of those purposes,
- the Minister may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, surrender to or leasing to, Her Majesty, or for the occupation under license of, any land adjoining or in the vicinity of the national park, state park or historic site.
- 30 (g) (i) by omitting from subsection one of section twenty-four the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area"; Sec. 24. (Restrictions on mining.)
- 35

(ii)

National Parks and Wildlife (Amendment).

- (ii) by inserting in paragraph (a) of subsection two of the same section after the figures "1969," the words "and such an authority or lease over an aboriginal area granted after the day on which the National Parks and Wildlife (Amendment) Act, 1971, received the Royal assent";
- (iii) by omitting from paragraph (b) of the same subsection the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (iv) by omitting from subsection three of the same section the words "or historic site" where secondly occurring and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (h) (i) by inserting next after subsection two of section twenty-nine the following new subsection : — Sec. 29. (Plan of management.)
- (2A) The plan of management in respect of a national park, state park or historic site may relate to land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.
- (ii) by omitting from paragraph (e) of subsection three of the same section the word "and";
- (iii) by omitting from paragraph (f) of the same section the word "area." and by inserting in lieu thereof the following words : —
- area; and
- (g) the utilisation, for the purposes for which it was acquired or occupied, or is proposed to be acquired or occupied,
- of

National Parks and Wildlife (Amendment).

of land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

5 (iv) by inserting in paragraph (a) of subsection six of the same section after the words "it shall" the words ", subject to paragraph (c) of this subsection,";

10 (v) by omitting from paragraph (b) of the same subsection the word "site." and by inserting in lieu thereof the following words :—

site; and

15 (c) where any land to which the plan of management relates is land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act, operations under the plan shall not be undertaken—

20 (i) on or in relation to land acquired or proposed to be acquired under section 19A of this Act until it has been reserved as, or as part of, the park or site to which the plan relates; or

25 (ii) on or in relation to land proposed to be acquired or occupied under section 19B of this Act until it has been so acquired or occupied.

30 (vi) by inserting in paragraph (b) of subsection seven of the same section after the word "tows" the words "or moorings".

(i)

National Parks and Wildlife (Amendment).

- (i) (i) by omitting from paragraph (c) of subsection Sec. 30.
one of section thirty the word "site." and by (Granting
inserting in lieu thereof the following of leases or
words :— licenses.)
- 5 site;
- (d) grant leases of land within a national
park, state park or historic site on
which buildings have been erected for
residential occupation.
- 10 (ii) by inserting next after the same subsection the
following new subsection :—
- (1A) The Minister may, for any purpose
specified in paragraph (a), (b) or (c) of
section 19B of this Act, grant a lease of, or a
15 license with respect to, land acquired or
occupied under that section.
- (j) (i) by omitting from subparagraph (vi) of para- Sec. 35.
graph (b) of subsection one of section thirty- (Payments
five the word "and"; into the
Fund.)
- 20 (ii) by omitting from subparagraph (vii) of the
same paragraph the word "impounding;" and
by inserting in lieu thereof the following
words :—
- impounding; and
- 25 (viii) leases and licenses granted under sub-
section (1A) of section thirty of this
Act;
- (k) (i) by omitting from paragraph (g) of subsection Sec. 36.
two of section thirty-six the word "and"; (Payments
out of
the Fund.)
- 30 (ii) by omitting from paragraph (h) of the same
subsection the word "relic." and by inserting in
lieu thereof the following words :—
- relic;
- 35 (i) the cost of entering into, and giving
effect to, agreements under sections
19A and 19B of this Act;
- (j)

National Parks and Wildlife (Amendment).

- (j) the cost of carrying out the purposes for which land is acquired or occupied under section 19B of this Act.
- 5 (l) by inserting in section forty-one after the word Sec. 41.
"Act" where firstly, thirdly and fourthly occurring (Driver
the words "and liable to a penalty not exceeding two to give
hundred dollars"; his name
and address
when
required.)
- 10 (m) by omitting from subsection one of section forty- Sec. 42.
two the words "has been" and by inserting in lieu (Seizure
thereof the words "is unattended and believed by of motor
him on reasonable grounds to have been"; vehicles.)
- (n) by inserting next after section forty-two the New sec.
following new section :— 42A.
- 15 42A. (1) A person who impersonates the Impersonat-
Director, or a park ranger or other officer of the ing, assault-
National Parks and Wildlife Service, is guilty of an ing, resisting
offence against this Act. or obstruct-
ing an
officer, etc.
- (2) Where a person—
- (a) assaults, resists or obstructs; or
- 20 (b) incites or encourages any other person to
assault, resist or obstruct,
- 25 the Director, or a park ranger or other officer of
the National Parks and Wildlife Service, in the
execution of his duty or authority under this Act,
that person is guilty of an offence against this Act.
- (o) by omitting from subsection three of section forty- Sec. 44.
four the words "one hundred dollars for every such (Penalties.)
offence" and by inserting in lieu thereof the words
"two hundred dollars for the first offence, five
30 hundred dollars for the second offence and one
thousand dollars for the third or subsequent
offence";

(p)

National Parks and Wildlife (Amendment).

- (p) (i) by inserting next after paragraph (k2) of sub-Sec. 49.
section two of section forty-nine the following (Regula-
new paragraph : — tions.)

5 (k3) the regulation, control or prohibition of
the use of any relic for commercial
purposes in any national park, state
park, historic site, nature reserve or
aboriginal area;

10 (ii) by omitting from paragraph (1) of the same
subsection the words "and receiving" and by
inserting in lieu thereof the words ", receiving
and waiving";

15 (iii) by omitting from paragraph (a) of subsection
three of the same section the word "one"
and by inserting in lieu thereof the word
"two".

(q) by omitting from the First Part of the Second Second
Schedule the word "Cocopara" and by inserting in Schedule.
lieu thereof the word "Cocoparra".

20 **4. The Principal Act is further amended—**

Further
amendment
of Act No.
35, 1967.

(a) (i) by omitting from subsection four of section Sec. 15.
fifteen the words "the lands described in the (Reservation
Second and Third Schedules to this Act" and of certain
by inserting in lieu thereof the words "lands national
25 reserved by or under this Act as national park, parks, state
state park or historic site"; parks and
historic
sites.)

(ii) by omitting from the same subsection the
words "by this Act";

30 (iii) by omitting from subsection five of the same
section the words "the lands described in the
Second and Third Schedules to this Act" and
by inserting in lieu thereof the words "lands
reserved by or under this Act as national park,
state park or historic site";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in subsection six of the same section after the word "by" where firstly and secondly occurring the words "or under";
- 5 (b) by omitting section twenty and by inserting in lieu thereof the following section :— Subst. sec. 20.
20. (1) In this section—
- "prescribed lands" means lands, not held under lease or license or otherwise lawfully occupied, that are—
- 10 (a) Crown lands; or
- (b) lands of the Crown in respect of which the person in whom they are vested has consented to a reservation under this section;
- 15 "prescribed time" in relation to a House of Parliament means fourteen sitting days of that House, whether or not they occur during the same session.
- (2) The Governor may, by proclamation published in the Gazette—
- 20 (a) reserve, as a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation; or
- 25 (b) reserve, as part of a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation that—
- 30 (i) adjoin, or are adjacent to, that national park, state park or historic site; and
- (ii) are not vested in or under the care, control and management of, trustees.

Reservation of certain lands as national park, state park or historic site.

(3)

National Parks and Wildlife (Amendment).

(3) Upon the publication of a proclamation under subsection two of this section—

- 5 (a) the lands reserved by the proclamation become Crown lands except in so far as they were Crown lands immediately before that publication;
- 10 (b) any person who, immediately before that publication, held office as trustee, or as a member of the body corporate that was trustee, of the lands so reserved shall cease to hold that office; and
- (c) the care, control and management of the lands so reserved vest in the Director.

15 (4) To the extent to which a dedication, reservation, Crown grant or vesting affects land to which a proclamation published under subsection two of this section relates, the publication revokes the dedication, reservation, grant or vesting.

20 (5) A copy of a proclamation under subsection two of this section shall be laid before each House of Parliament within the prescribed time after publication thereof.

25 (6) Subject to this section, where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a proclamation has been laid before it pursuant to subsection five of this section (whether or not those sitting days occur during the same session) and the resolution disallows the reservation effected by the proclamation or any part thereof—

- 30 (a) the reservation ceases, to the extent of the disallowance but without affecting the operation of subsection three or four of this section, to have effect; and
- 35 (b) to the extent to which the reservation ceases to affect it, but without affecting the operation of subsection three or four of this section.

National Parks and Wildlife (Amendment).

section, the land referred to in the proclamation ceases to be, or to be part of, a national park, state park or historic site.

- 5 (c) (i) by omitting from subsection one of section twenty-six the words "Where the Minister has published a notification under section nineteen of this Act vesting the care, control and management of any national park, state park or historic site in the Director" and by inserting in lieu thereof the words "Where by the operation of section nineteen or twenty of this Act any persons cease to hold office as trustees of, or as members of a body corporate that is trustee of, lands reserved as a national park, state park or historic site";
- 10 (ii) by inserting in paragraph (a) of subsection two of the same section after the word "notification" the words "or proclamation by virtue of which that care, control and management are so vested,";
- 15 (d) by inserting in subsection three of section thirty-one after the words "reserved by" the words "or under".
- 20

5. The Principal Act is further amended by inserting next after section 33L the following new section :—
- Further amendment of Act No. 35, 1967.
New sec. 33M.

30 33M. (1) Upon production of the prescribed evidence of his authority so to do, the Director or a park ranger or other officer of the National Parks and Wildlife Service may, subject to subsection two of this section, enter and search any land or premises if he has reason to suspect—

- (a) that a breach of this Act or the regulations has been committed in respect of a relic; and

(b)

National Parks and Wildlife (Amendment).

(b) that the relic is in or upon that land or those premises.

(2) The powers conferred by subsection one of this section do not authorise a person to enter or search in or upon any part of premises that is used for residential purposes.

6. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

(a) (i) by omitting from subsection one of section Sec. 3. three the definition of "Crown lands" and by (Defini-
inserting in lieu thereof the following tions.)
definition :—

"Crown lands" means—

(a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

(b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii)

National Parks and Wildlife (Amendment).

(ii) by inserting at the end of the same section the following new subsection :—

(3) Nothing in this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of this section.

(b) by inserting next after section twenty the following new section :—

New sec.
20A.

20A. Notwithstanding section twenty of this Act, Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act shall not be reserved as, or as part of, a national park, state park or historic site without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

Land
submerged
by certain
waters.

(c) (i) by omitting from subsection three of section twenty-two the figures and word "1906, or" and by inserting in lieu thereof the figures and words "1906, the Fisheries and Oyster Farms Act, 1935,";

Sec. 22.
(Existing
authority,
permit,
lease,
license or
occupancy.)

(ii) by inserting in the same subsection after the figures "1955" the words ", or any permit or licence under the Petroleum (Submerged Lands) Act, 1967";

(d) by inserting at the end of section twenty-three the following new subsection :—

Sec. 23.
(Restriction
on disposal
or dealing
with lands.)

(3) After the commencement of section six of the National Parks and Wildlife (Amendment) Act, 1971, a lease, license or permit under the Fisheries and Oyster Farms Act, 1935, shall not,

without

National Parks and Wildlife (Amendment).

without the concurrence of the Minister in writing, be granted with respect to land within a national park, state park or historic site or with respect to any waters beneath which that land is submerged.

- 5 (e) by inserting next after subsection four of section twenty-nine the following new subsections : — Sec. 29.
(Plan of
manage-
ment.)

10 (4A) Where land submerged by water is land that is reserved as, or as part of, a national park, state park or historic site the Director shall, before submitting to the Minister for adoption by him the plan of management for the national park, state park or historic site, refer it to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (4B) A plan of management referred to in subsection (4A) of this section—

20 (a) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of section three of this Act until he has considered any representations made with respect to the plan of management by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

30 (b) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(f)

National Parks and Wildlife (Amendment).

- (f) (i) by omitting from subsection two of section thirty the word "Any" and by inserting in lieu thereof the words "Subject to subsection three of this section, any"; Sec. 30. (Granting of leases and licenses.)
- 5 (ii) by inserting next after the same subsection the following new subsection :—
- (3) Where any term or condition of a lease or license granted under this section purports to affect land within a national park, state park or historic site that is land submerged by water and the term or condition is inconsistent with a plan of management in force for the national park, state park or historic site, the term or condition shall, to the extent of the inconsistency, have no force or effect.
- 10
- 15
- (g) (i) by omitting from paragraph (v) of subsection two of section forty-nine the words "signs or other structures" and by inserting in lieu thereof the words "marinas, structures, signs or other improvements"; Sec. 49. (Regulations.)
- 20
- (ii) by inserting in paragraph (w) of the same subsection after the word "buildings," the word "marinas,";
- 25 (iii) by omitting from subsection five of the same section the words "the word 'animal' does" and by inserting in lieu thereof the words "the words 'animal' and 'fauna' do".

National Parks and Wildlife (Amendment).

7. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

- (a) by inserting next after section forty-one the following new sections :—

New secs.
41A-41C.

5 41A. (1) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

Liability of
vehicle
owner for
parking
offences.

15 (a) in any case where the parking offence is dealt with under section 41B of this Act, the owner satisfies the prescribed person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used ; or

20 (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

25 (2) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3)

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(3) Notwithstanding anything in subsection one or two of this section, no owner of a vehicle is, by virtue of this section, guilty of an offence if—

5 (a) in any case where the offence is dealt with under section 41B of this Act, he—

10 (i) within twenty-one days after service on him of a notice under that section alleging that he has been guilty of that offence, supplies by statutory declaration to the prescribed person referred to in that section the name and address of the person who was in charge of the vehicle at all
15 relevant times relating to the parking offence concerned; or

20 (ii) satisfies the prescribed officer so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

(b) in any other case, he—

25 (i) within twenty-one days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

National Parks and Wildlife (Amendment).

- (ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

5 (4) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection three of this section.

10 (5) Where a statutory declaration supply-
ing the name and address of a person for the
purposes of subsection three of this section is
produced in any proceedings against that person in
15 respect of the parking offence to which the statutory
declaration relates, the statutory declaration is
prima facie evidence that that person was, at all
relevant times relating to that parking offence, in
charge of the vehicle to which the parking offence
relates.

20 (6) In this section and in section 41B of
this Act—

“owner” in relation to a vehicle includes—

25 (a) a person who is the owner or joint
owner or part owner of the vehicle
and any person, other than the lessor
under a hire-purchase agreement
relating to the vehicle, who has the
use of the vehicle under such an
agreement; and

(b)

National Parks and Wildlife (Amendment).

(b) in the case of a vehicle that is a motor vehicle—

(i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or

(ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who, in contravention of the regulations made under this Act—

(a) moors or parks a vehicle; or

(b) causes or permits a vehicle to be moored or parked or to stand or wait.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this or any other Act.

41B. (1) Where it appears to a prescribed person that another person is, by virtue of section 41A of this Act, guilty of an offence, the prescribed person may serve a notice on that other person to

Penalty notice for certain offences.

the

National Parks and Wildlife (Amendment).

the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to a person so specified the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection one of this section—

(a) may be served as provided by section forty-eight of this Act; or

(b) may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.

(3) A person alleged to have committed an offence referred to in subsection one of this section shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection one of this section (or within such further time as, in his case, may have been allowed) to pay the penalty so specified he shall be deemed to have declined to be dealt with under this section.

(4) Where the penalty for an offence dealt with under this section is paid pursuant to this section in respect of an alleged offence—

(a) no person may be proceeded against for the alleged offence; and

(b) the payment shall not be construed as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(5)

National Parks and Wildlife (Amendment).

5 (5) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

10 (6) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or a provision of any other Act in relation to proceedings that may be taken in respect of offences.

41c. (1) Where—

15 (a) an information for an offence referred to in subsection one of section 41B of this Act has been laid under Division 2 of Part IV of the Justices Act, 1902;

Ex parte
procedure
for offences
referred to
in section
41B.

20 (b) a summons for the appearance of the defendant to answer the information has been served on him in any manner provided by law for the service of such a summons on that defendant in relation to that offence;
and

(c) the defendant does not appear at the time and place fixed for the hearing of the information.

25 the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, for the payment by the defendant of costs.

30

(2)

National Parks and Wildlife (Amendment).

5 (2) The provisions of section 556A of the Crimes Act, 1900, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

10 (3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty for a breach of the regulation creating the offence in respect of which the penalty is so imposed.

15 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties imposed upon, or previous convictions of, the defendant under this Act and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

20 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, be deemed to be an order under that Act.

25 (6) Section seventy-five of the Justices Act, 1902, does not apply in any case where an information is dealt with under subsection one of this section.

30 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information includes, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, a reference to the time and place specified in the notice.

(8)

National Parks and Wildlife (Amendment).

(8) Section fifteen of the Justices Act, 1902, shall be construed as if this section formed part of that Act.

5 (9) The jurisdiction of a court under this section shall be exercised only by a stipendiary magistrate.

10 (10) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or any other Act in relation to proceedings that may be taken in respect of offences.

15 (b) by omitting from subsection one of section forty- Sec. 44.
four the words "Any penalty" and by inserting in (Penalties.)
lieu thereof the words "Subject to subsection nine
of section 41C of this Act, any penalty".

8. The Fauna Protection Act, 1948, is amended—

Amendment
of Act No.
47, 1948.

20 (a) (i) by omitting from subsection one of section Sec. 9.
nine the words "In this subsection 'Crown (Dedication
lands' has the meaning ascribed to that expres- of areas for
sion in section five of the Crown Lands protection,
Consolidation Act, 1913, as amended by care, etc.
subsequent Acts." and by inserting in lieu of fauna.)
thereof the following words :—

In this subsection "Crown lands" means—

25 (a) Crown lands within the meaning of
the Crown Lands Consolidation Act,
1913; and

(b)

National Parks and Wildlife (Amendment).

5 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

10 (ii) by omitting from subsection two of the same section the words "section except with the concurrence of the Secretary for Lands." and by inserting in lieu thereof the following words :—

section—

15 (a) unless, in the case of Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section, the Minister administering the Crown Lands Consolidation Act, 1913, concurs; or

20

(b) unless, in the case of Crown lands within the meaning of paragraph (b) of that definition, the Minister administering the Fisheries and Oyster Farms Act, 1935, concurs.

25

(iii) by omitting from paragraph (b) of subsection five of the same section the words "object of the scheme shall be" and by inserting in lieu thereof the words "objects of the scheme shall include";

30

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in paragraph (f) of the same subsection after the word "buildings" the word
 ", marinas";

5 (v) by inserting next after subsection five of the same section the following new subsections :—

10 (5A) Where land submerged by water is land that is dedicated as, or as part of, a nature reserve, the Director shall, before submitting to the Minister for his approval under subsection five of this section a scheme for the nature reserve, refer the scheme to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (5B) A scheme referred to in subsection (5A) of this section—

20 (a) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section until he has considered any representations made with respect to the scheme by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

30 (b) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of this section without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section nine the following new section :—

New sec.
9A.

5 9A. Nothing in section nine of this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of that section.

Navigation
of certain
waters not
affected.

- 10 9. The Fauna Protection Act, 1948, is further amended—

Further
amendment
of Act No.
47, 1948.

- (a) (i) by inserting in section four next after the definition of "Regulations" the following new definition :—

Sec. 4.
(Definitions.)

"Sell" includes—

- 15 (a) auction, barter, exchange or supply;
(b) offer, expose, supply or receive for sale;
20 (c) send, forward or deliver for sale or on sale;
(d) dispose of under a hire-purchase agreement;
(e) cause, permit or suffer the doing of an act referred to in paragraph (a), (b), (c) or
25 (d) of this definition;
(f) offer or attempt to do an act so referred to;
30 (g) cause, permit or suffer to be sold;

(h)

National Parks and Wildlife (Amendment).

- (h) attempt to sell or offer to sell;
 (i) have in possession for sale,
 and "sale" has a corresponding meaning.
- 5 (ii) by omitting from the same section the definition of "Take or kill" and by inserting in lieu thereof the following definition :—
- 10 "Take or kill" in relation to any fauna includes hunt, shoot, poison, net, snare, spear, pursue, capture, disturb or injure.
- (b) by omitting from subsection one of section eleven Sec. 11.
 the words "or timber" and by inserting in lieu thereof the words ", timber or vegetation"; (Restrictions as to timber.)
- 15 (c) by omitting from subsection one of section twelve Sec. 12.
 the words "an officer or employee" and by inserting in lieu thereof the words "a person"; (Prohibition on taking or killing fauna within nature reserves.)
- (d) by inserting at the end of section eighteen the following new subsection :— Sec. 18.
 (Open seasons.)
- 20 (3) A person shall not be convicted of an offence against subsection two of this section if he proves that the act constituting the offence was done under and in accordance with the authority conferred by a license.
- 25 (e) (i) by omitting from subsection one of section Sec. 19.
 nineteen the word "ten" and by inserting in lieu thereof the words "one hundred"; (Penalty for having protected fauna in possession.)
 (ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in the same subsection after the word "committed" the words "with a maximum total penalty under this subsection in respect of any one offence of one thousand dollars";
- (iii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—
- 10 (a) that the act constituting the offence was done, or that the state of affairs constituting the offence existed, under and in accordance with—
- 15 (i) the provisions of this Act relating to open seasons; or
- (ii) the authority conferred by a license; or;
- (f) (i) by omitting subsection one of section twenty- Sec. 22.
(Fauna within districts.)
two;
- 20 (ii) by inserting in subsection four of the same section after the word "periods" the words "and may in like manner vary, amend or revoke any such proclamation";
- (g) (i) by inserting in section twenty-six after the word Sec. 26.
(Collections for Museums, etc.)
"investigation" the words "or for the purposes of exhibition";
- 25 (ii) by inserting at the end of the same section the following new subsection :—
- 30 (2) A person who exhibits any protected fauna is guilty of an offence against this Act unless he does so under and in accordance with the authority conferred by a license issued under this section.
- (h)

National Parks and Wildlife (Amendment).

- (h) (i) by inserting in paragraph (a) of subsection one of section twenty-seven after the word "fauna" where secondly occurring the words Sec. 27.
(Persons taking or killing fauna for sale.)
 5 " , or under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (ii) by inserting in paragraph (b) of the same subsection after the word "section" the words
 10 " , or a license under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (i) by omitting section thirty-three and by inserting in lieu thereof the following section :— Sec. 33.
(Imported fauna.)
 15 33. A person who, in New South Wales, liberates fauna not indigenous to New South Wales is guilty of an offence against this Act unless he does so in accordance with a permit granted by the Minister. Restriction on liberation in New South Wales of exotic fauna.
- (j) (i) by inserting in paragraph (a) of subsection one of section thirty-four after the word "committed" where secondly occurring the words " , or any firearm, net, trap or other instrument used in connection with the breach"; Sec. 34.
(Powers of entry and seizure by Director, rangers, officers, etc.)
 20
- (ii) by omitting from the same paragraph the words "or poison found therein" and by inserting in lieu thereof the words " , poison, firearm, net, trap or other instrument found therein or thereon together with any books, papers or records relating to the suspected breach and make copies of, or take extracts from, any such papers, books or records";
 25
 30
- (k) by inserting next after the same section the following new section :— New sec. 34A.
 35 34A. (1) Where any property seized under paragraph (a) of subsection one of section thirty-four of this Act is fauna or is perishable, it may
 (C) Disposal of seized fauna and perishable goods.
 forthwith

National Parks and Wildlife (Amendment).

forthwith be disposed of, by way of sale or otherwise, by the Director, an officer or employee of the National Parks and Wildlife Service authorised by the Director to dispose of it, a ranger or a collector.

5 (2) The proceeds of any sale pursuant to subsection one of this section shall be paid into the National Parks and Wildlife Fund.

10 (3) The payment to a person from the National Parks and Wildlife Fund of an amount equal to the proceeds of the sale of any property under this section operates as a discharge of any obligation to deliver that property to that person and such a payment in discharge of any such obligation imposed by an order of the court
15 prescribed in relation to the property under section forty of this Act is hereby authorised.

(1) by omitting section forty and by inserting in lieu thereof the following section :— Subst. sec. 40.

40. (1) Subject to this section, where—

20 (a) a person is convicted of an offence under this Act or the regulations;

(b) property relating to the offence, or in the possession of the offender at the time of the commission of the offence, has been seized
25 under section thirty-four of this Act; and

(c) any person applies to the court prescribed in relation to the property for an order that the property be delivered to a specified person,

30 that court may, whether or not it is the court making the conviction, make such an order.

Disposal of property seized.

(2)

National Parks and Wildlife (Amendment).

(2) Subject to this section, where—

(a) property has been seized under section thirty-four of this Act; and

5 (b) an information for an offence (being an offence on or after a conviction for which an order could be made under subsection one of this section in respect of the property) has not been laid within six months after the seizure of the property,

10 the court prescribed in relation to the property may, on the application of any person, order that the property be delivered to a specified person.

15 (3) An application for an order under subsection one of this section may be made at the time of the conviction referred to in that subsection if the court making the conviction is the prescribed court in relation to the property to which the application relates.

20 (4) An application for an order under subsection one or two of this section may not be made—

25 (a) in the case of an application for an order under subsection one of this section—later than one month after the conviction referred to in that subsection; or

30 (b) in the case of an application for an order under subsection two of this section—later than three months after the expiration of the period of six months referred to in that subsection.

(5) Where property has been seized under section thirty-four of this Act and—

35 (a) no application for an order under subsection one or two of this section has been duly made; or

45—C

(b)

National Parks and Wildlife (Amendment).

5 (b) such an application has been duly made
and such an order has been refused,
the property the subject of the application and,
where the property has been sold under section 34A
of this Act, the proceeds of the sale, shall be
deemed to have been forfeited.

(6) For the purposes of this section—

10 (a) the value of any property sold under section
34A of this Act is an amount equal to the
amount of the net proceeds of sale;

(b) the court prescribed in relation to any
property is—

15 (i) where the value of the property does
not exceed five hundred dollars—
the court of petty sessions for the
district in which the property was
seized;

20 (ii) where the value of the property
exceeds five hundred dollars but
does not exceed six thousand dollars
—the district court for the district
in which the property was seized;
and

25 (iii) where the value of the property
exceeds six thousand dollars—the
Supreme Court of New South
Wales.

30 (m) by omitting from subsection three of section forty-
three the words “, and may provide that any pro-
tected fauna in relation to which an offence against
the regulations has been committed shall be liable
to forfeiture and disposed of in such manner as the
court may direct”;

Sec. 43.
(Regula-
tions.)

(n) by omitting the Second Schedule.

Second
Schedule.

National Parks and Wildlife (Amendment).

10. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- 5 (a) by omitting from subsection two of section twelve the words “a penalty not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;
- 10 (b) by omitting from subsection two of section sixteen the words “shall for every such offence be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 15 (c) by omitting from subsection two of section eighteen the words “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 20 (d) by omitting from subsection three of section twenty the words “a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;
- 25 (e) by omitting from subsection five of section twenty-two the words “and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “against this Act”;

Sec. 12.
(Prohibition on taking or killing fauna within nature reserves.)

Sec. 16.
(Closed season for scheduled fauna.)

Sec. 18.
(Open seasons.)

Sec. 20.
(Rare fauna.)

Sec. 22.
(Fauna within districts.)

(f)

National Parks and Wildlife (Amendment).

- (f) by omitting from section twenty-three the words Sec. 23.
 “and be liable to a penalty not exceeding one (Penalty for
 hundred dollars” and by inserting in lieu thereof trespass.)
 the words “against this Act”;
- 5 (g) (i) by omitting from subsection eight of section Sec. 23A.
 23A the words “and be liable to a penalty not (Wildlife
 exceeding two hundred dollars” and by refuges and
 inserting in lieu thereof the words “against this game
 Act”; reserves.)
- 10 (ii) by omitting from subsection nine of the same
 section the words “and be liable to a penalty
 not exceeding two hundred dollars” and by
 inserting in lieu thereof the words “against
 this Act”;
- 15 (h) (i) by omitting from subsection one of section Sec. 32.
 thirty-two the word “forty” and by inserting (Restriction
 in lieu thereof the words “two hundred”; on method
 of shooting
 fauna.)
- (ii) by omitting from subsection two of the same
 section the word “forty” and by inserting in
 20 lieu thereof the words “two hundred”;
- (i) by omitting from subsection two of section thirty- Sec. 35.
 five the words “against this Act” and by inserting (Further
 in lieu thereof the words “and be liable to a penalty powers of
 not exceeding two hundred dollars”; Director,
 rangers,
 etc.)
- 25 (j) by omitting from section thirty-six the word Sec. 36.
 “twenty” and by inserting in lieu thereof the words (Assaulting
 “two hundred”; or resisting
 officers, etc.)
- (k) by omitting from subsection three of section thirty- Sec. 37.
 seven the word “one” and by inserting in lieu thereof (Use of
 30 the word “four”; poison.)

National Parks and Wildlife (Amendment).

- (1) by omitting from subsection one of section thirty-eight the word "forty" and by inserting in lieu thereof the words "four hundred"; Sec. 38.
(Use of
bird-lime
etc. pro-
hibited.)
- 5 (m) by omitting section forty-one and by inserting in lieu thereof the following section :— Subst.
sec. 41.
41. (1) A person who—
- (a) does that which by this Act he is forbidden to do;
- (b) fails or neglects to do that which by this Act he is required or directed to do,
- 10 is guilty of an offence against this Act.
- (2) A person guilty of an offence against this Act, whether pursuant to subsection one of this section or otherwise is, where no other penalty is prescribed, liable to a penalty not exceeding—
- 15 (a) in the case of the first offence for which he is liable to a penalty under this section—two hundred dollars;
- (b) in the case of a second offence for which he is liable to a penalty under this section—five hundred dollars; and
- 20 (c) in the case of a third or subsequent offence for which he is liable to a penalty under this section—one thousand dollars.
- 25 (n) by omitting from subsection three of section forty-three the word "forty" and by inserting in lieu thereof the words "two hundred". Sec. 43.
(Regula-
tions.)

National Parks and Wildlife (Amendment).

11. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

(a) by omitting section twenty-five and by inserting in lieu thereof the following section :—

Subst. sec. 25.

5 25. (1) Subject to this section, the Minister may, by license specifying such conditions as the Minister thinks proper, authorise an owner or occupier of specified land—

Destructive fauna.

(a) to take or kill; or

10 (b) to permit a licensee under paragraph (a) of subsection one of section twenty-seven of this Act to take or kill,

15 a specified number of specified fauna found on that land and may, by the license, authorise the disposal, whether for sale or otherwise, of any fauna taken or killed under that authority.

(2) A license under subsection one of this section shall not be issued unless—

20 (a) the Minister is satisfied that the species of fauna specified in the license are destroying or injuring, or likely to destroy or injure, the property of the applicant for the license; **and**

25 (b) the licensee has been supplied by the National Parks and Wildlife Service with labels, tags, slips or other objects sufficient in number to affix or attach, in compliance with any condition of the license, to the skin or carcase of fauna taken or killed by the
30 authority of the license.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting at the end of section twenty-eight the following new subsection :— Sec. 28.
(Royalty to be paid.)
- 5 (2) Notwithstanding subsection one of this section, royalty referred to therein shall not be payable in respect of a skin or carcase to which there has been affixed or attached in compliance with a condition of a license under this Act a label, tag, slip or other object for which a charge or fee has been paid pursuant to regulations made under paragraph
- 10 (n) of subsection two of section forty-three of this Act.
- (c) (i) by omitting from paragraph (m) of subsection two of section forty-three the word "reserve." Sec. 43.
(Regulations.)
- 15 and by inserting in lieu thereof the word "reserve;";
- (ii) by inserting next after the same paragraph the following new paragraph :—
- (n) for the making of a charge for supplying a label, tag, slip or object for affixing or attaching to the skin or carcase of any fauna in compliance with any condition of a license under this Act.
- 20

12. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- 25 (a) by omitting from section twenty-one the word "Nothing" and by inserting in lieu thereof the words "Subject to section 27A of this Act, nothing"; Sec. 21.
(Protected fauna kept in domesticated state exempted from this Act.)

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section twenty-seven the following new section :—

New sec.
27A.

5 27A. (1) A person who has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless—

Registration
of aviaries.

10 (a) an aviary registration certificate is in force with respect to that structure, building, store, shop or other premises; or

15 (b) that person is a fauna dealer or skin dealer licensed under section twenty-seven of this Act and the structure, building, store or shop is, or the other premises are, registered under subsection four of that section.

20 (2) The Director may, on application being made for the purpose, issue an aviary registration certificate in respect of specified premises and may subject to subsection five of this section, cancel such a certificate for any good cause upon the expiration of fourteen days after serving notice that he proposes so to do.

25 (3) It is a sufficient service of notice of a proposal to cancel an aviary registration certificate if the notice is left with some person apparently of or above the age of sixteen years at the address at which is situated the structure, building, store, shop or other premises to which the certificate relates.

30 (4) Where an application for an aviary registration certificate under this section is refused—

35 (a) the applicant for the certificate may, within fourteen days after he is notified of the refusal, appeal to the Minister against the refusal; and

(b)

National Parks and Wildlife (Amendment).

(b) the refusal shall not take effect—

- 5 (i) where an appeal against the refusal
is not lodged before the expiration of
the period allowed for lodging such
an appeal—until the expiration of
that period; or
- 10 (ii) where such an appeal is lodged
before the expiration of that period
—unless the Minister dismisses the
appeal.

15 (5) Where notice of a proposal to cancel
an aviary registration certificate under this section
has been served, a person who, in the absence of
the certificate, would be guilty of an offence under
subsection one of this section may, before the
expiration of fourteen days after service of the
notice, appeal to the Minister against the proposal
and, where such an appeal is lodged, the Director
shall not proceed with the proposal—

- 20 (a) if the appeal is upheld; or
- (b) where the appeal is dismissed, until the
expiration of fourteen days after dismissal
of the appeal.

25 (6) The decision of the Minister on an
appeal under this section is final.

30 (7) Where a person would, but for this
subsection, be affected by subsection one of this
section, he shall not, where he applies for an aviary
registration certificate before the expiration of the
prescribed period, be so affected—

- (a) until he is issued with such a certificate; or
- (b) where his application is refused—until the
refusal takes effect.

(8)

National Parks and Wildlife (Amendment).

(8) In this section "prescribed period" in relation to a person means—

- 5 (a) the period of six months next succeeding the commencement of section twelve of the National Parks and Wildlife (Amendment) Act, 1971;
- 10 (b) where the Minister, by order published in the Gazette before the expiration of the period of six months referred to in paragraph (a) of this subsection, specifies for the purposes of this subsection a period that expires after the expiration of the period of six months—the period so specified; or
- 15 (c) the period of one month next succeeding the day on which that person first becomes aware that he has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises,
- 20 whichever period last expires.
- (c) (i) by inserting in paragraph (b) of subsection Sec. 43. two of section forty-three after the word (Regulations.) "licenses" the words "or registration certificates";
- 25 (ii) by inserting in subsection four of the same section after the word "licenses" where firstly occurring the words "or registration certificates";
- 30 (iii) by omitting from the same subsection the words "and localities" and by inserting in lieu thereof the words ", registration certificates, localities";
- (iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in the same subsection after the word "licenses" where thirdly occurring the words ", registration certificates";
- 5 (v) by inserting in the same subsection after the word "licenses" where fourthly and fifthly occurring the words "or registration certificates".

13. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- 10 (a) (i) by inserting in the definition of "Fauna" in Sec. 4. section four after the word "bird" the words (Definitions.) "or reptile";
- (ii) by inserting in the same section after the definition of "Regulations" the following new definition :—
- 15 "Reptile" means snake, lizard, crocodile, tortoise, turtle or other member of the class *reptilia* (whether native, introduced or imported) and the eggs and
- 20 young thereof and the skin and any other part thereof.
- (b) by inserting next after section eighteen the New sec. 18A. following new section :—
- 25 18A. Nothing in this Act renders a person liable to prosecution for— Killing of snakes not punishable.
- (a) killing, or attempting to kill, a snake; or
- (b) hunting, pursuing, disturbing or injuring a snake for the purpose of killing it without delay.

(c)

National Parks and Wildlife (Amendment).

- 5 (c) by inserting in paragraph (b) of subsection two of section nineteen after the word "Act" the words "or, in the case of a reptile, of section thirteen of the National Parks and Wildlife (Amendment) Act, 1971".
- Sec. 19.
(Penalty for having protected fauna in possession.)

14. The Wild Flowers and Native Plants Protection Act, 1927, is amended—

Amendment of Act No. 2, 1927.

- 10 (a) (i) by omitting from subsection four of section three the words "the same" and by inserting in lieu thereof the words "that Act, but subject to subsection five of this section";
- Sec. 3.
(Notification of protection.)

(ii) by inserting next after the same subsection the following new subsection :—

(5) Where—

- 15 (a) the applicant for, or holder of, a license referred to in subsection four of this section is authorised by a license under section 5A of this Act to pick a wild flower or native plant of a species, and in the locality, to which his application or license under the Forestry Act, 1916, relates; and
- 20

- 25 (b) in the opinion of the Forestry Commission, the wild flower or native plant, if not removed, would be damaged or destroyed in the taking of timber or products under, or in the carrying on of any activity authorised by, the Forestry Act, 1916,

- 30 subsection four of this section does not operate to prevent the Forestry Commission from issuing a license authorising removal of the

wild

National Parks and Wildlife (Amendment).

- 5 wild flower or native plant or from reinstating,
to the extent necessary to authorise removal
of the wild flower or native plant, a license
that has, pursuant to that subsection, ceased
to be operative.
- (b) by omitting from paragraph (b) of subsection two Sec. 5.
of section five the words "such license." and by (Selling
inserting in lieu thereof the following words :— forbidden.)
- 10 the license; or
- (c) any protected wild flower or protected native
plant that has been picked for commercial
purposes in pursuance of a license issued
under section 5A of this Act.
- 15 (c) by inserting in section 5A next after the word Sec. 5A.
"scientific" the words "or commercial"; (Licenses
to pick for
certain
purposes.)
- (d) (i) by omitting from subparagraph (i) of para- Sec. 7.
graph (c) of subsection four of section seven (Carriage
by Railway
Com-
missioners
and trans-
port trust.)
- 20 (ii) by omitting from subparagraph (ii) of the
same paragraph the words "such license" and
by inserting in lieu thereof the following
words :—
- the license; or
- 25 (iii) that the protected wild flower or native
plant was picked pursuant to a license
issued under section 5A of this Act for
commercial purposes.

15. The permanent reservation under the National Parks and Wildlife Act, 1967, of all that piece or parcel of land
30 containing 24 acres 2 roods 30 perches situate in the County
of Selwyn, Parish of Youngal and being portion 47 shown on
plan catalogued S2561-1522 in the Department of Lands is
hereby revoked. Revocation
of
permanent
reservation
of certain
land.

National Parks and Wildlife (Amendment).

16. Notwithstanding anything in the Fauna Protection Act, 1948, as amended by paragraph (g) of section nine of this Act, where, but for this section a person would, by the operation of that Act, as so amended, be required to have a license issued under that Act, as so amended, in order lawfully to carry on after the commencement of that paragraph an activity that he was lawfully carrying on before that commencement without such a license, it shall be lawful for him to continue to carry on that activity after that commencement without such a license—

- (a) until the expiration of the period of six months next succeeding that commencement; or
- (b) where he applies within that period of six months for the issue to him of such a license—
 - (i) until such a license is issued to him; or
 - (ii) until he is notified that the issue of such a license has been refused,

whichever last occurs.

17. (1) The dedication under the Fauna Protection Act, 1948, of all that piece or parcel of land containing 299 acres 1 rood 20 $\frac{1}{4}$ perches situate in the County of Camden being Lot 1 in Deposited Plan 548559 and Lot 1 in Deposited Plan 548561 Parish Kiama and Portion 137 inclusive of reserved roads and exclusive of public road Parish Wallaya below a depth of 50 feet is hereby revoked and that land is hereby revested in the persons entitled thereto immediately before the resumption of that land under and in pursuance of the provisions of section 197 of the Crown Lands Consolidation Act, 1913, notification whereof was published in the Government Gazette of the thirteenth day of August, one thousand nine hundred and seventy-one, and is so revested for such estates and interests as were, and with and subject to such rights as were, subsisting in respect of that land immediately before that resumption, and subject to any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements from which it was freed and discharged by the

National Parks and Wildlife (Amendment).

the resumption as if the resumption had not taken place and shall also be subject to any interests in or equities binding on the compensation moneys created since the resumption which but for this Act may have been recoverable or payable.

- 5 (2) The Registrar General shall cancel any recording in the Register made by him pursuant to section 31A of the Real Property Act, 1900, in relation to the resumption referred to in subsection one of this section, in so far as the recording relates to the land referred to in that subsection
10 and, for the purpose of any dealing with that land, such a recording shall be deemed never to have been made.

- (3) Compensation shall not be, and shall be deemed never to have been, payable pursuant to the Crown Lands Consolidation Act, 1913, or otherwise in respect of the re-
15 sumption referred to in subsection one of this section in so far as it affected the land referred to in that subsection or in respect of any loss or damage whatsoever arising in any way as a consequence of that resumption or revesting by this Act of that land.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[40c]

SECTION 1. (a) That the Secretary of the Interior

be authorized to sell the lands owned by the United States and to lease the same for the purpose of disposing of the same for the benefit of the people of the United States.

(b) That the Secretary of the Interior be authorized to sell the lands owned by the United States and to lease the same for the purpose of disposing of the same for the benefit of the people of the United States.

(c) That the Secretary of the Interior be authorized to sell the lands owned by the United States and to lease the same for the purpose of disposing of the same for the benefit of the people of the United States.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 7 September, 1971.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
Amendments.*

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, September, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to revise the procedure for the reservation of national parks, state parks and historic sites; to make further provisions with respect to the protection and preservation of aboriginal relics, fauna, wild flowers and native plants; to make provisions with respect to the protection and preservation of reptiles; to make provisions with respect to parking offences in national parks and state parks and at historic sites; to increase penalties; for these and other purposes to amend

the

National Parks and Wildlife (Amendment).

the National Parks and Wildlife Act, 1967, the Fauna Protection Act, 1948, and the Wild Flowers and Native Plants Protection Act, 1927; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "National Parks and Wildlife (Amendment) Act, 1971".

Short title and commencement.

(2) A provision of this Act (sections one, two and three excepted) commences on the day that is appointed by the Governor and notified by proclamation published in the Gazette as the day on which the provision is to commence.

(3) Sections one, two and three of this Act commence on the day on which this Act receives the Royal assent.

(4) The National Parks and Wildlife Act, 1967, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment of Act No. 35, 1967.

(a) by omitting from the definition of "Historic site" in subsection one of section three the words "for the purposes of this Act";

Sec. 3. (Definitions.)

(b) by omitting from the definition of "Lands of the Crown" the words "statutory body" and by inserting in lieu thereof the words "public authority";

(c)

National Parks and Wildlife (Amendment).

- (c) by inserting next after the same definition the following new definition :—

5 “Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled upon land wholly or partly by volatile spirit, steam, gas, oil or electricity.

- (d) by omitting from the definition of “National park” the words “for the purposes of this Act”;

10 (e) by omitting from the definition of “State park” the words “for the purposes of this Act”;

- (f) by inserting next after the same definition the following new definition :—

“Vehicle” includes—

15 (a) a boat or other object that, while floating on water, is wholly or partly used for the conveyance of persons or things;

(b) a motor vehicle;

20 (c) any apparatus propelled upon land, snow or ice by human or animal power or by the wind;

(d) a trailer or caravan, whether or not it is in the course of being towed.

3. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

- 25 (a) by inserting next after section six the following new section :—

6A. Where the Director or an officer or employee of the National Parks and Wildlife Service or of any Government Department in respect of which an arrangement has been made under subsection two of section five of this Act requires a person
30 whom

Unlawful refusal to state name and place of abode.

National Parks and Wildlife (Amendment).

5 whom he reasonably suspects of offending against this Act or the regulations to state his full name and his place of abode, that person is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars if he—

- (a) fails or refuses to comply with the requirement; or
- (b) in purported compliance with the requirement, states a name that is not his name or a place of abode that is not his place of abode.

15 (b) (i) by omitting from subsection one of section Sec. 7. seven the words “under this Act” and by (Power to delegate.) inserting in lieu thereof the words “by this Act and the regulations”;

(ii) by inserting in the same subsection after the figures “1948,” the words “and the regulations made under that Act,”;

20 (iii) by inserting in the same subsection after the figures “1927” the words “, and the regulations made under that Act”;

(c) by inserting next after subsection four of section Sec. 8. eight the following new subsection :—

25 (5) Where the Minister acquires property (Power of Minister to accept gifts, etc.) pursuant to subsection one of this section—

30 (a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and

(b) the property, or the value of property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

(d)

National Parks and Wildlife (Amendment).

- (d) by omitting from paragraph (h) of subsection two of section nine the words "Minister for Education" and by inserting in lieu thereof the words "Minister administering the Australian Museum Act, 1902"; Sec. 9. (National Parks and Wildlife Advisory Council.)
- 5 (e) by inserting next after subsection nine of section eleven the following new subsection :— Sec. 11. (Establishment of local committees.)
- (10) Each member of a local committee shall be entitled to receive such travelling and other expenses as the Minister may determine.
- 10 (f) by inserting next after section nineteen the following new sections :— New secs. 19A and 19B.
- 15 19A. Where the Minister is of the opinion that it is desirable to acquire any land for reservation as, or as part of, a national park, state park or historic site, he may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, or surrender to, Her Majesty of the land. Acquisition of land for national park, etc.
- 20 19B. For the purposes of— Acquisition or occupation for certain purposes of land adjoining or near national park, etc.
- (a) improving access to a national park, state park or historic site;
- (b) the management, maintenance or improvement of a national park, state park or historic site; or
- 25 (c) carrying out works for any of those purposes,
- the Minister may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, surrender to or leasing to, Her Majesty, or for the occupation under license of, any land adjoining or in the vicinity of the national park, state park or historic site.
- 30 (g) (i) by omitting from subsection one of section twenty-four the words "or historic site" and by inserting in lieu thereof the words "historic site or aboriginal area"; Sec. 24. (Restrictions on mining.)
- 35

(ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in paragraph (a) of subsection two of the same section after the figures "1969," the words "and such an authority or lease over an aboriginal area granted after the day on which the National Parks and Wildlife (Amendment) Act, 1971, received the Royal assent";
- 10 (iii) by omitting from paragraph (b) of the same subsection the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
- 15 (iv) by omitting from subsection three of the same section the words "or historic site" where secondly occurring and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (h) (i) by inserting next after subsection two of section twenty-nine the following new subsection : — Sec. 29. (Plan of management.)
- 20 (2A) The plan of management in respect of a national park, state park or historic site may relate to land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.
- 25 (ii) by omitting from paragraph (e) of subsection three of the same section the word "and";
- (iii) by omitting from paragraph (f) of the same section the word "area." and by inserting in lieu thereof the following words : —
- 30 area; and
- (g) the utilisation, for the purposes for which it was acquired or occupied, or is proposed to be acquired or occupied,
- of

National Parks and Wildlife (Amendment).

of land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

5 (iv) by inserting in paragraph (a) of subsection six of the same section after the words "it shall" the words ", subject to paragraph (c) of this subsection,";

10 (v) by omitting from paragraph (b) of the same subsection the word "site." and by inserting in lieu thereof the following words :—

site; and

15 (c) where any land to which the plan of management relates is land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act, operations under the plan shall not be undertaken—

20 (i) on or in relation to land acquired or proposed to be acquired under section 19A of this Act until it has been reserved as, or as part of, the park or site to which the plan relates; or

25 (ii) on or in relation to land proposed to be acquired or occupied under section 19B of this Act until it has been so acquired or occupied.

30 (vi) by inserting in paragraph (b) of subsection seven of the same section after the word "tows" the words "or moorings".

(i)

National Parks and Wildlife (Amendment).

- (i) (i) by omitting from paragraph (c) of subsection Sec. 30.
one of section thirty the word "site." and by (Granting
inserting in lieu thereof the following of leases or
words : — licenses.)
- 5 site ;
- (d) grant leases of land within a national
park, state park or historic site on
which buildings have been erected for
residential occupation.
- 10 (ii) by inserting next after the same subsection the
following new subsection : —
- (1A) The Minister may, for any purpose
specified in paragraph (a), (b) or (c) of
section 19B of this Act, grant a lease of, or a
15 license with respect to, land acquired or
occupied under that section.
- (j) (i) by omitting from subparagraph (vi) of para- Sec. 35.
graph (b) of subsection one of section thirty- (Payments
five the word "and"; into the
Fund.)
- 20 (ii) by omitting from subparagraph (vii) of the
same paragraph the word "impounding;" and
by inserting in lieu thereof the following
words : —
- impounding; and
- 25 (viii) leases and licenses granted under sub-
section (1A) of section thirty of this
Act;
- (k) (i) by omitting from paragraph (g) of subsection Sec. 36.
two of section thirty-six the word "and"; (Payments
out of
the Fund.)
- 30 (ii) by omitting from paragraph (h) of the same
subsection the word "relic." and by inserting in
lieu thereof the following words : —
- relic;
- 35 (i) the cost of entering into, and giving
effect to, agreements under sections
19A and 19B of this Act;
- (j)

National Parks and Wildlife (Amendment).

- (j) the cost of carrying out the purposes for which land is acquired or occupied under section 19B of this Act.
- 5 (l) by inserting in section forty-one after the word Sec. 41.
"Act" where firstly, thirdly and fourthly occurring (Driver
the words "and liable to a penalty not exceeding two his name
hundred dollars"; and address
when
required.)
- 10 (m) by omitting from subsection one of section forty- Sec. 42.
two the words "has been" and by inserting in lieu (Seizure
thereof the words "is unattended and believed by of motor
him on reasonable grounds to have been"; vehicles.)
- (n) by inserting next after section forty-two the New sec.
following new section :— 42A.
- 15 42A. (1) A person who impersonates the Impersonat-
Director, or a park ranger or other officer of the ing, assault-
National Parks and Wildlife Service, is guilty of an ing, resisting
offence against this Act. or obstruct-
ing an
officer, etc.
- (2) Where a person—
- 20 (a) assaults, resists or obstructs; or
- (b) incites or encourages any other person to
assault, resist or obstruct,
- the Director, or a park ranger or other officer of
the National Parks and Wildlife Service, in the
execution of his duty or authority under this Act,
25 that person is guilty of an offence against this Act.
- (o) by omitting from subsection three of section forty- Sec. 44.
four the words "one hundred dollars for every such (Penalties.)
offence" and by inserting in lieu thereof the words
"two hundred dollars for the first offence, five
30 hundred dollars for the second offence and one
thousand dollars for the third or subsequent
offence";
- (p)

National Parks and Wildlife (Amendment).

- (p) (i) by inserting next after paragraph (k2) of sub- Sec. 49.
section two of section forty-nine the following (Regula-
new paragraph :— tions.)

5 (k3) the regulation, control or prohibition of
the use of any relic for commercial
purposes in any national park, state
park, historic site, nature reserve or
aboriginal area;

10 (ii) by omitting from paragraph (1) of the same
subsection the words "and receiving" and by
inserting in lieu thereof the words ", receiving
and waiving";

15 (iii) by omitting from paragraph (a) of subsection
three of the same section the word "one"
and by inserting in lieu thereof the word
"two".

- (q) by omitting from the First Part of the Second Second
Schedule the word "*Cocopara*" and by inserting in Schedule.
lieu thereof the word "*Cocoparra*".

20 4. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

25 (a) (i) by omitting from subsection four of section Sec. 15.
fifteen the words "the lands described in the (Reservation
Second and Third Schedules to this Act" and of certain
by inserting in lieu thereof the words "lands national
reserved by or under this Act as national park, parks, state
state park or historic site"; parks and
historic
sites.)

(ii) by omitting from the same subsection the
words "by this Act";

30 (iii) by omitting from subsection five of the same
section the words "the lands described in the
Second and Third Schedules to this Act" and
by inserting in lieu thereof the words "lands
reserved by or under this Act as national park,
state park or historic site";

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in subsection six of the same section after the word "by" where firstly and secondly occurring the words "or under";

5 (b) by omitting section twenty and by inserting in lieu thereof the following section : — Subst. sec. 20.

20. (1) In this section—

"prescribed lands" means lands, not held under lease or license or otherwise lawfully occupied, that are—

10 (a) Crown lands; or

(b) lands of the Crown in respect of which the person in whom they are vested has consented to a reservation under this section;

15 "prescribed time" in relation to a House of Parliament means fourteen sitting days of that House, whether or not they occur during the same session.

20 (2) The Governor may, by proclamation published in the Gazette—

(a) reserve, as a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation; or

25 (b) reserve, as part of a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation that—

30 (i) adjoin, or are adjacent to, that national park, state park or historic site; and

(ii) are not vested in or under the care, control and management of, trustees.

(3)

National Parks and Wildlife (Amendment).

(3) Upon the publication of a proclamation under subsection two of this section—

- 5 (a) the lands reserved by the proclamation become Crown lands except in so far as they were Crown lands immediately before that publication;
- 10 (b) any person who, immediately before that publication, held office as trustee, or as a member of the body corporate that was trustee, of the lands so reserved shall cease to hold that office; and
- (c) the care, control and management of the lands so reserved vest in the Director.

15 (4) To the extent to which a dedication, reservation, Crown grant or vesting affects land to which a proclamation published under subsection two of this section relates, the publication revokes the dedication, reservation, grant or vesting.

20 (5) A copy of a proclamation under subsection two of this section shall be laid before each House of Parliament within the prescribed time after publication thereof.

25 (6) Subject to this section, where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a proclamation has been laid before it pursuant to subsection five of this section (whether or not those sitting days occur during the same session) and the resolution disallows the reservation effected by the proclamation or any part thereof—

- 30 (a) the reservation ceases, to the extent of the disallowance but without affecting the operation of subsection three or four of this section, to have effect; and
- 35 (b) to the extent to which the reservation ceases to affect it, but without affecting the operation of subsection three or four of this section,

National Parks and Wildlife (Amendment).

section, the land referred to in the proclamation ceases to be, or to be part of, a national park, state park or historic site.

- 5 (c) (i) by omitting from subsection one of section twenty-six the words "Where the Minister has published a notification under section nineteen of this Act vesting the care, control and management of any national park, state park or historic site in the Director" and by inserting in lieu thereof the words "Where by the operation of section nineteen or twenty of this Act any persons cease to hold office as trustees of, or as members of a body corporate that is trustee of, lands reserved as a national park, state park or historic site";
- 10 (ii) by inserting in paragraph (a) of subsection two of the same section after the word "notification" the words "or proclamation by virtue of which that care, control and management are so vested,";
- 15 (d) by inserting in subsection three of section thirty-one after the words "reserved by" the words "or under".
- 20

5. The Principal Act is further amended by inserting next
25 after section 33L the following new section :—

Further amendment of Act No. 35, 1967.
New sec. 33M.

30 33M. (1) Upon production of the prescribed evidence of his authority so to do, the Director or a park ranger or other officer of the National Parks and Wildlife Service may, subject to subsection two of this section, enter and search any land or premises if he has reason to suspect—

Power of entry.

- (a) that a breach of this Act or the regulations has been committed in respect of a relic; and

(b)

National Parks and Wildlife (Amendment).

(b) that the relic is in or upon that land or those premises.

5 (2) The powers conferred by subsection one of this section do not authorise a person to enter or search in or upon any part of premises that is used for residential purposes.

6. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

10 (a) (i) by omitting from subsection one of section three the definition of "Crown lands" and by inserting in lieu thereof the following definition :—

"Crown lands" means—

15 (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

20 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii)

National Parks and Wildlife (Amendment).

(ii) by inserting at the end of the same section the following new subsection :—

(3) Nothing in this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of this section.

(b) by inserting next after section twenty the following new section :—

20A. Notwithstanding section twenty of this Act, Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act shall not be reserved as, or as part of, a national park, state park or historic site without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(c) (i) by omitting from subsection three of section twenty-two the figures and word "1906, or" and by inserting in lieu thereof the figures and words "1906, the Fisheries and Oyster Farms Act, 1935,";

(ii) by inserting in the same subsection after the figures "1955" the words ", or any permit or licence under the Petroleum (Submerged Lands) Act, 1967";

(d) by inserting at the end of section twenty-three the following new subsection :—

(3) After the commencement of section six of the National Parks and Wildlife (Amendment) Act, 1971, a lease, ~~license or permit~~ under the Fisheries and Oyster Farms Act, 1935, shall not,

without

New sec.
20A.

Land
submerged
by certain
waters.

Sec. 22.
(Existing
authority,
permit,
lease,
license or
occupancy.)

Sec. 23.
(Restriction
on disposal
or dealing
with lands.)

National Parks and Wildlife (Amendment).

without the concurrence of the Minister in writing, be granted with respect to land within a national park, state park or historic site or with respect to any waters beneath which that land is submerged.

- 5 (e) by inserting next after subsection four of section twenty-nine the following new subsections : — Sec. 29.
(Plan of management.)

10 (4A) Where land submerged by water is land that is reserved as, or as part of, a national park, state park or historic site the Director shall, before submitting to the Minister for adoption by him the plan of management for the national park, state park or historic site, refer it to the Minister administering the Fisheries and Oyster Farms Act, 1935.

- 15 (4B) A plan of management referred to in subsection (4A) of this section—

20 (a) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of section three of this Act until he has considered any representations made with respect to the plan of management by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

25 (b) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(f)

National Parks and Wildlife (Amendment).

- (f) (i) by omitting from subsection two of section thirty the word "Any" and by inserting in lieu thereof the words "Subject to subsection three of this section, any"; Sec. 30. (Granting of leases and licenses.)
- 5 (ii) by inserting next after the same subsection the following new subsection :—
- 10 (3) Where any term or condition of a lease or license granted under this section purports to affect land within a national park, state park or historic site that is land submerged by water and the term or condition is inconsistent with a plan of management in force for the national park, state park or historic site, the term or condition shall, to the extent of the inconsistency, have no force or effect.
- 15
- (g) (i) by omitting from paragraph (v) of subsection two of section forty-nine the words "signs or other structures" and by inserting in lieu thereof the words "marinas, structures, signs or other improvements"; Sec. 49. (Regulations.)
- 20
- (ii) by inserting in paragraph (w) of the same subsection after the word "buildings," the word "marinas,";
- 25 (iii) by omitting from subsection five of the same section the words "the word 'animal' does" and by inserting in lieu thereof the words "the words 'animal' and 'fauna' do".

National Parks and Wildlife (Amendment).

7. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

- (a) by inserting next after section forty-one the following new sections :—

New secs.
41A-41C.

5 41A. (1) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

Liability of
vehicle
owner for
parking
offences.

10 (a) in any case where the parking offence is dealt with under section 41B of this Act, the owner satisfies the prescribed person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used ; or

15 (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

20 (2) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

25

(3)

National Parks and Wildlife (Amendment).

(3) Notwithstanding anything in subsection one or two of this section, no owner of a vehicle is, by virtue of this section, guilty of an offence if—

5 (a) in any case where the offence is dealt with under section 41B of this Act, he—

10 (i) within twenty-one days after service on him of a notice under that section alleging that he has been guilty of that offence, supplies by statutory declaration to the prescribed person referred to in that section the name and address of the person who was in charge of the vehicle at all
15 relevant times relating to the parking offence concerned; or

20 (ii) satisfies the prescribed officer so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

(b) in any other case, he—

25 (i) within twenty-one days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

National Parks and Wildlife (Amendment).

(ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

5 (4) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection three of this section.

10 (5) Where a statutory declaration supplying the name and address of a person for the purposes of subsection three of this section is produced in any proceedings against that person in respect of the parking offence to which the statutory
15 declaration relates, the statutory declaration is prima facie evidence that that person was, at all relevant times relating to that parking offence, in charge of the vehicle to which the parking offence relates.

20 (6) In this section and in section 41B of this Act—

“owner” in relation to a vehicle includes—

25 (a) a person who is the owner or joint owner or part owner of the vehicle and any person, other than the lessor under a hire-purchase agreement relating to the vehicle, who has the use of the vehicle under such an agreement; and

(b)

National Parks and Wildlife (Amendment).

(b) in the case of a vehicle that is a motor vehicle—

(i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or

(ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who, in contravention of the regulations made under this Act—

- (a) moors or parks a vehicle; or
- (b) causes or permits a vehicle to be moored or parked or to stand or wait.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this or any other Act.

41B. (1) Where it appears to a prescribed person that another person is, by virtue of section 41A of this Act, guilty of an offence, the prescribed person may serve a notice on that other person to the

Penalty notice for certain offences.

National Parks and Wildlife (Amendment).

the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to a person so specified the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection one of this section—

(a) may be served as provided by section forty-eight of this Act; or

(b) may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.

(3) A person alleged to have committed an offence referred to in subsection one of this section shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection one of this section (or within such further time as, in his case, may have been allowed) to pay the penalty so specified he shall be deemed to have declined to be dealt with under this section.

(4) Where the penalty for an offence dealt with under this section is paid pursuant to this section in respect of an alleged offence—

(a) no person may be proceeded against for the alleged offence; and

(b) the payment shall not be construed as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(5)

National Parks and Wildlife (Amendment).

(5) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

(6) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or a provision of any other Act in relation to proceedings that may be taken in respect of offences.

41c. (1) Where—

(a) an information for an offence referred to in subsection one of section 41B of this Act has been laid under Division 2 of Part IV of the Justices Act, 1902;

(b) a summons for the appearance of the defendant to answer the information has been served on him in any manner provided by law for the service of such a summons on that defendant in relation to that offence; and

(c) the defendant does not appear at the time and place fixed for the hearing of the information,

the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, for the payment by the defendant of costs.

Ex parte
procedure
for offences
referred to
in section
41B.

National Parks and Wildlife (Amendment).

5 (2) The provisions of section 556A of the Crimes Act, 1900, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

10 (3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty for a breach of the regulation creating the offence in respect of which the penalty is so imposed.

15 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties imposed upon, or previous convictions of, the defendant under this Act and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

20 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, be deemed to be an order under that Act.

25 (6) Section seventy-five of the Justices Act, 1902, does not apply in any case where an information is dealt with under subsection one of this section.

30 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information includes, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, a reference to the time and place specified in the notice.

(8)

National Parks and Wildlife (Amendment).

(8) Section fifteen of the Justices Act, 1902, shall be construed as if this section formed part of that Act.

(9) The jurisdiction of a court under this section shall be exercised only by a stipendiary magistrate.

(10) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or any other Act in relation to proceedings that may be taken in respect of offences.

(b) by omitting from subsection one of section forty-four the words "Any penalty" and by inserting in lieu thereof the words "Subject to subsection nine of section 41c of this Act, any penalty".

8. The Fauna Protection Act, 1948, is amended—

Amendment
of Act No.
47, 1948.

(a) (i) by omitting from subsection one of section nine the words "In this subsection 'Crown lands' has the meaning ascribed to that expression in section five of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts." and by inserting in lieu thereof the following words :—

Sec. 9.
(Dedication
of areas for
protection,
care, etc.
of fauna.)

In this subsection "Crown lands" means—

(a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

(b)

National Parks and Wildlife (Amendment).

5 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

10 (ii) by omitting from subsection two of the same section the words "section except with the concurrence of the Secretary for Lands." and by inserting in lieu thereof the following words :—

section—

15 (a) unless, in the case of Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section, the Minister administering the Crown Lands Consolidation Act, 20 1913, concurs; or

25 (b) unless, in the case of Crown lands within the meaning of paragraph (b) of that definition, the Minister administering the Fisheries and Oyster Farms Act, 1935, concurs.

30 (iii) by omitting from paragraph (b) of subsection five of the same section the words "object of the scheme shall be" and by inserting in lieu thereof the words "objects of the scheme shall include";

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in paragraph (f) of the same subsection after the word "buildings" the word
 ", marinas";

(v) by inserting next after subsection five of the same section the following new subsections :—

(5A) Where land submerged by water is land that is dedicated as, or as part of, a nature reserve, the Director shall, before submitting to the Minister for his approval under subsection five of this section a scheme for the nature reserve, refer the scheme to the Minister administering the Fisheries and Oyster Farms Act, 1935.

(5B) A scheme referred to in subsection (5A) of this section—

(a) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section until he has considered any representations made with respect to the scheme by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

(b) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of this section without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section nine the following new section :—

New sec.
9A.

5 9A. Nothing in section nine of this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of that section.

Navigation
of certain
waters not
affected.

- 10 9. The Fauna Protection Act, 1948, is further amended—

Further
amendment
of Act No.
47, 1948.

- (a) (i) by inserting in section four next after the definition of "Regulations" the following new definition :—

Sec. 4.
(Definitions.)

"Sell" includes—

- 15 (a) auction, barter, exchange or supply;
(b) offer, expose, supply or receive for sale;
20 (c) send, forward or deliver for sale or on sale;
(d) dispose of under a hire-purchase agreement;
(e) cause, permit or suffer the doing of an act referred to in paragraph (a), (b), (c) or
25 (d) of this definition;
(f) offer or attempt to do an act so referred to;
(g) cause, permit or suffer to be
30 sold;

(h)

National Parks and Wildlife (Amendment).

- (h) attempt to sell or offer to sell;
 (i) have in possession for sale,
 and "sale" has a corresponding meaning.
- 5 (ii) by omitting from the same section the definition of "Take or kill" and by inserting in lieu thereof the following definition :—
- 10 "Take or kill" in relation to any fauna includes hunt, shoot, poison, net, snare, spear, pursue, capture, disturb or injure.
- (b) by omitting from subsection one of section eleven Sec. 11.
 the words "or timber" and by inserting in lieu thereof the words ", timber or vegetation"; (Restrictions as to timber.)
- 15 (c) by omitting from subsection one of section twelve Sec. 12.
 the words "an officer or employee" and by inserting in lieu thereof the words "a person"; (Prohibition on taking or killing fauna within nature reserves.)
- (d) by inserting at the end of section eighteen the following new subsection :— Sec. 18.
 (Open seasons.)
- 20 (3) A person shall not be convicted of an offence against subsection two of this section if he proves that the act constituting the offence was done under and in accordance with the authority conferred by a license.
- 25 (e) (i) by omitting from subsection one of section Sec. 19.
 nineteen the word "ten" and by inserting in lieu thereof the words "one hundred"; (Penalty for having protected fauna in possession.)
- (ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in the same subsection after the word "committed" the words "with a maximum total penalty under this subsection in respect of any one offence of one thousand dollars";
- (iii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—
- 10 (a) that the act constituting the offence was done, or that the state of affairs constituting the offence existed, under and in accordance with—
- 15 (i) the provisions of this Act relating to open seasons; or
- (ii) the authority conferred by a license; or;
- (f) (i) by omitting subsection one of section twenty-two; Sec. 22.
(Fauna within districts.)
- 20 (ii) by inserting in subsection four of the same section after the word "periods" the words "and may in like manner vary, amend or revoke any such proclamation";
- 25 (g) (i) by inserting in section twenty-six after the word "investigation" the words "or for the purposes of exhibition"; Sec. 26.
(Collections for Museums, etc.)
- (ii) by inserting at the end of the same section the following new subsection :—
- 30 (2) A person who exhibits any protected fauna is guilty of an offence against this Act unless he does so under and in accordance with the authority conferred by a license issued under this section.

(h)

National Parks and Wildlife (Amendment).

- (h) (i) by inserting in paragraph (a) of subsection one of section twenty-seven after the word "fauna" where secondly occurring the words
5 " , or under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (ii) by inserting in paragraph (b) of the same subsection after the word "section" the words
10 " , or a license under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (i) by omitting section thirty-three and by inserting in lieu thereof the following section :—
15
33. A person who, in New South Wales, liberates fauna not indigenous to New South Wales is guilty of an offence against this Act unless he does so in accordance with a permit granted by the Minister.
- (j) (i) by inserting in paragraph (a) of subsection one of section thirty-four after the word
20 "committed" where secondly occurring the words " , or any firearm, net, trap or other instrument used in connection with the breach";
- (ii) by omitting from the same paragraph the words "or poison found therein" and by inserting in lieu thereof the words " , poison, fire-
25 arm, net, trap or other instrument found therein or thereon together with any books, papers or records relating to the suspected breach and make copies of, or take extracts
30 from, any such papers, books or records";
- (k) by inserting next after the same section the following new section :—
35
- 34A. (1) Where any property seized under paragraph (a) of subsection one of section thirty-four of this Act is fauna or is perishable, it may
forthwith

Sec. 27.
(Persons taking or killing fauna for sale.)

Sec. 33.
(Imported fauna.)

Restriction on liberation in New South Wales of exotic fauna.

Sec. 34.
(Powers of entry and seizure by Director, rangers, officers, etc.)

New sec. 34A.

Disposal of seized fauna and perishable goods.

National Parks and Wildlife (Amendment).

forthwith be disposed of, by way of sale or otherwise, by the Director, an officer or employee of the National Parks and Wildlife Service authorised by the Director to dispose of it, a ranger or a collector.

5 (2) The proceeds of any sale pursuant to subsection one of this section shall be paid into the National Parks and Wildlife Fund.

10 (3) The payment to a person from the National Parks and Wildlife Fund of an amount equal to the proceeds of the sale of any property under this section operates as a discharge of any obligation to deliver that property to that person and such a payment in discharge of any such obligation imposed by an order of the court
15 prescribed in relation to the property under section forty of this Act is hereby authorised.

(1) by omitting section forty and by inserting in lieu thereof the following section :— Subst. sec. 40.

40. (1) Subject to this section, where— Disposal of property seized.

20 (a) a person is convicted of an offence under this Act or the regulations;

(b) property relating to the offence, or in the possession of the offender at the time of the commission of the offence, has been seized
25 under section thirty-four of this Act; and

(c) any person applies to the court prescribed in relation to the property for an order that the property be delivered to a specified person,

30 that court may, whether or not it is the court making the conviction, make such an order.

(2)

National Parks and Wildlife (Amendment).

(2) Subject to this section, where—

(a) property has been seized under section thirty-four of this Act; and

5 (b) an information for an offence (being an offence on or after a conviction for which an order could be made under subsection one of this section in respect of the property) has not been laid within six months after the seizure of the property,

10 the court prescribed in relation to the property may, on the application of any person, order that the property be delivered to a specified person.

15 (3) An application for an order under subsection one of this section may be made at the time of the conviction referred to in that subsection if the court making the conviction is the prescribed court in relation to the property to which the application relates.

20 (4) An application for an order under subsection one or two of this section may not be made—

25 (a) in the case of an application for an order under subsection one of this section—later than one month after the conviction referred to in that subsection; or

30 (b) in the case of an application for an order under subsection two of this section—later than three months after the expiration of the period of six months referred to in that subsection.

(5) Where property has been seized under section thirty-four of this Act and—

35 (a) no application for an order under subsection one or two of this section has been duly made; or

45—C

(b)

National Parks and Wildlife (Amendment).

(b) such an application has been duly made
and such an order has been refused,
the property the subject of the application and,
where the property has been sold under section 34A
of this Act, the proceeds of the sale, shall be
5 deemed to have been forfeited.

(6) For the purposes of this section—

(a) the value of any property sold under section
34A of this Act is an amount equal to the
10 amount of the net proceeds of sale;

(b) the court prescribed in relation to any
property is—

(i) where the value of the property does
not exceed five hundred dollars—
15 the court of petty sessions for the
district in which the property was
seized;

(ii) where the value of the property
exceeds five hundred dollars but
does not exceed six thousand dollars
—the district court for the district
20 in which the property was seized;
and

(iii) where the value of the property
exceeds six thousand dollars—the
25 Supreme Court of New South
Wales.

(m) by omitting from subsection three of section forty- Sec. 43.
three the words “, and may provide that any pro- (Regula-
30 tions.)
tected fauna in relation to which an offence against
the regulations has been committed shall be liable
to forfeiture and disposed of in such manner as the
court may direct”;

(n) by omitting the Second Schedule.

Second
Schedule.

National Parks and Wildlife (Amendment).

10. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- 5 (a) by omitting from subsection two of section twelve the words “a penalty not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;
- 10 (b) by omitting from subsection two of section sixteen the words “shall for every such offence be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 15 (c) by omitting from subsection two of section eighteen the words “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 20 (d) by omitting from subsection three of section twenty the words “a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;
- 25 (e) by omitting from subsection five of section twenty-two the words “and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “against this Act”;

(f)

National Parks and Wildlife (Amendment).

- (f) by omitting from section twenty-three the words Sec. 23.
 “and be liable to a penalty not exceeding one (Penalty for
 hundred dollars” and by inserting in lieu thereof trespass.)
 the words “against this Act”;
- 5 (g) (i) by omitting from subsection eight of section Sec. 23A.
 23A the words “and be liable to a penalty not (Wildlife
 exceeding two hundred dollars” and by refuges and
 inserting in lieu thereof the words “against this game
 Act”; reserves.)
- 10 (ii) by omitting from subsection nine of the same
 section the words “and be liable to a penalty
 not exceeding two hundred dollars” and by
 inserting in lieu thereof the words “against
 this Act”;
- 15 (h) (i) by omitting from subsection one of section Sec. 32.
 thirty-two the word “forty” and by inserting (Restriction
 in lieu thereof the words “two hundred”; on method
of shooting
fauna.)
- (ii) by omitting from subsection two of the same
 section the word “forty” and by inserting in
 20 lieu thereof the words “two hundred”;
- (i) by omitting from subsection two of section thirty- Sec. 35.
 five the words “against this Act” and by inserting (Further
 in lieu thereof the words “and be liable to a penalty powers of
 not exceeding two hundred dollars”; Director,
rangers,
etc.)
- 25 (j) by omitting from section thirty-six the word Sec. 36.
 “twenty” and by inserting in lieu thereof the words (Assaulting
 “two hundred”; or resisting
officers, etc.)
- (k) by omitting from subsection three of section thirty- Sec. 37.
 seven the word “one” and by inserting in lieu thereof (Use of
 30 the word “four”; poison.)

National Parks and Wildlife (Amendment).

- (l) by omitting from subsection one of section thirty-eight the word "forty" and by inserting in lieu thereof the words "four hundred"; Sec. 38. (Use of bird-lime etc. prohibited.)
- 5 (m) by omitting section forty-one and by inserting in lieu thereof the following section :— Subst. sec. 41.
41. (1) A person who—
- (a) does that which by this Act he is forbidden to do;
- 10 (b) fails or neglects to do that which by this Act he is required or directed to do,
- is guilty of an offence against this Act.
- (2) A person guilty of an offence against this Act, whether pursuant to subsection one of this section or otherwise is, where no other penalty is prescribed, liable to a penalty not exceeding—
- 15 (a) in the case of the first offence for which he is liable to a penalty under this section—two hundred dollars;
- (b) in the case of a second offence for which he is liable to a penalty under this section—
- 20 five hundred dollars; and
- (c) in the case of a third or subsequent offence for which he is liable to a penalty under this section—one thousand dollars.
- 25 (n) by omitting from subsection three of section forty-three the word "forty" and by inserting in lieu thereof the words "two hundred". Sec. 43. (Regulations.)

National Parks and Wildlife (Amendment).

11. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

(a) by omitting section twenty-five and by inserting in lieu thereof the following section :— Subst. sec. 25.

5 25. (1) Subject to this section, the Minister may, by license specifying such conditions as the Minister thinks proper, authorise an owner or occupier of specified land— Destructive fauna.

(a) to take or kill; or

10 (b) to permit a licensee under paragraph (a) of subsection one of section twenty-seven of this Act to take or kill,

15 a specified number of specified fauna found on that land and may, by the license, authorise the disposal, whether for sale or otherwise, of any fauna taken or killed under that authority.

(2) A license under subsection one of this section shall not be issued unless—

20 (a) the Minister is satisfied that the species of fauna specified in the license are destroying or injuring, or likely to destroy or injure, the property of the applicant for the license; **and**

25 (b) the licensee has been supplied by the National Parks and Wildlife Service with labels, tags, slips or other objects sufficient in number to affix or attach, in compliance with any condition of the license, to the skin or carcase of fauna taken or killed by the
30 authority of the license.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting at the end of section twenty-eight the following new subsection :—

Sec. 28.
(Royalty
to be paid.)

(2) Notwithstanding subsection one of this section, royalty referred to therein shall not be payable in respect of a skin or carcase to which there has been affixed or attached in compliance with a condition of a license under this Act a label, tag, slip or other object for which a charge or fee has been paid pursuant to regulations made under paragraph (n) of subsection two of section forty-three of this Act.

- (c) (i) by omitting from paragraph (m) of subsection two of section forty-three the word "reserve." and by inserting in lieu thereof the word "reserve;"

Sec. 43.
(Regu-
lations.)

- (ii) by inserting next after the same paragraph the following new paragraph :—

(n) for the making of a charge for supplying a label, tag, slip or object for affixing or attaching to the skin or carcase of any fauna in compliance with any condition of a license under this Act.

12. The Fauna Protection Act, 1948, is further amended—

Further
amendment
of Act No.
47, 1948.

- (a) by omitting from section twenty-one the word "Nothing" and by inserting in lieu thereof the words "Subject to section 27A of this Act, nothing";

Sec. 21.
(Protected
fauna kept
in domesti-
cated state
exempted
from this
Act.)

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section twenty-seven the following new section :—

New sec.
27A.

5 27A. (1) A person who has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless—

Registration
of aviaries.

10 (a) an aviary registration certificate is in force with respect to that structure, building, store, shop or other premises; or

15 (b) that person is a fauna dealer or skin dealer licensed under section twenty-seven of this Act and the structure, building, store or shop is, or the other premises are, registered under subsection four of that section.

20 (2) The Director may, on application being made for the purpose, issue an aviary registration certificate in respect of specified premises and may subject to subsection five of this section, cancel such a certificate for any good cause upon the expiration of fourteen days after serving notice that he proposes so to do.

25 (3) It is a sufficient service of notice of a proposal to cancel an aviary registration certificate if the notice is left with some person apparently of or above the age of sixteen years at the address at which is situated the structure, building, store, shop or other premises to which the certificate relates.

30 (4) Where an application for an aviary registration certificate under this section is refused—

35 (a) the applicant for the certificate may, within fourteen days after he is notified of the refusal, appeal to the Minister against the refusal; and

(b)

National Parks and Wildlife (Amendment).

(b) the refusal shall not take effect—

- 5 (i) where an appeal against the refusal is not lodged before the expiration of the period allowed for lodging such an appeal—until the expiration of that period; or
- 10 (ii) where such an appeal is lodged before the expiration of that period—unless the Minister dismisses the appeal.

15 (5) Where notice of a proposal to cancel an aviary registration certificate under this section has been served, a person who, in the absence of the certificate, would be guilty of an offence under subsection one of this section may, before the expiration of fourteen days after service of the notice, appeal to the Minister against the proposal and, where such an appeal is lodged, the Director shall not proceed with the proposal—

- 20 (a) if the appeal is upheld; or
- (b) where the appeal is dismissed, until the expiration of fourteen days after dismissal of the appeal.

25 (6) The decision of the Minister on an appeal under this section is final.

30 (7) Where a person would, but for this subsection, be affected by subsection one of this section, he shall not, where he applies for an aviary registration certificate before the expiration of the prescribed period, be so affected—

- (a) until he is issued with such a certificate; or
- (b) where his application is refused—until the refusal takes effect.

(8)

National Parks and Wildlife (Amendment).

(8) In this section "prescribed period" in relation to a person means—

- 5 (a) the period of six months next succeeding the commencement of section twelve of the National Parks and Wildlife (Amendment) Act, 1971;
- 10 (b) where the Minister, by order published in the Gazette before the expiration of the period of six months referred to in paragraph (a) of this subsection, specifies for the purposes of this subsection a period that expires after the expiration of the period of six months—the period so specified; or
- 15 (c) the period of one month next succeeding the day on which that person first becomes aware that he has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises,
- 20 whichever period last expires.
- (c) (i) by inserting in paragraph (b) of subsection Sec. 43. two of section forty-three after the word "licenses" the words "or registration (Regulations.) certificates";
- 25 (ii) by inserting in subsection four of the same section after the word "licenses" where firstly occurring the words "or registration certificates";
- 30 (iii) by omitting from the same subsection the words "and localities" and by inserting in lieu thereof the words ", registration certificates, localities";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in the same subsection after the word "licenses" where thirdly occurring the words ", registration certificates";
- 5 (v) by inserting in the same subsection after the word "licenses" where fourthly and fifthly occurring the words "or registration certificates".

13. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- 10 (a) (i) by inserting in the definition of "Fauna" in Sec. 4. section four after the word "bird" the words (Definitions.) "or reptile";
- (ii) by inserting in the same section after the definition of "Regulations" the following new
- 15 definition :—
- "Reptile" means snake, lizard, crocodile, tortoise, turtle or other member of the class *reptilia* (whether native, introduced or imported) and the eggs and
- 20 young thereof and the skin and any other part thereof.

- (b) by inserting next after section eighteen the following new section :—
- New sec. 18A.

25 18A. Nothing in this Act renders a person liable to prosecution for—

Killing of snakes not punishable.

- (a) killing, or attempting to kill, a snake; or
- (b) hunting, pursuing, disturbing or injuring a snake for the purpose of killing it without delay.

(c)

National Parks and Wildlife (Amendment).

- 5 (c) by inserting in paragraph (b) of subsection two of section nineteen after the word "Act" the words "or, in the case of a reptile, of section thirteen of the National Parks and Wildlife (Amendment) Act, 1971".
- Sec. 19.
(Penalty for having protected fauna in possession.)

14. The Wild Flowers and Native Plants Protection Act, 1927, is amended—

Amendment of Act No. 2, 1927.

- 10 (a) (i) by omitting from subsection four of section three the words "the same" and by inserting in lieu thereof the words "that Act, but subject to subsection five of this section";
- Sec. 3.
(Notification of protection.)

- (ii) by inserting next after the same subsection the following new subsection :—

(5) Where—

- 15 (a) the applicant for, or holder of, a license referred to in subsection four of this section is authorised by a license under section 5A of this Act to pick a wild flower or native plant of a species, and in the locality, to which his application or license under the Forestry Act, 1916, relates; and
- 20

- 25 (b) in the opinion of the Forestry Commission, the wild flower or native plant, if not removed, would be damaged or destroyed in the taking of timber or products under, or in the carrying on of any activity authorised by, the Forestry Act, 1916,

- 30 subsection four of this section does not operate to prevent the Forestry Commission from issuing a license authorising removal of the

wild

National Parks and Wildlife (Amendment).

- 5 wild flower or native plant or from reinstating,
to the extent necessary to authorise removal
of the wild flower or native plant, a license
that has, pursuant to that subsection, ceased
to be operative.
- (b) by omitting from paragraph (b) of subsection two Sec. 5.
of section five the words "such license." and by (Selling
inserting in lieu thereof the following words :— forbidden.)
- 10 the license ; or
- (c) any protected wild flower or protected native
plant that has been picked for commercial
purposes in pursuance of a license issued
under section 5A of this Act.
- 15 (c) by inserting in section 5A next after the word Sec. 5A.
"scientific" the words "or commercial"; (Licenses
to pick for
certain
purposes.)
- (d) (i) by omitting from subparagraph (i) of para- Sec. 7.
graph (c) of subsection four of section seven (Carriage
the word "and" where secondly occurring; by Railway
Com-
missioners
and trans-
port trust.)
- 20 (ii) by omitting from subparagraph (ii) of the
same paragraph the words "such license" and
by inserting in lieu thereof the following
words :—
- the license ; or
- 25 (iii) that the protected wild flower or native
plant was picked pursuant to a license
issued under section 5A of this Act for
commercial purposes.
15. The permanent reservation under the National Parks and Wildlife Act, 1967, of all that piece or parcel of land
30 containing 24 acres 2 roods 30 perches situate in the County
of Selwyn, Parish of Youngal and being portion 47 shown on
plan catalogued S2561-1522 in the Department of Lands is
hereby revoked. Revocation
of
permanent
reservation
of certain
land.

National Parks and Wildlife (Amendment).

16. Notwithstanding anything in the Fauna Protection Act, 1948, as amended by paragraph (g) of section nine of this Act, where, but for this section a person would, by the operation of that Act, as so amended, be required to have a
5 license issued under that Act, as so amended, in order lawfully to carry on after the commencement of that paragraph an activity that he was lawfully carrying on before that commencement without such a license, it shall be lawful for him to continue to carry on that activity after that commencement
10 without such a license—

- (a) until the expiration of the period of six months next succeeding that commencement; or
- (b) where he applies within that period of six months for the issue to him of such a license—
 - 15 (i) until such a license is issued to him; or
 - (ii) until he is notified that the issue of such a license has been refused,

whichever last occurs.

17. (1) The dedication under the Fauna Protection Act, 1948, of all that piece or parcel of land containing 299 acres 1 rood 20 $\frac{1}{2}$ perches situate in the County of Camden being Lot 1 in Deposited Plan 548559 and Lot 1 in Deposited Plan 548561 Parish Kiama and Portion 137 inclusive of reserved roads and exclusive of public road Parish Wallaya below a
25 depth of 50 feet is hereby revoked and that land is hereby revested in the persons entitled thereto immediately before the resumption of that land under and in pursuance of the provisions of section 197 of the Crown Lands Consolidation Act, 1913, notification whereof was published in the Govern-
30 ment Gazette of the thirteenth day of August, one thousand nine hundred and seventy-one, and is so revested for such estates and interests as were, and with and subject to such rights as were, subsisting in respect of that land immediately before that resumption, and subject to any trusts, obligations,
35 estates, interests, contracts, charges, rates, rights-of-way or other easements from which it was freed and discharged by

the

Revocation
of dedication
of certain
lands.

National Parks and Wildlife (Amendment).

the resumption as if the resumption had not taken place and shall also be subject to any interests in or equities binding on the compensation moneys created since the resumption which but for this Act may have been recoverable or payable.

- 5 (2) The Registrar General shall cancel any recording in the Register made by him pursuant to section 31A of the Real Property Act, 1900, in relation to the resumption referred to in subsection one of this section, in so far as the recording relates to the land referred to in that subsection
10 and, for the purpose of any dealing with that land, such a recording shall be deemed never to have been made.

- (3) Compensation shall not be, and shall be deemed never to have been, payable pursuant to the Crown Lands Consolidation Act, 1913, or otherwise in respect of the re-
15 sumption referred to in subsection one of this section in so far as it affected the land referred to in that subsection or in respect of any loss or damage whatsoever arising in any way as a consequence of that resumption or revesting by this Act of that land.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 7 September, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to revise the procedure for the reservation of national parks, state parks and historic sites; to make further provisions with respect to the protection and preservation of aboriginal relics, fauna, wild flowers and native plants; to make provisions with respect to the protection and preservation of reptiles; to make provisions with respect to parking offences in national parks and state parks and at historic sites; to increase penalties; for these and other purposes to amend

the

National Parks and Wildlife (Amendment).

the National Parks and Wildlife Act, 1967, the Fauna Protection Act, 1948, and the Wild Flowers and Native Plants Protection Act, 1927; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "National Parks and Wildlife (Amendment) Act, 1971".

Short title
and com-
mencement.

(2) A provision of this Act (sections one, two and three excepted) commences on the day that is appointed by the Governor and notified by proclamation published in the Gazette as the day on which the provision is to commence.

(3) Sections one, two and three of this Act commence on the day on which this Act receives the Royal assent.

(4) The National Parks and Wildlife Act, 1967, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
35, 1967.

(a) by omitting from the definition of "Historic site" in subsection one of section three the words "for the purposes of this Act";

Sec. 3.
(Defini-
tions.)

(b) by omitting from the definition of "Lands of the Crown" the words "statutory body" and by inserting in lieu thereof the words "public authority";

(c)

National Parks and Wildlife (Amendment).

- (c) by inserting next after the same definition the following new definition :—

5 “Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled upon land wholly or partly by volatile spirit, steam, gas, oil or electricity.

- (d) by omitting from the definition of “National park” the words “for the purposes of this Act”;

- 10 (e) by omitting from the definition of “State park” the words “for the purposes of this Act”;

- (f) by inserting next after the same definition the following new definition :—

“Vehicle” includes—

- 15 (a) a boat or other object that, while floating on water, is wholly or partly used for the conveyance of persons or things;
- (b) a motor vehicle;
- 20 (c) any apparatus propelled upon land, snow or ice by human or animal power or by the wind;
- (d) a trailer or caravan, whether or not it is in the course of being towed.

3. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

- 25 (a) by inserting next after section six the following new section :—

30 6A. Where the Director or an officer or employee of the National Parks and Wildlife Service or of any Government Department in respect of which an arrangement has been made under subsection two of section five of this Act requires a person whom

Unlawful refusal to state name and place of abode.

National Parks and Wildlife (Amendment).

- whom he reasonably suspects of offending against this Act or the regulations to state his full name and his place of abode, that person is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars if he—
- 5 (a) fails or refuses to comply with the requirement; or
- (b) in purported compliance with the requirement, states a name that is not his name or
- 10 a place of abode that is not his place of abode.
- (b) (i) by omitting from subsection one of section Sec. 7. seven the words “under this Act” and by (Power to delegate.) inserting in lieu thereof the words “by this Act and the regulations”;
- 15 (ii) by inserting in the same subsection after the figures “1948,” the words “and the regulations made under that Act,”;
- (iii) by inserting in the same subsection after
- 20 the figures “1927” the words “, and the regulations made under that Act”;
- (c) by inserting next after subsection four of section Sec. 8. eight the following new subsection :— (Power of Minister to accept gifts, etc.)
- 25 (5) Where the Minister acquires property pursuant to subsection one of this section—
- (a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and
- 30 (b) the property, or the value of property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.
- (d)

National Parks and Wildlife (Amendment).

- (d) by omitting from paragraph (h) of subsection two of section nine the words "Minister for Education" and by inserting in lieu thereof the words "Minister administering the Australian Museum Act, 1902";
- 5 (e) by inserting next after subsection nine of section eleven the following new subsection :—
- (10) Each member of a local committee shall be entitled to receive such travelling and other expenses as the Minister may determine.
- 10 (f) by inserting next after section nineteen the following new sections :—
- 19A. Where the Minister is of the opinion that it is desirable to acquire any land for reservation as, or as part of, a national park, state park or historic site, he may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, or surrender to, Her Majesty of the land.
- 15 19B. For the purposes of—
- (a) improving access to a national park, state park or historic site;
- 20 (b) the management, maintenance or improvement of a national park, state park or historic site; or
- (c) carrying out works for any of those purposes,
- 25 the Minister may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, surrender to or leasing to, Her Majesty, or for the occupation under license of, any land adjoining or in the vicinity of the national park, state park or historic site.
- 30 (g) (i) by omitting from subsection one of section twenty-four the words "or historic site" and by inserting in lieu thereof the words " , historic site or aboriginal area";
- 35

Sec. 9.
(National
Parks and
Wildlife
Advisory
Council.)

Sec. 11.
(Establish-
ment of
local com-
mittees.)

New secs.
19A and
19B.

Acquisition
of land for
national
park, etc.

Acquisition
or occupa-
tion for
certain pur-
poses of
land adjoining
or near
national
park, etc.

Sec. 24.
(Restrictions on
mining.)

(ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in paragraph (a) of subsection two of the same section after the figures "1969," the words "and such an authority or lease over an aboriginal area granted after the day on which the National Parks and Wildlife (Amendment) Act, 1971, received the Royal assent";
- 10 (iii) by omitting from paragraph (b) of the same subsection the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
- 15 (iv) by omitting from subsection three of the same section the words "or historic site" where secondly occurring and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (h) (i) by inserting next after subsection two of section twenty-nine the following new subsection : — Sec. 29. (Plan of management.)
- 20 (2A) The plan of management in respect of a national park, state park or historic site may relate to land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.
- 25 (ii) by omitting from paragraph (e) of subsection three of the same section the word "and";
- (iii) by omitting from paragraph (f) of the same section the word "area." and by inserting in lieu thereof the following words : —
- 30 area; and
- (g) the utilisation, for the purposes for which it was acquired or occupied, or is proposed to be acquired or occupied,

of

National Parks and Wildlife (Amendment).

of land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

5 (iv) by inserting in paragraph (a) of subsection six of the same section after the words "it shall" the words ", subject to paragraph (c) of this subsection,";

10 (v) by omitting from paragraph (b) of the same subsection the word "site." and by inserting in lieu thereof the following words :—

site; and

15 (c) where any land to which the plan of management relates is land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act, operations under the plan shall not be undertaken—

20 (i) on or in relation to land acquired or proposed to be acquired under section 19A of this Act until it has been reserved as, or as part of, the park or site to which the plan relates; or

25 (ii) on or in relation to land proposed to be acquired or occupied under section 19B of this Act until it has been so acquired or occupied.

30

(vi) by inserting in paragraph (b) of subsection seven of the same section after the word "tows" the words "or moorings".

(i)

National Parks and Wildlife (Amendment).

- (i) (i) by omitting from paragraph (c) of subsection Sec. 30.
one of section thirty the word "site." and by (Granting
inserting in lieu thereof the following licenses.)
words : —
- 5 site;
- (d) grant leases of land within a national
park, state park or historic site on
which buildings have been erected for
residential occupation.
- 10 (ii) by inserting next after the same subsection the
following new subsection : —
- (1A) The Minister may, for any purpose
specified in paragraph (a), (b) or (c) of
section 19B of this Act, grant a lease of, or a
15 license with respect to, land acquired or
occupied under that section.
- (j) (i) by omitting from subparagraph (vi) of para- Sec. 35.
graph (b) of subsection one of section thirty- (Payments
five the word "and"; into the
Fund.)
- 20 (ii) by omitting from subparagraph (vii) of the
same paragraph the word "impounding;" and
by inserting in lieu thereof the following
words : —
- impounding; and
- 25 (viii) leases and licenses granted under sub-
section (1A) of section thirty of this
Act;
- (k) (i) by omitting from paragraph (g) of subsection Sec. 36.
two of section thirty-six the word "and"; (Payments
out of
the Fund.)
- 30 (ii) by omitting from paragraph (h) of the same
subsection the word "relic." and by inserting in
lieu thereof the following words : —
- relic;
- (i) the cost of entering into, and giving
effect to, agreements under sections
35 19A and 19B of this Act;
- (j)

National Parks and Wildlife (Amendment).

- (j) the cost of carrying out the purposes for which land is acquired or occupied under section 19B of this Act.
- (l) by inserting in section forty-one after the word "Act" where firstly, thirdly and fourthly occurring the words "and liable to a penalty not exceeding two hundred dollars"; (Driver to give his name and address when required.)
- (m) by omitting from subsection one of section forty-two the words "has been" and by inserting in lieu thereof the words "is unattended and believed by him on reasonable grounds to have been"; Sec. 42. (Seizure of motor vehicles.)
- (n) by inserting next after section forty-two the following new section :— New sec. 42A.
- 42A. (1) A person who impersonates the Director, or a park ranger or other officer of the National Parks and Wildlife Service, is guilty of an offence against this Act. Impersonating, assaulting, resisting or obstructing an officer, etc.
- (2) Where a person—
- (a) assaults, resists or obstructs; or
- (b) incites or encourages any other person to assault, resist or obstruct,
- the Director, or a park ranger or other officer of the National Parks and Wildlife Service, in the execution of his duty or authority under this Act, that person is guilty of an offence against this Act.
- (o) by omitting from subsection three of section forty-four the words "one hundred dollars for every such offence" and by inserting in lieu thereof the words "two hundred dollars for the first offence, five hundred dollars for the second offence and one thousand dollars for the third or subsequent offence"; Sec. 44. (Penalties.)

(p)

National Parks and Wildlife (Amendment).

- (p) (i) by inserting next after paragraph (k2) of sub- Sec. 49.
section two of section forty-nine the following (Regula-
new paragraph : — tions.)

5 (k3) the regulation, control or prohibition of
the use of any relic for commercial
purposes in any national park, state
park, historic site, nature reserve or
aboriginal area;

10 (ii) by omitting from paragraph (l) of the same
subsection the words "and receiving" and by
inserting in lieu thereof the words ", receiving
and waiving";

15 (iii) by omitting from paragraph (a) of subsection
three of the same section the word "one"
and by inserting in lieu thereof the word
"two".

- (q) by omitting from the First Part of the Second Second
Schedule the word "*Cocopara*" and by inserting in Schedule.
lieu thereof the word "*Cocoparra*".

20 4. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

(a) (i) by omitting from subsection four of section Sec. 15.
fifteen the words "the lands described in the (Reservation
Second and Third Schedules to this Act" and of certain
by inserting in lieu thereof the words "lands national
25 reserved by or under this Act as national park, parks, state
state park or historic site"; parks and
historic
sites.)

(ii) by omitting from the same subsection the
words "by this Act";

30 (iii) by omitting from subsection five of the same
section the words "the lands described in the
Second and Third Schedules to this Act" and
by inserting in lieu thereof the words "lands
reserved by or under this Act as national park,
state park or historic site";

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in subsection six of the same section after the word "by" where firstly and secondly occurring the words "or under";

(b) by omitting section twenty and by inserting in lieu thereof the following section : —

Subst.
sec. 20.

20. (1) In this section—

"prescribed lands" means lands, not held under lease or license or otherwise lawfully occupied, that are—

Reservation
of certain
lands as
national
park, state
park or
historic
site.

(a) Crown lands; or

(b) lands of the Crown in respect of which the person in whom they are vested has consented to a reservation under this section;

"prescribed time" in relation to a House of Parliament means fourteen sitting days of that House, whether or not they occur during the same session.

(2) The Governor may, by proclamation published in the Gazette—

(a) reserve, as a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation; or

(b) reserve, as part of a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation that—

(i) adjoin, or are adjacent to, that national park, state park or historic site; and

(ii) are not vested in or under the care, control and management of, trustees.

(3)

National Parks and Wildlife (Amendment).

(3) Upon the publication of a proclamation under subsection two of this section—

- 5 (a) the lands reserved by the proclamation become Crown lands except in so far as they were Crown lands immediately before that publication;
- 10 (b) any person who, immediately before that publication, held office as trustee, or as a member of the body corporate that was trustee, of the lands so reserved shall cease to hold that office; and
- (c) the care, control and management of the lands so reserved vest in the Director.

15 (4) To the extent to which a dedication, reservation, Crown grant or vesting affects land to which a proclamation published under subsection two of this section relates, the publication revokes the dedication, reservation, grant or vesting.

20 (5) A copy of a proclamation under subsection two of this section shall be laid before each House of Parliament within the prescribed time after publication thereof.

25 (6) Subject to this section, where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a proclamation has been laid before it pursuant to subsection five of this section (whether or not those sitting days occur during the same session) and the resolution disallows the reservation effected by the proclamation or any part thereof—

30

- 35 (a) the reservation ceases, to the extent of the disallowance but without affecting the operation of subsection three or four of this section, to have effect; and
- (b) to the extent to which the reservation ceases to affect it, but without affecting the operation of subsection three or four of this section,

National Parks and Wildlife (Amendment).

section, the land referred to in the proclamation ceases to be, or to be part of, a national park, state park or historic site.

- (c) (i) by omitting from subsection one of section twenty-six the words "Where the Minister has published a notification under section nineteen of this Act vesting the care, control and management of any national park, state park or historic site in the Director" and by inserting in lieu thereof the words "Where by the operation of section nineteen or twenty of this Act any persons cease to hold office as trustees of, or as members of a body corporate that is trustee of, lands reserved as a national park, state park or historic site";
- (ii) by inserting in paragraph (a) of subsection two of the same section after the word "notification" the words "or proclamation by virtue of which that care, control and management are so vested,";
- (d) by inserting in subsection three of section thirty-one after the words "reserved by" the words "or under".

5. The Principal Act is further amended by inserting next after section 33L the following new section :—

33M. (1) Upon production of the prescribed evidence of his authority so to do, the Director or a park ranger or other officer of the National Parks and Wildlife Service may, subject to subsection two of this section, enter and search any land or premises if he has reason to suspect—

- (a) that a breach of this Act or the regulations has been committed in respect of a relic; and

(b)

National Parks and Wildlife (Amendment).

(b) that the relic is in or upon that land or those premises.

5 (2) The powers conferred by subsection one of this section do not authorise a person to enter or search in or upon any part of premises that is used for residential purposes.

6. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

10 (a) (i) by omitting from subsection one of section three the definition of "Crown lands" and by inserting in lieu thereof the following definition :—

"Crown lands" means—

15 (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

20 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii)

National Parks and Wildlife (Amendment).

(ii) by inserting at the end of the same section the following new subsection :—

(3) Nothing in this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of this section.

(b) by inserting next after section twenty the following new section :—

20A. Notwithstanding section twenty of this Act, Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act shall not be reserved as, or as part of, a national park, state park or historic site without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

Land submerged by certain waters.

(c) (i) by omitting from subsection three of section twenty-two the figures and word "1906, or" and by inserting in lieu thereof the figures and words "1906, the Fisheries and Oyster Farms Act, 1935,";

Sec. 22. (Existing authority, permit, lease, license or occupancy.)

(ii) by inserting in the same subsection after the figures "1955" the words ", or any permit or licence under the Petroleum (Submerged Lands) Act, 1967";

(d) by inserting at the end of section twenty-three the following new subsection :—

(3) After the commencement of section six of the National Parks and Wildlife (Amendment) Act, 1971, a lease, license or permit under the Fisheries and Oyster Farms Act, 1935, shall not,

Sec. 23. (Restriction on disposal or dealing with lands.)

without

National Parks and Wildlife (Amendment).

without the concurrence of the Minister in writing, be granted with respect to land within a national park, state park or historic site or with respect to any waters beneath which that land is submerged.

- 5 (e) by inserting next after subsection four of section twenty-nine the following new subsections : — Sec. 29.
(Plan of
manage-
ment.)

10 (4A) Where land submerged by water is land that is reserved as, or as part of, a national park, state park or historic site the Director shall, before submitting to the Minister for adoption by him the plan of management for the national park, state park or historic site, refer it to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (4B) A plan of management referred to in subsection (4A) of this section—

20 (a) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of section three of this Act until he has considered any representations made with respect to the plan of management by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

30 (b) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(f)

National Parks and Wildlife (Amendment).

(f) (i) by omitting from subsection two of section thirty the word "Any" and by inserting in lieu thereof the words "Subject to subsection three of this section, any";

Sec. 30.
(Granting
of leases
and
licenses.)

5 (ii) by inserting next after the same subsection the following new subsection :—

(3) Where any term or condition of a lease or license granted under this section purports to affect land within a national park, state park or historic site that is land submerged by water and the term or condition is inconsistent with a plan of management in force for the national park, state park or historic site, the term or condition shall, to the extent of the inconsistency, have no force or effect.

10

15

(g) (i) by omitting from paragraph (v) of subsection two of section forty-nine the words "signs or other structures" and by inserting in lieu thereof the words "marinas, structures, signs or other improvements";

Sec. 49.
(Regu-
lations.)

20

(ii) by inserting in paragraph (w) of the same subsection after the word "buildings," the word "marinas,";

25

(iii) by omitting from subsection five of the same section the words "the word 'animal' does" and by inserting in lieu thereof the words "the words 'animal' and 'fauna' do".

National Parks and Wildlife (Amendment).

7. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

- (a) by inserting next after section forty-one the following new sections :—

New secs.
41A-41C.

5 41A. (1) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

Liability of
vehicle
owner for
parking
offences.

15 (a) in any case where the parking offence is dealt with under section 41B of this Act, the owner satisfies the prescribed person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used; or

20 (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

25 (2) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3)

National Parks and Wildlife (Amendment).

(3) Notwithstanding anything in subsection one or two of this section, no owner of a vehicle is, by virtue of this section, guilty of an offence if—

5 (a) in any case where the offence is dealt with under section 41B of this Act, he—

10 (i) within twenty-one days after service on him of a notice under that section alleging that he has been guilty of that offence, supplies by statutory declaration to the prescribed person referred to in that section the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

15 (ii) satisfies the prescribed officer so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

20

(b) in any other case, he—

25 (i) within twenty-one days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

National Parks and Wildlife (Amendment).

(ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

5 (4) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection three of this section.

10 (5) Where a statutory declaration supply-
ing the name and address of a person for the
purposes of subsection three of this section is
produced in any proceedings against that person in
15 respect of the parking offence to which the statutory
declaration relates, the statutory declaration is
prima facie evidence that that person was, at all
relevant times relating to that parking offence, in
charge of the vehicle to which the parking offence
relates.

20 (6) In this section and in section 41B of
this Act—

“owner” in relation to a vehicle includes—

25 (a) a person who is the owner or joint
owner or part owner of the vehicle
and any person, other than the lessor
under a hire-purchase agreement
relating to the vehicle, who has the
use of the vehicle under such an
agreement; and

(b)

National Parks and Wildlife (Amendment).

(b) in the case of a vehicle that is a motor vehicle—

- 5 (i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or
- 10
- 15 (ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;
- 20

“parking offence” means the offence committed by a person who, in contravention of the regulations made under this Act—

- 25 (a) moors or parks a vehicle; or
- (b) causes or permits a vehicle to be moored or parked or to stand or wait.

30 (7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this or any other Act.

35 41B. (1) Where it appears to a prescribed person that another person is, by virtue of section 41A of this Act, guilty of an offence, the prescribed person may serve a notice on that other person to the

Penalty notice for certain offences.

National Parks and Wildlife (Amendment).

the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to a person so specified the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection one of this section—

(a) may be served as provided by section forty-eight of this Act; or

(b) may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.

(3) A person alleged to have committed an offence referred to in subsection one of this section shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection one of this section (or within such further time as, in his case, may have been allowed) to pay the penalty so specified he shall be deemed to have declined to be dealt with under this section.

(4) Where the penalty for an offence dealt with under this section is paid pursuant to this section in respect of an alleged offence—

(a) no person may be proceeded against for the alleged offence; and

(b) the payment shall not be construed as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(5)

National Parks and Wildlife (Amendment).

5 (5) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

10 (6) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or a provision of any other Act in relation to proceedings that may be taken in respect of offences.

41c. (1) Where—

- 15 (a) an information for an offence referred to in subsection one of section 41B of this Act has been laid under Division 2 of Part IV of the Justices Act, 1902;
- 20 (b) a summons for the appearance of the defendant to answer the information has been served on him in any manner provided by law for the service of such a summons on that defendant in relation to that offence; **and**
- 25 (c) the defendant does not appear at the time and place fixed for the hearing of the information,

30 the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, for the payment by the defendant of costs.

(2)

National Parks and Wildlife (Amendment).

5 (2) The provisions of section 556A of the Crimes Act, 1900, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

10 (3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty for a breach of the regulation creating the offence in respect of which the penalty is so imposed.

15 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties imposed upon, or previous convictions of, the defendant under this Act and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

20 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, be deemed to be an order under that Act.

25 (6) Section seventy-five of the Justices Act, 1902, does not apply in any case where an information is dealt with under subsection one of this section.

30 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information includes, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, a reference to the time and place specified in the notice.

35

(8)

National Parks and Wildlife (Amendment).

(8) Section fifteen of the Justices Act, 1902, shall be construed as if this section formed part of that Act.

5 (9) The jurisdiction of a court under this section shall be exercised only by a stipendiary magistrate.

10 (10) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or any other Act in relation to proceedings that may be taken in respect of offences.

15 (b) by omitting from subsection one of section forty- four the words "Any penalty" and by inserting in lieu thereof the words "Subject to subsection nine of section 41c of this Act, any penalty".

8. The Fauna Protection Act, 1948, is amended—

Amendment
of Act No.
47, 1948.

20 (a) (i) by omitting from subsection one of section nine the words "In this subsection 'Crown lands' has the meaning ascribed to that expression in section five of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts." and by inserting in lieu thereof the following words :—

Sec. 9.
(Dedication
of areas for
protection,
care, etc.
of fauna.)

In this subsection "Crown lands" means—

25 (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

(b)

National Parks and Wildlife (Amendment).

5 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

10 (ii) by omitting from subsection two of the same section the words "section except with the concurrence of the Secretary for Lands." and by inserting in lieu thereof the following words :—

section—

15 (a) unless, in the case of Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section, the Minister administering the Crown Lands Consolidation Act, 1913, concurs; or

20

(b) unless, in the case of Crown lands within the meaning of paragraph (b) of that definition, the Minister administering the Fisheries and Oyster Farms Act, 1935, concurs.

25

(iii) by omitting from paragraph (b) of subsection five of the same section the words "object of the scheme shall be" and by inserting in lieu thereof the words "objects of the scheme shall include";

30

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in paragraph (f) of the same subsection after the word "buildings" the word
 ", marinas";

5 (v) by inserting next after subsection five of the same section the following new subsections :—

10 (5A) Where land submerged by water is land that is dedicated as, or as part of, a nature reserve, the Director shall, before submitting to the Minister for his approval under subsection five of this section a scheme for the nature reserve, refer the scheme to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (5B) A scheme referred to in subsection (5A) of this section—

20 (a) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section until he has considered any representations made with respect to the scheme by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

30 (b) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of this section without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section nine the following new section :— New sec.
9A.

5 9A. Nothing in section nine of this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of that section. Navigation
of certain
waters not
affected.

- 10 9. The Fauna Protection Act, 1948, is further amended— Further
amendment
of Act No.
47, 1948.

- (a) (i) by inserting in section four next after the definition of "Regulations" the following new definition :— Sec.4.
(Definitions.)

"Sell" includes—

- 15 (a) auction, barter, exchange or supply;
- (b) offer, expose, supply or receive for sale;
- 20 (c) send, forward or deliver for sale or on sale;
- (d) dispose of under a hire-purchase agreement;
- (e) cause, permit or suffer the doing of an act referred to in paragraph (a), (b), (c) or
- 25 (d) of this definition;
- (f) offer or attempt to do an act so referred to;
- (g) cause, permit or suffer to be sold;
- 30

(h)

National Parks and Wildlife (Amendment).

- (h) attempt to sell or offer to sell;
 (i) have in possession for sale,
 and "sale" has a corresponding
 meaning.
- 5 (ii) by omitting from the same section the defini-
 tion of "Take or kill" and by inserting in lieu
 thereof the following definition :—
 "Take or kill" in relation to any fauna
 includes hunt, shoot, poison, net,
 10 snare, spear, pursue, capture, disturb
 or injure.
- (b) by omitting from subsection one of section eleven Sec. 11.
 the words "or timber" and by inserting in lieu (Restrictions
 thereof the words ", timber or vegetation"; as to
timber.)
- 15 (c) by omitting from subsection one of section twelve Sec. 12.
 the words "an officer or employee" and by inserting (Prohibition
 in lieu thereof the words "a person"; on taking
or killing
fauna within
nature
reserves.)
- (d) by inserting at the end of section eighteen the Sec. 18.
 following new subsection :— (Open
seasons.)
- 20 (3) A person shall not be convicted of an
 offence against subsection two of this section if he
 proves that the act constituting the offence was done
 under and in accordance with the authority
 conferred by a license.
- 25 (e) (i) by omitting from subsection one of section Sec. 19.
 nineteen the word "ten" and by inserting in (Penalty for
 lieu thereof the words "one hundred"; having
protected
fauna in
possession.)
 (ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in the same subsection after the word "committed" the words "with a maximum total penalty under this subsection in respect of any one offence of one thousand dollars";
- (iii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—
- 10 (a) that the act constituting the offence was done, or that the state of affairs constituting the offence existed, under and in accordance with—
- (i) the provisions of this Act relating to open seasons; or
- 15 (ii) the authority conferred by a license; or;
- (f) (i) by omitting subsection one of section twenty- Sec. 22.
(Fauna within districts.)
two;
- 20 (ii) by inserting in subsection four of the same section after the word "periods" the words "and may in like manner vary, amend or revoke any such proclamation";
- (g) (i) by inserting in section twenty-six after the word Sec. 26.
(Collections for Museums, etc.)
"investigation" the words "or for the purposes of exhibition";
- 25 (ii) by inserting at the end of the same section the following new subsection :—
- (2) A person who exhibits any protected fauna is guilty of an offence against this Act unless he does so under and in accordance with the authority conferred by a license issued under this section.
- 30

(h)

National Parks and Wildlife (Amendment).

- (h) (i) by inserting in paragraph (a) of subsection one of section twenty-seven after the word "fauna" where secondly occurring the words Sec. 27.
 5 " , or under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale"; (Persons taking or killing fauna for sale.)
- (ii) by inserting in paragraph (b) of the same subsection after the word "section" the words
 10 " , or a license under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (i) by omitting section thirty-three and by inserting in lieu thereof the following section :— Sec. 33.
 (Imported fauna.)
33. A person who, in New South Wales, liberates fauna not indigenous to New South Wales is guilty of an offence against this Act unless he does so in accordance with a permit granted by the Minister. Restriction on liberation in New South Wales of exotic fauna.
- (j) (i) by inserting in paragraph (a) of subsection one of section thirty-four after the word "committed" where secondly occurring the words Sec. 34.
 20 " , or any firearm, net, trap or other instrument used in connection with the breach"; (Powers of entry and seizure by Director, rangers, officers, etc.)
- (ii) by omitting from the same paragraph the words "or poison found therein" and by inserting in lieu thereof the words " , poison, fire-
 25 arm, net, trap or other instrument found therein or thereon together with any books, papers or records relating to the suspected breach and make copies of, or take extracts
 30 from, any such papers, books or records";
- (k) by inserting next after the same section the following new section :— New sec. 34A.
- 34A. (1) Where any property seized under paragraph (a) of subsection one of section thirty-four of this Act is fauna or is perishable, it may
 35 Disposal of seized fauna and perishable goods.
 forthwith

National Parks and Wildlife (Amendment).

forthwith be disposed of, by way of sale or otherwise, by the Director, an officer or employee of the National Parks and Wildlife Service authorised by the Director to dispose of it, a ranger or a collector.

5 (2) The proceeds of any sale pursuant to subsection one of this section shall be paid into the National Parks and Wildlife Fund.

10 (3) The payment to a person from the National Parks and Wildlife Fund of an amount equal to the proceeds of the sale of any property under this section operates as a discharge of any obligation to deliver that property to that person and such a payment in discharge of any such obligation imposed by an order of the court
15 prescribed in relation to the property under section forty of this Act is hereby authorised.

(1) by omitting section forty and by inserting in lieu thereof the following section :— Subst. sec. 40.

40. (1) Subject to this section, where— Disposal of property seized.
20 (a) a person is convicted of an offence under this Act or the regulations;
(b) property relating to the offence, or in the possession of the offender at the time of the commission of the offence, has been seized
25 under section thirty-four of this Act; and
(c) any person applies to the court prescribed in relation to the property for an order that the property be delivered to a specified person,

30 that court may, whether or not it is the court making the conviction, make such an order.

(2)

National Parks and Wildlife (Amendment).

(2) Subject to this section, where—

(a) property has been seized under section thirty-four of this Act; and

(b) an information for an offence (being an offence on or after a conviction for which an order could be made under subsection one of this section in respect of the property) has not been laid within six months after the seizure of the property,

the court prescribed in relation to the property may, on the application of any person, order that the property be delivered to a specified person.

(3) An application for an order under subsection one of this section may be made at the time of the conviction referred to in that subsection if the court making the conviction is the prescribed court in relation to the property to which the application relates.

(4) An application for an order under subsection one or two of this section may not be made—

(a) in the case of an application for an order under subsection one of this section—later than one month after the conviction referred to in that subsection; or

(b) in the case of an application for an order under subsection two of this section—later than three months after the expiration of the period of six months referred to in that subsection.

(5) Where property has been seized under section thirty-four of this Act and—

(a) no application for an order under subsection one or two of this section has been duly made; or

(b)

National Parks and Wildlife (Amendment).

(b) such an application has been duly made
and such an order has been refused,
the property the subject of the application and,
where the property has been sold under section 34A
of this Act, the proceeds of the sale, shall be
deemed to have been forfeited.

(6) For the purposes of this section—

(a) the value of any property sold under section
34A of this Act is an amount equal to the
amount of the net proceeds of sale;

(b) the court prescribed in relation to any
property is—

(i) where the value of the property does
not exceed five hundred dollars—
the court of petty sessions for the
district in which the property was
seized;

(ii) where the value of the property
exceeds five hundred dollars but
does not exceed six thousand dollars
—the district court for the district
in which the property was seized;
and

(iii) where the value of the property
exceeds six thousand dollars—the
Supreme Court of New South
Wales.

(m) by omitting from subsection three of section forty-
three the words “, and may provide that any pro-
tected fauna in relation to which an offence against
the regulations has been committed shall be liable
to forfeiture and disposed of in such manner as the
court may direct”;

Sec. 43.
(Regula-
tions.)

(n) by omitting the Second Schedule.

Second
Schedule.

National Parks and Wildlife (Amendment).

10. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- 5 (a) by omitting from subsection two of section twelve the words “a penalty not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to
- 10 imprisonment for a period not exceeding six months”;
- 15 (b) by omitting from subsection two of section sixteen the words “shall for every such offence be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 20 (c) by omitting from subsection two of section eighteen the words “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 25 (d) by omitting from subsection three of section twenty the words “a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;
- 30 (e) by omitting from subsection five of section twenty-two the words “and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “against this Act”;

Sec. 12.
(Prohibition on taking or killing fauna within nature reserves.)

Sec. 16.
(Closed season for scheduled fauna.)

Sec. 18.
(Open seasons.)

Sec. 20.
(Rare fauna.)

Sec. 22.
(Fauna within districts.)

(f)

National Parks and Wildlife (Amendment).

- (f) by omitting from section twenty-three the words Sec. 23.
 “and be liable to a penalty not exceeding one (Penalty for
 hundred dollars” and by inserting in lieu thereof trespass.)
 the words “against this Act”;
- 5 (g) (i) by omitting from subsection eight of section Sec. 23A.
 23A the words “and be liable to a penalty not (Wildlife
 exceeding two hundred dollars” and by refuges and
 inserting in lieu thereof the words “against this game
 Act”; reserves.)
- 10 (ii) by omitting from subsection nine of the same
 section the words “and be liable to a penalty
 not exceeding two hundred dollars” and by
 inserting in lieu thereof the words “against
 this Act”;
- 15 (h) (i) by omitting from subsection one of section Sec. 32.
 thirty-two the word “forty” and by inserting (Restriction
 in lieu thereof the words “two hundred”; on method
 of shooting
 fauna.)
- (ii) by omitting from subsection two of the same
 section the word “forty” and by inserting in
 20 lieu thereof the words “two hundred”;
- (i) by omitting from subsection two of section thirty- Sec. 35.
 five the words “against this Act” and by inserting (Further
 in lieu thereof the words “and be liable to a penalty powers of
 not exceeding two hundred dollars”; Director,
 rangers,
 etc.)
- 25 (j) by omitting from section thirty-six the word Sec. 36.
 “twenty” and by inserting in lieu thereof the words (Assaulting
 “two hundred”; or resisting
 officers, etc.)
- (k) by omitting from subsection three of section thirty- Sec. 37.
 seven the word “one” and by inserting in lieu thereof (Use of
 30 the word “four”; poison.)

National Parks and Wildlife (Amendment).

(l) by omitting from subsection one of section thirty-eight the word "forty" and by inserting in lieu thereof the words "four hundred";

Sec. 38.
(Use of
bird-lime
etc. pro-
hibited.)

5 (m) by omitting section forty-one and by inserting in lieu thereof the following section : —

Subst.
sec. 41.

41. (1) A person who—

(a) does that which by this Act he is forbidden to do;

10 (b) fails or neglects to do that which by this Act he is required or directed to do,

is guilty of an offence against this Act.

15 (2) A person guilty of an offence against this Act, whether pursuant to subsection one of this section or otherwise is, where no other penalty is prescribed, liable to a penalty not exceeding—

(a) in the case of the first offence for which he is liable to a penalty under this section—two hundred dollars;

20 (b) in the case of a second offence for which he is liable to a penalty under this section—five hundred dollars; and

(c) in the case of a third or subsequent offence for which he is liable to a penalty under this section—one thousand dollars.

25 (n) by omitting from subsection three of section forty-three the word "forty" and by inserting in lieu thereof the words "two hundred".

Sec. 43.
(Regula-
tions.)

National Parks and Wildlife (Amendment).

11. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

(a) by omitting section twenty-five and by inserting in lieu thereof the following section :—

Subst. sec. 25.

5 25. (1) Subject to this section, the Minister may, by license specifying such conditions as the Minister thinks proper, authorise an owner or occupier of specified land—

Destructive fauna.

(a) to take or kill; or

10 (b) to permit a licensee under paragraph (a) of subsection one of section twenty-seven of this Act to take or kill,

15 a specified number of specified fauna found on that land and may, by the license, authorise the disposal, whether for sale or otherwise, of any fauna taken or killed under that authority.

(2) A license under subsection one of this section shall not be issued unless—

20 (a) the Minister is satisfied that the species of fauna specified in the license are destroying or injuring, or likely to destroy or injure, the property of the applicant for the license ;
and

25 (b) the licensee has been supplied by the National Parks and Wildlife Service with labels, tags, slips or other objects sufficient in number to affix or attach, in compliance with any condition of the license, to the skin or carcase of fauna taken or killed by the
30 authority of the license.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting at the end of section twenty-eight the following new subsection :—

Sec. 28.
(Royalty
to be paid.)

(2) Notwithstanding subsection one of this section, royalty referred to therein shall not be payable in respect of a skin or carcase to which there has been affixed or attached in compliance with a condition of a license under this Act a label, tag, slip or other object for which a charge or fee has been paid pursuant to regulations made under paragraph (n) of subsection two of section forty-three of this Act.

- (c) (i) by omitting from paragraph (m) of subsection two of section forty-three the word "reserve." and by inserting in lieu thereof the word "reserve;"

Sec. 43.
(Regu-
lations.)

- (ii) by inserting next after the same paragraph the following new paragraph :—

(n) for the making of a charge for supplying a label, tag, slip or object for affixing or attaching to the skin or carcase of any fauna in compliance with any condition of a license under this Act.

12. The Fauna Protection Act, 1948, is further amended—

Further
amendment
of Act No.
47, 1948.

- (a) by omitting from section twenty-one the word "Nothing" and by inserting in lieu thereof the words "Subject to section 27A of this Act, nothing";

Sec. 21.
(Protected
fauna kept
in domesti-
cated state
exempted
from this
Act.)

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section twenty-seven the following new section :—

New sec.
27A.

27A. (1) A person who has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless—

Registration
of aviaries.

(a) an aviary registration certificate is in force with respect to that structure, building, store, shop or other premises; or

(b) that person is a fauna dealer or skin dealer licensed under section twenty-seven of this Act and the structure, building, store or shop is, or the other premises are, registered under subsection four of that section.

(2) The Director may, on application being made for the purpose, issue an aviary registration certificate in respect of specified premises and may subject to subsection five of this section, cancel such a certificate for any good cause upon the expiration of fourteen days after serving notice that he proposes so to do.

(3) It is a sufficient service of notice of a proposal to cancel an aviary registration certificate if the notice is left with some person apparently of or above the age of sixteen years at the address at which is situated the structure, building, store, shop or other premises to which the certificate relates.

(4) Where an application for an aviary registration certificate under this section is refused—

(a) the applicant for the certificate may, within fourteen days after he is notified of the refusal, appeal to the Minister against the refusal; and

(b)

National Parks and Wildlife (Amendment).

(b) the refusal shall not take effect—

- 5 (i) where an appeal against the refusal is not lodged before the expiration of the period allowed for lodging such an appeal—until the expiration of that period; or
- 10 (ii) where such an appeal is lodged before the expiration of that period—unless the Minister dismisses the appeal.

15 (5) Where notice of a proposal to cancel an aviary registration certificate under this section has been served, a person who, in the absence of the certificate, would be guilty of an offence under subsection one of this section may, before the expiration of fourteen days after service of the notice, appeal to the Minister against the proposal and, where such an appeal is lodged, the Director shall not proceed with the proposal—

- 20 (a) if the appeal is upheld; or
- (b) where the appeal is dismissed, until the expiration of fourteen days after dismissal of the appeal.

25 (6) The decision of the Minister on an appeal under this section is final.

30 (7) Where a person would, but for this subsection, be affected by subsection one of this section, he shall not, where he applies for an aviary registration certificate before the expiration of the prescribed period, be so affected—

- (a) until he is issued with such a certificate; or
- (b) where his application is refused—until the refusal takes effect.

(8)

National Parks and Wildlife (Amendment).

(8) In this section "prescribed period" in relation to a person means—

- 5 (a) the period of six months next succeeding the commencement of section twelve of the National Parks and Wildlife (Amendment) Act, 1971;
- 10 (b) where the Minister, by order published in the Gazette before the expiration of the period of six months referred to in paragraph (a) of this subsection, specifies for the purposes of this subsection a period that expires after the expiration of the period of six months—the period so specified; or
- 15 (c) the period of one month next succeeding the day on which that person first becomes aware that he has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises,
- 20 whichever period last expires.
- (c) (i) by inserting in paragraph (b) of subsection Sec. 43. two of section forty-three after the word (Regula-
"licenses" the words "or registration tions.)
certificates";
- 25 (ii) by inserting in subsection four of the same section after the word "licenses" where firstly occurring the words "or registration certificates";
- 30 (iii) by omitting from the same subsection the words "and localities" and by inserting in lieu thereof the words ", registration certificates, localities";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in the same subsection after the word "licenses" where thirdly occurring the words ", registration certificates";
- 5 (v) by inserting in the same subsection after the word "licenses" where fourthly and fifthly occurring the words "or registration certificates".

13. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- 10 (a) (i) by inserting in the definition of "Fauna" in Sec. 4. section four after the word "bird" the words (Definitions.) "or reptile";
- (ii) by inserting in the same section after the definition of "Regulations" the following new definition :—
- 15 "Reptile" means snake, lizard, crocodile, tortoise, turtle or other member of the class *reptilia* (whether native, introduced or imported) and the eggs and
- 20 young thereof and the skin and any other part thereof.
- (b) by inserting next after section eighteen the following new section :— New sec. 18A.
- 25 18A. Nothing in this Act renders a person liable to prosecution for— Killing of snakes not punishable.
- (a) killing, or attempting to kill, a snake; or
- (b) hunting, pursuing, disturbing or injuring a snake for the purpose of killing it without delay.

(c)

National Parks and Wildlife (Amendment).

- (c) by inserting in paragraph (b) of subsection two of section nineteen after the word "Act" the words "or, in the case of a reptile, of section thirteen of the National Parks and Wildlife (Amendment) Act, 1971".
- Sec. 19.
(Penalty for having protected fauna in possession.)

14. The Wild Flowers and Native Plants Protection Act, 1927, is amended—

Amendment of Act No. 2, 1927.

- (a) (i) by omitting from subsection four of section three the words "the same" and by inserting in lieu thereof the words "that Act, but subject to subsection five of this section";
- Sec. 3.
(Notification of protection.)

- (ii) by inserting next after the same subsection the following new subsection :—

(5) Where—

- (a) the applicant for, or holder of, a license referred to in subsection four of this section is authorised by a license under section 5A of this Act to pick a wild flower or native plant of a species, and in the locality, to which his application or license under the Forestry Act, 1916, relates; and

- (b) in the opinion of the Forestry Commission, the wild flower or native plant, if not removed, would be damaged or destroyed in the taking of timber or products under, or in the carrying on of any activity authorised by, the Forestry Act, 1916,

- subsection four of this section does not operate to prevent the Forestry Commission from issuing a license authorising removal of the

wild

National Parks and Wildlife (Amendment).

- 5 wild flower or native plant or from reinstating,
to the extent necessary to authorise removal
of the wild flower or native plant, a license
that has, pursuant to that subsection, ceased
to be operative.
- (b) by omitting from paragraph (b) of subsection two Sec. 5.
of section five the words "such license." and by (Selling
inserting in lieu thereof the following words :— forbidden.)
- 10 the license ; or
- (c) any protected wild flower or protected native
plant that has been picked for commercial
purposes in pursuance of a license issued
under section 5A of this Act.
- 15 (c) by inserting in section 5A next after the word Sec. 5A.
"scientific" the words "or commercial"; (Licenses
to pick for
certain
purposes.)
- (d) (i) by omitting from subparagraph (i) of para- Sec. 7.
graph (c) of subsection four of section seven (Carriage
by Railway
Com-
missioners
and trans-
port trust.)
- 20 (ii) by omitting from subparagraph (ii) of the
same paragraph the words "such license" and
by inserting in lieu thereof the following
words :—
- the license ; or
- 25 (iii) that the protected wild flower or native
plant was picked pursuant to a license
issued under section 5A of this Act for
commercial purposes.

15. The permanent reservation under the National Parks and Wildlife Act, 1967, of all that piece or parcel of land containing 24 acres 2 roods 30 perches situate in the County of Selwyn, Parish of Youngal and being portion 47 shown on plan catalogued S2561-1522 in the Department of Lands is hereby revoked.

National Parks and Wildlife (Amendment).

16. Notwithstanding anything in the Fauna Protection Act, 1948, as amended by paragraph (g) of section nine of this Act, where, but for this section a person would, by the operation of that Act, as so amended, be required to have a
 5 license issued under that Act, as so amended, in order law-
 fully to carry on after the commencement of that paragraph
 an activity that he was lawfully carrying on before that com-
 mencement without such a license, it shall be lawful for him
 to continue to carry on that activity after that commencement
 10 without such a license—

- (a) until the expiration of the period of six months next succeeding that commencement; or
- (b) where he applies within that period of six months for the issue to him of such a license—
 - 15 (i) until such a license is issued to him; or
 - (ii) until he is notified that the issue of such a license has been refused,

whichever last occurs.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[40c]

No. , 1971.

A BILL

To revise the procedure for the reservation of national parks, state parks and historic sites; to make further provisions with respect to the protection and preservation of aboriginal relics, fauna, wild flowers and native plants; to make provisions with respect to the protection and preservation of reptiles; to make provisions with respect to parking offences in national parks and state parks and at historic sites; to increase penalties; for these and other purposes to amend

the

National Parks and Wildlife (Amendment).

the National Parks and Wildlife Act, 1967, the Fauna Protection Act, 1948, and the Wild Flowers and Native Plants Protection Act, 1927; and for purposes connected therewith.

[MR WILLIS *on behalf of* MR LEWIS—19 August, 1971.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "National Parks and Wildlife (Amendment) Act, 1971".

Short title
and com-
mencement.

(2) A provision of this Act (sections one, two and three excepted) commences on the day that is appointed by the Governor and notified by proclamation published in the Gazette as the day on which the provision is to commence.

(3) Sections one, two and three of this Act commence on the day on which this Act receives the Royal assent.

(4) The National Parks and Wildlife Act, 1967, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
35, 1967.

(a) by omitting from the definition of "Historic site" in subsection one of section three the words "for the purposes of this Act";

Sec. 3.
(Defini-
tions.)

(b) by omitting from the definition of "Lands of the Crown" the words "statutory body" and by inserting in lieu thereof the words "public authority";

(c)

National Parks and Wildlife (Amendment).

(c) by inserting next after the same definition the following new definition :—

5 “Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled upon land wholly or partly by volatile spirit, steam, gas, oil or electricity.

(d) by omitting from the definition of “National park” the words “for the purposes of this Act”;

10 (e) by omitting from the definition of “State park” the words “for the purposes of this Act”;

(f) by inserting next after the same definition the following new definition :—

15 “Vehicle” includes—
 (a) a boat or other object that, while floating on water, is wholly or partly used for the conveyance of persons or things;
 (b) a motor vehicle;
 20 (c) any apparatus propelled upon land, snow or ice by human or animal power or by the wind;
 (d) a trailer or caravan, whether or not it is in the course of being towed.

3. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

25 (a) by inserting next after section six the following new section :—

30 6A. Where the Director or an officer or employee of the National Parks and Wildlife Service or of any Government Department in respect of which an arrangement has been made under subsection two of section five of this Act requires a person whom

New sec. 6A.
 Unlawful refusal to state name and place of abode.

National Parks and Wildlife (Amendment).

whom he reasonably suspects of offending against this Act or the regulations to state his full name and his place of abode, that person is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars if he—

(a) fails or refuses to comply with the requirement; or

(b) in purported compliance with the requirement, states a name that is not his name or a place of abode that is not his place of abode.

(b) (i) by omitting from subsection one of section seven the words “under this Act” and by inserting in lieu thereof the words “by this Act and the regulations”; (Power to delegate.)

(ii) by inserting in the same subsection after the figures “1948,” the words “and the regulations made under that Act,”;

(iii) by inserting in the same subsection after the figures “1927” the words “, and the regulations made under that Act”;

(c) by inserting next after subsection four of section eight the following new subsection :— Sec. 8.

(5) Where the Minister acquires property pursuant to subsection one of this section— (Power of Minister to accept gifts, etc.)

(a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and

(b) the property, or the value of property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

(d)

National Parks and Wildlife (Amendment).

- (d) by omitting from paragraph (h) of subsection two of section nine the words "Minister for Education" and by inserting in lieu thereof the words "Minister administering the Australian Museum Act, 1902";
- 5 (e) by inserting next after subsection nine of section eleven the following new subsection :—
- (10) Each member of a local committee shall be entitled to receive such travelling and other expenses as the Minister may determine.
- 10 (f) by inserting next after section nineteen the following new sections :—
- 19A. Where the Minister is of the opinion that it is desirable to acquire any land for reservation as, or as part of, a national park, state park or historic site, he may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, or surrender to, Her Majesty of the land.
- 15 19B. For the purposes of—
- (a) improving access to a national park, state park or historic site;
- 20 (b) the management, maintenance or improvement of a national park, state park or historic site; or
- (c) carrying out works for any of those purposes,
- 25 the Minister may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, surrender to or leasing to, Her Majesty, or for the occupation under license of, any land adjoining or in the vicinity of the national park, state park or historic site.
- 30 (g) (i) by omitting from subsection one of section twenty-four the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
- 35 (ii)

(National Parks and Wildlife Advisory Council.)

Sec. 11.
(Establishment of local committees.)

New secs. 19A and 19B.

Acquisition of land for national park, etc.

Acquisition or occupation for certain purposes of land adjoining or near national park, etc.

Sec. 24.
(Restrictions on mining.)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in paragraph (a) of subsection two of the same section after the figures "1969," the words "and such an authority or lease over an aboriginal area granted after the day on which the National Parks and Wildlife (Amendment) Act, 1971, received the Royal assent";
- 10 (iii) by omitting from paragraph (b) of the same subsection the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
- 15 (iv) by omitting from subsection three of the same section the words "or historic site" where secondly occurring and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (h) (i) by inserting next after subsection two of section twenty-nine the following new subsection : — Sec. 29. (Plan of management.)
- 20 (2A) The plan of management in respect of a national park, state park or historic site may relate to land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.
- 25 (ii) by omitting from paragraph (e) of subsection three of the same section the word "and";
- (iii) by omitting from paragraph (f) of the same section the word "area." and by inserting in lieu thereof the following words : —
- 30 area; and
- (g) the utilisation, for the purposes for which it was acquired or occupied, or is proposed to be acquired or occupied,

of

National Parks and Wildlife (Amendment).

of land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

5 (iv) by inserting in paragraph (a) of subsection six of the same section after the words "it shall" the words ", subject to paragraph (c) of this subsection,";

10 (v) by omitting from paragraph (b) of the same subsection the word "site." and by inserting in lieu thereof the following words : —

site; and

15 (c) where any land to which the plan of management relates is land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act, operations under the plan shall not be undertaken—

20 (i) on or in relation to land acquired or proposed to be acquired under section 19A of this Act until it has been reserved as, or as part of, the park or site to which the plan relates; or

25 (ii) on or in relation to land proposed to be acquired or occupied under section 19B of this Act until it has been so acquired or occupied.

30 (vi) by inserting in paragraph (b) of subsection seven of the same section after the word "tows" the words "or moorings".

(i)

National Parks and Wildlife (Amendment).

- (i) (i) by omitting from paragraph (c) of subsection Sec. 30.
one of section thirty the word "site." and by (Granting
inserting in lieu thereof the following of leases or
words :— licenses.)
- 5 site;
- (d) grant leases of land within a national
park, state park or historic site on
which buildings have been erected for
residential occupation.
- 10 (ii) by inserting next after the same subsection the
following new subsection :—
- (1A) The Minister may, for any purpose
specified in paragraph (a), (b) or (c) of
section 19B of this Act, grant a lease of, or a
15 license with respect to, land acquired or
occupied under that section.
- (j) (i) by omitting from subparagraph (vi) of para- Sec. 35.
graph (b) of subsection one of section thirty- (Payments
five the word "and"; into the
Fund.)
- 20 (ii) by omitting from subparagraph (vii) of the
same paragraph the word "impounding;" and
by inserting in lieu thereof the following
words :—
- impounding; and
- 25 (viii) leases and licenses granted under sub-
section (1A) of section thirty of this
Act;
- (k) (i) by omitting from paragraph (g) of subsection Sec. 36.
two of section thirty-six the word "and"; (Payments
out of
the Fund.)
- 30 (ii) by omitting from paragraph (h) of the same
subsection the word "relic." and by inserting in
lieu thereof the following words :—
- relic;
- 35 (i) the cost of entering into, and giving
effect to, agreements under sections
19A and 19B of this Act;
- (j)

National Parks and Wildlife (Amendment).

- (j) the cost of carrying out the purposes for which land is acquired or occupied under section 19B of this Act.
- 5 (l) by inserting in section forty-one after the word Sec. 41.
"Act" where firstly, thirdly and fourthly occurring (Driver
the words "and liable to a penalty not exceeding two to give
hundred dollars"; his name
and address
when
required.)
- 10 (m) by omitting from subsection one of section forty- Sec. 42.
two the words "has been" and by inserting in lieu (Seizure
thereof the words "is unattended and believed by of motor
him on reasonable grounds to have been"; vehicles.)
- (n) by inserting next after section forty-two the New sec.
following new section :— 42A.
- 15 42A. (1) A person who impersonates the Impersonat-
Director, or a park ranger or other officer of the ing, assault-
National Parks and Wildlife Service, is guilty of an ing, resisting
offence against this Act. or obstruct-
ing an
officer, etc.
- (2) Where a person—
- 20 (a) assaults, resists or obstructs; or
- (b) incites or encourages any other person to
assault, resist or obstruct,
- 25 the Director, or a park ranger or other officer of
the National Parks and Wildlife Service, in the
execution of his duty or authority under this Act,
that person is guilty of an offence against this Act.
- 30 (o) by omitting from subsection three of section forty- Sec. 44.
four the words "one hundred dollars for every such (Penalties.)
offence" and by inserting in lieu thereof the words
"two hundred dollars for the first offence, five
hundred dollars for the second offence and one
thousand dollars for the third or subsequent
offence";

(p)

National Parks and Wildlife (Amendment).

- (p) (i) by inserting next after paragraph (k2) of sub-
 section two of section forty-nine the following new paragraph :—

Sec. 49.
 (Regulations.)

5 (k3) the regulation, control or prohibition of
 the use of any relic for commercial
 purposes in any national park, state
 park, historic site, nature reserve or
 aboriginal area;

10 (ii) by omitting from paragraph (1) of the same
 subsection the words "and receiving" and by
 inserting in lieu thereof the words ", receiving
 and waiving";

15 (iii) by omitting from paragraph (a) of subsection
 three of the same section the word "one"
 and by inserting in lieu thereof the word
 "two".

4. The Principal Act is further amended—

Further
 amendment
 of Act No.
 35, 1967.

20 (a) (i) by omitting from subsection four of section
 fifteen the words "the lands described in the
 Second and Third Schedules to this Act" and
 by inserting in lieu thereof the words "lands
 reserved by or under this Act as national park,
 state park or historic site";

Sec. 15.
 (Reservation
 of certain
 national
 parks, state
 parks and
 historic
 sites.)

25 (ii) by omitting from the same subsection the
 words "by this Act";

30 (iii) by omitting from subsection five of the same
 section the words "the lands described in the
 Second and Third Schedules to this Act" and
 by inserting in lieu thereof the words "lands
 reserved by or under this Act as national park,
 state park or historic site";

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in subsection six of the same section after the word "by" where firstly and secondly occurring the words "or under";

5 (b) by omitting section twenty and by inserting in lieu thereof the following section : — Subst. sec. 20.

20. (1) In this section—

"prescribed lands" means lands, not held under lease or license or otherwise lawfully occupied, that are—

Reservation of certain lands as national park, state park or historic site.

10 (a) Crown lands; or

(b) lands of the Crown in respect of which the person in whom they are vested has consented to a reservation under this section;

15 "prescribed time" in relation to a House of Parliament means fourteen sitting days of that House, whether or not they occur during the same session.

20 (2) The Governor may, by proclamation published in the Gazette—

(a) reserve, as a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation; or

25 (b) reserve, as part of a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation that—

30 (i) adjoin, or are adjacent to, that national park, state park or historic site; and

(ii) are not vested in or under the care, control and management of, trustees.

(3)

National Parks and Wildlife (Amendment).

(3) Upon the publication of a proclamation under subsection two of this section—

- 5 (a) the lands reserved by the proclamation become Crown lands except in so far as they were Crown lands immediately before that publication;
- 10 (b) any person who, immediately before that publication, held office as trustee, or as a member of the body corporate that was trustee, of the lands so reserved shall cease to hold that office; and
- (c) the care, control and management of the lands so reserved vest in the Director.

15 (4) To the extent to which a dedication, reservation, Crown grant or vesting affects land to which a proclamation published under subsection two of this section relates, the publication revokes the dedication, reservation, grant or vesting.

20 (5) A copy of a proclamation under subsection two of this section shall be laid before each House of Parliament within the prescribed time after publication thereof.

25 (6) Subject to this section, where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a proclamation has been laid before it pursuant to subsection five of this section (whether or not those sitting days occur during the same session) and the resolution disallows the reservation effected by the proclamation or any part thereof—

- 30 (a) the reservation ceases, to the extent of the disallowance but without affecting the operation of subsection three or four of this section, to have effect; and
- 35 (b) to the extent to which the reservation ceases to affect it, but without affecting the operation of subsection three or four of this section,

National Parks and Wildlife (Amendment).

section, the land referred to in the proclamation ceases to be, or to be part of, a national park, state park or historic site.

- 5 (c) (i) by omitting from subsection one of section twenty-six the words "Where the Minister has published a notification under section nineteen of this Act vesting the care, control and management of any national park, state park or historic site in the Director" and by inserting
10 in lieu thereof the words "Where by the operation of section nineteen or twenty of this Act any persons cease to hold office as trustees of, or as members of a body corporate that is trustee of, lands reserved as a national park,
15 state park or historic site";
- (ii) by inserting in paragraph (a) of subsection two of the same section after the word "notification" the words "or proclamation by virtue of which that care, control and
20 management are so vested,";
- (d) by inserting in subsection three of section thirty-one after the words "reserved by" the words "or
under".

Sec. 26.
(Transfer of rights, liabilities and property.)

Sec. 31.
(Easements.)

5. The Principal Act is further amended by inserting next
25 after section 33L the following new section :—
- Further amendment of Act No. 35, 1967.
New sec. 33M.

- 33M. (1) Upon production of the prescribed evidence of his authority so to do, the Director or a park ranger or other officer of the National Parks and Wildlife Service may, subject to subsection two of this section,
30 enter and search any land or premises if he has reason to suspect—
- (a) that a breach of this Act or the regulations has been committed in respect of a relic; and
(b)
- Power of entry.

National Parks and Wildlife (Amendment).

(b) that the relic is in or upon that land or those premises.

5 (2) The powers conferred by subsection one of this section do not authorise a person to enter or search in or upon any part of premises that is used for residential purposes.

6. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

10 (a) (i) by omitting from subsection one of section Sec. 3. three the definition of "Crown lands" and by (Defini-
inserting in lieu thereof the following tions.)
definition :—

"Crown lands" means—

15 (a) Crown lands within the mean-
ing of the Crown Lands Con-
solidation Act, 1913; and

20 (b) those parts of the seabed and
of the waters beneath which it
is submerged that are within
the territorial jurisdiction of
New South Wales and are not
within the Eastern Division
described in the Second
Schedule to the Crown Lands
Consolidation Act, 1913.

(ii)

National Parks and Wildlife (Amendment).

(ii) by inserting at the end of the same section the following new subsection :—

5 (3) Nothing in this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of this section.

10 (b) by inserting next after section twenty the following new section :—

20A. Notwithstanding section twenty of this Act, Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act shall not be reserved as, or as part of, a national park, state park or historic site without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

20 (c) (i) by omitting from subsection three of section twenty-two the figures and word "1906, or" and by inserting in lieu thereof the figures and words "1906, the Fisheries and Oyster Farms Act, 1935,";

25 (ii) by inserting in the same subsection after the figures "1955" the words ", or any permit or licence under the Petroleum (Submerged Lands) Act, 1967";

(d) by inserting at the end of section twenty-three the following new subsection :—

30 (3) After the commencement of section six of the National Parks and Wildlife (Amendment) Act, 1971, a lease, license or permit under the Fisheries and Oyster Farms Act, 1935, shall not,

without

New sec.
20A.

Land
submerged
by certain
waters.

Sec. 22.
(Existing
authority,
permit,
lease,
license or
occupancy.)

Sec. 23.
(Restriction
on disposal
or dealing
with lands.)

National Parks and Wildlife (Amendment).

without the concurrence of the Minister in writing, be granted with respect to land within a national park, state park or historic site or with respect to any waters beneath which that land is submerged.

- 5 (e) by inserting next after subsection four of section twenty-nine the following new subsections : — Sec. 29.
(Plan of management.)

10 (4A) Where land submerged by water is land that is reserved as, or as part of, a national park, state park or historic site the Director shall, before submitting to the Minister for adoption by him the plan of management for the national park, state park or historic site, refer it to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (4B) A plan of management referred to in subsection (4A) of this section—

20 (a) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of section three of this Act until he has considered any representations made with respect to the plan of management by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

30 (b) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(f)

National Parks and Wildlife (Amendment).

- (f) (i) by omitting from subsection two of section thirty the word "Any" and by inserting in lieu thereof the words "Subject to subsection three of this section, any"; Sec. 30.
(Granting
of leases
and
licenses.)
- 5 (ii) by inserting next after the same subsection the following new subsection :—
- (3) Where any term or condition of a lease or license granted under this section pur-
10 ports to affect land within a national park, state park or historic site that is land sub- merged by water and the term or condition is inconsistent with a plan of management in force for the national park, state park or his-
15 toric site, the term or condition shall, to the extent of the inconsistency, have no force or effect.
- (g) (i) by omitting from paragraph (v) of subsection two of section forty-nine the words "signs or other structures" and by inserting in lieu there- Sec. 49.
(Regu-
lations.)
20 of the words "marinas, structures, signs or other improvements";
- (ii) by inserting in paragraph (w) of the same subsection after the word "buildings," the word "marinas,";
- 25 (iii) by omitting from subsection five of the same section the words "the word 'animal' does" and by inserting in lieu thereof the words "the words 'animal' and 'fauna' do".

National Parks and Wildlife (Amendment).

7. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

- (a) by inserting next after section forty-one the following new sections :—

New secs.
41A-41C.

5 41A. (1) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

Liability of
vehicle
owner for
parking
offences.

- 15 (a) in any case where the parking offence is dealt with under section 41B of this Act, the owner satisfies the prescribed person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used; or

- 20 (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

25 (2) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3)

National Parks and Wildlife (Amendment).

(3) Notwithstanding anything in subsection one or two of this section, no owner of a vehicle is, by virtue of this section, guilty of an offence if—

5 (a) in any case where the offence is dealt with under section 41B of this Act, he—

10 (i) within twenty-one days after service on him of a notice under that section alleging that he has been guilty of that offence, supplies by statutory declaration to the prescribed person referred to in that section the name and address of the person who was in charge of the vehicle at all
15 relevant times relating to the parking offence concerned; or

20 (ii) satisfies the prescribed officer so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

(b) in any other case, he—

25 (i) within twenty-one days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

National Parks and Wildlife (Amendment).

- (ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

5 (4) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection three of this section.

10 (5) Where a statutory declaration supply-
ing the name and address of a person for the
purposes of subsection three of this section is
produced in any proceedings against that person in
15 respect of the parking offence to which the statutory
declaration relates, the statutory declaration is
prima facie evidence that that person was, at all
relevant times relating to that parking offence, in
charge of the vehicle to which the parking offence
relates.

20 (6) In this section and in section 41B of
this Act—

“owner” in relation to a vehicle includes—

25 (a) a person who is the owner or joint
owner or part owner of the vehicle
and any person, other than the lessor
under a hire-purchase agreement
relating to the vehicle, who has the
use of the vehicle under such an
agreement; and

(b)

National Parks and Wildlife (Amendment).

(b) in the case of a vehicle that is a motor vehicle—

(i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or

(ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who, in contravention of the regulations made under this Act—

(a) moors or parks a vehicle; or

(b) causes or permits a vehicle to be moored or parked or to stand or wait.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this or any other Act.

41B. (1) Where it appears to a prescribed person that another person is, by virtue of section 41A of this Act, guilty of an offence, the prescribed person may serve a notice on that other person to the

Penalty notice for certain offences.

National Parks and Wildlife (Amendment).

the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to a person so specified the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection one of this section—

(a) may be served as provided by section forty-eight of this Act; or

(b) may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.

(3) A person alleged to have committed an offence referred to in subsection one of this section shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection one of this section (or within such further time as, in his case, may have been allowed) to pay the penalty so specified he shall be deemed to have declined to be dealt with under this section.

(4) Where the penalty for an offence dealt with under this section is paid pursuant to this section in respect of an alleged offence—

(a) no person may be proceeded against for the alleged offence; and

(b) the payment shall not be construed as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(5)

National Parks and Wildlife (Amendment).

5 (5) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

10 (6) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or a provision of any other Act in relation to proceedings that may be taken in respect of offences.

41c. (1) Where—

15 (a) an information for an offence referred to in subsection one of section 41B of this Act has been laid under Division 2 of Part IV of the Justices Act, 1902;

Ex parte
procedure
for offences
referred to
in section
41B.

20 (b) a summons for the appearance of the defendant to answer the information has been served on him in any manner provided by law for the service of such a summons on that defendant in relation to that offence; and

(c) the defendant does not appear at the time and place fixed for the hearing of the information,

25 the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, for the payment by the defendant of costs.

30

(2)

National Parks and Wildlife (Amendment).

5 (2) The provisions of section 556A of the Crimes Act, 1900, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

10 (3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty for a breach of the regulation creating the offence in respect of which the penalty is so imposed.

15 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties imposed upon, or previous convictions of, the defendant under this Act and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

20 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, be deemed to be an order under that Act.

25 (6) Section seventy-five of the Justices Act, 1902, does not apply in any case where an information is dealt with under subsection one of this section.

30 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information includes, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business,
35 a reference to the time and place specified in the notice.

(8)

National Parks and Wildlife (Amendment).

(8) Section fifteen of the Justices Act, 1902, shall be construed as if this section formed part of that Act.

5 (9) The jurisdiction of a court under this section shall be exercised only by a stipendiary magistrate.

10 (10) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or any other Act in relation to proceedings that may be taken in respect of offences.

15 (b) by omitting from subsection one of section forty-four the words "Any penalty" and by inserting in lieu thereof the words "Subject to subsection nine of section 41C of this Act, any penalty".

8. The Fauna Protection Act, 1948, is amended—

Amendment
of Act No.
47, 1948.

20 (a) (i) by omitting from subsection one of section nine the words "In this subsection 'Crown lands' has the meaning ascribed to that expression in section five of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts." and by inserting in lieu thereof the following words :—

In this subsection "Crown lands" means—

25 (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

(b)

National Parks and Wildlife (Amendment).

5 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

10 (ii) by omitting from subsection two of the same section the words "section except with the concurrence of the Secretary for Lands." and by inserting in lieu thereof the following words :—

section—

15 (a) unless, in the case of Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section, the Minister administering the Crown Lands Consolidation Act, 20 1913, concurs; or

25 (b) unless, in the case of Crown lands within the meaning of paragraph (b) of that definition, the Minister administering the Fisheries and Oyster Farms Act, 1935, concurs.

30 (iii) by omitting from paragraph (b) of subsection five of the same section the words "object of the scheme shall be" and by inserting in lieu thereof the words "objects of the scheme shall include";

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in paragraph (f) of the same subsection after the word "buildings" the word
", marinas";

5 (v) by inserting next after subsection five of the same section the following new subsections :—

10 (5A) Where land submerged by water is land that is dedicated as, or as part of, a nature reserve, the Director shall, before submitting to the Minister for his approval under subsection five of this section a scheme for the nature reserve, refer the scheme to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (5B) A scheme referred to in subsection (5A) of this section—

20 (a) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section until he has considered any representations made with respect to the scheme by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

25 (b) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of this section without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section nine the following new section :— New sec.
9A.

5 9A. Nothing in section nine of this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of that section. Navigation
of certain
waters not
affected.

10 9. The Fauna Protection Act, 1948, is further amended— Further
amendment
of Act No.
47, 1948.

- (a) (i) by inserting in section four next after the definition of "Regulations" the following new definition :— Sec. 4.
(Definitions.)

"Sell" includes—

- 15 (a) auction, barter, exchange or supply;
- (b) offer, expose, supply or receive for sale;
- 20 (c) send, forward or deliver for sale or on sale;
- (d) dispose of under a hire-purchase agreement;
- 25 (e) cause, permit or suffer the doing of an act referred to in paragraph (a), (b), (c) or (d) of this definition;
- (f) offer or attempt to do an act so referred to;
- 30 (g) cause, permit or suffer to be sold;

(h)

National Parks and Wildlife (Amendment).

- (h) attempt to sell or offer to sell;
 (i) have in possession for sale,
 and "sale" has a corresponding meaning.
- 5 (ii) by omitting from the same section the definition of "Take or kill" and by inserting in lieu thereof the following definition :—
- "Take or kill" in relation to any fauna includes hunt, shoot, poison, net,
 10 snare, spear, pursue, capture, disturb or injure.
- (b) by omitting from subsection one of section eleven Sec. 11. the words "or timber" and by inserting in lieu thereof the words ", timber or vegetation"; (Restrictions as to timber.)
- 15 (c) by omitting from subsection one of section twelve Sec. 12. the words "an officer or employee" and by inserting in lieu thereof the words "a person"; (Prohibition on taking or killing fauna within nature reserves.)
- (d) by inserting at the end of section eighteen the following new subsection :— Sec. 18. (Open seasons.)
- 20 (3) A person shall not be convicted of an offence against subsection two of this section if he proves that the act constituting the offence was done under and in accordance with the authority conferred by a license.
- 25 (e) (i) by omitting from subsection one of section Sec. 19. nineteen the word "ten" and by inserting in lieu thereof the words "one hundred"; (Penalty for having protected fauna in possession)
- (ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in the same subsection after the word "committed" the words "with a maximum total penalty under this subsection in respect of any one offence of one thousand dollars";
- (iii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—
- 10 (a) that the act constituting the offence was done, or that the state of affairs constituting the offence existed, under and in accordance with—
- (i) the provisions of this Act relating to open seasons; or
- 15 (ii) the authority conferred by a license; or;
- (f) (i) by omitting subsection one of section twenty-two; Sec. 22.
(Fauna within districts.)
- 20 (ii) by inserting in subsection four of the same section after the word "periods" the words "and may in like manner vary, amend or revoke any such proclamation";
- (g) (i) by inserting in section twenty-six after the word "investigation" the words "or for the purposes of exhibition"; Sec. 26.
(Collections for Museums, etc.)
- 25 (ii) by inserting at the end of the same section the following new subsection :—
- 30 (2) A person who exhibits any protected fauna is guilty of an offence against this Act unless he does so under and in accordance with the authority conferred by a license issued under this section.
- (h)

National Parks and Wildlife (Amendment).

- (h) (i) by inserting in paragraph (a) of subsection one of section twenty-seven after the word "fauna" where secondly occurring the words " , or under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale"; Sec. 27.
(Persons taking or killing fauna for sale.)
- 5
- (ii) by inserting in paragraph (b) of the same subsection after the word "section" the words " , or a license under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- 10
- (i) by omitting section thirty-three and by inserting in lieu thereof the following section :— Sec. 33.
(Imported fauna.)
- 15
33. A person who, in New South Wales, liberates fauna not indigenous to New South Wales is guilty of an offence against this Act unless he does so in accordance with a permit granted by the Minister. Restriction on liberation in New South Wales of exotic fauna.
- (j) (i) by inserting in paragraph (a) of subsection one of section thirty-four after the word "committed" where secondly occurring the words " , or any firearm, net, trap or other instrument used in connection with the breach"; Sec. 34.
(Powers of entry and seizure by Director, rangers, officers, etc.)
- 20
- (ii) by omitting from the same paragraph the words "or poison found therein" and by inserting in lieu thereof the words " , poison, firearm, net, trap or other instrument found therein or thereon together with any books, papers or records relating to the suspected breach and make copies of, or take extracts from, any such papers, books or records";
- 25
- (k) by inserting next after the same section the following new section :— New sec. 34A.
- 30
- 34A. (1) Where any property seized under paragraph (a) of subsection one of section thirty-four of this Act is fauna or is perishable, it may Disposal of seized fauna and perishable goods.
- 35
- forthwith

National Parks and Wildlife (Amendment).

forthwith be disposed of, by way of sale or otherwise, by the Director, an officer or employee of the National Parks and Wildlife Service authorised by the Director to dispose of it, a ranger or a collector.

5 (2) The proceeds of any sale pursuant to subsection one of this section shall be paid into the National Parks and Wildlife Fund.

10 (3) The payment to a person from the National Parks and Wildlife Fund of an amount equal to the proceeds of the sale of any property under this section operates as a discharge of any obligation to deliver that property to that person and such a payment in discharge of any such obligation imposed by an order of the court
15 prescribed in relation to the property under section forty of this Act is hereby authorised.

(1) by omitting section forty and by inserting in lieu thereof the following section :— Subst.
sec. 40.

40. (1) Subject to this section, where—

- 20 (a) a person is convicted of an offence under this Act or the regulations;
- (b) property relating to the offence, or in the possession of the offender at the time of the commission of the offence, has been seized
25 under section thirty-four of this Act; and
- (c) any person applies to the court prescribed in relation to the property for an order that the property be delivered to a specified person,

30 that court may, whether or not it is the court making the conviction, make such an order.

(2)

National Parks and Wildlife (Amendment).

(2) Subject to this section, where—

(a) property has been seized under section thirty-four of this Act; and

(b) an information for an offence (being an offence on or after a conviction for which an order could be made under subsection one of this section in respect of the property) has not been laid within six months after the seizure of the property,

the court prescribed in relation to the property may, on the application of any person, order that the property be delivered to a specified person.

(3) An application for an order under subsection one of this section may be made at the time of the conviction referred to in that subsection if the court making the conviction is the prescribed court in relation to the property to which the application relates.

(4) An application for an order under subsection one or two of this section may not be made—

(a) in the case of an application for an order under subsection one of this section—later than one month after the conviction referred to in that subsection; or

(b) in the case of an application for an order under subsection two of this section—later than three months after the expiration of the period of six months referred to in that subsection.

(5) Where property has been seized under section thirty-four of this Act and—

(a) no application for an order under subsection one or two of this section has been duly made; or

(b)

National Parks and Wildlife (Amendment).

- 5 (b) such an application has been duly made
and such an order has been refused,
the property the subject of the application and,
where the property has been sold under section 34A
of this Act, the proceeds of the sale, shall be
deemed to have been forfeited.
- (6) For the purposes of this section—
- 10 (a) the value of any property sold under section
34A of this Act is an amount equal to the
amount of the net proceeds of sale;
- (b) the court prescribed in relation to any
property is—
- 15 (i) where the value of the property does
not exceed five hundred dollars—
the court of petty sessions for the
district in which the property was
seized;
- 20 (ii) where the value of the property
exceeds five hundred dollars but
does not exceed six thousand dollars
—the district court for the district
in which the property was seized;
and
- 25 (iii) where the value of the property
exceeds six thousand dollars—the
Supreme Court of New South
Wales.
- 30 (m) by omitting from subsection three of section forty- Sec. 43.
three the words “, and may provide that any pro- (Regula-
tected fauna in relation to which an offence against tions.)
the regulations has been committed shall be liable
to forfeiture and disposed of in such manner as the
court may direct”;
- (n) by omitting the Second Schedule.

Second
Schedule.

National Parks and Wildlife (Amendment).

10. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- 5 (a) by omitting from subsection two of section twelve the words “a penalty not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;
- 10 (b) by omitting from subsection two of section sixteen the words “shall for every such offence be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 15 (c) by omitting from subsection two of section eighteen the words “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;
- 20 (d) by omitting from subsection three of section twenty the words “a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;
- 25 (e) by omitting from subsection five of section twenty-two the words “and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “against this Act”;

(f)

National Parks and Wildlife (Amendment).

- (f) by omitting from section twenty-three the words Sec. 23.
 “and be liable to a penalty not exceeding one (Penalty for
 hundred dollars” and by inserting in lieu thereof trespass.)
 the words “against this Act”;
- 5 (g) (i) by omitting from subsection eight of section Sec. 23A.
 23A the words “and be liable to a penalty not (Wildlife
 exceeding two hundred dollars” and by refuges and
 inserting in lieu thereof the words “against this game
 Act”; reserves.)
- 10 (ii) by omitting from subsection nine of the same
 section the words “and be liable to a penalty
 not exceeding two hundred dollars” and by
 inserting in lieu thereof the words “against
 this Act”;
- 15 (h) (i) by omitting from subsection one of section Sec. 32.
 thirty-two the word “forty” and by inserting (Restriction
 in lieu thereof the words “two hundred”; on method
 of shooting
 fauna.)
- (ii) by omitting from subsection two of the same
 section the word “forty” and by inserting in
 20 lieu thereof the words “two hundred”;
- (i) by omitting from subsection two of section thirty- Sec. 35.
 five the words “against this Act” and by inserting (Further
 in lieu thereof the words “and be liable to a penalty powers of
 not exceeding two hundred dollars”; Director,
 rangers,
 etc.)
- 25 (j) by omitting from section thirty-six the word Sec. 36.
 “twenty” and by inserting in lieu thereof the words (Assaulting
 “two hundred”; or resisting
 officers, etc.)
- (k) by omitting from subsection three of section thirty- Sec. 37.
 seven the word “one” and by inserting in lieu thereof (Use of
 30 the word “four”; poison.)

National Parks and Wildlife (Amendment).

- (1) by omitting from subsection one of section thirty-eight the word "forty" and by inserting in lieu thereof the words "four hundred"; Sec. 38. (Use of bird-lime etc. prohibited.)
- 5 (m) by omitting section forty-one and by inserting in lieu thereof the following section :— Subst. sec. 41.
41. (1) A person who—
- (a) does that which by this Act he is forbidden to do;
- 10 (b) fails or neglects to do that which by this Act he is required or directed to do,
- is guilty of an offence against this Act.
- (2) A person guilty of an offence against this Act, whether pursuant to subsection one of this section or otherwise is, where no other penalty is prescribed, liable to a penalty not exceeding—
- 15 (a) in the case of the first offence for which he is liable to a penalty under this section—two hundred dollars;
- (b) in the case of a second offence for which he is liable to a penalty under this section—
- 20 five hundred dollars; and
- (c) in the case of a third or subsequent offence for which he is liable to a penalty under this section—one thousand dollars.
- 25 (n) by omitting from subsection three of section forty-three the word "forty" and by inserting in lieu thereof the words "two hundred". Sec. 43. (Regulations.)

National Parks and Wildlife (Amendment).

11. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

(a) by omitting section twenty-five and by inserting in lieu thereof the following section :— Subst. sec. 25.

5 25. (1) Subject to this section, the Minister may, by license specifying such conditions as the Minister thinks proper, authorise an owner or occupier of specified land— Destructive fauna.

(a) to take or kill; or

10 (b) to permit a licensee under paragraph (a) of subsection one of section twenty-seven of this Act to take or kill,

15 a specified number of specified fauna found on that land and may, by the license, authorise the disposal, whether for sale or otherwise, of any fauna taken or killed under that authority.

(2) A license under subsection one of this section shall not be issued unless—

20 (a) the Minister is satisfied that the species of fauna specified in the license are destroying or injuring, or likely to destroy or injure, the property of the applicant for the license; and

25 (b) the licensee has been supplied by the National Parks and Wildlife Service with labels, tags, slips or other objects sufficient in number to affix or attach, in compliance with any condition of the license, to the skin or carcase of fauna taken or killed by the
30 authority of the license.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting at the end of section twenty-eight the following new subsection :— Sec. 28.
(Royalty
to be paid.)

5 (2) Notwithstanding subsection one of this section, royalty referred to therein shall not be payable in respect of a skin or carcase to which there has been affixed or attached in compliance with a condition of a license under this Act a label, tag, slip or other object for which a charge or fee has been paid pursuant to regulations made under paragraph 10 (n) of subsection two of section forty-three of this Act.

- (c) (i) by omitting from paragraph (m) of subsection two of section forty-three the word "reserve." Sec. 43.
(Regulations.)
and by inserting in lieu thereof the word "reserve;";

- 15 (ii) by inserting next after the same paragraph the following new paragraph :—

20 (n) for the making of a charge for supplying a label, tag, slip or object for affixing or attaching to the skin or carcase of any fauna in compliance with any condition of a license under this Act.

12. The Fauna Protection Act, 1948, is further amended— Further
amendment
of Act No.
47, 1948.

- 25 (a) by omitting from section twenty-one the word "Nothing" and by inserting in lieu thereof the words "Subject to section 27A of this Act, nothing"; Sec. 21.
(Protected
fauna kept
in domesti-
cated state
exempted
from this
Act.)

(d)

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section twenty-seven the following new section :—

New sec.
27A.

5 27A. (1) A person who has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless—

- 10 (a) an aviary registration certificate is in force with respect to that structure, building, store, shop or other premises; or
- 15 (b) that person is a fauna dealer or skin dealer licensed under section twenty-seven of this Act and the structure, building, store or shop is, or the other premises are, registered under subsection four of that section.

20 (2) The Director may, on application being made for the purpose, issue an aviary registration certificate in respect of specified premises and may subject to subsection five of this section, cancel such a certificate for any good cause upon the expiration of fourteen days after serving notice that he proposes so to do.

25 (3) It is a sufficient service of notice of a proposal to cancel an aviary registration certificate if the notice is left with some person apparently of or above the age of sixteen years at the address at which is situated the structure, building, store, shop or other premises to which the certificate relates.

30 (4) Where an application for an aviary registration certificate under this section is refused—

- 35 (a) the applicant for the certificate may, within fourteen days after he is notified of the refusal, appeal to the Minister against the refusal; and

(b)

National Parks and Wildlife (Amendment).

(b) the refusal shall not take effect—

- 5 (i) where an appeal against the refusal is not lodged before the expiration of the period allowed for lodging such an appeal—until the expiration of that period; or
- 10 (ii) where such an appeal is lodged before the expiration of that period—unless the Minister dismisses the appeal.

15 (5) Where notice of a proposal to cancel an aviary registration certificate under this section has been served, a person who, in the absence of the certificate, would be guilty of an offence under subsection one of this section may, before the expiration of fourteen days after service of the notice, appeal to the Minister against the proposal and, where such an appeal is lodged, the Director shall not proceed with the proposal—

- 20 (a) if the appeal is upheld; or
- (b) where the appeal is dismissed, until the expiration of fourteen days after dismissal of the appeal.

25 (6) The decision of the Minister on an appeal under this section is final.

30 (7) Where a person would, but for this subsection, be affected by subsection one of this section, he shall not, where he applies for an aviary registration certificate before the expiration of the prescribed period, be so affected—

- (a) until he is issued with such a certificate; or
- (b) where his application is refused—until the refusal takes effect.

(8)

National Parks and Wildlife (Amendment).

(8) In this section "prescribed period" in relation to a person means—

- 5 (a) the period of six months next succeeding the commencement of section twelve of the National Parks and Wildlife (Amendment) Act, 1971;
- 10 (b) where the Minister, by order published in the Gazette before the expiration of the period of six months referred to in paragraph (a) of this subsection, specifies for the purposes of this subsection a period that expires after the expiration of the period of six months—the period so specified; or
- 15 (c) the period of one month next succeeding the day on which that person first becomes aware that he has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises,
- 20 whichever period last expires.
- (c) (i) by inserting in paragraph (b) of subsection Sec. 43. two of section forty-three after the word (Regulations.) "licenses" the words "or registration certificates";
- 25 (ii) by inserting in subsection four of the same section after the word "licenses" where firstly occurring the words "or registration certificates";
- 30 (iii) by omitting from the same subsection the words "and localities" and by inserting in lieu thereof the words ", registration certificates, localities";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in the same subsection after the word "licenses" where thirdly occurring the words ", registration certificates";
- 5 (v) by inserting in the same subsection after the word "licenses" where fourthly and fifthly occurring the words "or registration certificates".

13. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- 10 (a) (i) by inserting in the definition of "Fauna" in Sec. 4. section four after the word "bird" the words (Definitions.) "or reptile";

- (ii) by inserting in the same section after the definition of "Regulations" the following new definition :—
- 15

"Reptile" means snake, lizard, crocodile, tortoise, turtle or other member of the class *reptilia* (whether native, introduced or imported) and the eggs and young thereof and the skin and any other part thereof.

20

- (b) by inserting next after section eighteen the following new section :— New sec. 18A.

18A. Nothing in this Act renders a person liable to prosecution for— Killing of snakes not punishable.

25

- (a) killing, or attempting to kill, a snake; or
- (b) hunting, pursuing, disturbing or injuring a snake for the purpose of killing it without delay.

(c)

National Parks and Wildlife (Amendment).

- 5 (c) by inserting in paragraph (b) of subsection two of section nineteen after the word "Act" the words "or, in the case of a reptile, of section thirteen of the National Parks and Wildlife (Amendment) Act, 1971".
- Sec. 19.
(Penalty for having protected fauna in possession.)

14. The Wild Flowers and Native Plants Protection Act, 1927, is amended—

Amendment of Act No. 2, 1927.

- 10 (a) (i) by omitting from subsection four of section three the words "the same" and by inserting in lieu thereof the words "that Act, but subject to subsection five of this section";
- Sec. 3.
(Notification of protection.)

- (ii) by inserting next after the same subsection the following new subsection :—

(5) Where—

- 15 (a) the applicant for, or holder of, a license referred to in subsection four of this section is authorised by a license under section 5A of this Act to pick a wild flower or native plant of a species, and in the locality, to which his application or license under the Forestry Act, 1916, relates; and
- 20

- 25 (b) in the opinion of the Forestry Commission, the wild flower or native plant, if not removed, would be damaged or destroyed in the taking of timber or products under, or in the carrying on of any activity authorised by, the Forestry Act, 1916,

- 30 subsection four of this section does not operate to prevent the Forestry Commission from issuing a license authorising removal of the

wild

National Parks and Wildlife (Amendment).

- 5 wild flower or native plant or from reinstating,
to the extent necessary to authorise removal
of the wild flower or native plant, a license
that has, pursuant to that subsection, ceased
to be operative.
- (b) by omitting from paragraph (b) of subsection two Sec. 5.
of section five the words "such license." and by (Selling
inserting in lieu thereof the following words :— forbidden.)
- 10 the license ; or
- (c) any protected wild flower or protected native
plant that has been picked for commercial
purposes in pursuance of a license issued
under section 5A of this Act.
- 15 (c) by inserting in section 5A next after the word Sec. 5A.
"scientific" the words "or commercial"; (Licenses
to pick for
certain
purposes.)
- (d) (i) by omitting from subparagraph (i) of para- Sec. 7.
graph (c) of subsection four of section seven (Carriage
by Railway
Com-
missioners
and trans-
port trust.)
- 20 (ii) by omitting from subparagraph (ii) of the
same paragraph the words "such license" and
by inserting in lieu thereof the following
words :—
- the license ; or
- 25 (iii) that the protected wild flower or native
plant was picked pursuant to a license
issued under section 5A of this Act for
commercial purposes.

15. The permanent reservation under the National Parks and Wildlife Act, 1967, of all that piece or parcel of land containing 24 acres 2 roods 30 perches situate in the County of Selwyn, Parish of Youngal and being portion 47 shown on plan catalogued S2561-1522 in the Department of Lands is hereby revoked.

National Parks and Wildlife (Amendment).

16. Notwithstanding anything in the Fauna Protection Act, 1948, as amended by paragraph (g) of section nine of this Act, where, but for this section a person would, by the operation of that Act, as so amended, be required to have a license issued under that Act, as so amended, in order law-
5 fully to carry on after the commencement of that paragraph an activity that he was lawfully carrying on before that commencement without such a license, it shall be lawful for him to continue to carry on that activity after that commencement
10 without such a license—

- (a) until the expiration of the period of six months next succeeding that commencement; or
- (b) where he applies within that period of six months for the issue to him of such a license—
 - 15 (i) until such a license is issued to him; or
 - (ii) until he is notified that the issue of such a license has been refused,

whichever last occurs.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[40c]

NATIONAL PARKS AND WILDLIFE (AMENDMENT) BILL, 1971

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to make it an offence for a person to refuse to give his name and address, or to give a false name and address, to an officer or employee of the National Parks and Wildlife Service who reasonably suspects him of offending against the National Parks and Wildlife Act, 1967, or the regulations made thereunder;
- (b) where a gift is made to the Minister for the purposes of the National Parks and Wildlife Act, 1967, to exempt from stamp duty documents relating thereto and, from death duty in respect of the gift, the estate of the donor or testator;
- (c) to authorise the Minister on behalf of Her Majesty to acquire land for future reservation as a national park, state park or historic site;
- (d) to authorise the Minister on behalf of Her Majesty to acquire, take on lease, or occupy under license, land required to improve access to, or required for the purposes of the management, maintenance or improvement of, a national park, state park or historic site;
- (e) to apply to aboriginal areas the same restrictions relating to mining as apply to a national park, state park or historic site;
- (f) to authorise the granting of a lease, within a national park, state park or historic site, of land on which residential buildings have been erected;
- (g) to penalise impersonation and obstruction of the Director or a park ranger or other officer of the National Parks and Wildlife Service;
- (h) to increase the general penalty and other penalties under the National Parks and Wildlife Act, 1967, and the Fauna Protection Act, 1948;
- (i) to authorise the reservation by a proclamation, in lieu of by an Act, of a national park, state park or historic site;
- (j) to authorise disallowance by either House of Parliament of a reservation referred to in paragraph (i) above, to prescribe the procedure for bringing such a reservation to the notice of Parliament and to prescribe the effect of any disallowance;
- (k) to confer on the Director or a park ranger or other officer of the National Parks and Wildlife Service a power to enter, in certain circumstances, premises other than residential premises;
- (l) to enable the seabed within the territorial jurisdiction of the State, and the waters beneath which it is submerged, to be reserved as, or as part of, a national park, state park, historic site or nature reserve;

- (m) to apply, in respect of parking offences in a national park, state park or historic site, provisions similar to those in the Motor Traffic Act, 1909, with respect to owner-onus, infringement notices and ex parte hearings;
- (n) to extend the present restriction on the release within the State of imported fauna to all exotic fauna, whether imported or not;
- (o) to provide for the disposal of perishable fauna seized pursuant to powers conferred by the Fauna Protection Act, 1948;
- (p) to make provision for the return, upon an order of an appropriate court, of property seized pursuant to powers conferred by the Fauna Protection Act, 1948;
- (q) to require any person who has more than nineteen birds, being protected fauna, in his possession, to obtain an aviary registration certificate from the Director;
- (r) to provide for an appeal to the Minister against a refusal to issue an aviary registration certificate;
- (s) to require a person exhibiting fauna to be licensed;
- (t) to extend the operation of the Fauna Protection Act, 1948, to reptiles except in so far as by that extension it would operate to prevent the killing of a snake;
- (u) to disestablish as a district under the Fauna Protection Act, 1948, the land described in the Second Schedule to that Act;
- (v) to excise a small area of land from Kosciusko National Park;
- (w) to authorise the Forestry Commission to issue a license for the removal of a protected wild flower or protected native plant that would, if not removed, be damaged or destroyed in the taking of timber or products under the Forestry Act, 1916;
- (x) to authorise the Director to issue a license for the picking, for commercial purposes, of specified protected wild flowers and native plants;
- (y) to make provisions consequential upon or ancilliary to the foregoing.

PROOF

No. , 1971.

A BILL

To revise the procedure for the reservation of national parks, state parks and historic sites; to make further provisions with respect to the protection and preservation of aboriginal relics, fauna, wild flowers and native plants; to make provisions with respect to the protection and preservation of reptiles; to make provisions with respect to parking offences in national parks and state parks and at historic sites; to increase penalties; for these and other purposes to amend

the

National Parks and Wildlife (Amendment).

the National Parks and Wildlife Act, 1967, the Fauna Protection Act, 1948, and the Wild Flowers and Native Plants Protection Act, 1927; and for purposes connected therewith.

[MR WILLIS *on behalf of* MR LEWIS—19 August, 1971.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "National Parks and Wildlife (Amendment) Act, 1971".

Short title
and com-
mencement.

(2) A provision of this Act (sections one, two and three excepted) commences on the day that is appointed by the Governor and notified by proclamation published in the Gazette as the day on which the provision is to commence.

(3) Sections one, two and three of this Act commence on the day on which this Act receives the Royal assent.

(4) The National Parks and Wildlife Act, 1967, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
35, 1967.

(a) by omitting from the definition of "Historic site" in subsection one of section three the words "for the purposes of this Act";

Sec. 3.
(Defini-
tions.)

(b) by omitting from the definition of "Lands of the Crown" the words "statutory body" and by inserting in lieu thereof the words "public authority";

(c)

National Parks and Wildlife (Amendment).

- (c) by inserting next after the same definition the following new definition :—

5 “Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled upon land wholly or partly by volatile spirit, steam, gas, oil or electricity.

- (d) by omitting from the definition of “National park” the words “for the purposes of this Act”;

- 10 (e) by omitting from the definition of “State park” the words “for the purposes of this Act”;

- (f) by inserting next after the same definition the following new definition :—

 “Vehicle” includes—

- 15 (a) a boat or other object that, while floating on water, is wholly or partly used for the conveyance of persons or things;

- (b) a motor vehicle;

- 20 (c) any apparatus propelled upon land, snow or ice by human or animal power or by the wind;

- (d) a trailer or caravan, whether or not it is in the course of being towed.

3. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

- 25 (a) by inserting next after section six the following new section :—

30 6A. Where the Director or an officer or employee of the National Parks and Wildlife Service or of any Government Department in respect of which an arrangement has been made under subsection two of section five of this Act requires a person whom

Unlawful refusal to state name and place of abode.

National Parks and Wildlife (Amendment).

whom he reasonably suspects of offending against this Act or the regulations to state his full name and his place of abode, that person is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars if he—

(a) fails or refuses to comply with the requirement; or

(b) in purported compliance with the requirement, states a name that is not his name or a place of abode that is not his place of abode.

(b) (i) by omitting from subsection one of section seven the words “under this Act” and by inserting in lieu thereof the words “by this Act and the regulations”; (Power to delegate.)

(ii) by inserting in the same subsection after the figures “1948,” the words “and the regulations made under that Act.”;

(iii) by inserting in the same subsection after the figures “1927” the words “, and the regulations made under that Act”;

(c) by inserting next after subsection four of section eight the following new subsection :— Sec. 8.

(5) Where the Minister acquires property pursuant to subsection one of this section— (Power of Minister to accept gifts, etc.)

(a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and

(b) the property, or the value of property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

(d)

National Parks and Wildlife (Amendment).

- (d) by omitting from paragraph (h) of subsection two of section nine the words "Minister for Education" and by inserting in lieu thereof the words "Minister administering the Australian Museum Act, 1902";
- 5 (e) by inserting next after subsection nine of section eleven the following new subsection :—
- (10) Each member of a local committee shall be entitled to receive such travelling and other expenses as the Minister may determine.
- 10 (f) by inserting next after section nineteen the following new sections :—
- 19A. Where the Minister is of the opinion that it is desirable to acquire any land for reservation as, or as part of, a national park, state park or historic site, he may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, or surrender to, Her Majesty of the land.
- 15 19B. For the purposes of—
- (a) improving access to a national park, state park or historic site;
- 20 (b) the management, maintenance or improvement of a national park, state park or historic site; or
- (c) carrying out works for any of those purposes,
- 25 the Minister may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, surrender to or leasing to, Her Majesty, or for the occupation under license of, any land adjoining or in the vicinity of the national park, state park or historic site.
- 30 (g) (i) by omitting from subsection one of section twenty-four the words "or historic site" and by inserting in lieu thereof the words "historic site or aboriginal area";
- 35

Sec. 9.
(National
Parks and
Wildlife
Advisory
Council.)

Sec. 11.
(Establish-
ment of
local com-
mittees.)

New secs.
19A and
19B.

Acquisition
of land for
national
park, etc.

Acquisition
or occupa-
tion for
certain pur-
poses of
land adjoining or near
national
park, etc.

Sec. 24.
(Restrictions on
mining.)

(ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in paragraph (a) of subsection two of the same section after the figures "1969," the words "and such an authority or lease over an aboriginal area granted after the day on which the National Parks and Wildlife (Amendment) Act, 1971, received the Royal assent";
- 10 (iii) by omitting from paragraph (b) of the same subsection the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
- 15 (iv) by omitting from subsection three of the same section the words "or historic site" where secondly occurring and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (h) (i) by inserting next after subsection two of section twenty-nine the following new subsection : — Sec. 29. (Plan of management.)
- 20 (2A) The plan of management in respect of a national park, state park or historic site may relate to land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.
- 25 (ii) by omitting from paragraph (e) of subsection three of the same section the word "and";
- (iii) by omitting from paragraph (f) of the same section the word "area." and by inserting in lieu thereof the following words : —
- 30 area; and
- (g) the utilisation, for the purposes for which it was acquired or occupied, or is proposed to be acquired or occupied,
- of

National Parks and Wildlife (Amendment).

of land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

5 (iv) by inserting in paragraph (a) of subsection six of the same section after the words "it shall" the words ", subject to paragraph (c) of this subsection,";

10 (v) by omitting from paragraph (b) of the same subsection the word "site." and by inserting in lieu thereof the following words : —
site; and

15 (c) where any land to which the plan of management relates is land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act, operations under the plan shall not be undertaken—

20 (i) on or in relation to land acquired or proposed to be acquired under section 19A of this Act until it has been reserved as, or as part of, the park or site to which the plan relates; or

25 (ii) on or in relation to land proposed to be acquired or occupied under section 19B of this Act until it has been so acquired or occupied.

30 (vi) by inserting in paragraph (b) of subsection seven of the same section after the word "tows" the words "or moorings".

(i)

National Parks and Wildlife (Amendment).

- (i) (i) by omitting from paragraph (c) of subsection Sec. 30.
one of section thirty the word "site." and by (Granting
inserting in lieu thereof the following of leases or
words : — licenses.)
- 5 site ;
- (d) grant leases of land within a national
park, state park or historic site on
which buildings have been erected for
residential occupation.
- 10 (ii) by inserting next after the same subsection the
following new subsection : —
- (1A) The Minister may, for any purpose
specified in paragraph (a), (b) or (c) of
section 19B of this Act, grant a lease of, or a
15 license with respect to, land acquired or
occupied under that section.
- (j) (i) by omitting from subparagraph (vi) of para- Sec. 35.
graph (b) of subsection one of section thirty- (Payments
five the word "and"; into the
Fund.)
- 20 (ii) by omitting from subparagraph (vii) of the
same paragraph the word "impounding;" and
by inserting in lieu thereof the following
words : —
- impounding; and
- 25 (viii) leases and licenses granted under sub-
section (1A) of section thirty of this
Act;
- (k) (i) by omitting from paragraph (g) of subsection Sec. 36.
two of section thirty-six the word "and"; (Payments
out of
the Fund.)
- 30 (ii) by omitting from paragraph (h) of the same
subsection the word "relic." and by inserting in
lieu thereof the following words : —
- relic;
- 35 (i) the cost of entering into, and giving
effect to, agreements under sections
19A and 19B of this Act;
- (j)

National Parks and Wildlife (Amendment).

- (j) the cost of carrying out the purposes for which land is acquired or occupied under section 19B of this Act.
- (l) by inserting in section forty-one after the word "Act" where firstly, thirdly and fourthly occurring the words "and liable to a penalty not exceeding two hundred dollars"; (Driver to give his name and address when required.)
- (m) by omitting from subsection one of section forty-two the words "has been" and by inserting in lieu thereof the words "is unattended and believed by him on reasonable grounds to have been"; (Seizure of motor vehicles.)
- (n) by inserting next after section forty-two the following new section :— New sec. 42A.
- 42A. (1) A person who impersonates the Director, or a park ranger or other officer of the National Parks and Wildlife Service, is guilty of an offence against this Act. Impersonating, assaulting, resisting or obstructing an officer, etc.
- (2) Where a person—
- (a) assaults, resists or obstructs; or
- (b) incites or encourages any other person to assault, resist or obstruct,
- the Director, or a park ranger or other officer of the National Parks and Wildlife Service, in the execution of his duty or authority under this Act, that person is guilty of an offence against this Act.
- (o) by omitting from subsection three of section forty-four the words "one hundred dollars for every such offence" and by inserting in lieu thereof the words "two hundred dollars for the first offence, five hundred dollars for the second offence and one thousand dollars for the third or subsequent offence"; (Penalties.)

(p)

National Parks and Wildlife (Amendment).

- (p) (i) by inserting next after paragraph (k2) of sub-
section two of section forty-nine the following (Regula-
new paragraph :— tions.)

5 (k3) the regulation, control or prohibition of
the use of any relic for commercial
purposes in any national park, state
park, historic site, nature reserve or
aboriginal area ;

10 (ii) by omitting from paragraph (1) of the same
subsection the words "and receiving" and by
inserting in lieu thereof the words ", receiving
and waiving";

15 (iii) by omitting from paragraph (a) of subsection
three of the same section the word "one"
and by inserting in lieu thereof the word
"two".

4. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

20 (a) (i) by omitting from subsection four of section
fifteen the words "the lands described in the
Second and Third Schedules to this Act" and
by inserting in lieu thereof the words "lands
reserved by or under this Act as national park,
state park or historic site";

Sec. 15.
(Reservation
of certain
national
parks, state
parks and
historic
sites.)

25 (ii) by omitting from the same subsection the
words "by this Act";

30 (iii) by omitting from subsection five of the same
section the words "the lands described in the
Second and Third Schedules to this Act" and
by inserting in lieu thereof the words "lands
reserved by or under this Act as national park,
state park or historic site";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in subsection six of the same section after the word "by" where firstly and secondly occurring the words "or under";
- 5 (b) by omitting section twenty and by inserting in lieu thereof the following section : — Subst. sec. 20.
20. (1) In this section—
- "prescribed lands" means lands, not held under lease or license or otherwise lawfully occupied, that are—
- 10 (a) Crown lands; or
- (b) lands of the Crown in respect of which the person in whom they are vested has consented to a reservation under this section;
- 15 "prescribed time" in relation to a House of Parliament means fourteen sitting days of that House, whether or not they occur during the same session.
- (2) The Governor may, by proclamation published in the Gazette—
- 20 (a) reserve, as a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation; or
- 25 (b) reserve, as part of a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation that—
- 30 (i) adjoin, or are adjacent to, that national park, state park or historic site; and
- (ii) are not vested in or under the care, control and management of, trustees.
- (3)

Reservation of certain lands as national park, state park or historic site.

National Parks and Wildlife (Amendment).

(3) Upon the publication of a proclamation under subsection two of this section—

- 5 (a) the lands reserved by the proclamation become Crown lands except in so far as they were Crown lands immediately before that publication;
- 10 (b) any person who, immediately before that publication, held office as trustee, or as a member of the body corporate that was trustee, of the lands so reserved shall cease to hold that office; and
- (c) the care, control and management of the lands so reserved vest in the Director.

15 (4) To the extent to which a dedication, reservation, Crown grant or vesting affects land to which a proclamation published under subsection two of this section relates, the publication revokes the dedication, reservation, grant or vesting.

20 (5) A copy of a proclamation under subsection two of this section shall be laid before each House of Parliament within the prescribed time after publication thereof.

25 (6) Subject to this section, where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a proclamation has been laid before it pursuant to subsection five of this section (whether or not those sitting days occur during the same session) and the resolution disallows the reservation effected by the proclamation or any part thereof—

30

- 35 (a) the reservation ceases, to the extent of the disallowance but without affecting the operation of subsection three or four of this section, to have effect; and
- (b) to the extent to which the reservation ceases to affect it, but without affecting the operation of subsection three or four of this section,

National Parks and Wildlife (Amendment).

section, the land referred to in the proclamation ceases to be, or to be part of, a national park, state park or historic site.

- 5 (c) (i) by omitting from subsection one of section twenty-six the words "Where the Minister has published a notification under section nineteen of this Act vesting the care, control and management of any national park, state park or historic site in the Director" and by inserting in lieu thereof the words "Where by the operation of section nineteen or twenty of this Act any persons cease to hold office as trustees of, or as members of a body corporate that is trustee of, lands reserved as a national park, state park or historic site";
- 10
- 15 (ii) by inserting in paragraph (a) of subsection two of the same section after the word "notification" the words "or proclamation by virtue of which that care, control and management are so vested,";
- 20
- (d) by inserting in subsection three of section thirty-one after the words "reserved by" the words "or under".

5. The Principal Act is further amended by inserting next after section 33L the following new section :—

Further amendment of Act No. 35, 1967.
New sec. 33M.

30 33M. (1) Upon production of the prescribed evidence of his authority so to do, the Director or a park ranger or other officer of the National Parks and Wildlife Service may, subject to subsection two of this section, enter and search any land or premises if he has reason to suspect—

- (a) that a breach of this Act or the regulations has been committed in respect of a relic; and

(b)

National Parks and Wildlife (Amendment).

(b) that the relic is in or upon that land or those premises.

5 (2) The powers conferred by subsection one of this section do not authorise a person to enter or search in or upon any part of premises that is used for residential purposes.

6. The Principal Act is further amended—

Further amendment of Act No. 35, 1967.

10 (a) (i) by omitting from subsection one of section three the definition of "Crown lands" and by inserting in lieu thereof the following definition :—

"Crown lands" means—

15 (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

20 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii)

National Parks and Wildlife (Amendment).

- (ii) by inserting at the end of the same section the following new subsection :—

(3) Nothing in this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of this section.

5

- (b) by inserting next after section twenty the following new section :—

10

20A. Notwithstanding section twenty of this Act, Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act shall not be reserved as, or as part of, a national park, state park or historic site without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

15

- (c) (i) by omitting from subsection three of section twenty-two the figures and word "1906, or" and by inserting in lieu thereof the figures and words "1906, the Fisheries and Oyster Farms Act, 1935,";

20

- (ii) by inserting in the same subsection after the figures "1955" the words ", or any permit or licence under the Petroleum (Submerged Lands) Act, 1967";

25

- (d) by inserting at the end of section twenty-three the following new subsection :—

30

(3) After the commencement of section six of the National Parks and Wildlife (Amendment) Act, 1971, a lease, license or permit under the Fisheries and Oyster Farms Act, 1935, shall not,

without

New sec.
20A.

Land
submerged
by certain
waters.

Sec. 22.
(Existing
authority,
permit,
lease,
license or
occupancy.)

Sec. 23.
(Restriction
on disposal
or dealing
with lands.)

National Parks and Wildlife (Amendment).

without the concurrence of the Minister in writing, be granted with respect to land within a national park, state park or historic site or with respect to any waters beneath which that land is submerged.

- 5 (e) by inserting next after subsection four of section twenty-nine the following new subsections : —

Sec. 29.
(Plan of management.)

10 (4A) Where land submerged by water is land that is reserved as, or as part of, a national park, state park or historic site the Director shall, before submitting to the Minister for adoption by him the plan of management for the national park, state park or historic site, refer it to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (4B) A plan of management referred to in subsection (4A) of this section—

20 (a) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of section three of this Act until he has considered any representations made with respect to the plan of management by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

30 (b) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(f)

National Parks and Wildlife (Amendment).

- (f) (i) by omitting from subsection two of section thirty the word "Any" and by inserting in lieu thereof the words "Subject to subsection three of this section, any"; Sec. 30.
(Granting
of leases
and
licenses.)
- 5 (ii) by inserting next after the same subsection the following new subsection :—
- (3) Where any term or condition of a lease or license granted under this section pur-
10 ports to affect land within a national park, state park or historic site that is land sub-merged by water and the term or condition is inconsistent with a plan of management in
15 force for the national park, state park or his-toric site, the term or condition shall, to the extent of the inconsistency, have no force or effect.
- (g) (i) by omitting from paragraph (v) of subsection two of section forty-nine the words "signs or other structures" and by inserting in lieu there-
20 of the words "marinas, structures, signs or other improvements"; Sec. 49.
(Regu-
lations.)
- (ii) by inserting in paragraph (w) of the same subsection after the word "buildings," the word "marinas,";
- 25 (iii) by omitting from subsection five of the same section the words "the word 'animal' does" and by inserting in lieu thereof the words "the words 'animal' and 'fauna' do".

National Parks and Wildlife (Amendment).

7. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

- (a) by inserting next after section forty-one the following new sections :—

New secs.
41A-41C.

5 41A. (1) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

Liability of
vehicle
owner for
parking
offences.

15 (a) in any case where the parking offence is dealt with under section 41B of this Act, the owner satisfies the prescribed person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used; or

20 (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

25 (2) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3)

National Parks and Wildlife (Amendment).

(3) Notwithstanding anything in subsection one or two of this section, no owner of a vehicle is, by virtue of this section, guilty of an offence if—

5 (a) in any case where the offence is dealt with under section 41B of this Act, he—

10 (i) within twenty-one days after service on him of a notice under that section alleging that he has been guilty of that offence, supplies by statutory declaration to the prescribed person referred to in that section the name and address of the person who was in charge of the vehicle at all
15 relevant times relating to the parking offence concerned; or

20 (ii) satisfies the prescribed officer so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

(b) in any other case, he—

25 (i) within twenty-one days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

National Parks and Wildlife (Amendment).

- (ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

5 (4) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection three of this section.

10 (5) Where a statutory declaration supplying the name and address of a person for the purposes of subsection three of this section is produced in any proceedings against that person in respect of the parking offence to which the statutory
15 declaration relates, the statutory declaration is prima facie evidence that that person was, at all relevant times relating to that parking offence, in charge of the vehicle to which the parking offence relates.

20 (6) In this section and in section 41B of this Act—

“owner” in relation to a vehicle includes—

25 (a) a person who is the owner or joint owner or part owner of the vehicle and any person, other than the lessor under a hire-purchase agreement relating to the vehicle, who has the use of the vehicle under such an agreement; and

(b)

National Parks and Wildlife (Amendment).

(b) in the case of a vehicle that is a motor vehicle—

(i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or

(ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who, in contravention of the regulations made under this Act—

(a) moors or parks a vehicle; or

(b) causes or permits a vehicle to be moored or parked or to stand or wait.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this or any other Act.

41B. (1) Where it appears to a prescribed person that another person is, by virtue of section 41A of this Act, guilty of an offence, the prescribed person may serve a notice on that other person to

Penalty
notice for
certain
offences.

the

National Parks and Wildlife (Amendment).

the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to a person so specified the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection one of this section—

(a) may be served as provided by section forty-eight of this Act; or

(b) may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.

(3) A person alleged to have committed an offence referred to in subsection one of this section shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection one of this section (or within such further time as, in his case, may have been allowed) to pay the penalty so specified he shall be deemed to have declined to be dealt with under this section.

(4) Where the penalty for an offence dealt with under this section is paid pursuant to this section in respect of an alleged offence—

(a) no person may be proceeded against for the alleged offence; and

(b) the payment shall not be construed as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(5)

National Parks and Wildlife (Amendment).

5 (5) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

10 (6) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or a provision of any other Act in relation to proceedings that may be taken in respect of offences.

41c. (1) Where—

15 (a) an information for an offence referred to in subsection one of section 41B of this Act has been laid under Division 2 of Part IV of the Justices Act, 1902;

20 (b) a summons for the appearance of the defendant to answer the information has been served on him in any manner provided by law for the service of such a summons on that defendant in relation to that offence; and

(c) the defendant does not appear at the time and place fixed for the hearing of the information,

25 the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, for the payment by the defendant of costs.

Ex parte
procedure
for offences
referred to
in section
41B.

(2)

National Parks and Wildlife (Amendment).

5 (2) The provisions of section 556A of the Crimes Act, 1900, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

10 (3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty for a breach of the regulation creating the offence in respect of which the penalty is so imposed.

15 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties imposed upon, or previous convictions of, the defendant under this Act and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

20 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, be deemed to be an order under that Act.

25 (6) Section seventy-five of the Justices Act, 1902, does not apply in any case where an information is dealt with under subsection one of this section.

30 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information includes, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, a reference to the time and place specified in the notice.

(8)

National Parks and Wildlife (Amendment).

(8) Section fifteen of the Justices Act, 1902, shall be construed as if this section formed part of that Act.

5 (9) The jurisdiction of a court under this section shall be exercised only by a stipendiary magistrate.

10 (10) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or any other Act in relation to proceedings that may be taken in respect of offences.

15 (b) by omitting from subsection one of section forty- four the words "Any penalty" and by inserting in lieu thereof the words "Subject to subsection nine of section 41C of this Act, any penalty".

8. The Fauna Protection Act, 1948, is amended—

Amendment
of Act No.
47, 1948.

20 (a) (i) by omitting from subsection one of section nine the words "In this subsection 'Crown lands' has the meaning ascribed to that expression in section five of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts." and by inserting in lieu thereof the following words :—

In this subsection "Crown lands" means—

25 (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

(b)

National Parks and Wildlife (Amendment).

5 (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

10 (ii) by omitting from subsection two of the same section the words "section except with the concurrence of the Secretary for Lands." and by inserting in lieu thereof the following words :—

section—

15 (a) unless, in the case of Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section, the Minister administering the Crown Lands Consolidation Act, 20 1913, concurs; or

25 (b) unless, in the case of Crown lands within the meaning of paragraph (b) of that definition, the Minister administering the Fisheries and Oyster Farms Act, 1935, concurs.

30 (iii) by omitting from paragraph (b) of subsection five of the same section the words "object of the scheme shall be" and by inserting in lieu thereof the words "objects of the scheme shall include";

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in paragraph (f) of the same subsection after the word "buildings" the word
", marinas";

5 (v) by inserting next after subsection five of the same section the following new subsections :—

10 (5A) Where land submerged by water is land that is dedicated as, or as part of, a nature reserve, the Director shall, before submitting to the Minister for his approval under subsection five of this section a scheme for the nature reserve, refer the scheme to the Minister administering the Fisheries and Oyster Farms Act, 1935.

15 (5B) A scheme referred to in subsection (5A) of this section—

20 (a) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section until he has considered any representations made with respect to the scheme by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

30 (b) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of this section without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(b)

National Parks and Wildlife (Amendment).

(b) by inserting next after section nine the following new section :—

New sec.
9A.

5 9A. Nothing in section nine of this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of that section.

Navigation
of certain
waters not
affected.

9. The Fauna Protection Act, 1948, is further amended—

Further
amendment
of Act No.
47, 1948.

(a) (i) by inserting in section four next after the definition of "Regulations" the following new definition :—

Sec. 4.
(Definitions.)

"Sell" includes—

- 15 (a) auction, barter, exchange or supply;
- (b) offer, expose, supply or receive for sale;
- 20 (c) send, forward or deliver for sale or on sale;
- (d) dispose of under a hire-purchase agreement;
- 25 (e) cause, permit or suffer the doing of an act referred to in paragraph (a), (b), (c) or (d) of this definition;
- (f) offer or attempt to do an act so referred to;
- 30 (g) cause, permit or suffer to be sold;

(h)

National Parks and Wildlife (Amendment).

- (h) attempt to sell or offer to sell;
 (i) have in possession for sale,
 and "sale" has a corresponding
 meaning.
- 5 (ii) by omitting from the same section the defini-
 tion of "Take or kill" and by inserting in lieu
 thereof the following definition :—
- 10 "Take or kill" in relation to any fauna
 includes hunt, shoot, poison, net,
 snare, spear, pursue, capture, disturb
 or injure.
- (b) by omitting from subsection one of section eleven Sec. 11.
 the words "or timber" and by inserting in lieu (Restrictions
 thereof the words ", timber or vegetation"; as to
 timber.)
- 15 (c) by omitting from subsection one of section twelve Sec. 12.
 the words "an officer or employee" and by inserting (Prohibition
 in lieu thereof the words "a person"; on taking
 or killing
 fauna within
 nature
 reserves.)
- (d) by inserting at the end of section eighteen the Sec. 18.
 following new subsection :— (Open
 seasons.)
- 20 (3) A person shall not be convicted of an
 offence against subsection two of this section if he
 proves that the act constituting the offence was done
 under and in accordance with the authority
 conferred by a license.
- 25 (e) (i) by omitting from subsection one of section Sec. 19.
 nineteen the word "ten" and by inserting in (Penalty for
 lieu thereof the words "one hundred"; having
 protected
 fauna in
 possession.)
- (ii)

National Parks and Wildlife (Amendment).

- 5 (ii) by inserting in the same subsection after the word "committed" the words "with a maximum total penalty under this subsection in respect of any one offence of one thousand dollars";
- (iii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—
- 10 (a) that the act constituting the offence was done, or that the state of affairs constituting the offence existed, under and in accordance with—
- 15 (i) the provisions of this Act relating to open seasons; or
- (ii) the authority conferred by a license; or;
- (f) (i) by omitting subsection one of section twenty-two; Sec. 22.
(Fauna within districts.)
- 20 (ii) by inserting in subsection four of the same section after the word "periods" the words "and may in like manner vary, amend or revoke any such proclamation";
- (g) (i) by inserting in section twenty-six after the word "investigation" the words "or for the purposes of exhibition"; Sec. 26.
(Collections for Museums, etc.)
- 25 (ii) by inserting at the end of the same section the following new subsection :—
- 30 (2) A person who exhibits any protected fauna is guilty of an offence against this Act unless he does so under and in accordance with the authority conferred by a license issued under this section.

(h)

National Parks and Wildlife (Amendment).

- (h) (i) by inserting in paragraph (a) of subsection one of section twenty-seven after the word "fauna" where secondly occurring the words " , or under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- 5
- (ii) by inserting in paragraph (b) of the same subsection after the word "section" the words " , or a license under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- 10
- (i) by omitting section thirty-three and by inserting in lieu thereof the following section :—
- 15
33. A person who, in New South Wales, liberates fauna not indigenous to New South Wales is guilty of an offence against this Act unless he does so in accordance with a permit granted by the Minister.
- 20
- (j) (i) by inserting in paragraph (a) of subsection one of section thirty-four after the word "committed" where secondly occurring the words " , or any firearm, net, trap or other instrument used in connection with the breach";
- 25
- (ii) by omitting from the same paragraph the words "or poison found therein" and by inserting in lieu thereof the words " , poison, firearm, net, trap or other instrument found therein or thereon together with any books, papers or records relating to the suspected breach and make copies of, or take extracts from, any such papers, books or records";
- 30
- (k) by inserting next after the same section the following new section :—
- 35
- 34A. (1) Where any property seized under paragraph (a) of subsection one of section thirty-four of this Act is fauna or is perishable, it may forthwith

Sec. 27.
(Persons taking or killing fauna for sale.)

Sec. 33.
(Imported fauna.)

Restriction on liberation in New South Wales of exotic fauna.

Sec. 34.
(Powers of entry and seizure by Director, rangers, officers, etc.)

New sec. 34A.

Disposal of seized fauna and perishable goods.

National Parks and Wildlife (Amendment).

forthwith be disposed of, by way of sale or otherwise, by the Director, an officer or employee of the National Parks and Wildlife Service authorised by the Director to dispose of it, a ranger or a collector.

5 (2) The proceeds of any sale pursuant to subsection one of this section shall be paid into the National Parks and Wildlife Fund.

10 (3) The payment to a person from the National Parks and Wildlife Fund of an amount equal to the proceeds of the sale of any property under this section operates as a discharge of any obligation to deliver that property to that person and such a payment in discharge of any such obligation imposed by an order of the court
15 prescribed in relation to the property under section forty of this Act is hereby authorised.

(1) by omitting section forty and by inserting in lieu thereof the following section :— Subst. sec. 40.

40. (1) Subject to this section, where—

20 (a) a person is convicted of an offence under this Act or the regulations;

(b) property relating to the offence, or in the possession of the offender at the time of the commission of the offence, has been seized
25 under section thirty-four of this Act; and

(c) any person applies to the court prescribed in relation to the property for an order that the property be delivered to a specified person,

30 that court may, whether or not it is the court making the conviction, make such an order.

Disposal of property seized.

(2)

National Parks and Wildlife (Amendment).

(2) Subject to this section, where—

(a) property has been seized under section thirty-four of this Act; and

(b) an information for an offence (being an offence on or after a conviction for which an order could be made under subsection one of this section in respect of the property) has not been laid within six months after the seizure of the property,

the court prescribed in relation to the property may, on the application of any person, order that the property be delivered to a specified person.

(3) An application for an order under subsection one of this section may be made at the time of the conviction referred to in that subsection if the court making the conviction is the prescribed court in relation to the property to which the application relates.

(4) An application for an order under subsection one or two of this section may not be made—

(a) in the case of an application for an order under subsection one of this section—later than one month after the conviction referred to in that subsection; or

(b) in the case of an application for an order under subsection two of this section—later than three months after the expiration of the period of six months referred to in that subsection.

(5) Where property has been seized under section thirty-four of this Act and—

(a) no application for an order under subsection one or two of this section has been duly made; or

(b)

National Parks and Wildlife (Amendment).

5 (b) such an application has been duly made
and such an order has been refused,
the property the subject of the application and,
where the property has been sold under section 34A
of this Act, the proceeds of the sale, shall be
deemed to have been forfeited.

(6) For the purposes of this section—

10 (a) the value of any property sold under section
34A of this Act is an amount equal to the
amount of the net proceeds of sale;

(b) the court prescribed in relation to any
property is—

15 (i) where the value of the property does
not exceed five hundred dollars—
the court of petty sessions for the
district in which the property was
seized;

20 (ii) where the value of the property
exceeds five hundred dollars but
does not exceed six thousand dollars
—the district court for the district
in which the property was seized;
and

25 (iii) where the value of the property
exceeds six thousand dollars—the
Supreme Court of New South
Wales.

30 (m) by omitting from subsection three of section forty-
three the words “, and may provide that any pro-
tected fauna in relation to which an offence against
the regulations has been committed shall be liable
to forfeiture and disposed of in such manner as the
court may direct”;

Sec. 43.
(Regula-
tions.)

(n) by omitting the Second Schedule.

Second
Schedule.

National Parks and Wildlife (Amendment).

10. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- 5 (a) by omitting from subsection two of section twelve the words “a penalty not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;

Sec. 12.
(Prohibition on taking or killing fauna within nature reserves.)
- 15 (b) by omitting from subsection two of section sixteen the words “shall for every such offence be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;

Sec. 16.
(Closed season for scheduled fauna.)
- 20 (c) by omitting from subsection two of section eighteen the words “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”;

Sec. 18.
(Open seasons.)
- 25 (d) by omitting from subsection three of section twenty the words “a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”;

Sec. 20.
(Rare fauna.)
- 30 (e) by omitting from subsection five of section twenty-two the words “and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “against this Act”;

Sec. 22.
(Fauna within districts.)

(f)

National Parks and Wildlife (Amendment).

- (f) by omitting from section twenty-three the words Sec. 23.
 “and be liable to a penalty not exceeding one (Penalty for
 hundred dollars” and by inserting in lieu thereof trespass.)
 the words “against this Act”;
- 5 (g) (i) by omitting from subsection eight of section Sec. 23A.
 23A the words “and be liable to a penalty not (Wildlife
 exceeding two hundred dollars” and by refuges and
 inserting in lieu thereof the words “against this game
 Act”; reserves.)
- 10 (ii) by omitting from subsection nine of the same
 section the words “and be liable to a penalty
 not exceeding two hundred dollars” and by
 inserting in lieu thereof the words “against
 this Act”;
- 15 (h) (i) by omitting from subsection one of section Sec. 32.
 thirty-two the word “forty” and by inserting (Restriction
 in lieu thereof the words “two hundred”; on method
 of shooting
 fauna.)
- (ii) by omitting from subsection two of the same
 section the word “forty” and by inserting in
 20 lieu thereof the words “two hundred”;
- (i) by omitting from subsection two of section thirty- Sec. 35.
 five the words “against this Act” and by inserting (Further
 in lieu thereof the words “and be liable to a penalty powers of
 not exceeding two hundred dollars”; Director,
 rangers,
 etc.)
- 25 (j) by omitting from section thirty-six the word Sec. 36.
 “twenty” and by inserting in lieu thereof the words (Assaulting
 “two hundred”; or resisting
 officers, etc.)
- (k) by omitting from subsection three of section thirty- Sec. 37.
 seven the word “one” and by inserting in lieu thereof (Use of
 30 the word “four”; poison.)

National Parks and Wildlife (Amendment).

- (1) by omitting from subsection one of section thirty-eight the word "forty" and by inserting in lieu thereof the words "four hundred"; Sec. 38.
(Use of
bird-lime
etc. pro-
hibited.)
- 5 (m) by omitting section forty-one and by inserting in lieu thereof the following section :— Subst.
sec. 41.
41. (1) A person who—
- (a) does that which by this Act he is forbidden to do;
- (b) fails or neglects to do that which by this Act he is required or directed to do,
- 10 is guilty of an offence against this Act.
- (2) A person guilty of an offence against this Act, whether pursuant to subsection one of this section or otherwise is, where no other penalty is prescribed, liable to a penalty not exceeding—
- 15 (a) in the case of the first offence for which he is liable to a penalty under this section—two hundred dollars;
- (b) in the case of a second offence for which he is liable to a penalty under this section—five hundred dollars; and
- 20 (c) in the case of a third or subsequent offence for which he is liable to a penalty under this section—one thousand dollars.
- 25 (n) by omitting from subsection three of section forty-three the word "forty" and by inserting in lieu thereof the words "two hundred". Sec. 43.
(Regula-
tions.)

National Parks and Wildlife (Amendment).

11. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

(a) by omitting section twenty-five and by inserting in lieu thereof the following section :—

Subst. sec. 25.

5 25. (1) Subject to this section, the Minister may, by license specifying such conditions as the Minister thinks proper, authorise an owner or occupier of specified land—

Destructive fauna.

(a) to take or kill; or

10 (b) to permit a licensee under paragraph (a) of subsection one of section twenty-seven of this Act to take or kill,

15 a specified number of specified fauna found on that land and may, by the license, authorise the disposal, whether for sale or otherwise, of any fauna taken or killed under that authority.

(2) A license under subsection one of this section shall not be issued unless—

20 (a) the Minister is satisfied that the species of fauna specified in the license are destroying or injuring, or likely to destroy or injure, the property of the applicant for the license; and

25 (b) the licensee has been supplied by the National Parks and Wildlife Service with labels, tags, slips or other objects sufficient in number to affix or attach, in compliance with any condition of the license, to the skin or carcase of fauna taken or killed by the

30 authority of the license.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting at the end of section twenty-eight the following new subsection :—
- Sec. 28.
(Royalty to be paid.)

5 (2) Notwithstanding subsection one of this section, royalty referred to therein shall not be payable in respect of a skin or carcase to which there has been affixed or attached in compliance with a condition of a license under this Act a label, tag, slip or other object for which a charge or fee has been paid pursuant to regulations made under paragraph 10 (n) of subsection two of section forty-three of this Act.

- 15 (c) (i) by omitting from paragraph (m) of subsection two of section forty-three the word "reserve." and by inserting in lieu thereof the word "reserve;";
- Sec. 43.
(Regulations.)

- (ii) by inserting next after the same paragraph the following new paragraph :—

20 (n) for the making of a charge for supplying a label, tag, slip or object for affixing or attaching to the skin or carcase of any fauna in compliance with any condition of a license under this Act.

12. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- 25 (a) by omitting from section twenty-one the word "Nothing" and by inserting in lieu thereof the words "Subject to section 27A of this Act, nothing";
- Sec. 21.
(Protected fauna kept in domesticated state exempted from this Act.)

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting next after section twenty-seven the following new section :—

New sec.
27A.

27A. (1) A person who has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless—

Registration
of aviaries.

(a) an aviary registration certificate is in force with respect to that structure, building, store, shop or other premises; or

(b) that person is a fauna dealer or skin dealer licensed under section twenty-seven of this Act and the structure, building, store or shop is, or the other premises are, registered under subsection four of that section.

(2) The Director may, on application being made for the purpose, issue an aviary registration certificate in respect of specified premises and may subject to subsection five of this section, cancel such a certificate for any good cause upon the expiration of fourteen days after serving notice that he proposes so to do.

(3) It is a sufficient service of notice of a proposal to cancel an aviary registration certificate if the notice is left with some person apparently of or above the age of sixteen years at the address at which is situated the structure, building, store, shop or other premises to which the certificate relates.

(4) Where an application for an aviary registration certificate under this section is refused—

(a) the applicant for the certificate may, within fourteen days after he is notified of the refusal, appeal to the Minister against the refusal; and

(b)

National Parks and Wildlife (Amendment).

(b) the refusal shall not take effect—

- 5 (i) where an appeal against the refusal is not lodged before the expiration of the period allowed for lodging such an appeal—until the expiration of that period; or
- 10 (ii) where such an appeal is lodged before the expiration of that period—unless the Minister dismisses the appeal.

15 (5) Where notice of a proposal to cancel an aviary registration certificate under this section has been served, a person who, in the absence of the certificate, would be guilty of an offence under subsection one of this section may, before the expiration of fourteen days after service of the notice, appeal to the Minister against the proposal and, where such an appeal is lodged, the Director shall not proceed with the proposal—

- 20 (a) if the appeal is upheld; or
- (b) where the appeal is dismissed, until the expiration of fourteen days after dismissal of the appeal.

25 (6) The decision of the Minister on an appeal under this section is final.

30 (7) Where a person would, but for this subsection, be affected by subsection one of this section, he shall not, where he applies for an aviary registration certificate before the expiration of the prescribed period, be so affected—

- (a) until he is issued with such a certificate; or
- (b) where his application is refused—until the refusal takes effect.

(8)

National Parks and Wildlife (Amendment).

(8) In this section "prescribed period" in relation to a person means—

- 5 (a) the period of six months next succeeding the commencement of section twelve of the National Parks and Wildlife (Amendment) Act, 1971;
- 10 (b) where the Minister, by order published in the Gazette before the expiration of the period of six months referred to in paragraph (a) of this subsection, specifies for the purposes of this subsection a period that expires after the expiration of the period of six months—the period so specified; or
- 15 (c) the period of one month next succeeding the day on which that person first becomes aware that he has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises,
- 20 whichever period last expires.
- (c) (i) by inserting in paragraph (b) of subsection Sec. 43. two of section forty-three after the word "licenses" the words "or registration certificates";
- 25 (ii) by inserting in subsection four of the same section after the word "licenses" where firstly occurring the words "or registration certificates";
- 30 (iii) by omitting from the same subsection the words "and localities" and by inserting in lieu thereof the words ", registration certificates, localities";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in the same subsection after the word "licenses" where thirdly occurring the words ", registration certificates";
- 5 (v) by inserting in the same subsection after the word "licenses" where fourthly and fifthly occurring the words "or registration certificates".

13. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- 10 (a) (i) by inserting in the definition of "Fauna" in Sec. 4. section four after the word "bird" the words (Definitions.) "or reptile";

- (ii) by inserting in the same section after the definition of "Regulations" the following new definition :—

15 "Reptile" means snake, lizard, crocodile, tortoise, turtle or other member of the class *reptilia* (whether native, introduced or imported) and the eggs and

20 young thereof and the skin and any other part thereof.

- (b) by inserting next after section eighteen the following new section :— New sec. 18A.

25 18A. Nothing in this Act renders a person liable to prosecution for— Killing of snakes not punishable.

- (a) killing, or attempting to kill, a snake; or
- (b) hunting, pursuing, disturbing or injuring a snake for the purpose of killing it without delay.

(c)

National Parks and Wildlife (Amendment).

- (c) by inserting in paragraph (b) of subsection two of section nineteen after the word "Act" the words "or, in the case of a reptile, of section thirteen of the National Parks and Wildlife (Amendment) Act, 1971".
- Sec. 19.
(Penalty for having protected fauna in possession.)

14. The Wild Flowers and Native Plants Protection Act, 1927, is amended—

Amendment of Act No. 2, 1927.

- (a) (i) by omitting from subsection four of section three the words "the same" and by inserting in lieu thereof the words "that Act, but subject to subsection five of this section";
- Sec. 3.
(Notification of protection.)

- (ii) by inserting next after the same subsection the following new subsection :—

(5) Where—

- (a) the applicant for, or holder of, a license referred to in subsection four of this section is authorised by a license under section 5A of this Act to pick a wild flower or native plant of a species, and in the locality, to which his application or license under the Forestry Act, 1916, relates; and

- (b) in the opinion of the Forestry Commission, the wild flower or native plant, if not removed, would be damaged or destroyed in the taking of timber or products under, or in the carrying on of any activity authorised by, the Forestry Act, 1916,

- subsection four of this section does not operate to prevent the Forestry Commission from issuing a license authorising removal of the

wild

National Parks and Wildlife (Amendment).

- 5 wild flower or native plant or from reinstating,
to the extent necessary to authorise removal
of the wild flower or native plant, a license
that has, pursuant to that subsection, ceased
to be operative.
- (b) by omitting from paragraph (b) of subsection two Sec. 5.
of section five the words "such license." and by (Selling
inserting in lieu thereof the following words :— forbidden.)
- 10 the license; or
- (c) any protected wild flower or protected native
plant that has been picked for commercial
purposes in pursuance of a license issued
under section 5A of this Act.
- 15 (c) by inserting in section 5A next after the word Sec. 5A.
"scientific" the words "or commercial"; (Licenses
to pick for
certain
purposes.)
- (d) (i) by omitting from subparagraph (i) of para- Sec. 7.
graph (c) of subsection four of section seven (Carriage
by Railway
Com-
missioners
and trans-
port trust.)
- 20 (ii) by omitting from subparagraph (ii) of the
same paragraph the words "such license" and
by inserting in lieu thereof the following
words :—
- the license; or
- 25 (iii) that the protected wild flower or native
plant was picked pursuant to a license
issued under section 5A of this Act for
commercial purposes.
15. The permanent reservation under the National Parks and Wildlife Act, 1967, of all that piece or parcel of land
30 containing 24 acres 2 roods 30 perches situate in the County of Selwyn, Parish of Youngal and being portion 47 shown on
plan catalogued S2561-1522 in the Department of Lands is
hereby revoked. Revocation
of
permanent
reservation
of certain
land.

National Parks and Wildlife (Amendment).

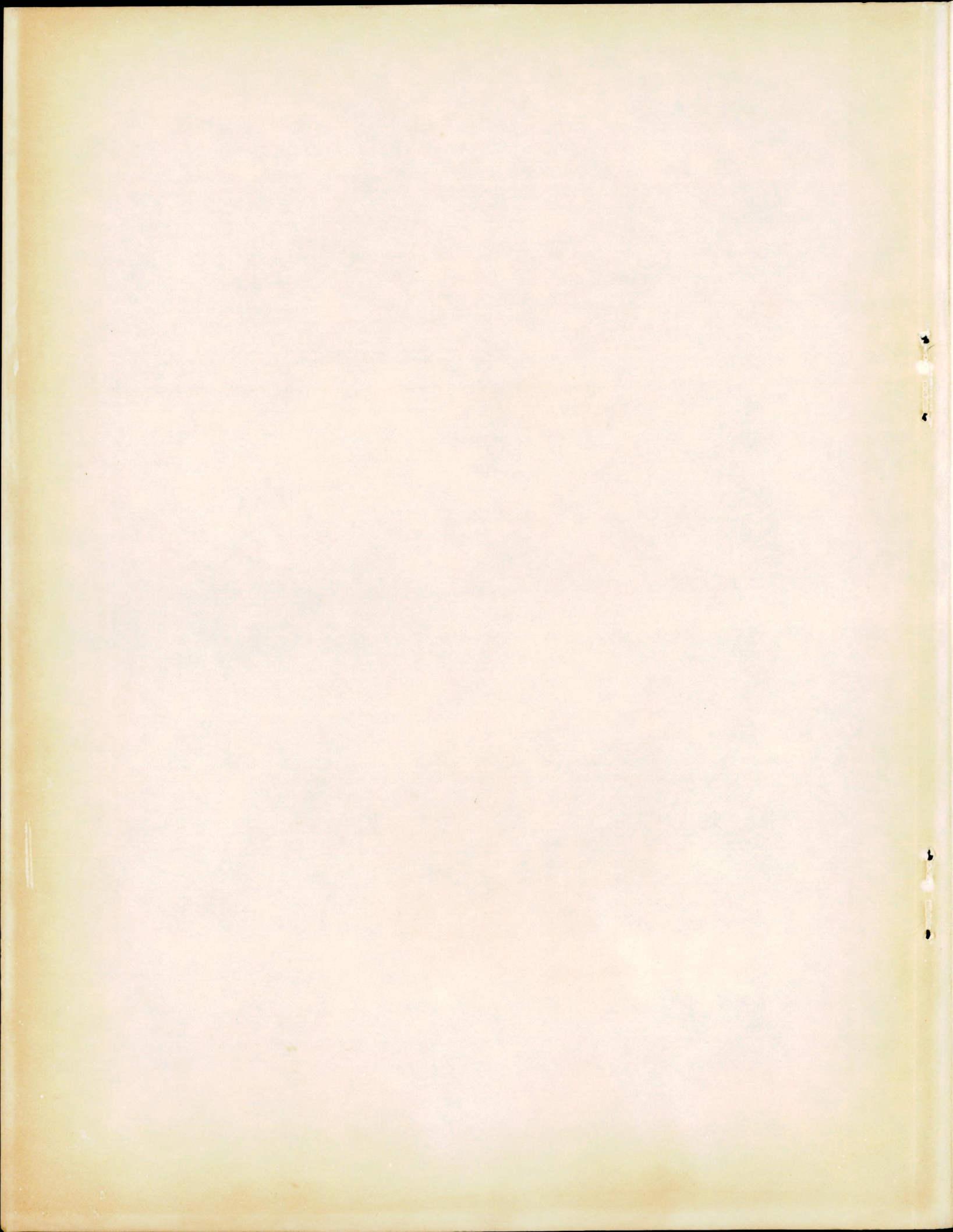
16. Notwithstanding anything in the Fauna Protection Act, 1948, as amended by paragraph (g) of section nine of this Act, where, but for this section a person would, by the operation of that Act, as so amended, be required to have a
 5 license issued under that Act, as so amended, in order lawfully to carry on after the commencement of that paragraph an activity that he was lawfully carrying on before that commencement without such a license, it shall be lawful for him to continue to carry on that activity after that commencement
 10 without such a license—

- (a) until the expiration of the period of six months next succeeding that commencement; or
- (b) where he applies within that period of six months for the issue to him of such a license—
 - 15 (i) until such a license is issued to him; or
 - (ii) until he is notified that the issue of such a license has been refused,

whichever last occurs.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971



New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 36, 1971.

An Act to revise the procedure for the reservation of national parks, state parks and historic sites; to make further provisions with respect to the protection and preservation of aboriginal relics, fauna, wild flowers and native plants; to make provisions with respect to the protection and preservation of reptiles; to make provisions with respect to parking offences in national parks and state parks and at historic sites; to increase penalties; for these and other purposes to amend

the

National Parks and Wildlife (Amendment).

the National Parks and Wildlife Act, 1967, the Fauna Protection Act, 1948, and the Wild Flowers and Native Plants Protection Act, 1927; and for purposes connected therewith. [Assented to, 8th October, 1971.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows : —

Short title
and com-
mencement.

1. (1) This Act may be cited as the "National Parks and Wildlife (Amendment) Act, 1971".

(2) A provision of this Act (sections one, two and three excepted) commences on the day that is appointed by the Governor and notified by proclamation published in the Gazette as the day on which the provision is to commence.

(3) Sections one, two and three of this Act commence on the day on which this Act receives the Royal assent.

(4) The National Parks and Wildlife Act, 1967, is in this Act referred to as the Principal Act.

Amendment
of Act No.
35, 1967.

2. The Principal Act is amended—

Sec. 3.
(Defini-
tions.)

(a) by omitting from the definition of "Historic site" in subsection one of section three the words "for the purposes of this Act";

(b) by omitting from the definition of "Lands of the Crown" the words "statutory body" and by inserting in lieu thereof the words "public authority";

(c)

National Parks and Wildlife (Amendment).

- (c) by inserting next after the same definition the following new definition :—

“Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled upon land wholly or partly by volatile spirit, steam, gas, oil or electricity.

- (d) by omitting from the definition of “National park” the words “for the purposes of this Act”;
- (e) by omitting from the definition of “State park” the words “for the purposes of this Act”;
- (f) by inserting next after the same definition the following new definition :—

“Vehicle” includes—

- (a) a boat or other object that, while floating on water, is wholly or partly used for the conveyance of persons or things;
- (b) a motor vehicle;
- (c) any apparatus propelled upon land, snow or ice by human or animal power or by the wind;
- (d) a trailer or caravan, whether or not it is in the course of being towed.

3. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

- (a) by inserting next after section six the following new section :—

6A. Where the Director or an officer or employee of the National Parks and Wildlife Service or of any Government Department in respect of which an arrangement has been made under subsection two of section five of this Act requires a person

Unlawful
refusal to
state name
and place
of abode.

whom

National Parks and Wildlife (Amendment).

whom he reasonably suspects of offending against this Act or the regulations to state his full name and his place of abode, that person is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars if he—

- (a) fails or refuses to comply with the requirement; or
- (b) in purported compliance with the requirement, states a name that is not his name or a place of abode that is not his place of abode.

Sec. 7.
(Power to
delegate.)

- (b) (i) by omitting from subsection one of section seven the words "under this Act" and by inserting in lieu thereof the words "by this Act and the regulations";
- (ii) by inserting in the same subsection after the figures "1948," the words "and the regulations made under that Act,";
- (iii) by inserting in the same subsection after the figures "1927" the words "and the regulations made under that Act";

Sec. 8.
(Power of
Minister to
accept gifts,
etc.)

- (c) by inserting next after subsection four of section eight the following new subsection:—

(5) Where the Minister acquires property pursuant to subsection one of this section—

- (a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and
- (b) the property, or the value of property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

(d)

National Parks and Wildlife (Amendment).

- (d) by omitting from paragraph (h) of subsection two of section nine the words "Minister for Education" and by inserting in lieu thereof the words "Minister administering the Australian Museum Act, 1902";
- (e) by inserting next after subsection nine of section eleven the following new subsection :—
- (10) Each member of a local committee shall be entitled to receive such travelling and other expenses as the Minister may determine.
- (f) by inserting next after section nineteen the following new sections :—
- 19A. Where the Minister is of the opinion that it is desirable to acquire any land for reservation as, or as part of, a national park, state park or historic site, he may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, or surrender to, Her Majesty of the land.
- 19B. For the purposes of—
- (a) improving access to a national park, state park or historic site;
- (b) the management, maintenance or improvement of a national park, state park or historic site; or
- (c) carrying out works for any of those purposes,
- the Minister may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, surrender to or leasing to, Her Majesty, or for the occupation under license of, any land adjoining or in the vicinity of the national park, state park or historic site.
- (g) (i) by omitting from subsection one of section twenty-four the words "or historic site" and by inserting in lieu thereof the words "historic site or aboriginal area";

Sec. 9.
(National
Parks and
Wildlife
Advisory
Council.)

Sec. 11.
(Establish-
ment of
local com-
mittees.)

New secs.
19A and
19B.

Acquisition
of land for
national
park, etc.

Acquisition
or occupa-
tion for
certain pur-
poses of
land adjoining
or near
national
park, etc.

Sec. 24.
(Restrictions
on mining.)

(ii)

National Parks and Wildlife (Amendment).

- (ii) by inserting in paragraph (a) of subsection two of the same section after the figures "1969," the words "and such an authority or lease over an aboriginal area granted after the day on which the National Parks and Wildlife (Amendment) Act, 1971, received the Royal assent";
 - (iii) by omitting from paragraph (b) of the same subsection the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
 - (iv) by omitting from subsection three of the same section the words "or historic site" where secondly occurring and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (h) (i) by inserting next after subsection two of section twenty-nine the following new subsection :—
- (2A) The plan of management in respect of a national park, state park or historic site may relate to land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.
- (ii) by omitting from paragraph (e) of subsection three of the same section the word "and";
 - (iii) by omitting from paragraph (f) of the same section the word "area." and by inserting in lieu thereof the following words :—
- area; and
- (g) the utilisation, for the purposes for which it was acquired or occupied, or is proposed to be acquired or occupied,

of

Sec. 29.
(Plan of
manage-
ment.)

National Parks and Wildlife (Amendment).

of land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

(iv) by inserting in paragraph (a) of subsection six of the same section after the words "it shall" the words ", subject to paragraph (c) of this subsection,";

(v) by omitting from paragraph (b) of the same subsection the word "site." and by inserting in lieu thereof the following words : —

site; and

(c) where any land to which the plan of management relates is land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act, operations under the plan shall not be undertaken—

(i) on or in relation to land acquired or proposed to be acquired under section 19A of this Act until it has been reserved as, or as part of, the park or site to which the plan relates; or

(ii) on or in relation to land proposed to be acquired or occupied under section 19B of this Act until it has been so acquired or occupied.

(vi) by inserting in paragraph (b) of subsection seven of the same section after the word "tows" the words "or moorings".

National Parks and Wildlife (Amendment).

Sec. 30.
(Granting
of leases or
licenses.)

- (i) (i) by omitting from paragraph (c) of subsection one of section thirty the word "site." and by inserting in lieu thereof the following words :—

site ;

- (d) grant leases of land within a national park, state park or historic site on which buildings have been erected for residential occupation.

- (ii) by inserting next after the same subsection the following new subsection :—

(1A) The Minister may, for any purpose specified in paragraph (a), (b) or (c) of section 19B of this Act, grant a lease of, or a license with respect to, land acquired or occupied under that section.

Sec. 35.
(Payments
into the
Fund.)

- (j) (i) by omitting from subparagraph (vi) of paragraph (b) of subsection one of section thirty-five the word "and";

- (ii) by omitting from subparagraph (vii) of the same paragraph the word "impounding;" and by inserting in lieu thereof the following words :—

impounding; and

- (viii) leases and licenses granted under subsection (1A) of section thirty of this Act;

Sec. 36.
(Payments
out of
the Fund.)

- (k) (i) by omitting from paragraph (g) of subsection two of section thirty-six the word "and";

- (ii) by omitting from paragraph (h) of the same subsection the word "relic." and by inserting in lieu thereof the following words :—

relic;

- (i) the cost of entering into, and giving effect to, agreements under sections 19A and 19B of this Act;

(j)

National Parks and Wildlife (Amendment).

- (j) the cost of carrying out the purposes for which land is acquired or occupied under section 19B of this Act.
- (l) by inserting in section forty-one after the word "Act" where firstly, thirdly and fourthly occurring the words "and liable to a penalty not exceeding two hundred dollars"; Sec. 41. (Driver to give his name and address when required.)
- (m) by omitting from subsection one of section forty-two the words "has been" and by inserting in lieu thereof the words "is unattended and believed by him on reasonable grounds to have been"; Sec. 42. (Seizure of motor vehicles.)
- (n) by inserting next after section forty-two the following new section :— New sec. 42A.
- 42A. (1) A person who impersonates the Director, or a park ranger or other officer of the National Parks and Wildlife Service, is guilty of an offence against this Act. Impersonating, assaulting, resisting or obstructing an officer, etc.
- (2) Where a person—
- (a) assaults, resists or obstructs; or
- (b) incites or encourages any other person to assault, resist or obstruct,
- the Director, or a park ranger or other officer of the National Parks and Wildlife Service, in the execution of his duty or authority under this Act, that person is guilty of an offence against this Act.
- (o) by omitting from subsection three of section forty-four the words "one hundred dollars for every such offence" and by inserting in lieu thereof the words "two hundred dollars for the first offence, five hundred dollars for the second offence and one thousand dollars for the third or subsequent offence"; Sec. 44. (Penalties.)

(p)

National Parks and Wildlife (Amendment).

Sec. 49.
(Regulations.)

- (p) (i) by inserting next after paragraph (k2) of subsection two of section forty-nine the following new paragraph :—

(k3) the regulation, control or prohibition of the use of any relic for commercial purposes in any national park, state park, historic site, nature reserve or aboriginal area;

- (ii) by omitting from paragraph (l) of the same subsection the words “and receiving” and by inserting in lieu thereof the words “, receiving and waiving”;

- (iii) by omitting from paragraph (a) of subsection three of the same section the word “one” and by inserting in lieu thereof the word “two”.

Second
Schedule.

- (q) by omitting from the First Part of the Second Schedule the word “*Cocopara*” and by inserting in lieu thereof the word “*Cocoparra*”.

Further
amendment
of Act No.
35, 1967.

4. The Principal Act is further amended—

Sec. 15.
(Reservation
of certain
national
parks, state
parks and
historic
sites.)

- (a) (i) by omitting from subsection four of section fifteen the words “the lands described in the Second and Third Schedules to this Act” and by inserting in lieu thereof the words “lands reserved by or under this Act as national park, state park or historic site”;

- (ii) by omitting from the same subsection the words “by this Act”;

- (iii) by omitting from subsection five of the same section the words “the lands described in the Second and Third Schedules to this Act” and by inserting in lieu thereof the words “lands reserved by or under this Act as national park, state park or historic site”;

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in subsection six of the same section after the word "by" where firstly and secondly occurring the words "or under";

(b) by omitting section twenty and by inserting in lieu thereof the following section :— Subst.
sec. 20.

20. (1) In this section—

"prescribed lands" means lands, not held under lease or license or otherwise lawfully occupied, that are— Reservation
of certain
lands as
national
park, state
park or
historic
site.

(a) Crown lands; or

(b) lands of the Crown in respect of which the person in whom they are vested has consented to a reservation under this section;

"prescribed time" in relation to a House of Parliament means fourteen sitting days of that House, whether or not they occur during the same session.

(2) The Governor may, by proclamation published in the Gazette—

(a) reserve, as a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation; or

(b) reserve, as part of a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation that—

(i) adjoin, or are adjacent to, that national park, state park or historic site; and

(ii) are not vested in or under the care, control and management of, trustees.

(3)

National Parks and Wildlife (Amendment).

(3) Upon the publication of a proclamation under subsection two of this section—

- (a) the lands reserved by the proclamation become Crown lands except in so far as they were Crown lands immediately before that publication;
- (b) any person who, immediately before that publication, held office as trustee, or as a member of the body corporate that was trustee, of the lands so reserved shall cease to hold that office; and
- (c) the care, control and management of the lands so reserved vest in the Director.

(4) To the extent to which a dedication, reservation, Crown grant or vesting affects land to which a proclamation published under subsection two of this section relates, the publication revokes the dedication, reservation, grant or vesting.

(5) A copy of a proclamation under subsection two of this section shall be laid before each House of Parliament within the prescribed time after publication thereof.

(6) Subject to this section, where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a proclamation has been laid before it pursuant to subsection five of this section (whether or not those sitting days occur during the same session) and the resolution disallows the reservation effected by the proclamation or any part thereof—

- (a) the reservation ceases, to the extent of the disallowance but without affecting the operation of subsection three or four of this section, to have effect; and
- (b) to the extent to which the reservation ceases to affect it, but without affecting the operation of subsection three or four of this section,

National Parks and Wildlife (Amendment).

section, the land referred to in the proclamation ceases to be, or to be part of, a national park, state park or historic site.

- (c) (i) by omitting from subsection one of section twenty-six the words "Where the Minister has published a notification under section nineteen of this Act vesting the care, control and management of any national park, state park or historic site in the Director" and by inserting in lieu thereof the words "Where by the operation of section nineteen or twenty of this Act any persons cease to hold office as trustees of, or as members of a body corporate that is trustee of, lands reserved as a national park, state park or historic site";
- (ii) by inserting in paragraph (a) of subsection two of the same section after the word "notification" the words "or proclamation by virtue of which that care, control and management are so vested,";
- (d) by inserting in subsection three of section thirty-one after the words "reserved by" the words "or under".

Sec. 26.

(Transfer of rights, liabilities and property.)

Sec. 31.

(Easements.)

5. The Principal Act is further amended by inserting next after section 33L the following new section :—

Further amendment of Act No. 35, 1967.
New sec. 33M.

33M. (1) Upon production of the prescribed evidence of his authority so to do, the Director or a park ranger or other officer of the National Parks and Wildlife Service may, subject to subsection two of this section, enter and search any land or premises if he has reason to suspect—

Power of entry.

- (a) that a breach of this Act or the regulations has been committed in respect of a relic; and

(b)

National Parks and Wildlife (Amendment).

(b) that the relic is in or upon that land or those premises.

(2) The powers conferred by subsection one of this section do not authorise a person to enter or search in or upon any part of premises that is used for residential purposes.

Further
amendment
of Act No.
35, 1967.

6. The Principal Act is further amended—

Sec. 3.
(Defini-
tions.)

(a) (i) by omitting from subsection one of section three the definition of "Crown lands" and by inserting in lieu thereof the following definition :—

"Crown lands" means—

(a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

(b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii)

National Parks and Wildlife (Amendment).

- (ii) by inserting at the end of the same section the following new subsection :—

(3) Nothing in this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of this section.

- (b) by inserting next after section twenty the following new section :—

New sec.
20A.

20A. Notwithstanding section twenty of this Act, Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act shall not be reserved as, or as part of, a national park, state park or historic site without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

Land
submerged
by certain
waters.

- (c) (i) by omitting from subsection three of section twenty-two the figures and word "1906, or" and by inserting in lieu thereof the figures and words "1906, the Fisheries and Oyster Farms Act, 1935,";
- (ii) by inserting in the same subsection after the figures "1955" the words ", or any permit or licence under the Petroleum (Submerged Lands) Act, 1967";

Sec. 22.
(Existing
authority,
permit,
lease,
license or
occupancy.)

- (d) by inserting at the end of section twenty-three the following new subsection :—

Sec. 23.
(Restriction
on disposal
or dealing
with lands.)

(3) After the commencement of section six of the National Parks and Wildlife (Amendment) Act, 1971, a lease under the Fisheries and Oyster Farms Act, 1935, shall not, without the concurrence

National Parks and Wildlife (Amendment).

of the Minister in writing, be granted with respect to land within a national park, state park or historic site or with respect to any waters beneath which that land is submerged.

Sec. 29.
(Plan of management.)

- (e) by inserting next after subsection four of section twenty-nine the following new subsections :—

(4A) Where land submerged by water is land that is reserved as, or as part of, a national park, state park or historic site the Director shall, before submitting to the Minister for adoption by him the plan of management for the national park, state park or historic site, refer it to the Minister administering the Fisheries and Oyster Farms Act, 1935.

(4B) A plan of management referred to in subsection (4A) of this section—

- (a) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of section three of this Act until he has considered any representations made with respect to the plan of management by the Minister administering the Fisheries and Oyster Farms Act, 1935; and
- (b) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(f)

National Parks and Wildlife (Amendment).

- (f) (i) by omitting from subsection two of section thirty the word "Any" and by inserting in lieu thereof the words "Subject to subsection three of this section, any"; Sec. 30.
(Granting
of leases
and
licenses.)

- (ii) by inserting next after the same subsection the following new subsection :—

(3) Where any term or condition of a lease or license granted under this section purports to affect land within a national park, state park or historic site that is land submerged by water and the term or condition is inconsistent with a plan of management in force for the national park, state park or historic site, the term or condition shall, to the extent of the inconsistency, have no force or effect.

- (g) (i) by omitting from paragraph (v) of subsection two of section forty-nine the words "signs or other structures" and by inserting in lieu thereof the words "marinas, structures, signs or other improvements"; Sec. 49.
(Regulations.)

- (ii) by inserting in paragraph (w) of the same subsection after the word "buildings," the word "marinas,";

- (iii) by omitting from subsection five of the same section the words "the word 'animal' does" and by inserting in lieu thereof the words "the words 'animal' and 'fauna' do".

National Parks and Wildlife (Amendment).

Further
amendment
of Act No.
35, 1967.

7. The Principal Act is further amended—

New secs.
41A-41C.

- (a) by inserting next after section forty-one the following new sections :—

Liability of
vehicle
owner for
parking
offences.

41A. (1) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

- (a) in any case where the parking offence is dealt with under section 41B of this Act, the owner satisfies the prescribed person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used; or
- (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

(2) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

National Parks and Wildlife (Amendment).

(3) Notwithstanding anything in subsection one or two of this section, no owner of a vehicle is, by virtue of this section, guilty of an offence if—

(a) in any case where the offence is dealt with under section 41B of this Act, he—

- (i) within twenty-one days after service on him of a notice under that section alleging that he has been guilty of that offence, supplies by statutory declaration to the prescribed person referred to in that section the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or
- (ii) satisfies the prescribed officer so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

(b) in any other case, he—

- (i) within twenty-one days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

National Parks and Wildlife (Amendment).

- (ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

(4) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection three of this section.

(5) Where a statutory declaration supplying the name and address of a person for the purposes of subsection three of this section is produced in any proceedings against that person in respect of the parking offence to which the statutory declaration relates, the statutory declaration is prima facie evidence that that person was, at all relevant times relating to that parking offence, in charge of the vehicle to which the parking offence relates.

(6) In this section and in section 41B of this Act—

“owner” in relation to a vehicle includes—

- (a) a person who is the owner or joint owner or part owner of the vehicle and any person, other than the lessor under a hire-purchase agreement relating to the vehicle, who has the use of the vehicle under such an agreement; and

(b)

National Parks and Wildlife (Amendment).

(b) in the case of a vehicle that is a motor vehicle—

(i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or

(ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who, in contravention of the regulations made under this Act—

(a) moors or parks a vehicle; or

(b) causes or permits a vehicle to be moored or parked or to stand or wait.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this or any other Act.

41B. (1) Where it appears to a prescribed person that another person is, by virtue of section 41A of this Act, guilty of an offence, the prescribed person may serve a notice on that other person to

Penalty notice for certain offences.

the

National Parks and Wildlife (Amendment).

the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to a person so specified the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection one of this section—

- (a) may be served as provided by section forty-eight of this Act; or
- (b) may be addressed to the owner of the vehicle to which the parking offence relates **without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.**

(3) A person alleged to have committed an offence referred to in subsection one of this section shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection one of this section (or within such further time as, in his case, may have been allowed) to pay the penalty so specified he shall be deemed to have declined to be dealt with under this section.

(4) Where the penalty for an offence dealt with under this section is paid pursuant to this section in respect of an alleged offence—

- (a) no person may be proceeded against for the alleged offence; and
- (b) the payment shall not be construed as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(5)

National Parks and Wildlife (Amendment).

(5) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

(6) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or a provision of any other Act in relation to proceedings that may be taken in respect of offences.

41c. (1) Where—

(a) an information for an offence referred to in subsection one of section 41B of this Act has been laid under Division 2 of Part IV of the Justices Act, 1902;

Ex parte
procedure
for offences
referred to
in section
41B.

(b) a summons for the appearance of the defendant to answer the information has been served on him in any manner provided by law for the service of such a summons on that defendant in relation to that offence;
and

(c) the defendant does not appear at the time and place fixed for the hearing of the information,

the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, for the payment by the defendant of costs.

National Parks and Wildlife (Amendment).

(2) The provisions of section 556A of the Crimes Act, 1900, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty for a breach of the regulation creating the offence in respect of which the penalty is so imposed.

(4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties imposed upon, or previous convictions of, the defendant under this Act and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

(5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, be deemed to be an order under that Act.

(6) Section seventy-five of the Justices Act, 1902, does not apply in any case where an information is dealt with under subsection one of this section.

(7) A reference in subsection one of this section to the time and place fixed for the hearing of an information includes, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, a reference to the time and place specified in the notice.

National Parks and Wildlife (Amendment).

(8) Section fifteen of the Justices Act, 1902, shall be construed as if this section formed part of that Act.

(9) The jurisdiction of a court under this section shall be exercised only by a stipendiary magistrate.

(10) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or any other Act in relation to proceedings that may be taken in respect of offences.

- (b) by omitting from subsection one of section forty-four the words "Any penalty" and by inserting in lieu thereof the words "Subject to subsection nine of section 41C of this Act, any penalty". Sec. 44.
(Penalties.)

8. The Fauna Protection Act, 1948, is amended—

Amendment
of Act No.
47, 1948.

- (a) (i) by omitting from subsection one of section nine the words "In this subsection 'Crown lands' has the meaning ascribed to that expression in section five of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts." and by inserting in lieu thereof the following words :— Sec. 9.
(Dedication
of areas for
protection,
care, etc.
of fauna.)

In this subsection "Crown lands" means—

- (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and

(b)

National Parks and Wildlife (Amendment).

(b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii) by omitting from subsection two of the same section the words "section except with the concurrence of the Secretary for Lands." and by inserting in lieu thereof the following words :—

section—

(a) unless, in the case of Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section, the Minister administering the Crown Lands Consolidation Act, 1913, concurs; or

(b) unless, in the case of Crown lands within the meaning of paragraph (b) of that definition, the Minister administering the Fisheries and Oyster Farms Act, 1935, concurs.

(iii) by omitting from paragraph (b) of subsection five of the same section the words "object of the scheme shall be" and by inserting in lieu thereof the words "objects of the scheme shall include";

(d)

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in paragraph (f) of the same subsection after the word "buildings" the word
 ", marinas";

(v) by inserting next after subsection five of the same section the following new subsections :—

(5A) Where land submerged by water is land that is dedicated as, or as part of, a nature reserve, the Director shall, before submitting to the Minister for his approval under subsection five of this section a scheme for the nature reserve, refer the scheme to the Minister administering the Fisheries and Oyster Farms Act, 1935.

(5B) A scheme referred to in subsection (5A) of this section—

(a) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section until he has considered any representations made with respect to the scheme by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

(b) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of this section without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(b)

National Parks and Wildlife (Amendment).

New sec.
9A.

- (b) by inserting next after section nine the following new section :—

Navigation
of certain
waters not
affected.

9A. Nothing in section nine of this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of that section.

Further
amendment
of Act No.
47, 1948.

9. The Fauna Protection Act, 1948, is further amended—

Sec. 4.
(Definitions.)

- (a) (i) by inserting in section four next after the definition of "Regulations" the following new definition :—

"Sell" includes—

- (a) auction, barter, exchange or supply;
- (b) offer, expose, supply or receive for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) dispose of under a hire-purchase agreement;
- (e) cause, permit or suffer the doing of an act referred to in paragraph (a), (b), (c) or (d) of this definition;
- (f) offer or attempt to do an act so referred to;
- (g) cause, permit or suffer to be sold;

(h)

National Parks and Wildlife (Amendment).

- (h) attempt to sell or offer to sell;
 - (i) have in possession for sale,
- and "sale" has a corresponding meaning.
- (ii) by omitting from the same section the definition of "Take or kill" and by inserting in lieu thereof the following definition :—
- "Take or kill" in relation to any fauna includes hunt, shoot, poison, net, snare, spear, pursue, capture, disturb or injure.
- (b) by omitting from subsection one of section eleven Sec. 11.
the words "or timber" and by inserting in lieu (Restrictions
thereof the words ", timber or vegetation"; as to
timber.)
- (c) by omitting from subsection one of section twelve Sec. 12.
the words "an officer or employee" and by inserting (Prohibition
in lieu thereof the words "a person"; on taking
or killing
fauna within
nature
reserves.)
- (d) by inserting at the end of section eighteen the Sec. 18.
following new subsection :— (Open
seasons.)
- (3) A person shall not be convicted of an offence against subsection two of this section if he proves that the act constituting the offence was done under and in accordance with the authority conferred by a license.
- (e) (i) by omitting from subsection one of section Sec. 19.
nineteen the word "ten" and by inserting in (Penalty for
lieu thereof the words "one hundred"; having
protected
fauna in
possession.)
- (ii)

National Parks and Wildlife (Amendment).

(ii) by inserting in the same subsection after the word "committed" the words "with a maximum total penalty under this subsection in respect of any one offence of one thousand dollars";

(iii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(a) that the act constituting the offence was done, or that the state of affairs constituting the offence existed, under and in accordance with—

(i) the provisions of this Act relating to open seasons; or

(ii) the authority conferred by a license; or;

Sec. 22.
(Fauna
within
districts.)

(f) (i) by omitting subsection one of section twenty-two;

(ii) by inserting in subsection four of the same section after the word "periods" the words "and may in like manner vary, amend or revoke any such proclamation";

Sec. 26.
(Collections
for
Museums,
etc.)

(g) (i) by inserting in section twenty-six after the word "investigation" the words "or for the purposes of exhibition";

(ii) by inserting at the end of the same section the following new subsection :—

(2) A person who exhibits any protected fauna is guilty of an offence against this Act unless he does so under and in accordance with the authority conferred by a license issued under this section.

(h)

National Parks and Wildlife (Amendment).

- (h) (i) by inserting in paragraph (a) of subsection one of section twenty-seven after the word "fauna" where secondly occurring the words ", or under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale"; Sec. 27. (Persons taking or killing fauna for sale.)
- (ii) by inserting in paragraph (b) of the same subsection after the word "section" the words ", or a license under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (i) by omitting section thirty-three and by inserting in lieu thereof the following section :— Sec. 33. (Imported fauna.)
33. A person who, in New South Wales, liberates fauna not indigenous to New South Wales is guilty of an offence against this Act unless he does so in accordance with a permit granted by the Minister. Restriction on liberation in New South Wales of exotic fauna.
- (j) (i) by inserting in paragraph (a) of subsection one of section thirty-four after the word "committed" where secondly occurring the words ", or any firearm, net, trap or other instrument used in connection with the breach"; Sec. 34. (Powers of entry and seizure by Director, rangers, officers, etc.)
- (ii) by omitting from the same paragraph the words "or poison found therein" and by inserting in lieu thereof the words ", poison, firearm, net, trap or other instrument found therein or thereon together with any books, papers or records relating to the suspected breach and make copies of, or take extracts from, any such papers, books or records";
- (k) by inserting next after the same section the following new section :— New sec. 34A.
- 34A. (1) Where any property seized under paragraph (a) of subsection one of section thirty-four of this Act is fauna or is perishable, it may Disposal of seized fauna and perishable goods.
- forthwith

National Parks and Wildlife (Amendment).

forthwith be disposed of, by way of sale or otherwise, by the Director, an officer or employee of the National Parks and Wildlife Service authorised by the Director to dispose of it, a ranger or a collector.

(2) The proceeds of any sale pursuant to subsection one of this section shall be paid into the National Parks and Wildlife Fund.

(3) The payment to a person from the National Parks and Wildlife Fund of an amount equal to the proceeds of the sale of any property under this section operates as a discharge of any obligation to deliver that property to that person and such a payment in discharge of any such obligation imposed by an order of the court prescribed in relation to the property under section forty of this Act is hereby authorised.

Subst.
sec. 40.

(1) by omitting section forty and by inserting in lieu thereof the following section :—

Disposal of
property
seized.

40. (1) Subject to this section, where—

- (a) a person is convicted of an offence under this Act or the regulations;
- (b) property relating to the offence, or in the possession of the offender at the time of the commission of the offence, has been seized under section thirty-four of this Act; and
- (c) any person applies to the court prescribed in relation to the property for an order that the property be delivered to a specified person,

that court may, whether or not it is the court making the conviction, make such an order.

(2)

National Parks and Wildlife (Amendment).

(2) Subject to this section, where—

- (a) property has been seized under section thirty-four of this Act; and
- (b) an information for an offence (being an offence on or after a conviction for which an order could be made under subsection one of this section in respect of the property) has not been laid within six months after the seizure of the property,

the court prescribed in relation to the property may, on the application of any person, order that the property be delivered to a specified person.

(3) An application for an order under subsection one of this section may be made at the time of the conviction referred to in that subsection if the court making the conviction is the prescribed court in relation to the property to which the application relates.

(4) An application for an order under subsection one or two of this section may not be made—

- (a) in the case of an application for an order under subsection one of this section—later than one month after the conviction referred to in that subsection; or
- (b) in the case of an application for an order under subsection two of this section—later than three months after the expiration of the period of six months referred to in that subsection.

(5) Where property has been seized under section thirty-four of this Act and—

- (a) no application for an order under subsection one or two of this section has been duly made; or

(b)

National Parks and Wildlife (Amendment).

(b) such an application has been duly made and such an order has been refused, the property the subject of the application and, where the property has been sold under section 34A of this Act, the proceeds of the sale, shall be deemed to have been forfeited.

(6) For the purposes of this section—

- (a) the value of any property sold under section 34A of this Act is an amount equal to the amount of the net proceeds of sale;
- (b) the court prescribed in relation to any property is—
 - (i) where the value of the property does not exceed five hundred dollars—the court of petty sessions for the district in which the property was seized;
 - (ii) where the value of the property exceeds five hundred dollars but does not exceed six thousand dollars—the district court for the district in which the property was seized; and
 - (iii) where the value of the property exceeds six thousand dollars—the Supreme Court of New South Wales.

Sec. 43.
(Regulations.)

- (m) by omitting from subsection three of section forty-three the words “, and may provide that any protected fauna in relation to which an offence against the regulations has been committed shall be liable to forfeiture and disposed of in such manner as the court may direct”;

Second
Schedule.

- (n) by omitting the Second Schedule.

National Parks and Wildlife (Amendment).

10. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- (a) by omitting from subsection two of section twelve the words “a penalty not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”; Sec. 12.
(Prohibition on taking or killing fauna within nature reserves.)
- (b) by omitting from subsection two of section sixteen the words “shall for every such offence be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”; Sec. 16.
(Closed season for scheduled fauna.)
- (c) by omitting from subsection two of section eighteen the words “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”; Sec. 18.
(Open seasons.)
- (d) by omitting from subsection three of section twenty the words “a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”; Sec. 20.
(Rare fauna.)
- (e) by omitting from subsection five of section twenty-two the words “and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “against this Act”; Sec. 22.
(Fauna within districts.)

(f)

National Parks and Wildlife (Amendment).

Sec. 23.
(Penalty for
trespass.)

- (f) by omitting from section twenty-three the words "and be liable to a penalty not exceeding one hundred dollars" and by inserting in lieu thereof the words "against this Act";

Sec. 23A.
(Wildlife
refuges and
game
reserves.)

- (g) (i) by omitting from subsection eight of section 23A the words "and be liable to a penalty not exceeding two hundred dollars" and by inserting in lieu thereof the words "against this Act";
- (ii) by omitting from subsection nine of the same section the words "and be liable to a penalty not exceeding two hundred dollars" and by inserting in lieu thereof the words "against this Act";

Sec. 32.
(Restriction
on method
of shooting
fauna.)

- (h) (i) by omitting from subsection one of section thirty-two the word "forty" and by inserting in lieu thereof the words "two hundred";
- (ii) by omitting from subsection two of the same section the word "forty" and by inserting in lieu thereof the words "two hundred";

Sec. 35.
(Further
powers of
Director,
rangers,
etc.)

- (i) by omitting from subsection two of section thirty-five the words "against this Act" and by inserting in lieu thereof the words "and be liable to a penalty not exceeding two hundred dollars";

Sec. 36.
(Assaulting
or resisting
officers, etc.)

- (j) by omitting from section thirty-six the word "twenty" and by inserting in lieu thereof the words "two hundred";

Sec. 37.
(Use of
poison.)

- (k) by omitting from subsection three of section thirty-seven the word "one" and by inserting in lieu thereof the word "four";

National Parks and Wildlife (Amendment).

- (l) by omitting from subsection one of section thirty-eight the word "forty" and by inserting in lieu thereof the words "four hundred"; Sec. 38.
(Use of
bird-lime
etc. pro-
hibited.)

- (m) by omitting section forty-one and by inserting in lieu thereof the following section :— Subst.
sec. 41.

41. (1) A person who—

- (a) does that which by this Act he is forbidden to do;
- (b) fails or neglects to do that which by this Act he is required or directed to do,

is guilty of an offence against this Act.

(2) A person guilty of an offence against this Act, whether pursuant to subsection one of this section or otherwise is, where no other penalty is prescribed, liable to a penalty not exceeding—

- (a) in the case of the first offence for which he is liable to a penalty under this section—two hundred dollars;
- (b) in the case of a second offence for which he is liable to a penalty under this section—five hundred dollars; and
- (c) in the case of a third or subsequent offence for which he is liable to a penalty under this section—one thousand dollars.

- (n) by omitting from subsection three of section forty-three the word "forty" and by inserting in lieu thereof the words "two hundred". Sec. 43.
(Regula-
tions.)

National Parks and Wildlife (Amendment).

Further
amendment
of Act No.
47, 1948.

11. The Fauna Protection Act, 1948, is further amended—

Subst.
sec. 25.

- (a) by omitting section twenty-five and by inserting in lieu thereof the following section :—

Destructive
fauna.

25. (1) Subject to this section, the Minister may, by license specifying such conditions as the Minister thinks proper, authorise an owner or occupier of specified land—

- (a) to take or kill; or
- (b) to permit a licensee under paragraph (a) of subsection one of section twenty-seven of this Act to take or kill,

a specified number of specified fauna found on that land and may, by the license, authorise the disposal, whether for sale or otherwise, of any fauna taken or killed under that authority.

(2) A license under subsection one of this section shall not be issued unless—

- (a) the Minister is satisfied that the species of fauna specified in the license are destroying or injuring, or likely to destroy or injure, the property of the applicant for the license ;
and
- (b) the licensee has been supplied by the National Parks and Wildlife Service with labels, tags, slips or other objects sufficient in number to affix or attach, in compliance with any condition of the license, to the skin or carcase of fauna taken or killed by the authority of the license.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting at the end of section twenty-eight the following new subsection :— Sec. 28.
(Royalty to be paid.)

(2) Notwithstanding subsection one of this section, royalty referred to therein shall not be payable in respect of a skin or carcase to which there has been affixed or attached in compliance with a condition of a license under this Act a label, tag, slip or other object for which a charge or fee has been paid pursuant to regulations made under paragraph (n) of subsection two of section forty-three of this Act.

- (c) (i) by omitting from paragraph (m) of subsection two of section forty-three the word "reserve." and by inserting in lieu thereof the word "reserve;"; Sec. 43.
(Regulations.)

- (ii) by inserting next after the same paragraph the following new paragraph :—

(n) for the making of a charge for supplying a label, tag, slip or object for affixing or attaching to the skin or carcase of any fauna in compliance with any condition of a license under this Act.

12. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- (a) by omitting from section twenty-one the word "Nothing" and by inserting in lieu thereof the words "Subject to section 27A of this Act, nothing"; Sec. 21.
(Protected fauna kept in domesticated state exempted from this Act.)

(b)

National Parks and Wildlife (Amendment).

New sec.
27A.

- (b) by inserting next after section twenty-seven the following new section :—

Registration
of aviaries.

27A. (1) A person who has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless—

- (a) an aviary registration certificate is in force with respect to that structure, building, store, shop or other premises; or
- (b) that person is a fauna dealer or skin dealer licensed under section twenty-seven of this Act and the structure, building, store or shop is, or the other premises are, registered under subsection four of that section.

(2) The Director may, on application being made for the purpose, issue an aviary registration certificate in respect of specified premises and may subject to subsection five of this section, cancel such a certificate for any good cause upon the expiration of fourteen days after serving notice that he proposes so to do.

(3) It is a sufficient service of notice of a proposal to cancel an aviary registration certificate if the notice is left with some person apparently of or above the age of sixteen years at the address at which is situated the structure, building, store, shop or other premises to which the certificate relates.

(4) Where an application for an aviary registration certificate under this section is refused—

- (a) the applicant for the certificate may, within fourteen days after he is notified of the refusal, appeal to the Minister against the refusal; and

(b)

National Parks and Wildlife (Amendment).

(b) the refusal shall not take effect—

- (i) where an appeal against the refusal is not lodged before the expiration of the period allowed for lodging such an appeal—until the expiration of that period; or
- (ii) where such an appeal is lodged before the expiration of that period—unless the Minister dismisses the appeal.

(5) Where notice of a proposal to cancel an aviary registration certificate under this section has been served, a person who, in the absence of the certificate, would be guilty of an offence under subsection one of this section may, before the expiration of fourteen days after service of the notice, appeal to the Minister against the proposal and, where such an appeal is lodged, the Director shall not proceed with the proposal—

- (a) if the appeal is upheld; or
- (b) where the appeal is dismissed, until the expiration of fourteen days after dismissal of the appeal.

(6) The decision of the Minister on an appeal under this section is final.

(7) Where a person would, but for this subsection, be affected by subsection one of this section, he shall not, where he applies for an aviary registration certificate before the expiration of the prescribed period, be so affected—

- (a) until he is issued with such a certificate; or
- (b) where his application is refused—until the refusal takes effect.

(8)

National Parks and Wildlife (Amendment).

(8) In this section "prescribed period" in relation to a person means—

- (a) the period of six months next succeeding the commencement of section twelve of the National Parks and Wildlife (Amendment) Act, 1971;
- (b) where the Minister, by order published in the Gazette before the expiration of the period of six months referred to in paragraph (a) of this subsection, specifies for the purposes of this subsection a period that expires after the expiration of the period of six months—the period so specified; or
- (c) the period of one month next succeeding the day on which that person first becomes aware that he has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises,

whichever period last expires.

Sec. 43.
(Regulations.)

- (c) (i) by inserting in paragraph (b) of subsection two of section forty-three after the word "licenses" the words "or registration certificates";
- (ii) by inserting in subsection four of the same section after the word "licenses" where firstly occurring the words "or registration certificates";
- (iii) by omitting from the same subsection the words "and localities" and by inserting in lieu thereof the words ", registration certificates, localities";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in the same subsection after the word "licenses" where thirdly occurring the words ", registration certificates";
- (v) by inserting in the same subsection after the word "licenses" where fourthly and fifthly occurring the words "or registration certificates".

13. The Fauna Protection Act, 1948, is further amended—

Further
amendment
of Act No.
47, 1948.

- (a) (i) by inserting in the definition of "Fauna" in Sec. 4. section four after the word "bird" the words (Definitions.) "or reptile";
- (ii) by inserting in the same section after the definition of "Regulations" the following new definition :—

"Reptile" means snake, lizard, crocodile, tortoise, turtle or other member of the class *reptilia* (whether native, introduced or imported) and the eggs and young thereof and the skin and any other part thereof.

- (b) by inserting next after section eighteen the following new section :—

New sec.
18A.

18A. Nothing in this Act renders a person liable to prosecution for—

Killing of
snakes not
punishable.

- (a) killing, or attempting to kill, a snake; or
- (b) hunting, pursuing, disturbing or injuring a snake for the purpose of killing it without delay.

(c)

National Parks and Wildlife (Amendment).

Sec. 19.
(Penalty for
having
protected
fauna in
possession.)

- (c) by inserting in paragraph (b) of subsection two of section nineteen after the word "Act" the words "or, in the case of a reptile, of section thirteen of the National Parks and Wildlife (Amendment) Act, 1971".

Amendment
of Act No.
2, 1927.

14. The Wild Flowers and Native Plants Protection Act, 1927, is amended—

Sec. 3.
(Notification
of pro-
tection.)

- (a) (i) by omitting from subsection four of section three the words "the same" and by inserting in lieu thereof the words "that Act, but subject to subsection five of this section";

- (ii) by inserting next after the same subsection the following new subsection :—

(5) Where—

- (a) the applicant for, or holder of, a license referred to in subsection four of this section is authorised by a license under section 5A of this Act to pick a wild flower or native plant of a species, and in the locality, to which his application or license under the Forestry Act, 1916, relates; and

- (b) in the opinion of the Forestry Commission, the wild flower or native plant, if not removed, would be damaged or destroyed in the taking of timber or products under, or in the carrying on of any activity authorised by, the Forestry Act, 1916,

subsection four of this section does not operate to prevent the Forestry Commission from issuing a license authorising removal of the

wild

National Parks and Wildlife (Amendment).

wild flower or native plant or from reinstating, to the extent necessary to authorise removal of the wild flower or native plant, a license that has, pursuant to that subsection, ceased to be operative.

- (b) by omitting from paragraph (b) of subsection two of section five the words "such license." and by inserting in lieu thereof the following words :—

Sec. 5.

(Selling forbidden.)

the license; or

- (c) any protected wild flower or protected native plant that has been picked for commercial purposes in pursuance of a license issued under section 5A of this Act.

- (c) by inserting in section 5A next after the word "scientific" the words "or commercial";

Sec. 5A.

(Licenses to pick for certain purposes.)

- (d) (i) by omitting from subparagraph (i) of paragraph (c) of subsection four of section seven the word "and" where secondly occurring;

Sec. 7.

(Carriage by Railway Commissioners and transport trust.)

- (ii) by omitting from subparagraph (ii) of the same paragraph the words "such license" and by inserting in lieu thereof the following words :—

the license; or

- (iii) that the protected wild flower or native plant was picked pursuant to a license issued under section 5A of this Act for commercial purposes.

15. The permanent reservation under the National Parks and Wildlife Act, 1967, of all that piece or parcel of land containing 24 acres 2 roods 30 perches situate in the County of Selwyn, Parish of Youngal and being portion 47 shown on plan catalogued S2561-1522 in the Department of Lands is hereby revoked.

Revocation of permanent reservation of certain land.

National Parks and Wildlife (Amendment).

Transitional
provision.

16. Notwithstanding anything in the Fauna Protection Act, 1948, as amended by paragraph (g) of section nine of this Act, where, but for this section a person would, by the operation of that Act, as so amended, be required to have a license issued under that Act, as so amended, in order lawfully to carry on after the commencement of that paragraph an activity that he was lawfully carrying on before that commencement without such a license, it shall be lawful for him to continue to carry on that activity after that commencement without such a license—

- (a) until the expiration of the period of six months next succeeding that commencement; or
- (b) where he applies within that period of six months for the issue to him of such a license—
 - (i) until such a license is issued to him; or
 - (ii) until he is notified that the issue of such a license has been refused,

whichever last occurs.

Revocation
of dedication
of certain
lands.

17. (1) The dedication under the Fauna Protection Act, 1948, of all that piece or parcel of land containing 299 acres 1 rood 20 $\frac{3}{4}$ perches situate in the County of Camden being Lot 1 in Deposited Plan 548559 and Lot 1 in Deposited Plan 548561 Parish Kiama and Portion 137 inclusive of reserved roads and exclusive of public road Parish Wallaya below a depth of 50 feet is hereby revoked and that land is hereby revested in the persons entitled thereto immediately before the resumption of that land under and in pursuance of the provisions of section 197 of the Crown Lands Consolidation Act, 1913, notification whereof was published in the Government Gazette of the thirteenth day of August, one thousand nine hundred and seventy-one, and is so revested for such estates and interests as were, and with and subject to such rights as were, subsisting in respect of that land immediately before that resumption, and subject to any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements from which it was freed and discharged by

the

National Parks and Wildlife (Amendment).

the resumption as if the resumption had not taken place and shall also be subject to any interests in or equities binding on the compensation moneys created since the resumption which but for this Act may have been recoverable or payable.

(2) The Registrar General shall cancel any recording in the Register made by him pursuant to section 31A of the Real Property Act, 1900, in relation to the resumption referred to in subsection one of this section, in so far as the recording relates to the land referred to in that subsection and, for the purpose of any dealing with that land, such a recording shall be deemed never to have been made.

(3) Compensation shall not be, and shall be deemed never to have been, payable pursuant to the Crown Lands Consolidation Act, 1913, or otherwise in respect of the resumption referred to in subsection one of this section in so far as it affected the land referred to in that subsection or in respect of any loss or damage whatsoever arising in any way as a consequence of that resumption or revesting by this Act of that land.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

The Commission on the Status of Women, established in 1946, was the first of its kind. It was created by the United Nations to study and report on the status of women in all countries. The Commission has since held several sessions, each with a different theme. The first session was held in 1946 in London, and the last session was held in 1970 in Mexico City.

The Commission's work has been divided into three main areas: the status of women in the home, the status of women in the workplace, and the status of women in the community. The Commission has also been concerned with the status of women in the field of international law. The Commission's work has been carried out through a series of studies, reports, and recommendations. The Commission has also been instrumental in the development of the United Nations Declaration on the Elimination of Discrimination Against Women, which was adopted in 1979.

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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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 30 September, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 36, 1971.

An Act to revise the procedure for the reservation of national parks, state parks and historic sites; to make further provisions with respect to the protection and preservation of aboriginal relics, fauna, wild flowers and native plants; to make provisions with respect to the protection and preservation of reptiles; to make provisions with respect to parking offences in national parks and state parks and at historic sites; to increase penalties; for these and other purposes to amend

the

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

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

National Parks and Wildlife (Amendment).

the National Parks and Wildlife Act, 1967, the Fauna Protection Act, 1948, and the Wild Flowers and Native Plants Protection Act, 1927; and for purposes connected therewith. [Assented to, 8th October, 1971.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows : —

Short title
and com-
mencement.

1. (1) This Act may be cited as the "National Parks and Wildlife (Amendment) Act, 1971".

(2) A provision of this Act (sections one, two and three excepted) commences on the day that is appointed by the Governor and notified by proclamation published in the Gazette as the day on which the provision is to commence.

(3) Sections one, two and three of this Act commence on the day on which this Act receives the Royal assent.

(4) The National Parks and Wildlife Act, 1967, is in this Act referred to as the Principal Act.

Amendment
of Act No.
35, 1967.

2. The Principal Act is amended—

Sec. 3.
(Defini-
tions.)

(a) by omitting from the definition of "Historic site" in subsection one of section three the words "for the purposes of this Act";

(b) by omitting from the definition of "Lands of the Crown" the words "statutory body" and by inserting in lieu thereof the words "public authority";

(c)

National Parks and Wildlife (Amendment).

- (c) by inserting next after the same definition the following new definition :—

“Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled upon land wholly or partly by volatile spirit, steam, gas, oil or electricity.

- (d) by omitting from the definition of “National park” the words “for the purposes of this Act”;

- (e) by omitting from the definition of “State park” the words “for the purposes of this Act”;

- (f) by inserting next after the same definition the following new definition :—

“Vehicle” includes—

- (a) a boat or other object that, while floating on water, is wholly or partly used for the conveyance of persons or things;
- (b) a motor vehicle;
- (c) any apparatus propelled upon land, snow or ice by human or animal power or by the wind;
- (d) a trailer or caravan, whether or not it is in the course of being towed.

3. The Principal Act is further amended—

Further
amendment
of Act No.
35, 1967.

- (a) by inserting next after section six the following new section :—

6A. Where the Director or an officer or employee of the National Parks and Wildlife Service or of any Government Department in respect of which an arrangement has been made under subsection two of section five of this Act requires a person whom

Unlawful
refusal to
state name
and place
of abode.

National Parks and Wildlife (Amendment).

whom he reasonably suspects of offending against this Act or the regulations to state his full name and his place of abode, that person is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars if he—

(a) fails or refuses to comply with the requirement; or

(b) in purported compliance with the requirement, states a name that is not his name or a place of abode that is not his place of abode.

Sec. 7.
(Power to
delegate.)

(b) (i) by omitting from subsection one of section seven the words “under this Act” and by inserting in lieu thereof the words “by this Act and the regulations”;

(ii) by inserting in the same subsection after the figures “1948,” the words “and the regulations made under that Act,”;

(iii) by inserting in the same subsection after the figures “1927” the words “, and the regulations made under that Act”;

Sec. 8.
(Power of
Minister to
accept gifts,
etc.)

(c) by inserting next after subsection four of section eight the following new subsection :—

(5) Where the Minister acquires property pursuant to subsection one of this section—

(a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and

(b) the property, or the value of property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

(d)

National Parks and Wildlife (Amendment).

- (d) by omitting from paragraph (h) of subsection two of section nine the words "Minister for Education" and by inserting in lieu thereof the words "Minister administering the Australian Museum Act, 1902"; (National Parks and Wildlife Advisory Council.)
- (e) by inserting next after subsection nine of section eleven the following new subsection :— (Establishment of local committees.)
- (10) Each member of a local committee shall be entitled to receive such travelling and other expenses as the Minister may determine.
- (f) by inserting next after section nineteen the following new sections :— New secs. 19A and 19B.
- 19A. Where the Minister is of the opinion that it is desirable to acquire any land for reservation as, or as part of, a national park, state park or historic site, he may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, or surrender to, Her Majesty of the land. Acquisition of land for national park, etc.
- 19B. For the purposes of— Acquisition or occupation for certain purposes of land adjoining or near national park, etc.
- (a) improving access to a national park, state park or historic site;
- (b) the management, maintenance or improvement of a national park, state park or historic site; or
- (c) carrying out works for any of those purposes,
- the Minister may, on behalf of Her Majesty, enter into, and give effect to, an agreement for the vesting in, surrender to or leasing to, Her Majesty, or for the occupation under license of, any land adjoining or in the vicinity of the national park, state park or historic site.
- (g) (i) by omitting from subsection one of section twenty-four the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area"; (Restrictions on mining.)

(ii)

National Parks and Wildlife (Amendment).

- (ii) by inserting in paragraph (a) of subsection two of the same section after the figures "1969," the words "and such an authority or lease over an aboriginal area granted after the day on which the National Parks and Wildlife (Amendment) Act, 1971, received the Royal assent";
- (iii) by omitting from paragraph (b) of the same subsection the words "or historic site" and by inserting in lieu thereof the words ", historic site or aboriginal area";
- (iv) by omitting from subsection three of the same section the words "or historic site" where secondly occurring and by inserting in lieu thereof the words ", historic site or aboriginal area";

Sec. 29.
(Plan of
manage-
ment.)

- (h) (i) by inserting next after subsection two of section twenty-nine the following new subsection :—

(2A) The plan of management in respect of a national park, state park or historic site may relate to land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

- (ii) by omitting from paragraph (e) of subsection three of the same section the word "and";
- (iii) by omitting from paragraph (f) of the same section the word "area." and by inserting in lieu thereof the following words :—

area; and

- (g) the utilisation, for the purposes for which it was acquired or occupied, or is proposed to be acquired or occupied,

of

National Parks and Wildlife (Amendment).

of land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act.

- (iv) by inserting in paragraph (a) of subsection six of the same section after the words "it shall" the words ", subject to paragraph (c) of this subsection,";
- (v) by omitting from paragraph (b) of the same subsection the word "site." and by inserting in lieu thereof the following words : —
 - site; and
 - (c) where any land to which the plan of management relates is land acquired or occupied, or proposed to be acquired or occupied, pursuant to section 19A or 19B of this Act, operations under the plan shall not be undertaken—
 - (i) on or in relation to land acquired or proposed to be acquired under section 19A of this Act until it has been reserved as, or as part of, the park or site to which the plan relates; or
 - (ii) on or in relation to land proposed to be acquired or occupied under section 19B of this Act until it has been so acquired or occupied.
- (vi) by inserting in paragraph (b) of subsection seven of the same section after the word "tows" the words "or moorings".

(i)

National Parks and Wildlife (Amendment).

Sec. 30.
(Granting
of leases or
licenses.)

- (i) (i) by omitting from paragraph (c) of subsection one of section thirty the word "site." and by inserting in lieu thereof the following words :—

site;

- (d) grant leases of land within a national park, state park or historic site on which buildings have been erected for residential occupation.

- (ii) by inserting next after the same subsection the following new subsection :—

(1A) The Minister may, for any purpose specified in paragraph (a), (b) or (c) of section 19B of this Act, grant a lease of, or a license with respect to, land acquired or occupied under that section.

Sec. 35.
(Payments
into the
Fund.)

- (j) (i) by omitting from subparagraph (vi) of paragraph (b) of subsection one of section thirty-five the word "and";

- (ii) by omitting from subparagraph (vii) of the same paragraph the word "impounding;" and by inserting in lieu thereof the following words :—

impounding; and

- (viii) leases and licenses granted under subsection (1A) of section thirty of this Act;

Sec. 36.
(Payments
out of
the Fund.)

- (k) (i) by omitting from paragraph (g) of subsection two of section thirty-six the word "and";

- (ii) by omitting from paragraph (h) of the same subsection the word "relic." and by inserting in lieu thereof the following words :—

relic;

- (i) the cost of entering into, and giving effect to, agreements under sections 19A and 19B of this Act;

(j)

National Parks and Wildlife (Amendment).

(j) the cost of carrying out the purposes for which land is acquired or occupied under section 19B of this Act.

(l) by inserting in section forty-one after the word "Act" where firstly, thirdly and fourthly occurring the words "and liable to a penalty not exceeding two hundred dollars"; Sec. 41. (Driver to give his name and address when required.)

(m) by omitting from subsection one of section forty-two the words "has been" and by inserting in lieu thereof the words "is unattended and believed by him on reasonable grounds to have been"; Sec. 42. (Seizure of motor vehicles.)

(n) by inserting next after section forty-two the following new section :— New sec. 42A.

42A. (1) A person who impersonates the Director, or a park ranger or other officer of the National Parks and Wildlife Service, is guilty of an offence against this Act. Impersonating, assaulting, resisting or obstructing an officer, etc.

(2) Where a person—

(a) assaults, resists or obstructs; or

(b) incites or encourages any other person to assault, resist or obstruct,

the Director, or a park ranger or other officer of the National Parks and Wildlife Service, in the execution of his duty or authority under this Act, that person is guilty of an offence against this Act.

(o) by omitting from subsection three of section forty-four the words "one hundred dollars for every such offence" and by inserting in lieu thereof the words "two hundred dollars for the first offence, five hundred dollars for the second offence and one thousand dollars for the third or subsequent offence"; Sec. 44. (Penalties.)

(p)

National Parks and Wildlife (Amendment).

Sec. 49.
(Regulations.)

- (p) (i) by inserting next after paragraph (k2) of subsection two of section forty-nine the following new paragraph :—

(k3) the regulation, control or prohibition of the use of any relic for commercial purposes in any national park, state park, historic site, nature reserve or aboriginal area;

- (ii) by omitting from paragraph (l) of the same subsection the words “and receiving” and by inserting in lieu thereof the words “, receiving and waiving”;

- (iii) by omitting from paragraph (a) of subsection three of the same section the word “one” and by inserting in lieu thereof the word “two”.

Second
Schedule.

- (q) by omitting from the First Part of the Second Schedule the word “Cocopara” and by inserting in lieu thereof the word “Cocoparra”.

Further
amendment
of Act No.
35, 1967.

4. The Principal Act is further amended—

Sec. 15.
(Reservation
of certain
national
parks, state
parks and
historic
sites.)

- (a) (i) by omitting from subsection four of section fifteen the words “the lands described in the Second and Third Schedules to this Act” and by inserting in lieu thereof the words “lands reserved by or under this Act as national park, state park or historic site”;

- (ii) by omitting from the same subsection the words “by this Act”;

- (iii) by omitting from subsection five of the same section the words “the lands described in the Second and Third Schedules to this Act” and by inserting in lieu thereof the words “lands reserved by or under this Act as national park, state park or historic site”;

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in subsection six of the same section after the word "by" where firstly and secondly occurring the words "or under";

(b) by omitting section twenty and by inserting in lieu thereof the following section :—

Subst.
sec. 20.

20. (1) In this section—

"prescribed lands" means lands, not held under lease or license or otherwise lawfully occupied, that are—

Reservation
of certain
lands as
national
park, state
park or
historic
site.

(a) Crown lands; or

(b) lands of the Crown in respect of which the person in whom they are vested has consented to a reservation under this section;

"prescribed time" in relation to a House of Parliament means fourteen sitting days of that House, whether or not they occur during the same session.

(2) The Governor may, by proclamation published in the Gazette—

(a) reserve, as a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation; or

(b) reserve, as part of a national park, state park or historic site specified in the proclamation, prescribed lands described in the proclamation that—

(i) adjoin, or are adjacent to, that national park, state park or historic site; and

(ii) are not vested in or under the care, control and management of, trustees.

(3)

National Parks and Wildlife (Amendment).

(3) Upon the publication of a proclamation under subsection two of this section—

- (a) the lands reserved by the proclamation become Crown lands except in so far as they were Crown lands immediately before that publication;
- (b) any person who, immediately before that publication, held office as trustee, or as a member of the body corporate that was trustee, of the lands so reserved shall cease to hold that office; and
- (c) the care, control and management of the lands so reserved vest in the Director.

(4) To the extent to which a dedication, reservation, Crown grant or vesting affects land to which a proclamation published under subsection two of this section relates, the publication revokes the dedication, reservation, grant or vesting.

(5) A copy of a proclamation under subsection two of this section shall be laid before each House of Parliament within the prescribed time after publication thereof.

(6) Subject to this section, where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a proclamation has been laid before it pursuant to subsection five of this section (whether or not those sitting days occur during the same session) and the resolution disallows the reservation effected by the proclamation or any part thereof—

- (a) the reservation ceases, to the extent of the disallowance but without affecting the operation of subsection three or four of this section, to have effect; and
- (b) to the extent to which the reservation ceases to affect it, but without affecting the operation of subsection three or four of this section,

National Parks and Wildlife (Amendment).

section, the land referred to in the proclamation ceases to be, or to be part of, a national park, state park or historic site.

- (c) (i) by omitting from subsection one of section twenty-six the words "Where the Minister has published a notification under section nineteen of this Act vesting the care, control and management of any national park, state park or historic site in the Director" and by inserting in lieu thereof the words "Where by the operation of section nineteen or twenty of this Act any persons cease to hold office as trustees of, or as members of a body corporate that is trustee of, lands reserved as a national park, state park or historic site";
- (ii) by inserting in paragraph (a) of subsection two of the same section after the word "notification" the words "or proclamation by virtue of which that care, control and management are so vested,";
- (d) by inserting in subsection three of section thirty-one after the words "reserved by" the words "or under".

Sec. 26.
(Transfer of rights, liabilities and property.)

Sec. 31.
(Easements.)

5. The Principal Act is further amended by inserting next after section 33L the following new section :—

Further amendment of Act No. 35, 1967.
New sec. 33M.

33M. (1) Upon production of the prescribed evidence of his authority so to do, the Director or a park ranger or other officer of the National Parks and Wildlife Service may, subject to subsection two of this section, enter and search any land or premises if he has reason to suspect—

Power of entry.

- (a) that a breach of this Act or the regulations has been committed in respect of a relic; and

(b)

National Parks and Wildlife (Amendment).

(b) that the relic is in or upon that land or those premises.

(2) The powers conferred by subsection one of this section do not authorise a person to enter or search in or upon any part of premises that is used for residential purposes.

Further
amendment
of Act No.
35, 1967.

6. The Principal Act is further amended—

Sec. 3.
(Defini-
tions.)

(a) (i) by omitting from subsection one of section three the definition of "Crown lands" and by inserting in lieu thereof the following definition :—

"Crown lands" means—

- (a) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913; and
- (b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii)

National Parks and Wildlife (Amendment).

- (ii) by inserting at the end of the same section the following new subsection :—

(3) Nothing in this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of this section.

- (b) by inserting next after section twenty the following New sec.
20A.
new section :—

20A. Notwithstanding section twenty of this Act, Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act shall not be reserved as, or as part of, a national park, state park or historic site without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935. Land
submerged
by certain
waters.

- (c) (i) by omitting from subsection three of section twenty-two the figures and word "1906, or" and by inserting in lieu thereof the figures and words "1906, the Fisheries and Oyster Farms Act, 1935,"; Sec. 22.
(Existing
authority,
permit,
lease,
license or
occupancy.)
- (ii) by inserting in the same subsection after the figures "1955" the words ", or any permit or licence under the Petroleum (Submerged Lands) Act, 1967";

- (d) by inserting at the end of section twenty-three the following new subsection :— Sec. 23.
(Restriction
on disposal
or dealing
with lands.)

(3) After the commencement of section six of the National Parks and Wildlife (Amendment) Act, 1971, a lease under the Fisheries and Oyster Farms Act, 1935, shall not, without the concurrence

of

National Parks and Wildlife (Amendment).

of the Minister in writing, be granted with respect to land within a national park, state park or historic site or with respect to any waters beneath which that land is submerged.

Sec. 29.
(Plan of
manage-
ment.)

(e) by inserting next after subsection four of section twenty-nine the following new subsections :—

(4A) Where land submerged by water is land that is reserved as, or as part of, a national park, state park or historic site the Director shall, before submitting to the Minister for adoption by him the plan of management for the national park, state park or historic site, refer it to the Minister administering the Fisheries and Oyster Farms Act, 1935.

(4B) A plan of management referred to in subsection (4A) of this section—

(a) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of section three of this Act until he has considered any representations made with respect to the plan of management by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

(b) shall not be adopted, altered, amended or cancelled by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of section three of this Act without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(f)

National Parks and Wildlife (Amendment).

(f) (i) by omitting from subsection two of section thirty the word "Any" and by inserting in lieu thereof the words "Subject to subsection three of this section, any";

Sec. 30.
(Granting
of leases
and
licenses.)

(ii) by inserting next after the same subsection the following new subsection :—

(3) Where any term or condition of a lease or license granted under this section purports to affect land within a national park, state park or historic site that is land submerged by water and the term or condition is inconsistent with a plan of management in force for the national park, state park or historic site, the term or condition shall, to the extent of the inconsistency, have no force or effect.

(g) (i) by omitting from paragraph (v) of subsection two of section forty-nine the words "signs or other structures" and by inserting in lieu thereof the words "marinas, structures, signs or other improvements";

Sec. 49.
(Regulations.)

(ii) by inserting in paragraph (w) of the same subsection after the word "buildings," the word "marinas,";

(iii) by omitting from subsection five of the same section the words "the word 'animal' does" and by inserting in lieu thereof the words "the words 'animal' and 'fauna' do".

National Parks and Wildlife (Amendment).

Further
amendment
of Act No.
35, 1967.

7. The Principal Act is further amended—

New secs.
41A-41C.

- (a) by inserting next after section forty-one the following new sections :—

Liability of
vehicle
owner for
parking
offences.

41A. (1) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

- (a) in any case where the parking offence is dealt with under section 41B of this Act, the owner satisfies the prescribed person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used; or
- (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

(2) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3)

National Parks and Wildlife (Amendment).

(3) Notwithstanding anything in subsection one or two of this section, no owner of a vehicle is, by virtue of this section, guilty of an offence if—

(a) in any case where the offence is dealt with under section 41B of this Act, he—

- (i) within twenty-one days after service on him of a notice under that section alleging that he has been guilty of that offence, supplies by statutory declaration to the prescribed person referred to in that section the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or
- (ii) satisfies the prescribed officer so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

(b) in any other case, he—

- (i) within twenty-one days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

National Parks and Wildlife (Amendment).

(ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

(4) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection three of this section.

(5) Where a statutory declaration supplying the name and address of a person for the purposes of subsection three of this section is produced in any proceedings against that person in respect of the parking offence to which the statutory declaration relates, the statutory declaration is prima facie evidence that that person was, at all relevant times relating to that parking offence, in charge of the vehicle to which the parking offence relates.

(6) In this section and in section 41B of this Act—

“owner” in relation to a vehicle includes—

(a) a person who is the owner or joint owner or part owner of the vehicle and any person, other than the lessor under a hire-purchase agreement relating to the vehicle, who has the use of the vehicle under such an agreement; and

(b)

(b)

National Parks and Wildlife (Amendment).

(b) in the case of a vehicle that is a motor vehicle—

- (i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or
- (ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who, in contravention of the regulations made under this Act—

- (a) moors or parks a vehicle; or
- (b) causes or permits a vehicle to be moored or parked or to stand or wait.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this or any other Act.

41B. (1) Where it appears to a prescribed person that another person is, by virtue of section 41A of this Act, guilty of an offence, the prescribed person may serve a notice on that other person to

Penalty notice for certain offences.

the

National Parks and Wildlife (Amendment).

the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to a person so specified the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection one of this section—

- (a) may be served as provided by section forty-eight of this Act; or
- (b) may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.

(3) A person alleged to have committed an offence referred to in subsection one of this section shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection one of this section (or within such further time as, in his case, may have been allowed) to pay the penalty so specified he shall be deemed to have declined to be dealt with under this section.

(4) Where the penalty for an offence dealt with under this section is paid pursuant to this section in respect of an alleged offence—

- (a) no person may be proceeded against for the alleged offence; and
- (b) the payment shall not be construed as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(5)

National Parks and Wildlife (Amendment).

(5) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

(6) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or a provision of any other Act in relation to proceedings that may be taken in respect of offences.

41c. (1) Where—

- (a) an information for an offence referred to in subsection one of section 41B of this Act has been laid under Division 2 of Part IV of the Justices Act, 1902;
- (b) a summons for the appearance of the defendant to answer the information has been served on him in any manner provided by law for the service of such a summons on that defendant in relation to that offence; **and**
- (c) the defendant does not appear at the time and place fixed for the hearing of the information,

Ex parte
procedure
for offences
referred to
in section
41B.

the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, for the payment by the defendant of costs.

National Parks and Wildlife (Amendment).

(2) The provisions of section 556A of the Crimes Act, 1900, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty for a breach of the regulation creating the offence in respect of which the penalty is so imposed.

(4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties imposed upon, or previous convictions of, the defendant under this Act and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

(5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, be deemed to be an order under that Act.

(6) Section seventy-five of the Justices Act, 1902, does not apply in any case where an information is dealt with under subsection one of this section.

(7) A reference in subsection one of this section to the time and place fixed for the hearing of an information includes, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, a reference to the time and place specified in the notice.

(8)

National Parks and Wildlife (Amendment).

(8) Section fifteen of the Justices Act, 1902, shall be construed as if this section formed part of that Act.

(9) The jurisdiction of a court under this section shall be exercised only by a stipendiary magistrate.

(10) This section shall be construed as supplementing, and not as derogating from, any other provision of this Act or any other Act in relation to proceedings that may be taken in respect of offences.

- (b) by omitting from subsection one of section forty-
four the words "Any penalty" and by inserting in
lieu thereof the words "Subject to subsection nine
of section 41C of this Act, any penalty".

8. The Fauna Protection Act, 1948, is amended—

Amendment
of Act No.
47, 1948.

- (a) (i) by omitting from subsection one of section
nine the words "In this subsection 'Crown
lands' has the meaning ascribed to that expres-
sion in section five of the Crown Lands
Consolidation Act, 1913, as amended by
subsequent Acts." and by inserting in lieu
thereof the following words :—

(Dedication
of areas for
protection,
care, etc.
of fauna.)

In this subsection "Crown lands" means—

- (a) Crown lands within the meaning of
the Crown Lands Consolidation Act,
1913; and

(b)

National Parks and Wildlife (Amendment).

(b) those parts of the seabed and of the waters beneath which it is submerged that are within the territorial jurisdiction of New South Wales and are not within the Eastern Division described in the Second Schedule to the Crown Lands Consolidation Act, 1913.

(ii) by omitting from subsection two of the same section the words "section except with the concurrence of the Secretary for Lands." and by inserting in lieu thereof the following words :—

section—

(a) unless, in the case of Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section, the Minister administering the Crown Lands Consolidation Act, 1913, concurs; or

(b) unless, in the case of Crown lands within the meaning of paragraph (b) of that definition, the Minister administering the Fisheries and Oyster Farms Act, 1935, concurs.

(iii) by omitting from paragraph (b) of subsection five of the same section the words "object of the scheme shall be" and by inserting in lieu thereof the words "objects of the scheme shall include";

(iv)

National Parks and Wildlife (Amendment).

(iv) by inserting in paragraph (f) of the same subsection after the word "buildings" the word ", marinas";

(v) by inserting next after subsection five of the same section the following new subsections :—

(5A) Where land submerged by water is land that is dedicated as, or as part of, a nature reserve, the Director shall, before submitting to the Minister for his approval under subsection five of this section a scheme for the nature reserve, refer the scheme to the Minister administering the Fisheries and Oyster Farms Act, 1935.

(5B) A scheme referred to in subsection (5A) of this section—

(a) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (a) of the definition of that expression in subsection one of this section until he has considered any representations made with respect to the scheme by the Minister administering the Fisheries and Oyster Farms Act, 1935; and

(b) shall not be approved, amended or altered by the Minister in so far as it relates to Crown lands within the meaning of paragraph (b) of the definition of that expression in subsection one of this section without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(b)

National Parks and Wildlife (Amendment).

New sec.
9A.

(b) by inserting next after section nine the following new section :—

Navigation
of certain
waters not
affected.

9A. Nothing in section nine of this Act shall be construed as operating to affect the law from time to time in force with respect to the navigation of the waters referred to in paragraph (b) of the definition of "Crown lands" in subsection one of that section.

Further
amendment
of Act No.
47, 1948.

9. The Fauna Protection Act, 1948, is further amended—

Sec. 4.
(Definitions.)

(a) (i) by inserting in section four next after the definition of "Regulations" the following new definition :—

"Sell" includes—

- (a) auction, barter, exchange or supply;
- (b) offer, expose, supply or receive for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) dispose of under a hire-purchase agreement;
- (e) cause, permit or suffer the doing of an act referred to in paragraph (a), (b), (c) or (d) of this definition;
- (f) offer or attempt to do an act so referred to;
- (g) cause, permit or suffer to be sold;

(h)

National Parks and Wildlife (Amendment).

- (h) attempt to sell or offer to sell ;
- (i) have in possession for sale,
and "sale" has a corresponding meaning.
- (ii) by omitting from the same section the definition of "Take or kill" and by inserting in lieu thereof the following definition :—
 - "Take or kill" in relation to any fauna includes hunt, shoot, poison, net, snare, spear, pursue, capture, disturb or injure.
- (b) by omitting from subsection one of section eleven the words "or timber" and by inserting in lieu thereof the words ", timber or vegetation" ; Sec. 11.
(Restrictions as to timber.)
- (c) by omitting from subsection one of section twelve the words "an officer or employee" and by inserting in lieu thereof the words "a person" ; Sec. 12.
(Prohibition on taking or killing fauna within nature reserves.)
- (d) by inserting at the end of section eighteen the following new subsection :— Sec. 18.
(Open seasons.)
 - (3) A person shall not be convicted of an offence against subsection two of this section if he proves that the act constituting the offence was done under and in accordance with the authority conferred by a license.
- (e) (i) by omitting from subsection one of section nineteen the word "ten" and by inserting in lieu thereof the words "one hundred" ; Sec. 19.
(Penalty for having protected fauna in possession.)
- (ii)

National Parks and Wildlife (Amendment).

- (ii) by inserting in the same subsection after the word "committed" the words "with a maximum total penalty under this subsection in respect of any one offence of one thousand dollars";
 - (iii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—
 - (a) that the act constituting the offence was done, or that the state of affairs constituting the offence existed, under and in accordance with—
 - (i) the provisions of this Act relating to open seasons; or
 - (ii) the authority conferred by a license; or;
- Sec. 22.** (Fauna within districts.)
- (f) (i) by omitting subsection one of section twenty-two;
 - (ii) by inserting in subsection four of the same section after the word "periods" the words "and may in like manner vary, amend or revoke any such proclamation";
- Sec. 26.** (Collections for Museums, etc.)
- (g) (i) by inserting in section twenty-six after the word "investigation" the words "or for the purposes of exhibition";
 - (ii) by inserting at the end of the same section the following new subsection :—
 - (2) A person who exhibits any protected fauna is guilty of an offence against this Act unless he does so under and in accordance with the authority conferred by a license issued under this section.

(h)

National Parks and Wildlife (Amendment).

- (h) (i) by inserting in paragraph (a) of subsection one of section twenty-seven after the word "fauna" where secondly occurring the words Sec. 27.
(Persons taking or killing fauna for sale.)
", or under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (ii) by inserting in paragraph (b) of the same subsection after the word "section" the words
", or a license under section twenty-six of this Act authorising him to take or kill such fauna for the purpose of sale";
- (i) by omitting section thirty-three and by inserting in lieu thereof the following section :— Sec. 33.
(Imported fauna.)
33. A person who, in New South Wales, liberates fauna not indigenous to New South Wales is guilty of an offence against this Act unless he does so in accordance with a permit granted by the Minister. Restriction on liberation in New South Wales of exotic fauna.
- (j) (i) by inserting in paragraph (a) of subsection one of section thirty-four after the word "committed" where secondly occurring the words Sec. 34.
(Powers of entry and seizure by Director, rangers, officers, etc.)
", or any firearm, net, trap or other instrument used in connection with the breach";
- (ii) by omitting from the same paragraph the words "or poison found therein" and by inserting in lieu thereof the words ", poison, firearm, net, trap or other instrument found therein or thereon together with any books, papers or records relating to the suspected breach and make copies of, or take extracts from, any such papers, books or records";
- (k) by inserting next after the same section the following new section :— New sec. 34A.
34A. (1) Where any property seized under paragraph (a) of subsection one of section thirty-four of this Act is fauna or is perishable, it may be disposed of as follows:
Disposal of seized fauna and perishable goods.
forthwith

National Parks and Wildlife (Amendment).

forthwith be disposed of, by way of sale or otherwise, by the Director, an officer or employee of the National Parks and Wildlife Service authorised by the Director to dispose of it, a ranger or a collector.

(2) The proceeds of any sale pursuant to subsection one of this section shall be paid into the National Parks and Wildlife Fund.

(3) The payment to a person from the National Parks and Wildlife Fund of an amount equal to the proceeds of the sale of any property under this section operates as a discharge of any obligation to deliver that property to that person and such a payment in discharge of any such obligation imposed by an order of the court prescribed in relation to the property under section forty of this Act is hereby authorised.

Subst.
sec. 40.

(1) by omitting section forty and by inserting in lieu thereof the following section :—

Disposal of
property
seized.

40. (1) Subject to this section, where—

- (a) a person is convicted of an offence under this Act or the regulations;
- (b) property relating to the offence, or in the possession of the offender at the time of the commission of the offence, has been seized under section thirty-four of this Act; and
- (c) any person applies to the court prescribed in relation to the property for an order that the property be delivered to a specified person,

that court may, whether or not it is the court making the conviction, make such an order.

(2)

National Parks and Wildlife (Amendment).

(2) Subject to this section, where—

- (a) property has been seized under section thirty-four of this Act; and
- (b) an information for an offence (being an offence on or after a conviction for which an order could be made under subsection one of this section in respect of the property) has not been laid within six months after the seizure of the property,

the court prescribed in relation to the property may, on the application of any person, order that the property be delivered to a specified person.

(3) An application for an order under subsection one of this section may be made at the time of the conviction referred to in that subsection if the court making the conviction is the prescribed court in relation to the property to which the application relates.

(4) An application for an order under subsection one or two of this section may not be made—

- (a) in the case of an application for an order under subsection one of this section—later than one month after the conviction referred to in that subsection; or
- (b) in the case of an application for an order under subsection two of this section—later than three months after the expiration of the period of six months referred to in that subsection.

(5) Where property has been seized under section thirty-four of this Act and—

- (a) no application for an order under subsection one or two of this section has been duly made; or

(b)

National Parks and Wildlife (Amendment).

(b) such an application has been duly made and such an order has been refused, the property the subject of the application and, where the property has been sold under section 34A of this Act, the proceeds of the sale, shall be deemed to have been forfeited.

(6) For the purposes of this section—

(a) the value of any property sold under section 34A of this Act is an amount equal to the amount of the net proceeds of sale;

(b) the court prescribed in relation to any property is—

(i) where the value of the property does not exceed five hundred dollars—the court of petty sessions for the district in which the property was seized;

(ii) where the value of the property exceeds five hundred dollars but does not exceed six thousand dollars—the district court for the district in which the property was seized; and

(iii) where the value of the property exceeds six thousand dollars—the Supreme Court of New South Wales.

Sec. 43.
(Regulations.)

(m) by omitting from subsection three of section forty-three the words “, and may provide that any protected fauna in relation to which an offence against the regulations has been committed shall be liable to forfeiture and disposed of in such manner as the court may direct”;

Second
Schedule.

(n) by omitting the Second Schedule.

National Parks and Wildlife (Amendment).

10. The Fauna Protection Act, 1948, is further amended—

Further amendment of Act No. 47, 1948.

- (a) by omitting from subsection two of section twelve the words “a penalty not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”; Sec. 12.
(Prohibition on taking or killing fauna within nature reserves.)
- (b) by omitting from subsection two of section sixteen the words “shall for every such offence be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”; Sec. 16.
(Closed season for scheduled fauna.)
- (c) by omitting from subsection two of section eighteen the words “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “is guilty of an offence against this Act”; Sec. 18.
(Open seasons.)
- (d) by omitting from subsection three of section twenty the words “a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment” and by inserting in lieu thereof the words “the penalty prescribed by section forty-one of this Act for an offence against this Act or to imprisonment for a period not exceeding six months”; Sec. 20.
(Rare fauna.)
- (e) by omitting from subsection five of section twenty-two the words “and shall be liable to a penalty not exceeding one hundred dollars” and by inserting in lieu thereof the words “against this Act”; Sec. 22.
(Fauna within districts.)

(f)

National Parks and Wildlife (Amendment).

Sec. 23.
(Penalty for
trespass.)

- (f) by omitting from section twenty-three the words "and be liable to a penalty not exceeding one hundred dollars" and by inserting in lieu thereof the words "against this Act";

Sec. 23A.
(Wildlife
refuges and
game
reserves.)

- (g) (i) by omitting from subsection eight of section 23A the words "and be liable to a penalty not exceeding two hundred dollars" and by inserting in lieu thereof the words "against this Act";
- (ii) by omitting from subsection nine of the same section the words "and be liable to a penalty not exceeding two hundred dollars" and by inserting in lieu thereof the words "against this Act";

Sec. 32.
(Restriction
on method
of shooting
fauna.)

- (h) (i) by omitting from subsection one of section thirty-two the word "forty" and by inserting in lieu thereof the words "two hundred";
- (ii) by omitting from subsection two of the same section the word "forty" and by inserting in lieu thereof the words "two hundred";

Sec. 35.
(Further
powers of
Director,
rangers,
etc.)

- (i) by omitting from subsection two of section thirty-five the words "against this Act" and by inserting in lieu thereof the words "and be liable to a penalty not exceeding two hundred dollars";

Sec. 36.
(Assaulting
or resisting
officers, etc.)

- (j) by omitting from section thirty-six the word "twenty" and by inserting in lieu thereof the words "two hundred";

Sec. 37.
(Use of
poison.)

- (k) by omitting from subsection three of section thirty-seven the word "one" and by inserting in lieu thereof the word "four";

(1)

National Parks and Wildlife (Amendment).

- (l) by omitting from subsection one of section thirty-eight the word "forty" and by inserting in lieu thereof the words "four hundred"; Sec. 38.
(Use of
bird-lime
etc. pro-
hibited.)

- (m) by omitting section forty-one and by inserting in lieu thereof the following section : — Subst.
sec. 41.

41. (1) A person who—

- (a) does that which by this Act he is forbidden to do;
- (b) fails or neglects to do that which by this Act he is required or directed to do,

is guilty of an offence against this Act.

(2) A person guilty of an offence against this Act, whether pursuant to subsection one of this section or otherwise is, where no other penalty is prescribed, liable to a penalty not exceeding—

- (a) in the case of the first offence for which he is liable to a penalty under this section—two hundred dollars;
- (b) in the case of a second offence for which he is liable to a penalty under this section—five hundred dollars; and
- (c) in the case of a third or subsequent offence for which he is liable to a penalty under this section—one thousand dollars.

- (n) by omitting from subsection three of section forty-three the word "forty" and by inserting in lieu thereof the words "two hundred". Sec. 43.
(Regula-
tions.)

National Parks and Wildlife (Amendment).

Further
amendment
of Act No.
47, 1948.

11. The Fauna Protection Act, 1948, is further amended—

Subst.
sec. 25,

- (a) by omitting section twenty-five and by inserting in lieu thereof the following section :—

Destructive
fauna.

25. (1) Subject to this section, the Minister may, by license specifying such conditions as the Minister thinks proper, authorise an owner or occupier of specified land—

(a) to take or kill; or

(b) to permit a licensee under paragraph (a) of subsection one of section twenty-seven of this Act to take or kill,

a specified number of specified fauna found on that land and may, by the license, authorise the disposal, whether for sale or otherwise, of any fauna taken or killed under that authority.

(2) A license under subsection one of this section shall not be issued unless—

(a) the Minister is satisfied that the species of fauna specified in the license are destroying or injuring, or likely to destroy or injure, the property of the applicant for the license; **and**

(b) the licensee has been supplied by the National Parks and Wildlife Service with labels, tags, slips or other objects sufficient in number to affix or attach, in compliance with any condition of the license, to the skin or carcase of fauna taken or killed by the authority of the license.

(b)

National Parks and Wildlife (Amendment).

- (b) by inserting at the end of section twenty-eight the following new subsection :—

Sec. 28.
(Royalty
to be paid.)

(2) Notwithstanding subsection one of this section, royalty referred to therein shall not be payable in respect of a skin or carcase to which there has been affixed or attached in compliance with a condition of a license under this Act a label, tag, slip or other object for which a charge or fee has been paid pursuant to regulations made under paragraph (n) of subsection two of section forty-three of this Act.

- (c) (i) by omitting from paragraph (m) of subsection two of section forty-three the word "reserve." and by inserting in lieu thereof the word "reserve;"

Sec. 43.
(Regu-
lations.)

- (ii) by inserting next after the same paragraph the following new paragraph :—

(n) for the making of a charge for supplying a label, tag, slip or object for affixing or attaching to the skin or carcase of any fauna in compliance with any condition of a license under this Act.

12. The Fauna Protection Act, 1948, is further amended—

Further
amendment
of Act No.
47, 1948.

- (a) by omitting from section twenty-one the word "Nothing" and by inserting in lieu thereof the words "Subject to section 27A of this Act, nothing";

Sec. 21.
(Protected
fauna kept
in domesti-
cated state
exempted
from this
Act.)

(b)

National Parks and Wildlife (Amendment).

New sec.
27A.

Registration
of aviaries.

- (b) by inserting next after section twenty-seven the following new section :—

27A. (1) A person who has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises is guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless—

- (a) an aviary registration certificate is in force with respect to that structure, building, store, shop or other premises; or
- (b) that person is a fauna dealer or skin dealer licensed under section twenty-seven of this Act and the structure, building, store or shop is, or the other premises are, registered under subsection four of that section.

(2) The Director may, on application being made for the purpose, issue an aviary registration certificate in respect of specified premises and may subject to subsection five of this section, cancel such a certificate for any good cause upon the expiration of fourteen days after serving notice that he proposes so to do.

(3) It is a sufficient service of notice of a proposal to cancel an aviary registration certificate if the notice is left with some person apparently of or above the age of sixteen years at the address at which is situated the structure, building, store, shop or other premises to which the certificate relates.

(4) Where an application for an aviary registration certificate under this section is refused—

- (a) the applicant for the certificate may, within fourteen days after he is notified of the refusal, appeal to the Minister against the refusal; and

(b)

National Parks and Wildlife (Amendment).

(b) the refusal shall not take effect—

- (i) where an appeal against the refusal is not lodged before the expiration of the period allowed for lodging such an appeal—until the expiration of that period; or
- (ii) where such an appeal is lodged before the expiration of that period—unless the Minister dismisses the appeal.

(5) Where notice of a proposal to cancel an aviary registration certificate under this section has been served, a person who, in the absence of the certificate, would be guilty of an offence under subsection one of this section may, before the expiration of fourteen days after service of the notice, appeal to the Minister against the proposal and, where such an appeal is lodged, the Director shall not proceed with the proposal—

- (a) if the appeal is upheld; or
- (b) where the appeal is dismissed, until the expiration of fourteen days after dismissal of the appeal.

(6) The decision of the Minister on an appeal under this section is final.

(7) Where a person would, but for this subsection, be affected by subsection one of this section, he shall not, where he applies for an aviary registration certificate before the expiration of the prescribed period, be so affected—

- (a) until he is issued with such a certificate; or
- (b) where his application is refused—until the refusal takes effect.

(8)

National Parks and Wildlife (Amendment).

(8) In this section "prescribed period" in relation to a person means—

- (a) the period of six months next succeeding the commencement of section twelve of the National Parks and Wildlife (Amendment) Act, 1971;
- (b) where the Minister, by order published in the Gazette before the expiration of the period of six months referred to in paragraph (a) of this subsection, specifies for the purposes of this subsection a period that expires after the expiration of the period of six months—the period so specified; or
- (c) the period of one month next succeeding the day on which that person first becomes aware that he has more than nineteen birds, being protected fauna, in his possession or under his control in or upon a structure, building, store, shop or other premises,

whichever period last expires.

Sec. 43.
(Regulations.)

- (c) (i) by inserting in paragraph (b) of subsection two of section forty-three after the word "licenses" the words "or registration certificates";
- (ii) by inserting in subsection four of the same section after the word "licenses" where firstly occurring the words "or registration certificates";
- (iii) by omitting from the same subsection the words "and localities" and by inserting in lieu thereof the words ", registration certificates, localities";

(iv)

National Parks and Wildlife (Amendment).

- (iv) by inserting in the same subsection after the word "licenses" where thirdly occurring the words ", registration certificates";
- (v) by inserting in the same subsection after the word "licenses" where fourthly and fifthly occurring the words "or registration certificates".

13. The Fauna Protection Act, 1948, is further amended— Further amendment of Act No. 47, 1948.

- (a) (i) by inserting in the definition of "Fauna" in Sec. 4. section four after the word "bird" the words (Definitions.) "or reptile";
- (ii) by inserting in the same section after the definition of "Regulations" the following new definition :—

"Reptile" means snake, lizard, crocodile, tortoise, turtle or other member of the class *reptilia* (whether native, introduced or imported) and the eggs and young thereof and the skin and any other part thereof.

- (b) by inserting next after section eighteen the following new section :— New sec. 18A.

18A. Nothing in this Act renders a person liable to prosecution for— Killing of snakes not punishable.

- (a) killing, or attempting to kill, a snake; or
- (b) hunting, pursuing, disturbing or injuring a snake for the purpose of killing it without delay.

(c)

National Parks and Wildlife (Amendment).

- Sec. 19.
(Penalty for
having
protected
fauna in
possession.)
- (c) by inserting in paragraph (b) of subsection two of section nineteen after the word "Act" the words "or, in the case of a reptile, of section thirteen of the National Parks and Wildlife (Amendment) Act, 1971".

Amendment
of Act No.
2, 1927.

14. The Wild Flowers and Native Plants Protection Act, 1927, is amended—

- Sec. 3.
(Notification
of pro-
tection.)
- (a) (i) by omitting from subsection four of section three the words "the same" and by inserting in lieu thereof the words "that Act, but subject to subsection five of this section";

(ii) by inserting next after the same subsection the following new subsection :—

(5) Where—

- (a) the applicant for, or holder of, a license referred to in subsection four of this section is authorised by a license under section 5A of this Act to pick a wild flower or native plant of a species, and in the locality, to which his application or license under the Forestry Act, 1916, relates; and
- (b) in the opinion of the Forestry Commission, the wild flower or native plant, if not removed, would be damaged or destroyed in the taking of timber or products under, or in the carrying on of any activity authorised by, the Forestry Act, 1916,

subsection four of this section does not operate to prevent the Forestry Commission from issuing a license authorising removal of the

wild

National Parks and Wildlife (Amendment).

wild flower or native plant or from reinstating, to the extent necessary to authorise removal of the wild flower or native plant, a license that has, pursuant to that subsection, ceased to be operative.

- (b) by omitting from paragraph (b) of subsection two of section five the words "such license." and by inserting in lieu thereof the following words :—

Sec. 5.
(Selling
forbidden.)

the license; or

- (c) any protected wild flower or protected native plant that has been picked for commercial purposes in pursuance of a license issued under section 5A of this Act.

- (c) by inserting in section 5A next after the word "scientific" the words "or commercial";

Sec. 5A.
(Licenses
to pick for
certain
purposes.)

- (d) (i) by omitting from subparagraph (i) of paragraph (c) of subsection four of section seven the word "and" where secondly occurring;

Sec. 7.
(Carriage
by Railway
Com-
missioners
and trans-
port trust.)

- (ii) by omitting from subparagraph (ii) of the same paragraph the words "such license" and by inserting in lieu thereof the following words :—

the license; or

- (iii) that the protected wild flower or native plant was picked pursuant to a license issued under section 5A of this Act for commercial purposes.

15. The permanent reservation under the National Parks and Wildlife Act, 1967, of all that piece or parcel of land containing 24 acres 2 roods 30 perches situate in the County of Selwyn, Parish of Youngal and being portion 47 shown on plan catalogued S2561-1522 in the Department of Lands is hereby revoked.

Revocation
of
permanent
reservation
of certain
land.

16.

National Parks and Wildlife (Amendment).

Transitional
provision.

16. Notwithstanding anything in the Fauna Protection Act, 1948, as amended by paragraph (g) of section nine of this Act, where, but for this section a person would, by the operation of that Act, as so amended, be required to have a license issued under that Act, as so amended, in order lawfully to carry on after the commencement of that paragraph an activity that he was lawfully carrying on before that commencement without such a license, it shall be lawful for him to continue to carry on that activity after that commencement without such a license—

- (a) until the expiration of the period of six months next succeeding that commencement; or
- (b) where he applies within that period of six months for the issue to him of such a license—
 - (i) until such a license is issued to him; or
 - (ii) until he is notified that the issue of such a license has been refused,

whichever last occurs.

Revocation
of dedication
of certain
lands.

17. (1) The dedication under the Fauna Protection Act, 1948, of all that piece or parcel of land containing 299 acres 1 rood 20 $\frac{3}{4}$ perches situate in the County of Camden being Lot 1 in Deposited Plan 548559 and Lot 1 in Deposited Plan 548561 Parish Kiama and Portion 137 inclusive of reserved roads and exclusive of public road Parish Wallaya below a depth of 50 feet is hereby revoked and that land is hereby revested in the persons entitled thereto immediately before the resumption of that land under and in pursuance of the provisions of section 197 of the Crown Lands Consolidation Act, 1913, notification whereof was published in the Government Gazette of the thirteenth day of August, one thousand nine hundred and seventy-one, and is so revested for such estates and interests as were, and with and subject to such rights as were, subsisting in respect of that land immediately before that resumption, and subject to any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements from which it was freed and discharged by

the

National Parks and Wildlife (Amendment).

the resumption as if the resumption had not taken place and shall also be subject to any interests in or equities binding on the compensation moneys created since the resumption which but for this Act may have been recoverable or payable.

(2) The Registrar General shall cancel any recording in the Register made by him pursuant to section 31A of the Real Property Act, 1900, in relation to the resumption referred to in subsection one of this section, in so far as the recording relates to the land referred to in that subsection and, for the purpose of any dealing with that land, such a recording shall be deemed never to have been made.

(3) Compensation shall not be, and shall be deemed never to have been, payable pursuant to the Crown Lands Consolidation Act, 1913, or otherwise in respect of the resumption referred to in subsection one of this section in so far as it affected the land referred to in that subsection or in respect of any loss or damage whatsoever arising in any way as a consequence of that resumption or revesting by this Act of that land.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 8th October, 1971.

