

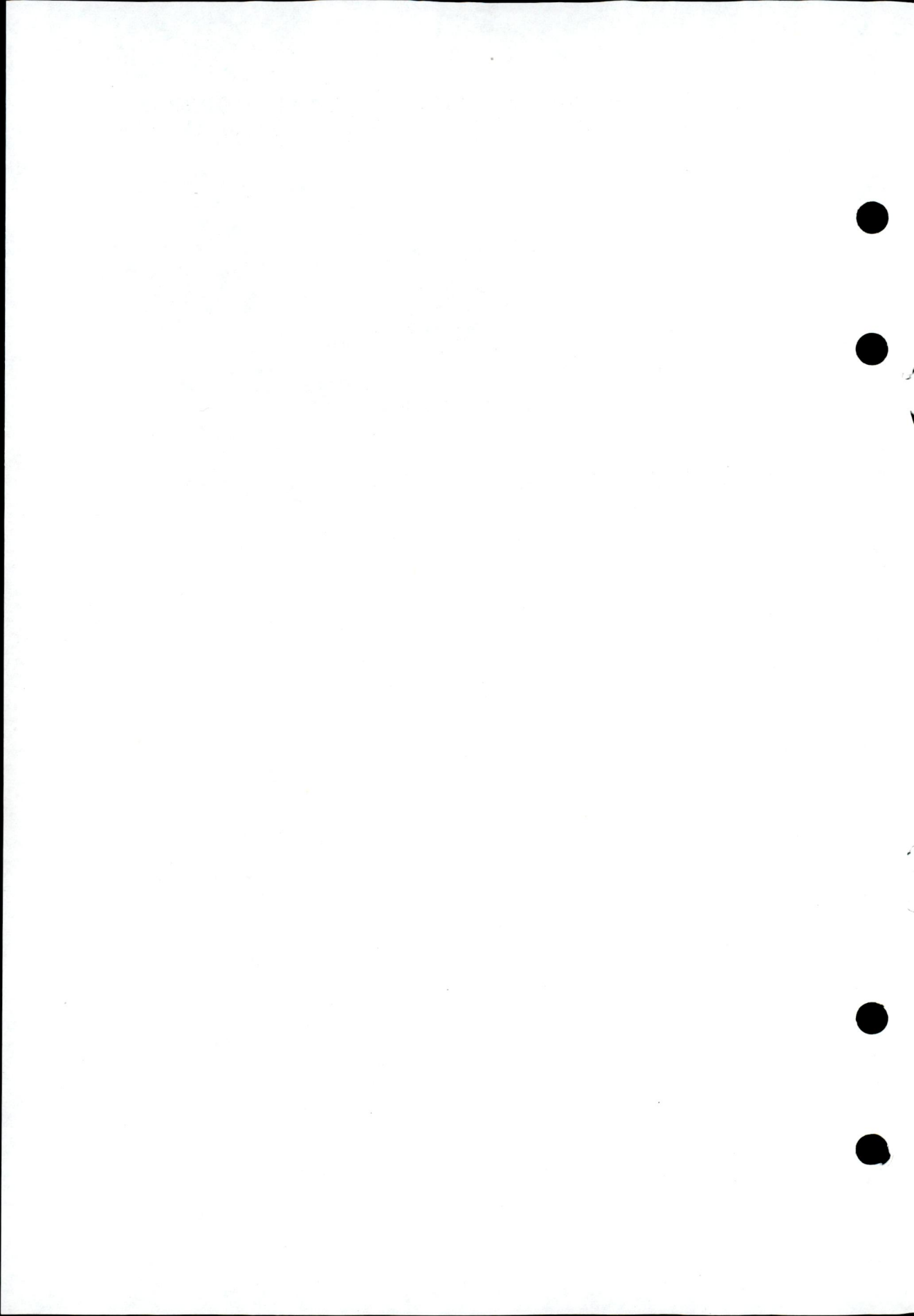
**NATIONAL PARKS AND WILDLIFE (UNAUTHORISED
USE OF LAND) AMENDMENT ACT 1989 No. 22**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of National Parks and Wildlife Act 1974 No. 80
- SCHEDULE 1—AMENDMENTS
-



**NATIONAL PARKS AND WILDLIFE (UNAUTHORISED USE OF
LAND) AMENDMENT ACT 1989 No. 22**

NEW SOUTH WALES



Act No. 22, 1989

An Act to amend the National Parks and Wildlife Act 1974 to make provision for the removal of unauthorised structures and unauthorised occupiers from land reserved or dedicated under that Act; and for other purposes. [Assented to 20 April 1989]

*National Parks and Wildlife (Unauthorised Use of Land) Amendment 1989***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the National Parks and Wildlife (Unauthorised Use of Land) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of National Parks and Wildlife Act 1974 No. 80

3. The National Parks and Wildlife Act 1974 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Sections 160A–160F—

After section 160, insert:

Removal of unauthorised structures and occupiers

160A. (1) In sections 160A–160F—

“prescribed land” means—

- (a) a national park, historic site, nature reserve, state game reserve, Aboriginal area or state recreation area; or
- (b) land acquired or occupied under Part 11;

“structure” includes a part of a structure.

(2) The Minister may cause any structure that is on prescribed land without lawful authority and its contents (if any) to be removed from the land or to another place on prescribed land.

(3) The Minister may cause any person making use without lawful authority of a structure that is on prescribed land to be removed from the structure or from the immediate vicinity of the structure.

(4) For the purpose of removing a person under this section—

- (a) reasonable force may be used; and
- (b) the assistance of the police may be requested.

(5) This section does not affect any other power to remove structures or persons from prescribed land.

(6) It is not necessary for a notice under section 160D, 160E or 160F to have been served, displayed or published before the Minister causes a structure or person to be removed under this section.

SCHEDULE 1—AMENDMENTS—*continued***Forfeiture of unauthorised structures and their contents**

160B. (1) Any property removed under section 160A is forfeited to the Crown on its being so removed.

(2) The Minister may cause anything so forfeited—

- (a) to be destroyed, sold or stored; or
- (b) to be returned to any person considered by the Minister to have been entitled to possess it immediately before it was forfeited.

Cost of removing structures and contents

160C. The Minister may recover as a debt due to the Crown any expense incurred under section 160A or 160B—

- (a) from any person who without lawful authority erected or placed or was, immediately before its removal, maintaining the structure concerned on prescribed land or who caused it to be so erected, placed or maintained; or
- (b) from any person who has made use of the structure after the expiration of the period specified in a notice prohibiting use of the structure—
 - (i) served on the person under section 160F; or
 - (ii) displayed on or adjacent to the structure under that section (but, in such a case, only if it is proved that the person knew, or ought reasonably to have known, about the notice).

Notice to state interest in structure or contents

160D. (1) The Minister may cause to be displayed or published a notice requiring any person—

- (a) who claims to have been authorised to erect, place or maintain a structure that is on prescribed land; or
- (b) who claims any other interest in such a structure or an interest in its contents,

to deliver to the Minister a written statement signed by the person setting out by what authority the person erected or placed, or is entitled to maintain, the structure or by what authority the person claims any other interest in the structure, or an interest in its contents.

(2) Any such notice shall be—

- (a) displayed on or adjacent to the structure; or

National Parks and Wildlife (Unauthorised Use of Land) Amendment 1989

SCHEDULE 1—AMENDMENTS—*continued*

(b) published in a local newspaper or such other newspaper (if any) as the Minister may determine.

(3) A person who has not delivered such a statement to the Minister within one month after display or publication of the notice has no claim against the Minister or any other person if the structure and its contents (if any) are dealt with under section 160A or 160B.

Notice to remove structure

160E. (1) If the Minister believes on reasonable grounds that a person, without lawful authority, has erected or placed, or is maintaining, a structure that is on prescribed land, the Minister may cause a notice—

(a) to be served on the person; or

(b) to be displayed on or adjacent to the structure,

requiring the person to remove the structure and its contents (if any) and to rehabilitate within a specified period the land on which the structure is situated.

(2) A notice relating to a structure may be served or displayed under this section whether or not a notice under section 160D relating to the same structure has been displayed or published.

(3) A notice under this section may be served—

(a) in any case, personally on the person to whom it is directed; or

(b) if that person has delivered a statement under section 160D relating to the structure, by post to any address for contacting the person that is provided in the statement.

(4) The person to whom a notice served or displayed under this section is directed shall, unless the structure to which the notice relates was erected or placed, or is being maintained, with lawful authority by the person—

(a) remove the structure and its contents (if any); and

(b) rehabilitate the land on which the structure is situated, within such period and in such manner (if any) as are specified in the notice.

Maximum penalty: 20 penalty units.

(5) The defendant has the onus of establishing the existence of lawful authority in any proceedings for an offence against this section.

National Parks and Wildlife (Unauthorised Use of Land) Amendment 1989

SCHEDULE 1—AMENDMENTS—*continued*

Notice prohibiting use of structure

160F. (1) If the Minister believes on reasonable grounds that a structure that is on prescribed land is being used without lawful authority, the Minister may cause a notice—

- (a) to be served on the person, prohibiting use after a specified period of the structure by the person; or
- (b) to be displayed on or adjacent to the structure, prohibiting use after a specified period of the structure by any person.

(2) Any such notice may be served—

- (a) in any case, personally on the person to whom it is directed; or
- (b) if that person has delivered a statement under section 160D relating to the structure, by post to any address for contacting the person that is provided in the statement.

(3) A person who is prohibited from using a structure by a notice that has been served or displayed under this section shall not, without lawful authority, use the structure after the expiration of the period specified in the notice.

Maximum penalty: 20 penalty units.

(4) The defendant has the onus of establishing the existence of lawful authority in any proceedings for an offence against this section.

(2) Section 173 (**Removal of trespassers**)—

Omit the section.

[Minister's second reading speech made in—
Legislative Assembly on 2 March 1989
Legislative Council on 12 April 1989]

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

NEW SOUTH WALES



EXPLANATORY NOTE

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

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

Clause 1 specifies the short title of the proposed Act.

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

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

SCHEDULE 1—AMENDMENTS

Removal of unauthorised structures and unauthorised occupiers of structures

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

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

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

National Parks and Wildlife (Unauthorised Use of Land) Amendment 1989

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

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

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

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

Removal of trespassers

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

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

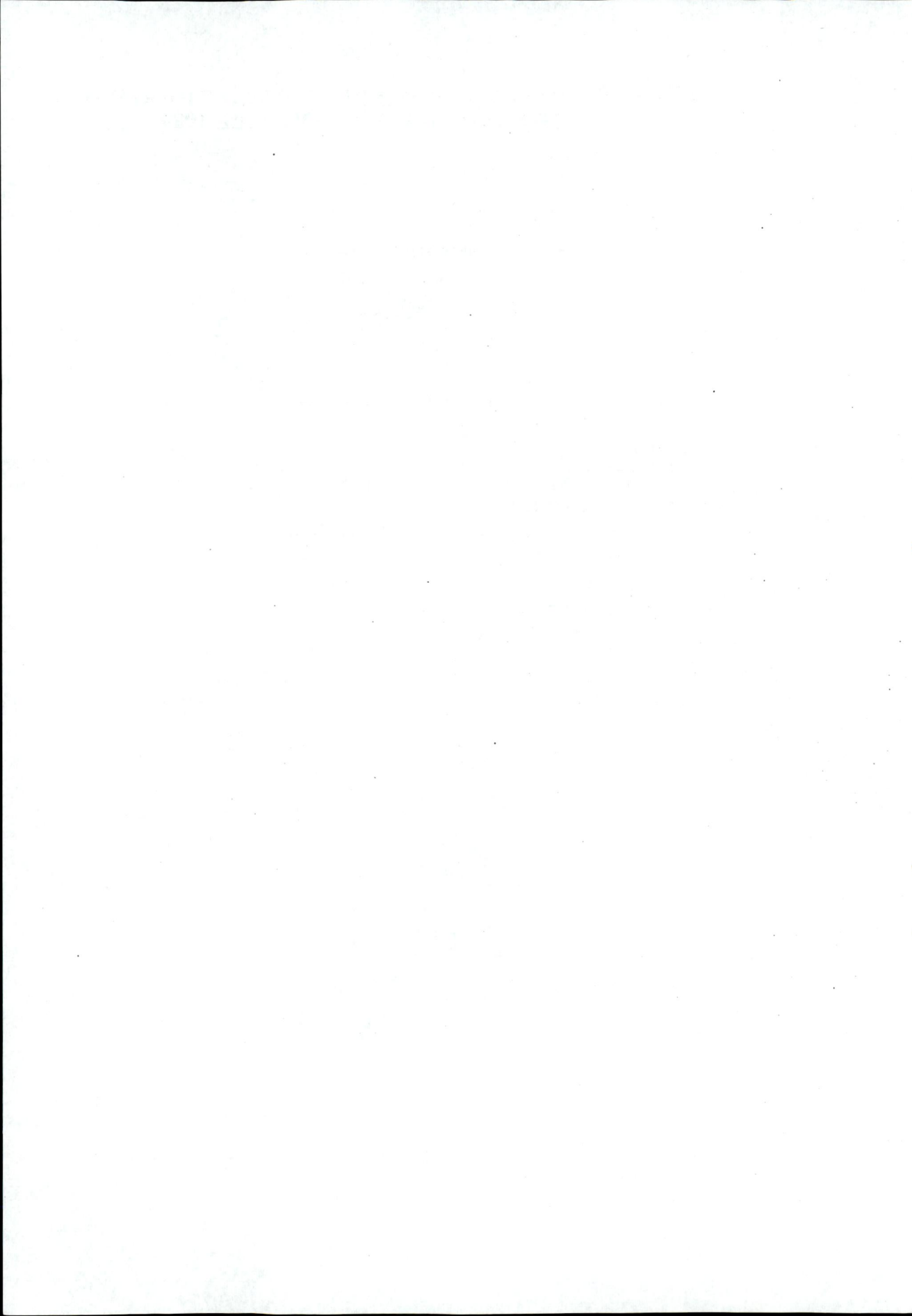
NATIONAL PARKS AND WILDLIFE (UNAUTHORISED USE OF LAND) AMENDMENT BILL 1989

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of National Parks and Wildlife Act 1974 No. 80
- SCHEDULE 1—AMENDMENTS
-



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

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the National Parks and Wildlife Act 1974 to make provision for the removal of unauthorised structures and unauthorised occupiers from land reserved or dedicated under that Act; and for other purposes.

National Parks and Wildlife (Unauthorised Use of Land) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the National Parks and Wildlife (Unauthorised Use of Land) Amendment Act 1989.

5 Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of National Parks and Wildlife Act 1974 No. 80

3. The National Parks and Wildlife Act 1974 is amended as set out in 10 Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Sections 160A–160F—

After section 160, insert:

15 **Removal of unauthorised structures and occupiers**

160A. (1) In sections 160A–160F—

“prescribed land” means—

(a) a national park, historic site, nature reserve, state game reserve, Aboriginal area or state recreation area; or

20 (b) land acquired or occupied under Part 11;

“structure” includes a part of a structure.

(2) The Minister may cause any structure that is on prescribed land without lawful authority and its contents (if any) to be removed from the land or to another place on prescribed land.

25 (3) The Minister may cause any person making use without lawful authority of a structure that is on prescribed land to be removed from the structure or from the immediate vicinity of the structure.

(4) For the purpose of removing a person under this section—

30 (a) reasonable force may be used; and

(b) the assistance of the police may be requested.

(5) This section does not affect any other power to remove structures or persons from prescribed land.

35 (6) It is not necessary for a notice under section 160D, 160E or 160F to have been served, displayed or published before the Minister causes a structure or person to be removed under this section.

*National Parks and Wildlife (Unauthorised Use of Land) Amendment 1989*SCHEDULE 1—AMENDMENTS—*continued***Forfeiture of unauthorised structures and their contents**

160B. (1) Any property removed under section 160A is forfeited to the Crown on its being so removed.

(2) The Minister may cause anything so forfeited—

5

(a) to be destroyed, sold or stored; or

(b) to be returned to any person considered by the Minister to have been entitled to possess it immediately before it was forfeited.

Cost of removing structures and contents

10

160C. The Minister may recover as a debt due to the Crown any expense incurred under section 160A or 160B—

15

(a) from any person who without lawful authority erected or placed or was, immediately before its removal, maintaining the structure concerned on prescribed land or who caused it to be so erected, placed or maintained; or

(b) from any person who has made use of the structure after the expiration of the period specified in a notice prohibiting use of the structure—

20

(i) served on the person under section 160F; or

(ii) displayed on or adjacent to the structure under that section (but, in such a case, only if it is proved that the person knew, or ought reasonably to have known, about the notice).

Notice to state interest in structure or contents

25

160D. (1) The Minister may cause to be displayed or published a notice requiring any person—

(a) who claims to have been authorised to erect, place or maintain a structure that is on prescribed land; or

30

(b) who claims any other interest in such a structure or an interest in its contents,

35

to deliver to the Minister a written statement signed by the person setting out by what authority the person erected or placed, or is entitled to maintain, the structure or by what authority the person claims any other interest in the structure, or an interest in its contents.

(2) Any such notice shall be—

(a) displayed on or adjacent to the structure; or

SCHEDULE 1—AMENDMENTS—*continued*

(b) published in a local newspaper or such other newspaper (if any) as the Minister may determine.

(3) A person who has not delivered such a statement to the Minister within one month after display or publication of the notice has no claim against the Minister or any other person if the structure and its contents (if any) are dealt with under section 160A or 160B.

Notice to remove structure

160E. (1) If the Minister believes on reasonable grounds that a person, without lawful authority, has erected or placed, or is maintaining, a structure that is on prescribed land, the Minister may cause a notice—

(a) to be served on the person; or

(b) to be displayed on or adjacent to the structure,

requiring the person to remove the structure and its contents (if any) and to rehabilitate within a specified period the land on which the structure is situated.

(2) A notice relating to a structure may be served or displayed under this section whether or not a notice under section 160D relating to the same structure has been displayed or published.

(3) A notice under this section may be served—

(a) in any case, personally on the person to whom it is directed; or

(b) if that person has delivered a statement under section 160D relating to the structure, by post to any address for contacting the person that is provided in the statement.

(4) The person to whom a notice served or displayed under this section is directed shall, unless the structure to which the notice relates was erected or placed, or is being maintained, with lawful authority by the person—

(a) remove the structure and its contents (if any); and

(b) rehabilitate the land on which the structure is situated, within such period and in such manner (if any) as are specified in the notice.

Maximum penalty: 20 penalty units.

(5) The defendant has the onus of establishing the existence of lawful authority in any proceedings for an offence against this section.

National Parks and Wildlife (Unauthorised Use of Land) Amendment 1989

SCHEDULE 1—AMENDMENTS—*continued*

Notice prohibiting use of structure

160F. (1) If the Minister believes on reasonable grounds that a structure that is on prescribed land is being used without lawful authority, the Minister may cause a notice—

- 5 (a) to be served on the person, prohibiting use after a specified period of the structure by the person; or
 (b) to be displayed on or adjacent to the structure, prohibiting use after a specified period of the structure by any person.

(2) Any such notice may be served—

- 10 (a) in any case, personally on the person to whom it is directed; or
 (b) if that person has delivered a statement under section 160D relating to the structure, by post to any address for contacting the person that is provided in the statement.

15 (3) A person who is prohibited from using a structure by a notice that has been served or displayed under this section shall not, without lawful authority, use the structure after the expiration of the period specified in the notice.

Maximum penalty: 20 penalty units.

20 (4) The defendant has the onus of establishing the existence of lawful authority in any proceedings for an offence against this section.

(2) Section 173 (**Removal of trespassers**)—

Omit the section.

1914

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...



