

# RECREATION VEHICLES (AMENDMENT) ACT 1988 No. 15

NEW SOUTH WALES

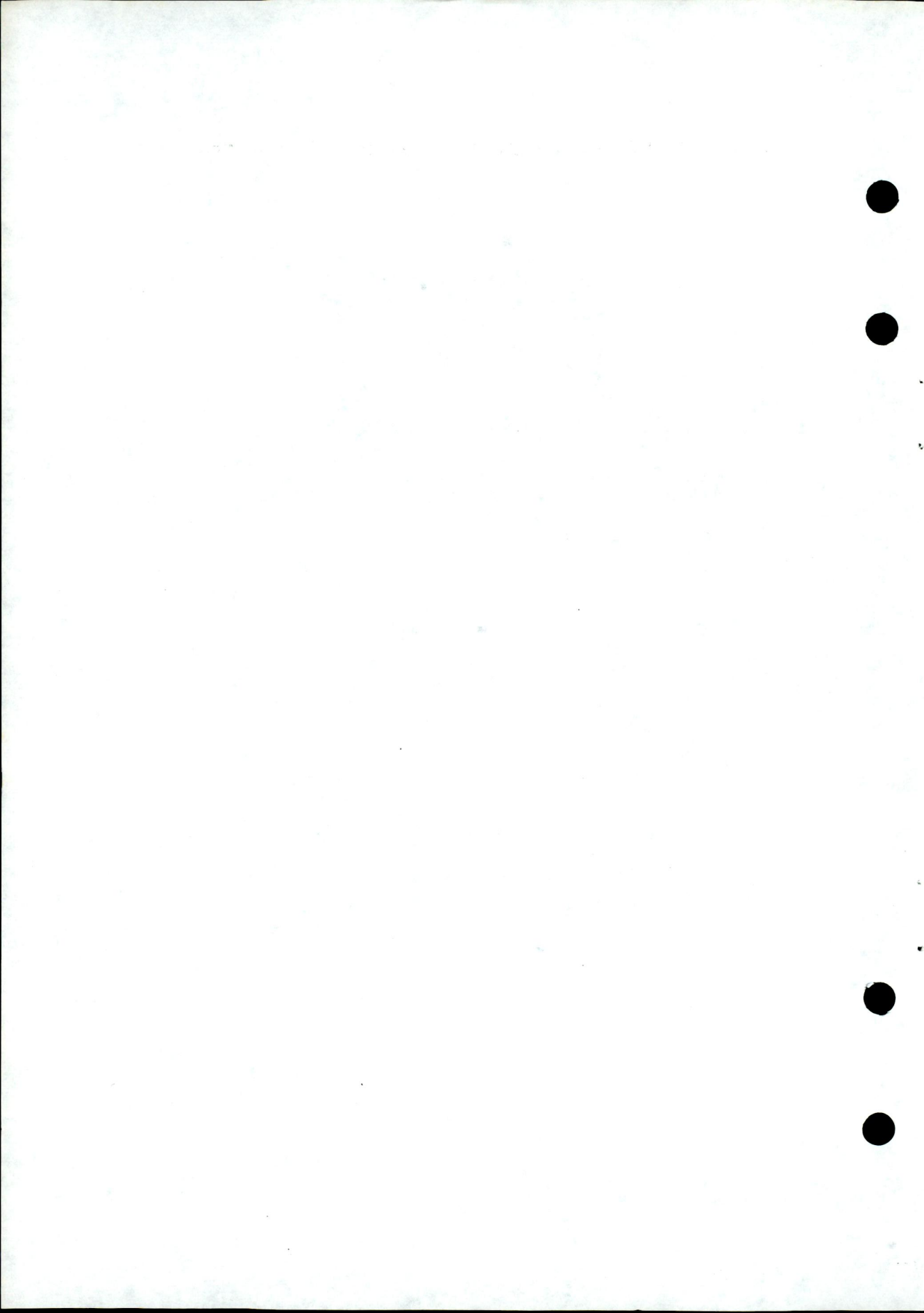


## TABLE OF PROVISIONS

1. Short title
2. Amendment of Recreation Vehicles Act 1983 No. 136
3. Saving

SCHEDULE 1—AMENDMENTS

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**RECREATION VEHICLES (AMENDMENT) ACT 1988 No. 15**

NEW SOUTH WALES



**Act No. 15, 1988**

An Act to amend the Recreation Vehicles Act 1983 with respect to the control and regulation of recreation vehicle areas and the liability of their occupiers for loss or damage arising in certain circumstances; and for other purposes. [Assented to 21 June 1988]

*Recreation Vehicles (Amendment) 1988*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Recreation Vehicles (Amendment) Act 1988.

**Amendment of Recreation Vehicles Act 1983 No. 136**

2. The Recreation Vehicles Act 1983 is amended as set out in Schedule 1.

**Saving**

3. A person who, immediately before the commencement of this Act, held office as an authorised officer for the purposes of the Recreation Vehicles Act 1983 shall be deemed to be an authorised officer appointed under section 6 of that Act, as amended by this Act.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 2)

(1) Section 3 (**Arrangement**)—

Omit the section.

(2) Section 6—

Omit the section, insert instead:

**Appointment of authorised officers**

6. (1) The Director may by instrument in writing appoint, as an authorised officer for the purposes of this Act, any person the Director considers suitably qualified to be so appointed.

(2) As many persons as the Director considers necessary may be appointed under this section.

(3) Section 7 (**Identification certificates**)—

After section 7 (3), insert:

(4) Such a certificate may, at the time it is issued and from time to time thereafter, be endorsed with provisions enlarging the area within which, but for those provisions, the authority of its holder would be confined by section 9.

(4) Section 9 (**Functions of authorised officers**)—

Section 9 (2), (3)—

Omit "An" wherever occurring, insert instead "Except as otherwise provided by the identification certificate of the officer, an".

*Recreation Vehicles (Amendment) 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

(5) Section 14 (**Rescission or variation of designation by Director**)—

Section 14 (2), (3)—

Omit section 14 (2), insert instead:

(2) If the Director is satisfied that—

- (a) any provision of this Act or the regulations, or any direction given under section 32A, has not been or is not being complied with by the occupier of land comprising a recreation vehicle area; and
- (b) as a result of that non-compliance, the safety of persons resorting to or using the area, or of the public, is endangered,

the Director may, by order published in the Gazette, rescind the order under section 11 (1) relating to that land.

(3) The Director shall, as soon as practicable after making an order under this section, cause notice of the making of the order to be served on the occupier of the land to which the order relates.

(6) Section 31 (**Use of motor vehicles on restricted land**)—

Section 31 (2)—

At the end of section 31, insert:

(2) This section does not—

(a) affect rights conferred—

(i) by or under any other Act or law; or

(ii) by or under any covenant or agreement or by user; or

(b) render any person liable to a penalty as a consequence of the exercise of a right so conferred.

(7) Section 32 (**Appeals**)—

(a) Section 32 (1), (3)—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.

(b) Section 32 (1) (a)—

Omit “or”.

(c) Section 32 (1) (b), (c)—

After section 32 (1) (b), insert:

; or

(c) the rescission by the Director, under section 14 (2), of an order under section 11 (1) in respect of land comprising a recreation vehicle area of which the person is the occupier.

*Recreation Vehicles (Amendment) 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

- (d) Section 32 (3)—  
Omit “constituted by a stipendiary magistrate”.
- (e) Section 32 (4)—  
Omit the subsection, insert instead:  
(4) The determination of the Local Court is final and is binding on the appellant and on the Commissioner or the Director, as the case may be.
- (8) Section 32A—  
Before section 33, insert:  
**Directions**  
32A. (1) The Director may, by notice in writing served on the occupier of a recreation vehicle area, give one or more directions to the occupier with respect to any one or more of the following:  
(a) notices and signs to be erected in the area;  
(b) regulating or prohibiting the conduct, by or on behalf of the occupier or with the consent of the occupier, of a sporting activity involving motor vehicles;  
(c) the demarcation of tracks and circuits;  
(d) any other matter which, in the opinion of the Director, is calculated to serve the interests of persons resorting to or using the area or of residents in the neighbourhood of the area or the public interest.  
(2) A direction under this section takes effect on the day on which the notice by which it is given is served or, if a later day is specified for that purpose in the notice, on that later day.
- (9) Section 39—  
Omit the section, insert instead:  
**Liability of occupiers of recreation vehicle areas**  
39. (1) The occupier of a recreation vehicle area is not liable to any person in respect of loss or damage of any kind suffered by that person or any other person as a consequence of an accident involving a motor vehicle being driven in that recreation vehicle area, whether the accident occurs—  
(a) as a consequence of some act or omission of the occupier in relation to the area or any building, structure or work situated in the area; or  
(b) otherwise in circumstances that would, but for this section, render the occupier liable in respect of any such loss or damage.

*Recreation Vehicles (Amendment) 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

- (2) This section does not operate so as—
- (a) to affect the liability of the occupier of a recreation vehicle area to any person in respect of loss or damage suffered by an authorised officer in the exercise, in good faith, of the functions conferred or imposed on the officer by or under this Act; or
  - (b) to exonerate such an occupier from liability for loss or damage suffered by any person as a consequence of any act or omission of the occupier that is—
    - (i) wilful and malicious; or
    - (ii) done or omitted with reckless indifference to the safety of persons resorting to or using the area or of the public.





# RECREATION VEHICLES (AMENDMENT) BILL 1988

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 Recreation Vehicles Act 1983 in relation to the control and regulation of recreation vehicle areas, the liability of their occupiers, the appointment of authorised officers and other matters.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** is a formal provision that gives effect to the Schedule of amendments to the Principal Act.

**Clause 3** is a saving of the office of any person who is currently an authorised officer for the purposes of the Principal Act. (This is necessary as a consequence of the amendment made by Schedule 1 (2)).

## SCHEDULE 1—AMENDMENTS

### Repeal of section 3 (Arrangement)

**Schedule 1 (1)** repeals section 3 of the Principal Act by way of statute law revision.

### Substitution of section 6 (Appointment of authorised officers)

**Schedule 1 (2)** substitutes section 6 of the Principal Act. Under the substituted section, the Director of the State Pollution Control Commission can appoint as an authorised officer anyone the Director considers qualified to be one. Previously, appointments were limited to officers of public authorities.

### Amendment of section 9 (Functions of authorised officers)

**Schedule 1 (4)** amends section 9 of the Principal Act to allow the Director, in a particular case, to grant a wider authority to an authorised officer than would otherwise be allowed under that section. At present the functions of an authorised officer who is a servant of a council or an officer of a public authority may only be exercised on land owned or controlled by the council or public authority. The amendment contemplates endorsement of the wider authority on the officer's identification certificate.

*Recreation Vehicles (Amendment) 1988*

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**Schedule 1 (3)** amends section 7 of the Principal Act as a consequence of the amendment made by Schedule 1 (4).

**Amendment of section 14 (Rescission or variation of designation by Director)**

**Schedule 1 (5)** amends section 14 of the Principal Act to enable the Director to rescind the designation of land as a recreation vehicle area in any case where the Director is satisfied that the Principal Act or regulations, or directions under proposed section 32A of the Principal Act, are not being complied with, to the detriment of the safety of persons going to the area or the public.

**Amendment of section 31 (Use of motor vehicles on restricted land)**

**Schedule 1 (6)** amends section 31 of the Principal Act, which prohibits the driving of a motor vehicle on land against the express wishes of the occupier. The purpose of the amendment is to put beyond doubt the fact that the section was not intended to be a shield for the occupier against persons having some lawful right to enter the land otherwise than by invitation.

**Amendment of section 32 (Appeals)**

**Schedule 1 (7) (b) and (c)** amend section 32 of the Principal Act to provide a right of appeal against action taken by the Director under proposed section 14 (2) of the Principal Act. The section is otherwise amended by **Schedule 1 (7) (a), (d) and (e)** by way of statute law revision (references to a court of petty sessions being replaced by references to a Local Court).

**New section 32A (Directions)**

**Schedule 1 (8)** inserts a new section 32A into the Principal Act, providing for the giving of directions by the Director to occupiers of recreation vehicle areas. The directions relate to matters calculated to safeguard the safety and amenity of persons who go to or live near such an area and of the public.

**Substitution of section 39 (Liability of occupiers of recreation vehicle areas)**

**Schedule 1 (9)** substitutes section 39 of the Principal Act. The old section provided occupiers of recreation vehicle areas with immunity from liability in respect of loss and damage caused by a motor vehicle accident happening in the area, but only if the occupier was a public authority. The new section extends this immunity to all occupiers, public or private.

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# RECREATION VEHICLES (AMENDMENT) BILL 1988

NEW SOUTH WALES



## TABLE OF PROVISIONS

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### SCHEDULE 1—AMENDMENTS

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# RECREATION VEHICLES (AMENDMENT) BILL 1988

NEW SOUTH WALES



No. , 1988

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## A BILL FOR

An Act to amend the Recreation Vehicles Act 1983 with respect to the control and regulation of recreation vehicle areas and the liability of their occupiers for loss or damage arising in certain circumstances; and for other purposes.

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*Recreation Vehicles (Amendment) 1988*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Recreation Vehicles (Amendment) Act 1988.

**5 Amendment of Recreation Vehicles Act 1983 No. 136**

2. The Recreation Vehicles Act 1983 is amended as set out in Schedule 1.

**Saving**

3. A person who, immediately before the commencement of this Act, held office as an authorised officer for the purposes of the Recreation Vehicles Act 1983 shall be deemed to be an authorised officer appointed under section 6 of that Act, as amended by this Act.

---

**SCHEDULE 1—AMENDMENTS**

(Sec. 2)

15 (1) Section 3 (**Arrangement**)—

Omit the section.

(2) Section 6—

Omit the section, insert instead:

**Appointment of authorised officers**

20 6. (1) The Director may by instrument in writing appoint, as an authorised officer for the purposes of this Act, any person the Director considers suitably qualified to be so appointed.

(2) As many persons as the Director considers necessary may be appointed under this section.

25 (3) Section 7 (**Identification certificates**)—

After section 7 (3), insert:

(4) Such a certificate may, at the time it is issued and from time to time thereafter, be endorsed with provisions enlarging the area within which, but for those provisions, the authority of its holder would be confined by section 9.

30 (4) Section 9 (**Functions of authorised officers**)—

Section 9 (2), (3)—

Omit "An" wherever occurring, insert instead "Except as otherwise provided by the identification certificate of the officer, an".

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SCHEDULE 1—AMENDMENTS—*continued*(5) Section 14 (**Rescission or variation of designation by Director**)—

Section 14 (2), (3)—

Omit section 14 (2), insert instead:

(2) If the Director is satisfied that—

- 5 (a) any provision of this Act or the regulations, or any direction given under section 32A, has not been or is not being complied with by the occupier of land comprising a recreation vehicle area; and
- 10 (b) as a result of that non-compliance, the safety of persons resorting to or using the area, or of the public, is endangered,

the Director may, by order published in the Gazette, rescind the order under section 11 (1) relating to that land.

- 15 (3) The Director shall, as soon as practicable after making an order under this section, cause notice of the making of the order to be served on the occupier of the land to which the order relates.

(6) Section 31 (**Use of motor vehicles on restricted land**)—

Section 31 (2)—

At the end of section 31, insert:

- 20 (2) This section does not—
- (a) affect rights conferred—
- (i) by or under any other Act or law; or
- (ii) by or under any covenant or agreement or by user; or
- 25 (b) render any person liable to a penalty as a consequence of the exercise of a right so conferred.

(7) Section 32 (**Appeals**)—

(a) Section 32 (1), (3)—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.

30 (b) Section 32 (1) (a)—

Omit “or”.

(c) Section 32 (1) (b), (c)—

After section 32 (1) (b), insert:

; or

- 35 (c) the rescission by the Director, under section 14 (2), of an order under section 11 (1) in respect of land comprising a recreation vehicle area of which the person is the occupier.

*Recreation Vehicles (Amendment) 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

(d) Section 32 (3)—

Omit “constituted by a stipendiary magistrate”.

(e) Section 32 (4)—

Omit the subsection, insert instead:

5           (4) The determination of the Local Court is final and is binding on the appellant and on the Commissioner or the Director, as the case may be.

(8) Section 32A—

Before section 33, insert:

10           **Directions**

32A. (1) The Director may, by notice in writing served on the occupier of a recreation vehicle area, give one or more directions to the occupier with respect to any one or more of the following:

- 15           (a) notices and signs to be erected in the area;
- (b) regulating or prohibiting the conduct, by or on behalf of the occupier or with the consent of the occupier, of a sporting activity involving motor vehicles;
- (c) the demarcation of tracks and circuits;
- 20           (d) any other matter which, in the opinion of the Director, is calculated to serve the interests of persons resorting to or using the area or of residents in the neighbourhood of the area or the public interest.

25           (2) A direction under this section takes effect on the day on which the notice by which it is given is served or, if a later day is specified for that purpose in the notice, on that later day.

(9) Section 39—

Omit the section, insert instead:

**Liability of occupiers of recreation vehicle areas**

30           39. (1) The occupier of a recreation vehicle area is not liable to any person in respect of loss or damage of any kind suffered by that person or any other person as a consequence of an accident involving a motor vehicle being driven in that recreation vehicle area, whether the accident occurs—

- 35           (a) as a consequence of some act or omission of the occupier in relation to the area or any building, structure or work situated in the area; or
- (b) otherwise in circumstances that would, but for this section, render the occupier liable in respect of any such loss or damage.



*Recreation Vehicles (Amendment) 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

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- (2) This section does not operate so as—
- (a) to affect the liability of the occupier of a recreation vehicle area to any person in respect of loss or damage suffered by an authorised officer in the exercise, in good faith, of the functions conferred or imposed on the officer by or under this Act; or
  - (b) to exonerate such an occupier from liability for loss or damage suffered by any person as a consequence of any act or omission of the occupier that is—
    - (i) wilful and malicious; or
    - (ii) done or omitted with reckless indifference to the safety of persons resorting to or using the area or of the public.



