

FIRST PRINT

**ENDANGERED FAUNA (INTERIM PROTECTION)
AMENDMENT BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The objects of this Bill are:

- (a) to extend until 1 October 1993 the operation of those provisions of the Endangered Fauna (Interim Protection) Act 1991 that are due to expire on 1 December 1992; and
- (b) to extend until 1 October 1993 the duration of certain licences to take or kill endangered fauna issued under section 120 of the National Parks and Wildlife Act 1974 after the commencement of the Endangered Fauna (Interim Protection) Act 1991.

Extended provisions of Interim Protection Act

The Endangered Fauna (Interim Protection) Act 1991 made a number of changes of which 2 were expressed to expire on 1 December 1992 or any earlier date on which replacement species protection legislation was enacted.

The first of those temporary changes was the inclusion of a defence to the offence in section 98 of the National Parks and Wildlife Act 1974 of taking or killing protected fauna (other than endangered fauna), that is, generally native fauna that is not endangered. The defence enables a person to carry out development in accordance with a development consent under the Environmental Planning and Assessment Act 1979 or an activity for which Part 5 of that Act has been complied with. The defence was necessary because the Endangered Fauna (Interim Protection) Act 1991 extended the meaning of "take or kill" fauna to include any "significant modification of the habitat of the fauna which is likely to adversely affect its essential behavioural patterns". The Bill extends the date on which the defence expires until 1 October 1993.

The second of those temporary changes was an amendment to the Environmental Planning and Assessment Act 1979. The amendment included the additional requirement for a fauna impact statement for development consent and for any environmental impact statement under Part 5 of that Act. The Endangered Fauna

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(Interim Protection) Act 1991 made that requirement for all protected fauna but the Timber Industry (Interim Protection) Act 1992 limited its application to endangered fauna. The Bill extends the date when the requirement expires until 1 October 1993.

The other changes made by the Endangered Fauna (Interim Protection) Act 1991 are not temporary and are not affected by the Bill. Those changes include the extension of the definition of "take or kill", the establishment of an independent scientific committee that recommends the listing of endangered fauna, the requirement for a fauna impact statement for a general licence to "take or kill" endangered fauna (whether or not in pursuance of development consent etc.), the power to issue stop work orders to prevent development that is likely to significantly affect the environment of endangered or other protected fauna, and the extension of the Act to amphibians.

Extended licences

The Endangered Fauna (Interim Protection) Act 1991 imposed restrictions on general licences issued by the Director of National Parks and Wildlife after the publication of the new schedule of endangered fauna. The Act commenced on 17 December 1991, but the new schedule was not published until 28 February 1992. A number of general licences have been issued since the commencement of the Act to the Forestry Commission and others to take or kill endangered fauna in connection with existing forestry and other operations. The licences are of limited duration.

The Bill extends the duration of those licences until 1 October 1993. The Bill makes it clear that the licences remain subject to the provisions of the National Parks and Wildlife Act 1974 relating to the cancellation or variation of licences.

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TABLE OF PROVISIONS

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 2. Commencement
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(Repeals)
 4. Extension of certain licences under National Parks and Wildlife Act 1974
-

**ENDANGERED FAUNA (INTERIM PROTECTION)
AMENDMENT BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Endangered Fauna (Interim Protection) Act 1991 with respect to the operation of certain provisions of that Act; and to extend the duration of certain licences under the National Parks and Wildlife Act 1974.

Endangered Fauna (Interim Protection) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Endangered Fauna (Interim Protection) Amendment Act 1992.

5 Commencement

2. This Act commences, or is taken to have commenced, on 30 November 1992.

Amendment of Endangered Fauna (Interim Protection) Act 1991 No. 66, s. 7 (Repeals)

- 10 3. The Endangered Fauna (Interim Protection) Act 1991 is amended:
- (a) by omitting from section 7 wherever occurring the matter "1 December 1992" and by inserting instead the matter "1 October 1993";
- 15 (b) by inserting in section 7 (2) after the words "The provisions inserted in the Environmental Planning and Assessment Act 1979 by Schedule 2" the words "(as amended by section 13 of the Timber Industry (Interim Protection) Act 1992)".

Extension of certain licences under National Parks and Wildlife Act 1974

- 20 4. (1) This section applies to a general licence issued under section 120 of the National Parks and Wildlife Act 1974 to take or kill endangered fauna, being a licence which:
- (a) was issued after the commencement of the Endangered Fauna (Interim Protection) Act 1991 on 17 December 1991 and before the
- 25 publication of the revised Schedule 12 to the National Parks and Wildlife Act 1974 on 28 February 1992; and
- (b) is expressed to expire before 1 October 1993 (either when issued or as a result of a variation of the licence).

30 This section also applies to any such licence issued after the publication of the revised schedule if the Director notifies the holder of the licence that this section applies to the licence.

- (2) A general licence to which this section applies continues in force (despite any expiry date specified in the licence) until 1 October 1993, unless duly cancelled in accordance with the National Parks and Wildlife Act 1974. 1 October 1993 is taken to be specified in the licence as the
- 35 date of its expiry.

Endangered Fauna (Interim Protection) Amendment 1992

(3) Any such licence may be varied under section 133 of the National Parks and Wildlife Act 1974.

(4) Expressions used in this section have the same meanings as they have in the National Parks and Wildlife Act 1974.

(5) This section expires on 1 October 1993.

**ENDANGERED FAUNA (INTERIM PROTECTION)
AMENDMENT ACT 1992 No. 97**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Endangered Fauna (Interim Protection) Act 1991 No. 66, s. 7 (Repeals)
 4. Extension of certain licences under National Parks and Wildlife Act 1974
-

**ENDANGERED FAUNA (INTERIM PROTECTION)
AMENDMENT ACT 1992 No. 97**

NEW SOUTH WALES



Act No. 97, 1992

An Act to amend the Endangered Fauna (Interim Protection) Act 1991 with respect to the operation of certain provisions of that Act; and to extend the duration of certain licences under the National Parks and Wildlife Act 1974. [Assented to 2 December 1992]

Endangered Fauna (Interim Protection) Amendment Act 1992 No. 97

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Endangered Fauna (Interim Protection) Amendment Act 1992.

Commencement

2. This Act commences, or is taken to have commenced, on 30 November 1992.

Amendment of Endangered Fauna (Interim Protection) Act 1991 No. 66, s. 7 (Repeals)

3. The Endangered Fauna (Interim Protection) Act 1991 is amended:
- (a) by omitting from section 7 wherever occurring the matter "1 December 1992" and by inserting instead the matter "1 October 1993";
 - (b) by inserting in section 7 (2) after the words "The provisions inserted in the Environmental Planning and Assessment Act 1979 by Schedule 2" the words "(as amended by section 13 of the Timber Industry (Interim Protection) Act 1992)".

Extension of certain licences under National Parks and Wildlife Act 1974

4. (1) This section applies to a general licence issued under section 120 of the National Parks and Wildlife Act 1974 to take or kill endangered fauna, being a licence which:

- (a) was issued after the commencement of the Endangered Fauna (Interim Protection) Act 1991 on 17 December 1991 and before the publication of the revised Schedule 12 to the National Parks and Wildlife Act 1974 on 28 February 1992; and
- (b) is expressed to expire before 1 October 1993 (either when issued or as a result of a variation of the licence).

This section also applies to any such licence issued after the publication of the revised schedule if the Director notifies the holder of the licence that this section applies to the licence.

(2) A general licence to which this section applies continues in force (despite any expiry date specified in the licence) until 1 October 1993, unless duly cancelled in accordance with the National Parks and Wildlife Act 1974. 1 October 1993 is taken to be specified in the licence as the date of its expiry.

Endangered Fauna (Interim Protection) Amendment Act 1992 No. 97

(3) Any such licence may be varied under section 133 of the National Parks and Wildlife Act 1974.

(4) Expressions used in this section have the same meanings as they have in the National Parks and Wildlife Act 1974.

(5) This section expires on 1 October 1993.

*[Minister's second reading speech made in—
Legislative Assembly on 18 November 1992
Legislative Council on 27 November 1992]*