

National Parks and Wildlife Amendment Act 2001

Long Title

An Act to amend the *National Parks and Wildlife Act 1974* in relation to the reservation, dedication and management of land under that Act, the National Parks and Wildlife Advisory Council and advisory committees, licences and offences and penalties; to make related amendments to other Acts; and for other purposes.

1 Name of Act

This Act is the *National Parks and Wildlife Amendment Act 2001*.

2 Commencement

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

3 Amendment of National Parks and Wildlife Act 1974 No 80

The *National Parks and Wildlife Act 1974* is amended as set out in Schedules 1-5.

4 (Repealed)

Schedules 1, 2 (Repealed)

Schedule 3 Amendment of National Parks and Wildlife Act 1974 relating to licensing and offences

(Section 3)

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

"heritage impact permit" means a heritage impact permit issued under section 90.

[2] Section 90 Destruction, defacing or damaging of Aboriginal objects and places

Omit section 90 (1). Insert instead:

(1) A person must not destroy, deface, damage or desecrate, or cause or permit the destruction, defacement, damage or desecration of, an Aboriginal object or Aboriginal place. Maximum penalty: 50 penalty units or imprisonment for 6 months, or both (or 200 penalty units in the case of a corporation).

[3] Section 90 (1B) and (1C)

Insert after section 90 (1A):

(1B) Subsection (1) does not apply with respect to an Aboriginal object or Aboriginal place that is dealt with in accordance with a heritage impact permit issued by the Director-General.

(1C) It is a defence to a prosecution for an offence against subsection (1) if the defendant shows that:

(a) he or she took reasonable precautions and exercised due diligence to determine whether the action constituting the alleged offence would, or would be likely to,

impact on the Aboriginal object or Aboriginal place concerned, and
(b) the person reasonably believed that the action would not destroy, deface, damage or desecrate the Aboriginal object or Aboriginal place.

[4] Section 90 (2)

Omit "give consent for the purposes of subsection (1)".

Insert instead "issue a heritage impact permit".

[5] Section 90 (2A)

Insert after section 90 (2):

(2A) The Director-General may take action under subsection (2) in relation to an Aboriginal object or Aboriginal place listed on the State Heritage Register (within the meaning of the *Heritage Act 1977*) only after consulting the Director of the Heritage Office.

[6] Section 90 (3)

Omit "consent" where firstly occurring.

Insert instead "a heritage impact permit".

[7] Section 90 (3)

Omit "consent" where secondly occurring.

Insert instead "heritage impact permit".

[8] Section 90 (7)

Omit "consent". Insert instead "a heritage impact permit".

[9] Section 90 (8) and (9)

Insert after section 90 (7):

(8) If a court finds a person guilty of an offence under subsection (1), the court may, in addition to or in substitution for any pecuniary penalty for the offence, direct the person to take any action to mitigate the damage to, or to restore, the Aboriginal object or Aboriginal place concerned or to take such other action in relation to the Aboriginal object or Aboriginal place as the court considers appropriate in the circumstances.

(9) The court may specify the actions to be taken to mitigate the damage or to restore the Aboriginal object or Aboriginal place under subsection (8) and may order the person to provide security for the performance of any obligation imposed under that subsection.

[10]-[46] (Repealed)

Schedules 4-6 (Repealed)

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
Cll	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulation	Subdivs	Subdivision

			s		s
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *National Parks and Wildlife Amendment Act 2001 No 130*. Minister's second reading speech made: Legislative Assembly, 16.11.2001; Legislative Council, 6.12.2001. Assented to 19.12.2001. Date of commencement of secs 1-4, Sch 1 [9] [24] [46]-[51] and [64], Sch 3 [10]-[15] and [17]-[46], Sch 4 [3] [5]-[7] and [9], Sch 5 and Schs 6.1 and 6.3, 1.7.2002, sec 2 and GG No 106 of 28.6.2002, p 4678; date of commencement of Sch 1 [1]-[4] [6]-[8] [11]-[14] [16]-[18] [20]-[23] [25]-[41] [43] [44] [65]-[74] [76]-[138] [141]-[149] [151] [155] [156] [158] [160] [162]-[167] [169] [171] and [172], Sch 2, Sch 4 [1] [2] [4] [8] and [10] and Sch 6.2, 4.10.2002, sec 2 and GG No 163 of 4.10.2002, p 8560; date of commencement of Sch 1 [5] [10] [15] [19] [42] [45] [52] [75] [139] [140] [150] [154] [157] [159] [161] [168] and [170], 1.5.2006, sec 2 and GG No 58 of 28.4.2006, p 2368; date of commencement of Sch 1 [53]-[60] [61] (except to the extent that it inserts sec 151D) [62] [63] [152] and [153], 20.12.2002, sec 2 and GG No 263 of 20.12.2002, p 10749; date of commencement of Sch 1 [61] (to the extent that it inserts sec 151D), 14.4.2003, sec 2 and GG No 71 of 11.4.2003, p 4429; date of commencement of Sch 3 [16], 1.11.2002, sec 2 and GG No 201 of 1.11.2002, p 9303; date of commencement of the remainder: not in force. This Act has been amended as follows:

200 2	No 112	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2002</i> . Assented to 29.11.2002. Date of commencement of Sch 2.12, assent, sec 2 (3).
200 5	No 64	<i>Statute Law (Miscellaneous Provisions) Act 2005</i> . Assented to 1.7.2005. Date of commencement of Sch 3, assent, sec 2 (1).
200 6	No 120	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2006</i> . Assented to 4.12.2006. Date of commencement of Sch 4, assent, sec 2 (1).

Table of amendments

Sec 4	Rep 2005 No 64, Sch 3.
Sch 1	Am 2002 No 112, Sch 2.12 [1] [2]; 2005 No 64, Sch 3. Rep 2006 No 120, Sch 4.
Sch 2	Rep 2005 No 64, Sch 3.
Sch 3	Am 2005 No 64, Sch 3.
Schs 4-6	Rep 2005 No 64, Sch 3.