

National Parks and Wildlife (Amendment) Bill

No.

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LEGISLATIVE COUNCIL

Read 1 8 March 1988

(Brought from the Legislative Assembly)

A BILL

for

An Act to amend the *National Parks Act 1975* and the *Wildlife Act 1975* and for other purposes.

National Parks and Wildlife (Amendment) Act 1987

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

- 5 1. The purpose of this Act is to amend the *National Parks Act 1975* and the *Wildlife Act 1975*.

Commencement.

2. This Act comes into operation on a day or days to be proclaimed.

Principal Act.

- 10 3. In this Act the *National Parks Act 1975* is called the Principal Act.

No 8702
Reprinted
to
No. 9936
Subsequently
amended by
Nos 10073,
10166,
44/1986,
7/1987 and
8/1987.

PART 2—AMENDMENTS TO NATIONAL PARKS ACT 1975**New and altered parks.**Point Nepean
National Park.

4. (1) Schedule Two to the Principal Act is amended by item (a) in Part A of the Schedule.

(2) Schedule Two to the Principal Act is amended by item (b) in Part A of the Schedule. 5

Little Desert
National Park.

(3) Schedule Two to the Principal Act is amended by item (c) in Part A of the Schedule.

Cape Schanck
Park.

(4) Schedule Three to the Principal Act is amended by item (a) in Part B of the Schedule. 10

Arthurs Seat
Park.

(5) Schedule Three to the Principal Act is amended by item (b) in Part B of the Schedule.

Terrick
Terrick Park.

(6) Schedule Three to the Principal Act is amended by item (c) in Part B of the Schedule.

Cartisle Park.

(7) Schedule Three to the Principal Act is amended by item (d) in Part B of the Schedule. 15

Langwarrin Park.

(8) Schedule Three to the Principal Act is amended by item (e) in Part B of the Schedule.

Lerderberg Park.

(9) Schedule Three to the Principal Act is amended by item (f) in Part B of the Schedule. 20

Lysterfield Park.

(10) Schedule Three to the Principal Act is amended by item (g) in Part B of the Schedule.

(11) The lands delineated and coloured yellow in the plans referred to in items (d) and (g) of the Schedule cease to be roads or parts of roads and all rights, privileges and easements existing or claimed either by the public or any other body and incidental to any past use or by any fiction of law cease and determine on the day on which Schedule Three to the Principal Act is amended by those items. 25

(12) The lands delineated by a green border in the plans referred to in items (c) and (f) of the Schedule cease to be reserved forest on the respective days on which Schedule Three to the Principal Act is amended by those items. 30

(13) If the title to a piece of land shown hatched in the plan numbered N.P. 20A/6 in item (a) of the Schedule is not surrendered to the Crown in right of the State of Victoria before the commencement of sub-section (1), the piece of land is deemed to be excluded from the land described in Part 4 of Schedule 2 to the Principal Act until the title to the piece of land is surrendered to the Crown in right of the State of Victoria. 35

(14) Any land described in Part 22A or Part 27 of Schedule Three to the Principal Act as in force immediately before the commencement 40

of sub-section (7) and sub-section (9) respectively and not described in the corresponding parts of the Third Schedule as amended by those sub-sections shall, upon the commencement of sub-section (7) and sub-section (9) respectively, become and be deemed to be unalienated
5 Crown land.

Extraction of forest produce and consequential amendment.

5. (1) In section 25B (1) of the Principal Act for "14" substitute "14, 16A".

(2) In section 25B (1) of the Principal Act after "24" insert ", 25B".

10 **New section 30 substituted.**

6. For section 30 of the Principal Act substitute—

Point Nepean National Park.

15 "30. (1) The Minister shall consult with any Minister including a Minister of the Crown in right of the Commonwealth, public authority or interest group who or which expresses an interest in public safety, fire protection works and the fire control operations in the park described in Part 4 of Schedule 2.

20 (2) Any public authority may subject to and in accordance with the consent of the Minister and any conditions imposed by the Minister graze cattle for a period not exceeding ten years in that part of the park described in Part 4 of Schedule Two that, immediately before the commencement of section 6 of the *National Parks and Wildlife (Amendment) Act 1987*, was included in Part 7 of Schedule Three."

Trade or business licensed under another Act.

25 7. (1) In section 43 of the Principal Act—

(a) after "trade or business" (where first occurring) insert "including a trade or business authorised, permitted or licensed under any other Act or law";

30 (b) for "permit or tenancy granted to him under section 21 or 32C" substitute "licence, permit, tenancy, agreement or any other authority granted made or given under this Act".

(2) Section 43 of the Principal Act as amended by sub-section (1) does not apply to a trade or business authorised, permitted or licensed under any other Act or law before the commencement of the *National Parks and Wildlife (Amendment) Act 1987* except to the extent provided
35 in section 40 of the Principal Act.

PART 3—AMENDMENTS TO WILDLIFE ACT 1975

New section 86 substituted.

8. (1) For section 86 of the *Wildlife Act 1975* substitute—

Closure notices.

“86. (1) The Minister may by notice published in the *Government Gazette*—

- (a) prohibit absolutely or regulate or control the taking, destroying or hunting of any particular kind or species of wildlife in any area and any period specified in the notice; and
- (b) provide for exemptions for anything referred to in paragraph (a); and
- (c) fix penalties of not more than \$200 for any contravention of any part of a notice.

(2) A notice under sub-section (1)—

- (a) may be general in application or may be restricted in operation as to wildlife (whether by reference to kind or species or to sex) time, place, persons, equipment, hunting, guns or circumstances whether any such wildlife time, place, persons, equipment, hunting, guns or circumstances is determined as ascertained before, at or after the making of the notice; and
- (b) unless it otherwise expressly provides, if it refers to wildlife or any specified kind or species of wildlife applies to both sexes of wildlife or to both sexes of that kind or species of wildlife; and
- (c) takes effect from the date of the publication or from any later date specified in the notice; and
- (d) in the absence of a date specified in the notice continues to have effect until 90 days after the notice; and
- (e) may not provide that it continues to have effect for any period exceeding twelve months.

(3) If any provision of this Act or the regulations allowing the taking destroying or hunting of wildlife is inconsistent with a notice under sub-section (1) the provision of the Act or regulations shall to the extent of any inconsistency be of no effect and the notice shall prevail.

(4) A notice under sub-section (1) is a subordinate instrument for the purposes of the *Interpretation of Legislation Act 1984*.”.

(2) In section 3 (1) of the Principal Act in the definition of “This Act” after “Act” (where second occurring) insert “and notices under section 86 of this Act”.

No. 8699
Reprinted to
N. 9549
Subsequently
amended by
Nos. 9578,
9643, 9694,
9851, 9861,
9902, 46/1986
and 41/1987.

Protection of whales.

9. The *Wildlife Act 1975* is amended as follows:

5 (a) In section 3 (1) at the end of the definition of "Wildlife" insert "but in Parts I to VI and Parts IX and XI does not include a whale within the meaning of section 75."; and

(b) After section 6 (2) insert—

"(3) This section does not apply to whales within the meaning of section 75."; and

10 (c) In section 71 (1) in paragraph (b) of the definition of "zoo—animal" omit ", whale, dolphin or porpoise"; and

(d) In section 75 (1) in the definition of "Whale" omit "(Dolphin)"; and

(e) In section 76—

(i) after sub-section (2) insert—

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"(2A) Any person who has in his possession a live whale of any origin taken in circumstances or which came into his possession in any circumstances not provided for in sub-section (2) shall be guilty of an indictable offence.

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Penalty: \$100 000.";

(ii) in sub-section (4) for "and (2)" substitute "(2) and (2A)";

(iii) in sub-section (4) (c) for "or the action in question was done" substitute—

"; or

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(iii) carried out"; and

(iv) after sub-section (4) insert—

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"(5) Any person who displays a live whale of any origin for any purpose or causes or permits a live whale of any origin to be displayed for any purpose shall be guilty of an indictable offence.

Penalty: \$100 000."; and

(f) In section 78 (1)—

(i) omit paragraph (a);

(ii) for paragraph (d) substitute—

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"(d) to have dead whales in the person's possession or treat or otherwise deal with dead whales in a specified manner and for specified scientific or educational purposes;

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(e) to have live whales in the person's possession in the course of rescuing stranded whales or rehabilitating injured whales;

- (f) to have live whales temporarily in the person's possession in the whale's natural habitat for specified scientific or educational purposes."; and
- (g) In section 83—
- (i) paragraph (a) is repealed;
 - (ii) in paragraph (b) omit "other"; and
- (h) In section 85 (1) for "or (2)" substitute "(2), (2A) or (5)".



SCHEDULE**PART A—AMENDMENTS TO SCHEDULE TWO TO THE PRINCIPAL ACT**

(a) After Part 3 insert—

“PART 4—POINT NEPEAN NATIONAL PARK

All those pieces and parcels of land containing 2200 hectares more or less, situate in the Parishes of Fingal, Flinders, Nepean and Wannaeue, County of Mornington, being the land delineated and bordered red in plans lodged in the Central Plan Office of the Department of Property and Services numbered N.P. 20A/6 and 20B/6.”

(b) In Part 6 for “N.P. 86” substitute “N.P. 86/1”.

(c) For Part 13 substitute—

“PART 13—LITTLE DESERT NATIONAL PARK

All those pieces and parcels of land containing 1320 square kilometres more or less in the Parishes of Moray, Nateyip, Beewar, Curtayne, Ding-a-Ding, Minimay, Mortat, Catiabrim, Spinifex, Koonik Koonik, Coynallan, Jungkum, Cooack, Duchembegarra, Pomponderoo, Watchegatcheca, Winiam and Woraig-worm, County of Lowan being the land delineated and bordered red in a plan lodged in the Central Plan Office of the Department of Property and Services and numbered 9/1.”

PART B—AMENDMENTS TO SCHEDULE THREE TO THE PRINCIPAL ACT

(a) Omit Part 1.

(b) For Part 7 substitute—

“PART 7—ARTHURS SEAT

All those pieces or parcels of land containing 350 hectares, more or less, situate in the Parishes of Wannaeue and Kangerong, County of Mornington being the land delineated and bordered red in a plan lodged in the Central Plan Office of the Department of Property and Services and numbered 36/4.”

(c) After Part 16 insert—

“PART 16A—TERRICK TERRICK PARK

All those pieces or parcels of land containing 2500 hectares, situate in the Parish of Terrick Terrick West, County of Gunbower being the land delineated and bordered red or bordered green, excepting therefrom the roads shown as excluded in a plan lodged in the Central Plan Office of the Department of Property and Services numbered N.P. 84.

Notwithstanding the declaration of this land as a park the following activities may be carried on subject to section 25B of the Act and the following conditions:

Extraction of minor forest produce arising from activities designed to change the vegetation to a form and composition closer to the original condition of the forest.”

(d) After Part 18A insert—

“PART 18B—CARLISLE PARK

All those pieces or parcels of land containing 5600 hectares, more or less, situate in the Parishes of Moorbanool, Natta Murrang, Newlingrook and Noomowroong, County of Polwarth, being the land delineated and bordered red or coloured yellow excepting therefrom the roads shown as excluded in a plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P. 88.”

(e) In Part 22A for “N.P. 69” substitute “N.P. 69/1”.

(f) After Part 25A insert—

“PART 25B—LERDERDERG PARK

All those pieces or parcels of land containing 13,340 hectares, more or less, situate in the Parishes of Blackwood, Bullengarook, Coimadai, Coornmill and Myrmiong, County of Bourke, being the land delineated and bordered red or bordered green excepting therefrom the roads shown as excluded also excepting therefrom land bordered blue in a plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P. 89.

SCHEDULE—continued

Notwithstanding the declaration of this land as a park the following activities may be carried on subject to section 25B of the Act and the following conditions:

Extraction of minor forest produce arising from activities designed to change the vegetation to a form and composition closer to the original condition of the forest.”

(g) For Part 27 substitute—

“PART 27—LYSTERFIELD PARK

All those pieces or parcels of land containing 1151 hectares, more or less, situate in the Parish of Narree Worrان, County of Mornington and being the land delineated and bordered red or coloured yellow, excepting therefrom the road shown as excluded in a plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P. 60/2.”

