

1991—No. 522

**NATIONAL PARKS AND WILDLIFE ACT 1974—  
REGULATION\***

(Relating to exemptions from liability for offences)

NEW SOUTH WALES



*[Published in Gazette No. 138 of 2 October 1991]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the National Parks and Wildlife Act 1974, has been pleased to make the Regulation set forth hereunder.

**TIM MOORE**

Minister for the Environment.

The Fauna Protection Regulations 1949 are amended by inserting after Regulation 16 the following Regulation:

**Exemptions from offences**

16A. (1) For the purposes of section 100 (2) of the Act, the following persons are exempt from the provisions of sections 98 (2) and 99 (1) of the Act:

- (a) a public authority within the meaning of the EPA Act which is carrying out development to which Part 4 of that Act applies in accordance with:
  - (i) the relevant environmental planning instrument, if the development may be carried out without the necessity for development consent under the EPA Act; or
  - (ii) a development consent under the EPA Act for the development and the relevant environmental planning instrument, if the development may not be carried out except with development consent under the EPA Act; or
  - (iii) a development consent under the EPA Act for the development, if the development is prohibited development within the meaning of section 100A of the EPA Act;

\* Disallowed—L.A. 12.12.1991

- (b) a person (not being a public authority within the meaning of the EPA Act) who is carrying out development to which Part 4 of that Act applies in accordance with:
- (i) a development consent under the EPA Act for the development and the relevant environmental planning instrument, if the development may not be carried out except with development consent under the EPA Act; or
  - (ii) a development consent under the EPA Act for the development, if the development is prohibited development within the meaning of section 100A of the EPA Act,

after having furnished an environmental impact statement for the purposes of Part 4 of the EPA Act in accordance with the regulations made under that Act;

- (c) a person (not being a determining authority within the meaning of Part 5 of the EPA Act) who is carrying out an activity within the meaning of that Part in accordance with an approval under that Part;
- (d) a determining authority within the meaning of Part 5 of the EPA Act who is carrying out an activity within the meaning of that Part after having complied with that Part with respect to the activity.

(2) For the purposes of section 100 (2) of the Act, a person (not being a public authority within the meaning of the EPA Act) is exempt from the provisions of section 98 (2) of the Act if the person is carrying out development to which Part 4 of the EPA Act applies in accordance with:

- (a) a development consent under the EPA Act for the development and the relevant environmental planning instrument, if the development may not be carried out except with development consent under the EPA Act; or
- (b) a development consent under the EPA Act for the development, if the development is prohibited development within the meaning of section 100A of the EPA Act,

and has not furnished an environmental impact statement for the purposes of Part 4 of the EPA Act in accordance with the regulations made under that Act.

(3) This Regulation only exempts a person in relation to acts or omissions that are reasonably connected with the carrying out of the development or activity.

(4) The exemption conferred on a public authority or person by this Regulation extends to any employee or agent of the public authority or person or any other person acting on behalf of the public authority or person.

(5) This Regulation applies to a development or activity that was commenced before the commencement of this Regulation as well as to a development or activity that is commenced after that commencement.

(6) This Regulation does not apply in relation to compartments 180, 198 and 200 of the Chaelundi State Forest.

(7) In this Regulation, “**the EPA Act**” means the Environmental Planning and Assessment Act 1979.

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#### EXPLANATORY NOTE

The purpose of this Regulation is to exempt certain persons and authorities from liability for offences relating to the taking and killing of protected fauna and endangered fauna under section 98 or 99 of the National Parks and Wildlife Act 1974. The exemption applies to persons who are lawfully carrying out development to which Part 4 of the Environmental Planning and Assessment Act 1979 applies or activities in compliance with the environmental protection provisions of Part 5 of that Act. The exemption applies only to acts or omissions that are reasonably connected with the carrying out of the development or activity. The exception does not apply to certain parts of Chelundi State Forest.

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