



TASMANIA

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**NATIONAL PARKS AND WILDLIFE AMENDMENT ACT 1992**

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**No. 52 of 1992**

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**NATIONAL PARKS AND WILDLIFE AMENDMENT  
ACT 1992**

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**No. 52 of 1992**

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**AN ACT to amend the *National Parks and Wildlife Act 1970***

**[Royal Assent 21 December 1992]**

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**Short title**

**1**—This Act may be cited as the *National Parks and Wildlife Amendment Act 1992*.

**Commencement**

**2**—This Act commences on the day on which it receives the Royal Assent.

**Principal Act**

3—In this Act, the *National Parks and Wildlife Act 1970\** is referred to as the Principal Act.

**Section 3 amended (Interpretation)**

4—Section 3 (1) of the Principal Act is amended by omitting the definition of “hunting equipment” and substituting the following definition:—

“hunting equipment” means any weapon, implement, apparatus or material which—

- (a) is capable of being used for the taking of any wildlife or any product of any wildlife; or
- (b) is incapable of being so used only by reason of—
  - (i) the absence of, or a defect in, a part; or
  - (ii) the presence of an obstruction.

**Section 34 amended (Supplementary provisions as to wildlife regulations)**

5—Section 34 (8) of the Principal Act is amended by omitting “50 penalty units.” and substituting “100 penalty units.”.

**Section 40 amended (Production of licences, &c.)**

6—Section 40 of the Principal Act is amended by omitting “licence or permit issued to him under Part V or under the wildlife regulations” and substituting “licence, permit or other document issued to the person under this Act”.

**Section 41 amended (Powers and duties of seizure)**

7—Section 41 of the Principal Act is amended as follows:—

- (a) by omitting subsection (2) and substituting the following subsections:—

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\* No. 47 of 1970. For this Act, as amended to 1 July 1982, see the continuing Reprint of Statutes. Subsequently amended by No. 10 of 1982, Nos. 9, 10 and 29 of 1984, No. 18 of 1986, No. 10 of 1989, No. 5 of 1990 and Nos. 20, 42 and 43 of 1991.

(2) An authorized officer must seize any hunting equipment that the officer has reasonable grounds for believing has been or is being used in, or in connection with, the commission of an offence under this Act.

(2A) An authorized officer may seize any thing that the officer has reasonable grounds for believing has been taken by, or is in the possession of, a person contrary to the provisions of this Act.

(2B) An authorized officer may seize a licence, permit or other document issued under this Act if the officer has reasonable grounds for believing that the holder of the licence or permit has committed an offence under this Act.

(2C) An authorized officer may seize any record or document—

- (a) relating to trade in wildlife or other wildlife matters; or
  - (b) that appears to indicate that an offence under this Act has been, or is being, committed.
- (b) by inserting “hunting equipment, licence, permit or record or other document or any other animate or inanimate” in subsection (4) after “Where any”;
- (c) by inserting “hunting equipment, licence, permit or record or other document or any other animate or inanimate” in subsection (5) after “Where any”;
- (d) by inserting “hunting equipment, licence, permit or record or other document or any other animate or inanimate” in subsection (6) after “officer any”.

#### **Section 42 amended (Powers of entry and search)**

**8**—Section 42 of the Principal Act is amended as follows:—

- (a) by omitting subsection (5) and substituting the following subsection:—

(5) In exercising the powers conferred, or in performing the duties imposed, by section 41 or this section, an authorized officer may, without warrant, do any or all of the following things at all reasonable times:—

(a) enter any premises, conveyance or container;

(b) in any premises, conveyance or container lawfully entered, search for, examine, make copies of or take extracts from any record or document—

(i) relating to trade in wildlife or other wildlife matters; or

(ii) that appears to indicate that an offence under this Act has been, or is being, committed;

(c) in any premises, conveyance or container lawfully entered, open any container.

(b) by inserting the following subsections after subsection (7):—

(8) In exercising the powers conferred, or in performing the duties imposed, by section 41 or this section, an authorized officer must not enter any premises or any part of any premises used as a principal residence except where the officer has obtained a warrant under subsection (9) or the permission of the occupier to enter the residence.

(9) If a magistrate or justice is satisfied, on the application of an authorized officer, that there is reasonable cause to permit entry to any premises or any part of any premises used as a principal residence, the magistrate or justice may issue a warrant authorizing an authorized officer to enter the premises or the part of premises specified in the warrant for the purposes of exercising the powers conferred, and the duties imposed by, section 41 or this section in those premises or that part.

(10) A warrant issued under subsection (9)—

(a) is valid for a period of 30 days; and

- (b) authorizes all persons acting in aid of an authorized officer to enter the premises, or the part of premises, specified in the warrant.

**Section 45 amended (Production and cancellation of licences, &c., in offence proceedings)**

9—Section 45 of the Principal Act is amended as follows:—

- (a) by omitting subsection (1) and substituting the following subsection:—

(1) The holder of a licence, permit or other document issued under this Act who is charged with an offence under this Act must produce the licence, permit or other document to the court which is hearing the charge except where the holder has a reasonable excuse for not doing so.

Penalty: Fine not exceeding 2 penalty units.

- (b) by omitting subsection (3) and substituting the following subsections:—

(3) If a person is convicted of an offence under this Act, the court may make an order doing any one or more of the following in addition to, or in lieu of, imposing any other penalty:—

- (a) cancelling any licence, permit or other document issued to the person under this Act;
- (b) prohibiting the person from applying for, or being granted or issued, a licence, permit or other document under this Act for the period specified in the order;
- (c) prohibiting the person from being in possession or control of any hunting equipment for the period specified in the order.

(3A) The cancellation of a licence, permit or other document under subsection (3) takes effect on the day on which the order is made.

- (c) by omitting “or permit” (wherever occurring) from subsection (4) and substituting “, permit or other document”.

**Sections 45A and 45B inserted**

**10**—After section 45 of the Principal Act, the following sections are inserted:—

**Cancellation, &c., of gun licence**

45A—(1) In this section, “gun licence” means any licence under the *Guns Act 1991*.

(2) Where a person is convicted of an offence against this Act, the court may, in addition to imposing any other penalty, make an order doing any one or more of the following:—

- (a) cancelling or suspending a gun licence held by that person;
- (b) prohibiting the person from applying for, or being granted or issued, a gun licence during the period specified in the order.

(3) The clerk of the court which made an order under subsection (2) must provide the Commissioner of Police with a copy of the order.

(4) On receipt of a copy of an order referred to in subsection (3), the Commissioner of Police must, by notice in writing served on the person to whom the order relates, notify that person of the terms of the order and require that person to surrender to the Commissioner of Police any gun licence and any firearm held by the person.

(5) The cancellation or suspension of a gun licence under this section takes effect when the notice referred to in subsection (4) is served on the holder of the licence.

(6) A notice referred to in subsection (4) is effectively served on a person if it is—

- (a) given to the person; or
- (b) left at, or sent by post to, the person’s postal or residential address or the place or address of business or employment last known to the server of the notice.



**Contravention of order under section 45 (3)**

45B—(1) A person who contravenes or fails to comply with an order made under section 45 (3) (c) is guilty of an offence.

(2) If an authorized officer has reasonable grounds for believing that a person has committed an offence under subsection (1), the authorized officer may, without warrant—

- (a) arrest that person; and
- (b) for the purpose of arresting that person—
  - (i) enter, by force if necessary, any premises on which the authorized officer has reasonable grounds for believing that person is present; and
  - (ii) search those premises.

**Section 46 amended (Forfeiture of articles, &c., on conviction)**

11—Section 46 of the Principal Act is amended as follows:—

(a) by inserting the following subsections after subsection (1):—

(1A) On the conviction of a person of an offence under this Act, hunting equipment is forfeited to the Crown—

- (a) if it was used in, or in connection with, the commission of that offence; or
- (b) if the offence was committed in relation to it.

(1B) On convicting a person of an offence under this Act, the court may order hunting equipment referred to in subsection (2A) to be returned to another person if the court is satisfied that—

- (a) the other person owns or has an interest in the equipment; and
  - (b) the equipment was used in or in connection with the commission of the offence, or the offence was committed in relation to the equipment, without the consent of the other person; and
  - (c) it would be unjust to the other person for the equipment to be forfeited to the Crown.
- (b) by omitting from subsection (2) all the words following “the Crown” and substituting “anything seized under section 41 (2A)”;

- (c) by omitting “any plants, and any equipment, that are” from subsection (3) and substituting “any plants, hunting equipment or other things”;
- (d) by omitting “, shall” from subsection (3) and substituting “are to”.