



NORFOLK ISLAND NATIONAL PARK AND NORFOLK ISLAND BOTANIC GARDEN REGULATIONS 1988

[Consolidated as at 6 August 2013
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

TABLE OF PROVISIONS

1. Short title
 2. Interpretation
 3. Effect of management plan
 4. Designation and powers of officers, etc
 5. Application of offence provisions
 6. Permits
 7. General offences
 8. Offences relating to fire
 9. Offences relating to wildlife
 - 9A. Open seasons
 10. Offences relating to vehicles
 11. Offences relating to aircraft
 12. Offences relating to weapons, etc
 13. Offences relating to animals and plants
 14. Offences relating to commercial activities
 15. Offences relating to chemicals
 16. Offences relating to scientific research
 17. Offences relating to building works, etc
 18. Restrictions on access to Park
 19. Use of roads and tracks
 20. Control of animals and plants that are not wildlife
 21. Impounding of animals
- Schedule

Norfolk Island National Park and Norfolk Island Botanic Garden Regulations 1988

Short title

1. These regulations may be cited as the *Norfolk Island National Park and Norfolk Island Botanic Garden Regulations 1988*.

Interpretation

2. (1) In these regulations, unless the contrary intention appears —
- “Act” means the *Norfolk Island National Park and Norfolk Island Botanic Garden Act 1984*;
- “Director” has the same meaning as in the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth;
- “Forester” means an authorised officer appointed under the *Trees (Preservation) Act 1985*;
- “management plan” means —
- (a) a document prepared in accordance with section 12 of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth and approved by resolution of the Legislative Assembly; and
 - (b) until a document is approved under paragraph (a) - the document entitled “Plan of Management Norfolk Island National Park and Plan of Management Norfolk Island Botanic Garden” published in 1984 by the Australian National Parks and Wildlife Service,
- setting out a plan for the management of the Park or a part of the Park;
- “parking area” means a formed area, designed or intended for use for the parking of vehicles, that is adjacent to a road;
- “road” means a road in the Park specified in the Schedule;
- “track” means a path, walkway or other means of access in the Park for the use of persons, vehicles or horses, but does not include a road;
- “wildlife” has the same meaning as in paragraphs (a) and (b) of the definition of “wildlife” in section 1A of the Act, but does not include animals and plants referred to in paragraph (c) of that definition.

(2) For the purposes of these regulations, unless the contrary intention appears, words, expressions and provisions contained in these regulations have the same interpretation, application and effect as they have under the Act.

Effect of management plan

3. Subject to the Act and these regulations, the Minister, an officer, a Forester, an approved person and any other person shall exercise or perform a duty, power, function or authority imposed or conferred on the person by the Act or these regulations in accordance with a management plan and not otherwise.

Designations and powers of officers, etc

4. (1) The designations of officers appointed under subsection 4(1) of the Act shall be —

- (a) Park Superintendent;
- (b) Deputy Park Superintendent; and
- (c) Park Ranger.

(2) A duty, power, function or authority imposed or conferred by these regulations on the Park Superintendent —

- (a) may be exercised or performed by the Minister or by an officer other than the Park Superintendent; and
- (b) when so exercised or performed shall be deemed for the purposes of these regulations to have been exercised or performed by the Park Superintendent.

(3) The Minister shall, in the exercise or performance of a duty, power, function or authority referred to in subregulation (2), consult the Director or, where it is not reasonably practicable to consult the Director, the Park Superintendent.

(4) An officer other than the Park Superintendent shall, in the exercise or performance of a duty, power, function or authority referred to in subregulation (2), comply with any directions of the Park Superintendent.

Application of offence provisions

5. (1) A provision in these regulations creating an offence does not apply to —

- (a) the Minister or an officer;
- (b) a Forester; or
- (c) an approved person,

acting in the performance of the person's duties.

(2) A provision in these regulations creating an offence does not apply to an act or omission by a person to whom a permit has been granted under regulation 6 if —

- (a) the act or omission is one in relation to which the permit was granted;
- (b) the permit is in force at the time of the act or omission; and
- (c) conditions, if any, subject to which the permit was granted are complied with by the person.

Permits

6. (1) A person may apply to the Park Superintendent for the grant of a permit to undertake an activity that would otherwise be prohibited by these regulations.

(2) Subject to these regulations, the Park Superintendent may grant or refuse to grant a permit.

(3) A permit shall be in writing and may, subject to this regulation, be granted subject to conditions specified in the permit.

(4) The Park Superintendent shall not grant a permit under subregulation (2) for an activity to be carried on in the Park unless the activity will —

- (a) benefit the management of the Park, or the public or persons using the Park; and
- (b) be consistent with —
 - (i) preservation of the Park in its natural condition and the protection of its special features, including objects and sites of biological, historical, palaeontological, archaeological, geological and geographical interest;
 - (ii) the protection, conservation and management of wildlife within the Park; and
 - (iii) the protection of the Park against damage.

(5) A permit granted under subregulation (2) —

- (a) shall specify the activity that is permitted;
- (b) shall specify the period for which the permit is in force;
- (c) may specify times or periods during the period for which the permit is in force when the activity may not be carried on;
- (d) may specify an area or place in the Park where the activity may be carried on;
- (e) may, where an activity is permitted to be carried on in a building or other structure, or with the assistance of a structure or equipment, specify in relation to the building, structure or equipment conditions subject to which the activity is permitted;
- (f) may, where an advertisement or other public notice is, or is to be, displayed in the Park in connection with an activity, specify in relation to the advertisement or notice conditions subject to which the activity is permitted;
- (g) may specify conditions subject to which the deposit or use of a substance is permitted;
- (h) may specify conditions relating to the manner in which, and places or areas in which, scientific research may be carried out;
- (i) may specify conditions relating to the manner of making an excavation, erecting or altering a building or structure or carrying out works, and relating to the manner in which damage caused by the carrying out of any such activity is to be rectified; and
- (j) may specify any other condition subject to which the permit is granted.

(6) Where a permit is granted to a person under this regulation for an activity to be carried on, whether subject to conditions or not, the Park Superintendent may, before the end of the period for which the permit is in force, by notice in writing served on the person —

- (a) impose a condition or additional condition on the activity to which the permit relates;
- (b) revoke a condition imposed on the activity to which the permit relates; or
- (c) subject to subregulation (7), cancel the permit.

(7) The Park Superintendent shall not cancel a permit unless —

- (a) since the granting of the permit, a change has occurred in relation to a matter that was taken into account in determining the application for the permit, being a change that makes it desirable, for the protection or conservation of wildlife, that the activity authorised by the permit should cease; or
- (b) the person to whom the permit was granted —
 - (i) has contravened a condition of the permit; or
 - (ii) is convicted of, or found by a Court to have committed, an offence against the Act, these regulations or a law in force in Norfolk Island relating to the protection or conservation of wildlife.

(8) A notice served under subregulation (6) has effect —

- (a) where a condition or additional condition is imposed under paragraph (6)(a) - as if the condition were included at the time of service in the permit to which the notice relates;
- (b) where a condition is revoked under paragraph (6)(b) - as if the condition ceased at the time of service to be included in the permit to which the notice relates; and
- (c) where a permit is cancelled under paragraph (6)(c) - from the time of service of the notice.

(9) A notice under subregulation (6) may be served by post.

General offences

7. (1) A person shall not —

- (a) place or cause to be placed in the Park rubbish or litter (not being household or industrial waste) elsewhere than in an area or container provided for the purpose by the Park Superintendent;
- (b) damage or destroy a natural feature or man-made structure in the Park;
- (c) deposit in the Park rubble or household, commercial or industrial waste elsewhere than in an area provided for the purpose by the Park Superintendent;

- (d) deliberately or negligently dump, permit the leakage of, release or spill in the Park material that is dangerous, noxious, offensive or toxic —
 - (i) if the material may cause temporary or permanent environmental damage; or
 - (ii) if the material may contribute to the contamination or pollution of air, soil or water in a manner that is, or is likely to be, harmful to people or wildlife in, or the natural features of, the Park; or
- (e) deposit in the Park solid or liquid material in such a place or in such a manner that the material —
 - (i) is likely to pollute water or a watercourse in the Park; or
 - (ii) is likely to be harmful to people or wildlife in the Park, or to damage the Park.

(2) A person shall not camp in the Park.

(3) A person who is in the Park shall not refuse to comply with a lawful request or reasonable direction made by an officer or Forester, being a request or direction relating to an act by, or omission of, the person.

Penalty: 5 penalty units.

Offences relating to fire

8. (1) The Park Superintendent may, by notice published in the Gazette —

- (a) declare that a fire danger exists; or
- (b) declare a total fire ban,

in relation to the Park or a specified part of the Park.

(2) A declaration under subregulation (1) has effect from the date of publication of the notice, or from a later date specified in the notice, until —

- (a) the end of a period specified in the notice; or
- (b) if no period is specified in the notice, the date of publication of another notice revoking the declaration.

(3) Subject to subregulations (4) and (5), a person shall not light, maintain or use a fire in the Park otherwise than in —

- (a) a portable barbecue or portable stove;
- (b) a fireplace provided for the purpose by the Park Superintendent; or
- (c) a location provided for the purpose by the Park Superintendent.

Penalty: 5 penalty units.

(4) A person shall not light, maintain or use a fire in a place in relation to which a declaration of fire danger under paragraph (1)(a) has effect, otherwise than in —

- (a) a fireplace provided for the purpose by the Park Superintendent; or
- (b) a location provided for the purpose by the Park Superintendent.

Penalty: 5 penalty units.

(5) A person shall not light, maintain or use a fire in a place in relation to which a declaration of a total fire ban under paragraph (1)(b) has effect.

Penalty for an offence against this subregulation: 5 penalty units.

Offences relating to wildlife

9. (1) A person shall not, in the Park, have in the person's possession, interfere with, damage, injure or destroy an animal or plant that is wildlife.

(2) A person shall not remove from the Park an animal or plant that is wildlife.

(3) A person shall not, in the Park, feed an animal that is wildlife.

Penalty: 5 penalty units.

Open seasons

9A. (1) Regulation 9 does not apply to the taking of eggs of protected birds from that area of the Park known as "Phillip Island" during a period declared to be an open season under section 6 of the *Birds Protection Act 1913* in relation to those protected birds.

(2) In subregulation (1) "protected bird" has the same meaning as in the *Birds Protection Act 1913*.

Offences relating to vehicles

10. A person shall not drive or use a vehicle in a part of the Park that is not a road or parking area.

Penalty: 2.50 penalty units.

Offences relating to aircraft

11. (1) A person shall not land an aircraft in the Park.

Penalty: 5 penalty units.

(2) Subregulation (1) does not apply to a person who lands an aircraft in the Park in an emergency.

Offences relating to weapons, etc

12. A person shall not, in the Park, use or have in the person's possession —

(a) a firearm or other device designed to discharge a projectile; or

(b) a trap, net, snare, hunting bow, spear or slingshot.

Penalty: 5 penalty units.

Offences relating to animals and plants

13. (1) A person shall not take an animal into, or knowingly permit an animal to enter, the Park unless the animal is kept under such restraint as is necessary to prevent the animal straying, or causing a nuisance, in the Park.

Penalty: 5 penalty units.

(2) A person shall not take a plant into the Park.

Penalty: 5 penalty units.

(3) Without limiting the generality of subregulation (1), a person shall not take a horse into, or knowingly permit a horse to enter, a part of the Park that is not —

- (a) a road; or
- (b) a track the entrance to which is clearly indicated by a sign bearing the words “WALKING OR HORSERIDING ONLY”.

Penalty: 5 penalty units.

(4) Subregulations (1) and (2) do not apply to the taking of food into the Park.

Offences relating to commercial activities

14. (1) A person in the Park shall not hire or sell a thing.

Penalty: 5 penalty units.

(2) A person shall not produce or manufacture in the Park a thing for hire or sale, whether or not the hiring or sale takes place in the Park.

Penalty: 5 penalty units.

(3) A person shall not provide in the Park a service for reward.

Penalty: 5 penalty units.

(4) Subregulation (3) does not apply to the provision in the Park of —

- (a) tours on roads; or
- (b) horse trail rides on roads.

Offences relating to chemicals

15. (1) A person shall not use or deposit in the Park a chemical pesticide, herbicide or a toxic or noxious substance.

Penalty: 5 penalty units.

(2) Subregulation (1) does not apply to the use of a pesticide by a person for purposes of personal hygiene.

Offences relating to scientific research

16. A person shall not carry out in the Park research for archaeological or other scientific purposes.

Penalty: 5 penalty units.

Offences relating to building works, etc

17. A person shall not, in the Park —

- (a) make an excavation;
- (b) construct or alter a building or other structure; or
- (c) carry out any other physical works.

Penalty: 5 penalty units.

Restrictions on access to Park

18. (1) The Park Superintendent may prohibit access to the Park, or a part of the Park, where the Park Superintendent reasonably believes that public access to the Park, or to the part, would or may —

- (a) endanger public safety; or
- (b) adversely affect the protection or preservation of the Park or the part of the Park, or wildlife in the Park or the part of the Park.

(2) The Park Superintendent may prohibit access to the Park, or a part of the Park, by a specified person or a person included in a specified class of persons, where the Park Superintendent reasonably believes that access by the person or by a person included in the class to the Park, or to the part, would or may —

- (a) endanger public safety; or
- (b) adversely affect the protection or preservation of the Park or the part of the Park, or wildlife in the Park or the part of the Park.

(3) Notice of a prohibition under subregulation (1) or (2) shall —

- (a) be published in the Gazette; and
- (b) be prominently displayed at all entrances to the Park, or, where the notice relates to a part of the Park, at entrances to that part.

(4) A person who, or a person included in a class of persons which, is prohibited under subregulation (1) or (2) from entering the Park or a part of the Park shall not enter the Park or that part of it.

Penalty: 2.50 penalty units.

(5) It is a defence to a prosecution for an offence against subregulation (4) if the defendant proves that —

- (a) the defendant's presence in the Park, or the part —
 - (i) was due to emergency; or
 - (ii) was not avoidable by the taking of reasonable care; or
- (b) the defendant had no reasonable grounds for suspecting that the defendant's entry into the Park, or the part, was prohibited under subregulation (1) or (2).

Use of roads and tracks

19. A person shall not use a road or track the entrance to which is clearly indicated by a sign bearing the words "AUTHORISED PERSONS ONLY".

Penalty: 2.50 penalty units.

Control of animals and plants that are not wildlife

20. The Park Superintendent may, where the Park Superintendent considers it necessary for the protection and preservation of the Park, take reasonable measures for the control in the Park of animals and plants that are not wildlife.

Impounding of animals

21. (1) The Park Superintendent may establish and maintain pounds for the purposes of this regulation.

(2) The Park Superintendent may impound an animal found straying in the Park that is not wildlife.

(3) Where the Park Superintendent impounds an animal that is stock within the meaning of the *Pounds Act 1934*, the Park Superintendent shall deliver the animal, or cause the animal to be delivered, to a poundkeeper appointed under that Act.

(4) The poundkeeper shall deal with stock delivered under subregulation (3) in accordance with the *Pounds Act 1934*.

(5) Where the Park Superintendent impounds an animal that is not stock, the Park Superintendent shall —

- (a)** deliver the animal, or cause the animal to be delivered, to a pound; and
- (b)** take reasonable steps to identify the owner of the animal.

(6) Where an impounded animal that is not stock does not carry any means by which its owner may be identified, the Park Superintendent is deemed to have complied with paragraph (5)(b) if the Park Superintendent publishes in the Gazette a notice describing the animal and specifying the date on which, and location at which, it was impounded.

(7) The Park Superintendent shall, on payment of the fees referred to in subregulation (8), release an impounded animal that is not stock to a person who represents himself or herself as the owner of the animal, unless the Park Superintendent has reasonable cause to believe that the person is not the owner of the animal.

(8) For the purposes of subregulation (7), the fees payable in respect of each animal that is not stock are the same as would be payable under the *Pounds Regulations* as in force from time to time in respect of the impounding of a head of stock.

(9) Where an animal that is not stock has not been released under subregulation (7) at the end of a period of 14 days from the day on which the animal was impounded, the Park Superintendent may destroy or otherwise dispose of the animal.

NOTES

The *Norfolk Island National Park and Norfolk Island Botanic Garden Regulations 1988* as shown in this consolidation comprises regulations No. 2 of 1988 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Norfolk Island National Park and Norfolk Island Botanic Garden Regulations 1988</i>	2, 1988	28.4.88	
<i>Norfolk Island National Park and Norfolk Island Botanic Garden (Amendment) Regulations 1988</i>	10, 1996	3.10.96	
<i>[previously consolidated as at 12 March 2008]</i>			
<i>Interpretation (Amendment) Act 2012</i> <i>[to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]</i>	14, 2012	28.12.12	

Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and
inserted substituted

Provisions affected	How affected
9A	ad Regs 10, 1996

© Norfolk Island Government 2013

The *Copyright Act 1968* of the Commonwealth of Australia permits certain reproduction and publication of this legislation. For reproduction or publication beyond that permitted by the Act, written permission must be sought from the Legislative Counsel, Administration of Norfolk Island, Norfolk Island, South Pacific 2899.