



## TASMANIA

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**NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS  
AMENDMENTS) ACT 1991**


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**No. 20 of 1991**


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**NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS  
AMENDMENTS) ACT 1991**

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**No. 20 of 1991**

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**AN ACT to amend the *National Parks and Wildlife Act 1970*  
and the *Crown Lands Act 1976***

**[Royal Assent 31 July 1991]**

**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:—

**PART 1**

**PRELIMINARY**

**Short title**

**1**—This Act may be cited as the *National Parks and Wildlife  
(Miscellaneous Amendments) Act 1991*.

**Commencement**

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

**PART 2****AMENDMENTS OF THE NATIONAL PARKS AND WILDLIFE ACT  
1970\*****Section 3 amended (Interpretation)**

**3**—Section 3 of the *National Parks and Wildlife Act 1970* is amended by inserting after the definition of “hunting equipment” the following definition:—

“**improvements**” means all work done and materials used on or for the benefit of any land which visibly and effectively improves or increases the value of the land;

**Sections 26 to 26AF inserted**

**4**—After section 25B of the *National Parks and Wildlife Act 1970*, the following sections are inserted:—

**Minister may grant leases and licences**

26—(1) The Minister may, with the approval of the Minister for Crown Lands, grant leases of, or licences to occupy, reserved land that is Crown land.

(2) Subject to subsections (3), (4) and (5), a lease or licence granted shall be for such period and on such terms and conditions, as the Minister for Crown Lands approves.

(3) A lease shall not be granted for a period exceeding 99 years.

(4) The Minister shall not grant a lease or licence that authorizes or requires the lessee or licensee to erect a building on land other than—

(a) a building appurtenant to a building already on the land; or

(b) a building that the Minister is satisfied is intended to be used primarily for providing—

(i) tourist accommodation or accommodation for people resorting to that land; or

(ii) facilities and conveniences for people resorting to that land.

\* 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 and No. 5 of 1990.

(5) The Minister shall not—

- (a) lease Crown land that is reserved land to which a forest management plan applies; or
  - (b) grant a licence in respect of any such land—
- except with the approval of the Forestry Commission.

(6) Nothing in this section is to be construed as prejudicing or affecting the operation of the *Forestry Act 1920* or the *Mining Act 1929*.

(7) For the purposes of section 241 (3) (b) of the *Local Government Act 1962* a lease or licence granted under this Act shall be taken to be a lease or licence granted under the *Crown Lands Act 1976*.

#### Termination or surrender of lease

26AA—(1) A lease of reserved land that is Crown land may be—

- (a) terminated; or
  - (b) surrendered by the lessee—
- on terms and conditions agreed between the Minister and the lessee.

(2) When a lease of reserved land that is Crown land—

- (a) is surrendered; or
  - (b) expires; or
  - (c) is terminated—
- all improvements on the land vest in the Crown absolutely.

(3) If a lease of reserved land that is Crown land is surrendered or terminated by mutual agreement of the Minister and the lessee, and the Minister receives money from the sale of improvements effected by the lessee, including improvements paid for by the lessee and taken over from the previous lessee, the Minister may, in the Minister's absolute discretion—

- (a) pay to the lessee so much of the value of the improvements as the Minister thinks fit, being an amount not exceeding the amount received by the Minister from the sale of the improvements; or
- (b) refuse to make any payment in respect of the improvements.

(4) Subsection (2) does not apply to a termination or surrender of a lease for the purpose of its consolidation with any other lease.

**Forfeiture or cancellation of lease for non-payment of rent or breach of conditions**

26AB—The Minister may cancel a lease of reserved land that is Crown land if—

- (a) any rent due under the lease is not paid for a period exceeding one month after it has become due and remains unpaid at the end of the period specified in a notice served on the lessee by the Minister—
  - (i) requesting the lessee to pay the rent within the period so specified; and
  - (ii) advising the lessee that the lease will be cancelled if the rent and any interest on the rent at the prescribed rate is not paid within the period so specified; or
- (b) the Minister considers that the lessee has committed a breach of any condition of the lease and, upon notice served on the lessee by the Minister specifying the breach and requiring the lessee to satisfy the Minister within a period specified in the notice that the lessee has not committed the breach, the lessee fails so to do.

**Termination of lease where land required for public or other purposes**

26AC—(1) If, in the opinion of the Minister, reserved land that is Crown land subject to a lease under this Act—

- (a) is required for a public purpose; or
- (b) is required for the purpose of any other Act; or
- (c) should be made available for a purpose which the Minister considers desirable in the public interest—

the Minister may, upon giving the lessee 3 months written notice specifying—

- (d) the land or portion of the land which is required or should be made available; and

(e) the purpose or purposes for which the land is so required or should be made so available—  
by notice in the *Gazette*, cancel the lease in respect of the land so required or that should be made so available.

(2) If a lease is cancelled as to a portion of the land comprised in the lease, the lease shall have effect in respect of the land remaining under the lease and the Director shall determine the rent payable under the lease in respect of that land, and the rent so determined shall thereupon become the rent payable under the lease.

(3) In determining the rent payable, the Director shall make due allowance for any diminution in the relative value of the land—

(a) by reason of the reduction in the area of land held under the lease; and

(b) by reason of such other matters as the Director thinks fit.

(4) A notice under subsection (1) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

### **Compensation for improvements where lease is terminated for a public or other purpose**

26AD—(1) When a lease is cancelled as provided by section 26AC, the Minister shall pay to the lessee compensation for improvements effected by the lessee for the purposes for which the lease was granted, including any improvements paid for by the lessee and taken over from the previous lessee, but no compensation is payable in respect of any improvements effected after the service of a notice under that section.

(2) The compensation payable shall be determined by valuation.

(3) A lessee who is aggrieved by the amount of compensation payable to the lessee by the Minister may, within one month from the date the Minister serves on the lessee notification as to the amount of the compensation payable to the lessee, serve on the Minister written notice requiring the Minister to refer the matter to the Land Valuation Court for its determination of the amount of compensation payable to the lessee.

(4) When a matter is referred to the Land Valuation Court by the Minister, it shall consider any reports or evidence submitted to it by the Minister and such other reports or evidence that may seem to it to be relevant and determine the amount of compensation payable to the lessee.

(5) A determination of the Land Valuation Court under this section is final and binding on the Minister and the lessee.

#### **Compensation payable on non-renewal of certain leases**

26AE—(1) If, upon the expiration by effluxion of time of a lease of reserved land that is Crown land, where the purpose of the lease was for agricultural or grazing purposes, the Minister decides not to renew the lease the Minister shall pay to the lessee compensation for the improvements effected by the lessee for the purposes of which the lease was granted, including any improvements paid for by the lessee and taken over from the previous lessee.

(2) Compensation is not payable in respect of any improvements unless the improvements were approved by the Minister before being carried out.

(3) The compensation payable shall be such amount, approved by the Minister, as is determined by the Director, on the recommendation of the Valuer-General, to be the fair and reasonable value of the improvements.

#### **Improvements on land held under licence**

26AF—(1) Compensation is not payable in respect of improvements carried out on land held or occupied under a licence granted under section 26 (1) unless the Minister directs that the land or an improvement on the land is required for a public purpose, in which case the Minister shall pay compensation for the improvement in accordance with this section.

(2) Any compensation payable in respect of an improvement shall be such amount, approved by the Minister, as is determined by the Director, on the recommendation of the Valuer-General, to be the fair and reasonable value of the improvement.

(3) If the Minister—

- (a) offers a person an amount of compensation assessed in accordance with subsection (2); and
- (b) the person offered that amount—
  - (i) does not accept the offer within 30 days of receiving it; or
  - (ii) informs the Minister that the amount offered does not represent the fair and reasonable value of the improvement—

the matter shall be taken to be a disputed claim for compensation under section 38 of the *Lands Resumption Act 1957* and compensation shall be determined in accordance with that Act as if the improvement were an estate or interest compulsorily acquired under that Act, except that section 31 of that Act shall not apply and regard shall only be had to the fair and reasonable value of the improvement.

(4) If the Minister does not make a direction under subsection (1) any improvement on the land may be removed.

### Section 51 amended (Regulations)

5—Section 51 of the *National Parks and Wildlife Act 1970* is amended by adding the following subsection:—

(3) Without limiting the generality of subsection (1) regulations made under this subsection may—

- (a) make provision for or with respect to—
  - (i) the payment and collection of fees by any person in relation to any act, matter or thing done or arising under this Act; and
  - (ii) the remission of, or exemption from liability for, any such fees; and
- (b) be of general or specially limited application; and
- (c) authorize any act, matter or thing in relation to which they may be made to be from time to time determined, applied or regulated by such person as is there specified for the purpose, being the Minister, the Director or another person performing duties under this Act.

**All leases and licences in respect of reserved land that is Crown land to be subject to *National Parks and Wildlife Act 1970***

6—A lease of, or a licence to occupy, reserved land that is Crown land in force immediately before the commencement of this Act and whether granted under the *National Parks and Wildlife Act 1970* or the *Crown Lands Act 1976* is to be taken to have been granted under the *National Parks and Wildlife Act 1970*.

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**PART 3**

**AMENDMENTS OF THE CROWN LANDS ACT 1976\***

**Repeal of section 29A**

7—Section 29A of the *Crown Lands Act 1976* is repealed.

**Repeal of section 41A**

8—Section 41A of the *Crown Lands Act 1976* is repealed.

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\* No. 28 of 1976. For this Act, as amended to 1 October 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 19 of 1980, Nos. 87 and 99 of 1982, No. 29 of 1984, No. 88 of 1985, No. 98 of 1986, No. 10 of 1988, No. 10 of 1989 and No. 5 of 1990.