

**NATIONAL PARKS AND WILDLIFE (EMU LICENCE)
AMENDMENT BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The National Parks and Wildlife Act 1974 prohibits the taking, killing, possessing, buying and selling of any protected fauna (including emus) otherwise than under and in accordance with an appropriate licence granted under that Act. There is no single licence that is appropriate to authorise the breeding of emus or the dealing in emus and emu products.

The object of this Bill is to amend the National Parks and Wildlife Act 1974 so as:

- (a) to provide for an emu licence under which the breeding of emus, the killing of emus reared or bred under such a licence and the dealing in emus and emu products can be authorised; and
- (b) to make consequential amendments to that Act to exempt certain activities connected with the breeding of emus, the killing of emus and the dealing in emus and emu products from the various provisions that would otherwise prohibit their conduct; and
- (c) to create a new offence of carrying on the business of an emu breeder otherwise than in accordance with an emu licence; and
- (d) to empower the making of regulations with respect to the keeping of records by persons engaged in the retail sale of emu products and with respect to the inspection of premises on which emus are housed or caged under an emu licence.

The Bill also amends the Poultry Processing Act 1969 so as to ensure that the provisions of that Act are construed as applying to emus.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

National Parks and Wildlife (Emu Licence) Amendment 1993 [Act 1993 No. 78]

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the National Parks and Wildlife Act 1974.

Clause 4 makes the amendment to the Poultry Processing Act 1969 described above.

SCHEDULE 1—AMENDMENT OF NATIONAL PARKS AND WILDLIFE ACT 1974

Emu licences

It is proposed to provide for the granting of a new form of licence (an “**emu licence**”) that authorises a person to buy and sell emus, whole emu eggs or other emu products, to kill emus reared or bred under such a licence or otherwise to exercise or carry on the business of an emu breeder (Schedule 1 (9)—proposed section 125A).

Consequential amendments to section 5 (**Definitions**) insert definitions of “**emu**”, “**emu breeder**” and “**emu products**”. An emu breeder is defined to be a person who exercises or carries on the business of breeding emus (including the rearing of emu chicks lawfully taken in the wild) or dealing in live emus, whole emu eggs or other emu products. Emu products are defined to mean products (such as eggs, meat, skin, feathers, claws and oil) derived from emus or from the processing of emu carcasses (Schedule 1 (1)).

Section 133 enables a licence to be issued subject to conditions and restrictions. Consequently, it will be possible for various forms of emu licence to be granted. Examples of the various forms of licence include a licence authorising the breeding of emus (but not the sale of emu products), a licence authorising the sale of emu products (but not the breeding of emus) and a licence authorising both the breeding of emus and the sale of emu products.

Existing offence of taking or killing protected fauna

Section 98 prohibits a person from taking or killing protected fauna. The section provides that a person proving that the act constituting such an offence was done under and in accordance with an appropriate licence is not to be convicted of the offence. Schedule 1 (2) amends the section so as to provide that an emu licence is an appropriate licence.

Existing offence of taking or killing fauna for sale

Section 103 prohibits a person from taking or killing fauna for the purpose of sale. The section provides that a person proving that the act constituting such an offence was done under and in accordance with an appropriate licence is not to be convicted of the offence. Schedule 1 (3) amends the section so as to provide that an emu licence is an appropriate licence.

Existing offence of carrying on the business of a fauna dealer without a fauna dealer’s licence

Section 104 (1) prohibits a person from exercising or carrying on the business of a fauna dealer unless the person does so under and in accordance with a fauna dealer’s licence or a skin dealer’s licence (if the business forms part of the business of a skin

dealer). Schedule 1 (4) (a) amends section 104 (1) (by substitution) so as to extend the exception to all licences (including emu licences) under Division 2 of Part 9.

Section 104 (1A) excludes the retail sale of kangaroo meat from the prohibition contained in section 104 (1), but only if the meat was acquired from the holder of a fauna dealer's licence. Schedule 1 (4) (b) amends section 104 (1A) so as to extend the exception to all kangaroo meat lawfully acquired from the holder of a licence under Division 2 of Part 9. This amendment constitutes minor law revision consequent on an amendment effected by the Meat Industry (Game Meat) Amendment Act 1992.

Existing offence of carrying on the business of a skin dealer without a skin dealer's licence

Section 105 prohibits a person from exercising or carrying on the business of a skin dealer unless the person does so under and in accordance with a skin dealer's licence or a fauna dealer's licence (if the business forms part of the business of a fauna dealer). Schedule 1 (5) amends the section (by substitution) so as to extend the exception to all licences (including emu licences) under Division 2 of Part 9.

Proposed offence of carrying on the business of an emu breeder without an emu licence

It is proposed to prohibit any person from carrying on the business of an emu breeder unless the person does so under and in accordance with a licence under Division 2 of Part 9. It is further proposed to exclude from the prohibition a person who sells an emu product by retail, but only if the emu product was lawfully acquired from the holder of a licence (including an emu licence) under Division 2 of Part 9 or from the holder of a licence to sell emu products under the fauna protection legislation of another State or Territory (Schedule 1 (6)—proposed clause 105A).

Existing offence of importing or exporting protected fauna

Section 106 (1) prohibits the import into or the export from New South Wales of any protected fauna. Section 106 (2) excludes certain protected fauna from the prohibition. Schedule 1 (7) amends section 106 (2) so as to extend the exclusion to emu products.

Existing offence of possessing 20 or more birds without an aviary registration certificate or fauna dealer's licence

Section 108 prohibits the possession of 20 or more birds, being protected fauna, unless they are the subject of an aviary registration certificate or are possessed by a fauna dealer at the dealer's registered premises. Schedule 1 (8) amends the section so as to further exclude from the prohibition the possession of 20 or more emus by the holder of an emu licence.

Regulations with respect to the keeping of records and the furnishing of returns

Schedule 1 (10) (a) amends section 154 (Regulations) so as to enable regulations to be made for or with respect to the keeping of records, and the making of returns, by persons engaged in the retail sale of kangaroo meat or emu products and the inspection of such records by officers of the National Parks and Wildlife Service. To the extent that the amendment refers to the retail sale of kangaroo meat, it constitutes minor law revision consequent on an amendment effected by the Meat Industry (Game Meat) Amendment Act 1992.

Regulations with respect to the inspection of premises

Schedule 1 (10) (b) amends section 154 (Regulations) so as to enable regulations to be made for or with respect to the inspection of premises on which emus are housed or caged under an emu licence.

Power to inspect premises

Schedule 1 (11) amends section 164 (Powers of entry and seizure) so as to enable the Director of National Parks and Wildlife or a person authorised by the Director to enter premises for the purpose of inspecting any premises where emus are housed or caged under an emu licence.
