

Game Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to provide for the effective management of native and introduced species of game animals, and
- (b) to promote responsible and orderly hunting of those game animals on public and private land and of certain pest animals on public land.

The principal features of the Bill are as follows:

- (a) Game animals for the purposes of the Bill are:
 - (i) native and introduced species (namely, deer, duck, quail, pheasant, partridge, peafowl and turkey), and
 - (ii) certain pest animals (namely, pigs, dogs (other than dingos), cats, goats, rabbits, hares and foxes living in the wild).
- (b) The Bill constitutes a separate statutory authority, to be called the Game Council of New South Wales, to represent licensed game hunters, to administer the game hunting licensing system and to exercise other functions relating to the objects of the Bill. The Game Council is to comprise persons nominated by hunting organisations, wildlife management scientists and representatives of the rural lands protection boards, of Landcare organisations, of the NSW Aboriginal Land Council and of the Ministers administering the proposed Act, the *Forestry Act 1916* and the *Crown Lands Act 1989*.
- (c) The Bill provides for the following game hunting licences and licensing system:
 - (i) A general game hunting licence (which authorises the hunting of game animals on private land). A game hunting licence will not be required for the purpose of hunting certain pest animals on private land, for hunting on a person's own land and in other specified circumstances.
 - (ii) A restricted game hunting licence (which authorises the holder of the licence to hunt game animals on public or private land). Hunting will not be authorised on national park estate land and will only be authorised in State forests, vacant Crown land and other public land if the Minister responsible for the land has declared the land to be available for hunting.
 - (iii) An occupiers game hunting licence (which authorises the holder of the licence to hunt, or permits the holders of other game hunting licences to hunt, protected game animals on private land owned or occupied by the holder). Annual quotas for the hunting of protected game animals will be set by the Director-General of National Parks and Wildlife and, in accordance with current requirements, will not be set to enable hunting for sporting or recreational purposes.
- (d) The Bill makes provision for the appointment of inspectors by the Game Council and for relevant entry, inspection and other powers for the enforcement of the proposed Act.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 sets out the objects of the proposed Act as referred to in the above Overview.

Clause 4 defines certain words and expressions used in the proposed Act. In particular:

- (a) **hunt** is defined to mean to search for, pursue, trail, stalk or drive out an animal in order to capture or kill the animal:
 - (i) including using a firearm, bow, animal or other hunting device to capture or kill the

animal, but

(ii) not including laying or using poison for that purpose.

(b) **private land** is defined to mean land other than public land, national park estate land or other prescribed land.

(c) **public land** is defined to mean Crown lands, State forest or certain other land under the control of a public or local authority, but not to include certain privately leased land, national park estate land or other prescribed land (and, accordingly, ensures that the proposed Act will not have any application to national park estate land).

Clause 5 lists as **game animals** for the purposes of the proposed Act:

(a) native and introduced species (namely, deer, duck, quail, pheasant, partridge, peafowl and turkey), and

(b) certain pest animals (namely, pigs, dogs (other than dingos), cats, goats, rabbits, hares and foxes living in the wild).

Clause 6 provides that nothing in the proposed Act affects the operation of firearms and weapons prohibition legislation or prevention of cruelty to animals legislation.

Part 2 Game Council

Clause 7 constitutes the Game Council of New South Wales as a statutory body representing the Crown and subject to Ministerial control.

Clause 8 provides that the Game Council is to consist of 16 members, being:

(a) 8 persons appointed on the nomination of prescribed hunting organisations, and

(b) a person appointed on the nomination of the State Council of Rural Lands Protection Boards, and

(c) a person who is appointed on the nomination of prescribed Landcare organisations, and

(d) 2 persons who are wildlife management scientists, and

(e) a person appointed on the nomination of the New South Wales Aboriginal Land Council, and

(f) a person appointed on the nomination of the Minister administering the *Forestry Act 1916*, and

(g) a person appointed on the nomination of the Minister administering the *Crown Lands Act 1989*, and

(h) a person appointed on the nomination of the Minister administering the proposed Act.

Clause 9 sets out the functions of the Game Council, which include representing licensed game hunters, administering the game hunting licensing system, providing advice and recommendations on game management and the declaration of public lands for game hunting and funding works and activities for the conservation of game animals. The Game Council is required to have regard to public safety in exercising its functions.

Clause 10 provides for a committee of management of the Game Council, comprising 5 of the members of the Game Council and its chief executive officer.

Clause 11 provides for the establishment of other committees of the Game Council.

Clause 12 enables the employment of public service or other staff of the Game Council.

Clause 13 authorises the Game Council to delegate its functions.

Clause 14 deals with the financial arrangements of the Game Council.

Part 3 Licensing and control of hunting for game animals

Division 1 (clauses 15 and 16) provides that general, restricted and occupiers game hunting licences may be granted under the proposed Act, and sets out the authority conferred by each class of licence. Subject to the restrictions imposed by the proposed Act:

(a) a general game hunting licence authorises the hunting of game animals on private land, and

(b) a restricted game hunting licence authorises the hunting of game animals on specially declared public land as well as private land, and

(c) an occupiers game hunting licence authorises the hunting of protected game animals on private land of the holder of the licence.

Division 2 (clauses 17 and 18) relates to the licensing of hunters of game animals. Clause 17 makes it an offence, punishable with a maximum penalty of 50 penalty units (currently \$5,500)

to hunt a game animal on private or public land without being the holder of a game hunting licence. Clause 18 exempts certain persons from the requirement to hold a licence, including:

- (a) persons hunting certain pest animals on private land, and
- (b) persons hunting on their own land, and
- (c) Aboriginal persons when exercising native title rights or undertaking traditional cultural hunting as members of a Local Aboriginal Land Council, and
- (d) certain professional game hunters.

Division 3 (clauses 19–21) deals with game hunting on specially declared public land by the holders of restricted game hunting licences. The Division:

- (a) creates an offence, punishable with a maximum penalty of 50 penalty units, of hunting a game animal on public land without being the holder of a restricted game hunting licence (unless the person is exempt from holding a licence under clause 18), and
- (b) provides that membership of an approved hunting club and the completion of adequate training are prerequisites for the holding of a restricted game hunting licence, and
- (c) provides that the Minister responsible for particular public lands may declare those lands available for hunting by persons licensed under the proposed Act (hunting is not authorised on public lands unless they have been so declared and the hunting complies with the requirements imposed under the declaration).

Division 4 (clauses 22–26) deals with the hunting of protected game animals by or with the permission of the holders of occupiers game hunting licences. A ***protected game animal*** is defined as a game animal that is protected fauna within the meaning of the *National Parks and Wildlife Act 1974*. The Division:

- (a) provides that the holder of an occupiers game hunting licence, or a licensed hunter acting with the permission of that holder, may hunt a protected game animal on land owned or occupied by that holder without committing an applicable offence under the *National Parks and Wildlife Act 1974*, and
- (b) makes provision in relation to the setting of annual quotas of protected game animals by the Director-General of National Parks and Wildlife, and
- (c) provides for the Director-General in consultation with the Game Council to determine the times during which particular species of protected game animals may be hunted, requirements with respect to the tagging or other identification of protected game animals killed or captured, and guidelines for compliance auditing, and
- (d) provides that the holder of a game hunting licence must pass an official identification test before being authorised to hunt protected game animals that are waterfowl or quail.

Division 5 (clauses 27–38) makes provision in relation to game hunting licences generally. The Division provides for the granting by the Game Council of game hunting licences, the duration of licences, fees payable for applications and licences, various offences relating to licences and suspension and cancellation of licences by the Game Council and by courts. A review of certain decisions relating to licences by the Administrative Decisions Tribunal will be available on the application of a person dissatisfied with such a decision.

Part 4 Investigations

Division 1 (clauses 39–43) provides for the appointment of inspectors by the Game Council. Police officers are also to have the functions of inspectors. Inspectors are to be issued with identification cards.

Division 2 (clauses 44–58) sets out powers of inspectors similar to those of other Government inspectors such as fisheries inspectors. The powers include the following:

- (a) the power to enter premises, using reasonable force if so authorised by the Game Council, and under a search warrant in the case of residential premises,
- (b) powers available on entry to premises, including power to search the premises, to require certain persons to answer questions, furnish information or provide assistance and facilities and to require the production of and inspect documents,
- (c) the power to detain and search vehicles or vessels,
- (d) the power to seize things found in the course of a search,
- (e) the power to require persons to provide information, documents or evidence, and to

demand a person's name, address and game hunting licence.

These powers are subject to claims of privilege against self-incrimination by natural persons.

Part 5 Miscellaneous

Part 5 (clauses 59–69) contains miscellaneous provisions, including the following:

- (a) a provision making it clear that native title rights and interests are not affected by the operation of the proposed Act,
- (b) provision for proceedings for offences under the proposed Act or the regulations to be dealt with summarily,
- (c) provision for penalty notices (“on-the-spot” fines) to be served for certain offences under the proposed Act or the regulations,
- (d) a general regulation-making power,
- (e) a requirement for a review of the proposed Act after 5 years.

Schedules

Schedule 1 contains standard provisions in relation to the members and procedure of the Game Council.

Schedule 2 contains standard provisions in relation to the members and procedure of the Committee of Management.

Schedule 3 contains amendments of the following Acts in connection with the enactment of the proposed Act:

Fines Act 1996 (to make a consequential change),

Forestry Act 1916 (to exclude the need for a hunting permit under that Act with respect to hunting in a State forest),

Public Finance and Audit Act 1983 (to apply to the Game Council the standard audit and annual reporting requirements of statutory bodies),

Rural Lands Protection Act 1998 (to require the Minister administering that Act to consult with the Game Council before making a pest control order declaring certain native or introduced species of game as a pest),

Search Warrants Act 1985 (to make a consequential change).

Schedule 4 enacts the following savings, transitional and other provisions:

- (a) authority for the making of savings or transitional regulations consequent on the enactment of the proposed Act,
- (b) saving of hunting permits issued under the *Forestry Act 1916* and licences and other authorities granted under the *National Parks and Wildlife Act 1974*.