

Passed by both Houses



New South Wales

Game and Feral Animal Control Amendment Bill 2013

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2013



New South Wales

Game and Feral Animal Control Amendment Bill 2013

Act No , 2013

An Act to amend the *Game and Feral Animal Control Act 2002* to abolish the Game Council; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Game and Feral Animal Control Amendment Act 2013*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Game and Feral Animal Control Act 2002 No 64

[1] Long title

Omit “; to establish a Game Council”.

[2] Section 4 Definitions

Omit the definitions of *Committee of Management* and *Game Council*.

[3] Section 4

Insert in alphabetical order:

Game and Pest Management Advisory Board or *Advisory Board* means the Game and Pest Management Advisory Board constituted under Part 2.

Regulatory Authority means the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services.

[4] Part 2 Game Council

Omit the Part. Insert instead:

Part 2 Game and Pest Management Advisory Board

7 Constitution of Advisory Board

- (1) There is constituted by this Act a Game and Pest Management Advisory Board.
- (2) The Advisory Board has the functions conferred or imposed on it by or under this or any other Act.

8 Membership and procedure of Advisory Board

- (1) The Advisory Board is to consist of not more than 8 members appointed by the Minister.
- (2) The persons appointed as members of the Advisory Board:
 - (a) are to include representatives of regional New South Wales, and
 - (b) are to be persons who together have expertise, skill or knowledge in the areas of pest management, wildlife, veterinary science, hunting, education and community engagement.
- (3) The regulations may make provision for or with respect to the appointment of persons as members of the Advisory Board.
- (4) Schedule 1 contains provisions with respect to the members and procedure of the Advisory Board.

9 Functions of Advisory Board

- (1) The Advisory Board has the following functions:
 - (a) to represent the interests of licensed game hunters in matters arising under this Act,
 - (b) to provide advice on request to the Minister or the Regulatory Authority on game and feral animal control,
 - (c) to provide advice on request to the Minister on priorities for expenditure on research from the Game and Pest Management Trust Fund,

- (d) to provide advice to the Minister or the Regulatory Authority on educational courses relating to game hunting.
- (2) The Advisory Board is subject to the control and direction of the Minister (except in relation to the contents of any advice of the Advisory Board).
- (3) The Advisory Board is to provide the Minister with an annual report of its activities during the year.

[5] Sections 19, 20, 21, 22, 28, 29, 33, 34, 35, 40, 45 and 52

Omit "Game Council" wherever occurring. Insert instead "Regulatory Authority".

[6] Section 33 Appointment of inspectors

Omit section 33 (1) (a) and (2).

[7] Section 35 Identification

Omit section 35 (2) (e). Insert instead:

- (e) bear the signature of the Regulatory Authority or other person prescribed by the regulations.

[8] Sections 53A and 53B

Insert after section 53:

53A Delegation by Regulatory Authority

- (1) The Regulatory Authority may delegate to an authorised person the exercise of any of the functions of the Regulatory Authority other than this power of delegation.
- (2) In this section:
authorised person means a statutory officer, a public servant, a person employed by a public or local authority or a person of a class prescribed by the regulations.

53B Game and Pest Management Trust Fund

- (1) There is established in the Special Deposits Account an account called the Game and Pest Management Trust Fund (*the Fund*).
- (2) Money in the Fund is under the control of the Minister and can be expended by the Minister only for the purposes authorised by this section.
- (3) There is to be paid into the Fund:
 - (a) such percentage of the fees payable under this Act in connection with game hunting licences as the Minister determines from time to time, and
 - (b) any gift or bequest of money for the purposes of the Fund, and
 - (c) any money appropriated by Parliament for the purposes of the Fund or required by law to be paid into the Fund, and
 - (d) the proceeds of the investment of money in the Fund.
- (4) The money in the Fund may be applied for any or all of the following purposes:
 - (a) carrying out research into game and feral animal control,
 - (b) funding the costs of enforcing compliance with the controls imposed under this Act on game hunting,
 - (c) funding the costs of the Game and Pest Management Advisory Board.

- (5) The money in the Fund may be invested in any manner authorised by the *Public Authorities (Financial Arrangements) Act 1987* or, if that Act does not confer any such authority, in any manner authorised for the investment of trust funds.

[9] Section 58 Evidentiary statements

Omit “the chief executive officer of the Game Council”.

Insert instead “the Regulatory Authority”.

[10] Schedule 1

Omit the Schedule. Insert instead:

**Schedule 1 Provisions relating to members and
procedure of Game and Pest Management
Advisory Board**

(Section 8)

1 Definitions

In this Schedule:

Chairperson means the Chairperson of the Advisory Board.

member means any member of the Advisory Board.

2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 5 years) as is specified in the member’s instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Chairperson

- (1) One of the members is to be appointed by the Minister as the Chairperson of the Advisory Board.
- (2) The Minister may remove a member from office as Chairperson at any time.
- (3) A member who is a member and Chairperson vacates office as Chairperson if the person:
 - (a) is removed from that office by the Minister, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member’s deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person has all the functions of the member and is taken to be a member.

5 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

6 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Advisory Board of which reasonable notice has been given to the member, except on leave granted by the Advisory Board, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted of an offence in New South Wales or elsewhere involving cruelty or harm to animals, or
 - (i) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove a member from office without notice and for any reason.
- (3) If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Personal liability

A matter or thing done or omitted to be done by the Advisory Board, a member of the Advisory Board or a person acting under the direction of the Advisory Board does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

8 General procedure

The procedure for the calling of meetings of the Advisory Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Advisory Board.

9 Quorum

The quorum for a meeting of the Advisory Board is a majority of its members for the time being.

10 Presiding member

- (1) The Chairperson is to preside at a meeting of the Advisory Board.

- (2) In the absence of the Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Advisory Board.
- (3) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

11 Voting

A decision supported by a majority of the votes cast at a meeting of the Advisory Board at which a quorum is present is the decision of the Advisory Board.

12 Transaction of business outside meetings or by telephone

- (1) The Advisory Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Advisory Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Advisory Board.
- (2) The Advisory Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Advisory Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Advisory Board.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile, email or other transmission of the information in the papers concerned.

13 Frequency of meetings

The Advisory Board is to meet at least twice each year.

14 First meeting

The Minister may call the first meeting of the Advisory Board in such manner as the Minister thinks fit.

[11] Schedule 2 Provisions relating to members and procedure of Committee of Management

Omit the Schedule.

[12] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

[13] **Schedule 4**

Insert at the end of the Schedule with appropriate Part and clause numbers:

Part Provisions consequent on enactment of Game and Feral Animal Control Amendment Act 2013

Dissolution of Game Council and Committee of Management of Game Council

- (1) The Game Council of New South Wales and the Committee of Management of the Game Council are dissolved.
- (2) On the dissolution of the Game Council, the assets, rights and liabilities of the Game Council immediately before its dissolution become the assets, rights and liabilities of the Crown.
- (3) The persons who were members of the Game Council or the Committee of Management of the Game Council immediately before their dissolution cease to be members and are not entitled to any remuneration or compensation because of the loss of that office.
- (4) In this clause:

assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

rights means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

Staff employed in Game Council Division

The persons employed in the Game Council Division of the Government Service immediately before the abolition of that Division (on the commencement of Schedule 2.8 to the *Game and Feral Animal Control Amendment Act 2013*) are transferred to and taken to be employed in the Department of Trade and Investment, Regional Infrastructure and Services.

Game Council Account

Money standing to the credit of the Game Council Account under section 13 on the dissolution of the Game Council is taken to be money standing to the credit of the Game and Pest Management Trust Fund under section 53B.

Hunting licences

- (1) A game hunting licence granted by the Game Council and in force immediately before its dissolution is taken to be a game hunting licence granted by the Regulatory Authority. An application for a game hunting licence that was pending immediately before the dissolution of the Game Council is taken to be an application made to the Regulatory Authority.
- (2) The suspension of a game hunting licence, or the disqualification of a person from holding a game hunting licence, that was imposed by the Game Council before its dissolution is taken to be a suspension or disqualification imposed by the Regulatory Authority.

Approved hunting clubs or organisations

A hunting club, or organisation, approved by the Game Council under section 19 immediately before its dissolution is taken to be a hunting club, or organisation, approved by the Regulatory Authority under that section.

Authorised agents

- (1) A person who was an authorised agent under an arrangement entered into with the Game Council under section 28 immediately before its dissolution ceases to be an authorised agent and the arrangement is terminated.
- (2) A person is not entitled to any compensation as a consequence of the termination of an arrangement by this clause.
- (3) However, any such person may become an authorised agent under an arrangement entered into with the Regulatory Authority.

Inspectors

- (1) A person who was, immediately before the dissolution of the Game Council, an inspector appointed by the Game Council under section 33 is taken to have been appointed as an inspector by the Regulatory Authority.
- (2) An identification card issued to the person by the Game Council under section 35 is taken to be an identification card issued by the Regulatory Authority.

Schedule 2 Consequential amendments of other Acts and instruments

2.1 Deer Act 2006 No 113

Section 9 Consultation and approval before making deer control order

Omit section 9 (1) (d).

2.2 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit “Game Council of New South Wales”.

2.3 Game and Feral Animal Control Further Amendment Act 2012 No 104

[1] Schedule 1 Amendment of Game and Feral Animal Control Act 2002 No 64

Omit Schedule 1 [4] and [14].

[2] Schedule 1 [10], proposed sections 32A (1), 32D, 32E and 32F

Omit “Game Council” and “Native Game Bird Management Committee” wherever occurring.

Insert instead “Regulatory Authority”.

[3] Schedule 1 [10], proposed section 32C Native Game Bird Management Committee

Omit proposed section 32C. Insert instead:

32C Consultation with the head of the Office of Environment and Heritage

The Regulatory Authority is to consult the head of the Office of Environment and Heritage in the exercise of functions under this Part of setting quotas under section 32D, determining the matters referred to in section 32E and recognising any official waterfowl identification test under section 32F.

[4] Schedule 1 [10], proposed section 32D (2)

Omit “the Committee”. Insert instead “the Regulatory Authority”.

2.4 Game and Feral Animal Control Regulation 2012

[1] Part 2 Game Council

Omit the Part.

[2] Clauses 9 (2), 12, 14, 16 (6), 17 and 18 (2) and Schedule 1

Omit “Game Council” and “Game Council’s” wherever occurring.

Insert instead “Regulatory Authority” and “Regulatory Authority’s” respectively.

2.5 Local Land Services Act 2013 No 51

[1] Schedule 7 Amendment of Acts and Regulations

Omit Schedule 7.20 [1]–[3] and [6].

[2] Schedule 9 Local Land Services Regulation 2014

Omit clauses 85 (b) and 86.

2.6 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Game Council of New South Wales”.

2.7 Public Sector Employment and Management Act 2002 No 43

Schedule 1 Divisions of the Government Service

Omit the matter relating to the Game Council Division from Part 3.

2.8 Rural Lands Protection Act 1998 No 143

[1] Section 144 When can a pest control order be made?

Omit section 144 (3).

[2] Section 145 Requests by authorities for making of pest control orders

Omit section 145 (3).

2.9 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Omit “Game Council of New South Wales”.

2.10 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit “Game Council of New South Wales”.

2.11 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit “Game Council of New South Wales”.