

Game and Feral Animal Control Amendment Bill 2009

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Game and Feral Animal Control Act 2002* (**the Act**) as follows:

- (a) to enable the Minister responsible for national park estate land to make that land available for the hunting of game animals by licensed game hunters,
- (b) to expand the list of game animals that may be hunted in accordance with the Act and, in the case of any native game animals that are listed, to impose special requirements in relation to the hunting of those animals by licensed game hunters,
- (c) to provide for the operation of private game reserves under the authority of a licence granted by the Game Council,
- (d) to make it an offence to approach persons who are lawfully hunting on declared public hunting land or to interfere with persons lawfully hunting game animals,
- (e) to make a number of other amendments of an administrative, minor or consequential nature.

The Bill also makes consequential and other minor or miscellaneous amendments to the *Game and Feral Animal Control Regulation 2004* and to a number of other Acts.

Outline of provisions

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 3 months after the date of assent (though a proclamation may provide for a provision of the proposed Act to be commenced sooner).

Schedule 1 Amendment of Game and Feral Animal Control Act 2002

Declaration of national park estate land as public hunting land

Schedule 1 [5] and [6] amend the definition of **public land** so that it includes, rather than excludes as is the case at present, national park estate land (which includes national parks and other land reserved under the *National Parks and Wildlife Act 1974*). The effect of this amendment is that the Minister responsible for national park estate land (namely the Minister for Climate Change and the Environment) will be able to declare any such land as public hunting land under section 20 of the Act.

Under the Act, the hunting of game animals on public land is only permitted if the land is declared to be available for hunting. **Schedule 1 [4] and [10]** are consequential amendments and **Schedule 1 [3]** inserts a definition of **declared public hunting land** for clarification purposes.

Game animals that may be hunted

Schedule 1 [7] recasts the provision of the Act that specifies the game animals that may be hunted in accordance with the Act so that the provision refers instead to a list set out in proposed Schedule 3 to the Act (as inserted by **Schedule 1 [32]**). The list of game animals contains 3 separate parts (eg the game animals currently referred to in section 5 (2) of the Act will now be listed in Part 3 of the new Schedule). The list will be able to be amended by Ministerial order. The Minister will be required to consult with the Minister administering the *National Parks and Wildlife Act 1974* before adding any native animals to the list (which are included in Part 2 of the new Schedule). An order cannot add the name or description of an animal that is or is part of a threatened species, population or ecological community. **Schedule 1 [1], [2], [14] and [15]** are consequential amendments.

Schedule 1 [17] imposes special requirements in relation to the hunting of native game animals by licensed hunters for non-commercial purposes. In particular, provision is made for the Game Council to impose, by way of licence conditions, quotas on the number of native game animals that may be hunted, restrictions on when and where native game animals may be hunted and requirements relating to the tagging of hunted animals. In the case of native waterfowl, licensed game hunters will be required to pass an official identification test.

Private game reserves

Schedule 1 [20] provides a scheme for the licensing of private game reserves (that is, private land in which game animals are confined, or game birds are released, for the purposes of being hunted by licensed game hunters who have paid a fee to hunt on the reserve). The licensing scheme for private game reserves is similar to the existing scheme for the licensing of game hunters by the Game Council. Inspectors will be empowered to give directions to private game reserve operators to ensure that the conditions of the licence and the provisions of the Act and regulations are being complied with. Exemptions are provided from certain offences under the *Non-Indigenous Animals Act 1987* and the *National Parks and Wildlife Act 1974* so as not to prevent the lawful operations of a licensed private game reserve.

Schedule 1 [3] inserts definitions in relation to private game reserves.

Schedule 1 [27] provides that the existing offence of releasing a game animal into the wild for the purpose of hunting the animal does not apply in relation to a game animal that is released on a licensed private game reserve.

Offences

Schedule 1 [24] extends the existing offence of obstructing, hindering or impeding an inspector to include assaulting, threatening or intimidating an inspector.

Schedule 1 [25] creates a new offence of not complying with a direction by an inspector to leave, or not to enter, declared public hunting land. Such a direction may be given to a person if the inspector has reason to believe the person is committing an offence under the Act.

Schedule 1 [26] prohibits commercial taxidermists from preserving or preparing the skins of certain game animals unless satisfied the animals have been hunted by a licensed game hunter (or by a person with some other lawful authorisation). Commercial taxidermists will also be required to record certain information and to make those records available for inspection.

Schedule 1 [28] creates a new offence of approaching within 10 metres of a person who is lawfully hunting on declared public hunting land. It will also be an offence to interfere with a person who is lawfully hunting game animals in accordance with the Act.

Miscellaneous amendments relating to administration of the Act and other matters

Schedule 1 [8] provides for a member of the Game Council to be nominated by the Minister administering the *Aboriginal Land Rights Act 1983* rather than by the New South Wales Aboriginal Land Council.

Schedule 1 [9] enables the Game Council to delegate its functions to authorized persons such as the chief executive officer of the Game Council. **Schedule 1 [11]** provides that a game hunting licence authorises the licence holder to possess the carcass (or other part) of a game animal that the licence holder has killed under the authority conferred by the licence.

Schedule 1 [13] provides for exemptions from certain offences under the *National Parks and Wildlife Act 1974* (and the regulations under that Act) in so far as those offences would otherwise relate to lawful hunting by the holders of game hunting licences. **Schedule 1 [12]** is a consequential amendment. Schedule 1 [13] also provides that certain orders and notices under other legislation cannot prevent or interfere with hunting in accordance with a game hunting licence.

Schedule 1 [16] removes a provision that exempts professional game hunters from the licensing requirements under the Act.

Schedule 1 [18] and [19] provide that the Game Council may refuse an application for a game hunting licence, or may suspend or cancel such a licence, if the applicant or licence holder is found guilty of an indictable offence under the *Firearms Act 1996*.

Schedule 1 [21] provides that the power of an inspector to require a vehicle to stop so that it can be searched may be exercised without the inspector being accompanied by a police officer.

Schedule 1 [22] removes the limit on the amount of a thing that a Local Court may require to be forfeited in connection with an offence under the Act.

Schedule 1 [23] requires a person, in order to be found guilty of an offence of failing to comply with a requirement by an inspector or a police officer under Division 2 of Part 4 of the Act, to first be warned that the failure to comply is an offence. **Schedule 1 [29]–[31]** make provision for the office of Deputy Chairperson of the Game Council.

Schedule 1 [33] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of other legislation

Schedule 2.1 amends the *Game and Feral Animal Control Regulation 2004* mainly as a consequence of the amendments made by Schedule 1 to the proposed Act, but also so as to prescribe new licence fees in relation to game hunting licences and private game reserve licences.

Schedule 2.2 amends the *Prevention of Cruelty to Animals Act 1979* to remove the offence relating to game parks (as these will now be allowed to operate under a private game reserve licence) and to also make it clear that certain offences under that Act relating to the hunting of animals do not apply in relation to hunting on licensed private game reserves.

Schedule 2.3 amends the *Rural Lands Protection Act 1998* to prevent pest control orders being made in relation to game animals that are kept on licensed private game reserves.

Schedule 2.4 amends the *Western Lands Act 1901* to enable land that is leased under that Act to be used for the purpose of a private game reserve.