

Passed by both Houses



New South Wales

Game and Feral Animal Control Amendment Bill 2012

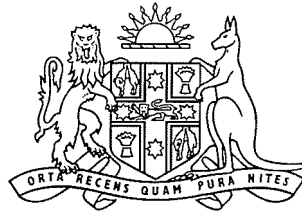
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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2012

Clerk of the Parliaments



New South Wales

Game and Feral Animal Control Amendment Bill 2012

Act No , 2012

An Act to amend the *Game and Feral Animal Control Act 2002* to make further provision with respect to the management and regulation of the hunting of game; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Game and Feral Animal Control Amendment Act 2012*.

2 Commencement

- (1) This Act commences 6 months after the date of assent to this Act, except as provided by subsection (2).
- (2) A proclamation may provide for the commencement of a provision of this Act on a day (as appointed by the proclamation) occurring during the period of 6 months after the date of assent.

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

[1] Section 3 Objects

Omit “Section 5 identifies” from the note.

Insert instead “Schedule 3 specifies”.

[2] Section 4 Definitions

Insert in alphabetical order:

declared public hunting land means public land that is the subject of a declaration in force under section 20.

[3] Section 4, definition of “private land”

Omit paragraph (b).

[4] Section 4, definition of “public land”

Insert after paragraph (b):

(b1) national park estate land, or

[5] Section 4, definition of “public land”

Omit paragraph (e).

[6] Section 5

Omit the section. Insert instead:

5 Game animals for the purposes of this Act

- (1) For the purposes of this Act, a *game animal* is any animal specified in Schedule 3 that is living in the wild.
- (2) The Minister may, by order published on the NSW legislation website, amend Schedule 3:
 - (a) by adding the name or description of any animal (other than an animal of a species that was native to Australia before European settlement), or
 - (b) by omitting or amending any such name or description.
- (3) Despite any other provision of this section, a game animal does not include any animal that is or is part of a threatened species, population or ecological community within the meaning of the *Threatened Species Conservation Act 1995*.

[7] Sections 6A and 6B

Insert after section 6:

6A Exemptions from certain offences under National Parks and Wildlife legislation

- (1) The holder of a game hunting licence who hunts a game animal on declared public hunting land in accordance with the authority conferred by the licence does not, in connection with that hunting, commit:
 - (a) any offence under the *National Parks and Wildlife Act 1974* or the regulations under that Act that involves an activity associated with hunting and that is necessary for the purposes of hunting the game animal, or
 - (b) any offence under that Act that involves possessing or exporting, otherwise than for the purposes of sale, the carcass, or the skin or any other part, of a game animal killed by the licence holder.
- (2) For the purposes of subsection (1) (a), an ***activity associated with hunting*** includes carrying a firearm or other hunting device.
- (3) This section does not authorise a person to take a dog into any national park estate land or to use a dog to assist in hunting on any such land.

6B Orders and notices under other legislation

None of the following has any effect to the extent that it would prevent or interfere with any activity carried out in accordance with the authority conferred by a game hunting licence or game management licence:

- (a) an order under Division 1 (Stop work orders) or Division 2 (Interim protection orders) of Part 6A of the *National Parks and Wildlife Act 1974*,
- (b) an environment protection notice under Chapter 4 of the *Protection of the Environment Operations Act 1997*.

[8] Section 8 Membership and procedure of Game Council

Omit “16” from section 8 (1). Insert instead “17”.

[9] Section 8 (2) (e)

Omit “New South Wales Aboriginal Land Council”.

Insert instead “Minister administering the *Aboriginal Land Rights Act 1983*”.

[10] Section 8 (2) (g1)

Insert after section 8 (2) (g):

- (g1) a person appointed on the nomination of the Minister administering the *National Parks and Wildlife Act 1974*, and

[11] Section 13A

Omit the section. Insert instead:

13A Delegation

The Game Council may delegate to the chief executive officer of the Game Council the exercise of any of its functions other than this power of delegation.

[12] Section 15 Authority conferred by different classes of game hunting licences

Omit the note to section 15 (2). Insert instead:

Note. In the case of hunting on public land, section 18 provides that a game hunting licence does not authorise hunting unless the land is duly declared under section 20 to be available for hunting. Such a declaration may require hunters to register and obtain written permission to hunt on that land.

[13] Section 15 (2A)

Insert after section 15 (2):

(2A) Possession of carcass or skin or other part of game animal

A game hunting licence authorises the holder of the licence to possess the carcass, or the skin or any other part, of any game animal that the licence holder has killed under the authority conferred by the licence.

[14] Section 15 (4)

Omit "A game".

Insert instead "Except as provided by section 6A (1), a game".

[15] Section 17 Exemptions from licensing

Omit section 17 (1) (a) (including the note). Insert instead:

- (a) a person who is hunting an animal listed in Part 2 of Schedule 3 on private land,

[16] Section 17 (1) (d)

Omit “section 5 (2)”. Insert instead “Part 2 of Schedule 3”.

[17] Section 17 (1) (e)

Omit the paragraph.

[18] Section 20A

Insert after section 20:

20A Restrictions on declaration of national park estate land

- (1) The following national park estate land cannot be the subject of a declaration under section 20:
 - (a) any national park estate land specified in Schedule 3A,
 - (b) any land declared to be a wilderness area under the *Wilderness Act 1987* or that is the subject of a wilderness protection agreement under section 10 of that Act but has not been declared to be a wilderness area,
 - (c) any national park estate land that is a declared World Heritage property within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.
- (2) The regulations may amend Schedule 3A:
 - (a) by adding the name of any national park estate land (other than land referred to in subsection (1) (b) or (c)), or
 - (b) by omitting or amending any name specified in Schedule 3A.
- (3) Any such regulation may only be made on the recommendation of the Minister administering the *National Parks and Wildlife Act 1974*.

[19] Section 21 Grant of licences

Insert after section 21 (3):

- (4) The Game Council may refuse to grant a game hunting licence to a person if, in the previous 10 years, the person has been found guilty of an offence under the *Firearms Act 1996* that is, in accordance with section 84 of that Act, an offence that may be (or is required to be) prosecuted on indictment.

[20] Section 29 Suspension or cancellation of licences by Game Council

Insert after section 29 (4) (b):

- (b1) if the holder is found guilty of an offence under the *Firearms Act 1996* that is, in accordance with section 84 of that Act, an offence that may be (or is required to be) prosecuted on indictment, or

[21] Section 44 Power to detain and search vehicles or vessels

Omit section 44 (3).

[22] Section 45 Power of seizure

Omit “The Local Court must not order the forfeiture of a thing unless satisfied that the value of the thing does not exceed \$10,000.” from section 45 (4).

[23] Section 48 Provisions relating to requirements under this Division

Insert before section 48 (1):

(1A) Warning to be given on each occasion

A person is not guilty of an offence of failing to comply with a requirement under this Division to make a statement, to give or furnish information, to answer a question or to produce a document unless the person was warned on that occasion that a failure to comply is an offence.

[24] Section 50 Offences relating to inspectors

Omit “or impede” from section 50 (c).

Insert instead “, impede, assault, threaten or intimidate”.

[25] Section 50A

Insert after section 50:

50A Direction to leave or not to enter declared public hunting land

- (1) An inspector who has reason to believe that a person is committing or about to commit a game hunting offence may direct the person to leave or not to enter any declared public hunting land specified in the direction.
- (2) A person to whom such a direction is given must comply with the direction.
- Maximum penalty: 50 penalty units.

[26] Sections 55A and 55B

Insert after section 55:

55A Interfering with authorised hunting on declared public hunting land

- (1) A person must not, without reasonable excuse, engage in any conduct on declared public hunting land:
 - (a) that interferes with the hunting of game animals on that land by another person under the authority conferred by a game hunting licence, and
 - (b) with the intention of interfering with that hunting.Maximum penalty: 50 penalty units.
- (2) A person does not commit an offence under this section if the person has lawful authority to interfere with the hunting carried out by the other person.
- (3) An offence under this section cannot be prescribed for the purposes of section 57.
- (4) In this section:
hunting game animals includes retrieving a game animal.
interfere with includes prevent or hinder.

55B Requirements for commercial taxidermists

- (1) A person who carries on business as a taxidermist must not preserve or prepare the skin of a game animal listed in Part 1 of Schedule 3 unless the taxidermist:
 - (a) is satisfied that the animal has been killed by the holder of a game hunting licence or game management licence (or by a person with some other lawful authorisation to kill the animal), and
 - (b) records the following information:
 - (i) the name of the person who killed the game animal and the details of the person's licence or other lawful authorisation,
 - (ii) the date on which the taxidermist received the carcass or other relevant part of the game animal.
- (2) The taxidermist must make any such record available for inspection by an inspector at any reasonable time if requested to do so by the inspector.
Maximum penalty: 50 penalty units.

[27] Schedule 1 Provisions relating to members and procedure of Game Council

Insert in alphabetical order in clause 1:

Deputy Chairperson means the Deputy Chairperson of the Game Council.

[28] Schedule 1, clause 4A

Insert after clause 4:

4A Deputy Chairperson

- (1) The members of the Game Council are to elect, by a simple majority, a Deputy Chairperson from among the members.
- (2) The Deputy Chairperson may be elected for the duration of his or her term of office as a member or for a shorter term.
- (3) The Deputy Chairperson vacates office as Deputy Chairperson if he or she:
 - (a) is removed from that office by the Minister under this clause, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member of the Game Council.
- (4) The Minister may at any time remove the Deputy Chairperson from office as Deputy Chairperson.

[29] Schedule 1, clause 14

Omit clause 14 (1). Insert instead:

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, is to preside at a meeting of the Game Council.
- (1A) In the absence of both the Chairperson and the Deputy Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Game Council.

[30] Schedules 3 and 3A

Insert after Schedule 2:

Schedule 3 Game animals

(Section 5)

Part 1 Non-indigenous game animals (licence required to hunt on public or private land)

Birds

Bobwhite Quail (*Colinus virginianus*)
California Quail (*Lophortyx callipepla californicus*)
Guinea Fowl (*Numida meleagris*)
Partridge (*Alectoris alectoris chukar*)
Peafowl (*Pavo cristatus*)
Pheasant (*Phasianus phasianus colchicus*)
Spotted Dove (*Streptopelia chinensis*)
Turkey (*Meleagris gallopavo*)

Other animals

Deer (Family *cervidae*)

Part 2 Non-indigenous animals (licence required to hunt on public land only)

Note. A game hunting licence is **not** required for hunting the animals listed in this Part on private land, and accordingly is only required if the animals are living in the wild on public land—see section 17.

Cat
Dog (other than dingo)
Goat
Fox
Hare
Rabbit
Pig
Common Starling (*Sturnus vulgaris*)
Common or Indian Myna (*Acridotheres tristis*)
Feral Pigeon (*Columba livia*)

Schedule 3A National park estate land that cannot be declared as public hunting land

(Section 20A)

National Parks

Blue Mountains
Bouddi
Brisbane Water
Cattai
Dharawal
Dharug
Garigal
Georges River
Heathcote
Kamay Botany Bay
Ku-ring-gai Chase
Lane Cove
Marramarra
Popran
Royal
Scheyville
Sydney Harbour
Thirlmere Lakes
Wollemi
Yengo

Nature Reserves

Agnes Banks
Castlereagh
Dalrymple-Hay
Dharawal
Georges River
Gulguer
Kemps Creek
Mulgoa
Muogamarra
Newington
Pitt Town
Prospect
Towra Point
Wallumatta
Wambina
Wianamatta
Windsor Downs

Regional Parks

Berowra Valley
Leacock
Rouse Hill
William Howe
Wolli Creek
Yellomundee

State Conservation Areas

Bents Basin
Dharawal
Garawarra
Maroota
Parr

[31] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Game and Feral Animal Control Amendment Act 2012

Schedule 2 Amendment of other legislation

2.1 Game and Feral Animal Control Regulation 2004

[1] Clause 3 Definitions

Omit “section 5 (1) of” from the definition of *commercial hunting* in clause 3 (1).

Insert instead “Part 1 of Schedule 3 to”.

[2] Clause 7 Commercial hunters and hunting guides to be licensed

Omit the clause.

[3] Clause 11 Commercial hunters licence

Omit “section 5 (1) of”. Insert instead “Part 1 of Schedule 3 to”.

[4] Clause 20 Notice of proposed declaration of hunting land

Omit clause 20 (2).

[5] Schedule 1 Conditions of game hunting licences

Omit the definition of *declared public hunting land* from clause 1 (3).

[6] Schedule 1, Part 2, heading

Omit “section 5 (1)”. Insert instead “certain”.

[7] Schedule 1, Part 2

Omit the note at the beginning of the Part.

[8] Schedule 1, clause 6A

Insert before clause 7:

6A Game animals to which this Part applies

This Part applies to game animals listed in Part 1 of Schedule 3 to the Act.

[9] Schedule 1, clauses 7 (1), 8 (1) and 9 (1)

Omit “listed in section 5 (1) of the Act” wherever occurring.

Insert instead “to which this Part applies”.

[10] Schedule 1, clause 10 (2)

Omit the subclause. Insert instead:

- (2) In this clause, *game bird* means any bird listed in Part 1 of Schedule 3 to the Act.

2.2 Rural Lands Protection Act 1998 No 143

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

Omit “section 5 (1) of” from section 144 (2) (b).

Insert instead “Part 1 of Schedule 3 to”.

[2] Section 144 (3)

Insert after section 144 (2):

- (3) Without limiting subsection (2), the Minister must consult with the Game Council of New South Wales before making a pest control order declaring a game animal listed in Part 1 of Schedule 3 to the *Game and Feral Animal Control Act 2002* to be a pest.

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

Insert after section 145 (2):

- (3) An authority must consult with the Game Council of New South Wales before requesting the Minister to make a pest control order declaring a game animal listed in Part 1 of Schedule 3 to the *Game and Feral Animal Control Act 2002* to be a pest.