

Introduced by the Hon R S L Jones, MLC

First print



New South Wales

National Parks and Wildlife Amendment (Game Birds Protection) Bill 1995

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 *National Parks and Wildlife Act 1974* so as to protect certain species of game birds from being taken or killed for sporting or recreational purposes and to abolish open seasons.

Outline of provisions

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

Clause 2 provides for the proposed Act to commence on the date on which the Governor assents to it.

Clause 3 gives effect to the Schedule of amendments to the *National Parks and Wildlife Act 1974*.

Clause 4 makes it clear that the amendments made by the proposed Act will apply to licences and authorities already in force under the *National Parks and Wildlife Act 1974*.

Schedule 1 contains amendments to the *National Parks and Wildlife Act 1974* that are intended to prevent certain species of game birds from being taken or killed for sporting or recreational purposes.

Schedule 1 [1] introduces definitions of *game bird* and *wild* for the purposes of the *National Parks and Wildlife Act 1974*. The definition of *game bird* will cover a wild duck, a wild goose, or a wild quail or a bird of any other species declared by order of the Governor to be a species of game bird for the purposes of that Act.

Schedule 1 [2] amends section 70 (Fauna in wildlife districts, wildlife refuges, wildlife management areas, conservation areas and certain wilderness areas). Subsection (1) of the section makes it an offence to take or kill fauna within a wildlife district, wildlife refuge, wildlife management area, conservation area, wilderness area or an area subject to a wilderness protection agreement. However, subsection (5) of the section provides that a person is not to be convicted of such an offence alleged to have been committed in a wildlife district if the fauna is not protected or is locally unprotected fauna. Subsection (6) of the section provides that an owner, lessee or occupier of land in a wildlife refuge, wildlife management area, conservation area, wilderness area or an area subject to a wilderness protection agreement is not to be convicted of such an offence alleged to have been committed in such a refuge or area if the fauna is not protected or is locally unprotected fauna. The amendment provides that those subsections are not to apply to locally unprotected fauna that are game birds taken or killed for sporting or recreational purposes.

Schedule 1 [3] omits section 95 (Open seasons). The repeal of the section will prevent open seasons from being declared on protected fauna.

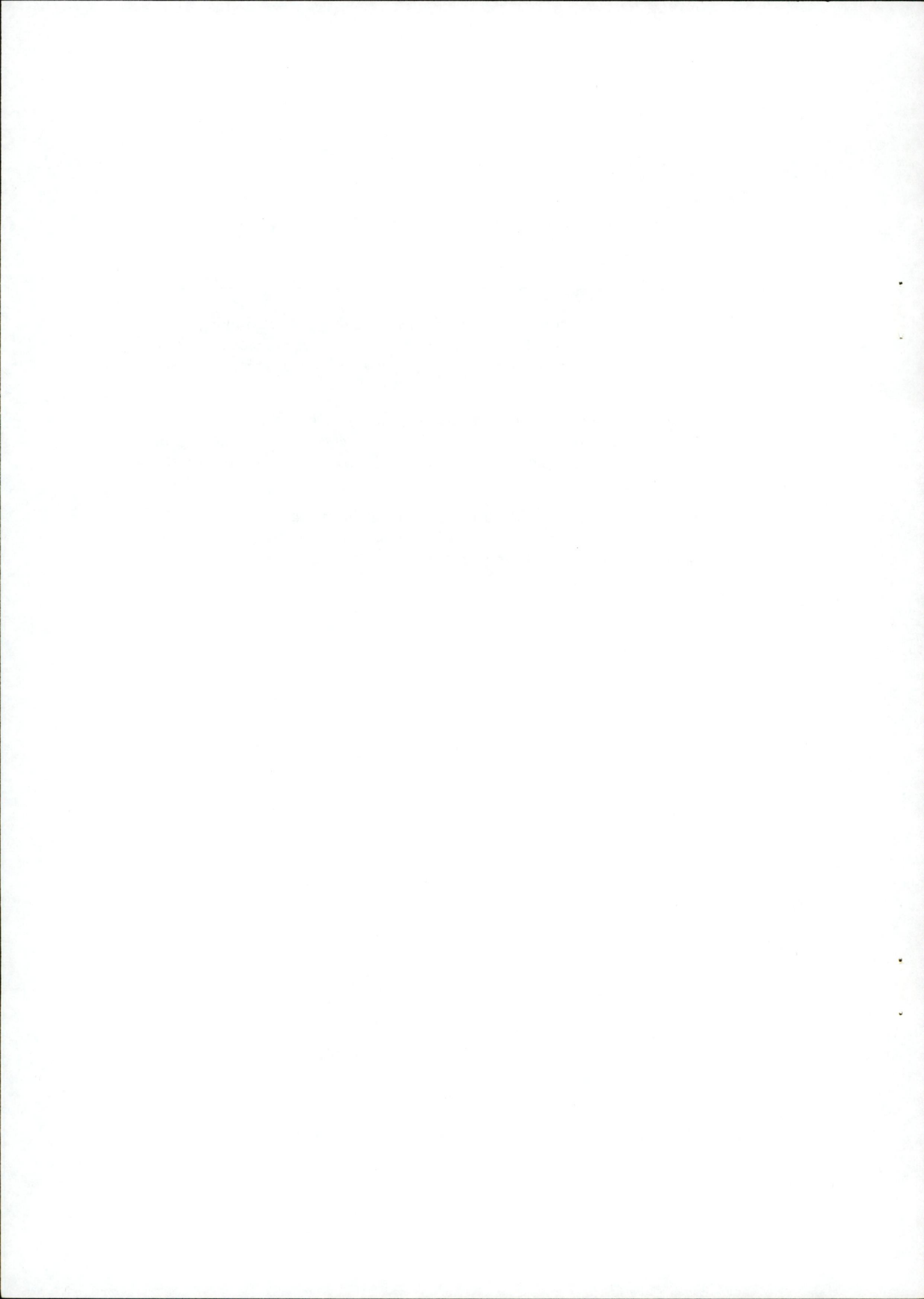
National Parks and Wildlife Amendment (Game Birds Protection) Bill 1995

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Schedule 1 [4] amends section 98 (Taking or killing protected fauna, other than endangered fauna). The amendment will make it an offence to take or kill for sporting or recreational purposes game birds that are unprotected fauna.

Schedule 1 [5]–[8] make it clear that a licence under section 120, 121 or 122 does not authorise the taking or killing of game birds for sporting or recreational purposes. Item [7] makes an amendment consequential on the repeal of section 95.

Schedule 1 [9] makes it clear that an authority under section 171 (Authority to take or kill etc) authorising the taking or killing of game birds does not extend to the taking or killing of game birds for sporting or recreational purposes.



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New South Wales

National Parks and Wildlife Amendment (Game Birds Protection) Bill 1995

No , 1995

A Bill for

An Act to amend the National Parks and Wildlife Act 1974 so as to prevent certain game birds from being taken or killed for sporting or recreational purposes; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *National Parks and Wildlife Amendment (Game Birds Protection) Act 1995*.

2 Commencement

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This Act commences on the date of assent.

3 Amendment of National Parks and Wildlife Act 1974 No 80

The *National Parks and Wildlife Act 1974* is amended as set out in Schedule 1.

4 Transitional provision

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(1) In so far as:

(a) a licence in force under Division 2 of Part 9 of the *National Parks and Wildlife Act 1974* immediately before the commencement of this Act, or

(b) an authority in force under section 171 (1) of that Act immediately before that commencement,

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has the effect of authorising its holder to take or kill game birds for sporting or recreational purposes, the licence or authority ceases to have that effect on that commencement.

(2) In so far as a game licence in force under section 122 of the *National Parks and Wildlife Act 1974* immediately before the commencement of this Act has the effect of authorising the holder to take or kill protected fauna as referred to in section 122 (1) (a) of that Act as so in force, the licence ceases to have that effect on that commencement. This subsection does not affect the generality of subsection (1) of this section.

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(3) The Director-General must, within 28 days after the commencement of this Act, notify the holders of licences and authorities referred to in subsection (1) that those licences and authorities no longer authorise the taking or killing of game birds for sporting or recreational purposes.

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- (4) The Director-General must, within 28 days after the commencement of this Act, notify the holders of game licences referred to in subsection (2) that those licences no longer authorise the taking or killing of protected fauna as referred to in that subsection.
- (5) A notification under this section may be made in such manner as the Director-General thinks fit.
- (6) Expressions used in this section that are defined in the *National Parks and Wildlife Act 1974* have the meanings so defined.

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Schedule 1 Amendments

(Section 3)

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

game bird means a wild duck, wild goose or wild quail, or a bird of any other species that the Governor, by order, declares to be a species of game bird for the purposes of this Act. 5

wild, in relation to any species of fauna, means not domesticated. 10

[2] Section 70 Fauna in wildlife districts, wildlife refuges, wildlife management areas, conservation areas and certain wilderness areas

Insert after section 70 (6):

(6AA) Subsections (5) and (6) do not apply to the taking or killing for sporting or recreational purposes of game birds that are locally unprotected fauna. 15

[3] Section 95 Open seasons

Omit the section.

[4] Section 98 Taking or killing protected fauna, other than endangered fauna 20

Insert after section 98 (2) (a):

(a1) take or kill for sporting or recreational purposes game birds that are locally unprotected fauna, or

[5] Section 120 General licence 25

Insert after section 120 (2):

(2A) A general licence does not authorise the taking or killing of game birds for sporting or recreational purposes.

[6] Section 121 Occupier's licence

Insert "or to authorise game birds to be taken or killed for sporting or recreational purposes" after "endangered fauna" in section 121 (3).

[7] Section 122 Game licence

Omit section 122 (1) (a).

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[8] Section 122

Insert at the end of section 122 (2):

, or

(d) to take or kill game birds for sporting or recreational purposes.

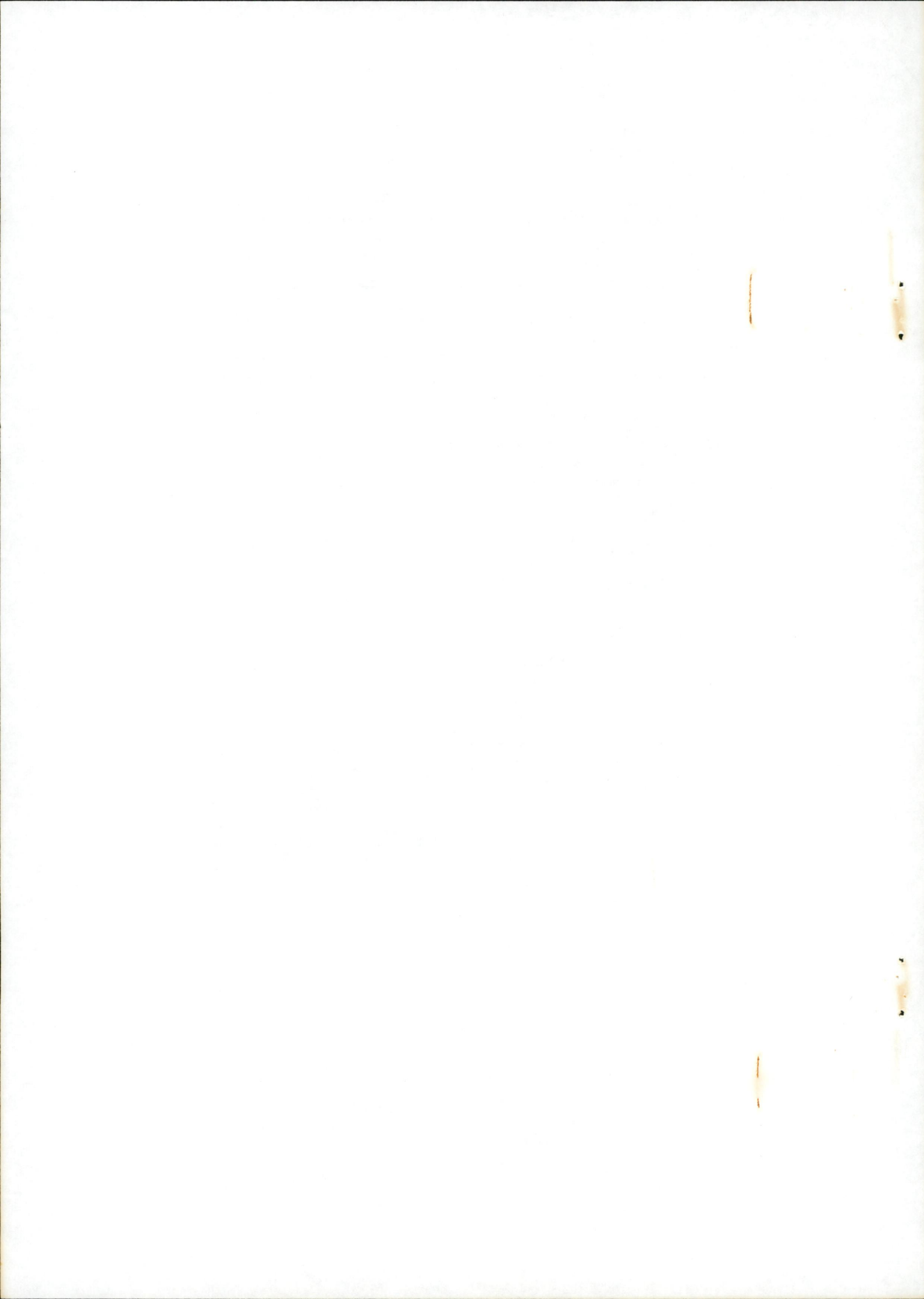
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[9] Section 171 Authority to take or kill etc

Insert after section 171 (1A):

(1B) An authority under subsection (1) authorising game birds to be taken or killed does not extend to the taking or killing of game birds for sporting or recreational purposes.

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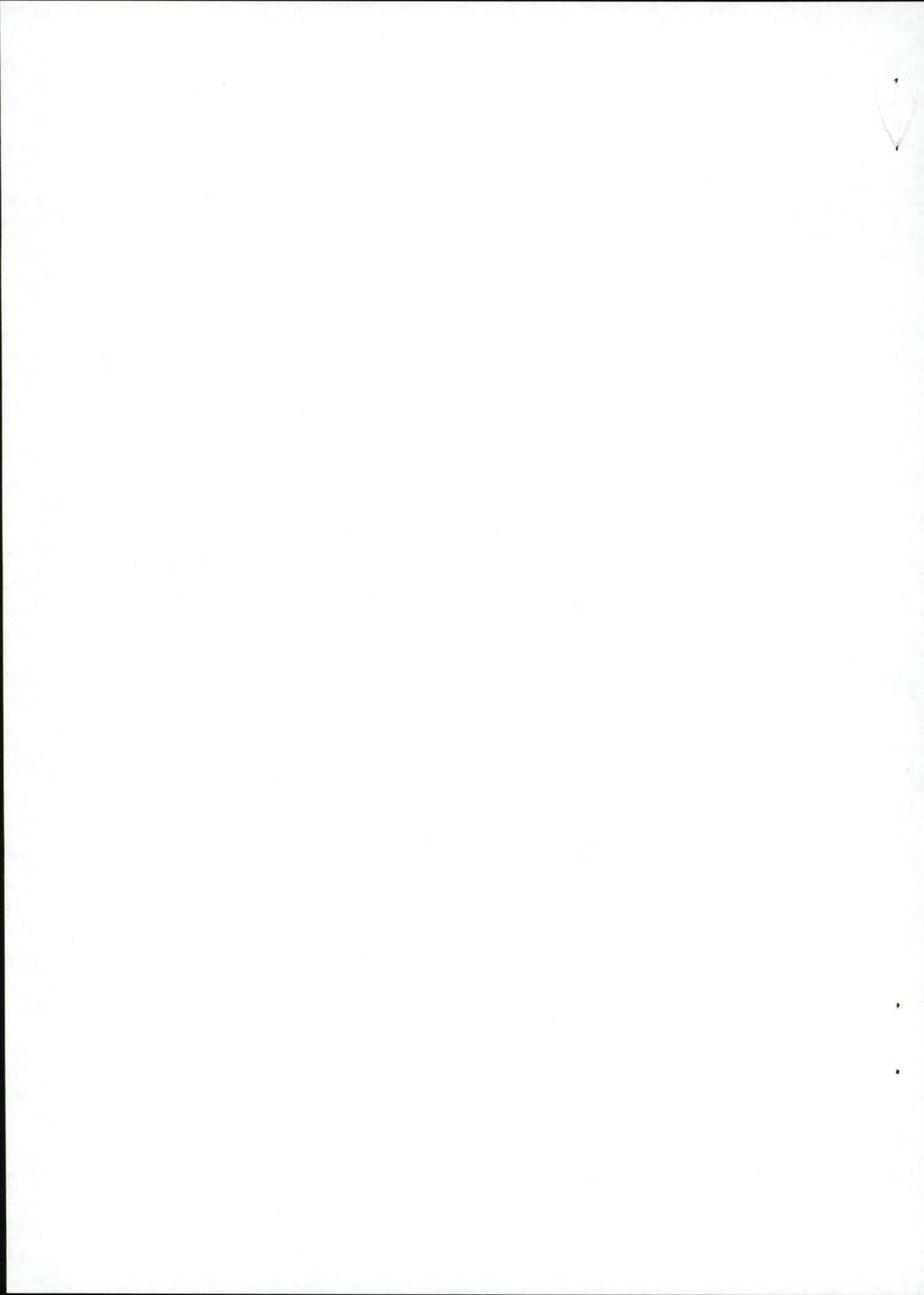


New South Wales

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New South Wales

National Parks and Wildlife Amendment (Game Birds Protection) Act 1995 No 60

Act No 60, 1995

An Act to amend the *National Parks and Wildlife Act 1974* so as to prevent certain game birds from being taken or killed for sporting or recreational purposes; and for related purposes. [Assented to 30 November 1995]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *National Parks and Wildlife Amendment (Game Birds Protection) Act 1995*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of National Parks and Wildlife Act 1974 No 80

The *National Parks and Wildlife Act 1974* is amended as set out in Schedule 1.

4 Transitional provision

(1) In so far as:

- (a) a licence in force under Division 2 of Part 9 of the *National Parks and Wildlife Act 1974* immediately before the commencement of this Act, or
- (b) an authority in force under section 171 (1) of that Act immediately before that commencement,

has the effect of authorising its holder to take or kill game birds for sporting or recreational purposes, the licence or authority ceases to have that effect on that commencement. However, the licence or authority does not cease to authorise a sporting or recreational shooter from taking or killing game birds for any other specified lawful purpose.

(2) In so far as a game licence in force under section 122 of the *National Parks and Wildlife Act 1974* immediately before the commencement of this Act has the effect of authorising the holder to take or kill protected fauna as referred to in section 122 (1) (a) of that Act as so in force, the licence ceases to have that effect on that commencement. This subsection does not affect the generality of subsection (1) of this section.

- (3) The Director-General must, within 28 days after the commencement of this Act, notify the holders of licences and authorities referred to in subsection (1) that those licences and authorities no longer authorise the taking or killing of game birds for sporting or recreational purposes.
- (4) The Director-General must, within 28 days after the commencement of this Act, notify the holders of game licences referred to in subsection (2) that those licences no longer authorise the taking or killing of protected fauna as referred to in that subsection.
- (5) A notification under this section may be made in such manner as the Director-General thinks fit.
- (6) Expressions used in this section that are defined in the *National Parks and Wildlife Act 1974* have the meanings so defined.

Schedule 1 Amendments

(Section 3)

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

game bird means a wild duck, wild goose or wild quail, or a bird of any other species that the Governor, by order, declares to be a species of game bird for the purposes of this Act.

wild, in relation to any species of fauna, means not domesticated.

[2] Section 70 Fauna in wildlife districts, wildlife refuges, wildlife management areas, conservation areas and certain wilderness areas

Insert after section 70 (6):

(6AA) Subsections (5) and (6) do not apply to the taking or killing for sporting or recreational purposes of game birds that are locally unprotected fauna.

[3] Section 95 Open seasons

Omit the section.

[4] Section 98 Taking or killing protected fauna, other than endangered fauna

Insert after section 98 (2) (a):

(a1) take or kill for sporting or recreational purposes game birds that are locally unprotected fauna, or

[5] Section 120 General licence

Insert after section 120 (2):

- (2A) A general licence does not authorise the taking or killing of game birds for sporting or recreational purposes. However, a licence can authorise a sporting or recreational shooter to take or kill game birds for any other specified lawful purpose.

[6] Section 121 Occupier's licence

Insert "or to authorise game birds to be taken or killed for sporting or recreational purposes. However, a licence can authorise a sporting or recreational shooter to take or kill game birds for any other specified lawful purpose." after "endangered fauna" in section 121 (3).

[7] Section 122 Game licence

Omit section 122 (1) (a).

[8] Section 122

Insert at the end of section 122 (2):

, or

- (d) to take or kill game birds for sporting or recreational purposes.

[9] Section 171 Authority to take or kill etc

Insert after section 171 (1A):

- (1B) An authority under subsection (1) authorising game birds to be taken or killed does not extend to the taking or killing of game birds for sporting or recreational purposes. However, an authority can authorise a sporting or recreational shooter to take or kill game birds for any other specified lawful purpose.

[Member's second reading speech made in—

Legislative Council on 12 October 1995

Minister's second reading speech made in—

Legislative Assembly on 22 November 1995]

BY AUTHORITY