

Passed by both Houses



New South Wales

Game and Feral Animal Control Further 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 Further Amendment Bill 2012

Act No , 2012

*An Act to amend the *Game and Feral Animal Control Act 2002* and the *National Parks and Wildlife Act 1974* to make provision with respect to the killing of native game birds on private land; and for other purposes.*

The Legislature of New South Wales enacts:

1 Name of Act

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

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] Section 4 Definitions

Insert in alphabetical order:

native game bird means a game animal listed in Part 1A of Schedule 3.

native game bird management licence means a licence granted under Part 3A and in force.

[2] Section 6A Exemptions from certain offences under National Parks and Wildlife legislation

Insert after section 6A (2) (as inserted by the *Game and Feral Animal Control Amendment Act 2012*):

- (2A) A person who holds a game hunting licence and who is authorised or permitted to kill a native game bird under the authority conferred by a native game bird management licence does not, in connection with that killing, commit:
- (a) any offence under the *National Parks and Wildlife Act 1974* or the regulations under that Act that involves harming the native game bird, 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 the native game bird.

[3] Section 6B Orders and notices under other legislation

Omit “game management licence” from section 6B (as inserted by the *Game and Feral Animal Control Amendment Act 2012*).

Insert instead “native game bird management licence”.

[4] Section 9 Functions of Game Council

Omit “licensing system under this Act for game hunters” from section 9 (1) (b).

Insert instead “licensing systems under this Act”.

[5] Section 14 Classes of game hunting licences

Omit “granted under this Act”. Insert instead “granted under this Part”.

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

Omit section 15 (1) and (2) (except the note to section 15 (2)). Insert instead:

(1) **General licence**

A general game hunting licence authorises, subject to this Act, the holder of the licence:

- (a) to hunt game animals (other than native game birds) on private land, and
- (b) to kill (and for that purpose hunt) native game birds on private land if permitted to do so under the authority of a native game bird management licence.

Note. Part 3A provides for the grant, for sustainable agricultural management purposes only, of a native game bird management licence to the owner or occupier of private land under which native game birds may be killed by the holders of general or restricted game hunting licences in accordance with set annual quotas.

(2) **Restricted licence**

A restricted game hunting licence authorises, subject to this Act, the holder of the licence:

- (a) to hunt game animals (other than native game birds) on public land as well as private land, and
- (b) to kill (and for that purpose hunt) native game birds on private land if permitted to do so under the authority of a native game bird management licence.

[7] Section 17 Exemptions from requirement for game hunting licence

Insert “(but not if the person is hunting native game birds)” after “household” in section 17 (1) (b).

[8] Section 17 (1) (b1)

Insert “(but not if the person is hunting native game birds)” after “officer”.

[9] Section 17

Insert after section 17 (1) (f):

- (f1) a person who is harming native game birds on any land in accordance with a licence under the *National Parks and Wildlife Act 1974*,

Note. That Act provides for the issue of licences to harm native animals for purposes other than sustainable agricultural management purposes.

[10] **Part 3A**

Insert after Part 3:

Part 3A Native game bird management licences

32A Native game bird management licences

- (1) The Game Council may grant a licence (a *native game bird management licence*) to the owner or occupier of specified private land that authorises the killing, for sustainable agricultural management purposes only, of a specified number of native game birds of a specified class found on that land. For the purposes of this Part, *kill* includes capture.
- (2) A native game bird management licence only authorises the killing of native game birds by the holder of a game hunting licence.
Note. The holders of game hunting licences authorised to kill native game birds will be either the owner or occupier of the land concerned or other persons permitted by the owner or occupier to do so.
- (3) A native game bird management licence does not authorise the killing of native game birds for the purposes of sale.
- (4) A native game bird management licence also authorises the person who has killed a native game bird under the authority of the licence to possess the carcass, or the skin or any other part, of the native game bird.
- (5) The authority conferred by a native game bird management licence is subject to this Act.
- (6) Except as provided by section 6A (2A), a native game bird management licence does not authorise a person to contravene any prohibition or restriction imposed by or under any other Act.

32B Application of provisions relating to game hunting licences to native game bird management licences

- (1) Division 4 of Part 3 applies to or in respect of native game bird management licences in the same way as it applies to or in respect of game hunting licences.
- (2) Accordingly, a reference in that Division to a game hunting licence is taken to include a reference to a native game bird management licence.
- (3) This section is subject to the regulations.

32C Native Game Bird Management Committee

- (1) A Native Game Bird Management Committee is established for the purposes of this Part.
- (2) The Committee has the functions conferred on it by this Part. The Committee is to exercise its functions through the application of best available scientific knowledge, best practice management principles and the monitoring of outcomes.
- (3) The Committee is to consist of 3 members appointed by the Minister, as follows:
 - (a) a representative of the Department of Primary Industries who is to be appointed as chairperson of the Committee,
 - (b) a representative of the Game Council,
 - (c) a representative of the Office of Environment and Heritage.
- (4) The terms of office and other provisions relating to the members and procedure of the Committee are (subject to the regulations) to be determined by the Minister.

32D Quotas on killing native game birds

- (1) The Native Game Bird Management Committee is required to set annual quotas of native game birds that may be killed under the authority conferred by a native game bird management licence.
- (2) The following provisions apply to the setting of quotas by the Committee:
 - (a) quotas are to be set on the basis of the best scientific information available of the estimated regional population of native game birds,
 - (b) separate quotas may be set for different species of native game birds and for different parts of the State,
 - (c) annual quotas are not required to be set for all species of native game birds in all parts of the State,
 - (d) quotas may be revised from time to time.
- (3) The Game Council is to ensure, by the imposition of licence conditions, that the number of native game birds authorised to be killed by the holders of licences under this Act complies with the relevant quota set by the Native Game Bird Management Committee.

- (4) If a quota is not set during a particular period in respect of a particular species or a particular part of the State, a native game bird management licence does not authorise the killing, during that period, of that particular species of native game bird or any other native game bird in that particular part of the State.

32E Other requirements relating to native game birds

- (1) The Native Game Bird Management Committee is, in addition to setting quotas, to determine the following matters:
- (a) the periods during which, and the areas within which, particular species of native game birds may be hunted by the holders of game hunting licences under the authority conferred by a native game bird management licence,
 - (b) requirements with respect to the tagging or other identification, and notification to the Game Council, of native game birds killed under the authority conferred by a native game bird management licence,
 - (c) guidelines for the auditing of compliance with this Act in respect of the killing of native game birds.
- (2) The Game Council is to ensure, by the imposition of licence conditions, that determinations under this section are complied with by the holders of licences under this Act.
- (3) The Game Council is to include in its annual report details on the number, as notified to the Game Council, of native game birds killed by licence holders during the reporting year in those parts of the State in which the killing of native game birds is authorised under this Act.

32F Waterfowl identification test

- (1) A game hunting licence does not authorise the holder to hunt native game birds that are waterfowl unless the holder has passed an official identification test.
- (2) In this section:
- official identification test* means a test involving the identification of native waterfowl that:
- (a) is recognised by the Native Game Bird Management Committee, and
 - (b) is conducted in accordance with arrangements made or approved by the Game Council.

- (3) For the purposes of this section, an official identification test includes any test conducted before the commencement of this section by or on behalf of the Office of Environment and Heritage (or the equivalent agency of another State or Territory) in connection with the identification of native waterfowl.

[11] Section 55B Requirements for commercial taxidermists

Insert “or 1A” after “Part 1” in section 55B (1) (as inserted by the *Game and Feral Animal Control Amendment Act 2012*).

[12] Section 55B (1) (a)

Omit “or game management licence”.

[13] Schedule 3, Part 1A

Insert after Part 1:

Part 1A Native game birds (licence required to hunt on private land)

Note. Additions or omissions to the following list of native game birds may only be made by Act of Parliament and not by Ministerial order under section 5.

Ducks

Australian Shelduck or Mountain Duck (*Tadorna tadornoides*)
Australian Wood Duck or Maned Duck (*Chenonetta jubata*)
Black Duck or Pacific Black Duck (*Anas superciliosa*)
Blue-winged Shoveler or Australasian Shoveler (*Anas rhynchos*)
Chestnut Teal (*Anas castanea*)
Grass Whistling Duck or Plumed Whistling Duck (*Dendrocygna eytoni*)
Grey Teal (*Anas gibberifrons*)
Hardhead Duck or White-eyed Duck (*Aythya australis*)
Pink-eared Duck (*Malacorhynchus membranaceus*)
Water Whistling Duck, Wandering Whistling Duck or Whistling or Wandering Tree Duck (*Dendrocygna arcuata*)

Quails

Brown Quail (*Coturnix ypsilophora*)
Stubble Quail (*Coturnix pectoralis*)

Pigeons

Common Bronzewing Pigeon (*Phaps chalcoptera*)
Crested Pigeon (*Ocyphaps lophotes*)

[14] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Game and Feral Animal Control Further Amendment Act 2012

Schedule 2 Amendment of National Parks and Wildlife Act 1974 No 80

[1] Section 120 General licence

Insert after section 120 (2B):

- (2C) A general licence is not to be issued to authorise the harming, on private land, of any native game bird within the meaning of the *Game and Feral Animal Control Act 2002* for sustainable agricultural management purposes.

Note. Native game birds may be killed on private land for sustainable agricultural management purposes under the authority of a native game bird management licence under the *Game and Feral Animal Control Act 2002*.

[2] Section 121 Occupier's licence

Insert after section 121 (3):

- (4) An occupier's licence is not to be issued to authorise the harming, on private land, of any native game bird within the meaning of the *Game and Feral Animal Control Act 2002* for sustainable agricultural management purposes.

Note. Native game birds may be killed under the authority of a native game bird management licence under the *Game and Feral Animal Control Act 2002*.

[3] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Game and Feral Animal Control Further Amendment Act 2012