

Game and Feral Animal Control Regulation 2012

[2012-428]



New South Wales

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New South Wales

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Game and Feral Animal Control Regulation 2012



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Game and Feral Animal Control Regulation 2012*.

2 Commencement

- (1) This Regulation commences on 1 September 2012, except as provided by subclause (2), and is required to be published on the NSW legislation website.

Note—

This Regulation replaces the *Game and Feral Animal Control Regulation 2004* which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

- (2) Clause 23 and Schedule 4 commence on the commencement of the *Game and Feral Animal Control Amendment Act 2012*.

3 Definitions

- (1) In this Regulation:

commercial hunter means a person who hunts for game animals for the purpose of the sale of those animals.

hunting guide means a person who for fee or reward accompanies persons on a hunt for game animals for the purpose of guiding and otherwise assisting those persons in connection with their hunting of game animals.

the Act means the *Game and Feral Animal Control Act 2002*.

- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2

4, 5 (Repealed)

Part 3 Licensing

6 Classes and types of game hunting licence

In each class of game hunting licence (general and restricted) there are the following types of licence:

- (a) standard hunting licence,
- (b) visitor's hunting licence,
- (c) hunting guide licence,
- (d) commercial hunter's licence.

7 (Repealed)

8 Standard hunting licence

A standard hunting licence authorises the licensee to engage in the hunting of game animals otherwise than as a hunting guide or commercial hunter.

9 Visitor's hunting licence—accompanied hunting

- (1) A visitor's hunting licence confers the same authority on the licensee as a standard hunting licence but only so as to authorise the licensee to hunt game animals in the company of the holder of a standard hunting licence or hunting guide licence that is of the same class (general or restricted) as the visitor's hunting licence.
- (2) A person is not eligible to be granted a visitor's hunting licence unless the Regulatory Authority is satisfied that the person's principal place of residence is outside Australia.

10 Hunting guide licence

A hunting guide licence authorises the licensee to engage in the hunting of game animals as a hunting guide and also confers the authority of a standard hunting licence.

11 Commercial hunter's licence

A commercial hunter's licence authorises the licensee to engage in the hunting of game animals as a commercial hunter and also confers the authority of a standard hunting licence.

12 Approval of courses of training for licences

- (1) The Regulatory Authority may approve courses of training for the purposes of the grant of game hunting licences and may accredit persons, clubs or associations to conduct those courses. Different courses of training may be approved for different classes and types of licence.

- (2) If there is a course of training approved for a particular class and type of licence, a person is not eligible to be granted a licence of that class and type unless the Regulatory Authority is satisfied that the person has successfully completed the course of training.
- (3) A course of training approved for a restricted game hunting licence constitutes adequate training under section 19 (Special qualifications for restricted game hunting licence) of the Act for the purposes of the grant of the licence.
- (4) A course of training approved for the purposes of this clause may include provision for training in relation to the following:
 - (a) relevant provisions of the Act, this Regulation and any code of practice under section 24 of the Act,
 - (b) principles for the safe use of firearms, bows and other hunting equipment,
 - (c) ethics of hunting, including laws relating to trespass,
 - (d) animal welfare issues relating to hunting,
 - (e) such other matters as the Regulatory Authority considers appropriate.
- (5) The Regulatory Authority may withdraw an approval or accreditation under this clause at any time.

13 Restrictions on granting licences

- (1) Only a natural person is eligible to be granted a game hunting licence.
- (2) A hunting guide licence or commercial hunter's licence must not be granted to a person who is under the age of 18 years.
- (3) A standard hunting licence or visitor's hunting licence must not be granted to a person who is under the age of 12 years.

Note—

12 is the minimum age for the grant of a minor's firearms permit under the [Firearms Act 1996](#).

14 Licence applications

- (1) An application for a game hunting licence must:
 - (a) be made in a form approved by the Regulatory Authority that is published on the Regulatory Authority's website, and
 - (b) be accompanied by the fee payable in respect of the application.
- (2) An applicant for a game hunting licence must provide to the Regulatory Authority such evidence as the Regulatory Authority may request (at the time the application is

made or subsequently) for the purposes of a determination of the eligibility of the applicant to be granted a licence.

15 Maximum duration of licences

A game hunting licence, except a visitor's hunting licence, may be granted to remain in force for 1, 2, 3, 4 or 5 years (the relevant maximum period for the licence for the purpose of section 25 of the Act being 5 years).

Note—

A visitor's hunting licence has a 12 month maximum duration under section 25 of the Act.

15A Extension of duration of licences

- (1) A restricted game hunting licence that was in force at any time during the period commencing on 4 July 2013 and ending on 2 February 2014 (***the relevant period***) has effect for an additional period commencing on 3 February 2014 or on the day after the day on which the licence is due to expire, whichever is the later.
- (2) The additional period for a restricted game hunting licence is:
 - (a) if the licence was in force during the whole of the relevant period—7 months, or
 - (b) if the licence was granted on or after 5 July 2013 but before 15 November 2013—a period equivalent to the number of days during the relevant period for which the holder of the licence held that or any other restricted game hunting licence, or
 - (c) if the licence expired on or after 15 November 2013 but before 3 February 2014—7 months.
- (3) This clause does not apply to a restricted game hunting licence if:
 - (a) the licence expired on or after 4 July 2013 but before 15 November 2013, or
 - (b) the licence expired on or after 15 November 2013 but before 3 February 2014 and the holder of the licence did not apply for a further restricted game hunting licence during the relevant period.

16 Licence fees

- (1) The fee payable in respect of an application for a licence is:
 - (a) for a standard hunting licence—\$75 for a 1 year licence, \$145 for a 2 year licence, \$210 for a 3 year licence, \$270 for a 4 year licence or \$325 for a 5 year licence, or
 - (b) for a visitor's hunting licence—\$125, or
 - (c) for a hunting guide licence—\$175 for a 1 year licence, \$340 for a 2 year licence, \$500 for a 3 year licence, \$645 for a 4 year licence or \$850 for a 5 year licence, or

- (d) for a commercial hunter's licence—\$300 for a 1 year licence, \$550 for a 2 year licence, \$775 for a 3 year licence, \$1000 for a 4 year licence or \$1200 for a 5 year licence.
- (2) The fee payable in respect of an application for a licence is reduced by one-third (to the nearest whole dollar amount) if the person applying for the licence:
 - (a) is under 18 years of age, or
 - (b) is an eligible pensioner (within the meaning of paragraph (a) or (b) of the definition of **eligible pensioner** in section 3 (1) of the [Motor Vehicles Taxation Act 1988](#)).
- (3) The fee payable in respect of an application for a restricted licence to be issued as an upgrade of a general licence held by a person (being a restricted licence of the same type as the general licence and issued to be in force for the remainder of the period of the general licence) is \$10.
- (4) The fee payable for the grant of a licence to replace a licence that has been lost, destroyed or defaced is \$30. The replacement licence is to be issued for the period that is the remainder of the period of the licence it replaces.
- (5) The Minister may, by order published on the NSW legislation website, increase the amount of any fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.
- (6) The Regulatory Authority may, in a class of cases or in a particular case, waive or refund all or part of any fee payable under this clause.

17 Grounds for refusal of restricted licence

The Regulatory Authority must refuse to grant a restricted game hunting licence to a person if in the 10 years prior to the application for the licence:

- (a) the person has been found guilty of an offence under section 32C (Offences relating to hunting and using firearms etc) of the [Forestry Act 1916](#), or
- (b) the person has been refused a hunting permit under section 32B (Hunting permits) of the [Forestry Act 1916](#) (before its repeal on 6 August 2004) or has had such a permit cancelled.

Note—

This adds to the other grounds on which a licence must be refused under section 21 (3) of the Act.

18 Conditions of game hunting licences

- (1) The provisions of Schedule 1 are prescribed as conditions of every game hunting

licence.

Note—

Compliance with the mandatory provisions of a code of practice for holders of game hunting licences approved under section 24 of the Act is also a condition of a game hunting licence. Those mandatory provisions are set out in Schedule 2.

- (2) The Regulatory Authority may, by order published in the Gazette, suspend the operation of any provision of clauses 5–13 of Schedule 1 (either generally or subject to conditions) for a specified period and in relation to specified land, being land that the Regulatory Authority is satisfied is the subject of a management plan dealing with game hunting on the land or with the management, control or eradication of game animals on the land.
- (3) During the period of any such suspension, the suspended provision is, subject to any conditions of the suspension, not a condition of any game hunting licence for the purposes of the hunting of game animals under the authority of the licence on the land to which the suspension applies.
- (4) The conditions of a suspension may limit the operation of the suspension to a particular species of game animal.

19 Exemptions from licensing

For the purposes of section 17 (1) (h) of the Act, a game hunting licence is not required in respect of:

- (a) the hunting of any animal in accordance with a power or duty imposed under the [Animal Diseases \(Emergency Outbreaks\) Act 1991](#), or
- (b) the hunting of any animal pursuant to an obligation imposed by or under an Act to manage, control or eradicate the animal concerned (but only on land, and for the period, in respect of which the obligation applies).

Part 4 Miscellaneous

20 Notice of proposed declaration of hunting land

- (1) Public notice of a proposed declaration under section 20 of the Act is to be given by being published, at least 30 days before the declaration is made:
 - (a) in a newspaper circulating throughout the State, and
 - (b) in a newspaper circulating in the district in which the land that is the subject of the proposed declaration is situated, and
 - (c) in the Gazette.
- (2) (Repealed)

21 Penalty notice offences and penalties

- (1) For the purposes of section 57 of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 3 is an offence for which a penalty notice may be served, and
 - (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of Schedule 3.
- (2) If the reference to a provision in Column 1 of Schedule 3 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.
- (3) In the case of an offence under section 23 (Offence to contravene conditions of licence) of the Act, a reference in Schedule 3 to that section that is qualified by a reference to a provision of Schedule 1 (Conditions of game hunting licences) or Schedule 2 (Mandatory provisions of code of practice) operates to restrict its operation to the offence under that section of contravening the condition of a game hunting licence with which the specified provision of Schedule 1 or 2 is concerned.

22 Savings

Any act, matter or thing that, immediately before the repeal of the *Game and Feral Animal Control Regulation 2004*, had effect under that Regulation continues to have effect under this Regulation.

23 Amendment of Regulation

This Regulation is amended as set out in Schedule 4.

Schedule 1 Conditions of game hunting licences

(Clause 18)

Note—

It is an offence under section 23 of the Act to contravene any condition of a game hunting licence. Contravening a condition of a game hunting licence is also grounds for cancelling or suspending the licence under section 29 of the Act.

Clause 18 of this Regulation authorises the Regulatory Authority to suspend the operation of clauses 5–13 of this Schedule in certain circumstances.

Part 1 Hunting generally

1 Licence to be carried and produced on request

The holder of a game hunting licence must carry the licence when engaged in hunting for game animals and must produce the licence for inspection on request by an inspector, a

police officer or the owner or occupier of land on which the licensee is hunting.

2 Hunting on declared public land requires permission to enter

- (1) A person must not hunt on declared public hunting land unless the person has, before entering the land, obtained written permission to hunt on the land from the manager of the land concerned.

Note—

A game hunting licence does not authorise the holder of the licence to enter any land that the holder is not otherwise authorised to enter. The declaration of public land as land available for hunting under section 20 of the Act does not entitle a person to enter the land just because the person has a game hunting licence. The holder of the licence must obtain written permission to hunt as required by this clause.

- (2) When hunting on declared public hunting land a person must:
 - (a) comply with any requirement imposed as a condition of the permission to hunt on the land, and
 - (b) comply with any reasonable direction given to the person by the manager of the land in relation to the person's hunting on that land, and
 - (c) produce for inspection, on request by an inspector, police officer or the manager of the land, any written permission given to the person for the purposes of subclause (1).
- (3) In this clause:

manager, in relation to declared public hunting land, means a person appointed as manager of the land by or under the authority of the Minister who has the care or control of the land or the authority that has the care or control of the land.

3 Hunting by persons under 18 years of age

- (1) A person (**the minor**) who is under the age of 18 years must not hunt game except under the close personal supervision of a person who is at least 18 years of age and the holder of a standard hunting licence or hunting guide licence that is of the same class (general or restricted) as the minor's hunting licence.
- (2) A person who is under the age of 18 years must not use a firearm to hunt game except as the holder of a minor's firearms permit under the [Firearms Act 1996](#) and in accordance with the authority conferred by the permit.

Note—

12 is the minimum age for the grant of a minor's firearms permit.

4 Prohibition on hunting from motor vehicles on roads on declared public hunting land

- (1) A person must not hunt, or cause, permit or assist in the hunting of, a game animal

from a motor vehicle on or across a road located on declared public hunting land.

(2) In this clause:

hunting does not include using a dog to search for game while the dog is tied up, caged or otherwise restrained.

motor vehicle means a vehicle that is propelled by a motor that forms part of the vehicle.

5 Open seasons for certain deer

- (1) An animal of any of the following species must not be hunted except during the open season specified for that species:
- (a) Fallow deer (*Dama dama*)—open season from 30 minutes before sunrise on 1 March in a year to 30 minutes after sunset on 31 October in that year,
 - (b) Hog deer (*Axis porcinus*)—open season from 30 minutes before sunrise on 1 April in a year to 30 minutes after sunset on 30 April in that year,
 - (c) Red deer (*Cervus elaphus*)—open season from 30 minutes before sunrise on 1 March in a year to 30 minutes after sunset on 31 October in that year,
 - (d) Wapiti deer (*Cervus elaphus canadensis*)—open season from 30 minutes before sunrise on 1 March in a year to 30 minutes after sunset on 31 October in that year.

Note—

If a species of game animal does not have an open season listed, it can be hunted all year.

- (2) The Regulatory Authority may, by notification published in the Gazette, vary (either by shortening or lengthening) an open season for the purposes of subclause (1) for any particular species of animal for a particular year if the Regulatory Authority is satisfied that it is necessary or desirable to do so because of concerns relating to animal welfare, environmental factors (such as bushfires) or such other matters as the Regulatory Authority considers relevant.
- (3) This clause does not apply to a commercial hunter.

6 Using spotlights or electronic devices for hunting deer prohibited

- (1) A person must not use any of the following to hunt deer:
- (a) a spotlight or other source of artificial light (including an infrared device),
 - (b) an electronic device that enhances vision or hearing (including a night vision device but not including any therapeutic aid used by a person who is hearing or vision impaired),

(c) a sight that projects a beam,

(d) a recorded sound.

(2) This clause does not apply to a commercial hunter.

7 Hunting of game fleeing from fire or smoke prohibited

(1) A person must not hunt a game animal that is fleeing from fire or smoke.

(2) A person must not light a fire for the purpose of the hunting of a game animal fleeing from fire or smoke (including for the purpose of flushing out a game animal).

Part 2 Special provisions for certain game

7A Game animals to which this Part applies

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

8 Use of aircraft, watercraft and motor vehicles prohibited for hunting certain game

(1) A person must not hunt, or cause, permit or assist in the hunting of, a game animal to which this Part applies from an aircraft, watercraft or motor vehicle.

(2) The Regulatory Authority may grant a person an exemption from this clause so as to permit the person to hunt from a motor vehicle if satisfied that the person suffers from a disability that prevents the person from hunting on foot.

(3) This clause does not apply to a commercial hunter.

(4) In this clause:

motor vehicle has the same meaning as in clause 4.

9 Use of baits, lures and decoys for hunting certain game

(1) A person must not hunt a game animal to which this Part applies, or cause, permit or assist in the hunting of that animal, using any bait, lure, decoy or live animal to attract the game animal.

(2) Subclause (1) does not apply to a decoy made or constructed to resemble or represent a game bird or any call resembling the call of a game bird or deer.

(3) For the purposes of this clause, a planted crop does not constitute a bait or lure.

10 Hunting certain game at night prohibited

(1) A person must not hunt a game animal to which this Part applies during the period commencing 30 minutes after sunset on any day and ending 30 minutes before sunrise on the next day.

(2) This clause does not apply to a commercial hunter.

Part 3 Use of dogs

11 Use of dogs when hunting game birds

(1) A person must not use a dog when hunting game birds or cause or permit a dog to be so used, with the following exceptions:

- (a) a dog may be used to locate, flush, point or retrieve game birds,
- (b) a dog may be used in a field trial conducted by a hunting club or organisation approved by the Regulatory Authority.

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

12 Use of dogs for hunting deer

A person must not use a dog for hunting deer except in compliance with the following requirements:

- (a) a dog must not be used for hunting deer except for locating, pointing or flushing deer,
- (b) a person hunting alone must not use more than 1 dog for locating, pointing or flushing deer,
- (c) a person must not hunt as part of a group that is using more than 2 dogs for locating, pointing or flushing deer,
- (d) a dog must not be used for locating, pointing or flushing deer unless the dog:
 - (i) is wearing a collar to which is securely attached a metal tag or label on which is legibly printed the name, address and telephone number of the owner of the dog and the dog is identified as required by section 8 of the [Companion Animals Act 1998](#), and
 - (ii) is wearing a radio tracking collar or is on a lead,

Note—

Dogs are currently required to be microchipped.

(e) a person using a dog for locating, pointing or flushing deer must ensure that the dog does not chase the deer or any other species of animal.

13 Use of dogs for hunting pigs on public land

A person must not use a dog for hunting pigs on public land except in compliance with the following requirements:

- (a) a dog must not be used for hunting pigs except for locating, holding or bailing pigs,

- (b) a person hunting alone must not use more than 3 dogs for locating, holding or bailing pigs,
- (c) a person must not hunt as part of a group that is using more than 5 dogs for locating, holding or bailing pigs,
- (d) a dog must not be used for locating, holding or bailing pigs unless the dog:
 - (i) is wearing a collar to which is securely attached a metal tag or label on which is legibly printed the name, address and telephone number of the owner of the dog and the dog is identified as required by section 8 of the [Companion Animals Act 1998](#), and
 - (ii) is wearing a radio tracking collar or is on a lead,

Note—

Dogs are currently required to be microchipped.

- (e) a person using a dog for locating, holding or bailing pigs must ensure that the dog does not chase any other species of animal,
- (f) a person using a dog for locating, holding or bailing pigs must not leave or abandon the dog on public land.

Schedule 2 Mandatory provisions of code of practice

(Note to clause 18 (1))

Note—

This Schedule contains the mandatory provisions of the code of practice for holders of game hunting licences under section 24 of the Act. The mandatory provisions only apply to the holders of game hunting licences.

1 Awareness of relevant legislation

It is the responsibility of the holder of a game hunting licence to be aware of and comply with all relevant provisions of legislation relating to hunting, animal welfare and the use of firearms.

2 Safe handling of firearms

Where firearms are used, the rules for safe handling set out in the *NSW Firearms Safety Awareness Handbook* published by or under the authority of the Commissioner of Police must be complied with at all times.

3 Permission required to enter land

A game hunting licence does not automatically authorise the holder of the licence to hunt on any land. The holder of a game hunting licence must not hunt on any land without the express authority of the occupier of the land.

4 Target identification and safety

A game animal must not be fired at unless it can be clearly seen and identified, and the shot when taken poses no discernible risk of injury to any person or significant damage to any property.

5 Obligation to avoid suffering

An animal being hunted must not be inflicted with unnecessary pain. To achieve the aim of delivering a humane death to the hunted animal:

- (a) it must be targeted so that a humane kill is likely, and
- (b) it must be shot within the reasonably accepted killing range of the firearm and ammunition or bow and arrow being used, and
- (c) the firearm and ammunition, bow and arrow, or other thing used must be such as can reasonably be expected to humanely kill an animal of the target species.

6 Lactating females with dependent young

If a lactating female is killed, every reasonable effort must be made to locate and humanely kill any dependent young.

7 Wounded animals

If an animal is wounded, the hunter must take all reasonable steps to locate it, so that it can be killed quickly and humanely.

8 Use of dogs

Dogs and other animals may be used to assist hunters but only if:

- (a) their use is not in contravention of the [Prevention of Cruelty to Animals Act 1979](#), and
- (b) their use is with the permission of the occupier of the land concerned.

Schedule 3 Penalty notice offences

(Clause 21)

Column 1	Column 2
Provision	Penalty
Section 16 (1) of the Act	\$500
Section 23 of the Act (except as otherwise provided in this Schedule)	\$550
Section 23 of the Act (Schedule 1, clause 1)	\$220
Section 23 of the Act (Schedule 1, clause 9)	\$220

Section 23 of the Act (Schedule 1, clause 11)	\$220
Section 27 of the Act	\$500
Section 55 of the Act	\$400

Schedule 4 Amendments

(Clause 23)

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

Omit the clause.

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

Omit clause 20 (2).

[3] Schedule 1 Conditions of game hunting licences

Omit the definition of **declared public hunting land** wherever occurring in clauses 2 (3) and 4 (2).

[4] Schedule 1, Part 2, heading

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

[5] Schedule 1, Part 2

Omit the note at the beginning of the Part.

[6] Schedule 1, clause 7A

Insert before clause 8:

7A Game animals to which this Part applies

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

[7] Schedule 1, clauses 8 (1), 9 (1) and 10 (1)

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

Insert instead “to which this Part applies”.

[8] Schedule 1, clause 11 (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.