

Game and Feral Animal Control Regulation 2004

As at 6 August 2004

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Game and Feral Animal Control Act 2002* . Minister for Primary Industries

Explanatory note

The object of this Regulation is to provide for various matters under the *Game and Feral Animal Control Act 2002* , as follows:

- (a) prescribing the hunting organisations that can nominate persons for appointment as members of the Game Council,
- (b) prescribing an additional function of the Game Council, concerned with public liability insurance arrangements,
- (c) providing for there to be 4 types of game hunting licence (standard hunting licence, visitors hunting licence, hunting guide licence and commercial hunters licence),
- (d) the approval of courses of training for eligibility for a game hunting licence and the accrediting of persons, clubs and associations to conduct those courses,
- (e) age restrictions on the granting of game hunting licences,
- (f) machinery matters concerning licences, including applications, duration of licences, licence fees and grounds for refusal of a licence,
- (g) the giving of notice of the proposed declaration of public hunting land,
- (h) prescribing penalty notice offences and their penalties,
- (i) the conditions of game hunting licences, including general conditions and conditions for the hunting of game animals listed in section 5 (1) of the Act, the use of dogs and the hunting of Hog deer,
- (j) the mandatory provisions of the code of practice referred to in section 24 of the Act.

This Regulation also repeals the *Game and Feral Animal Control Regulation 2002* . This Regulation is made under the *Game and Feral Animal Control Act 2002* , including sections 8, 9, 17, 19, 20, 21, 22, 25, 26, 32, 57 and 60 (the general regulation-making power).

Part 1 - Preliminary

1 Name of Regulation

This Regulation is the *Game and Feral Animal Control Regulation 2004* .

2 Commencement

This Regulation commences on 6 August 2004.

3 Definitions

(1) In this Regulation:

commercial hunting means hunting for the purposes of the sale of a game animal listed in section 5 (1) of the Act.

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 - Game Council

4 Nominating hunting organisations

The following hunting organisations are prescribed for the purposes of section 8 (2) (a) of the Act:

- (a) Australian Deer Association Incorporated,
- (b) Federation of Hunting Clubs Incorporated,
- (c) Australian Hunters International Incorporated,
- (d) Sporting Shooters Association of Australia (New South Wales) Incorporated,
- (e) Hunters and Fishermen Association of New South Wales Artemis Incorporated,
- (f) Game Management Council of New South Wales (Gamecon NSW) Incorporated,
- (g) Field and Game Australia Incorporated,
- (h) Australian Bowhunters Association Incorporated.

5 Additional function of Game Council

Pursuant to section 9 (1) (g) of the Act, the Game Council may enter into arrangements for the provision for or on behalf of holders of game hunting licences of public liability insurance.

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) visitors hunting licence,
- (c) hunting guide licence,
- (d) commercial hunters licence.

7 Commercial hunters and hunting guides to be licensed

A person who is hunting as a commercial hunter or hunting guide is prescribed for the purposes of section 17 (1) (e) of the Act.

Note: This means that a game hunting licence is required for commercial hunting and hunting as a hunting guide.

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 Visitors hunting licence--accompanied hunting

- (1) A visitors 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 visitors hunting licence.
- (2) A person is not eligible to be granted a visitors hunting licence unless the Game Council 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 hunters licence

A commercial hunters licence authorises the licensee to engage in the hunting of game animals listed in section 5 (1) of the Act as a commercial hunter and also confers the authority of a standard hunting licence.

12 Approval of courses of training for licences

(1) The Game Council 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 Game Council 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 Game Council considers appropriate.

(5) The Game Council 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 hunters licence must not be granted to a person who is under the age of 18 years.

(3) A standard hunting licence or visitors 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 Game Council, 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 Game Council such evidence as the Game Council 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 visitors hunting licence, may be granted to remain in force for 1, 3 or 5 years (the relevant maximum period for the licence for the purpose of section 25 of the Act being 5 years).

Note: A visitors hunting licence has a 12 month maximum duration under section 25 of the Act.

16 Licence fees

(1) The fee payable in respect of an application for a licence is:

- (a) for a standard hunting licence--\$60 for a 1 year licence, \$180 for a 3 year licence or \$300 for a 5 year licence,
- (b) for a visitors hunting licence--\$100,
- (c) for a hunting guide licence--\$150 for a 1 year licence, \$450 for a 3 year licence

or \$750 for a 5 year licence,

(d) for a commercial hunters licence--\$250 for a 1 year licence, \$750 for a 3 year licence or \$1250 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 a pensioner (within the meaning of paragraph (a) or (b) of the definition of **pensioner** in section 3 (1) of the *Motor Vehicles Taxation Act 1988*).

(3) 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.

(4) 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 \$30.

17 Grounds for refusal of restricted licence

The Game Council 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 the use of 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* 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 Game Council may, by order published in the Gazette, suspend the operation of any provision of clauses 4-12 of Schedule 1 (either generally or subject to conditions) for a specified period and in relation to specified land, being land that the Game Council 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 not a condition of any game hunting licence for the purposes of the hunting of game animals under the authority of the licence in accordance with any conditions of the suspension 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 *Exotic Diseases of Animals 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) The responsible Minister is to give written notice of any proposed declaration under section 20 of the Act to the rural lands protection board for the rural lands protection district in which the affected land is situated.

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, 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 Repeal

The *Game and Feral Animal Control Regulation 2002* is repealed.

Schedule 1 Conditions of game hunting licences

(Clause 18)

Note: This Schedule contains the conditions of a game hunting licence. These conditions do not apply to game hunting that does not require a licence. See section 17 of the Act. See also clause 19 of this Regulation, which provides that a game hunting licence is not required for hunting under the *Exotic Diseases of Animals Act 1991* or pursuant to a statutory obligation to manage, control or eradicate animals. 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 Game Council to suspend the operation of clauses 4-12 of this Schedule in certain circumstances.

Part 1 - Hunting generally

1 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:

declared public hunting land means public land that is the subject of a declaration in force under section 20 (Declaration of public lands available for hunting game) of the Act.

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.

2 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.

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 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 elphus 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 Game Council 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 Game Council 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 Game Council considers relevant.

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

5 Use of spotlights or electronic devices for hunting deer

(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 prevent the use of an artificial light source powered by 4.5 volts or less.

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

6 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 section 5 (1) game

Note: The game listed in section 5 (1) is deer, California quail, pheasant, partridge, peafowl and turkey.

7 Use of aircraft, watercraft and motor vehicles prohibited for hunting section 5 (1) game

- (1) A person must not hunt, or cause, permit or assist in the hunting of, a game animal listed in section 5 (1) of the Act from an aircraft, watercraft or motor vehicle.
- (2) The Game Council 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 means a vehicle that is propelled by a motor that forms part of the vehicle.

8 Use of baits, lures and decoys for hunting section 5 (1) game

- (1) A person must not hunt a game animal listed in section 5 (1) of the Act, or cause, permit or assist in the hunting of that game, using any bait, lure, decoy or live animal to attract game.
- (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.

9 Hunting section 5 (1) game at night prohibited

- (1) A person must not hunt game listed in section 5 (1) of the Act during the period commencing a half-hour after sunset on any day and ending a half-hour before sunrise on the next day.
- (2) This clause does not apply to a commercial hunter.

Part 3 - Use of dogs

10 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 Game Council.
- (2) In this clause, **game bird** means any of the game animals listed in section 5 (1) (b)-(f) of the Act.

11 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 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*,

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.

12 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 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*,

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.

Part 4 - Hunting Hog deer

13 Bag limit for Hog deer

A person must not take more than 1 male and 1 female Hog deer during an open season for Hog deer.

14 Hog deer tags

(1) The Game Council may issue the holders of game hunting licences with Hog deer tags for the purposes of this Regulation.

(2) Two kinds of Hog deer tag can be issued:

(a) one is a female Hog deer tag (which bears the letter "F"), and

(b) the other is a male Hog deer tag (which bears the letter "M").

(3) A Hog deer tag is valid only for the open season in which it is issued or (if it is not issued during an open season) for the open season that follows its issue.

(4) The holder of a game hunting licence may be issued with Hog deer tags so as to have no more than 2 valid Hog deer tags on issue to him or her at any one time.

(5) The Game Council may charge a fee not exceeding \$50 for the issue of a Hog deer tag.

(6) A reference in this Regulation to a **Hog deer tag** is a reference to a Hog deer tag that has been issued by the Game Council under this clause and that is valid.

15 Use of Hog deer tags

A person who hunts Hog deer must comply with the following requirements concerning Hog deer tags:

(a) a person must not hunt Hog deer unless the person has in his or her possession one female Hog deer tag or one male Hog deer tag,

(b) a person who kills a Hog deer must immediately affix a Hog deer tag (appropriate to the

sex of the animal) to the hind leg of the animal by inserting the tag between the main bone of the leg and the main tendon, so that the tag completely encircles the main bone and is securely locked in position,

(c) a person must not have the carcass of a female Hog deer in his or her possession, custody or control on any public land or public road unless there is a female Hog deer tag affixed to the hind leg,

(d) a person must not have the carcass of a male Hog deer in his or her possession, custody or control on any public land or public road unless there is a male Hog deer tag affixed to the hind leg,

(e) a person issued with a Hog deer tag must not sell, give, lend or transfer the tag to any other person,

(f) a person issued with a Hog deer tag must not alter, deface or reproduce the tag.

16 Return about Hog deer tags to be provided

A person issued with Hog deer tags must, within 28 days after the end of the open season for which the tags are valid, complete and forward to the Game Council a return (in a form provided by the Game Council) specifying:

(a) the name and address of the person and the number of the game hunting licence under which the tags have been issued, and

(b) if the person has taken any Hog deer during that open season, where and when the person took the deer, and

(c) the approximate amount of time the person spent hunting for Hog deer, and

(d) such other particulars as the form requires.

17 Return of unused Hog deer tags

A person issued with Hog deer tags must, within 28 days after the end of the open season for which the tags are valid, return any unused Hog deer tags to the Game Council.

Note: Unused tags can be returned with the Hog deer return forwarded to the Game Council.

Schedule 2 Mandatory provisions of code of practice

(Clause 18)

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 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 Provision	Column 2 Penalty
Section 16 (1) of the Act	\$500
Section 27 of the Act	\$500
Section 55 of the Act	\$400
Section 23 of the Act (except as otherwise provided in this Schedule)	\$550
Section 23 of the Act (Schedule 1, clause 2)	\$220
Section 23 of the Act (Schedule 1, clause 8)	\$220
Section 23 of the Act (Schedule 1, clause 10)	\$220
Section 23 of the Act (Schedule 1, clause 16)	\$220
Section 23 of the Act (Schedule 1, clause 17)	\$220

Historical notes

Table of amending instruments *Game and Feral Animal Control Regulation 2004* published in Gazette No 131 of 6.8.2004, p 6312.