

Pest Control Technical Note

No. 6, March 2004

The Law & You Wildlife & Pest Animal Control

This technical note is the second in a series designed to bring to your attention the Victorian legislation relevant to the pest control industry.

Copies of the Acts referred to can be obtained from the Victorian Legislation and Parliamentary Documents web site at www.dms.dpc.vic.gov.au.

Alternatively you can follow the links from the pest control web site at www.health.vic.gov.au/pestcontrol.



Licensing by The Department of Human Services (DHS)

A pest control operator ("PCO") is defined in the *Health Act 1958* as a person who carries on or holds himself out in any way as carrying on the business of controlling, destroying or repelling pests.

Anyone who uses pesticides, or permits another person to use pesticides, in the course of the business of a pest control operator in Victoria is required to hold a licence issued under section 108C of the Victorian *Health Act 1958* ("Licence to Use Pesticides") unless the pesticide is being used for any of the purposes specified under section 108C(1A) of the *Health Act 1958*. For further information please refer to Pest Control Technical Note number 5 – *The Law & You*.

The Department of Human Services issues licences to individuals who have attained the appropriate qualification.

A Licence to Use Pesticides will list one or more authorisations depending on the type of pest control work the licence holder is qualified to undertake. The authorisations available are:

- Pesticides (excluding fumigants) formulated for the control of any pest, to control any pest except a pest animal;
- Pesticides formulated for the control of any pest animal, and to protect an area or place in a building used for commercial or domestic purposes; and
- Pesticides in the form of fumigants.

If a PCO intends to undertake wildlife control (eg. possums), they must also hold a Wildlife Licence or an Authority To Control Wildlife issued by the Department of Sustainability and Environment (see "Licensing by the Department of Sustainability and Environment" below).

Pest Animal Control

Under section 108C of *Health Act 1958* and section 7(b) of the *Health (Pest Control) Regulations 2002*, a person holding a Licence to Use Pesticides with an authorisation to use "pesticides formulated for the control of any pest animal" may only control those animals defined as pest animals under the *Catchment and Land Protection Act 1994*.

The *Catchment and Land Protection Act 1994* defines "pest animal" as:

- Prohibited Pest Animal;
- Controlled Pest Animal;
- Regulated Pest Animal; and
- **Established Pest Animal¹.**



Pest animal species are classified as prohibited, controlled, regulated or established according to their potential to threaten agriculture, community health and the environment.

¹ Established Pest Animals in Victoria

MAMMALS

Order: Carnivora

Vulpes vulpes Red Fox

Canis familiaris Feral Dogs and Dogs-Run-Wild
Canis familiaris dingo: Dingo and their hybrids in the wild (except for recognised canine breeds such as the Australian Cattle Dog [Queensland Heeler] and the Australian Kelpie)

Order: Lagomorpha

Lepus europeus European Hare

Oryctolagus cuniculus European Rabbit

Order: Artiodactyla

Capra hircus Feral Goats and Goats-Run-Wild

Sus scrofa Feral Pigs and Pigs-Run-Wild



Under section 20(1)(f) of the *Catchment and Land Protection Act 1994* a landowner must take all reasonable steps to prevent the spread of, and as far as possible eradicate, **Established Pest Animals** in relation to their land. This is a service that a PCO would be contracted to provide.

In these cases, the PCO does not require authorisation from the Department of Sustainability and Environment.

However, if a PCO intends to control an Established Pest Animal using pesticides to protect an area or place in a building used for commercial or domestic purposes, the PCO will require a DHS Licence to Use Pesticides with the appropriate authorisation.

Licensing by The Department of Sustainability and Environment (DSE)

The *Wildlife Act 1975* and the *Wildlife Regulations 2002*, administered by the Department of Sustainability and Environment, were established in order to protect wildlife throughout Victoria from extinction, while also making provisions for regulated possession, trade and utilisation of wildlife for private and commercial purposes through licensing.

What is Wildlife?

"Wildlife", as defined under the *Wildlife Act 1975*, includes:

- any animal of a vertebrate taxon which is indigenous to Australia;
- all kinds of deer, non-indigenous quail, pheasants, and partridges;
- any taxon of animal which the Governor in Council declares to be wildlife for the purposes of the *Wildlife Act 1975*;
- any taxon of terrestrial invertebrate animal which is listed under the *Flora and Fauna Guarantee Act 1988*;
- any hybrids of a taxon of animal specified above; and
- includes any such animal or any member of a taxon which is bred or kept in captivity or confinement.



The term "wildlife" refers to wildlife in **any** form whether dead or alive and includes any individual part of an animal.

All wildlife is protected under the *Wildlife Act 1975*. However, there are some circumstances in which wildlife may be declared to be unprotected.



Wildlife Licences

Under Part VII of the *Wildlife Act 1975* it is an offence to hunt, take, destroy, buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process, display, swap,

keep, trade, kill, release, take samples from or experiment on wildlife without prior written approval from the Secretary to the Department of Sustainability and Environment. This is usually in the form of a Wildlife Licence or an Authority To Control Wildlife (ATCW).

The DSE may issue licences under Section 22(1) of the *Wildlife Act 1975* in any of the 14 categories prescribed in the *Wildlife Regulations 2002*. Each category makes provisions for the lawful undertaking of different activities involving wildlife.

The category relevant to the pest control industry enabling the removal, destruction or disposal of native fauna is the 'Wildlife Controller' category.

If you are participating in any other activities involving wildlife, such as production, display or taxidermy, please contact the DSE for licensing details.

Wildlife Controller Licence

There are two types of Commercial Wildlife (Wildlife Controller) Licence.

A Controller Type 1:

"...authorises the licence holder to take (those taxa of) wildlife (listed in Schedule 7² of the *Wildlife Regulations 2002*) from the wild and destroy, dispose of or sell that wildlife in accordance with the conditions of the licence for the purpose of removing danger to person or property from that wildlife."

and a Controller Type 2:

"...authorises the licence holder to take any reptiles listed in Schedule 7 from the wild and to dispose of or destroy those reptiles in accordance with the conditions of the licence for the purpose of removing danger to persons from reptiles."

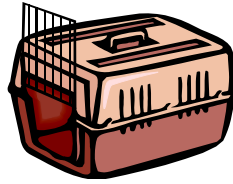


² For information regarding the species listed in Schedule 7 of the *Wildlife Regulations 2002*, please contact the DSE Customer Service Centre.

Conditions

Wildlife Controller Licences are subject to a number of conditions. These conditions specify:

- the taxa which may be controlled;
- the methods which may be used; and
- the transportation and release or disposal of captured wildlife.



In addition to this the licence holder must also:

- allow inspection of the licensed premises, (other than a private dwelling, where a warrant is required), by an authorised officer;
- maintain complete, accurate, legible, records and submit returns (a summary of wildlife transactions) annually; and
- only operate on lands with the consent of the landowner or land manager.

A Controller Type 1 may also control Sulphur-crested Cockatoos, Galahs and Long-billed Corellas, provided that the licence is so endorsed (eg. endorsed for birds) and a numbered steel leg band (available upon payment of a \$5 royalty) is attached to the leg of each bird before removing it from the trap site.

It is an offence against the *Wildlife Act 1975* to fail to comply with any of the conditions placed upon a Wildlife Licence, or ATCW, or to act outside the entitlements granted by the licence or ATCW. A Wildlife Licence or ATCW may be suspended or cancelled if the licence holder is found to be guilty of an offence against the *Wildlife Act 1975* or has breached a condition of licence.

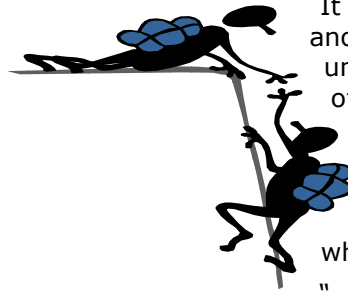
Licence Application

To obtain a licence to control wildlife, an applicant must complete the appropriate form and return it to the DSE.

Applicants are subject to an interview with an authorised officer, which may also involve an inspection of the proposed licensed premises. If accepted, the applicant will be invoiced for payment of the prescribed fee, which is \$500 for a Controller Type 1 Licence and \$100 for a Controller Type 2 Licence.



Assistant's Licence



It is an offence to allow another person to act under the authorisation of your Wildlife Licence. However, the *Wildlife Regulations 2002* provide for an Assistant's Licence, which:

"...authorises a person who is the employee of the holder of a Commercial Wildlife Licence to undertake any activity authorised by the Commercial Wildlife Licence held by the employer...".

An Assistant's Licence can be obtained for a fee of \$20 and must be linked to a nominated and valid Commercial Wildlife Licence.

The holder of an Assistant's Licence may only **assist** the holder of a Commercial Wildlife Licence to take wildlife from the wild (ie. control wildlife) while under the **direct** physical supervision of the Commercial Wildlife Licence holder. The licensed assistant cannot operate independently of the Commercial Wildlife Licence holder when controlling wildlife.

It should also be noted that if the licensed assistant commits an offence against the *Wildlife Act 1975*, the Commercial Wildlife Licence holder is also considered to have committed the offence, as the assistant is deemed to be operating under their direction. It is the licence holder's responsibility to ensure that individuals in their employment hold a valid Assistant's Licence and to ensure that they are aware of the activities which they are licensed to undertake.

Authority to Control Wildlife (ATCW)

Written authorisations are also issued by the DSE under section 28(A) of the *Wildlife Act 1975*, allowing an individual to partake in activities involving wildlife, including destruction and disposal, provided that the DSE is satisfied that the authorisation is necessary.

Circumstances under which an authorisation may be necessary include:

- Where wildlife is damaging any building, vineyard, orchard, crop, tree, pasture, habitat or other property owned, occupied or administered by the person to whom the authorisation is to be



issued or property adjacent to or in proximity to such property; and

- For the purposes of ensuring the health or safety of any person or class of persons.

If a landowner intends to contract the holder of a Wildlife Controller Licence to control any wildlife listed in Schedule 7, the landowner must first obtain an ATCW, which specifically names the contractor as an 'Agent' unless the wildlife has been declared to be unprotected or is a reptile.

An ATCW specifies the taxa, number of individual animals, permitted method of control, location and the circumstance under which the wildlife is authorised to be controlled.

An ATCW is also subject to conditions.

To obtain an ATCW an applicant must complete the appropriate form and return it to the DSE along with any applicable fee.

Definition of Terms

Taxon³:

- A group of genetically similar organisms that are classified together as a species, genus, family, etc.



Vertebrate⁴:

- An animal having a backbone.

Indigenous:

- Originating or occurring naturally in a particular place.
- Native.

Terrestrial:

- Of, on, or relating to the earth or dry land.
- An inhabitant of the earth.

DSE Contact Details

For further information regarding pest animals defined under the *Catchment and Land Protection Act* 1994, wildlife control or licensing by The Department of Sustainability and Environment, or to obtain application forms, please contact the DSE Customer Service Centre on 136 186 or visit the DSE website at www.dse.vic.gov.au.



Additional Technical Notes

- **ANTS (Technical Note 1)**
- **COCKROACHES (Technical Note 2)**
- **RECORD KEEPING (Technical Note 3)**
- **MANAGING SPILLS & PESTICIDE DISPOSAL (Technical Note 4)**
- **THE LAW & YOU (Technical Note 5)**

Copies of the Pest Control Technical Notes can be obtained from the pest control website on www.health.vic.gov.au/pestcontrol or you can call the Department of Human Services on (03) 9637 4156.

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This Technical Note was written in conjunction with The Department of Sustainability and Environment.



³ <http://glossary.gardenweb.com/glossary/taxon.html>

⁴ *Oxford Dictionary Thesaurus and Wordpower Guide*, 2nd edition (2001). New York, OUP.