

# Rescuing birds during Victoria's duck shooting season: offences and penalties



*This fact sheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances you should contact the ADO or your solicitor.*

This fact sheet sets out the main offences and penalties that can apply to rescuers of injured wildlife during the Victorian duck shooting season.

## ***Entering declared 'hunting area' wetlands during shooting season***

It's an offence under Victorian law to go into wetlands that are declared hunting areas during the hunting season, unless you:

- Hold a 'game licence' [see below] allowing you to hunt game birds (eg duck); and
- Hold a 'longarm' gun licence.

A \$967 fine can be issued for this offence. You will usually be given at least 21 days to pay the fine. Rather than paying the fine you can go to court. The maximum penalty you could face in court is \$9,671.

**Case:** Four rescuers were issued with fines for entering a specified hunting area without a permit on the opening morning of the 2014 shooting season. The rescuers decided to go to court rather than pay the fine. The rescuers were given 6-12 month good behaviour bonds without convictions. One had to pay \$250 in court costs.

ACT, NSW, and other interstate gun licences are recognised as valid gun licences in Victoria.

A game licence must be obtained from the Victorian Game Management Authority ("GMA"). They are valid for 1-3 years. To get a game licence, you must pass a '[waterfowl identification test](#)' ("WIT"), which has 22 multiple-choice questions. In 2019 the 'pass' mark is 85% (i.e. 57 out of 66; plus correctly identifying all non-game species). WITs are held only in Victoria. You do not have to re-do a WIT when renewing a game licence.

## ***Ban on entering wetlands without licence: times***

The only time you can enter a wetland that's a declared 'hunting area' without holding gun and game licences is between 10am and 2 hours before sunset each day (or, on the last day of the season, 30 minutes after sunset). There is no 'on the spot' fine for this offence. The maximum penalty you could face in court is \$9,671.

Wetlands include the water **plus** 25 metres back on land from the water's edge.

## ***Shooting times***

In 2019 shooters can start shooting at **9am** on the first day of the season (Sat 16 March), and **8am** on the following day (Sun 17 March). For the rest of the season they can start half an hour before sunrise and continue shooting to half an hour after sunset. Shooters must not shoot at night.

## ***Approaching or obstructing shooters***

It's an offence to get closer than 10 metres to a shooter in a hunting area. This doesn't apply to shooters approaching other shooters. A fine of \$967 can be issued for this offence, or a maximum penalty of \$9,671 if it goes to court.

It's against the law for a person to 'interfere with, harass, hinder, or obstruct' another person who is lawfully 'hunting or taking game'. There is no 'on the spot' fine for this offence. A court can give a maximum penalty of \$9,671.

## ***Making noises***

Loud hailers, whistles or other ‘noisy devices’ or equipment can’t be used in a game reserve if they disturb wildlife or people. A court can issue a fine of up to \$1,612 for this offence. The rule does **not** apply to anyone discharging a gun or using a duck or game caller while hunting.

**Case:** In 2011 five rescuers were charged with harassing and being too close to shooters, and with using whistles and horns to scare off ducks. Only the charges of hindering by using ‘annoying equipment’ (a whistle) were proved in court. The rescuers were given good behaviour bonds without conviction (no fines). A request by the Victorian Department of Primary Industries for costs of \$18,000 was rejected by the Court.

## ***Wounded live birds***

On 1 March 2018 a new law was introduced requiring shooters to make ‘all reasonable efforts’ to recover a shot, or ‘downed’, duck. ‘Reasonable effort’ is not defined. The GMA states that shooters ‘must not’ continue to shoot other birds if they bring down one bird—but this ‘rule’ is not in legislation.

If a shot duck is alive when recovered, it is an offence if the bird is not killed immediately. An ‘on the spot’ fine of \$322 can be issued for this offence, or a maximum penalty of \$3,224 if it goes to court.

**Case:** A rescuer was charged with not killing a duck he had rescued in the water on the final weekend of the 2011 duck shooting season. In 2012 the charges were dropped and legal costs of over \$8,000 were awarded to the rescuer.

## ***Taking threatened species—dead or alive***

Various offences apply to *anyone* (shooters or rescuers) caught taking or possessing threatened wildlife, whether dead or alive. There is no ‘on the spot’ fine for this offence. A court can order a maximum penalty of \$38,686 or 24 months’ imprisonment.

**Case:** A rescuer found a freckled duck who had been shot and killed on the first morning of the 2016 shooting season. Freckled ducks are a threatened species under Victorian law. After taking the body back to shore, the rescuer was apprehended by officials who said they would consider laying charges for being in possession of threatened wildlife. Several months later the rescuer received an official warning from the Victorian Government. It said that next time the rescuer would face the maximum penalty.

## ***Damaging signs or notices***

It’s an offence to remove or damage a sign or notice that relates to the hunting season. There is no ‘on the spot’ fine for this offence. A court can hand down a maximum penalty of \$8,060.

## ***Name and address***

If an authorised officer (including a police officer) reasonably believes you’re committing an offence, they can ask for your name and address. It’s an offence not to give your name and address, or to give a false name and address. There is no ‘on the spot’ fine for this offence. A court can hand down a maximum penalty of \$3,224. If you’re not sure a person is an ‘authorised officer’, ask to see their identification.

## ***Banning notices***

An authorised officer or police officer can ban you from being in hunting areas if the officer reasonably suspects you have illegally entered the area or approached or obstructed shooters. Officers must produce evidence of their identity, unless they are a police officer in uniform. You can be banned for the rest of the duck shooting season. The penalty for breaching the banning notice is \$3,224 (for the first breach) and \$9,671 for a second or subsequent.

### **DISCLAIMER**

*While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions we recommend you seek legal advice. The Animal Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information on this fact sheet.*