

TASMANIA

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**WILDLIFE (DEER FARMING) REGULATIONS  
2021**

**STATUTORY RULES 2021, No. 94**

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**CONTENTS**

1. Short title
  2. Commencement
  3. Interpretation
  4. Notice of intention to operate deer farm
  5. Approval of, and inspection of, deer farm fences
  6. Deer farmer to keep records and give receipts
  7. Escape or release of farm deer into the wild
  8. Recovery or destruction of escaped or released farm deer
  9. Entry on land to recover or destroy escaped or released farm deer
  10. Infringement notice offences and penalties
  11. Transitional and savings
  12. Expiry of Act
- Schedule 1 – Infringement Notice Offences and Penalties



## **WILDLIFE (DEER FARMING) REGULATIONS 2021**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Nature Conservation Act 2002*.

Dated 29 November 2021.

B. BAKER  
Governor

By Her Excellency's Command,

GUY BARNETT  
Minister for Primary Industries and Water

### **1. Short title**

These regulations may be cited as the *Wildlife (Deer Farming) Regulations 2021*.

### **2. Commencement**

These regulations take effect on  
1 December 2021.

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

r. 3

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### 3. Interpretation

In these regulations, unless the contrary intention appears –

*Act* means the *Nature Conservation Act 2002*;

*approved deer farm fence* means a fence that is approved by the Secretary under regulation 5(1);

*deer farm* means an area of land where deer are kept for the purpose of farming or public display;

*deer farmer* means a person who owns, operates, manages or is in day-to-day control of a deer farm;

*farm deer* means an animal of the species European Fallow Deer (*Dama dama dama*) that –

- (a) is subject to the confines of a deer farm; or
- (b) is kept as a pet or part of a hobby herd; or
- (c) is taken from the wild, for the purpose of forming deer farm stock, under the authority of a permit issued under Part 4 of the *Nature Conservation (Wildlife) Regulations 2021*; or
- (d) was, before the day on which these regulations commenced,

taken from the wild, for the purpose of forming deer farm stock, under the authority of a permit issued under Part 2 of the *Wildlife (General) Regulations 2010*;

**Secretary** means Secretary of the Department;

**wildlife officer** means –

- (a) the Secretary; or
- (b) an inspector as defined in the *Animal Health Act 1995*; or
- (c) an authorised officer as defined in the *Nature Conservation Act 2002*; or
- (d) a person employed in the Department who is appointed by the Secretary to be a wildlife officer.

#### **4. Notice of intention to operate deer farm**

- (1) A person must, before beginning to operate a deer farm, give written notice to the Secretary –
  - (a) of the person's intention to operate the deer farm; and
  - (b) of the proposed site of the deer farm; and
  - (c) of the full details of the fence to be used for the purpose of fully enclosing farm

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

r. 4

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deer on the proposed site of the deer farm.

Penalty: Fine not exceeding 20 penalty units.

- (2) On receiving a notice under subregulation (1) in relation to a proposed deer farm, the Secretary is to consider whether –
  - (a) the location of the proposed deer farm will not pose a significant threat to the natural, social or economic values of the area; and
  - (b) the fence to be used is effective for the purpose of fully enclosing farm deer.
- (3) If the Secretary is satisfied as to the matters in subregulation (2)(a) and (b), he or she is to give written notice to the person intending to operate the deer farm advising that the location is an approved location and that the fence is an approved deer farm fence.
- (4) If the Secretary is not satisfied as to the matters in subregulation (2)(a) and (b), he or she is to give written notice to the person intending to operate the deer farm advising that the location is not an approved location or that the fence is not an approved deer farm fence, or both.
- (5) A person must not operate a deer farm unless the person has received a notice under subregulation (3) in relation to the deer farm.

Penalty: Fine not exceeding 50 penalty units.

- (6) A person intending to operate a deer farm who has received a notice under subregulation (4) may apply to the Magistrates Court (Administrative Appeals Division) under the *Magistrates Court (Administrative Appeals Division) Act 2001* for a review of the decision.

## **5. Approval of, and inspection of, deer farm fences**

- (1) The Secretary may approve a fence to be used for the purpose of fully enclosing farm deer on a deer farm.
- (2) A wildlife officer may, at any time, inspect a deer farm to ensure that it is fully enclosed by an approved deer farm fence.
- (3) If a wildlife officer who inspects a deer farm finds that –
  - (a) the deer farm is not fully enclosed by an approved deer farm fence; or
  - (b) the fence is in such condition that it can no longer be effective for the purpose of fully enclosing farm deer –

the wildlife officer may, by notice in writing to the deer farmer, require the deer farmer to carry out any repairs, modifications or additions specified in the notice so that the farm deer will be fully enclosed by an approved deer farm fence.

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

**r. 6**

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- (4) A deer farmer must comply with a requirement made by a wildlife officer under subregulation (3).

Penalty: Fine not exceeding 100 penalty units.

- (5) A person must not interfere with an approved deer farm fence so as to cause, or to be likely to cause, any farm deer to escape.

Penalty: Fine not exceeding 100 penalty units.

**6. Deer farmer to keep records and give receipts**

- (1) A deer farmer may –
- (a) keep all records, or copies of records, necessary to establish ownership of each farm deer on his or her deer farm; and
  - (b) mark or tag each farm deer on his or her deer farm to establish ownership of that farm deer.
- (2) Before a deer farmer disposes of any farm deer or product of farm deer to any other person, the deer farmer must give that other person a receipt describing –
- (a) the date of disposal; and
  - (b) the farm deer or product of farm deer being disposed of; and
  - (c) the deer farm from which it is being disposed of.



Penalty: Fine not exceeding 100 penalty units.

- (3) Subregulation (2) does not apply to any product of farm deer that is packaged for commercial sale or export.
- (4) A person, other than a deer farmer, must not possess –
  - (a) any farm deer; or
  - (b) product of farm deer, other than any product of farm deer that is packaged for commercial sale or export –

unless that person is in possession of a receipt in accordance with subregulation (2) in respect of that farm deer or product of farm deer.

Penalty: Fine not exceeding 100 penalty units.

- (5) A wildlife officer may seize and retain any farm deer or product of farm deer in respect of which ownership cannot be established in accordance with this regulation.

## **7. Escape or release of farm deer into the wild**

- (1) A person must not –
  - (a) cause or permit, or do any act or thing which is likely to cause or permit, any farm deer to escape into the wild; or
  - (b) cause or permit, or do any act or thing likely to cause or permit, any farm deer to be released into the wild.

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

**r. 7**

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Penalty: Fine not exceeding 100 penalty units.

- (2) As soon as practicable after a deer farmer becomes aware that any farm deer has escaped, or been released, into the wild, he or she must –
  - (a) notify the Secretary of that escape or release; and
  - (b) take all reasonable steps to –
    - (i) recover the escaped or released farm deer; or
    - (ii) if it is necessary to prevent an immediate threat to the public or environment, destroy the escaped or released farm deer.

Penalty: Fine not exceeding 100 penalty units.

- (3) Any farm deer, having escaped or been released into the wild, that is not recovered within a period of 48 hours after the deer farmer became aware of the escape or release is forfeited to the Crown.
- (4) A deer farmer may apply in writing to the Secretary for an extension of the period referred to in subregulation (3).
- (5) On receipt of an application under subregulation (4), the Secretary may –
  - (a) grant the extension for any period that he or she considers appropriate in the circumstances; or

(b) refuse to grant the extension.

(6) Subregulations (4) and (5) do not apply to any farm deer that has escaped or been released into the wild in respect of which ownership cannot be established in accordance with regulation 6(1).

**8. Recovery or destruction of escaped or released farm deer**

(1) As soon as a wildlife officer is aware that any farm deer has escaped or been released into the wild, he or she is to –

(a) take any steps he or she considers necessary to facilitate the recovery of the escaped or released farm deer; or

(b) destroy the escaped or released farm deer if –

(i) he or she is of the opinion that it is necessary to prevent an immediate threat to the public or environment; or

(ii) the deer farmer consents to the destruction of the escaped or released farm deer.

(2) A wildlife officer may, by notice in writing to a deer farmer, require the deer farmer to take any action that the wildlife officer considers necessary to facilitate any one or more of the following:

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

**r. 9**

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- (a) the recovery of any escaped or released farm deer;
  - (b) the destruction of any escaped or released farm deer;
  - (c) the prevention of any further escape or release of farm deer.
- (3) A deer farmer must comply with a requirement given by a wildlife officer under subregulation (2).

Penalty: Fine not exceeding 100 penalty units.

- (4) A deer farmer is liable to pay to the Crown the costs, charges and expenses reasonably incurred by a wildlife officer in the destruction or recovery of, or an attempt to destroy or recover, any escaped or released farm deer.
- (5) The Crown is not liable to pay compensation in respect of any escaped or released farm deer that has been destroyed under this regulation.

**9. Entry on land to recover or destroy escaped or released farm deer**

- (1) A wildlife officer is not to enter any land for the purpose of recovering or destroying any escaped or released farm deer unless the wildlife officer has the permission of the owner or occupier of that land or the authority of the Secretary.
- (2) The Secretary may grant a wildlife officer authority to enter any land for the purpose of recovering or destroying any escaped or released

farm deer if the Secretary has first consulted with the owner or occupier of that land.

**10. Infringement notice offences and penalties**

For the purposes of section 62 of the Act –

- (a) an offence against a regulation specified in Schedule 1 is a prescribed offence in respect of which an infringement notice may be issued; and
- (b) the penalty specified in that Schedule opposite that offence is the applicable penalty for that prescribed offence.

**11. Transitional and savings**

- (1) In this regulation –

*commencement day* means the day on which these regulations take effect;

*former regulations* means the *Wildlife (Deer Farming) Regulations 2010*.

- (2) A notice, in relation to a deer farm, that is given under regulation 4(3) of the former regulations and that is in effect immediately before the commencement day is taken to be a notice given under regulation 4(3) of these regulations in relation to the deer farm.
- (3) An approval, of a fence, that is given under regulation 5(1) of the former regulations and that is in effect immediately before the

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

**r. 12**

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commencement day is taken to be an approval given under regulation 5(1) of these regulations in relation to the fence.

- (4) A notice in writing, or an authority, that is given under a provision of the former regulations and that is in effect immediately before the commencement day is taken to be a notice in writing, or an authority, respectively, given under the provision of these regulations that most closely corresponds to the provision of the former regulations.
- (5) An infringement notice issued under the former regulations is taken to be an infringement notice issued under these regulations.

**12. Expiry of Act**

These regulations expire on 1 July 2022.

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

**sch. 1**

**SCHEDULE 1 – INFRINGEMENT NOTICE OFFENCES  
AND PENALTIES**

|    | <b>Regulation</b> | <b>Regulation 10<br/>Penalty<br/>(Penalty units)</b> |
|----|-------------------|--|
| 1. | 4(1)              | 1  |
| 2. | 4(5)              | 2  |
| 3. | 5(4)              | 4  |
| 4. | 5(5)              | 4  |
| 5. | 6(2)              | 4  |
| 6. | 6(4)              | 4  |
| 7. | 7(1)              | 4  |
| 8. | 7(2)              | 4  |
| 9. | 8(3)              | 4  |

*Wildlife (Deer Farming) Regulations 2021*  
*Statutory Rules 2021, No. 94*

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 30 November 2021.

These regulations are administered in the Department of Natural Resources and Environment Tasmania.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations, made under Part 4 of the *Nature Conservation Act 2002* –

- (a) regulate deer farming, including by requiring the approval of deer farm fences so as to prevent the escape of farm deer into the wild; and
- (b) are made consequentially on the repeal of the *Wildlife (Deer Farming) Regulations 2010* under section 11 of the *Subordinate Legislation Act 1992*.