

DPI Hunting Compliance and Enforcement Policy

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Issued by:	DPI Hunting	Effective date:	24 March 2023
Review date:	This policy remains valid until updated or superseded		

Policy statement

DPI Hunting (part of the NSW Department of Primary Industries) is committed to safe and responsible hunting in NSW. The primary purpose of compliance and enforcement measures for regulated hunting is to encourage participants to voluntarily comply with hunting laws and to deter, detect and disrupt illegal hunting in NSW.

This policy provides the guiding principles necessary for the safe, efficient and equitable application of game hunting laws when dealing with stakeholders and the general community.

The purpose of this policy is to:

- summarise our outcomes-focused, risk-based and intelligence-led approach to compliance and enforcement for regulated hunting
- explain how we undertake activities that reduce hunting compliance risks and enhance compliance within established standards
- assist Hunting Inspectors in their decision-making to ensure that enforcement actions are consistent, fair, and based on best practice.

This policy also provides a clear expectation that DPI Hunting will:

- ensure transparency of operations for the Regulatory Authority
- maintain public confidence in the Department and the hunting related legislation it administers
- ensure consistency of treatment
- provide clarity and certainty for game hunting licence holders and hunters, as well as for Department officers
- prioritise risks and use resources efficiently.

Scope

This policy applies to the statutory compliance and enforcement powers and activities undertaken by DPI Hunting Inspectors for hunting related compliance.

How we regulate hunting

DPI Hunting is the delegated authority administering the *Game and Feral Animal Control Act 2002* (the Act) and its Regulation 2022 (the Regulation), which is the legislation that regulates all hunting

on declared public land and the hunting of non-indigenous and native game bird species on private land.

DPI Hunting Inspectors are also authorised under the *Biosecurity Act 2015*, *Local Lands Services Act 2013* and *Forestry Act 2012*. Inspectors regularly support wider legislative and compliance responsibilities across DPI.

DPI Hunting builds and maintains partnerships with industry and the community to encourage greater understanding of hunting regulations to maximise voluntary compliance.

We have adopted a modern regulatory approach (Figure 1) to deliver quality regulatory services that are outcomes-focused and risk based. This approach aims to drive behavioural change in NSW to maximise voluntary compliance. We will manage the sustainability of hunting in NSW by working towards our purpose and two regulatory outcomes.

DPI Hunting purpose

Promote safe and responsible hunting that continues the positive contribution by hunters to the NSW economy and communities, now and into the future

Regulatory outcomes

- Safe and responsible hunting in NSW
- Support the high value contribution of hunting in NSW

DPI Hunting will identify and address instances of non-compliance through the application of appropriate and proportionate sanctions within our authorised and delegated regulatory powers.



Figure 1. The modern regulatory approach

Requirements

Approach

As the hunting regulator, DPI Hunting collects and stores information in accordance with our legislated investigative powers. Information is collected through interactions with regulated and non-regulated entities, including online interactions. We use this information to inform decision making, as well as the allocation and prioritisation of resources to achieve our strategic outcomes.

Monitoring compliance and investigating non-compliance is a key responsibility for DPI Hunting. We target resources using a risk-based approach, focusing on high-risk areas. Figure 2 illustrates this approach. We use results to learn, adapt and continuously improve the appropriateness, efficiency and effectiveness of our compliance program.

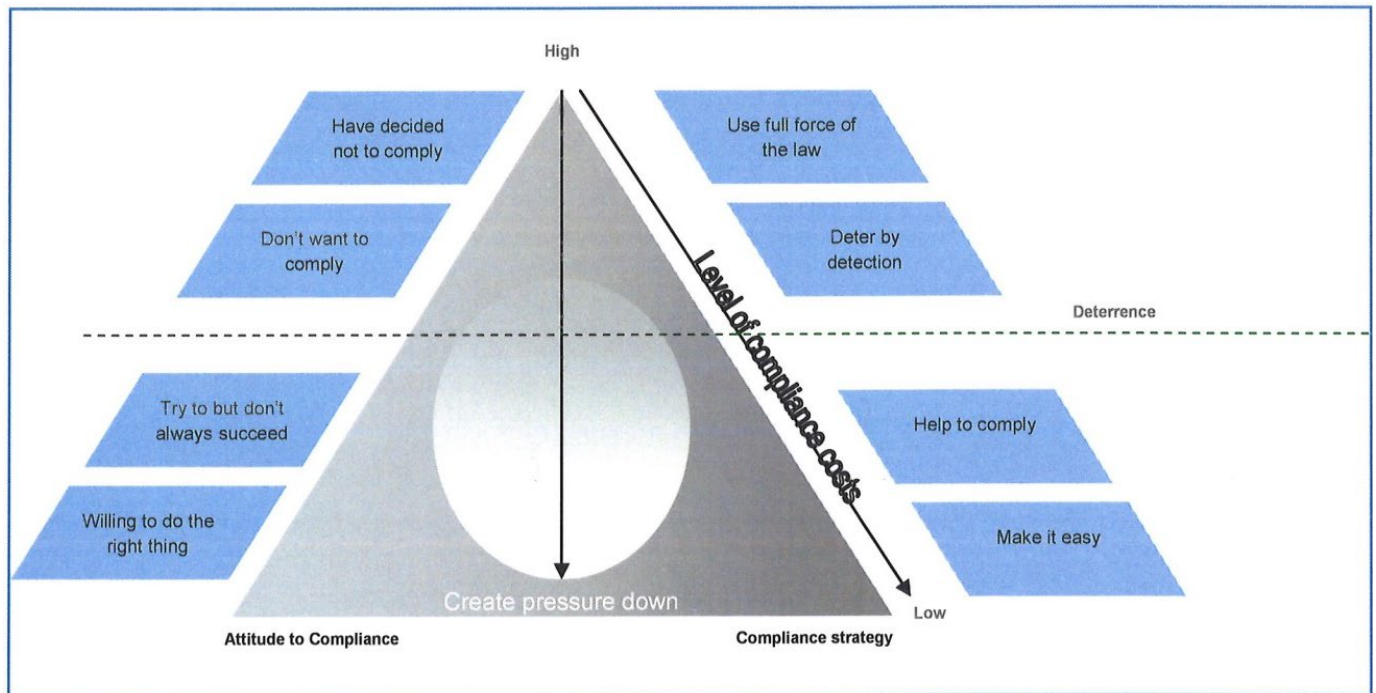


Figure 2. DPI Hunting's approach to compliance.

Principles

This policy sets out the guiding principles DPI Hunting will apply when conducting compliance and enforcement activities for regulated hunting.

- Outcomes-focused
 - Compliance and enforcement actions will be designed to support the regulatory outcomes, which support the Stronger Primary Industries Strategy 2022-2030.
- Risk-based and intelligence-led
 - Compliance and enforcement actions will be designed to target the highest risks identified against the regulatory outcomes.
 - The use of available intelligence to target these risks will ensure operational resources are allocated in the most effective and efficient manner.
- Graduated and proportionate
 - DPI Hunting will apply a graduated and proportionate approach to the application of enforcement tools upon all stakeholders. This means mild enforcement tools will be applied to offenders in the first instance; followed by more severe tools should the non-compliant activity continue.
 - This approach does not prevent the use of multiple enforcement tools simultaneously. There may be circumstances where there are multiple instances of non-compliance detected, each of varying significance. Enforcement actions will be applied according to the Enforcement Toolbox (Appendix A) and the DPI Hunting Offence Penalty Matrix (Appendix B).
 - DPI Hunting will select an enforcement response that is proportionate to the identified non-compliance and capable of providing sufficient incentive to the business or individual to modify the non-compliant behaviour.

- When applying the Enforcement Toolbox and Penalty Offence Matrix in response to an incident, DPI Hunting will consider the:
 - circumstances of the alleged offence and the individual circumstances of the offender
 - compliance history of the offender, in general and with respect to the specific incident
 - cooperation demonstrated by the alleged offender
 - remedial action implemented by the alleged offender to address the non-compliance
 - timeframe over which the offence was committed
 - need to provide DPI hunting staff with a safe working environment within the requirements of workplace health and safety laws, particularly in relation to matters involving assaults and intimidation.
- Authorised by law
 - DPI Hunting Inspectors must act within their legal remit of statutory power when undertaking enforcement activity.
 - Guidelines for the collection of evidence:
 - evidence relating to actual or alleged offences should be obtained within the requirements of legislation and within the requirements of criminal law
 - decisions should be based on evidence
 - enforcement action is to be supported by appropriate evidence
 - evidence should be admissible and sufficient to establish that an offence has been committed (this will assist in ensuring that enforcement action is only taken in appropriate circumstances).
 - evidence should be sufficient to support a case against appeal
 - evidence does not need to be assembled into a full prosecution brief for minor enforcement action; however, evidence should be sufficient to substantiate the offence.
 - In relation to issuing cautions and Penalty Infringement Notices (PINs), DPI has adopted the Attorney- General's Cautions Guidelines and Internal Review Guidelines (31 March 2010).
 - DPI Hunting will comply with the constraints of any privacy legislation and confidentiality provisions when initiating enforcement action against regulated entities, unless a statutory requirement exists to disclose the information.
- Impartial and procedurally fair
 - DPI Hunting will undertake enforcement activity in a timely manner that is procedurally fair and impartial. Discrimination (e.g. regarding ethnicity, religion, age or gender) by DPI Hunting Inspectors when undertaking enforcement action is unacceptable.
 - Decision making about applying enforcement provisions must not be influenced by political advantage or disadvantage to a government or any political party or group, the consequences of a decision on the personal or professional circumstances of staff, or the personal feelings of the decision makers towards the offenders.
 - Business proprietors and/or individuals involved will receive written advice of available statutory rights of appeal when decisions are made by DPI Hunting to apply enforcement provisions. Reasons for a decision (e.g. to suspend or cancel a licence) will be documented and included in a statement of reasons as part of any administrative review of the decision.
 - Juveniles (10 to 18-year-olds) may be subject to enforcement action under some circumstances. Under these circumstances, legislation for dealing with children between the ages of 10 and 18 (young offenders' legislation) applies to compliance and enforcement activity.

- Accountable and transparent
 - DPI Hunting is accountable and transparent in the application of enforcement tools by:
 - ensuring legislation, enforcement policies, complaint procedures and relevant information are readily accessible to regulated entities and the public
 - using plain language to communicate with regulated entities, the public and the industry
 - providing details of the available complaint or appeal processes associated with enforcement action, inclusive of timeframes applicable to these processes.
 - In the public interest
 - The overriding consideration in taking enforcement action should always be the protection of the community.
 - Responsive to suspected illegal hunting reports
 - Reports about potential or suspected offences will be investigated and responded to wherever appropriate, within the limit of available resources.
 - Responsive to complaints
 - Complaints related to the conduct of DPI Hunting staff are all taken seriously. These complaints should be made via the 'your feedback' widget on the right side of the Department website (<https://www.dpi.nsw.gov.au/>) to ensure timely and impartial investigation.
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Roles and responsibilities

- DPI Hunting Inspectors:
 - Comply with this policy, associated procedures and work instructions
 - Recommend or action appropriate compliance and enforcement actions
 - DPI Hunting Senior Compliance Officers:
 - Comply with this policy, associated procedures and work instructions
 - Coordinate enforcement decisions within teams in accordance with the DPI Hunting Offence Penalty Matrix
 - Senior Project Officer (Operations and Intelligence):
 - Comply with this policy, associated procedures and work instructions
 - Enable compliance operations and enforcement through management and coordination of the intelligence and case management system
 - Provide advice across teams in relation to investigations and enforcement actions
 - Coordinate enforcement decisions across teams in accordance with the DPI Hunting Offence Penalty Matrix
 - Program Leader Compliance, Operations and Intelligence:
 - Comply with this policy, associated procedures and work instructions
 - Manage the appointment of inspectors under the Act
 - Manage the issue of identification cards for Inspectors under the Act
 - Maintain and manage compliance and enforcement activity
 - Coordinate enforcement decisions in accordance with the DPI Hunting Offence Penalty Matrix
 - Coordinate and conduct any PIN requests for review
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- Director DPI Hunting:
 - Approve the appointment of Inspectors under the Act
 - Approve the issue of identification cards for Inspectors under the Act
 - Endorse the appointment of Inspectors under related acts
 - Maintain and manage this policy and associated procedures
 - Review and decide on licence suspensions or cancellations recommended by DPI Hunting Inspectors
 - Secretary, Department of Regional NSW (the Regulatory Authority):
 - Authorise the use of reasonable force to gain entry to premises, where identified
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Delegations

- Appointment of Inspectors under the Act:
 - Director General, Department of Primary Industries
 - Deputy Director General Fisheries, Department of Primary Industries
 - Director DPI Hunting
 - Authorise identification cards for Inspectors under the Act:
 - Director General, Department of Primary Industries.
 - Deputy Director General Fisheries, Department of Primary Industries.
 - Director DPI Hunting
 - Authorisation of use of reasonable force to gain entry to premises:
 - Secretary, Department of Regional NSW
 - Suspension or cancellation of licences:
 - Director General, Department of Primary Industries
 - Deputy Director General Fisheries, Department of Primary Industries
 - Director DPI Hunting
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Definitions

- **Compliance** – Adhering to the requirements of laws, industry and organisational standards, codes and accepted community and ethical standards.
 - **Enforcement** – Making sure a rule, standard, court order or policy is properly followed.
 - **Regulatory Authority:** The Secretary of Department of Regional NSW
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Legislation

- [Game and Feral Animal Control Act 2002](#)
 - [Forestry Act 2012](#)
 - [Summary Offences Act 1988](#)
 - [Biosecurity Act 2015](#)
 - [Local Lands Services Act 2013](#)
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Related documents

- Current DPI Hunting Game hunting licensing policy
- Guidance for regulators to implement outcomes and risk-based regulation. NSW Department of Finance, Services and Innovation (October 2016).

Superseded documents

- Game Licensing Unit Enforcement Policy
- Game Licensing Unit Regulatory Policy

Versions

Version	Date issued	Notes	By
1	30 May 2016	Revised policy following implementation of the Quality Regulatory Services Initiative	Director Game Licensing
2	24 March 2023	Periodic review and update of policy; combines the Regulatory Policy and the Enforcement Policy	Director DPI Hunting

For more information, contact DPI Hunting on 02 6363 7650 or hunting@dpi.nsw.gov.au.

Appendix A – Enforcement Toolbox

The following list of tools, ranked in order of graduating severity, provides guidance in the application of enforcement actions against stakeholders:

- Education
- Direction to leave area
- Caution (verbal/written)
- Direction to complete the online R-Licence Accreditation Course
- Seizure of equipment and vehicles
- Penalty Infringement Notice (PIN)
- Suspension or cancellation of a licence
- Prosecution in the Local Court

The success of strategies to address non-compliance may be influenced by the behavioural causes of non-compliance and the implementation of suitable measures to promote compliant behaviour.

Education

It is recommended that DPI Hunting Inspectors routinely provide education to the public. Education, outside a formal direction to complete the R-Licence Accreditation Course, will consist of advice surrounding the rule and regulations associated with hunting in NSW – this may include the provision of educational material and/or verbal education.

Education should be presented in a way that may readily determine the difference between general advice and directed compliance advice (i.e. a legal requirement). Such advice should not extend beyond the level of expertise of the DPI Hunting Inspector. All education provided will be captured by the hunting inspector as part of their routine reporting of interactions with hunters.

Direction to leave area

Under Section 50A of the Act, an Inspector may give a direction to leave or not to enter declared public hunting land. The direction can only be given where the Inspector has reason to believe that an individual is committing or about to commit a game hunting offence. Details including the person's name and address should be recorded by the Inspector upon giving such a direction. Details of the direction should be recorded in the DPI Hunting database.

Caution (verbal/written)

Cautions should only be used for breaches where a Penalty Infringement Notice (PIN) is not appropriate or warranted in the given circumstances. Any verbal cautions given in the field must be followed with a written caution.

When considering whether to issue a caution or a Penalty Infringement Notice (PIN), DPI Hunting Inspectors will consider the Attorney-General's Caution Guidelines issued under section 19A(3) of the Fines Act 1996, effective 31 March 2010. The guidelines are used by DPI Hunting to help Inspectors in exercising their discretion. They do not create any right or obligation to give a caution.

The matters that should be considered when deciding if it is appropriate to give a person a caution instead of a penalty notice include whether:

- the offending behaviour involved risks to public safety, damage to property or financial loss, or significant impact on other members of the public
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- the person is homeless
- the person has a mental illness or intellectual disability
- the person is a juvenile (under 18)
- the person has a special infirmity or is in very poor physical health
- the offending behaviour is at the lower end of the seriousness scale for that offence
- the person did not knowingly or deliberately commit the offence
- the person is cooperative and/or complies with a request to stop the offending conduct
- it is otherwise reasonable, in all the circumstances of the case, to give the person a caution.

Caution Guidelines under the Fines Act 1996

As a modern regulator, DPI Hunting advocates the use of a graduated approach to enforcement and allows for cautions as well as the use of less severe enforcement tools if warranted.

When issued, it is suggested that caution letters detail the:

- nature of the offence
- relevant legislation, including clauses breached
- required remedial action
- timeframe for implementation of the proposed remedial action
- maximum penalty for the offence and the intention of the agency to enforce the legislation should the individual or business fail to address any remedial action.

Caution letters are to be followed up within 30 days to ensure the required actions have been undertaken. It is likely that failure to comply with a caution, or subsequent identified breaches may result in the implementation of more serious enforcement action.

Note: cautions can only be given in place of a PIN or Court Attendance Notice (CAN) when there is sufficient evidence to prove the offence.

Direction to complete the online R-Licence Accreditation Course

DPI Hunting Inspectors can issue a direction to complete the online R-licence Accreditation Course for education and enforcement purposes. If a game hunting licence holder is required to complete the online R-Licence Accreditation Course, they will not be able to book a hunt via online services until this has been completed and DPI Hunting notified.

Seizure of equipment and vehicles

DPI Hunting Inspectors have legislative power to seize any item they believe to be used in a game hunting offence. This generally includes hunting equipment and vehicles. Seizures are undertaken to collect evidence or prevent further offences being committed.

The person from whom items have been seized must be provided, at the time of seizure, with a statement that describes the items seized, the reasons for seizing those items and the address where those items will be held, as well as be informed of their right of appeal.

Should subsequent investigation reveal that the individual has not contravened the legislation; all seized materials should be returned to the individual as soon as possible.

Seized goods that are forfeited to the Crown should be destroyed, disposed of, or used in a manner that ensures there can be no allegation of improper conduct.

Penalty Infringement Notice

A Penalty Infringement Notice (PIN) is issued to a person who has committed a specific offence against the Act or Regulation, once a DPI Hunting Inspector has considered the guidelines regarding cautions. An individual receiving a PIN must pay a specified amount for the offence within a specific timeframe or elect to have the matter heard before a court.

Internal Review Guidelines under the Fines Act 1996

The *Fines Act 1996* provides that all agencies that issue PINs have the power to internally review the decision to issue a notice. This Act sets out the basic requirements for such reviews. The Internal Review Guidelines have been issued by the Attorney General, effective 31 March 2010.

These guidelines will be used by DPI Hunting when conducting internal reviews of PINs to ensure they are fair, impartial and consistent across government and legislation.

There are two ways to challenge a PIN:

- apply for internal review of the decision to issue
- electing to have the alleged offence heard in court.

An application for internal review of the decision to issue a PIN may be made at any time up to the due date for payment, as specified in the penalty reminder notice. On review, the PIN must be withdrawn if the reviewing agency finds that:

- it was issued contrary to law
- there was a mistake of identity
- it should not have been issued, with regard to exceptional circumstances relating to the offence
- a caution should have been given instead of a PIN, with regard to the relevant caution guidelines.
- the person to whom the PIN was issued has an intellectual disability, a mental illness, a cognitive impairment or is homeless and is unable to:
 - understand that their conduct constituted an offence, or
 - control such conduct.

Note: the fact a person has an intellectual disability, mental illness, cognitive impairment or is homeless is not in itself sufficient grounds to require withdrawal of a penalty notice.

The reviewing agency is to notify the applicant in writing of the outcome of the review within 42 working days of receipt of the application (or 56 working days if additional information has been requested).

The Program Leader Compliance, Operations and Intelligence, or delegate, will be responsible for internally reviewing a disputed PIN issued.

Suspension or cancellation of a licence

Individuals that fail to comply with licence conditions imposed by legislation will be subject to enforcement action. This may involve the suspension or cancellation of a licence by DPI Hunting or a Local Court. Licence cancellation is a very serious level of enforcement action as the removal of a licence, if imposed, can significantly limit the hunting activities of the individual concerned.

Anyone subject to a licence suspension or cancellation who continues to hunt in circumstances where they require a licence may be subject to prosecution.

The decision to suspend or cancel a licence is held by the Director DPI Hunting.

Hunting Inspectors can also recommend suspension or cancellation of a game hunting licence based on a fit and proper person assessment, as detailed in the DPI Hunting Game Hunting Licensing policy.

Prosecution in the Local Court

Prosecution will generally be used for more serious legislative breaches or matters where less severe enforcement action has not been sufficient to influence stakeholder compliance. Matters heard in the Local Court are subject to jurisdictional limit in relation to maximum penalties.

Submissions to the court on penalties will generally include details about the risk to the public, including the severity of the possible harm that may have resulted (where appropriate).

As a prosecution always proceeds before a court, it is recommended that all supporting evidence concerning enforcement action be made available. Evidence supporting enforcement action should be objective and as comprehensive as possible.

Briefs of evidence for the commencement of proceedings may include:

- physical evidence (including seized material)
- photographs or video recordings of evidence
- video or sound recordings of conversations and interviews with alleged offenders
- records of interviews signed by all parties
- documentation of the chain of evidence and secure storage of all exhibits submitted as evidence.

To enable an unprejudiced prosecution, an individual or business will generally have access to the brief of evidence once investigations have been completed and proceedings have commenced.

In all cases, an opportunity should be provided for alleged offenders to place their version of events on record and to outline any mitigating circumstances to be considered by those making decisions before proceedings commence.

Appendix B –Offence Penalty Matrix

The Offence Penalty Matrix provides a guide to DPI Hunting Inspectors for addressing detected offences and when recommending a game hunting licence suspension or cancellation. It allows an Inspector to understand how to apply penalties once:

- sufficient evidence has been gathered to proceed with further action, and
- the decision for further action has been made.

Scope of authority

DPI Hunting Inspectors may be authorised to undertake investigations and enforce penalties and sanctions under a variety of legislation including (but not limited to):

- *Game and Feral Animal Control Act 2002* (the Act)
- *Summary Offences Act 1998*
- *Forestry Act 2012*
- *Biosecurity Act 2015*
- *Local Lands Services Act 2013*

The possible enforcement penalties and sanctions specified in this document are based on the premise that the Inspector taking the action is authorised to do so for the relevant Act or Regulation under which the offence was committed.

Range of penalties and sanctions

In general, Inspectors have authorisation to implement a range of penalties, as outlined in the table below, at their discretion. More serious actions and sanctions require approval from the Compliance, Operations and Intelligence Leadership Team or the Director DPI Hunting.

When implementing and recommending penalties, Inspectors should consider several factors including (but not limited to):

- the number of offences committed
- the likelihood of the offender committing the same offence again
- whether the offence caused a risk to public safety
- the impact of the offence on the NSW community
- the impact of the offence on the sustainability of regulated hunting
- whether the offender has committed the same or similar offences and had enforcement actions or sanctions taken within a three-year period
- the Caution Guidelines
- whether the relevant legislation allows for a penalty notice to be issued for the offence
- where a penalty notice can be issued, the monetary amount of the penalty notice
- the maximum penalty a court may impose for the offence
- whether the offence is a Summary or Indictable Offence.

Note: In their first 12-months of employment, DPI Hunting Inspectors must receive approval from a Senior Compliance Officer or higher role in relation to all penalties they intend on applying.

Table 1: Range of penalties and sanctions

Penalties at DPI Hunting Inspector discretion:
• Education
• Caution (a written caution must follow a verbal caution)
• Direction to leave
• Direction to complete the online R-Licence Accreditation Course
• Penalty Infringement Notice
• Seizure of equipment and vehicles
Penalties requiring higher level approval:
• Application for forfeiture of seized items <ul style="list-style-type: none">— decision to proceed made by Compliance, Operations and Intelligence Leadership Team
• Court Attendance Notice <ul style="list-style-type: none">— decision to proceed made by prosecution review panel
• Game hunting licence suspension <ul style="list-style-type: none">— recommendation to be made to Director
• Game hunting licence cancellation <ul style="list-style-type: none">— recommendation to be made to Director

Game hunting licence suspensions and cancellations

Section 21(3)(d) of the Act requires DPI Hunting to refuse to grant a game hunting licence to a person if the person is not a fit and proper person to hold the licence. This assessment can be conducted on application or any time during the licence period. If, during the period of a licence, a person is assessed as no longer fit and proper (in accordance with the DPI Hunting Game Hunting Licensing policy) a licence cancellation will result.

Section 29(3) of the Act requires DPI Hunting to suspend or cancel the game hunting licence of a person who:

- contravenes the mandatory code of practice
- is found guilty of an offence in NSW or elsewhere involving cruelty to animals
- is found guilty of an offence under section 55 of Act.

Section 29(4) of the Act allows DPI Hunting the ability to suspend or cancel the game hunting licence of a person who:

- contravenes the condition of a game hunting licence
- is found guilty of an offence involving harm to animals
- is found guilty of an offence involving personal violence
- is found guilty of an offence involving damage to property
- is found guilty of an offence involving unlawful entry onto land
- is found guilty of an offence under the *Firearms Act 1996* that is, in accordance with section 84 of that Act, an offence that may be prosecuted on indictment.
- in such other circumstances as are prescribed by the regulations.

The circumstances prescribed in section 18 of the Regulation are:

- the holder of the licence is found guilty of an offence specified in section 16 (of the regulation), or
- the Regulatory Authority is no longer satisfied the holder of the licence is a fit and proper person to hold the licence.

The Director DPI Hunting has the delegated discretion to determine all licence suspensions and cancellations. Below are the standard suspension/cancellation periods:

Table 2: Game hunting licence suspensions and cancellations

• 1-3 month suspension
• 6-month suspension
• 12, 15 or 18-month suspension
• Licence cancellation (review permitted after 5 years)
• Licence cancellation (review permitted after 10 years)