

# Compliance Policy

## Contents

Foreword	3
1. Objective	3
2. Scope	3
3. Introduction	4
4. Purpose of this policy document	5
5. GMA's regulatory model	7
6. Compliance delivery	9
7. Monitoring, detecting and investigating non-compliance	12
8. Compliance tools	16
9. Transparency and accountability	20
10. Glossary	22
11. Related Policies	22
12. Review	23
13. Version History	23

## Foreword

The Game Management Authority (GMA) has been established to facilitate the effective management of Victoria's game resources and the promotion of sustainable and responsible game hunting across the state. The GMA undertakes compliance, investigative and disciplinary functions relating to game hunting in Victoria.

### OUR VISION

*Game management and hunting in Victoria is respected and valued by the community and envied around the world.*

### OUR MISSION

*To work with the community as an effective, independent regulator and an authoritative facilitator of sustainable game management and quality hunting opportunities.*

## 1. Objective

The *Game Management Authority Act 2014* came into effect on 1 July 2014 establishing the Game Management Authority. This Act provides an opportunity to publically release the Game Management Authority Compliance Policy to support monitoring and compliance of game hunting-related activities.

Under the *Wildlife Act 1975*, game hunting activity in Victoria is regulated to:

- ensure the sustainable harvest of game species, including through prescribed open and close seasons, bag limits, and permitted hunting methods;
- define the minimum standards of equipment necessary for the efficient, ethical and humane treatment of animals that are hunted and used in game hunting;
- minimise any negative impacts on non-game wildlife, including protected and threatened wildlife;
- ensure public safety and minimise conflict in areas where hunting is permitted, particularly in areas of high-use public land where the use of firearms, bows or crossbows could be problematic; and
- determine licensing requirements for game hunters.

## 2. Scope

This policy sets out the GMA's procedures in relation to compliance. It applies to all Board members and all employees at all times in the performance of their duties.

### 3. Introduction

The Game Management Authority (GMA) is an independent statutory authority established to improve the effectiveness of game management and promote sustainable and responsible hunting in accordance with the *Game Management Authority Act 2014* (the Act).

The GMA influences game management outcomes by making recommendations to relevant Ministers on hunting and game management, control of pest animals, declaration of public land open and closed to game hunting, open and closed seasons and bag limits, and the management of public and private land as it relates to game and their habitat.

The GMA's regulatory role is to ensure hunters and others involved in game hunting, or who interact with the activity, comply with the relevant regulations, codes<sup>1</sup>, and legislation to achieve the objectives of the Act.

In addition to its regulatory functions, the GMA is a source of authoritative information for hunting and game management in Victoria and has an influencing role among other government departments and agencies to improve the management of public land and facilities on public land where hunting is permitted.

The GMA also plays a vital role in monitoring, conducting research and analysing the environmental, social, cultural and economic impacts of game hunting.

While the independence of the GMA is a key element underpinning its integrity as a regulator of game hunting and adviser on game management efforts in Victoria, interdependencies exist with the Department of Environment, Land, Water and Planning (DELWP), the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) and other government agencies, such as Victoria Police and Parks Victoria, in relation to peak operational requirements and compliance activities. Working collaboratively in partnership with these agencies in areas of mutual interest is a critical enabler of the GMA's regulatory functions.

#### 3.1 Authorising legislation

The *Game Management Authority Act 2014* is the principal Act under which the GMA performs its compliance activities. The functions of the GMA under the Act are<sup>2</sup>:

- a) to perform the regulatory, investigative and disciplinary functions conferred on the Authority by or under the Act or any relevant law;
- b) to administer the scheme for issuing game licences under the *Wildlife Act 1975* in relation to hunting, taking or destroying game;
- c) to promote and monitor compliance with the Act or any relevant law in relation to game hunting;

<sup>1</sup> Such as the Code of Practice for the Welfare of Animals in Hunting

<sup>2</sup> Taken from the *Game Management Authority Act 2014*

- d) to investigate compliance with the Act and any relevant law in relation to game hunting;
- e) to develop operational plans and procedures addressing:
  - (i) the sustainable hunting of game animals;
  - (ii) the humane treatment of animals that are hunted or used in hunting;
  - (iii) strategies to minimise any negative impact on non-game wildlife, including protected and threatened wildlife; and
  - (iv) the conservation of wildlife habitats;
- f) to work with public land managers to improve the management of public land and facilities on public land where hunting is permitted;
- g) to promote sustainability and responsibility in game hunting;
- h) to monitor, conduct research and analyse the environmental, social and economic impacts of game hunting and game management; and
- i) to make recommendations to relevant Ministers in relation to:
  - (i) game hunting and game management;
  - (ii) the control of pest animals;
  - (iii) declaring public land open or closed to game hunting, open and closed seasons and bag limits; and
  - (iv) the management of public and private land as it relates to game and their habitat.

The GMA also performs the regulation, investigation and disciplinary functions conferred by or under the Act, the *Wildlife Act 1975* and the *Conservation Forests and Lands Act 1987*. Those functions specifically include activities undertaken to improve the effectiveness of game management and to promote responsible and sustainable game hunting.

## 4. Purpose of this policy document

This Compliance Policy describes the general framework on which the Game Management Authority (GMA) bases its compliance activities. This document will be updated and amended from time to time to reflect changes in the compliance and operational focus of the GMA.

‘Compliance’ within this policy document means obeying the law and regulations designed to ensure sustainable, safe and humane hunting. While compliance with the law is a personal responsibility of individuals, the GMA undertakes a range of activities on behalf of the Victorian community to encourage responsible behaviour and uses a balance of regulation and guidance to promote compliance. The Compliance Policy sets out the approach the GMA will take to its regulatory role to encourage compliance with the hunting and game management laws it administers.

Regulators undertake a range of activities to encourage compliance and deter noncompliance. These usually encompass three core elements:

- **encouraging compliance**—through education, information, support, incentives and controls, such as licence and permit conditions;
- **monitoring compliance**—through regular and random inspections, audits, patrols, information and intelligence gathering;
- **responding to noncompliance**—by investigating suspected breaches of the law and enforcing the law by imposing sanctions, such as warnings, prosecution and cancelling licences.

Regulators typically target their compliance work at different sections of the community. This may include the general public, industry groups, interest groups or licensees. To be able to comply with the law, the regulated community needs to:

- understand how to comply;
- have the capacity to comply;
- be willing to comply.

This policy is designed to achieve consistency of compliance approaches across partner agencies in relation to the monitoring of hunting activities, and a shared understanding of GMA's compliance approach. This will be particularly relevant for enforcement staff undertaking activities on behalf of the GMA.

This policy sits among a broader compliance framework of legislation and policies of other agencies with overlapping responsibilities to maximise interoperability and a consistent and predictable experience for stakeholders.

The policy also recognises the GMA's specific enforcement powers and provides guidance on who is subject to enforcement, and when and how the GMA's enforcement powers will be applied.

The policy does not seek to provide instructions and directions for the day-to-day operation of compliance activities, or to document established procedure to be followed in a given situation. These are provided in the GMA's Manual of Procedures (MOP) and Standard Operating Procedures (SOPs). A list of SOPs can be found in the Appendix of this document. The contents of these procedures is not provided here in order to protect sensitive information regarding operating procedures and tactics.

The policy is divided into the following key sections:

- GMA's regulatory model (section 5);
- compliance delivery (section 6);
- monitoring compliance (section 7);
- compliance tools (section 8);
- transparency and accountability (section 9).

This policy has been developed to provide guidance to the Victorian public on the compliance approach that will be taken by GMA in undertaking its regulatory activities. In developing this policy, elements of good practice from other regulators have been drawn on and adapted to the specific operating context of the GMA.

## 5. GMA's regulatory model

The GMA coordinates game licensing activities and enforces relevant law to promote responsible hunting behaviour, ensure the sustainable harvest of game species, ensure the use of humane and sustainable hunting methods, minimise any negative impacts on non-game wildlife, conserve wildlife habitats and ensure public safety. The GMA will prioritise compliance and enforcement activity, and allocate resources, based on the assessed impact to responsible and sustainable hunting.

The GMA will be guided by four principles when planning and undertaking compliance activities, exercising regulatory responsibilities and administering legislation. The principles are:

- Targeted:** Compliance activity will be targeted to areas of highest priority and greatest risk.
- Accountable:** Compliance outcome performance will be reported on regularly and made available publicly.
- Effective:** Compliance activities will focus on achieving the intended policy and legislative objectives. They will be timely and minimise the imposition of additional regulatory burden while maximising the value of deterrents.
- Adaptable:** Compliance approaches will be regularly reviewed and, if required, updated.

The Act provides the GMA discretion in how to undertake its functions and responsibilities. This discretion includes how it prioritises and allocates its resources, how compliance decisions are made and what enforcement activities are undertaken. This policy outlines the GMA's enforcement strategy and how and why compliance activity is prioritised.

## 5.1 A risk-based regulatory model

The successful use of a risk-based model contributes to achieving the greatest benefit through efficient use of resources. Accordingly, the GMA will target compliance activity to areas where the most significant impact can be made, and where the most significant risks lie.

The risk-based model assists the GMA to assess and prioritise those issues that represent the greatest risks to safe, humane and sustainable hunting and to those people who are less likely to comply. A risk-based model also encourages the use of enforcement actions which are proportionate to the harm, severity and drivers of non-compliance.

The GMA recognises that risk is a combination of two elements: consequence (the degree of risk or harm to public safety or game management) and likelihood (the chance that non-compliance will occur).

The GMA will focus on risks to:

- public safety (both for hunters and non-hunters);
- sustainable game harvesting; and
- non-game protected wildlife.

When the GMA starts the enforcement process following an incident of risk or non-compliance, the level of risk or harm and the circumstances and culpability of the offender are considered on public safety, conservation, resource, biological and economic implications regarding the actual incident and offence.

The following specific issues will be considered:

- threats to public safety where game hunting occurs;
- the conservation importance of the animal, plant etc;
- deliberate resource abuse by the person;
- biological considerations;
- consequence of the offence or gain to the person; and
- whether or not the person has a prior history of offending.

The regulatory model uses elements that can be applied when inspection activity and other regulatory resources are targeted to areas with the potential to cause the greatest harm. Ultimately, effective regulation will be the driver or enabler for behaviour change where necessary within the hunting and non-hunting community, in order to best support the achievement of the GMA's objectives.

## 6. Compliance delivery

To achieve the GMA's compliance objectives, it is important to develop close partnerships with other agencies that also contribute to game management activities in Victoria. The GMA cooperates with a number of agencies, such as DEDJTR, DELWP, Parks Victoria and Victoria Police, to provide compliance support. Land management agencies, such as DELWP and Parks Victoria, have their own compliance responsibilities with respect to managing land use and visitor impacts on the environment and interactions between visitors.

A clear delineation of roles and responsibilities between these agencies and GMA is documented in Service Level Agreements or Memorandums of Understanding. These documents articulate and reinforce the consistent compliance approach to be taken by agencies.

The GMA works closely with Parks Victoria and DELWP on a number of issues, including monitoring of hunting activity and improving appropriate access to public land where hunting is permitted. Parks Victoria has jurisdiction over the management of State Game Reserves, National Parks, State Parks, Regional Parks and other areas of the parks estate where lawful and unlawful game hunting may take place. DELWP has responsibility for non-parks estate public land, such as State forest and unreserved Crown land.

Similarly, Victoria Police Officers work closely with Authorised Officers in the detection, identification and prosecution of persons who commit offences under a range of relevant legislation. Victoria Police is the lead responsible agency for the administration and enforcement of the *Firearms Act 1996*, including the use, possession, ownership, storage and transportation of firearms. Authorised Game Officers are not permitted to use or carry firearms for protective purposes and must be accompanied by Victoria Police Officers when conducting enforcement activities in the presence of armed or potentially armed hunters.

During peak operational periods, DEDJTR, DELWP and Parks Victoria Authorised Officers assist in enforcement operations.

The GMA receives prosecutorial support from the DEDJTR's Prosecution Services.

DEDJTR also provides intelligence management support to the GMA. Intelligence is used by the GMA to strategically plan and coordinate enforcement operations.

Given these partnership arrangements, the GMA has drawn on DEDTTR's compliance framework in developing its own approach to compliance activities as illustrated below. This assists with interoperability between agencies. The GMA's compliance activities will be:

<b>Helpful</b>	<ul style="list-style-type: none"> <li>• GMA will provide industry and the community with appropriate and timely information, advice and assistance to help them understand how to meet their compliance obligations</li> </ul>
<b>Respectful</b>	<ul style="list-style-type: none"> <li>• GMA's compliance actions will be professionally and respectfully conducted at all times</li> </ul>
<b>Proportionate</b>	<ul style="list-style-type: none"> <li>• GMA's compliance actions will be in proportion to the problem they are intended to address, based on an assessment of risk, impact and culpability</li> </ul>
<b>Predictable</b>	<ul style="list-style-type: none"> <li>• GMA will apply its regulatory approach predictably for regulated parties in equivalent circumstances</li> </ul>
<b>Clear</b>	<ul style="list-style-type: none"> <li>• GMA will clearly explain its compliance decisions and such decisions will be subject to public scrutiny</li> </ul>
<b>Transparent</b>	<ul style="list-style-type: none"> <li>• GMA will be open about the way in which it regulates industry and the community</li> </ul>

In addition to the compliance framework, GMA's Standard Operating Procedures (SOPs) are key operational documents which set out procedures, instructions, responsibilities and qualifications for a range of compliance issues. SOPs are an important tool in managing risks and ensuring a consistent approach to operational activity. They help to ensure the safety of GMA staff and members of the public. SOPs provide Authorised Officers with detailed guidance to ensure compliance staff operate in a consistent, predictable and professional manner.

## 6.1 Key activities in compliance delivery

The GMA's compliance delivery approach involves a number of activities:

### 6.1.1 Inform and educate: Raising awareness of impacts, obligations and GMA's role

The GMA plays a major role in educating hunters about the relevant legislation and regulations to ensure responsible, safe, sustainable and humane game hunting. This ensures non-compliance through a lack of knowledge is minimised. Key to this is raising awareness of the impacts of non-compliance to public safety and game management outcomes, and the GMA's role and jurisdiction.

Information is also made available to non-hunters as a secondary audience to enable better community understanding of game hunting. Information on the relevant rules will also enable non-hunters to identify and report suspected non-compliant behaviour.

The GMA commits to clearly communicating its regulatory approach and to cooperate with co-regulators and others to promote responsible, sustainable, safe and humane hunting activity through this Compliance Policy. Education and awareness are the most effective ways of promoting compliance and are central to the GMA's responsibility to enforce the law.

The GMA regularly communicates compliance requirements and broadly promotes its compliance approach to provide clear information about areas or issues currently focused on.

### **6.1.2 Support to comply: Providing practical, constructive and authoritative advice on how to comply with the law**

The GMA's primary focus is on prevention and, wherever possible, the GMA seeks to ensure that incidents of non-compliance and their impacts are avoided in the first instance. The GMA encourages and supports compliance by setting and disseminating clear standards about what the law requires and providing guidance on how they can be met. The *Code of Practice for the Welfare of Animals in Hunting* is an example of a standard promoted by the GMA to maximise positive animal welfare outcomes and encourage considerate treatment of animals that are hunted or those used in hunting.

The GMA works with the community to reinforce existing standards, and where appropriate, develop new standards and promote good practice. A major vehicle for doing this is the GMA's RESPECT: Hunt responsibly program. The GMA uses advice, guidance and partnerships with hunting organisations and others to ensure hunters and the community understand what compliance is and how to identify and manage the risks of their activities. An example of this is the GMA's Duck Wise DVD which aims to improve understanding and identification of waterbird species, minimise non-game species being taken and how to be a more humane, effective and efficient hunter along with information on firearms safety.

The GMA also provides educational resources, such as its website, the annual Victorian Hunting Guide, smart phone application and the Victorian Shotgun Education Program, to assist hunters to more easily understand their obligations.

Authorised Officers also provide practical and constructive advice in the field on how to comply with the law and, where necessary, enforce any non-compliance. Compliance advice does not extend to providing legal advice.

### **6.1.3 Monitor compliance: Monitoring compliance with the law and maintaining a credible risk of detection**

A core function of the GMA is to determine and report on levels of compliance with current standards and laws, and maintain a credible deterrent for non-compliance. Monitoring compliance and investigating non-compliance is therefore a key role for the GMA.

### **6.1.4 Enforce the law: Addressing non-compliance**

The GMA addresses non-compliance by objectively and assertively securing conformity with the law. 'Enforcement' refers to the use of influence, authority and statutory methods to compel compliance with the law. The Act includes a range of principles to guide the GMA's day-to-day activities and decisions.

Enforcement of public safety and game management requirements are undertaken for the purpose of:

- ensuring public safety;
- providing for the effective management of game species and game hunting in Victoria;
- granting and administering game licences;
- ensuring the integrity of open and closed seasons and bag limits;
- regulating methods of hunting; and
- identifying and lawfully possessing and using game.

## **7. Monitoring, detecting and investigating non-compliance**

### **7.1 Compliance methods and investigations**

The GMA monitors compliance using proactive and responsive methods and undertakes regular and comprehensive investigations.

#### **7.1.1 Monitoring and detecting non-compliance**

Compliance is monitored and breaches are detected through a number of proactive and responsive methods including:

- inspections to verify compliance with administered legislation, such as carrying a valid Game Licence, and using legal hunting methods and equipment;
- surveillance to gather intelligence and detect non-compliance;
- monitoring data and collecting evidence in areas with hunting activity;
- observations and detections by GMA Authorised Game Officers;

- observations, detections and reports from other agencies or regulatory authorities, such as DELWP, Parks Victoria and Victoria Police;
- reports from hunters and members of the public on suspected illegal hunting activity; and
- analysis of intelligence including information, data and reports.

GMA Authorised Game Officers are appointed and carry out compliance and enforcement activities in partnership with DEDJTR, DELWP, Parks Victoria and Victoria Police.

### **7.1.2 Investigating non-compliance**

The GMA assesses all reported or detected contraventions of the law and other requirements to determine their priority for further compliance action.

An initial assessment generally involves a preliminary examination and analysis of the report or allegation and its reliability to determine the severity of the contravention, the likelihood that it occurred, and the probable consequences. Wherever possible, the GMA will act to prevent a potential breach and discourage ongoing and future breaches.

Based on the outcome of the initial assessment and what can be achieved under the law, the GMA determines the appropriate level, if any, of further investigation or response.

#### ***Aim of GMA investigations***

Any GMA investigation aims to:

- determine whether a law, condition of authorisation, policy or other requirement has been contravened;
- determine what, if any, impact to public safety or sustainability has occurred;
- collect evidence that can be used in criminal prosecutions or that might assist with other appropriate compliance and enforcement measures;
- improve controls to prevent current and future non-compliance;
- deter further or similar action to that which led to the non-compliance;
- maintain public confidence in the integrity of the regulatory system;
- achieve an appropriate outcome within a reasonable time and at reasonable cost; and
- investigate all complicit parties involved in any incident or non-compliance.

The nature, time taken and method of investigation will be determined by the circumstances of the particular incident or contravention. The evidence gathered in these investigations can form part of a comprehensive investigation.

### ***Criteria for a comprehensive investigation***

Comprehensive investigations generally occur following an incident where there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed contrary to:

- public safety;
- the effective management of game species and game hunting in Victoria;
- administering game licences;
- the integrity of open and closed seasons and bag limits;
- legal hunting methods; and
- the identification, possession and use of game.

The GMA considers three criteria in determining whether to undertake a comprehensive investigation:

1. Consequence – the risk created or harm caused to public safety, wildlife or their habitat, including the following factors:
  - the seriousness of the alleged breach because of the harm or potential harm caused to public safety, wildlife or their habitat;
  - impact on public concern and confidence arising from the alleged breach; and
  - how common the offence is.
2. Culpability – related to an offender’s behaviour or past actions, including the following factors:
  - any history of previous incidents;
  - whether there was any deliberate behaviour or recklessness that contributed to the alleged breach; and
  - whether the alleged non-compliance/offence was intentional or reckless.
3. Strategic value in promoting increased compliance by other participants.

The sum of these criteria determines whether the GMA will undertake a comprehensive investigation.

### ***Comprehensive investigations***

Comprehensive investigations are directed at the most serious public safety or game hunting incidents or breaches and involve the collection of information that may form a ‘brief of evidence’. Guidelines from the Director of Public Prosecutions Victoria are then applied, including the following:

*“The decision whether or not to prosecute is the most important step in the prosecution process. In every case great care must be taken in the interests of the victim, the suspected offender and the community at large, to ensure that the right decision is made. A wrong decision to prosecute or, conversely, a wrong decision not to prosecute, tends to undermine the confidence of the community in the criminal justice system.*”

*In deciding whether the evidence is sufficient to justify the institution or continuation of a prosecution, the existence of a bare prima facie case is not enough. Once it is established that there is a prima facie case it is then necessary to give consideration to the prospects of conviction. A prosecution should not proceed if there is no reasonable prospect of a conviction being secured.”*

*(Director of Public Prosecutions Victoria, Director’s Policy the Prosecutorial Discretion)*

Where an arrest occurs, the GMA may commence a criminal prosecution in accordance with the *Criminal Procedure Act 2009*, Section 6. In all other circumstances, the GMA must forward an endorsed brief of evidence to the Manager, DEDJTR Prosecution Services, for consideration.

Comprehensive investigations are undertaken in order to determine:

- the strength of evidence under the Act or other laws administered by the GMA;
- the causes and consequences of non-compliance;
- the public safety or environmental harm caused by the non-compliance;
- whether, or the extent to which, the offender benefited commercially from the non-compliance;
- the identity and responsibility of each party complicit in the offence;
- whether action has been taken, or needs to be taken, to prevent a recurrence and to secure compliance with the law; and
- any failings of law, policy, practice or procedure in order to influence regulatory reform.

### ***Communicating investigations and progress***

In communicating progress of investigations, the GMA complies at all times with the:

- Victoria Government Code of Conduct
- *Public Administration Act 2004*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Privacy and Data Protection Act 2014*

Duties are performed with professionalism and integrity. The following considerations are consistently applied:

- fairness and equity in dealing with the public and other public servants;
- avoidance of real, possible or perceived conflict of interest; and
- performance of the duties of office impartially, uninfluenced by fear or favour.

Following an investigation, any public statements around the outcome of the investigation will focus on the broad facts of the investigation only.

## 8. Compliance tools

### 8.1 Measures to enforce and respond

The GMA will use the following measures to enforce the law and respond to incidents of non-compliance. The use of these tools will vary depending on the culpability of the offender and the risk to human safety or environmental values.

#### 8.1.1 Compliance advice

Advice from GMA Authorised Officers may be given in writing or, if given verbally, confirmed in writing. Advice may be given by a GMA Authorised Officers where:

- the degree of harm or potential harm to the resource or public safety is minimal; or
- there are breaches of legislation, licences, notices, permits, regulations and policies that are of an administrative nature, with little or no material impact.

This is an effective way of dealing with minor issues or risks where simple, immediate or short-term action can be taken. An example of where advice may be provided is where non-compliance can be immediately remedied in the presence of the Authorised Officer without the need to issue a written warning or infringement notice.

#### 8.1.2 Warnings

Written warnings may be given by GMA Authorised Officers where breaches of the legislation, licences, notices, permits, and regulations are of a minor nature, with no material impact.

A written warning forms an uncharged act which can be alleged in any future prosecution of the offender. The GMA will, by agreement with the DEDJTR Prosecution Services, maintain a consolidated data base, subject to privacy requirements, of warnings issued by Authorised Officers.<sup>3</sup>

#### 8.1.3 Infringement notices

Infringement notices are a way of dealing with common breaches of the law where the impacts are not considered serious enough to warrant prosecution. An infringement notice imposes a financial penalty for breaches of the law and can be issued by an Authorised Officer or Senior Prosecutor within the DEDJTR Prosecutions Service.

Schedule 7 of the Conservation, Forests and Lands (Infringement Notice) Regulations 2013 and Schedule 1 of the Conservation, Forests and Lands (Primary Industries Infringement Notices) Regulations 2013 set out the specific offences for which an infringement notice can be issued and the value of the penalty.

---

<sup>3</sup> The DEDJTR Prosecutions Service hold records of official warnings, which includes those by GMA.

Offences for which infringement notices may be applied are well-defined and there is usually a low level of risk to public safety or game management. Infringement notices are generally appropriate where the following criteria are met:

- It is an offence which is listed as infringeable;
- the non-compliance has a moderate or low impact;
- any benefit gained by delaying or avoiding compliance is roughly equal to or less than the infringement amount;
- the non-compliance is minor or of a short duration, a one-off situation, the offender took immediate remedial action or the situation was easily remedied;
- the facts are apparently indisputable;
- the offence is not aggravated; and
- an infringement notice is considered appropriate as a deterrent.

### ***Resolving an infringement notice***

The recipient of an infringement notice has the option of paying the penalty by a given date, seeking an internal review or appearing in court to answer the charges. Payment of the penalty resolves the matter and avoids the recording of a criminal conviction.

### ***Internal review of an infringement***

The *Infringements Act 2006* allows a person to request an internal review of a decision to issue an infringement notice. The review is done by the Manager of the DEDJTR Prosecutions Service, on behalf of the GMA.

### **8.1.4 Suspension of a licence or authorisation**

A licence may be granted by the GMA authorising the licence-holder to hunt game species in Victoria. The licence-holder is required to comply with all conditions of the licence. Similarly, the holder of an authorisation is responsible for complying with all conditions of the authorisation.

Suspending a licence or authorisation temporarily removes the lawful privilege of the licence-holder to hunt game in Victoria or authority-holder to undertake the activities permitted in the authorisation.

The GMA may suspend a licence where the holder:

- has been found guilty of an offence against the *Wildlife Act 1975*, or
- has breached a condition of the licence.

The GMA may suspend an authorisation where it is satisfied that there are reasonable grounds to do so.

A notice must be given to the licence or authority-holder notifying them of the suspension. The suspension takes effect from the time specified in the notice. A suspension must not exceed 90 days. The licence or authority-holder will be given procedural fairness and provided with the opportunity to make written (and oral in the case of an authorisation) submissions as to why the suspension should not occur. Any decision to revoke or amend a suspended licence or authorisation by the GMA will take into consideration any submissions made by the holder of the licence or authorisation.

### **8.1.5 Cancellation of a game licence or authorisation**

A licence may be granted by the GMA authorising the licence-holder to hunt game species in Victoria. The licence-holder is required to comply with all conditions of the licence. Similarly, the holder of an authorisation is responsible for complying with all conditions of the authorisation.

Cancellation of a licence or authorisation removes the lawful privilege of the licence-holder to hunt game species in Victoria or the authority-holder to undertake the activities permitted in the authorisation.

The GMA may cancel a licence where the holder:

- has been found guilty of an offence against the *Wildlife Act 1975*, or
- has breached a condition of the licence.

The GMA may cancel an authorisation where it is satisfied that there are reasonable grounds to do so.

The GMA will give the licensee or authority-holder procedural fairness before deciding whether or not to proceed with a cancellation, by giving notice of its intention to cancel the authorisation or licence, and the grounds for cancellation.

The licence or authority-holder will be given a reasonable opportunity to make written or oral submissions as to why the proposed cancellation should not occur. Any decision to cancel a licence or authorisation by GMA will take into consideration any submissions made by the holder of the licence or authorisation.

The Court may also consider cancellation of a licence or authorisation where the holder is convicted of an offence under the *Wildlife Act 1975*, the regulations or any proclamation.

### **8.1.6 Prosecutions**

Prosecutions seek to provide an appropriate sanction to the offender, act as a general deterrent to the offender and others, rehabilitate the offender, denounce the offending behaviour and protect the community. The GMA will consider prosecuting an individual where other enforcement measures are inadequate. The GMA will also consider whether there is sufficient evidence to support a prosecution and any public interest considerations as outlined in the next section regarding criteria for prosecution.

In cases of serious contraventions, prosecution is the preferred course of action where any of the following applies:

- evidence suggests that the alleged contravention resulted in risk or harm to the public or environment;
- the alleged offender has previously received information on the law breached or had knowledge of the potential risk of the activity and did not take reasonable steps to stop or avoid the contravention;
- the alleged offender had been previously warned or received an infringement notice in relation to the same or a similar offence; or
- where the prosecution is required under legislation, deemed appropriate as a general deterrent, is required to punish an offender, denounce the offending behaviour, protect the community or considered to be in the public interest.

Public safety or game hunting offences are generally summary offences. The GMA must operate within a broader prosecutorial framework as part of the criminal justice system. This requires the highest standard of integrity to be applied to any decisions around prosecutions.

In cases where there are several possible accused, the GMA may prosecute one, some or all parties, depending on the circumstances. If a corporation by act or omission has broken the law, section 90 of the *Conservation, Forests and Lands Act 1987* also holds individual directors and/or the body corporate to account, subject to some defences.

### ***Criteria for a prosecution***

In deciding whether or not to prosecute, the GMA adopts the guidelines of the Director of Public Prosecutions (DPP) which are based on the Australian Prosecutorial Guidelines. The following three tests set by the DPP guidelines need to be met.

Sufficient evidence exists if:

- there is a prima facie case;
- there is enough evidence to justify proceedings.

Prospect of conviction:

- there needs to be a reasonable prospect of conviction — that is, an evaluation of how strong the case is likely to be when presented in court.

This takes into account matters such as the availability, competence and credibility of witnesses and their likely impression on the court or tribunal that will determine the matter, and the admissibility of any confession or other evidence, and any lines of defence available to the defendant.

Public interest considerations are also considered in deciding whether or not to prosecute. Public interest considerations could include, but are not limited to:

- the nature and circumstances of the alleged offence, including the seriousness and any consequences (such as injury caused to a person or to the environment);
- the extent of the risk and the consequence;
- the prevalence of the alleged offence and the need for deterrence, both specific and general;
- any mitigating or aggravating circumstances; or
- whether the alleged offence is of considerable public concern.

### **8.1.7 Appeals**

Appeals are brought by the Director of Public Prosecutions in the public interest, on recommendation of the GMA. Appeals will only be sought where there is a reasonable prospect of the appeal succeeding, such as where a penalty imposed by a court is considered manifestly inadequate. In most cases, the Director of Public Prosecutions will seek the views of the GMA.

The GMA will be guided by the principles set out in the Director of Public Prosecution's Prosecution Policy and Guidelines.<sup>4</sup>

### **8.1.8 Review of decisions**

A person may make application to the Victorian Civil and Administrative Tribunal (VCAT) for review of a decision by the GMA to refuse to grant or renew a licence or authorisation or to cancel or suspend a licence or authorisation.

A person may also make application to VCAT if the GMA fails to make a decision to grant or renew a licence or authorisation or review the suspension or cancellation of a licence or authorisation within a reasonable time.

## **9. Transparency and accountability**

The GMA Board has approved this compliance policy and will review it at annually at a minimum.

### **9.1 Publication of enforcement information**

When the GMA undertakes enforcement activity, it will include information regarding the outcome in an Annual Report to Parliament. This disclosure is an integral part of Parliamentary reporting. All published information will be accurate and not infringe on privacy requirements.

The report will list various types of enforcement information – including infringements, written warnings or prosecution details – to ensure the Parliament is aware of action taken by the GMA. All active

---

<sup>4</sup> In particular, Policy 11: Appeals by the DPP to the Court of Appeal, available at: [www.opp.vic.gov.au](http://www.opp.vic.gov.au)

investigations will also be identified; however, specific details may be limited, as information which may compromise an investigation will not be published.

The GMA may also publish enforcement data and information on its website to inform the public of the nature and outcome of prosecutions or alternative penalties, and provide advice on how to prevent similar breaches. The GMA may also use this information to inform future strategies of monitoring and compliance.

## **9.2 Complaints management**

The GMA will undertake an assessment of all complaints about activities or conduct of the GMA or GMA Authorised Officers, with subsequent investigation and corrective or preventative action taken where necessary. When making a complaint, an individual should include their name and contact details, a short summary of the issue and the remedy they are seeking.

Each complaint will be logged and reviewed and, depending on the details, allocated for investigation and action. Information about the progress and results of a complaint will be provided to the complainant, and the outcome will be communicated at the end of the investigation process.

In some cases, the complaint may be referred to another agency for investigation – for example, if it relates to the conduct or activity of a partner agency. The GMA will notify the complainant if their complaint is referred to another agency in this manner, and thereafter any feedback on the complaint will be provided by that agency.

Where complaints are made regarding GMA Authorised Officers, the GMA will use the current independent DEDJTR complaints process and framework.

The Victorian Ombudsman also has the power to investigate complaints about State and local government authorities, including statutory bodies. Complaints will be handled in line with the Victorian Ombudsman's Good Practice Guide for public sector agencies.

## **9.3 Performance management, reporting and evaluation**

Clear reporting of the GMA's activities will provide transparency and accountability in the undertaking of its functions.

The GMA will be accountable to the Minister through a Statement of Expectations, detailing the Minister's expectations of the roles and responsibilities of the authority, and describing how the GMA proposes to meet those expectations. This may include performance measures, and prescribed reporting periods.

In addition, the GMA is required to submit an Annual Report to the Minister, for tabling in Parliament. The Annual Report will include publication of enforcement data and information.

## 10. Glossary

Authorised Officer	A person appointed by the Minister, Secretary or Game Management Authority, or a delegate of these, to carry out a compliance function or an enforcement function under legislation
Compliance	A state in which someone or something is in accordance with established guidelines, specifications, or legislation
Enforcement	The act of compelling observance of, or compliance with, a law, rule, or obligation
Enforcement function	Includes: (a) formal inspection to verify compliance (b) investigation of suspected breaches of the law (c) measures to compel compliance without resorting to formal court action, including directions, notices, infringement notices, prohibition orders and warning letters (d) measures to compel compliance through court actions including prosecutions, court orders, undertakings and cost recovery through civil action
Manuals of Procedure (MOPs)	Document that provides instruments and directions for the day-to-day operations of a business entity
Prima facie	Referring to a criminal prosecution in which the evidence before the hearing is sufficient to prove the case.
Regulation	Includes but is not exclusive of, primary legislation, subordinate legislation, other regulation, administrative instruments, codes of practice, standards and agreements
Regulator	VCEC (Victorian Regulatory System, 2013) defines a regulator as a state government entity that derives, from primary or subordinate legislation, one or more of the following powers in relation to businesses or occupations: inspection; regulatory advice to a third party; licensing; accreditation; and standards monitoring and enforcement
Standard Operating Procedures (SOPs)	A collection of directions for staff that set out the established procedure to be followed in carrying out a given operation or in a given situation

## 11. Related Policies

- Board Charter
- Other policies as required

- 

## 12. Review

The Board will review this policy on an annual basis or more frequently, if required, to keep up-to date with changes to laws, government policies, etc. Any proposed changes to this policy must be approved by Board.

This procedure is to be reviewed by 1/07/2017.

## 13. Version History

Version	Authorised by	Approval date	Effective date	Sections modified /
1.0	Board	03/10/2014	03/10/2014	N/A
2.0	Board	05/06/2015	05/06/2015	3, 4, 6 & 7
3.0	Board	12/08/2016	12/08/2016	7.2

## Employee Acknowledgement

[If this policy is to be used as part of employee training, ensure this section is signed by the employee as a record of acknowledgement of the policy]

I have read, understood and agree to abide by all requirements set out in this Compliance Policy.

I understand that failure to comply with rules, regulations and practices described in this policy may result in disciplinary action.

**Employee Name**

---

**Signature**

---

**Position**

---

**Date**

---

**Manager Name**

---

**Manager Signature**

---

**Date**

---

## Appendix A

### List of GMA compliance-related standard operating procedures

- 01 GMA Risk Management Compliance Ops
- 02 GMA Compliance Planning Operation Order
- 03 GMA Uniform Policy
- 04 GMA OSDE
  - 04 a GMA OSDE Form Application
  - 04 b GMA OSDE Form Audit
  - 04 c GMA OSDE Form DAIR
  - 04 d GMA OSDE Form Debrief DAIR
  - 04 e GMA OSDE Form Issued
  - 04 f GMA OSDE Form Returned
  - 04 g GMA OSDE Form State Register.xls
  - 04 h GMA OSDE Form Station Register.xls
  - 04 i GMA OSDE Form Transfer.xls
- 05 GMA Defensive Action Incident Report
  - 05 a GMA DAIR flow chart
- 06 GMA Decon Kits
- 07 GMA Marked Vehicles
- 08 GMA Security Number Plates
- 09 GMA Lights & Sirens Oct 2013
- 10 GMA Vehicle Intercept
- 11 GMA Vessel Use
- 12 GMA Personal Search Record
- 13 GMA Seized Property Management SOP
  - 13 a GMA Seizure Flow
- 14 GMA Protest Management
- 15 GMA VicRoads Law Enforcement Database
- 16 GMA Call Charge Records
- 17 GMA Covert Static Cameras
- 18 GMA Investigation Reports
- 19 GMA Emergency Critical Incident
  - 19 a GMA Emergency Checklist
- 20 GMA OMU advice protocol
- 21 GMA Investigations Practices
- 22 GMA Human Source Management

- 22 (a to f) GMA Human Source Forms
- 23 GMA Other Agency Management
- 24 GMA Appointment of Authorised Officers
  - 24a GMA Authorisation Application
- 25 GMA Exiting Gear checklist (FORM)
- 26. GMA Deer decoy
- 27. GMA Demonstrations – Duck season (CBD)
- 28. GMA Demonstrations – Duck season (Regional)