

2012 Harrier Hawk Status Change, (revised 25/07/14).

By John Dyer

The kahu, or harrier hawk, (also known as Australasian harrier) are probably more common today than at any time in New Zealand history. They have ironically been greatly helped by the conversion of nearly half of New Zealand's land area from forest into pasture, and also by the provision of a seemingly endless supply of new foods, especially from road kills; possums, rabbits, hares and hedgehogs, and from sheep and other carrion on farmland. Ironically the smaller, fully native bush falcon has retreated as the forests were cleared and is today considered a threatened species.

Harrier hawks were formerly treated as vermin and bounties were even paid for them, especially at a time when many new gamebird species were being introduced to New Zealand and needed to be protected in their establishment period. Harrier status was subsequently changed in 1986 when hawks were made Partially Protected, in part at least, because several naive hunters had killed endangered bitterns in the mistaken belief they were hawks. Protecting the bittern-like hawks meant better protecting actual bitterns. However this law change still allowed landowners to kill harrier hawks that were threatening their domestic birds and animals. It did not, however, allow anyone else to kill harrier hawks, for instance, to protect newly released wildlife or to protect gamebirds generally, that is, without getting special exemption permits issued by the Department of Conservation, (DoC).

The latest Wildlife (Australasian Harrier), Notice of 2012 makes a number of new provisions. This article walks you through these. Of course, there's no substitute for reading the new legislation yourself, (it's available to search online at <http://www.legislation.govt.nz>). If still in doubt, we suggest you refer questions back to DoC and/or Fish & Game or, if required, obtain independent legal advice. If you're contemplating trapping or shooting a hawk, you'd better understand this complicated new law or you could be in serious trouble.

This latest Wildlife Notice still allows landowners to take necessary steps to protect their domestic animals and/or domestic birds from hawks. However domestic animal has a specific legal meaning, (see Section 2, Interpretation, Wildlife Act 1953), and includes only cattle, sheep, horses, mules, asses, dogs, cats, pigs or goats. It does not include any of these listed animals living in a wild state or any other unlisted breed of domestic animal, even if they be living in a domestic state. So if hawks are harassing your alpacas, chinchillas, guinea pigs, pet rabbits, or other domestic animals not named, you'll still need a hawk permit from DoC.

The new law also means you can take the necessary measures to protect your domestic birds. Again, this has a strict legal meaning. It includes any domestic fowl, duck, goose, or turkey, be they free-range or held in a cage. Domestic ducks refers only to domesticated or ornamental duck breeds such as Muscovy ducks, Carolina wood ducks and so on. The term 'domestic fowl' in law refers strictly to chooks and bantams. It does not include, for instance, guinea fowl or pigeons, so you still need a DoC permit to destroy hawks that are decimating these. However you can ONLY protect pheasants if they are kept in a cage. When pheasants are released, the Wildlife Act considers that they then belong to the Crown from the moment they set foot outside their release pen, (see Section 2). It is only if and when a pheasant, (wild born or captive bred), is later shot that the ownership in it transfers back from the Crown to a person, namely the licensed hunter.

It is important to realize that you cannot simply take measures to reduce harrier populations to protect wild, free ranging gamebirds, (whether hand-raised or not), such as pheasants, quail, mallard or other game ducks, pukekos etc. By law these belong to the Crown, not the landowner. The principle of "res nullius" applies; in so much as they do not belong to anyone until they have been

legally shot by the holder of an authority to do so, (i.e. a gamebird licence or a DoC cull permit). So to protect any of these live gamebirds from hawks, you still need a DoC permit. There is one new and important exception. If the Fish & Game Council is trapping, holding or releasing gamebirds on that same land, (for instance, during banding operations), and harriers are harassing, killing or pose a risk to those gamebirds, then the new law does now allow them to be dealt with there and then without a special permit.

Even though grey ducks are considered by DoC as “threatened”, they are still classified as gamebirds in law, (i.e. they are not an Absolutely Protected Species), so a land occupier cannot protect a grey duck brood that harriers are decimating - not unless that person has a DoC permit. Because grey teal are on the 3rd Schedule of the Wildlife Act, they’re protected for the present but importantly, they’re not classed as an Absolutely Protected Species either. This subtle distinction means you cannot kill hawks to protect grey teal or their young. This is a serious omission because hawks will target young grey teal as soon as they appear outside their nest box. Pukekos too will start running as if the dinner bell was sounded when a grey teal calls her newly hatched ducklings from the box.

The law however does now cover the situation where a land occupier is undertaking activities on their land to protect, monitor, rehabilitate, feed, or support the breeding of Absolutely Protected Wildlife and Australasian harriers injure or kill any of these same Absolutely Protected Wildlife. An example might be where the occupier is part of a brown teal duck recovery programme. Similarly, if your conservation works are benefitting any other Absolutely Protected Species, for instance, wetland dwellers such as dabchicks, herons, bitterns, pied stilts, etc., or bush dwellers such as wood pigeons, tuis and etc., and you are reasonably sure harrier hawks have injured or killed any of the Absolutely Protected Wildlife present, you are entitled to remove that danger to them.

The new law also now provides that harriers which are a threat to aircraft can be dealt to. It also requires that anyone trapping or otherwise reducing harrier numbers must take all reasonable steps to prevent harm to other wildlife. We would imagine that risk to the threatened New Zealand falcon was probably the primary consideration, but you’ll need to be aware of and take all due care to avoid harming all other potential at-risk species. For instance, if falcons are present, you could use a cage trap so that you can release unharmed any unwanted by-catch.

Those killing a harrier to protect domestic livestock or poultry or to protect aircraft safety have no further obligations regarding the carcass of their dead harrier, however those killing a harrier to protect Absolutely Protected Wildlife or to protect gamebirds must retrieve that carcass. “Must” in law means you must do it, no choice. They must then notify the Director-General of Conservation through their nearest Conservation office “as soon as practicable”. If required to by the Director-General, they must freeze the carcass and send it to the closest DoC office. Of course, if the bird collected is not in a condition where it might be of any use for display, (e.g. as a taxidermy specimen in a museum), or it's feathers are not suitable for cultural uses, (e.g. such as cloak-making), then it would pay to point this out. You may find the cash-strapped Department has no interest in your bird whatever it's condition. Do not take offence as it's not meant personally.

If DoC has no use for the carcass, and you've obtained it legally, for instance, while protecting domestic animals or domestic birds, the hawk remains are now legally yours. Although no part of harrier hawk you caught may be sold, we've confirmed that it is quite legal to use harrier feathers obtained legally this way to tie trout flies for your own use or to give away to others freely for such a legitimate purpose. The ‘Hawk and Rabbit’, for instance, was once a popular trout fly pattern. You could also legally ask a taxidermist to mount the bird for you, though you’ll save him some grief if you first talk through this option beforehand with your local DoC office who’ll issue a special numbered tag for it. This applies only to birds legally obtained under the provisions of this

new Wildlife Notice. You cannot simply pick up a hawk road-kill and use the feathers for fly-tying or have it mounted by a taxidermist, for instance. That would be illegal.

It would not be considered best practise these days to hang dead harriers up on wire fences or such-like to deter other birds, simply because the public might not understand the reasoning behind such a gibbet display and be so incensed as to report such a find. If you have done everything legally, that would only serve to waste everyone's time.

Please realise that, although the new legislation is complicated, and could be more flexible with regard to gamebirds in the wild, (protecting their broods especially), and also grey teal, the new law had to satisfy a number of different parties with conflicting views and so needed to be a compromise. It is, however, a significant step forward. Please don't abuse this privilege or it could just as easily be taken away from us. If it doesn't already cover what you plan to do for whatever reason, then we strongly advise you to obtain the necessary DoC permit. Fish and Game do not issue hawk permits directly, but you may find they can assist you to obtain your permit from DoC. The fine for killing harrier hawks other than in accordance with the new Wildlife (Australasian Harrier), Notice 2012 is a maximum of \$5,000 (\$10,000 for a body corporate), and a further \$100 a head, (\$200 for a body corporate), so it would pay to get it right. We hope this information helps keep you on the right side of the law.