

Australia

Zoo and Related Legislation

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Australia

Zoo and Related Legislation

Introduction and Overview

The material in this introduction was taken from an Essay written by this Editor for the Encyclopaedia of the World's Zoos (see complete citation below). I had enormous help with information and interpretation from Matthew Crane, John Baker, Jonathan Wilken and Christine Hopkins. Unfortunately there was no mechanism to thank them in the Encyclopaedia and also we were constrained by space limitations. In the material below I have padded the Essay with material from these helpful colleagues which had been left out or short-shrifted earlier. I have also listed them by Institution and email in case further questions arise.

Sally Walker

Australia is one country but in terms of zoo legislation, each state and territory – with its own legislature and responsibilities and legislation – is such a distinct entity that we might be describing different countries. In fact, the Australian government consists of 5 States, 2 Territories and the Commonwealth, each, indeed, having its own legislature, e.g. Parliament and responsibilities under a national constitution. National issues are dealt with by the Commonwealth Government, e.g. national security, quarantine, customs, international treaties, such as CITES. At the Commonwealth level, zoos principally have to comply with the Quarantine Act and the Wildlife Protection (Regulation of Imports and Exports) Act 1982 (Baker, in litt).

There is separate state legislation regarding wildlife protection, vertebrate pests and animal welfare. The States are responsible for native plants and animals – conservation, utilisation, harvesting, etc. such that do not conflict with the national constitution and its powers, or where the Government has responsibilities as a result of International Treaty such as CITES..

The import and export of plants and animals (alive, dead, or parts) is taken care of by the Commonwealth under the Foreign Affairs Power and this would include CITES. The taking of wildlife from the wild, and its keeping and movement within the State, however, is regulated by each State and vary from State to State. Each state's legislation

in unique, including that governing the keeping of animals in zoos and the movement of these animals within Australia.

The relevant Wildlife Authorities include, for the Commonwealth, EA, or Environment Australia, located in Canberra. EA serves also as the CITES Management Authority for the whole country. The import of all live animals into Australia and export of native zoo animals is a Commonwealth function. For the states there are different authorities or services with their own legislation.

Thus, Australia is a careful country with extremely systematic and thorough legislation regarding everything which might compromise the well-being of the country and its denizens, man, animal or plant. The zoo community of Australia is one of the most innovative and active in the world, organised and coordinated in a superior fashion. Australian zoos have set standards and trends in several areas of zoo management and zoo biology that are (or will be in course of time) used by the rest of the world.

Zoo legislation in Australia reflects the assiduousness and independence of country, states and zoo community. As stated earlier, each state makes its own legislation which is different from the other, although there will be similarities in approach. The individual states legislation is backed up and linked by a "Code of Practice" which is a product of Australia's zoo community represented by the Australian Regional Association of Zoological Parks and Aquaria (ARAZPA). Some individual states also have their own Code of Practice, such as in Queensland. The Code of Practice provisions were designed to promote greater responsibility by the zoo industry for the professional exhibition and maintenance of native animals in zoos. Zoo Licence holders are required to abide by a Code of Practice and this Code was created by the zoo industry itself, which is unique.

Before taking up each state and its legislation one by one, here is a map of Australia, provided by David Baker, and a geography lesson !



The Commonwealth of Australia comprises 6 States and 2 Territories, as follows (starting from the north-east and moving south then west):

1. Queensland
2. New South Wales
3. Australian Capital Territory (located geographically within NSW)
4. Victoria
5. Tasmania (the island State at the bottom of the continent)
6. South Australia
7. Northern Territory
8. Western Australia

Each State and Territory is essentially an independent jurisdiction. The Commonwealth Government administers the External Territories (eg. Christmas Island). Terms such as "south-east Australia" and "southern Australia" are general regional references, used in much the same way as the term "mid-west USA" might be used. NSW is a "neighbour" of South Australia - it shares a common border. Queensland is the most north-easterly State.

A thumb-nail account of each state's zoo legislation is given below in the same order as just atated, as well as a compiled list of zoo legislation collected so far for Australia. As we collect more which has been provided itself on the web, we will make links to the other websites instead of including the entire document here.

1. Queensland

The zoo industry in Queensland has worked in partnership with the Queensland Government to develop the "works" of their legislation, at the heart of which is a "Code of Practice". The Code has been developed in a series of Parts, each dealing with specific animals or groups (such as Koalas; Crocodilians; Raptors), as well as General Provisions, and self-assessment provisions. In this way the Queensland Government has recognised

the expertise of the industry to develop and observe professional and responsible modes of zoo operation, including the housing and care of animals.

Zoos in Queensland operate and are regulated under provisions of the Nature Conservation Regulation 1994, the purpose of which is to "promote an understanding of the ecology and conservation of wildlife by a system of licensing that enables persons to - (a) exhibit wildlife at premises stated in the licence in permanent enclosures in a way that - (i) gives the public information about the ecological role of the wildlife, and (ii) promotes education about, and the conservation of, wildlife, and (b) keep and use wildlife for a film or television production that promotes an understanding of the ecology and conservation of wildlife".

In order to operate a zoo must obtain a Wildlife Exhibitor Licence and be inspected by Conservation Officers of the Queensland Parks and Wildlife Service prior to licensing, and thereafter, and meet minimum standards for the keeping and exhibition of wildlife.

3. New South Wales

The New South Wales standards were passed in 1989 and amended in 1993. Under the Standards it is specified that they are not exclusive, e.g. that they do not exclude the exercise of sound judgement based on training, education and experience and the use of information commonly accepted and used in wildlife management.

Under the conditions for obtaining a permit to exhibit an animal, the holder may be required to participate in the Australasian Species Management Scheme of ARAZPA. Also the license or permit is subject to a condition requiring the holder to engage in a programme of controlled breeding from the animals covered by the permit, unless it is not practical or sensible to do so, or not in accordance with the Australian Species Management Scheme. The Standards are very specific on welfare, safety, hygiene, visitor facilities, nutrition, etc. The Standards for New South Wales have special sets of standards for exhibiting Carnivores (excluding Otariidae, Odobenidae, Phocidae), Bottle-nosed dolphins (*Tursiops truncatus*), Koalas (*Phascolarctos cinereus*), Captive macropods (Kangaroos, Wallabies and allies).

The Exhibited Animals Act Regulation 1995 includes many definitions which were not in the earlier version "authorised premises", "authority", "cetacea display establishment", "drive through area", "enclosure", "fence", "minor establishment", "permit animal", "pet shop", "temporary establishment", "the Act". Conservation education by animal display establishments is mandatory. Also "small establishment" is defined and has to pay 2/3 less fee for a permit than larger zoos.

3. Australian Capital Territory (located geographically within NSW)

4. Victoria

Victoria has two major pieces of legislation. The first is a Zoological Parks and Gardens Act, 1995, which relates solely to the operations of the zoological facilities overseen by the Zoological Parks and Gardens Board of Victoria. This is a Statutory Authority, which reports to the Minister for Environment in the state government. The Act covers Royal Melbourne Zoo, Healesville Sanctuary and Werribee Zoo. It covers the establishment and

powers of the Board, Corporate Plans and financial matters, powers over the three areas of land, appointment of the Chief Executive Officer and staff, and enforcement and regulations.

The second is a Wildlife Act, 1975, which regulates the operation of other zoos and wildlife parks in the state. It defines the meaning of zoo and wildlife park, specifies penalties for those institutions not holding the appropriate licence, outlines the broad requirements for operating a zoo or wildlife park, an appeal process and other points which are relatively minor. There are also a set of minimum cage sizes for a range of animal groups maintained for display, developed through wide consultation and implemented through the Department of Agriculture.

5. Tasmania (the island State at the bottom of the continent)

6. South Australia

7. Northern Territory

The Northern Territory is a very small and new legislative jurisdiction (population about 140 000 people, self-governing since 1978) and is not overburdened with legislation. There is no legislation specifically for zoos but 'Keep and Trade Permits' may be provided by the Parks and Wildlife Commission of the Northern Territory for individuals or organisations to keep species native to the Territory, and permits 'To Keep a Prohibited Entrant' may be granted by the Commission to individuals or organisations to keep vertebrate species that are not listed as permitted species (mostly domesticated and Australian native species). A new 'Animal Welfare Act 2000' was only gazetted recently and provides for the conditions under which animals may be maintained. These conditions are very general (eg owners and carers must provide adequate food, water, shelter and exercise).

8. Western Australia

Western Australia (a state) has no licence particularly designed to cope with zoos. It has wildlife legislation which can authorise the keeping of native fauna at premises and vertebrate pest legislation which can authorise the keeping of a declared exotic animal under particular conditions. This arrangement applies to all animal parks, private zoos etc except, to a certain degree, Perth Zoo. Perth Zoo is effectively a government run zoo (with its administrative structure established by an Act of Parliament) it gets some special treatment (as do a number of government run zoos in other states and territories).

Perth Zoo operates under the Zoological Parks Authority Act 2000. It was proclaimed recently and replaces the Zoological Gardens Board Act 1975. Perth Zoo is a statutory zoo, which means that it exists because the state government passed legislation which defined how it would be set up and administered. It is formally exempt from the need to hold a licence to keep native fauna or a permit to import or export native fauna into or out of the state.

List of Legislation (collected so Far)

Australia

Quarantine Act

Wildlife Protection (Regulation of Imports and Exports) Act 1982.

1. Queensland

Nature Conservation Regulation 1994

Code of Practice

General Provisions

Exhibition of Koalas

Exhibition of Crocodilians

Exhibition of Raptors

2. New South Wales

Draft Standards for Exhibiting Primates in NSW

Draft Standards for Exhibiting Reptiles in NSW

Standards for Exhibiting Circus Animals in NSW

Standards Recommended for Care and Exhibition of Flying Foxes

Plain English Code of Practice for the Welfare of Animals in Films and Theatrical Performances

Guidelines for the Pinioning of Birds in NSW

Standards for Exhibiting Captive Raptors in NSW

Draft Transport Standards for Exhibited Animals

Standards for Exhibiting Koalas (*Phascolarctos cinereus*) in NSW – Exhibited Animals Protection Act

New standards for the Housing of Quolls

Circular to Exhibitors – Possum and Wombat Enclosures

Standards for Exhibiting Captive Macropods (Kangaroos, Wallabies and Allies) EAPA

Standards for the Operation of Mobile Farm Displays in NSW, EAPA

3. Australian Capital Territory (located geographically within NSW)

to be collected

4. Victoria

Zoological Parks and Gardens Act, 1995,

Wildlife Act, 1975

Minimum Standards

5. Tasmania (island state at the bottom of the continent)

to be collected

6. Western Australia, Perth Zoo

Zoological Parks Authority Act 2000

7. Northern Territory

'Keep and Trade Permits', Parks and Wildlife Commission of the Northern Territory

'To Keep a Prohibited Entrant' Permit

'Animal Welfare Act 2000'

Accreditation, Australian style

In 1993 an Accreditation Proposal for Australian Zoos was drafted by the ARAZPA Accreditation Committee with members from New Zealand (e.g. Richard Jakob-Hoff, Auckland Zoo Paul Garland, Orana Park Wildlife Trust Sherri Huntress, Wellington Zoo) and Australia (John De Jose, Perth Zoo Gaye Hamilton, Werribee Zoo; Giovanna Pawson, NSW Assoc. of Fauna & Marine Park).

At this writing, which is taking place in 2002, the current Director of the Australian Regional Association of Zoological Parks and Aquaria has stated that they do not currently have a programme on on-going accreditation. The earlier proposal did not get through and ARAZPA is still in the process of developing a full proposal and hopes to achieve consensus and push it through this year or next.

Jonathan Wilken, current Director of ARAZPA dug up a great deal of material on the original Draft. It was, he says, based on "ISO" accreditation processes which was very complicated and costly in both money and labour. So it is not surprising that full approval for the proposal did not come through. However, Jonathan has mentioned that one member of ARAZPA took up ISO-based accreditation anyway and regularly undergoes what is apparently a tedious process.

Again, according to Jonathan, the current situation is that institutions are vetted only on joining the Association (ARAZPA). They are asked to supply a range of information in support of their application for review by the ARAZPA Board. This process will often (but not always) involve a visit by an ARAZPA representative. The format for gathering information in support of a membership application is similar to (in fact based on) the forms used by the American Association of Zoological Parks and Aquaria (AZA) and the European Association of Zoos and Aquaria (EAZA). A copy of this form follows the 1993 Accreditation Draft in this section.

Applicants are reviewed on the extent to which they can comply with the ARAZPA Code of Practice and associated guidelines. The guidelines being used are included with the Code of Practice and are mostly to do with the general conduct of zoos (records keeping, animal transactions, etc.), rather than detailing specific minimum standards. The legislation of some of the states include detailed minimum standards for exhibiting a variety of taxon groups and ARAZPA has few documented standards developed by ARAZPA as such for keeping particular species or species groups. This means, according to Jonathan, that such standards are judged more by peer review than against specific written standards. The reasons for this are mainly historical, to wit :

Various states of Australia (notably NSW and Queensland) have their own taxon-specific exhibit and husbandry standards documented. New Zealand has animal welfare regulations that also specify exhibit standards for particular species groups. Given this, there hasn't been a strong push from the membership to duplicate the various existing efforts. Likewise, the impetus to synchronise them (as they are all a little different) has not materialised.

The ARAZPA membership has been agitating for the adoption of regional standards for some time now, and some of the relevant government departments are showing some signs of being interested. In the meantime, the accreditation of ARAZPA member zoos mainly takes place when something goes wrong and someone makes a complaint. The the ARAZPA Board convenes an ad hoc ethics committee based on peer review to investigate and bring out a report. ARAZPA will develop a proposal for a regular re-accreditation programme within this year or next.

It should be noted that the American Association of Zoological Parks and Aquaria (AZA) has one of the most comprehensive and systematic accreditation programmes for zoos in the world. In fact, the AZA programme is so effective for the zoos that aspire to become members, that the United States government has not found it necessary to create a “Zoo Act” or specifically zoo legislation as yet. There are a variety of statutes and acts which apply to the USA’s zoos and they way they acquire and treat and dispose of their animals, just as in Australia, but no specific act for zoos.

So, in this section we have included

- i. [ARAZPA Draft Accreditation Program](#)
- ii. [ARAZPA Accreditation questionnaire 2001](#)
- iii. [ARAZPA Code of Practice and Associated Guidelines](#)

Even though the ARAZPA Draft Accreditation document never came into force, it still contains some good material and may help a people somewhere draft their own document. The Accreditation Questionnaire is for new zoos, as described by Jonathan Wilken, and the Code of Practice and Associated Guidelines is used by all Australian states in connection with their own individual Standards.

As Matthew Crane has told, irregardless of what kind of standards for exhibited / captive animals the states have, zoos in the states also have to comply with state legislation regarding wildlife protection, vertebrate pests and animal welfare. In addition, they will also have to comply with the same statutes and rules of other businesses and organizations which govern the management of human beings, such as health, safety, workers compensation, etc. An example is Western Australia, a state which has no licence particularly designed to cope with zoos. It has, however, wildlife legislation which can authorise the keeping of native fauna at one’s premises and vertebrate pest legislation which can authorise the keeping of a declared exotic animal under particular conditions.

Thanks to the following for contributing information, including names and emails of other people to refer and websites full of information.

"Jonathan Wilcken" jonathan@arazpa.org.au

“David Baker” davidb@seaworld.com.au

“Chris Banks” cbanks@zoo.org.au

"Matthew Crane" matthew.crane@agric.nsw.gov.au

More is coming ... much more ... later.

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Exhibited Animals Protection Act 1986 - Regulation

Exhibited Animals Protection Regulation 1989

Regulatory Impact Statement 26 April 1995

Exhibited Animals Protection Regs 1995 - upd 2 Sept 02

Zoological Parks Board Act 1973 No 34

III. New South Wales – (Case Study) – Legislative Standards

Minimum Enclosure Dimensions for Possum and Wombat enclosure

Draft Standards for Exhibiting Primates In New South Wales

Draft Standards for Exhibiting Reptiles in New South Wales

New Standards for the Housing of Quolls

Standards for Exhibiting Bottle-nosed Dolphins in NSW

Standards for Exhibiting Captive Macropods (Kangaroos, Wallabies and Allies) in New South Wales

Standards for Exhibiting Captive Raptors in New South Wales

Standards for Exhibiting Carnivores in New South Wales

Standards for Exhibiting Circus Animals in New South Wales

Standards for Exhibiting Koalas (*Phascolarctos cinereus*) in NSW

Legislative Standards for handling, transport and miscellaneous non-zoo animals

Guidelines For The Pinioning of Birds

Plain English code of practice for the welfare of Animals in films and theatrical performances

Draft Transport standards for Exhibited animals 1994

Standards for the Operation of Mobile Farm Displays in NSW

IV. New South Wales related legislation – wildlife, welfare (PCA acts) – links only

[National Parks and Wildlife Regulation 2002](#)

[Non-Indigenous Animal Regulation 1997](#)

[Prevention of Cruelty to Animals Act 1979](#)

[Prevention of Cruelty to Animal Trades Regulation 1996](#)

[Zoological Parks Board Act 1973](#)

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[Queensland Animal care and Protection Act 2001](#)

[Queensland Animals Protection regulation Act 1991 2002 version](#)

[Queensland NATURE CONSERVATION \(Wildlife\) Act 1994](#)

[Queensland NATURE CONSERVATION Problem Crocodiles Act 1992](#)